

ER 190-1-50

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CEPM

REGULATION
NO. 190-1-50

30 November 87

MILITARY POLICE
LAW ENFORCEMENT POLICY, U.S. ARMY CORPS OF ENGINEERS

Limited supplementation of this regulation is permitted but is not required. If supplements are issued DIVCDR and CDR, separate FOA will furnish one copy of each of CDRUSACE (CEPM) and (CEIM-PD), WASH D.C. 20314-1000; DISTCDR will furnish required copies to appropriate DIVCDR.

1. Purpose. The purpose of this regulation is to establish law enforcement policies for the U.S. Army Corps of Engineers, to define authority and jurisdiction and to provide procedures for liaison with appropriate law enforcement authorities, and for reporting, recording, investigating and analyzing offenses/incidents concerning USACE personnel or property.

2. Applicability. This regulation applies to all HQUSACE/OCE elements and all separate field operating activities (FOA). Oversea USACE commanders should consult with the appropriate legal counsel to determine to what extent the provisions of treaties or agreements, or the provisions of local laws may render inapplicable, in whole, or in part, the provisions of this regulation. However, this regulation does not apply to reporting of violation of rules and regulations contained in 36 CFR 327. Reporting of such violations will be in accordance with ER 1130-2-420. Serious incidents will be reported IAW AR 90-40. Aircraft and accidental mishaps will be reported IAW AR 385-40.

3. References. See Appendix A.

4. Explanation of Terms.

a. Serious Incident Report (SIR). Notification to HQUSACE of any reportable offense/incident falling within the criteria in AR 190-40.

b. Critical Offense/Incident Report (COIR). Telephonic notification to OCE of offenses or incidents which because of their nature, gravity, or potential publicity must be reported immediately to HQUSACE. This report pertains to offenses/incidents not reportable as SIRS, but are of sufficient importance to require notification.

c. Offense/Incident Report (OIR). A report prepared by managers (or designees) of facilities/activities of actual or alleged violations of laws, regulations, events, episodes or conditions, either criminal or noncriminal occurring on USACE facilities or involving USACE personnel.

This regulation supersedes ER 190-1-50, 15 July 1983

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d. Consolidated Minor Offense/Incident Report (CMOIR). A monthly consolidation of minor offenses/incident involving loss, theft of, or damage to government property valued at \$250 or less and private property regardless of value, occurring at USACE facilities/activities.

e. Engineer Law Enforcement Activities Report. A quarterly consolidated statistical and analytical report by divisions and separate FOA indicating criminal activities and status of DPI/DPA systems occurring at Corps facilities/activities.

f. Civilian Law Enforcement Agency. Any State, local or Federal nonmilitary public law enforcement agency.

5. Policy.

a. Investigations.

(1) Suspected or alleged offenses/incidents involving USACE military or civilian personnel, or USACE property, must be investigated to determine if any violation of law, lawful order, regulation, or directive has occurred. At the time it is determined that an allegation or incident appears to be criminal, appropriate investigating agencies will be notified. USACE Security and Law Enforcement personnel will not investigate criminal offenses unless they are certified Military Police Investigators. This does not preclude Security and Law Enforcement personnel from conducting an inquiry of alleged incidents to ascertain the requirement for a full investigation by appropriate agencies charged with that responsibility.

(2) Any commissioned officer assigned or directed by the Commander, USACE/OCE is authorized to investigate any allegation or incident under AR 15-6. When determined by an AR 15-6 investigation that a criminal offense has occurred, the investigation will be referred to the appropriate investigative agency.

b. Authority and Jurisdiction.

(1) In the original acquisition of lands at USACE civil works facilities/activities, USACE generally obtains and asserts only a proprietary interest. The state criminal code, except where it would interfere with or disrupt legitimate Federal functions, is the effective criminal code. USACE has promulgated regulations governing the public use of USACE water resource development projects. These regulations are part of the criminal law applicable to a given area enforced by the issuance of citations by USACE Rangers which require alleged violators to appear before a United States magistrate (36 CFR 327, 16 USC 460d and ER 1130-2-420). Various civilian law enforcement agencies of the State, local, and Federal Government retain the statutory authority and inherent responsibility to enforce civilian enforcement of these civilian laws.

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(2) Criminal investigative jurisdiction or responsibility.

(a) In accordance with AR 195-2, the United States Army Criminal Investigation Command (USACIDC) is the responsible Army agency for investigating criminal incidents or allegations affecting or involving persons subject to the Uniform Code of Military Justice; DOD civilians in connection with their assigned duties; Government property under Army jurisdiction; and those incidents occurring in areas under Army control or in violation of AR 600-50.

(b) USACIDC may investigate criminal offenses committed outside military controlled installations when there is a legitimate Army interest as determined by USACIDC in coordination with the local commander. All initial requests for investigative support will be made to USACIDC rather than to the Federal Bureau of Investigation. (USACIDC Investigative Areas of Responsibility, See Appendix B). This does not preclude seeking assistance from local law enforcement agencies in cases requiring immediate response such as the commission of a violent crime.

(c) Requests for USACIDC investigative support is limited to those incidents involving government property when the loss to the United States exceeds \$1000 or is expected to exceed that amount, and/or misconduct of Government employees in performance of their official duties. USACIDC will make every effort to investigate property related offenses, but in determining whether an investigation will be undertaken, many factors must be considered, such as: the seriousness of the offense; the total amount of actual or potential loss to the U.S. Government; whether the offense is being investigated effectively by civil police; the impact on CID resources; and the benefits to accrue to the Government as a result of a CID investigation. However, you should contact and inform CID of all property related offenses regardless of value so that trends and record-keeping actions can be accomplished by CID. Where property related offenses are less than \$1000 and CID declines to investigate but your commander feels strongly that CID should investigate, you should contact CEPD for further guidance. (See para. 7 a (3)).

(d) Loss of appropriated U.S. Government funds through fraud which involves any COE unit or personnel will be investigated IAW the thresholds established in AR 195-2 (\$500).

(3) Deputizing Corps employees. The deputizing of USACE employees by local law enforcement agencies is discouraged. Those cases where Corps employees may be deputized, the employees will not perform such duties on or off USACE facilities/activities during duty hours as a USACE employee or while wearing the USACE Ranger or DOD Guard uniform. Requests for exceptions to this policy will be submitted with justification by the Division Commander to CDRUSACE (CECW) WASH D.C. 20314-1000.

(4) Security of Corps Facilities. The method for protecting Corps facilities is at the discretion of the Division Commander. Arming Corps employees and maintenance of weapons at USACE projects is discussed in

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USACE Supplement 1 to AR 190-14. Division and Laboratory Commanders will not arm Corps personnel unless three conditions exist. First, the known threat to the asset to be protected includes use of deadly force. Second, the criticality of the asset requires armed security upon the provisions of paragraph 4, AR 190-28. Finally, contract security, civilian law enforcement or military forces are not available to protect the asset and no other means exists to fulfill security responsibilities.

c. Liaison. HQUSACE must rely on civilian law enforcement agencies to supplement the law enforcement capability at USACE facilities/activities. Close and continuous liaison must exist with these agencies to insure complete coverage. Division, district, and separate FOA security and law enforcement personnel should be aware of the need for this liaison, initiate contacts with appropriate law enforcement agencies, and have a formal liaison program or plan that includes monitoring enforcement activities of civilian law enforcement agencies at USACE facilities/activities. Security personnel should coordinate with USACE Emergency Operation Managers in preparing plans designed to aid military or civil authorities to protect Corps property in the event of civil disturbances or disasters (AR 500-50).

d. Crime Prevention Analysis. Corps security and law enforcement personnel will analyze information from reports and investigations to anticipate, prevent, or monitor actual or possible criminal activities. Analysis can be used as a management tool to develop crime indicators, trends, and crime prevention techniques that assist USACE crime prevention programs at division, district, and separate FOA as required by USACE Suppl 1 to AR 190-31.

e. Training. Because of the complex and wide-ranging aspects of USACE law enforcement responsibilities, it is necessary that assigned FOA security and law enforcement personnel receive training in all aspects of law enforcement. The training standards established for the Security and Law Enforcement Security Managers are: The successful completion of the equivalent course from the Department of Defense Security Institute (DoDSI). All Security Managers must have a general knowledge of physical security and the measures used to safeguard facilities from the effects of sabotage, espionage and other destructive acts. To access the vulnerabilities of facilities and to recommend physical security measures such as protective lighting, perimeter barriers, intrusion detection devices and systems, locks and locking devices and personnel screening for USACE facilities. All Security Managers must be able to assist and provide guidance in the proper classification of information, to downgrade, declassify and the safeguarding of classified documents.

f. Automation. Engineer FOA are encouraged to automate the reporting of offenses/incidents utilizing the codes listed in Appendix C. The title of the offense/incident and code are required for each OIR whether or not the present system is automated. These codes will facilitate future automation application at FOA permitting consolidation of statistics at each Corps echelon.

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6. Responsibilities.

a. Commanders, Engineer divisions, districts, and separate field operating activities are directly responsible for maintenance of law and order at activities under their jurisdiction. Criminal incidents in the USACE affecting or involving persons subject to the Uniform Code of Military Justice, civilian employees of the Department of the Army in connection with their assigned duties, and Government property under USACE jurisdiction or occurring in areas under USACE jurisdiction will be promptly reported to the appropriate law enforcement agency for investigation.

b. The HQUSACE Chief, Security and Law Enforcement, is the responsible staff officer for law enforcement matters for the Commander USACE/OCE. This includes all potential, alleged, or actual criminal investigations involving USACE property or personnel.

c. CONUS Engineer Division Chiefs, Security and Law Enforcement and OCONUS Engineer Division Provost Marshals are the responsible staff officers for all law enforcement matters for the Division Engineer. This includes all potential, alleged, or actual criminal investigations involving USACE property or personnel.

d. The district and separate FOA Security Officers/Managers are the responsible staff officers for all law enforcement matters for District Commanders and commanders of separate FOA. This includes all potential, alleged, or actual criminal investigation involving USACE property or personnel.

NOTE: The provisions of this paragraph (para 6) do not pertain to the Rules and Regulations Governing Public Use of Water Resource Development Projects which is the staff responsibility of Natural Resources Branch, Directorate of Civil Works in coordination with the Chief, Security and Law Enforcement.

7. Procedures.

a. Reporting Alleged Offenses and Incidents to Appropriate Law Enforcement Agencies.

(1) The appropriate investigative agency will be contacted when information obtained during investigations involving USACE personnel or property appears to involve alleged or suspected criminal activity.

(2) When an incident occurs involving a USACE facility, telephonic notification will be made by the responsible USACE division, district, laboratory, or other field activity to the nearest USACIDC field element and a copy of ENG Form 4337 (Offense/Incident Report) (App D), will be forwarded to that office. Appropriate local law enforcement agencies will also be notified in those cases requiring an immediate response. The USACIDC will determine investigative jurisdiction and further determine if a case is to be opened by USACIDC or transferred to another investigative agency. The notification will include the Report of Investigation (ROI) number or sequence number. In those instances when districts contact USACIDC the appropriate division headquarters

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will be notified through security and law enforcement channels that USACIDC has initiated an investigation. Division will, in turn, notify the Office of Security and Law Enforcement, HQUSACE. Laboratories and USACE field activities not within a division structure will report directly to the CDRUSACE (CEPM) WASH, D.C. 20314-1000.

(3) Because U.S. Army Corps of Engineers Civil Works facilities/activities are under Army jurisdiction, the provost marshal having area responsibility also can be contacted for investigative assistance. AR 5-9 sets forth the appropriate CONUS Army installation geographic area of responsibility. By contacting the installation provost marshal, an appropriate determination can be made to provide the necessary investigative support, i.e., USACIDC and Military Police.

(a) Direct coordination should be made to obtain timely investigative support. If difficulties are encountered, assistance can be requested through the USACE security and law enforcement technical channels.

(b) In specific cases involving reporting of offenses/incidents by USACE Ranger personnel, guidance is contained in paragraph 6b, ER 1130-2-420.

(4) On military installations, alleged offenses/incidents involving USACE personnel and property will be reported to appropriate security or military police.

(5) Alleged offenses/incidents occurring off USACE facilities/activities involving USACE personnel or property will be reported to local civilian law enforcement agencies having jurisdiction.

b. Telephonic Notification of Offenses/Incidents Through USACE Channels. Any occurrence that might be identified under paragraph 4a and b above, as being either a serious or critical offense/incident (Exempt report, paragraph 5-2c(3), AR 335-15) will be reported immediately to CDRUSACE (CEPM) WASH D.C. 20314-1000 by telephone or electrical means. CEPM will notify appropriate HQUSACE elements.

(1) During normal duty hours, notification will be made to the Office of Security and Law Enforcement.

(2) During nonduty hours, notification will be made to the USACE Duty Officer who will relay the report to the Office of Security and Law Enforcement.

(3) Information will be provided by telephone or telecopier using ENG Form 4337 (Offense/Incident Report) (RCS: DAEN-PM-7) as format.

c. Records and Reports.

(1) Offense/Incident Report (OIR) (RCS: DAEN-PM-7).

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(a) ENG Form 4337 will be used to report and record offenses/incidents listed in Appendix C, or other offenses involving USACE personnel or property. The title of the offense/incident and the corresponding code as shown in Appendix C will be entered in Item 1, ENG Form 4337. Managers (or designees) of facilities/activities will report alleged offenses/incidents on ENG Form 4337. The form will be prepared in triplicate and two copies forwarded to district or separate FOA. One copy will be retained on file. Reports may be initiated at District or separate FOA.

(b) District or separate FOA security and law enforcement personnel will retain copy for a year and forward one copy to the Division Security and Law Enforcement Office within 5-working days of occurrence. These reports will not be forwarded to CDRUSACE (CEPM) WASH, D.C. 20314.

(c) This form is self-explanatory except for the following:

1. Numbering. Districts and separate FOA will number reports to show USACE facility/activity symbol, year sequence number, e.g., SAM 80-1. Offense/Incident Report will include the CID case number assigned to the report, if one has been assigned.

2. Type/status reports. Item 4, of ENG Form 4337, will indicate case "closed" unless follow-up information is necessary. "Initial" report will be indicated when follow-up information is required. Every 30 days a "follow-up" report is required on all unresolved cases referred to local police, CID or FBI. If no supplemental information is available, a telephonic report will be made to division. "Add-on" reports will be prepared when new information is received on case that was previously indicated as "closed." When the form is to be used as a Consolidated Minor Offense/Incident Report, the "CMOIR" block will be indicated.

(2) Consolidated Minor Offense/Incident Report (CMOIR) (RCS: DAEN-PM-7).

(a) ENG Form 4337 will be used monthly to consolidate minor offenses/incidents involving loss, theft of, and damage to Government property valued at \$250 or less occurring at each USACE facility/activity. The CMOIR will also be used to record the number of occurrences only of loss, theft of, and damage to private property occurring at USACE facilities/activities. Value of private property will be stated. For numbering purposes each CMOIR will constitute one report. Consolidation will cover the first through last day of the calendar month. The CMOIR will be prepared in triplicate as stated in Appendix D. The heading, items 4 and 5, and signature block will be the only items completed. One copy will be retained on file.

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(b) Managers (or designees) of facilities/activities will consolidate their minor offenses/incidents and submit two copies of the report monthly to divisions. These reports will not be forwarded to CEPM.

(3) Engineer Law Enforcement Criminal Activities Report (RCS: DAEN-PM-6 (R2)).

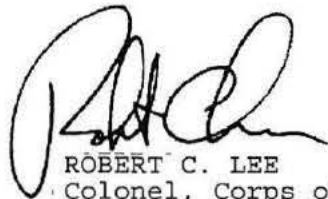
(a) ENG Form 4535-R will be completed by each engineer division and separate FOA's and forwarded to CDRUSACE (CEPM), WASH D.C. 20314-1000, within 20-working days following the end of each quarter (Jan, Apr, Jul, Oct). See Appendix E for sample ENG Form 4535-R.

(b) Preparation procedures are self-explanatory.

(4) Serious Incident Reports (SIR) (RCS: CSGPA-1340). SIR will be submitted in accordance with USACE Suppl 1 to AR 190-40.

(5) Crime Prevention Survey Report (CID Form 3). A copy of the Crime Prevention Survey report is forwarded to CDRUSACE (DAEN-PM) WASH D.C. 20314-1000 from U.S. Army Criminal Investigation Command for information. The Division and District Security Managers will forward a copy of Report of Corrective Action to CDRUSACE (CEPM) WASH D.C. 20314-1000.

FOR THE COMMANDER:



ROBERT C. LEE
Colonel, Corps of Engineers
Chief of Staff

4 Appendixes

- App A - References
- App B - USACIDC Investigative Areas
of Responsibility
- App C - Offense Codes
- App D - Offense/Incident Report
(ENG Form 4337)
- App E - Engineer Law Enforcement
Criminal Activities Report
(ENG Form 535-R)

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APPENDIX A
REFERENCES

16 U. S. C. 460d

Title 36 CFR 327

AR 5-9

AR 15-6

AR 190-31

AR 190-40

AR 195-2

AR 335-15

AR 385-40

AR 500-50

AR 600-50

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USACIDC INVESTIGATIVE AREAS OF RESPONSIBILITY

IF ASSIGNED TO	AND A FELONY CRIME OCCURS IN THESE COUNTIES/STATES	THEN REPORT THE CRIME TO THIS CID OFFICE
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New England Division	Vermont-parts of Essex, Caledonia, Ruthland, Bennington all- Washington, Orange, Windsor Windham, Clinton States - Maine, Massachusetts, Rhode Island, Connecticut excluding Fairfield County	<u>Ft Devens, MA</u>
North Atlantic Division		
New York	Fairfield County State of New York Counties Parts of counties: Orange, Ulster, Schoharie, Putnam Rensseelaer, Schenectady, Albany, Columbia, Dutchness Counties: Essex, Warren, Saratoga, Fulton, Montgomery, Washington, Chittenden, Franklin, Orleans parts of Clinton, Franklin, Hamilton, Herkimer, Bennington, Rutland, Addison, La Moille Counties. State of New Jersey, boroughs of New York City, Westchester, parts of Sussex, Morris, Mormouth, Somerset, Hunterdon, Nassau. The counties of - Passaic, Borgen, Essex, Middlesex, Suffolk	<u>Ft Dix, NJ</u> <u>West Point, NY</u> <u>Fort Devens, MA</u> <u>Fort Dix, NJ</u>
Philadelphia	New Jersey - Burlington, Atlantic, Cumberland, Gloucester, Salem, Cambridge, Ocean, Mercer Counties Pennsylvania - Delaware, Montgomery, Buck, Lehigh, North Hampton, Philadelphia. Parts of Hunterdon, Kent, Sussex, New Castle, Delaware Counties	<u>Fort Dix, NJ</u>

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Philadelphia (cont.)	Parts of Delaware, Ulster, Sullivan counties. Pennsylvania counties of Berks, Schuylkill, Wayne, Carbon, Monroe, Pike.	<u>Fort Meade, MD</u>
Baltimore	State of Maryland excluding the portion within the National Capital Beltway	<u>Fort Meade, MD</u>
	National Capital Beltway area	<u>Fort Myer, VA</u>
	Pennsylvania Counties	<u>Fort Dix, NJ</u>
	New York Counties	<u>Fort Devens, MA</u>
	Virginia counties of Fairfax, Prince William, Loudoun, Shenandoah, Frederick, Page, Fannquier, Augusta, - West Virginia counties of Berkeley, Grant, Hardy, Hampshire, Jefferson, Mineral, Morgan, Tucker	<u>Ft Belvoir, VA</u>
Norfolk	Virginia counties of Nansemond, Isle of Wright, Southhampton, Surry, Sussex, James City, York, Gloucester, Mathews, Middlesex, King and Queen, Essex, Lancaster, Richmond, Northumberland, Northhampton, Accomack, Chesapeake and the City of Newport News	<u>Fort Eustis, VA</u>
	VA counties - Greene, Louisa, Albermarine, Hanover, King William, New Kent, Charles City, King William, Dinwiddie, Hanover, and all areas south and west there of.	<u>Fort Lee, VA</u>
Ohio River Division		
Louisville	Logan, Todel counties in Kentucky.	<u>Fort Campbell, KY</u>
	Kentucky counties Ohio counties	<u>Fort Knox, KY</u>
	Indiana counties	<u>Fort Benjamin Harrison</u>
	State of Illinois counties of Effirighan, Richland, Lawrence part of Shelby and all areas north.	<u>Fort Sheridan, IL</u>

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Ohio River Division Louisville (cont.)	State of Illinois counties of Clay, Wayne, Edwes, WAB Hamilton, White, Salines Galla, Johnson Pope, Pula, Hard. Parts of Franklin and Wilminson and Union.	<u>Fort Leonard Wood, MS</u>
Pittsburgh	State of Ohio and West Virginia counties	<u>Fort Knox, KY</u>
	State of Pennsylvania counties	<u>Fort Meade, MD</u>
	State of New York counties	<u>Fort Devens, MA</u>
Nashville	All counties in Tennessee, Kentucky counties of Todd, Logan, Trigg and Christian.	<u>Fort Campbell</u>
	Counties in Kentcky	<u>Fort Knox, KY</u>
	Counties in Alabama	<u>Fort McClellan, AL</u>
	Counties in South Carolina	<u>Fort Jackson, SC</u>
Huntington	State of West Virginia counties	<u>Fort Knox, KY</u>
	State of Kentucky counties	<u>Fort Knox, KY</u>
	State of Ohio counties	<u>Fort Knox, KY</u>
	State of Virginia counties	<u>Fort Belvoir, VA</u>
	State of North Carolina counties	<u>Fort Bragg, NC</u>
North Central Division		
Detroit	State of Michigan south of the Straits of Mackinac, Upper Peninsula counties of Alger and Delta and the remainder east of thereof, excluding the counties of Marquette, Menominee and all areas westward. State of Michigan Upper Peninsula counties Marquette, Menominee and the remainder west thereof State of Wisconsin counties, State of Minnesota counties.	<u>Fort Benjamin Harrison</u>
		<u>Fort Sheridan, IL</u>
Buffalo	Ohio counties	<u>Fort Knox, KY</u>
	New York counties	<u>Fort Devens, MA</u>

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Chicago	Counties of Iowa, Illinois, Wisconsin, Minnesota and Indiana	<u>Fort Sheridan, IL</u>
St. Paul	Counties in Minnesota, Wisconsin	<u>Fort Sheridan, IL</u>
	North Dakota counties	<u>Fort Riley, KS</u>
South Atlantic Division		
Wilmington	Counties in North Carolina	<u>Fort Bragg, NC</u>
	Counties in Virginia	<u>Fort Lee, VA</u>
Charleston	States of South Carolina excluding the counties of Hampton, Allendale, Barnwell, Aiken, Edgefield, McCormick, Abbeville, Anderson, Oconee, Pickens, Greenville, Spartanburg, Laurens, Greenwood, Saluda	<u>Fort Jackson, SC</u>
	Part of counties of South Carolina not covered by Ft Jackson, SC	<u>Fort Gordon, GA</u>
Savannah	Part of South Carolina counties Jasper, Hampton, Barnwell, Aiken, Edgefield, McCormick, Greenwood, Abbeville, Anderson, Oconee, Pickens, Morgan, Baldwin, Wilkinson, Laurens, Emanuel, Jurkins, Screven and all areas north thereof.	<u>Fort Gordon, GA</u>
	Georgia counties of Effingham, Bullock, Candler, Toomes, Montgomery, Trantle, Wheeler, Telfair, parts of Coffee, Ware all-areas east thereof Florida counties Nassau and Baker.	<u>Fort Stewart, GA</u>
	Georgia counties of Butts, Jasper, Newton	<u>Fort McPherson, GA</u>
Jacksonville	Florida counties of Columbia, Gilchrist, Dixie all counties west of Georgia counties of Wilcox, Ben Hill, Irwin, Berrian, Lanier, and west of Clinch county.	<u>Fort Benning, GA</u>
	Florida counties of Union, Alachua, Levy and all areas south thereof.	<u>Fort Stewart, GA</u>

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	Commonwealth of Puerto Rico	<u>Fort McPherson,</u> <u>GA</u>
	Central and South America; that portion of the North and South Atlantic Ocean bounded by longitude 30 degrees west and latitude 10 degrees north.	<u>Panama Field</u> <u>Office</u>
Mobile	Florida counties, Georgia counties. Alabama counties of Sumter, Greene, Hall, Perry, Chilton, Coosa, Talla- poosa, Chambers and all areas south. Mississippi counties of Kemper, Neshoba and all areas south thereof.	<u>Fort Benning, GA</u>
	Alabama counties of Pickens, Tusca- loosa, Bibb, Shelby, Talladega, Clay, Randolph all areas north thereof.	<u>Fort McClellan,</u> <u>AL</u>
Lower Mississippi Valley Division		
New Orleans	State of Louisiana counties State of Arkansas Counties	<u>Fort Polk, LA</u>
	State of Mississippi counties part of Neshoba, Warren, Yazoo, Madison, Leake and south thereof.	<u>Fort Benning, GA</u>
	Mississippi counties of Essaquena, Sharkey, Humphreys, Homes, Attala, Winston, Noxubee all areas north thereof.	<u>Fort McClellan,</u> <u>AL</u>
Memphis	Mississippi Counties	<u>Fort McClellan,</u> <u>AL</u>
	State of Arkansas and Louisiana Counties	<u>Fort Polk, AL</u>
	State of Missouri Counties	<u>Fort Leonard</u> <u>Wood, MS</u>
	State of Tennessee counties	<u>Fort Campbell</u>
St. Louis	Missouri counties, Illinois Counties	<u>Fort Leonard</u> <u>Wood</u>
Southwestern Division		
Little Rock	State of Arkansas counties	<u>Fort Polk</u> <u>District</u>

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	State of Missouri counties	<u>Fort Leonard Wood</u>
Galveston	Louisiana parishes	<u>Fort Polk, LA</u>
	Texas counties of Newton, Jasper, Tyler, Polk, San Jacinto Montgomery, Grimes, Washington	<u>Fort Hood, TX</u>
	Texas counties not covered by Fort Hood Texas.	<u>Fort Sam Houston, TX</u>
Tulsa	State of Oklahoma counties and State of Texas Counties	<u>Fort Sill, OK</u>
	State of Kansas Counties	<u>Fort Riley, KS</u>
	State of Missouri Counties	<u>Fort Leonard Wood</u>
Fort Worth	Texas counties of Newton, Jasper, Tyler, Polk, San Jacinto, Montgomery, Grimes, Washington, Burlestone, Milan, Williamson, Burnet, Llano, Mason, Kimble, Sutton, Crockett, Reagan, Glasscock, Howard, Borden, Lynn, Garza, Kent, Stonewall, Haskell, Throckmorton, Young, Jack, Wise, Cooke, Grayson, Frannin, Lamar, Delta, Hopkins, Wood, Smith, Rusk, Panola and the areas enclosed therein. Texas counties of Bowie, Red River, Titus Morris, Cass, Camp, Marion, Franklin, Gregg, Harrison Upshur Texas counties of Valoerde, Edwards, Kery, Gillespic, Blanlo, Travis, Lee, Fayette, Austin, Waller, Harris, Liberty, Hardin, Orange and all areas south thereof.	<u>Fort Hood, TX</u> <u>Fort Polk, LA</u> <u>Fort Sam Houston, TX</u>
Albuquerque	State of Colorado counties	<u>Fort Carson, CO</u>
	State of New Mexico counties. Texas counties of Terrell, Pecos, Upton, Midland, Martin, Terry and all areas west thereof.	<u>Fort Bliss, TX</u>
Missouri River Division		
Omaha	State of South and North Dakota counties. State of Nebraska counties.	<u>Fort Riley, KS</u>

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	State of Montana counties	<u>Fort Lewis, WA</u>
	State of Colorado counties	<u>Fort Carson, CO</u>
Kansas City	State of Missouri excluding the counties of Andrew, Atchison, Buchanan, Caldwell, Carroll, Cheriton, Clay, Clinton, Daviess, Dekalb, Gentry, Gundy, Harrison, Holt, Jackson, Lafayette, Linn, Livingston, Mercer, Nodaway, Platte, Putnam, Ray, Saline, Sullivan and Worth.	<u>Fort Leonard Wood</u>
	State Missouri counties of Jackson, Lafayette, Saline, Chairton, Linn, Sullivan, Putnam and all areas westward. State of Kansas counties, State of Nebraska counties.	<u>Fort Riley, KS</u>
	State of Iowa counties	<u>Fort Sheridan, IL</u>
	State of Colorado counties	<u>Fort Carson, CO</u>
South Pacific Division	Part of the California counties Tulare and Inyo and all areas south thereof Clark County in Nevada.	<u>Fort Ord, CA</u>
	State of Nevada counties except Clark County.	<u>San Francisco Field Office, CA</u>
	State of Arizona counties	<u>Fort Bliss, TX</u>
	State of Utah counties	<u>Fort Carson, CO</u>
San Francisco	California counties of Santa Cruz, San Benito, Fresno and areas south thereof.	<u>Fort Ord, CA</u>
	California counties San Mateo, Santa Clara and areas north thereof.	<u>San Francisco Field Office</u>
Sacramento	California counties of Fresno, Tulare, Kerr, Inyo, Kings, San Luis Obispo, Santa Barbara	<u>Fort Ord, CA</u>
	California counties of San Benito, Fresno, and areas north thereof. State of Nevada counties.	<u>San Francisco Field Office</u>

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	State of Utah counties, state of Colorado counties, state of Wyoming counties, state of Idaho counties.	<u>Fort Carson, CO</u>
	State of Arizona counties, state of New Mexico counties	<u>Fort Bliss, TX</u>
	State Oregon counties	<u>Fort Lewis, WA</u>
North Pacific Division		
Alaska	State of Alaska	<u>Alaska Field Office</u>
Portland	State of Oregon counties, state of Washington counties	<u>Fort Lewis, WA</u>
Seattle	State of Washington counties, state of Idaho counties, State of Montana counties.	<u>Fort Lewis, WA</u>
Walla Walla	State of Idaho counties of Payette, Gem, Boise, Blaine, Butte, Clark, Fremont, all areas south. State of Wyoming counties and state of Utah counties.	<u>Fort Carson, CO</u>
	State of Nevada counties	<u>San Francisco Field Office</u>
	State of Oregon counties, state of Washington counties, state of Idaho counties of Washington, Adams Valley, Caster, Lemhi and all areas of north thereof.	<u>Fort Lewis, WA</u>
Pacific Ocean Division		
	State of Hawaii	<u>Hawaii District</u>
Far East District	Seoul	<u>(Seventh Region)</u>
Japan District	Japan	<u>(Seventh Region)</u>
Europe Division		<u>Second Region</u>
Middle East Division (Rear)		<u>First Region - Fort Lee Field Office</u>
Middle East Division		<u>Second Region</u>

ER 190-1-50
30 Nov 87

USACIDS INVESTIGATIVE AREAS OF RESPONSIBILITY
(ADDENDUM)

IF ASSIGNED TO	AND A FELONY CRIME OCCURS IN THESE COUNTIES/STATES	THEN REPORT THE CRIME TO THIS CID OFFICE
North Central Division		
Rock Island	State of Iowa Counties, Wisconsin Counties, Counties of Henderson, McDonough, Fulton, Mason, Sangamon, Shelby, Effingham, Richland, Lawrence and all areas North.	<u>Ft Sheridan, IL</u>
Lower Mississippi Valley Division		
Vicksburg	State of Louisiana Counties, State of Arkansas Counties	<u>Ft Polk, LA</u>
	Mississippi Counties of Warren, Yazoo, Madison, Lake, Neshoba, Kemper and all areas South thereof	<u>Ft. Benning, GA</u>
	Mississippi Counties of Issaquena. Sharkey, Humphreys, Homes, Ahala, Winston, Noxubee, and all areas North thereof.	<u>Ft. McClellan,</u> <u>AL</u>

ER 190-1-50
30 Nov 87APPENDIX C
OFFENSE CODES

Basic categories of criminal offenses. The following numbers serve to identify the category of criminal offenses, and will be found in the first position of the offense code:

<u>OFFENSE/INCIDENT AGAINST</u>	<u>CODE</u>
Persons	5
Sex Offense	6
Property	7
Fraud	8

Detailed offense code list. The basic offense categories are further subdivided as follows:

5 CRIMES AGAINST PERSONS

5C Assaults

- | | |
|----------------------|-------|
| - Aggravated Assault | 5C100 |
| - Simple Assault | 5C200 |

5D Child Abuse

- | | |
|------------------------------|-------|
| - Child Neglect/Mistreatment | 5D100 |
|------------------------------|-------|

5E Civil Rights

- | | |
|----------------|-------|
| - Civil Rights | 5E100 |
|----------------|-------|

5H Homicide

- | | |
|--|-------|
| - Murder | 5H100 |
| - Other deaths (discovered bodies resulting from unnatural causes, manslaughter, etc.) | 5H600 |
| - Accidental Death (Other than traffic or drowning) | 5H800 |

5K Kidnapping

- | | |
|--------------|-------|
| - Kidnapping | 5K100 |
|--------------|-------|

5L Controlled Substance Violations

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- Opiates	5L100
- Marijuana	5L200
- Dangerous Drugs	5L300
- Hallucinogens	5L400
- Other	5L500
5M Perjury, False Swearing, and False Official Statement	
- False Official Statement	5M300
5N Robbery	
- Robbery, Armed	5N100
- Robbery, Unarmed	5N200
5P Suicide	
- Suicide on Corps Property (Attempted)	5P100
- Suicide (Successful)	5P200
5Q Traffic	
- Traffic Fatality	5Q100
- Drunk Driving	5Q200
- Fleeing Scene of an Accident	5Q300
- Traffic accident involving personal injury or destruction of property	5Q400
- Other	5Q500
5R Weapons/Explosives Violation .	
- Unlawful Possession	5R200
- Other	5R300
5T Communications Incidents CODE	
- Telephone Threats	5T200
- Bomb Threats	5T300

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5X Other Offenses Against Persons

- Trespass 5X100
- Disorderly Conduct 5X200
- Others not Listed 5X300

6 SEX CRIMES

6C Incident Exposure

- Incident Exposure 6C100

6E Rape

- Rape on Corps Property 6E100
- Attempted Rape 6E200

6X Other Sex Offenses

- Other 6X100

7 CRIMES AGAINST PROPERTY

7A Arson

- Government Property 7A100
- Contractor Property 7A200
- Private Property 7A300

7C Burglary

- Government Property 7C100
- Contractor Property 7C200
- Private Property 7C300

7D Housebreaking

- Government Property 7D100
- Contractor Property 7D200
- Private Property 7D300

7F Larceny

- Government Property 7F100

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- Contractor Property	7F200
- Private Property	7F300
7G Wrongful Appropriation	
- Government Property	7G100
- Contractor Property	7G200
- Private Property	7G300
7H Wrongful Disposition	
- Government Property	7H100
- Contractor Property	7H200
- Private Property	7H300
7J Postal Violations	
- Larceny	7J100
- Loss through Neglect	7J200
- Destruction	7J300
- Other	7J400
7K Wrongful Destruction (Vandalism)	
- Government Property	7K100
- Contractor Property	7K200
- Private Property	7K300
7L Recovery of Stolen/Lost Property	
- Government Property	7L100
- Contractor Property	7L200
- Private Property	7L300
<u>8 CRIMINAL FRAUD</u>	
- Bribery	8A100
- Funds	8C100

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- Pay and Allowances	8D100
- Overtime	8E100
- Procurement/Salvage/Property Disposal	8F100
- POL Items	8G100
- Contract Compliance	8H100
- Other	8J100

ER 190-1-50
Nov 87APPENDIX D
OFFENSE/INCIDENT REPORT
(ENG Form 4337)

OFFENSE/INCIDENT REPORT (ER-190-1-50)		RCS: DAEN-PM7
REPORT NO.	MP/ICD NO.	DATE OF REPORT
TO:		FROM:
1. OFFENSE/INCIDENT TITLE CODE	<input type="checkbox"/> PERSON <input type="checkbox"/> PROPERTY <input type="checkbox"/> FRAUD <input type="checkbox"/> SEX OFFENSE	CORPS EMPLOYEE INVOLVED: <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, NUMBER INVOLVED _____ AS VICTIM _____ SUBJECT _____
2. LOCATION (Include county, state or territory in which person, installation facility or recreation area involved is located)		TIME
		DATE
3. REPORTED BY:		ADDRESS
4. TYPE/STATUS OF REPORT <input type="checkbox"/> CLOSED <input type="checkbox"/> INITIAL <input type="checkbox"/> FOLLOWUP <input type="checkbox"/> ADD-ON <input type="checkbox"/> CMQIR		
5. DETAILS (who, what, when, where, why, how). SUPPORTING PHOTOGRAPHS, NEWSPAPER ARTICLES, ETC., MAY BE ATTACHED. DO NOT ATTACH REPORTS FROM OTHER AGENCIES. IF ADDITIONAL SPACE IS REQUIRED, USE SEPARATE SHEET.		
6. <input type="checkbox"/> REPORTED <input type="checkbox"/> REFERRED TO <input type="checkbox"/> LOCAL POLICE <input type="checkbox"/> SHERIFF <input type="checkbox"/> STATE POLICE <input type="checkbox"/> MPI <input type="checkbox"/> CID <input type="checkbox"/> FBI <input type="checkbox"/> OTHER (SPECIFY) _____		
7. RECOMMENDED PREVENTIVE CORRECTIVE ACTION, IF APPROPRIATE		
8. DOLLAR VALUE a. GOVERNMENT PROPERTY \$ _____ b. CONTRACTOR PROPERTY \$ _____		
9. OCCURRED ON/AGAINST <input type="checkbox"/> CORPS PERSONNEL, EQUIPMENT OR PROPERTY OTHER THAN RECREATION AREAS <input type="checkbox"/> RECREATION AREAS <input type="checkbox"/> PRIVATE PERSONNEL OR PROPERTY		INVOLVED <input type="checkbox"/> VANDALISM TO CORPS PROPERTY <input type="checkbox"/> LARCENY OF CORPS PROPERTY <input type="checkbox"/> OTHER
NAME, GRADE AND TITLE OF REPORTING OFFICER		SIGNATURE

ENG FORM 4337
1 JUN 80

EDITION OF 1 MARCH 1978 IS OBSOLETE

U.S. Government Printing Office: 1985-466-162/9237

D-1

HQ AR003152

APPENDIX E
ENGINEER LAW ENFORCEMENT
CRIMINAL ACTIVITIES REPORT
(ENG Form 4535-R)

HQ AR003154-HQ AR003167

DAEN-PM

DEPARTMENT OF THE ARMY USACE Suppl 1 to AR 190-14
U. S. Army Corps of Engineers
Washington, D. C. 20314-1000

USACE Supplement 1
to AR 190-14

August 31 1986

Military Police
CARRYING OF FIREARMS

Issue of further supplements to this regulation
is prohibited except upon approval of CDRUSACE
(DAEN-PM), WASH, D. C. 20314-1000

AR 190-14, 15 August 1981, is supplemented as follows:

Page 2, paragraph 6, Authority to bear or use firearms. Add subparagraphs c-g
after subparagraph b:

c. Division and Laboratory Commanders will be the approving authority for requests to maintain weapons at USACE projects. Division Commanders may delegate this authority to District Commanders as deemed appropriate.

d. Division and Laboratory Commanders will not arm Corps personnel unless all the following conditions exist:

1. The known threat to the asset to be protected includes use of deadly force.

2. The criticality of the asset requires armed security upon the provisions of paragraph 4, AR 190-28.

3. Contract security, civilian law enforcement or military forces are not available to protect the asset and no other means exists to fulfill security responsibilities.

e. If the conditions in paragraph d above are believed to exist, DAEN-PM will be notified by the most expeditious means of all actions to be taken.

f. When armed, personnel must have been familiarized or qualified IAW AR 350-4 or other applicable regulations.

g. When armed, personnel must also have been instructed in the proper use of force IAW AR 190-28.

This supplement supersedes USACE Suppl 1, 25 October 1982 to AR 190-14,
(15 August 1981.)

HQ AR003154

USACE Suppl 1 to AR 190-14

Page 2, paragraph 8, Special provisions for carrying firearms. Add subparagraph g after subparagraph f.

g. General officers are no longer allowed the discretion of carrying their military issued firearms for personal protection. The carrying of firearms for personal protection is limited to military and civilian officials in high threat overseas areas.

Page 3, paragraph 9, Authorization documents. Add subparagraph e after subparagraph d.

e. Upon receiving approval request in paragraph 6c, Commanders USACE field operating activities are responsible for issuing DA Form 2818, Firearms Authorization, authorizing Corps of Engineers employees to carry firearms in accordance with this regulation.

Page 3, paragraph 11, Use of commercial aircraft by personnel carrying firearms. Add subparagraph d after c(2).

d. Advanced authorization is required to carry firearms from CONUS to an overseas area in a temporary duty status. Request for carrying a firearm will be included as part of the request for area clearance and TDY orders should indicate the carrying of the firearms is required for official duties. Requests for approval to carry weapons on commercial aircraft under conditions not specifically authorized by this regulation, should be forwarded to CDR USACE (DAEN-PM) WASH DC 20314-1000.


Page 4, paragraph 12, Authority to bear firearms in a foreign country. Add the following:

Procedures outlined in USACE Suppl 1 to AR 1-40, Official Temporary Duty Travel OCONUS will be followed.

Page 4, paragraph 13, Safeguarding weapons. Add the following:

Requests for exception to policy will be addressed to CDR USACE (DAEN-PM) WASH DC 20314-1000.

FOR THE COMMANDER:



ARTHUR E. WILLIAMS
Colonel, Corps of Engineers
Chief of Staff

USACE Suppl 1 to AR 190-31

DAEN-PM
DEPARTMENT OF THE ARMY
US Army Corps of Engineers
Washington, DC 20314

USACE Supplement 1
to AR 190-31

30 June 1982

Military Police
DEPARTMENT OF THE ARMY CRIME PREVENTION PROGRAM

Issue of further supplements to this regulation by Commanders, Field Operating Activities, is permitted but not required. If supplements are issued, Division Commanders and Commanders, Separate Field Operating Activities, will furnish two copies of each to CDR USACE (DAEN-PM) and (DAEN-ASP-R), WASH DC 20314; District Commanders will furnish required copies to appropriate Division Commanders.

AR 190-31, 1 January 1982, is supplemented as follows:

Page 1, paragraph 2a, Applicability. Add the following:

Provisions of this regulation are applicable to OCE/HQ USACE Divisions, Districts, and separate Field Operating Activities (FOA).

Page 2, paragraph 5, Explanation of terms. Add subparagraph g after subparagraph f.

g. Installation. For purposes of this regulation, references to "installation" functions or activities will pertain to Engineer Divisions, Districts, and separate FOA functions and activities, e.g., Division Commander, District Commander, and separate FOA Commanders/Directors are also "installation" commanders.

Page 2, paragraph 7, Responsibilities. Add the following to subparagraph g(2):

(2) A formal crime prevention file will be maintained at HQ USACE (DAEN-PM). This file will contain a variety of crime prevention topics which may serve as reference material, e.g., circulars, posters, articles, press releases, newsletters, bumper stickers, and equipment brochures. This will be a master file and field input is welcomed.

Page 2, paragraph 7, Responsibilities. Add the following subparagraphs (5) and (6) after subparagraph g(4):

This supplement supersedes OCE Suppl 1, 6 Aug 79, to AR 190-31, 18 Aug 77

HQ AR003156

USACE Suppl 1
to AR 190-31
30 Jun 82

(5) The Engineer Chief of Security and Law Enforcement has Corps of Engineer staff responsibility for the Corps Crime Prevention Program.

(6) A Crime Prevention Council will be established within HQ USACE. The council will be chaired by the HQ USACE Chief, Security and Law Enforcement and will meet, at a minimum, once every quarter. The council will consist, at a minimum, of representatives from the following staff elements: Executive Office, Civil Works, Military Programs, Counsel, Inspector General, Safety Office, Public Affairs Office, and the Office of Administrative Services. Topics for discussion will include those items which contribute to the furtherance and accomplishment of the programs and objectives established by the Commander, US Army Corps of Engineers.

Page 2, paragraph 7, Responsibilities. Add subparagraphs (7) thru (11) after subparagraph h(6)e:

(7) Conduct thorough prior coordination with representatives at USACIDC Regions to focus their efforts on specific areas requiring attention. Prior staff coordination within the Corps element to be surveyed should preclude duplicating the efforts of other surveying or inspecting agencies, e.g., Inspectors General, Army Audit Agency.

(8) A formal crime prevention file will be maintained at all USACE Divisions. This file should contain a variety of crime prevention topics which may serve as reference material, e.g., circulars, posters, articles, press releases, newsletters, bumper stickers, equipment brochures. Districts and separate FOA are encouraged to establish similar files and participate in exchanging crime prevention materials among all Corps elements.

(9) Division Chiefs of Security and Law Enforcement/Provost Marshals and Security and Law Enforcement Managers at Districts and separate FOA in coordination with the Public Affairs Officer, use the available media to:

a. Provide an understanding within the Corps family of the Security and Law Enforcement (Provost Marshal) mission, functions, plans, policies and programs.

b. Insure District security personnel explain to concerned personnel pertinent provisions of agreements entered into with local civilian law enforcement agencies in providing support to Corps facilities and projects.

c. Explain the role members of the Corps of Engineers must play in helping prevent crimes and offenses and actions they should take if they become victims.

USACE Suppl 1
to AR 190-31
30 Jun 82

(10) Crime prevention councils will be established within the headquarters of each Engineer Division. Councils will be chaired by the Chief of Security and Law Enforcement/Provost Marshal and will meet at a minimum of once every quarter. Establishment of councils at Districts and separate FOA is optional. Council membership at Divisions and, if appropriate, Districts and separate FOA will be at the discretion of the Division and District Commanders and separate FOA Commanders/Directors, respectively. Topics for discussion will include those items which contribute to the furtherance and accomplishment of the programs and objectives established by the Commander, US Army Corps of Engineers.

(11) Division and District Commanders and separate FOA Commanders/Directors will institute procedures that will enhance the security of Corps property. Supply management and property accountability are processes that can be strengthened continually through the establishment of precise control procedures. Consideration should be given to involving the Engineer Division Chiefs of Security and Law Enforcement/Provost Marshals in the development of standards and procedures regarding security of property. Army Regulation 190-51, Security of Army Property at Unit and Installation Level, contains information on physical security and crime prevention procedures and techniques that should be considered in strengthening control procedures.

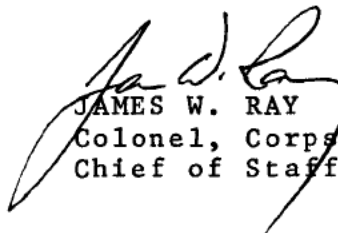
Page 4, paragraph 8, Program support. Add the following to subparagraph c:

CDR USACE(DAEN-PM) will be advised when a crime prevention survey of any Corps element is initiated by USACIDC.

Page 4, paragraph 8, Program support. Add subparagraph f after subparagraph e:

f. One copy of the Division Program will be forwarded to CDR USACE (DAEN-PM), WASH DC 20314. Where Districts or separate FOA are located at installations not operated by the Corps of Engineers, they may be included within the crime prevention program of the supporting installation.

FOR THE COMMANDER:


JAMES W. RAY
Colonel, Corps of Engineers
Chief of Staff

* AR 190-31

ARMY REGULATION }
 No. 190-31 }

HEADQUARTERS
 DEPARTMENT OF THE ARMY
 WASHINGTON, DC, 1 January 1982

MILITARY POLICE
DEPARTMENT OF THE ARMY CRIME PREVENTION PROGRAM
Effective 1 February 1982

This revision reflects added terms and definitions, and a more explicit definition of the Department of the Army Crime Prevention Program. This regulation may be supplemented at the major command level. HQDA agencies and major Army commands will furnish one copy of each supplement to HQDA(DAPE-HRE), WASH DC 20310.

Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

	Paragraph
Purpose	1
Applicability	2
Objective	3
Concept	4
Explanation of terms	5
Required references	6
Responsibilities	7
Program support	8
Training	9

1. Purpose. This regulation prescribes policies and responsibilities for the DA Crime Prevention Program.

2. Applicability. *a.* This regulation applies to all elements of the Active Army and the US Army Reserve. It does not apply to the Army National Guard.

b. Requirements in this regulation may be waived by major Army command (MACOM) commanders when they determine that a requirement is not contributing to the program objective, or when more effective methods are developed locally.

3. Objective. The DA Crime Prevention Program should provide a secure environment; Service members and their families, Government employees, and the public should be able to

live and work in it. This goal can be achieved by orienting individuals, Army leadership, and Army law enforcement activities toward crime prevention.

4. Concept. *a.* Crime prevention is a command responsibility. A successful program needs continuing command emphasis; criminal activity should not be allowed to detract from mission accomplishment.

b. An effective crime prevention program will help maximize the security of a military community in peace and war. Its goals are similar to (and support those of) the installation physical security (PS) and operational security (OPSEC) programs. Methods used to identify and analyze crime problems are similar to those used in PS and OPSEC threat assessments; these programs complement each other.

*This regulation supersedes AR 190-31, 18 August 1977.

AR 190-31

c. The DA Crime Prevention Program is designed to reduce crime by—

(1) Stimulating appropriate crime prevention attitudes, procedures, and behavior.

(2) Protecting potential victims or property from criminal acts by anticipating crime possibilities and eliminating or reducing opportunities for the acts to occur.

(3) Discouraging potential offenders from committing criminal acts.

5. **Explanation of terms.** *a. Crime analysis.* The process used to determine the essential features of a criminal act. It is a mandatory part of any crime prevention program.

b. Crime prevention inspection. An on-site evaluation of the crime prevention program of a unit, section, office, or other facility.

c. Crime prevention. The anticipation, recognition, and appraisal of a crime risk, and initiation of some action to remove or reduce it. Crime prevention is a direct crime control method that applies to before-the-fact efforts to reduce criminal opportunity, protect potential human victims, and prevent property loss.

d. Crime prevention campaign. A program designed to deal with the control or prevention of specific types of crime based on patterns of occurrence, offenders, and victims.

e. Crime risk management. The development of systematic approaches to reduce crime risks.

f. Physical security. Protective measures designed to safeguard personnel; prevent unauthorized access to equipment, facilities, material, and documents; and to safeguard them against espionage, sabotage, damage, theft, waste, and fraud.

6. Required references.

a. AR 190-13 (The Army Physical Security Program). Cited in paragraph 8b.

b. AR 190-51 (Security of Army Property at Unit and Installation Level). Cited in paragraph 8b.

7. **Responsibilities.** *a. Deputy Chief of Staff for Personnel (DCSPER).* The DCSPER will—

(1) Develop policy and procedures concerning the DA Crime Prevention Program.

(2) Analyze criminal information developed by Staff agencies and MACOMs to determine which crimes should be subjects of special crime prevention campaigns.

(3) Publish specific subjects, themes, and crime prevention campaign dates.

(4) Publish supporting material to assist in implementing the DA Crime Prevention Program.

(5) Coordinate with other agencies to insure maximum use of civilian crime prevention programs and materials.

(6) Announce crime prevention campaigns each year to highlight certain crime areas for intensified public awareness efforts at MACOM and installation levels. When feasible, DA campaigns will coincide with national civilian crime prevention campaigns.

b. Deputy Chief of Staff for Logistics (DCSLOG). The DCSLOG will insure that applicable portions of the DA Crime Prevention Program become integral parts of logistics policy.

c. The Adjutant General (TAG). TAG will—

(1) Integrate basic tenets of the DA Crime Prevention Program into the CONUS dependent education program and the Army Community Services Program.

(2) Insure that special TAG programs (such as "The Family Advocacy Program") are made part of the DA Crime Prevention Program.

d. Chief of Engineers (COE). The COE will—

(1) Insure that crime prevention principles are made part of the management and operation of Army-controlled housing and construction projects.

(2) Provide technical assistance to other agencies in dealing with changes in physical environment to promote crime prevention.

e. Chief of Public Affairs (CPA). The CPA will prepare supporting crime prevention mate-

AR 190-31

rials for use in the command information program.

f. Comptroller of the Army (COA). The COA will insure that crime prevention is considered for patrons of the Army and Air Force Exchange Service (AAFES). The COA also will insure that AAFES supports the DA Crime Prevention Program.

g. Commanders of MACOMs. MACOM commanders will—

(1) Conduct continuing crime analysis as the crime prevention program basis.

(2) Establish and monitor crime prevention programs within their commands. MACOM commanders may modify and supplement the DA-announced crime prevention campaigns. (*Note:* This regulation is intended to allow installation commanders the maximum degree of freedom in developing local crime prevention programs.)

(3) Conduct a continuing review and analysis of subordinate command crime prevention programs.

(4) Insure that crime prevention theories and practices are made part of all phases of the command law enforcement program.

h. Installation and activity commanders. These commands will—

(1) Establish, publish, and implement crime prevention programs within their commands or installations. Tenant activity crime prevention programs will be coordinated with the host installation commander. These programs will contain provisions to establish and publish crime prevention themes to support DA and MACOM campaigns. Themes for local campaigns also will be made part of installation programs. Law enforcement statistical analysis of crime trends will be reviewed to identify particular themes for installation programs. Installation commanders may modify DA crime prevention campaigns based on local estimates of crime problems. Campaigns also may be modified to allow participation in crime prevention campaigns sponsored by the local civilian community.

(2) Conduct crime prevention inspections to

evaluate installation, unit, and activity involvement in crime prevention programs.

(3) Designate frequency, form, and type of crime prevention inspections. At least one crime prevention inspection per year is recommended.

(4) Appoint, in writing, a crime prevention officer to manage the installation crime prevention program. The installation crime prevention officer normally will be assigned to the law enforcement activity, office of the provost marshal, or installation security office.

(5) Insure that unit crime prevention officers (E6 or above) have been designated in writing at all levels of command down to and including battalion-sized units, separate detachments, and activities. Duties of the crime prevention officer will include, but are not limited to the following:

(a) Conduct announced or unannounced crime prevention inspections of unit areas using a locally developed checklist.

(b) Insure electrostatic markers are made available to unit personnel for marking Government and personal property for identification.

(c) Develop crime prevention themes for local command information programs.

(6) Establish an installation crime prevention council. This council will be chaired by a member of the installation command element, with the provost marshal, or security officer serving as the coordinator. In addition to representatives of major units, the council should include delegates from the installation staff, and from tenant or attached activities. Suggested topics for crime prevention council discussion include, but should not be limited to the following:

(a) Crime trends and conditions conducive to crime.

(b) Effectiveness of existing crime prevention programs.

(c) Ways of increasing the effectiveness of programs.

(d) Findings of physical security and crime prevention inspections, and corrective actions taken.

(e) Financial impact of crime and preventive measures.

AR 190-31

8. Program support. *a.* Crime prevention is a primary mission of Army law enforcement elements. Law enforcement personnel are uniquely qualified to provide technical assistance to the commander. It is a primary task for military police (MP), military police investigators (MPI), and special agents of the US Army Criminal Investigation Command (USACIDC).

(1) In crime investigation, merely to identify the perpetrators is not enough. Underlying conditions that contributed to the crime must be identified and corrective action started.

(2) Assignment as crime prevention managers is a natural progression for physical security specialists and military police investigators. Only the most experienced MPs with extensive experience in physical security or MP investigations will be assigned as crime prevention specialists.

b. Physical security is a law enforcement function that supports the crime prevention effort. Physical security surveys and inspections (AR 190-13) can provide data for crime prevention councils and officers. Specific guidance on protection of property is contained in AR 190-51. Effective physical security must be made part of the command's crime prevention programs.

c. USACIDC conducts crime prevention surveys as an integral part of the DA Crime Pre-

vention Program. This helps commanders deter crime by identifying crime-conducive conditions, discovering criminal activities, and formulating recommendations.

d. Civilian police agencies are valuable sources of information. They can furnish detailed information on the following:

(1) Local trouble spots.

(2) Conduct of military personnel in the civilian community.

(3) Vice or narcotic operations that may contribute to the military crime potential and adversely affect attitudes of the civilian population.

e. Morale and welfare agencies may be productive sources of crime prevention information and program assistance.

9. Training. *a.* Objectives of the DA Crime Prevention Program can be reached without formal training. Skills that are not included in physical security or MPI duties may be developed (and training received) through crime prevention courses given by civilian agencies. Maximum use should be made of these courses.

b. The command information program is an excellent way to disseminate crime prevention information.

AR 190-31

The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to HQDA(DAPE-HRE), WASH DC 20310.

By Order of the Secretary of the Army:

Official:

ROBERT M. JOYCE
Brigadier General, United States Army
The Adjutant General

E. C. MEYER
General, United States Army
Chief of Staff

DISTRIBUTION:

To be distributed in accordance with DA Form 12-9A requirements for AR, Military Police.

Active Army—A
ARNG—None
USAR—D

USACE Suppl 1 to AR 190-40

DAEN-PM
DEPARTMENT OF THE ARMY
US Army Corps of Engineers
Washington, DC 20314

USACE Supplement 1
to AR 190-40

18 June 1982

Military Police
SERIOUS INCIDENT REPORT (SIR)
(Requirements Control Symbol CSGPA-1340(R1))

Issue of further supplements to this regulation by Commanders, FOA, is permitted but is not required. If supplements are issued, Division Commanders and Commanders, separate FOA will furnish one copy of each to CDR USACE (DAEN-PM) and (DAEN-ASP-R), WASH DC 20314; District Commanders will furnish required copies to appropriate Division Commanders.

AR 190-40, 1 September 1981, is supplemented as follows:

Page 1-1, paragraph 1-1, Purpose. Add the following:

The purpose of this supplement is to set forth minimum requirements for the reporting of serious incidents within the US Army Corps of Engineers.

Page 1-1, paragraph 1-2, Applicability. Add the following:

This regulation also applies to all military and civilian personnel under the command of the Commander, US Army Corps of Engineers. Moreover, this regulation applies to all CE property, equipment or funds, irrespective of whether the items were acquired through military or civil appropriation.

Page 1-1, paragraph 1-4, Explanation of terms. Add subparagraph g after subparagraph f as follows:

g. Commander. For the purpose of this supplement, unless otherwise indicated, the term "Commander" includes the Commanders/Directors of separate field operating activities.

Page 1-4, paragraph 1-5, Objectives of the SIR system. Add subparagraph f after subparagraph e:

f. An SIR is not a substitute for a formal report of investigation. Consequently, information contained therein will not be used for unfavorable personnel actions, including denial of any right, privilege or benefit to any individual that would be so entitled under Federal law, or for which one would otherwise be eligible.

This supplement supersedes OCE Suppl 1, 16 May 77, to AR 190-40, 21 March 77.

HQ AR003166

USACE Suppl 1 to AR 190-40
18 Jun 82

Page 4-1, paragraph 4-1, Electronically transmitted messages (RCS-
CSGPA-1340(R1)). Add subparagraph 4-1b(3) after 4-1b(2):

(3) Electronically transmitted SIR's originating at the Division
Commander echelon will be addressed as follows:

TO DA WASHDC //DAPE-HRE//

INFO CDRUSACE WASH DC //DAEN-PM//

SIR's originating at the District Commander echelon will be addressed
as follows:

TO DA WASHDC //DAPE-HRE//

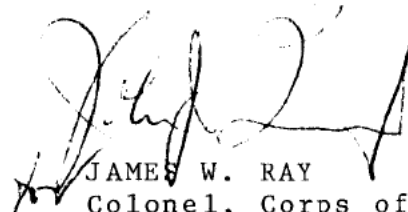
INFO CDRUSACE WASH DC //DAEN-PM//

(Appropriate Engineer Division Headquarters)

Page 4-2, paragraph 4-3, Reporting Category 1 incidents. Add subpara-
graph 4-3d after 4-3c:

d. Personnel submitting telephonic reports of Category 1 SIR's
to HQDA during normal duty hours (WASH DC time) will request the
Army Operations Center (AOC) to include the Office, Security and Law
Enforcement, US Army Corps of Engineers, telephone (202) 272-0539, in
the conference call. During nonduty hours, the AOC will be requested
to include the Duty Officer for the US Army Corps of Engineers in the
conference call. To enhance this action, the AOC is provided with a
current roster containing the names and home phone numbers of all CE
duty officers for this purpose.

FOR THE COMMANDER:


JAMES W. RAY
Colonel, Corps of Engineers
Chief of Staff

HQ AR003168-HQ AR003205

BASIC REPRINT WITH CHANGE 1 INCLUDED

DAEN-CWO-R

DEPARTMENT OF THE ARMY
U. S. Army Corps of Engineers
Washington, D.C. 20314-1000

ER 1130-2-400

Regulation
No. 1130-2-400

1 June 1986

Project Operation
MANAGEMENT OF NATURAL RESOURCES AND OUTDOOR RECREATION AT
CIVIL WORKS WATER RESOURCE PROJECTS

1. Purpose. This regulation provides policy, and procedural guidance for the administration and management of Civil Works water resource projects. General policies regarding planning, authorization, development, and construction of Civil Works projects are contained in references and in other regulations and policy statements.
2. Applicability. This regulation is applicable to all HQUSACE/OCE elements and all Field Operating Activities (FOA) having Civil Works responsibilities.
3. References. Cited legislative references and Engineer Regulations are listed in Appendix A.
4. Project Mission. The mission of the Natural Resources Management Program is to provide support to the Nation by managing the natural resources at Corps of Engineers water resources projects in accordance with authorizing legislation and sound management principles.
5. Program Objectives. The objectives of the Natural Resources Management Program are:
 - a. To manage natural resources on Corps of Engineers administered land and water to insure their continued availability.
 - b. To provide outdoor recreation opportunities on Corps of Engineers administered land and water on a sustained basis.
 - c. To provide a safe and healthful environment for project visitors.
6. Implementation. The objectives stated in the preceding paragraph will be accomplished by maintaining qualified professionals at all levels of the resource management program, and by developing and fully implementing project operational management plans (OMP).
7. Personnel. To meet the Corps' resource management objectives, a resource oriented multi-disciplined approach to hiring should be adopted at all levels to assure that all facets of project management are considered.

This regulation supercedes ER 1130-2-400, 1 October 1983, and cancels RCS: DAEN-CWO-70 and ENG Form 4800-R.

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a. Resource Managers. Except for specifically designated facilities such as locks and powerhouses, the resource manager will be responsible for all aspects of operations, maintenance, and administration of a water resource development project and its natural and cultural resources. A resource manager will be assigned to a new project shortly after the initiation of land acquisition. In addition to coordinating with the real estate element, the resource manager will be actively involved in coordination aspects of planning, design, construction, and other project activities.

b. Rangers. The selection of rangers on a project should insure a cross section of expertise to provide for an effective management and administration of the project.

c. Operation and Maintenance Personnel. It is the policy to limit employment of specially trained, full time personnel to the minimum number required for proper operation and maintenance and management of project facilities and resources. Where economically advantageous, contract services should be used to the maximum extent. If seasonal maintenance contracts are not feasible, temporary or seasonal personnel may be used.

d. Administrative Personnel. Each project office should be staffed as needed with permanent and/or part-time secretarial and clerical help to accomplish the routine office management.

e. Volunteers. In accordance with P. L. 98-63, "The United States Army Chief of Engineers may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the Army Corps of Engineers except policy making or law or regulatory enforcement. Such volunteers shall not be employees of the United States Government except for the purposes of (1) Chapter 171 of Title 28 of the United States Code relating to tort claims and (2) Chapter 81 of Title 5 of the United States Code, relating to compensation for work injuries."

f. Professional Registration and Certification. Division and district commanders should strongly encourage qualified resource management personnel to become registered in their professional field and actively participate in their state or professional society.

g. Mobility. The mobility of resource management personnel greatly enhances the experience base of both the organization and the individual. The use of temporary mobility assignments for training and development to other offices, districts, or divisions should be maximized.

h. Career Progression. A career ladder should be established to provide resource management personnel the opportunity to advance to line supervisory positions at the project, district, division or HQUSACE level.

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8. In Service Training.

a. General. In-house training, including HQUSACE sponsored courses, will be conducted on subjects directly related to the Natural Resources Management Program.

b. Resource Manager/Ranger Training Program.

(1) Each district will establish and maintain a formal resource manager/ranger training program. As a minimum, the training program will span 18 months and will include assignments to the district office and one lake project. A training manual outlining the program will be submitted to the division commander for approval.

(2) In establishing trainee positions, a sufficient total number of vacancies must be projected to exist (not necessarily specifically identified) within a reasonable time in a district to provide positions for trainees to progress to the GS-9 grade level. Positions at the GS-5 and GS-7 levels are to be established for developmental purposes only. After completion of the formal training period, trainees normally will be selected for a permanent GS-9 resource manager or ranger position.

c. Conferences and Seminars. Judicious management of attendance and participation in various professional conferences, seminars and training schools is necessary to obtain maximum benefits from minimum expenditures. The importance of staying abreast of current information and discussing issues of mutual interest with various local, state, and Federal government, and private sector representatives demands expenditure of some resources.

d. Park Practice Program. Complete series of Park Practice publications ("Guidelines," "Trends" and "Grist,") published by the National Recreation and Parks Association in cooperation with the National Park Service, will be maintained in division, district and area offices. All projects should receive "Grist" on a regular basis for use by all employees. The publications should be made available for use by natural resources management personnel at all levels of responsibility and such personnel should be encouraged to utilize them fully. Contributions by all Corps personnel of material suitable for publication in these publications are encouraged. Contributions need not be in finished form for publication. The main objective is to get the complete idea of the submission across to the publishing staff. Drawings or photographs should accompany the contribution where practicable. All material for publication should be sent by the contributor directly to Park Practice, National Park Service, Department of the Interior WASH, DC 20240.

9. Operational Management Plan.

a. General. The operations element, with the coordination of the planning, real estate and safety elements will develop and implement an operational management plan (OMP) for all operational projects in accordance with the approved master plan (MP). The OMP will include two parts: (1) Natural Resources Management and (2) Park Management. Objectives

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and implementation plans will be established for each part. It is essential that the OMP be a utilitarian plan and that it be implemented fully.

b. Preparation. The OMP should replace existing master plan appendices within one year of the date the appendices are due for revision. At projects without approved appendices, the OMP should be prepared as soon as possible. However, actual preparation time will be dictated by the availability of funds based on priorities outlined in the annual budget guidance. Guidance on the preparation of the OMP is contained in Appendix B. Requirements for detailed information within the general format specified in Appendix B is at the discretion of the division commander.

c. Approval. The OMP will be approved by the division commander. Two copies of the approved plan will be forwarded to CDR USACE (DAEN-CWO-R) WASH, DC 20314.

10. Updating of Plans. The district element responsible for updating the master plan on existing projects will be determined by the district commander. The MP and OMP will be updated as required and when funds are available through the budget priority process. The OMP will be updated by the operations element.

11. Natural Resource Management.

a. General. The ultimate responsibility for the project's natural resources rests with the Corps of Engineers. Management of all natural resources will be integrated with other project activities within a multiple use concept. Progressive natural resource management programs will be initiated wherever feasible to maintain the project in a productive state.

b. Fish and Wildlife.

(1) The Corps recognizes the responsibility of the states for the regulation of fish and wildlife in accordance with state law. Project lands and waters are made available to states for fish and wildlife management, including construction, operation and maintenance of structures and facilities or other improvements. Project lands and waters may also be made available to the U.S. Fish and Wildlife Service for management as refuges for migratory waterfowl and administration of Federal regulations relative to migratory birds or other Federal wildlife programs authorized by law. In cases where non-Federal agencies are responsible for fish and wildlife management at Corps projects, district and/or project personnel will meet with officials of the non-Federal agency each year to reach agreement on a specific management program in accordance with EP 405-1-2 and the terms of the License for Fish and Wildlife Management Purposes. Prior to the meeting, the Corps will review that portion of the non-Federal agency's annual management plan proposed for use in managing the licensed areas of the project. Throughout the year, project personnel should inspect the non-Federal agency's work on the project to determine

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compliance with the terms of the license and management plan as approved by the district commander. Evidence of non-compliance with the outgrant instrument should be sent through the operations element to the real estate element.

(2) On suitable project lands not licensed to states for wildlife purposes, the division and district commanders will develop and implement progressive programs for the conservation and management of fish and wildlife resources.

c. Forest/Range Management.

(1) In accordance with P.L. 86-717, project lands "shall be developed and maintained so as to encourage, promote, and assure fully adequate and dependable future resources of readily available timber through sustained yield programs, reforestation and accepted conservation practices, and to increase the value of such areas for conservation, recreation and other beneficial uses . . . compatible with other uses of the project." And also that the Corps of Engineers "shall provide for the protection and development of forest or other vegetative cover and the establishment and maintenance of other conservation measures . . . so as to yield the maximum benefit and otherwise improve such areas."

(2) Proper management techniques will be applied wherever the opportunity exists to improve vegetation conditions for wildlife, recreation, scenic value, timber, wildfire prevention, pest control, watershed protection or for use on the project. Specific management objectives will be based on land uses designated in the project MP and OMP.

d. Timber Sales. In accordance with the approved OMP, forest products generated through clearing, salvage operations, sanitation cuts or incidental to implementation of the OMP and not required for Corps use will be sold after approval of a disposal plan. Products to be sold will be identified by a declaration of availability prepared by the operations element. All declarations of availability will include as a minimum: (1) a statement of the purpose of the proposed sale; (2) an estimate of the volume of the various products made available, and the basis for the estimate; (3) a statement of the accuracy of the estimate provided so that determination can be made if estimates can serve as the basis for lump sum sales; (4) statements of conditions required in the sales contract for protection of resources such as maximum skidding distance, permitted stump height, seasonal harvesting requirements, fire protection, slash disposal, and final completion dates; (5) requirements for a final joint operations-real estate compliance inspection before release of the contractor at the contract completion. All timber sales will be conducted by the real estate element in accordance with Section XII of EP 405-1-2. Minor sales, involving lots with an estimated value of \$1,000 or less, may be accomplished by the reservoir manager on civil works projects under general guidance issued by Real Estate Branch.

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e. Fire Protection. As authorized in Title 42, U.S.C., Sec. 1956a., the Corps may enter into reciprocal agreements with responsible fire organizations for fire protection of Corps properties. Such agreements will include a waiver of all claims for compensation for any loss, damage, personal injury or death resulting from the performance of the agreement. The agreement may also provide for the reimbursement for any or all costs incurred in furnishing fire protection on Corps lands. The authority to approve these agreements is delegated to the division commander.

f. Agriculture and Grazing. Agricultural crop production and grazing are not project purposes, but are considered an interim use which may be used as a management tool in the execution of the CMP. Initiation of new resource management programs in connection with agriculture and grazing (A&G) leases and recreational programs should not be delayed pending preparation and approval of the updated CMP. Resource management programs will be initiated at the earliest practical date on lands under A&G leases. As these leases expire and new lease agreements are prepared, outgrant instruments will incorporate land management conditions in the interest of resource management.

g. Removal of Minerals and Natural Resources. Mineral exploration and development by outside parties may be allowed in accordance with the mineral leasing laws of the United States. Guidance on project natural resources and mineral exploration will be found in EP 405-1-2.

12. Outdoor Recreation.

a. General. Public use of project lands and water will be on a first-come, first-served basis. However, group camp areas or group use picnic pavilions may be provided on a reservation basis. Whenever possible, the resource manager will employ the following management measures to increase the public's opportunity for a high quality recreation experience:

- (1) Based upon social and resource carrying capacity, establish and enforce maximum use limitations to prevent overcrowding or site deterioration.
- (2) Reduce or eliminate use conflicts. Public day use activities should be separated from camping areas.
- (3) Establish a project wide cost effective program to rehabilitate recreational facilities whenever feasible to increase visitor satisfaction while reducing O&M costs. Consolidate areas and/or close and discontinue facilities underutilized.
- (4) Implement other approved management measures to provide for recreational use of the project by all visitors, including the handicapped.

(5) Issue Special Events and Use Permits in accordance with
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b. Public Campgrounds. Normally the Corps or another public agency will provide and administer facilities for use by the camping public. Campgrounds may also be provided by commercial concessions. Camping is permitted only in those areas designated in the MP and such activity will be in accordance with Title 36 Chapter III, Code of Federal Regulations and ER 1130-2-404.

c. Swimming Beaches. New swimming beaches will be developed and maintained under the guidelines of P. L. 89-72 and the criteria established in Appendix A of EM 1110-2-400. Existing beaches and concentrated swimming areas operated by the Corps will be maintained in a physically safe and efficient manner in accordance with the stated EM. This will include maintaining appropriate gradient, beach nourishment, adequate buoys and proper signing.

13. Acceptance of Donated Items.

a. Donation of Materials. All acceptance of donations made under the delegation of authority to the Chief of Engineers from the Deputy Under Secretary of the Army (Civil Works), dated 21 March 1977 will be made on ENG Form 2683-R, Donation of Personal Property, (Appendix C) in which the donor relinquishes all ownership rights in the property donated and the property is accepted without obligation on the part of the United States. A jacket number file will be assigned upon acceptance. Deviations in the format of ENG Form 2683-R are not authorized without prior approval of the Commander, USACE. Authority to accept the unconditioned donation of materials not to exceed a value of \$5,000 is redelegated to the district commanders. Property accepted will be marked with an appropriate symbol to indicate for record purposes that the property was donated.

b. Donations of Lands. Donations of land are not included in the redelegation; such authority being retained by the Secretary of the Army. Donations of real property will be handled by separate correspondence on a case-by-case basis.

14. Service Contracts.

a. OMB Circular A-76. In accordance with OMB Circular A-76, when it has been determined that a function or service can be contracted, the full cost of contracting will be compared with the in-house cost. When contracting costs are lower than in-house costs by a specified margin, the Government will contract for the product or service.

b. Resource Manager's Role. Resource managers can serve, if designated by the district commander, as the contracting officers' representative (COR) when service contracts are found necessary. Prior to the termination of a contract, the manager should furnish through operations channels to the procurement and supply division, a written recommendation for extending or not extending a contract.

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15. Reports.

a. Natural Resource Management System (NRMS). The purpose of the NRMS is to collect and maintain annual data on recreation facilities and visitor centers for each water resource project having 5,000 or more recreation days of use. The annual update occurs between 1 December and 31 January. ER 1130-2-414 provides guidance on submission of the NRMS report.

b. Mishap Reports. Accidents and injuries occurring on projects to either Corps personnel, contractor personnel or the visiting public will be reported in accordance with OCE Supplement 1 to AR 385-40. Immediate notification will be made to the district safety office in the event of a fatality, property damage of more than \$50,000 or any accident regardless of the consequences, if it is suspected that it will result in unfavorable criticism of the Corps or provoke questions at the HQUSACE level.

c. Incident Reports. All incidents that occur on Government lands and water are reportable. The resource manager must use personal judgment to determine the extent to which each incident will be investigated and reported. As a guide, each act of vandalism involving damage of \$250 or more should be reported individually. Acts of vandalism involving less than \$250 may be accumulated and reported together on one report submitted monthly. Each occurrence of vandalism will be listed on the report with date of occurrence and the estimated amount of damage. All criminal incidents will be reported individually. Disorderly conduct incidents will be reported if law enforcement agencies are involved. Fire, suspected arson, apparent suicides, and all other incidents which could likely result in court action involving the Government will be reported. Reporting of criminal incidents will be in accordance with AR 190-40 and USACE Supplement 1 to AR 190-40. For further guidance, see ER 190-1-50.

16. Health and Safety.

a. General. EM 385-1-1, "Safety and Health Requirements Manual" and Engineer Regulations in the 385 series establish the safety program requirements for all Corps of Engineers activities and operations. Pertinent provisions of EM 385-1-1 and the above referenced regulations will be applied to all activities. Resource personnel will become familiar with these instructions and implement and enforce those provisions applicable to all Corps personnel, contract personnel and the visiting public. Other measures that will be employed to maintain health and safety include, but are not limited to the following:

(1) The resource manager will appoint a member of the project staff as the project safety officer. The project safety officer will develop plans and programs to carry out the provisions of EM 385-1-1 and the Engineer Regulations in the 385 series.

(2) Safety education lectures will be given to Government personnel by immediate supervisors as required by EM 385-1-1.

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(3) Resource management training courses and requirements will comply with Section 1 and 2 of EM 385-1-1.

(4) The project safety plan portion of the OMP will be used in program planning and operation.

(5) Project personnel will promote, develop, and maintain public interest in recreational safety through the establishment of water safety councils. Personnel will also participate in and take advantage of programs offered by organizations such as the National Water Safety Congress, National Safe Boating Council, U.S. Coast Guard, Coast Guard Auxillary, Power Squadrons, the American Red Cross, and the National Association of State Boating Law Administrations. Guidance and assistance may be obtained from the district safety office.

(6) Safety equipment and materials such as first aid kits, search, rescue and recovery equipment, portable signs and barricades, communications equipment, vehicles, motor launches, and fire fighting equipment will be maintained at each project.

(7) Restricted areas, swimming areas, danger zones, and hazardous areas shall be properly marked with the appropriate buoys, markers, signs, or barricades which conform to the current Uniform State Waterway Marking System and the Manual on Uniform Traffic Control Devices for Streets and Highways (U.S. Dept of Transportation, Federal Highway Commission D6.1, 1978). Such devices will be placed and maintained to insure the public is adequately safeguarded against hazards. ENG LAB 2, For Your Safety (Buoys and Markers), may be used to assist in informing and educating the public about these devices. Tailwater areas and areas immediately above spillways and dams will be properly marked with signs, buoys, booms, or other markers. Signs, buoys, and markers will be installed in connection with powerhouses, fish ladders, locks, and outlet control structures. Project roads and boat launching ramps will be adequately signed, marked, or barricaded for proper use and protection of the visiting public.

(8) All facilities and equipment will comply with applicable Occupational Safety and Health Administration (OSHA) standards.

(9) Commercial telephone for emergency use will be provided in public use areas where feasible.

(10) Adequate security lights will be provided at all boat launching ramps when the lights are available at a reasonable cost. In areas where electrical service is not readily available, reflective type signs/markers will be installed and maintained to identify ramp locations.

(11) Informational bulletin boards will be provided in public use areas containing location charts, emergency numbers, Title 36 rules and regulations, safety tips and other information of interest to the visitor.

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b. Use of Lifeguards. Corps regulations and policies do not include provision for lifeguard services at public use areas administered by the Corps. Planning and safety regulations, however, do require proper signing and notification to the public regarding water safety, lack of lifeguards and, where appropriate, life saving equipment such as ring buoys and reach poles. Lifeguard services may be provided by other agencies at outgranted swimming areas.

c. Search, Rescue and Recovery. These activities are properly performed by local and state authorities, and will be undertaken by Corps personnel only in cases of emergency when situations dictate their necessity. In these cases, coordination with local authorities is essential. Body recovery missions will also be accomplished in coordination with the sheriff's department, state police or other local law enforcement agencies. Safety of personnel must be taken into consideration at all times. Proper equipment must be available at all times and personnel must be trained for this function if these activities are undertaken.

d. Carrying and Use of Weapons. Corps employees are prohibited from carrying, transporting or using weapons of any type in the performance of their duties.

17. Pollution Abatement.

a. Solid Waste Disposal. Solid waste disposal will be by contract with off-project sanitary collectors when such a method is economically and administratively feasible. Where practical, arrangements should be made for disposal of solid wastes off the project. Where this is not feasible, disposal will be accomplished on the project in accordance with Federal, state and local laws.

b. Water Pollution Control. Continuous vigilance for sources of pollution in the reservoir, and in stream tributaries thereto, will be maintained. Periodic real estate compliance inspection reports of all outgrants require specific comments regarding the possibility of pollution as a result of activities of the grantee. Surveillance of industrial, agricultural, and other operations which are potentially harmful to reservoir waters will also be maintained in cooperation with the Environmental Protection Agency (EPA) and other Federal, state or local interested agencies. The district commander will assure control of all waste discharges originating on Federal property under his jurisdiction and will provide assistance to Federal, state and local agencies in controlling waste discharges originating outside Federal lands which are polluting Federally owned areas. Any request for use of shoreline lands will include information concerning the sewage disposal facilities and health and safety measures to be provided by parties requesting the proposed outgrant.

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c. Air Pollution Control. The resource manager will maintain surveillance of activities near the project that are potential producers of air pollution which may affect the quality of the project with regard to aesthetics or public health and safety. Project activities, such as prescribed burning which might contribute to air pollution shall be coordinated with proper authorities.

d. Visual Pollution Control. Unauthorized signs, abandoned watercraft and floating facilities, buildings, and other developments which have encroached on Corps property, or any obtrusive, unsightly item that presents an environmental intrusion, is a form of visual pollution. In order to preserve the natural characteristics of land, water and shorelines of Corps projects, steps will be taken to prevent or eliminate visual pollutants on land or water under Corps control.

e. Noise Pollution Control. The making or continuance of excessive noises at any time or any place and by any means is prohibited when it interferes with an authorized use or project purpose.

f. Pest Control. The division commander is responsible for implementation of the pest control program, providing for training of pest control personnel, safe use of highly toxic materials and the proper application of restricted-use pesticides. District programs will include control agents, up-to-date and economical methods of control, and the proper use and maintenance of pest control equipment. Field operating activities will designate a single point of contact for pesticide matters. ER 1130-2-413 assigns responsibilities and prescribes procedures concerning the use of chemicals in the Corps pest control program at all Civil Works projects. It also presents guidance for the preparation and submission of an annual pest control summary report.

18. Sale or Storage of Alcoholic Beverages.

a. Policy. The policy of the Commander, USACE adopted after enactment of Section 4 of the Flood Control Act of 1944, as amended, relative to sale of alcoholic beverages, with specific exceptions, is as follows: in order to preserve a wholesome family atmosphere in the public park and recreational areas of lake projects, the sale, storage or advertising of alcoholic beverages is not permitted.

b. Exceptions to Policy.

(1) In areas where it is the custom to dispense malt beverages and light wines, as defined by the governing state, local laws and regulations in public park and recreation areas, the district commander may authorize concessionaires or licensed governmental agencies to dispense malt beverages and light wines in a manner that will conform to the standards and atmosphere which the Corps wishes to have maintained on the projects.

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(2) Concessionaires will not, however, be required to furnish malt beverages and light wines to the public if they do not desire to do so. In no case will the sale of malt beverages and light wines be advertised outside the buildings in which they are authorized to be sold. The district commander in the use of the above-stated discretionary authority will give full consideration to the limited enforcement authority of Corps employees and to the cooperativeness of the local law enforcement agencies in maintaining law and order on project lands. Full consideration will also be given to safety hazards which may result from such action.

(3) In special cases where the sale of whiskey or other hard liquors is not the primary purpose, but is served incidental to major dining facilities such as park hotels, lodges, motel-dining facilities, and clubs, the Commander, USACE reserves the right to authorize or to deauthorize the sale of alcoholic beverages under regulations of the Secretary of the Army and in accordance with state and local laws and the restriction relative to advertisement contained in the preceding subparagraph. The above language regarding hard liquor will not be incorporated in leases but each special case will be the subject of separate correspondence from the division commander to the CDR USACE, WASH, DC 20314. Following authorization by the Commander on the sale of alcoholic beverages and compliance by the concessionaire with state and local law, the lease will be amended to provide for sale of alcoholic beverages in order that the receipts may be included in the graduated rental compilation and subject to the other terms and conditions of the lease.

19. Boundary Surveys and Marking.

a. Fee Lands. Permanent type survey markers shall be placed at all angle points of the project boundary. Fee boundary lines shall be delineated in a clear but unobtrusive manner approved by the district commander and in accordance with the project master plan and operational management plan. Physical or natural features may obviate the need for delineating the boundary line itself; however, all corners should be monumented.

(1) New Projects. At new projects, boundary lines shall be monumented and delineated on the ground during land acquisition. Techniques for delineating the boundary line may include, but are not limited to, signs and posts, fencing, painting trees, vegetative plantings and/or plowing fire breaks. Both the monumentation and delineation of the boundary line will be completed as part of the initial project construction.

(2) Existing Project. District commanders shall assure an ongoing program at each project where the boundary monumentation is not complete. Early completion of boundary monumentation followed by a clear, positive delineation of the line on the ground is essential to protect the integrity of the project. On completed projects, funds required for surveys,

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monumentation and boundary marking will be programmed from maintenance funds based on budget priorities. These projects should be monumented as expeditiously as possible.

(3) Exceptions. District commanders should recognize that surveying and monumentation of certain projects, or portions of project boundaries, may not be practical or desirable. Division commanders will exercise approval authority for requested exceptions and will provide information copies of such action to CDR USACE (DAEN-CWO-R) WASH DC 20314.

b. Flowage Easement Lands. The policy concerning the monumenting of fee boundary lines shall be applicable also to perpetual flowage easements lands, where encroachments may reasonably be expected from private development of adjoining lands. Landowner permission is necessary to monument.

c. Surveillance and Prevention. Project personnel will check fee boundaries as often as is feasible to insure that the line is adequately marked and to check for unauthorized use or encroachments. The frequency of inspections and the amount of control attempted on flowage easement lands will depend upon whether the line is monumented and the individual deed restrictions. However, all boundary lines should be checked at least once every two years. Records will be maintained of missing monuments. Annually, a report will be forwarded to the engineering element requesting replacement of missing monuments. The resource manager will annually budget O&M funds to cover costs of remonumentation.

d. Boundary Fencing. Fencing should be used as a management tool to delineate project boundaries where alternative management practices are not sufficient to ensure the safety of project employees and visitors. Where economically justified, fencing may be used to prevent unauthorized use and trespass, to protect against environmental degradation and to preserve desirable wildlife habitat. The extent and type of boundary fence to be used will be determined on a project by project basis. Where fencing is used to delineate project boundaries, adequate provision for pedestrian access from adjacent land must be provided except where such pedestrian access will create user conflicts in developed areas, user fee areas or where access is restricted by other management requirements.

20. Control or Access. Roads which are not maintained, outgranted or used by the Corps, or are not dedicated as public roads by a governmental entity, should be closed, obliterated and revegetated to blend with the natural environment.

21. Archeological, Historical and Cultural Resources. The protection of these resources is required by P. L. 86-523, and P. L. 89-665. Guidance will be published under separate cover for protecting these resources at completed projects not covered under ER 1105-2-50.

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22. Outgranting of Lands. The operations element will make determinations of availability of project lands for all outgrants. The operations element will also be afforded the opportunity to make recommendations as to conditions of the proposed outgrant and agreement reached on those conditions prior to the start of negotiation or issuance of a request for proposals. At the conclusion of the negotiations for an outgrant and prior to construction and/or operation, the project resource manager and the district real estate representative who negotiated the outgrant shall meet with the grantee (preferably at the project) and go over the terms and conditions of the outgrant. There will be coordination with operations on the final draft of the instrument prior to execution.

a. Compliance Inspections by Project Personnel. The performance of compliance inspections on lands outgranted for road, street, powerline, pipeline, and underground communication line rights-of-ways, other uses covered by licenses and permits, and selected agriculture and grazing lease areas normally will be by project personnel. These inspections will be performed during the term of the outgrant at least once every five years and more often if circumstances dictate. On the outgrants to be inspected by project personnel, the district real estate element will forward through operations channels to the resource manager a list of properties to be inspected along with a schedule of when the inspections should be made. Reports of the inspection will be forwarded through operations channels to the real estate element. Instances of unsatisfactory outgrantee performance will be reported immediately. Also, project personnel should perform interim inspections on all outgrants in connection with day-to-day administration. Immediate corrective action will be taken at the project level if emergency health and safety is involved. All correspondence concerning inspection of outgrants will be coordinated with the operations and real estate elements of the district. Project personnel will charge to the real estate compliance inspection cost account only that time on site devoted specifically to assisting the real estate compliance inspection effort.

b. Compliance Inspections by Real Estate. Real Estate personnel will perform annual compliance inspections on all other outgranted lands including lands outgranted for commercial concession, public park and recreation, and fish and wildlife purposes, and selected areas outgranted for agricultural and grazing purposes. The resource manager will be notified in advance of an inspection and will be invited to accompany real estate personnel. The resource manager should evaluate each outgrant prior to renewal and if warranted, furnish a written recommendation for extending or terminating the outgrant through the operations channels to the real estate element. A copy of the inspection report will be furnished to the operations element. The resource manager will be furnished a copy of all outgrants and pertinent correspondence.

c. Areas Relinquished by Non-Federal Interests. The policy of the Corps is to close all leased recreation areas returned to the Corps. In situations where recreation areas are returned to the Corps, three basic

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considerations should be observed: paramount is that the Corps must honor its obligations and legal commitments; secondly, the Corps must objectively evaluate alternatives based on existing authorities and available resources; and thirdly, good faith and credibility with the public and our non-Federal partners must be maintained. Policy guidance and procedures presented in Appendix D shall be followed by each division commander. This guidance emphasizes the importance of communication with the lessee before termination of the lease. The plan of action adopted should be realistic in terms of manpower and budget constraints.

d. Human Habitation. It is the policy of the Commander, USACE that human habitation or residency on project fee lands or waters will not be allowed except as approved by the district commander. Construction of facilities conducive to human habitation is not permitted below the top of the flood control pool plus a reasonable freeboard. Such activity, if permitted, would place undue limitations on the proper operation of the project in view of the Corps' responsibility for the safety of people in the area and the orderly public use of the lake.

e. Private Exclusive Use. Water and land areas at Corps projects are maintained for the benefit of the general public. Since the early 1960's, the permanent siting of floating cabins, cottages and non-transient mobile homes and trailers for private exclusive use at project areas has been discouraged.

(1) Policy. The Corps' policy prohibits the expansion or the development of new private exclusive use; however, in some regions, or at specific projects private exclusive use could serve as an interim means to optimize utilization of public lands. Such use will be considered a low priority and is subject to termination when a higher priority need becomes evident.

(2) Guidance. Guidelines for implementing the policy on private exclusive use are contained in Appendix E. These established procedures are applicable to all new, expanded or existing private exclusive use developments.

23. Public Awareness.

a. General. The following will be used and coordinated with the district public affairs office as appropriate to increase public awareness and involvement:

(1) Submit for comment major plans or programs affecting public use of project lands and waters to the appropriate individual or officer of organizations such as Federal and state wildlife agencies, local conservation groups, sportsmen clubs, and lake associations.

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(2) Inform the public of the Corps' natural resources management program through project initiated news releases, regularly published columns or articles, interpretive programs and visitor center activities. Guidance on interpretive services is contained in ER 1130-2-428. Visitor center guidance is in ER 1130-2-401.

(3) Involve local schools in Corps programs through the provision of speakers and use of project lands and facilities for class assignments.

(4) Project personnel should be encouraged to become involved in community activities.

(5) Establish and maintain working relationships with local private recreation industries, lake associations, conservation organizations, and professional societies and exchange views, speakers, exhibits and publications.

(6) Maintain communication through various means including public meetings or agency coordination meetings at all organizational levels. Keep Congressional leaders and state and local government representatives appraised of impending policy changes or actions which may be controversial.

b. Signs.

(1) General. Project signs will conform to guidance given in EP 310-1-6, Corps of Engineers Graphics Standards Manual. Chapter 4 of EP 310-1-6, when expanded, will replace all division sign manuals. As an interim measure, divisions will issue a change to existing sign manuals requiring conformance with the Graphics Standards Manual.

(2) Routed Signs. The use of wood routed signs is not precluded provided the sign conforms to the visual standard presented in Chapter 4 of the Graphics Standards Manual.

(3) Traffic Control. All traffic control signs will conform to the Manual on Uniform Traffic Control Devices (D6.1 - 1978).

(4) Symbol Signs. The use of symbol signs should be maximized.

(5) Purchase of Signs. Section 4124 of Title 18 U.S.C. requires Federal agencies to purchase, at no more than fair market prices, prison made products when such products are available and meet the requirements of the agency. Therefore, the policy relative to the purchase of project signs is that such signs will be purchased from the Federal Prison Industries (FPI) unless the district commander is notified by the FPI that it cannot provide the needed signs in a timely manner.

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c. Memorial Plaques. Memorial plaques may be provided at all projects where considered appropriate by the division commander; but they are considered especially appropriate at major projects which include a structure of some type. A major project is defined for this purpose as one which costs \$10,000,000 or more.

(1) Design. A plaque may be placed in a conspicuous location on a major project structure or other appropriate location where it will be readily visible to the visiting public. Plaques will conform to design guidelines given in EP 310-1-6 and will show in the order listed, the following:

(a) Project name

(b) Engineer castle

(c) U. S. Army

(d) Corps of Engineers

(e) District office

(f) The following names:

Division commander at the time of dedication

District commander who contributed most toward construction

Project engineer in charge during the major portion of construction

(g) Years during which the project was constructed.

(2) Approval of Plaques. Each plaque will be approved by the division commander. Any deviation from the above listing will require approval of HQUSACE (CEIM-SV).

24. Coordination.

(a) Coordination with Corps Elements. The operations element will seek full coordination with other Corps elements in the planning, design, construction, administration, and management of all projects, including those managed by other agencies. This coordination involves utilizing the expertise of other elements as well as assuring that the operations viewpoint is considered by other elements when their actions will affect the operation and management of the projects.

(b) Coordination with Other Agencies. Continuous cooperation will be maintained with other governmental agencies having collateral interests in parks, recreation, natural resources, law enforcement, and other matters which are of concern in proper management of the project. Cooperative

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agreements between the Corps and the Forest Service in accordance with the principles and procedures set forth in the 1964 Memorandum of Agreement between the Secretaries of the Army and Agriculture, will be entered into prior to impoundment to assure an effective management program for the project. Agreements with agencies of the Department of the Interior will be in accordance with the Memorandum of Agreement between the Secretaries of the Army and the Interior, dated 2 February 1973.

25. Gambling on Corps Projects.

(a) Policy. It is the policy of the Corps, in keeping with the preservation of a family atmosphere, to prohibit gambling on all leased premises. The conduct of our visitors in this regard in public parks will be regulated by state and local laws and regulations. District commanders may permit nonprofit organizations to conduct some games of chance, such as raffles, games or sporting events, under special use permits in conjunction with special events on Corps lands only if permissible by state and local laws and regulations.

* 26. Executive Order 12512 Surveys.

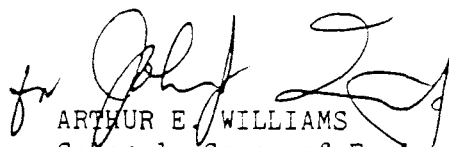
(a) It is the policy of the Corps to efficiently manage those lands at water resource projects which would be acquired in accordance with the 1971 implementation of the 1962 Army/Interior Joint Acquisition Policy.

(b) Executive Order 12512 surveys will be conducted pursuant to provisions of the Federal Property Management Regulations (FPMR) (41 CFR part 101-47.8) and chapter 8 of ER 405-1-12. Detailed guidance for reviewing lands not encompassed by this acquisition policy is presented in Appendix F.

FOR THE COMMANDER:

6 Appendixes

- APP A - References
- APP B - Operational Management Plan
- APP C - Donation of Personal Property
- APP D - Management Considerations For
Recreation Areas Relinquished
By Non-Federal Interests
- APP E - Guidelines For Implementing
Corps Policy For Private
Exclusive Use At Corps of
Engineers Water Resource
Projects
- APP F - Detailed Guidance for Reviewing
Lands Under Executive Order
12512 At Corps of Engineers
Water Resource Projects


ARTHUR E. WILLIAMS
Colonel, Corps of Engineers
Chief of Staff

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APPENDIX A

REFERENCES

1. Public Law 78-534. Flood Control Act of 1944 (58 Stat. 887).
2. Public Law 85-624. Fish and Wildlife Coordination Act. (72 Stat. 563).
3. Public Law 86-717. Forest Conservation (74 Stat. 817).
4. Public Law 88-578. Land and Water Conservation Fund Act of 1965. (78 Stat. 897, 16 U.S.C. 4601-4).
5. Public Law 89-72. Federal Water Project Recreation Act. (79 Stat. 213, 16 U.S.C. - 460-1-12).
6. Public Law 91-611. Flood Control Act of 1970. (84 Stat. 1833).
7. Public Law 92-500. Federal Water Pollution Control Act, as amended (86 Stat. 816).
8. Public Law 92-516. Federal Insecticide, Fungicide and Rodenticide Act, as amended. (92 Stat. 819).
9. Public Law 93-112. Rehabilitation Act of 1973 (87 Stat. 355).
10. Public Law 93-303. Land and Water Conservation Fund Act (88 Stat. 192).
11. Public Law 98-63. Supplemental Appropriations Act of 1983.
12. Title 36. Chapter III, Part 327. Code of Federal Regulations.
13. Title 42. Chapter XV, Sec. 1856a. Code of Federal Regulations.
14. Title 45. Chapter XX, Part 2010. Code of Federal Regulations.
15. AR 190-40. Military Police, Serious Incident Report.
16. AR 670-10. Furnishing Uniforms or Paying Uniform Allowances to Civilian Employees.
17. USACE Suppl 1 to AR 190-40. Serious Incident Report.
18. USACE Suppl 1 to AR 385-40. Mishap Reporting and Records.
19. USACE Suppl 1 to AR 670-10. Furnishing Uniforms or Paying Uniform Allowances to Civilian Employees.

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20. ER 70-1-5. Corps of Engineers Research and Development Program.
21. ER 70-2-7. Recreation Research and Demonstration System.
22. ER 190-1-50. Law Enforcement Policy, US Army Corps of Engineers.
23. ER 200-2-2. Policy and Procedures for Implementing NEPA.
24. ER 1105-2-50. Environmental Resources.
25. ER 1105-2-167. Resource Use: Establishment of Objectives.
26. ER 1120-2-400. Investigations, Planning and Development of Water Resources.
27. ER 1130-2-401. Visitor Center Program.
28. ER 1130-2-404. Recreation Use Fees.
29. ER 1130-2-405. Use of Off-Road Vehicles on Civil Works Projects.
30. ER 1130-2-406. Lakeshore Management at Civil Works Projects.
31. ER 1130-2-407. Operating and Testing Potable Water Systems.
32. ER 1130-2-411. Regulation of Seaplane Operations at Civil Works Water Resource Development Projects.
33. ER 1130-2-412. Aquatic Plant Control Program.
34. ER 1130-2-413. Pest Control Program for Civil Works Projects.
35. ER 1130-2-414. Natural - Resource Management System.
36. ER 1130-2-418. Law Enforcement Service Contracts at Civil Works Water Resource Projects.
37. ER 1130-2-420. Visitor Assistance Program.
38. ER 1130-2-428. Interpretive Services.
39. ER 1165-2-400. Recreation Planning, Development and Management Policies.
40. EM 385-1-1. Safety and Health Requirements Manual.

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41. EM 1110-2-400. Recreation Planning and Design Criteria.
42. EP 310-1-6. Graphic Standards Manual.
43. EP 405-1-2. Real Estate Handbook.
44. Executive Order 12512. Federal Real Property Management.

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APPENDIX B

OPERATIONAL MANAGEMENT PLAN

B-1. Operational Management Plan. Following approval of the master plan (MP), preparation of the operational management plan (OMP) for natural resources and park management will be initiated by the operations element. The OMP shall be prepared as a separate document, and will outline in detail the specific operation and administration requirements for natural resources and park management, consistent with the approved MP. If the MP is not scheduled for completion within one year, operations will proceed with development of the OMP.

B-2. Preparation.

a. The following parts of the OMP will be prepared:

I - Natural Resources Management

II - Park Management

b. Management strategies consistent with authorized project purposes, approved resource use objectives and land use designations will be established for each part. The OMP will be used as a working tool and will include funds, manpower and time frame required to implement these strategies. As the OMP will be a working tool to be used in the overall management of the project, it should be in a loose leaf format and if possible updated every five years. Approval of the OMP and its updates rests with the division commander. Portions of the plan (funding, manpower and equipment needs) will be updated and submitted for approval to the district commander on a yearly basis. An OMP will be prepared and submitted for all projects. At projects with only small acreages managed by the Corps (i.e., a few hundred acres around the dam), the plan will be prepared in the same general format but on a limited basis commensurate with the degree of management possible. The OMP for outgranted areas will include the outgrantee's management plans for the area and how the management of the outgranted land supports the overall management objectives of the project.

c. Part I. Natural Resources Management will replace the former Master Plan Appendices B (Forest/Range Management), C (Fire Control), and D (Fish and Wildlife Management). This part will be based on a total ecosystem or compartment approach to management of natural resources. Part I will include (a) compartment descriptions (b) management objectives and (c) implementation plans. When determining management objectives, overall project management objectives (including outgranted areas) should be considered and addressed in the plan. A basic outline to be used is as follows:

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I. Natural Resource Management

A. Long Term Objectives of Resource Management

B. Compartment Description

- (1) Topography (slope, aspect, general soil type, etc.)
- (2) Aquatic Resources (type, temperature, turbidity, etc.)
- (3) Vegetation (species, size, density, etc.)
- (4) Fish and Wildlife (species)
- (5) Special Considerations or Problems (protected habitat, rare & endangered species, pollution, forest fire control)

C. Management Objectives (for each compartment)

D. Implementation Plan (for each compartment)

- (1) Management Techniques (to meet objectives)
- (2) Five Year Schedule (of management techniques to be applied)
- (3) Annual Manpower and Equipment Needs
- (4) Annual Costs
- (5) Coordination (with other elements/agencies)

d. Part II. Park Management will replace the former Master Plan Appendices A (Project Resource Management Plan), E (Project Safety Plan), and F (Lakeshore Management Plan). It will be composed of descriptions, management objectives and implementation plans for at least the following:

II. Park Management

A. Safety (employee, contractor and visitor)

B. Security

C. Visitor Assistance

D. Lakeshore Management (existing approved plan may be inserted as is)

E. Private Exclusive Use (existing approved regional plan may be inserted as is)

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- F. Outgrants (availability of lands, compliance inspections, etc.)
- G. Maintenance
- H. Recreation Use Fee Program
- I. Interpretation
- J. Cultural Resources
- K. Special Programs
- L. Cooperation (with other agencies and or public involvement groups)
- M. Five-Year Program (for park management)
- N. Priority List (of annual programs with personnel and funding requirements)

B-3. The above subjects must be included in all plans. Specific formats and detailed guidance may be dictated by the division commander.

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APPENDIX C

DONATION OF PERSONAL PROPERTY

I, _____, do hereby donate the following listed items of property to assist in facilitating the protection, development or maintenance of lands, waters and recreational facilities of the _____ project of the Corps of Engineers, Department of the Army, on an unconditional basis and agree to relinquish all ownership rights therein.

Number

Item

FOR ILLUSTRATION PURPOSES ONLY

(Local reproduction authorized - blank masters available from local FMO)

(Signature of Donor)

CERTIFICATE OF DISTRICT ENGINEER

DATE _____

In accordance with delegation of authority to me by the Secretary of the Army, dated 21 March 1977, I certify that the above listed items of property were received as donations without obligation on part of the United States from _____, Donor.

(Signature of District Engineer)

_____ District)

Jacket Number File _____ (numbered serially)

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APPENDIX D

MANAGEMENT CONSIDERATIONS FOR
RECREATION AREAS RELINQUISHED BY
NON-FEDERAL INTERESTS

D-1. Policy. The policy of the Corps is to close leased recreation areas turned back to the Corps.

D-2. Purpose. The guidelines establish procedures and guidance to follow if a leased recreation area is turned back to the Corps. This policy pertains only to those situations when an area is relinquished other than by breach of contract. Legal means will be pursued in breach of contract instances with HQUSACE guidance provided on a case-by-case basis.

D-3. Exceptions to Policy. An exception to the above stated policy may be considered if each of the following criteria is met:

a. An efficient and feasible management alternative can be effected or implemented by the Corps.

b. Total Corps O&M responsibilities including both funds and manpower requirements are reduced or prevented from increasing.

D-4. Selection of Course of Action. The division commander may elect a course of action, other than closure, within the policy constraints stated herein.

D-5. General Guidance. Once it is established that a lessee plans to relinquish a recreation area, an analysis of the impacts likely to result from such action must be made. Once all impacts are known and evaluated from the Corps perspective, the results should be discussed with the lessee, preferably before its contemplated action is formally taken. Following are considerations which should be addressed in the impact analysis:

a. History of use during last five years as compared to design load of area.

b. Analysis of use of the area compared to other project recreation sites.

c. Analysis from both a local and regional perspective of other areas affording visitors similar type of outdoor recreation facilities and experiences within the zone of influence of the project area.

d. The availability of another non-Federal public entity or commercial concessionaire that might assume operation and maintenance under a new lease arrangement.

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e. Assuming potential qualified lessees are unattainable, are there alternative actions to complete closure considering available manpower and budget constraints consistent with the above criteria as:

- (1) Partial closure.
- (2) Reduction of services provided.
- (3) Closure or partial closure of other sites in deference to direct management of the area by the Corps.
- (4) Combination of the above

f. Cost and manpower analysis of:

- (1) Permanent closure versus current operational status under Corps management.
- (2) Permanent closure versus minimum O&M under Corps management.
- (3) Permanent closure versus other viable alternative actions considered.

g. The social, economic or environmental impacts that would result if the area were closed or services reduced.

h. The significance of closing the area in terms of public and congressional interest.

i. Other factors having a direct bearing on the situation.

D-6. Procedures.

a. After having identified and analyzed what impacts will be associated with the various courses of action available, the results should be discussed with the lessee. The value of coordinating with the lessee is to make the lessee aware of what consequential action the Corps is contemplating. The lessee should realize that the Corps has no obligation to keep the relinquished area opened. In fact, the Corps may have to close the area due to manpower and funding restrictions.

b. The reason for relinquishment should be determined. If the reason for relinquishment is short term in nature, the lessee should be apprised that any future lease, if desired, would need to be negotiated under the prevailing conditions. Therefore, modified services or partial closure may offer a more favorable alternative than lease terminations in some situations. Those possibilities should be considered to the fullest extent possible. However, there is no authority for granting funds, manpower or equipment to entice the lessee to continue operation and maintenance of the leased area. Corps assistance in this form is precluded from consideration.

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c. Information and insights gained through discussions with the lessee should promote understanding and facilitate cooperation in the final plans for subsequent use of the relinquished area. It should be recognized that the lessee is in a position to assist any Corps action necessitated by the turnback of the leased area. Possible local assistance includes:

(1) Potential influence to assist in obtaining other qualified non-Federal sponsors to lease the area.

(2) Postpone termination to the end of the current recreation season or through the following recreation year. This would allow additional time to cope with the situation and may favorably effect final disposition action.

(3) Development with the Corps of joint strategies to inform the public about the upcoming reduction of services or closure of an area. The importance of mutually supportive positions in such actions should not be overlooked.

d. The necessary details and arrangements for the actual turnback of the leased area also should be discussed with the lessee. Acceptance by the Corps should be in accordance with appropriate conditions of the specified lease document unless otherwise waived by the district commander as being in the best interest of the Government.

e. A master plan revision is required only if the approved land use designation for the relinquished site needs changing to accommodate a different proposed land use of the area.

f. All of the potential management options will be considered in finalizing recommendations to the division commander. The necessary environmental documentation, as determined appropriate, will be in accordance with ER 200-2-2. The selected course of action should be that alternative which will afford the greatest public service within the constraints of the division commanders' existing personnel and budget allocations. Such considerations should be realistic.

g. A public relations program should be developed and implemented by the divisions and districts where recreation area closures are scheduled. The public information program should be designed to insure public understanding of the reasons necessitating such action. Information on alternative areas available for public use should be included. A public relations program is also appropriate when major consolidations or changes in the operation affecting one or more sites is contemplated.

h. Action taken by a lessee, such as a state, may involve relinquishment of areas affecting more than one district or division. In the event such concurrent action by a lessee has been initiated, it is essential that coordination between the affected Corps commands be effected. If it is determined that the situation warrants attention at the Washington level HQSACF will be available for assistance.

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D-7. HQUSACE Monitoring. All recreation lease termination actions will be monitored by DAEN-CWO-R. Each FOA should report telephonically to DAEN-CWO-R once it is verified that a lessee is contemplating termination of its lease. After discussions with the lessee have been completed, a narrative report, even if the area is to be closed, should be forwarded to HQUSACE for information. This report should summarize the analysis of the situation including cost and manpower savings based on the course of action selected by the division commander. Coverage of the coordination discussions held with the lessee should be included. If additional manpower or funds are required to implement the selected course of action, a division commander may assume HQUSACE concurrences with his selected course of action if he has not heard to the contrary within two weeks after forwarding his report, and he has insured timely receipt through the appropriate assistant director, Civil Works Directorate. (RCS exempt: AR 335-15, paragraph 5-2c (3)).

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APPENDIX E

GUIDELINES FOR IMPLEMENTING
CORPS POLICY FOR PRIVATE EXCLUSIVE USE
AT
CORPS OF ENGINEERS WATER RESOURCE PROJECTS

E-1. Objective. The objective of these guidelines is to effect Corps policy in the development of regional plans pertaining to private exclusive use at Corps of Engineers Civil Works projects.

E-2. Purpose. These guidelines establish a consistent base of definition, procedures and monitoring for use by division commanders in the development and implementation of regional plans for allowing or prohibiting private exclusive use at water resource projects within their jurisdiction. Guidance provided is intended to allow division commanders flexibility for establishing their program appropriate to each existing situation based on regional, project or site specific considerations.

E-3. Definitions. For the purpose of these guidelines, the following definitions apply:

a. Private Exclusive Use. The use or occupancy of individually owned permanent structures for human habitation sited on public land and water areas at Corps Civil Works projects. Lesser forms of private use, such as individual houseboats, boat docks and piers, fencing, signing, landscaping, etc., are excluded from this definition, since they are the subject of concern under the lakeshore management program.

b. Permanent Structures. Those constructed or manufactured structures on land or water being used for human habitation, on an intermittent or extended use basis. Permanent structures normally take the form of floating cabins, cottages and non-transient mobile homes and trailers. Such developments are essentially subdivisions located on public property and have been developed at private, quasi-public, and commercial concession areas. Other forms of structures providing a short duration human habitation need on a first come first served basis, such as lodges, motels, dormitories, cabins, etc., are not included in the definition of private exclusive use. Similarly, custodial-type quarters may be authorized at outgranted areas when justified for management or security purposes.

c. Floating Cabins. A floating permanent structure utilized for intermittent or extended human occupancy at a fixed mooring point. Floating cabins are usually not self-powered, and in many cases, have evolved from boathouses and do not possess the usual performance characteristics of a boat.

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d. Houseboats. A self-powered vessel capable of supporting overnight occupancy. Houseboats have performance capabilities usually associated with boats and are not used for long term occupancy at a fixed mooring point.

e. Fair and Equitable. Conditions specifying the time of removal for individual or groups of private exclusive use structures which should be negotiated so that the financial and physical impact to owners will have been mitigated adequately through advance notice and extension of time to adjust to the fact of their eventual termination.

f. Regional Factors. Those natural and social conditions (i.e., climate, access, visitation (present and future), land requirements, water depth, length of recreation season, remoteness, topography, population density, etc.) used in the development of rationale for defining regions and choosing appropriate management options pertaining to private exclusive use.

g. Management Options. Planned actions or strategies by commanders of each division or district to implement established policies pertaining to private exclusive use at Corps of Engineers water resource projects.

h. Phasing. Phasing is a "step by step" approach for the eventual removal of private exclusive use structures. This is a specific type of management option that may be considered appropriate. As an example, such an approach could be implemented over time through successive negotiations of appropriate terms and conditions of a series of outgrant renewals upon expiration of each subsequent term. The objective of this approach is to provide a fair and equitable means to both the Government and the grantee for phasing out existing private exclusive uses.

i. Private Clubs. A group of individuals who associate for a common purpose, usually in an organization where benefits are limited to members of the group and not to the general public. With respect to private clubs on Corps of Engineers project lands, such groups have taken the form of large corporate developments serving company employees, power boat clubs, sailing clubs, fishing and hunting clubs, swimming clubs, and other like organizations.

j. L/V Factor. $L/V = \text{Land/Visitation} = \text{Fee Acres Above Normal Pool} / \text{Total Annual Visitation}$. The most current information as contained in the Natural Resource Management System (NRMS) will be used for calculating the L/V Factor.

E-4. General Guidance.

a. Corps policy prohibits the expansion or the development of new private exclusive use; however, in some cases, permitting private exclusive use as defined may maximize use of project lands consistent with the conservation of environmental values and the development of recreational

resources for the public. Such use, however, will be considered a low priority and evaluated against existing resources and the future need for higher priority purposes. In some regions, or at specific projects where public demand for use of available project resources is not anticipated in the foreseeable future, such use could serve as an interim means to optimize utilization of public lands.

b. If it is determined that land resources are sufficiently adequate for allowing private exclusive use for the foreseeable future at a project, then guidance contained in ER 1105-2-167, Resource Use: Establishment of Objectives, will be followed. Within the guidance provided by ER 1105-2-167, "private clubs" also will be evaluated in establishing resource use objectives. Private clubs will be considered a higher priority land use than private exclusive use in the development of master plans.

c. There is a set of definable regional factors which can be used to assist in screening projects which could afford interim opportunities for either new or expansion of existing private exclusive use. These regional factors include remoteness, experienced or projected visitation, and availability of land resources. Application of these factors in combination with each other will serve as a common baseline for evaluating the general compatibility of regional factors to allow or prohibit continuation of existing private exclusive use developments, or to allow new or expansion of such developments. It is recognized that application of such baseline information must be flexible. There may be other overriding parameters or regional factors, such as length of recreation season (climate), topography and accessibility to project areas which may otherwise influence a determination regarding the suitability for private exclusive use to be allowed or precluded at a particular project or group of projects.

d. In terms of the set of criteria indicated in paragraph c, a project or site is considered remote if it is located in excess of 100 miles from a Standard Metropolitan Statistical Area (SMSA). Visitation becomes a factor when the ultimate visitation at a project has not been obtained or when it is not projected to be reached in the foreseeable future. Foreseeable future will be measured in increments of not less than five years or more than 25 years. The availability of land resources for interim use is a function of demonstrated or anticipated public use and the compatibility of the available resources to support such use based on good planning principles and the establishment of sound resources use objectives. Regional plans permitting interim development of private exclusive use must recognize that such use is subject to removal when a higher priority need becomes evident. In addition to the remoteness criteria, if a project's visitation exceeds 2,000,000 recreation days of use annually, or when the L/V factor is less than .010, division commanders will consider that project as no longer remote even though it otherwise meets the above distance criteria from an SMSA. Since visitation at a project is the only dynamic factor in this set of criteria, these changes in the definition of remoteness should alert division commanders on an

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annual basis to public use being experienced at projects under their jurisdiction. These indicators should be used to implement modifications to approved regional plans for private exclusive use as may be determined necessary by the division commander.

e. When it is determined that available land resources are limited and will be needed for higher priority purposes in the reasonably foreseeable future, existing private exclusive use should be precluded. In this event, where commitments for private exclusive use have been made, a phase out program of existing private exclusive use developments will be implemented. Such a program should be established on a fair and equitable basis based on regional, individual project or site specific considerations.

E-5. Procedures. The following procedures will be applied by division commanders for the development of regional plans for allowing or prohibiting private exclusive use at projects under their jurisdiction. Implementation of approved regional plans pertaining to private exclusive use, including the review and approval of annual inventory reports and program monitoring, rests with the division commander. As an initial step, division commanders are charged with the preparation and issuance of detailed guidance to district commanders for implementing the objective and purpose of these guidelines. Regional plans for either allowing or prohibiting private exclusive use will be based on informed judgment consistent with approved project master plans or studies for establishment of resource use objectives conducted in accordance with ER 1105-2-167. In either case, the more current information should be used.

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APPENDIX F

DETAILED GUIDANCE FOR REVIEWING
LANDS UNDER EXECUTIVE ORDER 12512
AT CORPS OF ENGINEERS WATER RESOURCE PROJECTS

- * F-1. PURPOSE. To provide divisions and districts guidance for reviewing lands under Executive Order (EO) 12512.

F-2. POLICY. It is the policy of the Corps to efficiently manage those lands at water resource projects which would be acquired in accordance with the 1971 implementation of the 1962 Army/Interior Joint Acquisition Policy.

F-3. GUIDANCE.

a. EO 12512 surveys will be conducted pursuant to provisions of the Federal Property Management Regulations (FPMR) (41 CFR part 101-47.3) and Chapter 8 of ER 405-1-12.

b. When establishing or confirming the 1971 implementation guide contour, use updated rainfall criteria and current methodology in predicting the maximum design flood. At some projects, new meteorological data may indicate an increase in the design storm and a requirement for additional flood control storage capacity.

c. If land is identified as excess, rights-of-way easements should be retained to remaining Federal lands, if appropriate.

d. Lands not encompassed by the Joint Acquisition Policy will be retained if:

1. They are leased for park and recreation purposes.
2. They are licensed for fish and wildlife purposes.
3. They are identified or nominated for consideration as critical habitat under the Endangered Species Act.
4. They were acquired for, or are needed for, formally documented mitigation purposes.
5. They are existing recreation areas operated by the Corps, or are designated as future recreation areas in the master plan.
6. Excessing will not yield a net return to the Treasury. Such costs must be documented and made part of the survey report.
7. Excessing will increase the costs of the Government to manage remaining project lands. Such costs must be documented and made part of the survey report. *

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- * 8. Excessing will create significant management problems with regard to remaining project lands. Such management problems must be documented and made part of the survey report.

e. This guidance does not apply to lands withdrawn from the public domain.

F-4. ADDITIONAL CONSIDERATIONS.

a. A long-term lease, license, or permit is not to be considered as the sole justification for excessing or retention, except for park and recreation and fish and wildlife leases and licenses.

b. When park and recreation and fish and wildlife leases and licenses expire or are terminated, the lands shall be reexamined for a determination of excess.

c. When conducting surveys, full consideration should be given to prior commitments as a result of public involvement in the project planning process.

d. Land which is occasionally flooded and on which the Government's interests can be fully protected through the use of easements, should not be automatically excluded from consideration for possible disposal.

e. The cost of cultural resource studies should be included in determining the net return to the Government as part of the calculation in paragraph F-3.f.6. above. *

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from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the regatta area to vessels having particular operating characteristics.

(f) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(g) This § 100.35-0246 will be effective from 3:30 p.m. on September 7, and terminate at 5:00 p.m. on September 8, 1985. (local time).

Dated: August 21, 1985.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 85-20987 Filed 8-30-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP LA/LB-85-08]

Safety Zone, Santa Cruz Island

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: A safety zone is being established in the territorial waters south of Santa Cruz Island. Tests of submerged and semisubmerged vessels will be conducted during a three month period. There will also be placement of fixed underwater sound systems making transit, anchoring or fishing hazardous. Limiting access to this area will serve to protect vessels and sensitive underwater gear. This regulation is exempt from certain provisions of 5 U.S.C. 553 because it involves a foreign or military affairs function of the United States.

EFFECTIVE DATE: September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Jeff Parks, U.S. Coast Guard, U.S. Coast Guard Operations Division, Eleventh Coast Guard District, Long Beach, California.

Supplementary Information

On 1 August 1985 the Coast Guard published a notice of proposed rule making in the *Federal Register* for these regulations (50 FR 31198). Interested persons were requested to submit comments and 3 comments were received.

Drafting Information

The drafters of these regulations are Lieutenant Commander Jeff Parks,

Project Officer, Eleventh Coast Guard District Operations Division, project officer and Lieutenant Joseph R. McFaul, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Comments

On 31 July 1985 a meeting was held at the Pacific Missile Test Center, Point Mugu California, between U.S. Navy Representatives and representatives of commercial user groups. Several fishermen stated that they would be losing money if denied access to shallow waters to set crab and lobster traps. Several users also stated that waters South of Santa Cruz Island serve as a natural lee during rough weather. Navy representatives promised to notify the Coast Guard when waters enclosed by the safety zone can be safely used by mariners and fishermen.

Additionally, the three written commenters expressed concern that the regulations would prevent access to fishing areas during the peak fishing season. One commenter suggested that permission to enter the zone be granted whenever testing would not be hazardous. This suggestion will be adopted. A hot-line will be established so that adverse effects on potential users will be minimized. Callers will be able to call the hot-line to determine if the zone can be entered. Adjustments to the zone may be made, as testing permits, to accommodate fishing seasons. These will be published in the Local Notice to Mariners and announced on the hot-line. The zone remains in effect at all times from September 3, 1985 to November 30, 1985, unless permission to enter the zone is granted by means of the hot-line or the Local Notice to Mariners.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 604-6, and 160.5.

2. Section 165.T1176 is added to read as follows:

§ 165.T1176 Santa Cruz Island.

(a) A safety zone is established to include all waters enclosed within lines drawn from the following points:

Beginning from a point on land located approximately at Latitude 33-57.9 N, Longitude 119-42.6 W, then due south to a point on the territorial sea located approximately at Latitude 33-54.9 N, Longitude 119-42.6 W, then following the limit of the territorial sea in an easterly direction to a point approximately located at Latitude 33-56.8 N, Longitude 119-34.5 W, then due north to a point on land located approximately at Latitude 33-59.8 N, Longitude 119-34.5 W, then returning along the shore to the beginning point.

(b) No person may swim, skin dive or scuba dive in the waters within the safety zone.

(c) No vessel may navigate, transit, fish, anchor or drift in the waters within the safety zone.

(d) Any vessel within the zone shall follow the directions of the patrolling Coast Guard cutter.

(e) This regulation is effective on September 3, 1985 and remains continuously in force until November 30, 1985.

Dated: August 28, 1985.

A.B. Beran,

Commodore, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 85-20988 Filed 8-30-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

36 CFR Part 327

Public Use of Water Resource Development Projects Administered by the Chief of Engineers

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This final rulemaking supersedes the regulation dated May 1979. The regulation is designed to ensure safe, enjoyable and environmentally sound visitation on the public lands, free from unwarranted disturbances. This is accomplished by setting minimum standards of conduct for persons using the public lands and establishing penalties that may be imposed for failure to obey the regulation.

These rules and regulations apply to water resource development projects, completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resource projects

which are under the administrative jurisdiction of the Chief of Engineers, including the Central and Southern Florida flood control project as authorized by the Flood Control Act of 1968.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Darrell E. Lewis, Chief, Natural Resources Management Branch, U.S. Army Corps of Engineers, HQUSACE, ATTN: DAEN-CWO-R, Washington, D.C. 20314-1000.

SUPPLEMENTARY INFORMATION:

Amendments

The amendments to Part 327 are necessary to clarify and strengthen selected regulations for more effective management and to enhance public enjoyment of Corps water resource development projects. Some of the sections have been reworded and/or relocated to a different section. These minor changes are editorial in nature and have been made to express the intent of the regulation more concisely. They are not listed individually.

Section 327.1 concerning the statement of policy has been enlarged to contain former § 327.23 Outgranted Lands and § 327.24 Indian Lands. Paragraph (g) is added to this section instead of being listed in individual sections throughout the regulation. Paragraph (h) has been expanded to include the use of vessels and aircraft, in addition to vehicles.

Section 327.2 concerning vehicles has been expanded to address the removal of illegally parked vehicles and to allow exhaust muffler noise limits to be determined as defined by state and local laws.

Section 327.3 concerning vessels has been expanded to better define vessels and allow for means of identification of vessels by requiring the display of appropriate U.S. Coast Guard or state registration whenever they are operated on project waters. Safety equipment should conform to state safety laws in addition to U.S. Coast Guard requirements. Exhaust muffler noise limits may be determined by state and local laws.

Section 327.4 concerning aircraft has been restructured in order to better define aircraft.

Section 327.5 concerning swimming has been expanded to require that an international diving flag be displayed during underwater activities.

Section 327.8 concerning hunting, fishing, and trapping has been expanded to indicate that all Federal, state, and local laws governing these activities are applicable on project lands.

Section 327.9 concerning sanitation has been expanded to include all references to sanitation previously contained in other sections.

Section 327.10 concerning fires has been expanded to require fuels be stored in containers designed for such purposes and has restricted the throwing or dropping of lighted smoking materials.

Section 327.11 concerning the control of animals has been expanded to prohibit a person from allowing animals to impede or restrict the otherwise full and free use by the public of the project lands.

Section 327.12 concerning restrictions has been expanded to include disruptive behavior and to define noise production devices and excessive noise levels.

Section 327.15 concerning the abandonment of personal property has been expanded to assist in the control of encroachments.

Section 327.24 concerning interference with Government employees has been revised to incorporate the provisions of Sections 1114 and 111 of Title 18 USC for certain Corps of Engineers employees, as allowed by Pub. L. 98-63:

Section 327.26 concerning state and local laws has been added to properly address the role of state and local law enforcement agencies on lands managed by the Corps of Engineers.

The U.S. Army Corps of Engineers has determined that this document is not a major rule under Executive Order 12291. It has been determined under the criteria of the Regulatory Flexibility Act that this final rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 36 CFR Part 327

Penalties, Recreation and recreation areas, Water resources.

Accordingly, 36 CFR Part 327 is revised to read as follows:

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

- Sec.
327.0 Applicability.
327.1 Policy.
327.2 Vehicles.
327.3 Vessels.
327.4 Aircraft.
327.5 Swimming.
327.6 Picnicking.
327.7 Camping.
327.8 Hunting, fishing and trapping.
327.9 Sanitation.
327.10 Fires.

- Sec.
327.11 Control of animals.
327.12 Restrictions.
327.13 Explosives, firearms, other weapons and fireworks.
327.14 Public property.
327.15 Abandonment and impoundment of personal property.
327.16 Lost and found articles.
327.17 Advertisement.
327.18 Commercial activities.
327.19 Permits.
327.20 Unauthorized structures.
327.21 Special events.
327.22 Unauthorized occupation.
327.23 Recreation use fees.
327.24 Interference with Government employees.
327.25 Violations of rules and regulations.
327.26 State and local laws.

Authority: Sec. 4, Act of December 22, 1944, 58 Stat. 889, as amended (16 U.S.C. 460d); sec. 210 of Pub. L. 90-483, 82 Stat. 746; and Pub. L. 88-578, 78 Stat. 897, as amended (16 U.S.C. 460l-6a)

§ 327.0 Applicability.

The regulations covered in this Part 327 shall be applicable to water resource development projects, completed or under construction, administered by the Chief of Engineers, and to those portions of jointly administered water resource development projects which are under the administrative jurisdiction of the Chief of Engineers. All other Federal, State and local laws and regulations remain in full force and effect where applicable to those water resource development projects.

§ 327.1 Policy.

(a) It is the policy of the Secretary of the Army, acting through the Chief of Engineers, to manage the natural, cultural and developed resources of each project in the public interest, providing the public with safe and healthful recreational opportunities while protecting and enhancing these resources.

(b) Unless otherwise indicated herein, the term "District Engineer" shall include the authorized representatives of the District Engineer.

(c) The term "project" or "water resource development project" refers to the water areas of any water resource development project administered by the Chief of Engineers, without regard to ownership of underlying land, to all lands owned in fee by the Federal Government and to all facilities therein or thereon of any such water resource development project.

(d) All water resource development projects open for public use shall be available to the public without regard to sex, race, color, creed, age, nationality or place of origin. No lessee, licensee, or

concessionaire providing a service to the public shall discriminate against any person because of sex, race, creed, color, age, nationality or place of origin in the conduct of the operations under the lease, license or concession contract.

(e) In addition to the regulations in this Part 327, all applicable Federal, state and local laws and regulations remain in full force and effect on project lands or waters which are outgranted by the District Engineer by lease, license or other written agreement.

(f) The regulations in this Part 327 shall be deemed to apply to those lands and waters which are subject to treaties and Federal laws and regulations concerning the rights of Indian Nations and which lands and waters are incorporated, in whole or in part, within water resource development projects administered by the Chief of Engineers, to the extent that the regulations in this Part 327 are not inconsistent with such treaties and Federal laws and regulations.

(g) Any violation of any section of this Part 327 shall constitute a separate violation for each calendar day in which it occurs.

(h) For the purposes of this Part 327, the owner of any unattended vehicle, vessel or aircraft as described herein shall be presumed to be responsible for its use on project property. Unless proven otherwise, such presumption will be sufficient to issue a citation for the violation of regulations applicable to the use of such vehicle, vessel or aircraft as provided for in § 327.25, Violation of Rules and Regulations.

§ 327.2 Vehicles.

(a) This section pertains to all vehicles, including, but not limited to, automobiles, trucks, motorcycles, minibikes, snowmobiles, dune buggies, all-terrain vehicles and trailers, campers, bicycles or any other such equipment.

(b) Vehicles shall not be parked in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, project property or environmental feature. Vehicles so parked are subject to removal and impoundment at the owner's expense.

(c) The operation and/or parking of a vehicle off authorized roadways is prohibited except at locations and times designated by the District Engineer. Taking any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence or traffic control barrier is prohibited.

(d) Vehicles shall be operated only in accordance with posted regulations and

applicable Federal, state and local laws, which shall be enforced by authorized enforcement officials.

(e) No person shall operate any vehicle in a careless, negligent or reckless manner so as to endanger any person, project property or environmental feature.

(f) At developed recreation areas, vehicles shall be used only to enter or leave the area or individual sites or facilities unless otherwise posted.

(g) Except as authorized by the District Engineer, no person shall operate any motorized vehicle without a proper and effective exhaust muffler as defined by state and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

§ 327.3 Vessels.

(a) This section pertains to all vessels or watercraft, including, but not limited to, powerboats, cruisers, houseboats, sailboats, rowboats, canoes, kayaks, jetskis and any other such equipment capable of navigation on water, whether in motion or at rest.

(b) The placement and/or operation of any vessel or watercraft for a fee or profit upon project waters or lands is prohibited except as authorized by permit, lease, license, or concession contract with the Department of the Army. This paragraph (§ 327.3(b)) shall not apply to the operation of commercial tows or passenger carrying vessels not based at a Corps project which utilize project waters as a link in continuous transit over navigable waters of the United States.

(c) Vessels or other watercraft may be operated on the project waters, except in prohibited or restricted areas, in accordance with posted regulations, including buoys, and applicable Federal, state and local laws, as regulated by authorized enforcement officials. All vessels or watercraft so required by applicable Federal, state and local laws shall display an appropriate registration on board whenever the vessel is operated on project waters.

(d) The operation of vessels or other watercraft in a careless, negligent or reckless manner so as to endanger any property or person (including the operator and/or user(s) of the vessel or watercraft) is prohibited.

(e) All vessels, when in use, shall have safety equipment, including personal flotation devices, on board in compliance with U.S. Coast Guard boating safety requirements (Coast Guard Pamphlet CG-290; 48 CFR Parts 25, 30; 33 CFR Part 175) and in compliance with boating safety laws

issued and enforced by the state in which the vessel is being operated.

(f) Unless otherwise permitted by Federal, state or local law, vessels or other watercraft, while moored in commercial facilities, community or corporate docks, or at any fixed or permanent mooring point, may only be used for overnight occupancy when such use is incidental to recreational boating. Vessels or other watercraft are *not* to be used as a place of habitation or residence.

(g) Water skis, parasails, ski-kites and similar devices are permitted in nonrestricted areas except that they may not be used in a careless, negligent, or reckless manner so as to endanger any property or person (including the user and/or operator of the towing vessel).

(h) All vessels when not in actual use shall be removed from project lands and water unless securely moored or stored at designated areas approved by the District Engineer. The placing of floating or stationary mooring facilities on, adjacent to, or interfering with a buoy, channel marker or other navigational aid is prohibited.

(i) The use at a project of any vessel not constructed or maintained in compliance with the standards and requirements established by the Federal Safe Boating Act of 1971 (Pub. L. 92-75, 85 Stat. 213), or promulgated pursuant to such act, is prohibited.

(j) Except as authorized by the District Engineer, no person shall operate any vessel or watercraft without a proper and effective exhaust muffler as defined by State and local laws, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.

§ 327.4 Aircraft.

(a) This section pertains to all aircraft including, but not limited to, airplanes, seaplanes, helicopters, ultralight aircraft, motorized hang gliders, hot air balloons, any non-powered flight devices or any other such equipment.

(b) The operation of aircraft on project lands at locations other than those designated by the District Engineer is prohibited. This provision shall not be applicable to aircraft engaged on official business of Federal, state or local governments or law enforcement agencies, aircraft used in emergency rescue in accordance with the directions of the District Engineer or aircraft forced to land due to circumstances beyond the control of the operator.

(c) No person shall operate any aircraft while on or above project

waters or project lands in a careless, negligent or reckless manner so as to endanger any person or property.

(d) Nothing in this section (§ 327.4) bestows authority to deviate from rules and regulations or prescribed standards of the appropriate State Aeronautical Agency, or the Federal Aviation Administration, including, but not limited to, regulations and standards concerning pilot certifications or ratings, and airspace requirements.

(e) Except in extreme emergencies threatening human life or serious property loss, the air delivery of any person, material or equipment by parachute, helicopter or other means onto project lands or waters without written permission of the District Engineer is prohibited.

(f) In addition to the above provisions, seaplanes, as defined below, are subject to the following restrictions:

(1) Such use is limited to aircraft utilized for water landings and takeoff, herein called seaplanes, at the risk of the owner, operator and passenger(s).

(2) Seaplane operations contrary to the prohibitions or restrictions established by the District Engineer (pursuant to Part 328 of Title 36) are prohibited. The responsibility to ascertain whether seaplane operations are prohibited or restricted is incumbent upon the person(s) contemplating the use of, or using, such waters.

(3) All operations of seaplanes while upon project waters shall be in accordance with marine rules of the road for power boats or vessels and § 327.3 Vessels.

(4) Seaplanes on project waters and lands in excess of 24 hours shall be securely moored at mooring facilities and at locations permitted by the District Engineer. Seaplanes may be temporarily moored on project waters and lands, except in areas prohibited by the District Engineer, for periods less than 24 hours providing that (i) the mooring is safe, secure, and accomplished so as not to damage the rights of the Government or members of the public and (ii) the operator remains in the vicinity of the seaplane and reasonably available to relocate the seaplane if necessary.

(5) Commercial operation of seaplanes from project waters is prohibited without written approval of the District Engineer following consultation with and necessary clearance from the Federal Aviation Administration (FAA) and other appropriate public authorities and affected interests.

(6) Seaplanes may not be operated at Corps projects between sunset and sunrise unless adequate lighting and

supervision approved by the District Engineer are available.

§ 327.5 Swimming.

(a) Swimming, diving, snorkling or scuba diving at one's own risk is permitted, except at launching sites, designated mooring points and other areas so designated by the District Engineer. Diving or jumping from bridges or other structures which cross project waters is prohibited.

(b) An international diving flag must be displayed during underwater activities.

§ 327.6 Picnicking.

Picnicking and related day-use activities are permitted, except in those areas where prohibited by the District Engineer.

§ 327.7 Camping.

(a) Camping is permitted only at sites and/or areas designated by the District Engineer.

(b) Camping at one or more campsites at any one water resource project for a period longer than 14 days during any 30-consecutive-day period is prohibited without the written permission of the District Engineer.

(c) The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance without overnight occupancy at a campsite for the purpose of reserving a designated campsite for future occupancy is prohibited.

(d) The digging or leveling of any ground or the construction of any structure without written permission of the District Engineer is prohibited.

§ 327.8 Hunting, fishing, and trapping.

Hunting, fishing, and trapping are permitted except in areas where prohibited by the District Engineer. All Federal, state and local laws governing these activities apply on project lands and waters, as regulated by authorized enforcement officials.

§ 327.9 Sanitation.

(a) Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated on the project and incidental to authorized recreational activities shall be either removed from the project or deposited in receptacles provided for that purpose. The improper disposal of such wastes, human and animal waste included, on the project is prohibited.

(b) It is a violation to bring onto a project any household or commercial garbage, trash, rubbish, debris, dead animals or litter of any kind for disposal or dumping without the written permission of the District Engineer.

(c) The spilling, pumping or other discharge of contaminants, pollutants or other wastes, including, but not limited to, human or animal waste, petroleum, industrial and commercial products and by-products, on project lands or into project waters is prohibited.

(d) Campers, picnickers, and all other persons using a water resource development project shall keep their sites free of trash and litter during the period of occupancy and shall remove all personal equipment and clean their sites upon departure.

(e) The discharge or placing of sewage, galley waste, garbage, refuse, or pollutants into the project waters from any vessel or watercraft is prohibited.

§ 327.10 Fires.

(a) Gasoline and other fuels, except that which is contained in storage tanks of vehicles, vessels, camping equipment, or hand portable containers designed for such purpose, shall not be carried onto or stored on the project without written permission of the District Engineer.

(b) Fires shall be confined to those areas designated by the District Engineer, and shall be contained in fireplaces, grills, or other facilities designated for this purpose. Fires shall not be left unattended and must be completely extinguished prior to departure. The burning of materials that produce toxic fumes, including, but not limited to, tires, plastic or treated wood products is prohibited.

(c) Improper disposal of lighted smoking materials, matches or other burning material is prohibited.

§ 327.11 Control of animals.

(a) No person shall bring or allow dogs, cats, or other pets into developed recreation areas unless penned, caged, on a leash under 6 feet in length, or otherwise physically restrained. No person shall allow animals to impede or restrict otherwise full and free use of project lands and waters by the public. All animals and pets are prohibited in swimming beaches. Animals and pets, except properly trained animals assisting the handicapped (such as seeing-eye dogs), are prohibited in sanitary facilities or other areas so designated by the District Engineer. Unclaimed or unattended animals are subject to immediate impoundment and removal in accordance with state and local laws.

(b) Persons bringing or allowing pets in designated public use areas shall be responsible for proper removal and disposal, in sanitary facilities, of any waste produced by these animals.

(c) No person shall bring or allow horses, cattle, or other livestock in camping, picnicking, swimming or other recreation areas except in areas designated by the District Engineer.

(d) Ranging, grazing, watering or allowing livestock on project lands and waters is prohibited except when authorized by lease, license or other written agreement with the District Engineer.

(e) Unauthorized livestock are subject to impoundment and removal in accordance with Federal, state and local laws.

(f) Any animal impounded under the provisions of this section may be confined at a location designated by the District Engineer, who may assess a reasonable impoundment fee. This fee shall be paid before the impounded animal is returned to its owner(s).

§ 327.12 Restrictions.

(a) The District Engineer may establish and post a schedule of visiting hours and/or restrictions on the public use of a project or portion of a project. The District Engineer may close or restrict the use of a project or portion of a project when necessitated by reason of public health, public safety, maintenance, or other reasons in the public interest. Entering or using a project in a manner which is contrary to the schedule of visiting hours, closures or restrictions is prohibited.

(b) Quiet shall be maintained in all public use areas between the hours of 10 p.m. and 6 a.m., or those hours designated by the District Engineer. Excessive noise during such times which unreasonably disturbs persons is prohibited.

(c) Any act or conduct by any person which interferes with, impedes or disrupts the use of the project or impairs the safety of another person is prohibited. Individuals who are boisterous, rowdy, disorderly or otherwise disturb the peace on project lands or waters may be requested to leave the project.

(d) The operation or use of any audio or other noise producing device including, but not limited to, radios, televisions, or musical instruments and motorized equipment, including vessels or vehicles, in such a manner as to unreasonably annoy or endanger persons at any time or exceed state or local laws governing noise levels from motorized equipment is prohibited.

§ 327.13 Explosives, firearms, other weapons and fireworks.

The possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows,

explosives or explosive devices of any kind, including fireworks, is prohibited unless: (a) In the possession of a Federal, state or local law enforcement officer; (b) being used for hunting or fishing as permitted under § 327.8, with devices being unloaded when transported to, from or between hunting and fishing sites; (c) being used at authorized shooting ranges; or (d) written permission has been received from the District Engineer.

§ 327.14 Public property.

(a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, and vegetative growth, is prohibited except when in accordance with written permission of the District Engineer.

(b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Engineer.

(c) Gathering of dead wood on the ground for use in designated recreation areas as firewood is permitted.

§ 327.15 Abandonment and impoundment of personal property.

(a) Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Engineer, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.

(b) The District Engineer shall, by public or private sale or otherwise, dispose of all lost, abandoned or unclaimed personal property that comes into Government custody or control. However, property may not be disposed of until diligent effort has been made to find the owner, heirs, next of kin or legal representative(s). If the owner, heirs, next of kin or legal representative(s) are determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at the last known address. When diligent efforts to determine the owner, heirs, next of kin or legal representative(s) are unsuccessful, the property may be disposed of without delay except that if

it has a fair market value of \$25 or more the property may not be disposed of until 90 days after the date it is received at the storage point designated by the District Engineer. The net proceeds from the sale of property shall be covered into the Treasury of the United States as miscellaneous receipts.

(c) Personal property placed on Federal lands or waters adjacent to a private residence and/or developments of any private nature for more than 24 hours without permission of the District Engineer shall be presumed to have been abandoned and, unless proven otherwise, such presumption will be sufficient to issue a citation as provided for in § 327.25.

§ 327.16 Lost and found articles.

All articles found shall be deposited by the finder at the Resource Manager's office or with a ranger. All such articles shall be disposed of in accordance with the procedures set forth in § 327.15.

§ 327.17 Advertisement.

Advertising by the use of billboards, signs, markers, audio devices, handbills, circulars, posters, or any other means whatsoever, is prohibited without written permission of the District Engineer. Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational activities and comply with all other rules and regulations pertaining to vessels and vehicles.

§ 327.18 Commercial activities.

The engaging in or solicitation of business without the express written permission of the District Engineer is prohibited.

§ 327.19 Permits.

(a) It shall be a violation of these regulations to refuse to or fail to comply with the fee requirements or other terms or conditions of any permit issued under the provisions of this Part 327.

(b) Permits for floating structures (issued under the authority of § 327.30) of any kind on/in waters of water resources development projects, whether or not such waters are deemed navigable waters of the United States but where such waters are under the management of the Corps of Engineers, shall be issued at the discretion of the District Engineer under the authority of this regulation. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the appropriate Resource Manager's office.

(c) Permits for nonfloating structures (issued under the authority of § 327.30) of any kind constructed, placed in or affecting waters of water resource development projects where such waters are deemed navigable waters of the U.S. shall be issued under the provisions of section 10 of the Act approved March 3, 1899 (33 U.S.C. 403). If a discharge of dredged or fill material in these waters is involved, a permit is required under section 404 of the Clean Water Act (33 U.S.C. 1344). (See 33 CFR Parts 320-330).

(d) Permits for nonfloating structures (issued under the authority of § 327.30) of any kind in waters of water resource development projects, where such waters are under the management of the Corps of Engineers and where such waters are not deemed navigable waters of the United States shall be issued as set forth in paragraph (b) of this section. If a discharge of dredged or fill material into any water of the United States is involved, a permit is required under Section 404 of the Clean Water Act (33 U.S.C. 1344) (See 33 CFR Parts 320-330). Certification may be required pursuant to section 401 of the Clean Water Act (33 U.S.C. 1341).

§ 327.20 Unauthorized structures.

The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs or landscape features) of any kind under, upon, in or over the project lands or waters is prohibited unless a permit, lease, license or other appropriate written agreement has been issued by the District Engineer. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license or other written agreement is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Engineer.

§ 327.21 Special events.

(a) Special events including, but not limited to, water carnivals, boat regattas, music festivals, dramatic presentations or other special recreation programs are prohibited unless written permission has been granted by the District Engineer. An appropriate fee may be charged under the authority of § 327.23.

(b) The public shall not be charged any fee by the sponsor of such event unless the District Engineer has approved in writing (and the sponsor has properly posted) the proposed

schedule of fees. The District Engineer shall have authority to revoke permission and require removal of any equipment upon failure of the sponsor to comply with terms and conditions of the permit/permission or the regulations in this Part 327.

§ 327.22 Unauthorized occupation.

(a) Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining same as a full- or part-time residence without the written permission of the District Engineer is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of § 327.7.

(b) Use of project lands or waters for agricultural purposes is prohibited except when in compliance with terms and conditions authorized by lease, license or other written agreement issued by the District Engineer.

§ 327.23 Recreation use fees.

(a) In accordance with 16 USC 4601, the Corps of Engineers is required to collect special recreation use fees and/or special permit fees for the use of specialized sites, facilities, equipment or services related to outdoor recreation furnished at Federal expense.

(b) All use fees shall be fair and equitable and will be based on the following criteria (as contained in the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, as amended):

(1) The direct and indirect amount of Federal expenditure.

(2) The benefit to the recipient.

(3) The public policy or interest served.

(4) The comparable recreation fees charged by other Federal and non-Federal public agencies and the private sector within the service area of the management unit at which the fee is charged.

(5) The economic and administrative feasibility of fee collection.

(6) The extent of regular maintenance required.

(7) Other pertinent factors.

Based upon the above criteria, it shall be the policy of the Chief of Engineers to publish in the Federal Register, as a general notice document, the established range of fees for specialized sites, facilities, equipment or services whenever such fees are adjusted.

(c) Where such fees are charged, the District Engineer shall insure that clear notice of fee requirements is prominently posted at each area, and at appropriate locations therein and that the notice be included in publications

distributed at such areas. Failure to pay authorized recreation use fees as established pursuant to Pub. L. 88-578, 78 Stat. 897, as amended (16 U.S.C. 4601-6a), is prohibited and is punishable by a fine of not more than \$100.

(d) Any Golden Age or Golden Access Passport permittee shall be entitled, upon presentation of such a permit, to utilize special recreation facilities at a rate of 50 percent off the established use fee at Federally operated areas.

(e) At each Corps lake or reservoir where camping is permitted, the District Engineer will provide at least one primitive campground, containing designated campsites, sanitary facilities and vehicular access, where no fees will be charged.

§ 327.24 Interference with government employees.

(a) It is a Federal crime pursuant to the provisions of sections 1114 and 111 of Title 18, United States Code, to forcibly assault, resist, oppose, impede, intimidate, or interfere with any civilian official or employee of the U.S. Army Corps of Engineers engaged in the performance of his or her official duties, or on account of the performance of his or her official duties. Such actions or interference directed against a Federal employee while carrying out these regulations are also a violation of these regulations and may be a state crime pursuant to the laws of the state where they occur.

(b) Failure to comply with a lawful order issued by a Federal employee acting pursuant to these regulations shall be considered as interference with that employee while engaged in the performance of their official duties. Such interference with a Federal employee includes failure to provide a correct name, address or other identification upon request of the Federal employee, when that employee is authorized by the District Engineer to issue citations in the performance of the employees official duties.

§ 327.25 Violation of rules and regulations.

(a) Any person who violates the provisions of these regulations, other than for a failure to pay authorized recreation use fees as separately provided for in § 327.23, may be punished by a fine of not more than \$500 or imprisonment for not more than six months or both and may be tried and sentenced in accordance with the provisions of section 3401 of Title 18, United States Code. Persons designated by the District Engineer shall have the authority to issue a citation for violation of these regulations, requiring the

appearance of any person charged with the violation to appear before the United States Magistrate within whose jurisdiction the affected water resources development project is located. (16 U.S.C. 460d).

(b) Any person who commits an act against any official or employee of the U.S. Army Corps of Engineers that is a crime under the provisions of section 1114 or section 111 of Title 18, United States Code or under provisions of pertinent state law may be tried and sentenced as further provided in Federal or state law, as the case may be.

§ 327.26 State and local laws.

Except as otherwise provided herein or by Federal law or regulation, state and local laws and ordinances shall apply on project lands and waters. This includes, but is not limited to, state and local laws and ordinances governing:

- (a) Operation and use of motor vehicles, vessels, and aircraft;
- (b) Hunting, fishing and trapping;
- (c) Use of firearms or other weapons;
- (d) Civil disobedience and criminal acts; and,
- (e) Littering, sanitation and pollution.

These state and local laws and ordinances are enforced by those state and local enforcement agencies established and authorized for that purpose.

Dated: August 21, 1985.

Approved:

Paul W. Taylor

Colonel, Corps of Engineers Executive Director, Engineer Staff (Chief of Staff).

[FR Doc. 85-20946 Filed 8-30-85; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA Docket No. 107-VA-6; A-3-FRC-2889-8]

Air Quality Planning Purposes; Approval of Section 107 Designation for the Commonwealth of Virginia With Respect to Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces EPA's approval of an air quality designation change for Fairfax County in Virginia, from "Does not meet primary standards" to "Cannot be classified or better than national standards," for the primary and secondary National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO). This revision is based

on eight consecutive calendar quarters of air quality data submitted by Virginia demonstrating attainment. EPA is approving this redesignation request because it meets the necessary requirements of section 107 of the Clean Air Act and conforms to current EPA policy.

EFFECTIVE DATE: October 3, 1985.

ADDRESSES: Copies of the revision and accompanying documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch (3AM10), 841 Chestnut Building, Philadelphia, PA 19107, Attn: Patricia Gaughan (3AM11)

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219, Attn: James Watson

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, 215/597-1325, or Cynthia H. Stahl, 215/597-9337, at the EPA Region III address above. The commercial and FTS phone numbers are the same.

SUPPLEMENTARY INFORMATION: On November 20, 1984, the Commonwealth of Virginia State Air Pollution Control Board submitted a request to redesignate three municipalities in the Northern Virginia portion of the National Capital Interstate AQCR as attainment areas for carbon monoxide (CO) under section 107 of the Clean Air Act. These municipalities are Alexandria City, Arlington County, and Fairfax County. However, recent data shows violations of the 8-hour CO standard in Alexandria City and Arlington County. Therefore, on March 18, 1985, Virginia requested that EPA only consider Fairfax County for redesignation. EPA proposed approval of the Fairfax County redesignation on April 17, 1985 (50 FR 15187). No comments were received by EPA.

This redesignation changes the carbon monoxide classification from "Does not meet primary standards" to "Cannot be classified or better than national standards" under 40 CFR 81.347 for Fairfax County. All other air quality designations for carbon monoxide remain unchanged.

There are four monitoring stations in Fairfax County: Two inside the Beltway and two outside the Beltway. The air quality data from January 1980 through December 1984 submitted by the Commonwealth show that none of the monitoring stations in this county recorded violations of the National Ambient Air Quality Standards (NAAQS) for CO. EPA has examined

the air quality data collected from the monitoring sites on which this redesignation request is based and has determined that the data were collected in accordance with all EPA requirements. Accordingly, EPA is approving the Commonwealth's request for redesignation of Fairfax County with respect to CO. EPA has approved the CO control strategy applicable to Fairfax County as part of the federally enforceable Virginia SIP. See 49 FR 3083 (1984). However, because this same control strategy is also designed to provide for attainment of the NAAQS for ozone, and because Fairfax County remains a nonattainment area for ozone, this redesignation does not change any current requirements of Virginia's approved SIP.

On April 17, 1985, EPA published a proposed rulemaking notice (50 FR 15187) in which the Agency proposed approving the redesignation. EPA did not receive any comments regarding the proposed redesignation for Fairfax County as a result of the Federal Register Notice.

Conclusion

The Administrator's decision to approve this section 107 redesignation for Fairfax County is based on a determination that it meets the requirements of section 107 of the Clean Air Act and current EPA policy pertaining to redesignation requests.

Procedural Information

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within the 60 days following September 3, 1985. Under section 307(b)(2) of the Act, the requirements which are the subject of today's Notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 81

Air pollution control, Intergovernmental relations.

Dated: August 23, 1985.

Lee M. Thomas,
Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

HQ AR003213-HQ AR003237

CECW-PR Regulation No. 1165-2-400	Department of the Army U.S. Army Corps of Engineers Washington, DC 20314-1000	ER 1165-2-400 9 Aug 85
	Water Resources Policies and Authorities RECREATIONAL PLANNING, DEVELOPMENT, AND MANAGEMENT POLICIES, CH1	
	Distribution Restriction Statement Approved for public release; distribution is unlimited.	

BASIC REPRINT WITH CHANGE 1 INCLUDED

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 20314-1000

ER 1165-2-400

DAEN-CWR-R

Regulation
No. 1165-2-400

9 August 1985

WATER RESOURCE POLICIES AND AUTHORITIES
Recreation Planning, Development, and Management Policies

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Appendix A - Definitions

Appendix B - Statement of Philosophy

Appendix C - Minimum Facility Developments

This regulation supersedes ER 1165-2-400, 3 Aug 1970

HQ AR003214

ER 1165-2-400

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1. Purpose. This regulation defines the objectives, philosophies and basic policies for the planning, development and management of outdoor recreation and enhancement of fish and wildlife resources at Corps of Engineers water resource development projects.

2. Applicability. This regulation is applicable to all HQUSACE/OCE elements and all field operating activities having Civil Works responsibilities.

3. References. The following references supplement this regulation and provide procedural guidance for major phases of recreational development activities:

- a. Public Law 89-72
- b. Public Law 97-140
- c. ER 1105-2-20
- d. ER 1105-2-30
- e. ER 1105-2-40
- f. ER 1105-2-50
- g. ER 1105-2-167
- h. ER 1110-2-400
- i. ER 1130-2-400
- j. ER 1130-2-401
- k. ER 1130-2-404
- l. ER 1130-2-406
- m. ER 1180-1-1
- n. EM 1110-2-400

4. Definitions. See Appendix A.

5. Background.

a. Section 4 of the Flood Control Act of 1944 authorized the Chief of Engineers ". . . to construct, maintain, and operate public parks and recreational facilities in reservoir areas under the control of (the Secretary of the Army), and to permit the construction, maintenance, and operation of such facilities." The Flood Control Act

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of 1962 broadened the 1944 authority to include all water resources projects. The Corps has since recognized long-term recreational development as a full-scale project purpose on an equal basis with other established purposes of water resources development.

b. The traditional policy of the Corps has been to encourage non-Federal participation in the administration of recreation opportunities provided at Corps projects. Since 1944, the Corps has entered into leases which permit state and local development and administration of recreation areas at Civil Works projects. The policies were reaffirmed by the Congress through the passage of the Federal Water Project Recreation Act of 1965 (P.L. 89-72). This Act directs ". . . that . . . in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multipurpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation." The Act further defined the basis for sharing the financial responsibilities in joint Federal-non-Federal development, enhancement, and management of recreation and fish and wildlife resources of Federal water projects. However, there are a substantial number of recreation areas which were developed prior to implementing the cost sharing principles of P.L. 89-72 which continue to be operated directly by the Corps.

c. Consistent with the Federal interest and the philosophy that direct beneficiaries should share in the recreation costs at Federal projects, Corps participation is limited to sharing the development costs of the recreation opportunities created by its projects. If a recreation feature does not take advantage of an opportunity created by the project, then the facility should be provided by others. Since appropriate recreation developments of this type may enhance the public's ability to enjoy the inherent features of the resource, consideration for development of these facilities should not be precluded. However, the Corps should not participate in their development. Appendix B is a detailed Statement of Philosophy upon which the Corps recreation facility development policies are founded. In the absence of a willing qualified non-Federal cost sharing sponsor, minimum facilities for public health and safety will be provided in accord with paragraph 7.c.

6. Program Objectives. The objective of the Corps recreation program is to fully consider the recreation potential that may be afforded at Corps Civil Works projects and to capitalize on that potential for the benefit and enjoyment of the public on a sustained basis. Inherent in this objective is the goal to provide an economical and quality program which will afford the public a diversity of recreational opportunities in consonance with the wise use of the natural resources. Realization of these objectives requires sound planning, development, and management of all available resources including facility development and operation costs. General considerations and policies governing activities during each of these phases of implementation are as follows:

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a. Planning.

(1) Formulation of all projects will fully consider the potential opportunities that a project may afford for both recreation and fish and wildlife enhancement.

(2) Planning will seek to optimize public use in harmony with the carrying capacity of the resource for sustained use over the life of the project.

(3) Plans for recreation will respond to public input and the problems (needs) and opportunities identified during the planning process. Plans for recreation should consider a diverse range of activities along with the characteristics of the regional setting and the project's associated natural and cultural resources.

(4) Plans for development of recreation at Corps projects will be consistent with public needs as identified in the State Comprehensive Outdoor Recreation Plan developed pursuant to the Land and Water Conservation Fund Act.

(5) Recreational planning will insure that project resources, natural or created, are treated as an integrated whole with continuing concern for environmental quality.

(6) Coordination of Corps plans will be accomplished with other Federal agencies; state, regional and local public entities and other groups and organizations as may be deemed appropriate.

(7) Plans for the joint Corps - non-Federal public development of recreation facilities at project areas will be cooperatively prepared by the Corps and the identified non-Federal sponsor.

(8) Industry that is oriented to navigation will be encouraged to locate on private lands adjacent to navigation projects. Use of projects lands should be restricted to the extent necessary to support industrial development. Strip development which would result in the exclusion of the public from long reaches of shorelines and project waters should be avoided.

b. Development.

(1) All development activities must be consistent with authorized plans for the development and management of the project resources.

(2) Corps sponsored facilities will be planned and designed to obtain economies in construction and operation over the expected life of the development. Standardized design of like facilities within a basin or region is one means of achieving this objective.

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(3) Recreation facilities should be funded and constructed in consonance with the total project construction schedule to insure that planned recreation developments are available for public use by the time a project otherwise becomes operational.

c. Management. The created and natural resources of Civil Works projects are the public property of both present and future generations. The objective of all Corps resource management activity is to achieve continued enjoyment and maximum sustained use by the public of the lands, waters, forests and associated recreational resources consistent with their carrying capacity, aesthetic and biological values. The administration and maintenance of recreation areas, where they remain directly under Corps jurisdiction, continues to be a substantial portion of the Corps overall recreation program. Other major considerations are:

- (1) Protection of project visitors and employees.
- (2) Protection of project resources, including enforcement of land use requirements to prevent conflict between uses.
- (3) Prevention of visual and physical encroachments upon project lands and waters.
- (4) Preservation and enhancement of the aesthetic integrity of banks and shorelines and retention of access for public use.
- (5) Prevention or elimination of unauthorized structures and habitation on project lands or on the water surface.
- (6) Compatibility between recreation uses and equipment employed in recreation activity and established water quality standards.
- (7) Environmental improvement through vegetative management.
- (8) Interim utilization of project lands for appropriate agricultural practices to optimize recreation and fish and wildlife benefits.
- (9) Monitoring of public recreation use and recreation technology being used to insure that management practices and future recreation developments are consistent with discernible public preferences and needs.
- (10) Encouragement of local officials to adopt and enforce zoning and building codes to control private developments adjacent to any project reservation and avoid resultant problems in water pollution from septic tank drain fields or sewage disposal, visual pollution due to poor siting or design, solid waste disposal on public areas or use of project roads for access to private property.

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7. Cost Sharing.

a. General. Recreation and fish and wildlife enhancement are purposes normally subject to cost sharing at Federal Water resources projects. In formulating water resource plans for reservoir projects, consideration is given to alternative scales of recreation development ranging from minimum facilities to optimum development. In the absence of satisfactory agreement for local participation, Federal provision of recreation facilities at reservoirs is limited to the minimum needed for public health and safety. No facilities are provided at non-reservoir projects or at flood control impoundments creating incidental minor pools in the absence of local participation. At non-reservoir projects, Corps participation in recreation facility development is limited to those provided on the lands required for the basic project except on those additional lands outside the basic project boundary which may be required for access, parking, potable water, sanitation and related developments for health, safety and public access. Recommendations for recreation development shall not exceed the scale for which a qualified local sponsor will furnish a written letter of intent of participation. A local sponsor must be a qualified non-Federal public entity and must agree to provide its share of the cost prior to construction of the recreation facilities. Operation, maintenance and replacement costs are the responsibility of the non-Federal sponsor.

b. Facility Development. The Corps may cost share with non-Federal public interests on a 50 percent basis the cost of recreation facilities at reservoir and certain non-reservoir projects. Appendix B contains a statement of philosophy and a check list of facilities which may be provided at Corps water resource projects. Guidance provided by the information contained in Appendix B will be followed to determine the scope and degree of involvement by the Corps.

c. Minimum Facilities. Public Law 89-72 provides that minimum facilities for public health and safety may be provided when a local sponsor is not willing to administer project lands for recreation. For all projects which have not been completed or for which land acquisition has not been initiated prior to May 1985, the costs for these facilities are considered joint costs and will be allocated to project purposes and shared with project sponsors on the same basis as those purposes. In accordance with the statute, costs allocated to recreation or fish and wildlife enhancement shall be nonreimbursable. Guidance on the scope of minimum facilities that may be provided at Corps water resource projects is contained in Appendixes B and C.

d. Separable Recreation Lands.

(1) New Reservoir Projects. If during the planning process the non-Federal sponsor is unwilling to cost share in separable recreation lands, it can be assumed that the full recreation potential afforded

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by the project can be achieved on the joint use lands. In these instances, the authority contained in Section 3(b) of Public Law 89-72 will not be implemented. This policy is not applicable to projects completed or for which land acquisition or construction has been initiated prior to May 1985. Separable lands for recreation development may be acquired, if specifically authorized, and cost shared with the local sponsor on a 50 percent basis.

(2) Completed Reservoir Projects. Within the purview of Section 4 of the Flood Control Act of 1944, as amended, limited additional lands outside the previous project boundary may be acquired for recreational development. Such additional lands are subject to cost sharing with a local sponsor. If the non-Federal sponsor acquires these lands, the land value can be credited towards the local sponsors 50 percent share of the total recreation development including land costs. Reservoir recreation lands acquired by others must be conveyed in fee title to the Federal government. The non-Federal sponsor must enter into a recreation cost sharing contract prior to acquisition.

(3) Non-Reservoir Projects. No credit for recreation cost sharing will be granted for any costs of lands within the project boundary acquired for the basic project wherein the a-b-c requirements are a local responsibility. The only exception are those additional lands outside the basic project boundary which may be required for access, parking, potable water, sanitation and related developments for health, safety and public access.

8. Cost Sharing Agreements.

a. General. Recreation and fish wildlife enhancement cost sharing contracts will be prepared in draft form and submitted to CDR USACE (DAEN-CWO-R) WASH, DC 20314-1000. All draft cost sharing agreements are subject to the approval of the Assistant Secretary of the Army (Civil Works). The authority to approve final cost sharing agreements has been delegated to the Chief of Engineers with the power to subdelegate to the Deputy Chief of Engineers and the Director of Civil Works. The standard format for cost sharing agreements for recreation and fish and wildlife development is contained in paragraph A-311 of ER 1180-1-1. After January 1985, cost sharing agreements should not reference "future development" in order to eliminate any future obligation on the part of the Federal Government. The term "initial development" also should not be used as it implies that there will be some subsequent development. Future development will be handled through a separate agreement or by amending an existing agreement unless an existing contract already provides for future development.

b. New Recreation Cost Sharing Agreements. Information regarding the appropriateness of the type of facilities for which the Corps may participate in cost sharing is provided in Appendix B. This guidance shall be used in negotiating and determining the Corps participation in facility development in future recreation cost sharing agreements.

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c. Existing Recreation Contracts. Guidance provided in Appendix B will be used as the basis for developing budget estimates for implementing existing recreation contracts. All amendments to approved recreation cost sharing agreements that involve the acquisition of land or the construction of additional recreation facilities not specified in approved agreements will be prepared in draft and submitted in accord with paragraph 8a. Improvements of existing recreation facilities are considered to be contract amendments.

9. Rehabilitation of Corps Operated Recreation Facilities. Federal funds may be used to rehabilitate only those existing Corps operated and maintained facilities which are listed in columns 1 (Joint Cost) and 2 (Cost Shared) of the Check List of New Facilities in Appendix B. Corps operated and maintained recreation facilities which are not listed in those two columns may be rehabilitated at 100 percent non-Federal expense, provided that a non-Federal sponsor agrees to assume responsibility for the operation and maintenance of those facilities. This policy does not pertain to minimum facilities provided for public health and safety.

10. User Fees. Access to and use of water areas created and operated by the Corps shall be without charge. However, the cost of providing and maintaining public recreation facilities and services may properly warrant payment of user fees by the public. User charges may be considered a means to offset, in whole or in part, recreation development and management costs, whether collected and applied by non-Federal partners or by the Corps. Non-Federal public agencies operating recreation areas at Corps projects may charge entrance and user fees commensurate with the development and services provided. All entrance and user fees are subject to the Corps approval. The Corps is limited to imposing user fees for use of campground areas and specialized sites or facilities which are directly operated by the Corps. Facilities provided at Corps projects are to be open to all on equal terms and require uniform fee schedules for public use.

11. National Recreation Areas. National Recreation Areas (NRA) at Corps reservoirs will normally be developed and managed by the Corps of Engineers in accordance with authorizing legislation. A Corps project may be so located, or may be of such size and nature, that it would make a desirable addition to a system of National Recreation Areas being administered by another Federal agency. In such cases, the Corps of Engineers may enter into an agreement under which the area will be developed and administered as an NRA by that agency.

a. Such agreements shall specify that responsibility for the operation of the water project remains with the Corps of Engineers, but may establish any general limitation on operation consistent with optimizing the net benefits achievable from the project.

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b. In order to effect proper coordination with all levels within the Corps, the District Commander shall submit a brief letter to DAEN-CWO-Ron any proposals to establish an NRA at a Corps project. The letter will state fully all information pertinent to a decision. Approval by the Director of Civil Works is required. The letter report shall include a draft agreement if management by another agency is proposed. The final agreement shall be drawn for the signatures of the Secretary of the Army and the Secretary of the Department accepting responsibility for development and administration of the NRA.

12. Commercial Concessions. Commercial concessions are valid considerations for development and may be provided at Corps projects where warranted. Commercial concession developments are normally provided by the private sector. Marinas and other ancillary revenue producing or self-liquidating facilities for public use may be provided through commercial concession arrangements. Commercial concessions may be developed on areas operated directly by non-Federal public sponsors or through third party leases. Under authority of Section 4 of the Flood Control Act of 1944, as amended, the Corps also may provide commercial developments for public use through direct leases with the concessionaire. However, the Corps is precluded from funding commercial concession development, including site preparation, unless jointly developed with a qualified non-Federal public sponsor in accordance with Appendix B.

13. Project Land Use Classifications and Group Use.

a. A master plan is developed for each Corps project which incorporates, among other things, the management criteria and directives under which the project will be operated. One component of the master plan provides for the classification and appropriate management of all project lands and resources to produce an optimum mix of diverse recreation and fish and wildlife benefits. This procedure is necessary, first, to insure against undesirable conflicts between the several types of recreation activity which typically will occur at any given project. Second, the land use classifications also assists project managers in accommodating public visitation and other desirable uses and activities of project lands and waters; whether by individuals, individual families or groups.

b. The waters of Civil Works projects are used extensively by organized enthusiasts of canoeing, sailboating, and powerboating. Group boating organizations are to be encouraged. They may be accommodated through public-sponsored clubs concerned with these sports or by a public agency having a lease for park and recreation purposes. Alternatively, they may be accommodated in conjunction with the operation of an authorized marina concession.

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c. Groups as well as individuals also are encouraged to take advantage of landside resources of Corps projects. Group activity is preferably accommodated through facilities which are provided for camping and picnicking purposes on a non-exclusive, first-come first-serve, or short-term reservations basis. The project land use classifications will assure the compatibility between group use and other public recreation facilities and project resources.

d. If available project resources and foreseeable public use requirements permit, project lands may be leased to non-profit groups or organizations of a charitable or character building nature, such as a regional Boy Scout council, for water-oriented recreational or conservation education use. Applicants for outgrants must demonstrate (1) a unique group requirement, not susceptible to satisfaction through use of other project facilities available on a reservation basis; (2) an activity program warranting the use of public lands and waters, particularly one that provides service to a relatively large segment of the general public that would not be provided in the absence of the outgrant; and (3) financial and managerial capability to develop and administer granted lands in an attractive, safe, and sanitary manner for water-oriented recreation or conservation education purposes.

14. Private Exclusive Use. Water and land areas at Corps projects are maintained for the benefit of the general public. Since the early 1960's, the permanent siting of floating cabins, cottages and non-transient mobile homes and trailers for private exclusive use at project areas has been discouraged. Although section 6 of Public Law 97-140 establishes a moratorium until 31 December 1989 on enforced removal of certain existing private exclusive use type structures, present policy stresses procedures for eventual elimination based on regional, project or site specific considerations. These established procedures are applicable to all new, expanded or existing developments except for floating cabins which are forbidden. Approved regional plans pertaining to private exclusive use are in effect for each respective Division. Division Commanders are required to submit annual reports to OCE on actions taken, status and accomplishments in implementing their approved regional plans in accordance with requirements contained in ER 1130-2-400.

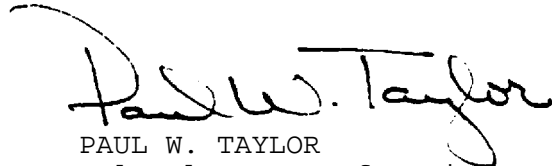
15. Recreation Areas Relinquished by Non-Federal Interests. The Corps over the years has established a successful recreation outgrant program with non-Federal public entities. In excess of 900 recreational areas have been leased to states, counties, municipalities and other qualified interests at Corps projects. Periodically, the burden of cost for operation and maintenance of these areas necessitate the non-Federal lessee to relinquish or turn back its lease to the Corps. In recognition of the Corps limited resources, it is the policy of the Corps to close leased recreation areas turned back in the future. Exceptions may be considered if an efficient and feasible management

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alternative can be effected or implemented by the Corps and if the total Corps O&M responsibilities, including both funds and manpower requirements, are reduced or prevented from increasing. Detailed guidance to follow if a leased recreation area is turned back to the Corps is contained in ER 1130-2-400. This policy pertains only to those situations when an area is relinquished other than by a breach of contract. Legal means will be pursued in breach of contract instances with OCE guidance provided on a case by case basis.

16. Interagency Relationships and Coordination. District Commanders are to establish and maintain effective relationship with other Federal, state and local planning agencies during all stages of project planning, development, and operation. Since the influence and impact of projects extend beyond the Federal ownership boundaries, close coordination is required in such areas as highway and roads, public utility location, local zoning requirements, and law enforcement.

FOR THE COMMANDER:



PAUL W. TAYLOR
Colonel, Corps of Engineers
Chief of Staff

3 Appendixes:

APP A - Definitions
APP B - Statement of Philosophy
APP C - Minimum Facility
Developments

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Appendix A
Definitions

A-1. Recreation encompasses all types of outdoor leisure-time activities made possible by opening the project lands, structures, and waters to public recreational uses, such as, boating, swimming, picnicking, hiking, camping, sport fishing, and hunting.

A-2. Developments for support of public use of a recreational potential of a project shall be limited to those appropriate to the site and clearly required to meet those needs which can be provided more economically there than at any other site.

a. Minimum facilities are those facilities which, under Section 3(a) (2) of P.L. 89-72, may be provided in the absence of non-Federal cooperation in recreational development. They may include only those facilities required for public health and safety and may be installed only at access points provided by roads existing at the time of project construction, or constructed for administration and management of the project. In general, they will be limited to turnarounds, guardrails, and minimum sanitary facilities.

b. Recreational developments include those facilities which may be installed with Federal assistance pursuant to Section 2 of P.L. 89-72. They may include access roads and trails, parking areas, sanitary and utility facilities, picnicking and camping areas, beaches and bathhouses, playgrounds and ball fields, water supplies, public boat launching ramps, safety measures, and other appropriate facilities which are not ordinarily provided by private enterprise on a commercial basis.

c. Self-liquidating (vendible) facilities are the type of developments usually provided by private enterprise and may include boat rental facilities, supply stores, restaurants, motels, cabins and hotels, swimming pools, tennis courts and golf courses, riding stables, and other appropriate facilities. Such facilities may be included in the plan but will not receive Federal assistance under P.L. 89-72.

A-3. A reservoir is any impoundment behind a dam or lock and dam.

A-4. Non-reservoir projects include local protection works for flood control; breakwaters and jetties; hurricane flood barriers; navigable channels and inland waterways; and oxbow lakes.

A-5. Capital Costs or first costs are the funds invested in goods and services for land, labor, and supplies, including interest during construction wherever appropriate, for the establishment of the project.

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A-6. Joint Costs means the difference between the capital cost of the entire multiple-purpose project and the sum of the separable costs for all project purposes.

A-7. Separable Costs, as applied to any project purpose, means the difference between the capital cost of the entire multiple-purpose project and the capital cost of the project with the particular purpose omitted, including such specific facilities as those cited in definition 2b, above, and also project modifications, such as increasing the height of the dam or providing subimpoundments specifically for those purposes, increased land takings, or modifying project operations.

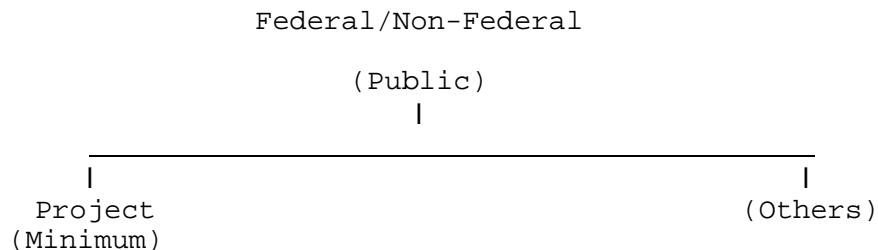
A-8. Non-Federal public bodies include such public agencies as States, counties, municipalities, regional park authorities, or other special purpose districts, with sufficient legal authority and financial capability to participate under the provisions of P.L. 89-72. The term also includes a combination of two or more of the foregoing.

A-9. Non-reimbursable shall not be construed to prohibit the imposition of entrance, admission and other recreation user fees or charges by Federal or non-Federal managing bodies where special services are provided.

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STATEMENT OF PHILOSOPHY

B-1. Philosophy. The Federal Water Project Recreation Act of 1965, P.L. 89-72, directed, "...that...in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multipurpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation." Recreation takes many forms; it embraces a variety of activities, ranging from those that amuse to those that refresh the strength and spirit. As such, recreation may be an important component of a Corps of Engineers project. Inherent to a project is either undeveloped, and/or open land or water which may be scarce relative to the surrounding area. Since recreation may be viewed as a complement to the land and water resources, it is appropriate that public use be accommodated at Corps projects.

B-2. Scope. The scope of recreation development is defined by estimates of the potential National Economic Development benefits. Clearly, if incremental benefits of recreational development exceed incremental costs, it would be in the Nation's economic interest that development proceed. The types of facilities that are part of the development should not be restricted, except by direction of law or operational limitations prescribed for the safe and efficient administration of the project's primary missions. While there are literally unlimited possibilities for development, it is not appropriate for the Federal government (acting through the Corps of Engineers) to pay for all facilities. In fact a spectrum can be envisioned, having on one end project related non-recreational minimum facilities for public health and safety that can be provided in accordance with P.L. 89-72 and at the other end those that should be provided by others:



One of the difficulties in managing a Corps project arises due to the very nature of the spectrum. Many facilities lie within the area between the ends of the spectrum: that is, there may be both Federal and non-Federal interests reflected within a single facility. This philosophy statement, together with the accompanying table, carefully define the points on the spectrum so that the Corp's policies on cost sharing and financing are clear.

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B-3. FACILITIES TO BE FUNDED BY OTHERS.

a. The understanding of non-Federal interest lies within the context of the benefits from a facility or activity. If the benefits are vendible (type usually provided by private enterprise), then the facility should be provided by others. The Corps should encourage development by others when it is not detrimental to the multipurpose nature of the project, or when it does not create negative externalities for Federal interest recreational development. Appropriate private development, when well planned, may enhance an individual's ability to enjoy the inherent features of the resource.

b. Vendibility alone, however, does not limit the non-Federal interest category. When the benefits of a recreational facility are sufficiently local in their magnitude and involve extensive structural enhancement, the inherent importance of the land and water resource to the recreational experience is diminished and, consequently, the Federal interest is minimal.

c. This concept may be easier to comprehend with the aid of the stand-alone principle. Simply stated, if a recreation feature does not take advantage of an opportunity created by the project, it "stands alone" -- that is, it could be built at the same location without the water resource project and not lose any of its utility. When facilities stand alone, the Corps should not participate in their development. Municipal swimming pools and tennis courts are examples.

B-4. MINIMUM FACILITIES.

a. Conversely, when recreation benefits of a project are not vendible, not predominantly local, and strictly inherent to the land and/or water, a national interest exists. Section 3(a) of P.L. 89-72 provides that, in the absence of a non-Federal public sponsor, no facilities or project modifications which furnish recreation or fish and wildlife enhancement benefits shall be provided unless (1) such facilities or modifications serve other project purposes and are justified thereby without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have or (2) they are minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project. Minimum facilities for public health and safety are defined as vault toilets (unless a higher grade of facility is required by mandatory state or Federal standards), guardrails, barricades, and turnarounds at road ends existing at the time of construction or provided for project construction or maintenance. Not included are parking, picnicking, swimming, camping areas or facilities, or more elaborate sanitary facilities. Without a local sponsor for recreation development, it is the clear intent of Congress and the policy of the Corps that costs to provide such facilities for public health and safety be kept at a minimum while complying with legal requirements.

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b. Without a sponsor for recreation, project facilities should not be designed to induce public use of the project for recreation. They should be located or designed in order to minimize the costs of operating them while meeting public health and safety standards. Use of such facilities by the public will, in all cases, be incidental to and subordinate to project operation in furtherance of authorized project purposes.

B-5. FACILITIES TO BE COST SHARED. Many facilities do not fully satisfy either of the extreme case criteria. They may be local, yet at the same time, be used by individuals from relatively more distant areas. Also, they may involve structural enhancement, yet acquire much of their value from their relationship to the water or land resource modified or preserved by Federal investment. Essentially they represent a combination of interests; therefore, consistent with P.L. 89-72, their costs are to be shared 50/50.

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CHECK LIST OF NEW FACILITIES WHICH MAY BE
PROVIDED IN RECREATION DEVELOPMENTS
AT CORPS WATER RESOURCE PROJECTS 1/

<u>Activity/Facility</u>	Joint <u>Cost 2/</u>	Cost <u>Shared 3/</u>	100% <u>Other 4/</u>
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I. Access and Circulation

Roads <u>5/</u>		x	x	
Turnarounds	x	x	x	
* Trails				
Hiking		x	x	
Exercise			x	
Bicycle/Jogging		x	x	*
Equestrian/without jumps		x	x	
Snowshoe		x	x	
Cross Country Ski		x	x	
Ski Slopes			x	
Chairlifts/Tows			x	
Snowmobile		x	x	
ORV		x	x	
Water				
Slalom			x	
Artificial White Water			x	
* Interpretive/Nature			x	*
Parking <u>5/</u>		x	x	
Bridges and Culverts		x	x	
Boat Launching Devices				
Mechanical			x	
Surfaced Ramps	x	x	x	
Boat Piers (Fixed or Floating)		x	x	
Walks		x	x	
Steps (Outdoor)		x	x	
* Pedestrian Ramps		x	x	*
Fishing piers and attendant facilities		x	x	
* Footbridges <u>9/</u>		x	x	*

II. Structures

Sanitation				
Vault Toilets	x6/	x	x	
Comfort Station	x6/	x	x	
* Comfort Station w/Showers		x	x	
Laundry Room			x	*
Bath-Changehouse		x	x	
Fish Cleaning Station		x	x	

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<u>Activity/Facility</u>	<u>Joint</u>	<u>Cost</u>	<u>100%</u>
	<u>Cost 2/</u>	<u>Shared 3/</u>	<u>Other 4/</u>
Shelters			
Picnic		X	X
Overlook		X	X
* Trail		X	X *
Group Camp			
Cabins and Dormitories			X
Dining Hall			X
Infirmary			X
Amphitheaters		X	X
Caretaker Quarters			X
Outdoor Cooking		X	X
Beaches		X	X
Docks		X	X
* Camping pads		X	X *
Swimming Beaches		X	X
Visitor Center	x2/		X
Nature Center			X
Historical Centers			X
Archeological Centers			X
Environmental-Education			
Center			X
Lodges/Cabins			X
Hotels/Motels			X
Restaurants/Snack Bars			X
Stores/Commissaries			X
Bait/Tackle Shops			X
Marina			X
Docks/Piers			X
Fuel Dispensing/Storage			X
Repair Facilities			X
Storage Facilities			X
Swimming Pools			X
Clubhouse			X
Stables			X
Corrals			X
Equestrian Jumps/Courses			X
Fountains/Statuary			X
Decorative Lakes/Ponds			X
Decorative Promenades			X
Operation and Maintenance			
Vehicle and Material Storage			X
Garages			X
Work Shops			X
Utility Buildings			X
Inflammable Storage			X
Administrative Facilities			X
Gate House, Control Structures			X
Boat Storage			X
Employee Quarters			X
Bulk Storage			X

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<u>Activity/Facility</u>	<u>Joint</u> <u>Cost 2/</u>	<u>Cost</u> <u>Shared 3/</u>	<u>100%</u> <u>Other 4/</u>
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III. Utilities

Water Supply			
Municipal System	x		x
Wells	x		x
Treatment Plant	x		x
Storage	x		x
Distribution	x		x
Fountain and Outlets	x		x
* Irrigation System (manual)	x		x
Irrigation System (automatic)			x
Camp Site Hook-ups	x		x
Sewage and Waste Water Disposal			
Municipal System	x		x
Septic Tanks and Tile			
Fields	x		x
Treatment Plants	x		x
Oxidation Lagoon	x		x
Sanitary Dump Station			
(Boats and Camping Trailers)	x		x
Camp Waste Water and Garbage			
Disposal	x		x
Storm Drainage	x		x
* Public Telephone	x2/		x
Electrical			
Lighting	x		x
Lift Pumps	x		x
* Camp Site Hook-ups	x		x
Gas, Natural/Propane	x		x
Land Fill			x
Incinerator			x

IV. Site Preparation and Restoration

Clearing and Grubbing			
(Includes vista clearing)	x		x
Grading and Land Form	x		x
Tree Planting	x		x
Shrub Planting	x		x
Other Planting			
(Perennials, etc.)			x
Turf Establishment	x		x
Reforestation	x		x

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<u>Activity/Facility</u>	<u>Joint</u> <u>Cost 2/</u>	<u>Cost</u> <u>Shared 3/</u>	<u>100%</u> <u>Other 4/</u>
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V. Park Furniture

Picnic Tables	x	x	
Grills and Fireplaces	x	x	
Campfire Circles	x	x	
* Trash Receptacles/Holders	x	x	*
Benches	x	x	
* Camping Pads	x	x	*
Flag Poles		x	
Lantern Hangers	x	x	

VI. Play Facilities

Courts			
Multiple Use	x7/	x	
Tennis		x	
Basketball		x	
Handball		x	
Shuffleboard		x	
Volleyball		x	
Horseshoe-Pits		x	
Sports/Play Fields			
Ball Diamond with			
Backstop	x	x	*
Bleachers		x	
Dugouts		x	
Fencing		x	
Lighting		x	
Playfield Area (open space)	x	x	
Marking/Goals		x	
Play Equipment			
Standard	x	x	
Elaborate		x	
Golf Course/Putting			
Greens		x	

VII. Signs

Entrance-Directional-Marker	x	x
Traffic Control		
(Vehicular and Pedestrian)	x	x
Instruction		
(Includes Fire Danger		
Notices)	x	x

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Activity/Facility	Joint Cost	Cost 2/ Shared 3/	100% Other 4/
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VIII. Interpretive Guidance and Media

Display Boards	x		x
Display Cases			x
Interpretative Markers (Natural, Historical, Archeological, etc.)	x		x
Electronic Audio-Visual Devices			x
Exhibit Space			x
* Bulletin Boards	x		x *

IX. Protection, Control, Health and Safety

Protection and Control			
Gates and Barricades	x	x	x
Cattle Guards		x	x
Walls and Fencing		x	x
Guardrails	x	x	x
* Fishing Walkways for Breakwaters		x	x
Entrance Stations		x	x
* Buoys/Waterways Markers		x	x
Fire Fighting and Protection			x
Communication			x
Vandalism and Theft Control Devices			x
* Campground Registration Box			x
Health and Safety			
Lighting		x	x
Life Guard Stand (Where life guard services are authorized)			x
First Aid Station			x
* Handrails		x	x

1/ Includes new and completed reservoirs, local protection projects, navigation projects, etc. Facilities not listed must be justified and approved prior to commitments made to cost sharing partners. This check list will be modified as appropriate.

2/ The facilities to be provided are to be limited to those required for minimum health and safety; beyond these the Corps will also provide type "C" visitor center and operational boat ramps. Handicapped access will be a consideration.

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3/ Facilities to be cost shared are limited to standard designs that do not include embellishments such as decorative stone work, planters, elaborate designs or pretentious space.

4/ Includes facilities which may not be resource oriented, are revenue producing or are over and above that which would normally be provided at a water resource project.

5/ When roads and/or parking are to be used and/or designed for use under more than one financing category, cost will be allocated on the basis of estimated use by function. The discretion of the D.E. is to be applied.

6/ Minimum sanitary facilities are limited to those that meet minimum Federal and local health requirements.

7/ Grading and paving, to the extent they represent least cost alternatives to stabilizing floodways, may be used by local interests for recreational activities or facility developments not eligible for cost sharing. Such grading and paving may be done by the Corps to specifications more costly than necessary for floodway stabilization provided the additional cost is met by a non-Federal sponsor.

8/ Includes extensive specialized play equipment over and above basic climbing, swinging and sliding apparatus.

9/ Footbridges are to be austere and used only when other crossing methods are impractical. Footbridges which are the center of a recreation experience are to be at local cost.

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Appendix C
Minimum Facility Developments for
Public Health and Safety

C-1. Minimum facilities for public health and safety are defined as vault toilets unless a higher grade of facility is required by mandatory state or Federal standards, guardrails, barricades, and a turnaround at road ends existing at the time of construction or provided for project construction or maintenance. Not included are parking, picnicking, swimming, camping areas or facilities, or more elaborate sanitary facilities. Without a local sponsor for recreation development, it is the clear intent of Congress and the policy of the Corps that costs to provide such facilities for public health and safety be kept at a minimum while complying with legal requirements.

C-2. Use patterns which develop over the project life may indicate that certain additional facilities e.g., guardrails, fences, barricades, warning signs, etc., should be provided for public health and safety. Other minimum facilities for health and safety will be undertaken only if access by the public cannot reasonably be directed to other safe locations or otherwise controlled.

C-3. Necessarily, certain service roads must penetrate the project lands, not terminate at the project boundary; new roads or alteration of the existing roads may be necessary for operational purposes. Such new roads shall be planned to provide necessary access to project operational facilities in a cost effective manner. Modifications to encourage recreation use will not be provided. Such roads should be gated to allow for control of public access when appropriate. Speed limit and other safety information signs may be provided on those roads providing public access.

C-4. Boat launching ramps necessary for operational purposes may be provided at a reservoir or navigation pool. Depending on the width, configuration and length of the reservoir or navigation pool, it may be necessary to have more than one ramp. Each ramp may include a staging area as required in support of routine O&M functions or emergency operations. Public use of such operations complexes may be permitted at the discretion of District Commanders. Except for minimal sanitary and safety considerations, i.e., vault toilets, trash receptacles, appropriate safety measures, etc., additional facilities should not be provided or required as a result of the decision to allow public use.

C-5. Waterborne sanitary and potable water facilities constructed for use by operations personnel at maintenance or administration buildings may be made available for public use by District Commanders; provided that such public use does not required modifications of the basic facility design or size. Such waterborne facilities are precluded at all other public access points unless separately justified and approved by OCE.

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C-6. Without a sponsor for recreation, project facilities should not encourage public use. They should be located or designed in order to minimize the costs of operating such projects. Use of such facilities by the public will in all cases, be incidental to and subservient to operational needs.

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August 1985

Water Resources People and Issues

An Interview With
William R. Gianelli



**U.S. Army Corps
of Engineers**

Office of the Chief
of Engineers

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W A T E R R E S O U R C E S
P E O P L E A N D I S S U E S

An Interview With
WILLIAM R. GIANELLI
Assistant Secretary of the Army (Civil Works)

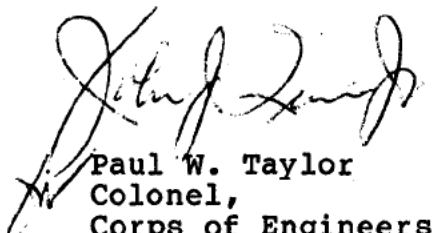
This edited manuscript is the product of a tape-recorded interview conducted by Dr. Martin Reuss of the Historical Division, Office of the Chief of Engineers, with William R. Gianelli in the Pentagon on June 20, 1984, and at Mr. Gianelli's home in Pebble Beach, California, on August 9, 1984.

HQ AR003239

FOREWORD

At a time when serious questions are being raised about the manner in which the nation utilizes its water resources, it is important to gain the insights of past leaders in the field of water resources development. This volume is the first in a new publication series, Water Resources: People and Issues, that will include interviews with individuals both inside and outside the Corps of Engineers.

William R. Gianelli's tenure as Assistant Secretary of the Army (Civil Works) was an important period in which the Corps of Engineers was challenged to rethink many of its policies and procedures. As a result of Mr. Gianelli's actions, our organization responds more quickly to public needs in carrying out its regulatory responsibilities. I recommend this interview to thoughtful officers and civilian members of the Engineer family.



Paul W. Taylor
Colonel,
Corps of Engineers
Chief of Staff

THE INTERVIEWER

Dr. Martin Reuss is a historian in the Historical Division, Office of the Chief of Engineers, specializing in water resources development. He holds a Ph.D. from Duke University and is the author of Shaping Environmental Awareness: The United States Army Corps of Engineers Environmental Advisory Board, 1970-1980.

PREFACE

William R. Gianelli joined the Department of the Army as Assistant Secretary for Civil Works in 1981 after 40 years of experience in government and in the private sector. Because virtually all of this experience was in water resources development and management, Secretary Gianelli brought with him a clear vision of the appropriate role of government in this area. In his view, the situation in 1981 called for major changes in two areas of the Corps of Engineers' water resources activities. These were reform of the financial terms under which federal water resources development were undertaken and reform of the process by which the Corps of Engineers carried out its regulatory responsibilities.

In both areas Bill Gianelli boldly proceeded to carry out his vision in spite of many objections and reservations. Because of his unquestioned commitment to responsible water development, he was able to bring proponents of the status quo and other nay-sayers to a committed, if not enthusiastic, support for new ways of doing business. Consequently, fundamental and far-reaching redefinitions of the federal role in water resources development and in the regulation of dredge-and-fill material in the nation's waters have been achieved. Moreover, Bill Gianelli's unquestioned reputation as the administration's foremost authority on water development made him the administration's focus for water issues. As a result, the role of the Army and the Office of the Assistant Secretary for Civil Works, in particular, in federal water resources development and management was enhanced and became more fully appreciated by the water community.

While the accomplishments of Secretary Gianelli in the water program are significant without question, their implications go beyond the programs directly affected. The principles of responsive government, timely decision-making, cost-effective use of resources, and the impact one man with vision, competence, and motivation can have are equally applicable to other areas of government. Accordingly, it is important that his thoughts be widely circulated; they contain valuable insights concerning effective and efficient government.

Robert K. Dawson
Acting Assistant Secretary of the Army
(Civil Works)



HQ AR003242

WILLIAM R. GIANELLI

When William R. Gianelli became Assistant Secretary of the Army (Civil Works) in April 1981, he brought with him 35 years' experience in the field of water resources development. He graduated from the University of California, Berkeley, in 1941 with a BS in civil engineering and a reserve commission in the U. S. Army Corps of Engineers. On active duty during World War II, Gianelli rose to the rank of major in positions from platoon leader to battalion executive officer. He served with Engineer troops engaged in building airfields, water supply facilities, and other construction projects at installations in Hawaii, Saipan, Okinawa, and Korea.

In January 1946 Gianelli began ten years' service in the State Engineer's Office of his native California. Next he served in the California State Department of Water Resources (1956-1960) and was the senior partner in the firm of Gianelli and Murray, consulting civil engineers (1960-1967).

When Roanld Reagan became governor of California in January 1967, he appointed Gianelli to head the State Department of Water Resources. In that position Gianelli supervised the completion of the first phase of the California State Water Project, at the time the largest non-federal water conservation and conveyance system of its type ever built. The first phase involved constructing facilities at a cost of \$1.5 billion. The direct beneficiaries provided a large portion of the project's cost.

Gianelli left government service in 1973 to return to consulting as a specialist in water supply and water rights issues. In that year the American Public Works Association named him one of the top ten Public Works Men of the Year and Engineering-News Record magazine named him Construction Man of the Year. He served under presidential appointment on the National Commission on Water Quality (1973-1976) and was chairman and a member of the board of directors of the Monterey Peninsula Water Management District (1978-1980).

In April 1981 President Reagan selected his former state water resources chief as Assistant Secretary of the Army (Civil Works). In that position Gianelli oversaw the civil works program of the U.S. Army Corps of Engineers, chaired the board of directors of the Panama Canal Commission, and administered the Arlington and Soldiers' Home National Cemeteries.

In three years as Assistant Secretary, Gianelli was responsible for major reforms in the Corps of Engineers' regulatory program that cut the average processing time for permits in half. He challenged the Corps to rethink its cost-sharing and project-financing policies. Under his direction the federal government obtained voluntary commitments to a higher level of non-federal funding for water projects, an important step in a period of fiscal restraint and shifting national priorities. The changes he introduced in the Corps' repayment policies accelerated the recovery of federal investments. In his role as overseer of Arlington National Cemetery, Gianelli was instrumental in obtaining congressional approval of funding for a permanent visitors' center. His efforts also culminated in the interment of a Vietnam War unknown soldier at the cemetery on Memorial Day 1984.

In a relatively short time, William R. Gianelli left an indelible mark on the civil works programs and policies of the U.S. Army Corps of Engineers. In May 1984 he resigned as Assistant Secretary of the Army (Civil Works) and returned to California. Gianelli works part time as a consultant and, under special legislation enacted by Congress in June 1984, continues to serve as chairman of the board of directors of the Panama Canal Commission.

PART I

Q: Mr. Gianelli, the first question I want to ask you is when you came to the job as the Assistant Secretary of the Army, Civil Works, did you have any definite ideas about what you wanted to do in that office?

A: Yes. I had a couple of very definite things in mind. One of them was to bring about regulatory reform because I had known about the Section 404 program and all of the problems in connection with it. I felt that there needed to be a major reform of Section 404, particularly the processing of applications for permits, the amount of time it took, whether or not an applicant, for example, would get an opportunity to get a fair shake, and whether some of the single-purpose agencies had an undue advantage. I wanted to try and correct things like that so that it would be a more efficient program and so that the government could make a decision much more promptly than it had in the past. So that was one of the major goals that I had in mind.

The other one was, of course, due to my long familiarity with the nation's water programs: that something had to be done with respect to federal water development if we were going to build needed federal water projects.

The problem as I saw it was that some additional means had to be found for financing federal water projects. Due to the pressures on the budget--particularly in the defense area and the social programs--we couldn't expect a large amount of federal money to be allocated on the same basis that it had in the past to finance federal water projects.

Having had a considerable amount of experience in the financing area in California with respect to the financing of the California State Water Project, which was a \$2.5-billion water project, I felt that I could bring to the job some new ideas and hopefully talk to the Congress about some new formula for developing federal water projects, particularly the financing and the repayment of those projects.

So I would say overall, from the standpoint of goals as related to the Corps of Engineers' programs, these were two areas where I came into the job with some very strong feelings that something needed to be done.

Q: Now, at this time, Mr. Gianelli, did you have any particular perceptions of the Corps of Engineers?

A: Oh, yes. I was very familiar with the Corps of Engineers from, you might say, a different perspective. First of all, I was a reserve officer in World War II and was called to active duty as a young second lieutenant for the Corps of Engineers in the summer of 1941, immediately after I graduated from college. And for almost the next five years during World War II, I was a Corps officer, attaining the rank of major by the time that World War II ended.

And during all of my service during World War II, I served with the Army Engineer Construction troops, primarily in the Pacific Theater of operations. So I was very familiar with the Corps as a member of the Corps of Engineers during World War II and as an officer of the Corps.

Following that, my entire career has been in water resource development, and as such, primarily in my activities as an official of the state of California, I had occasion to work very closely with the Corps Division and the Corps Districts in California.

So I was very familiar with the Corps' operations and very familiar with Corps projects and very familiar with how the Corps of Engineers operated in the civil works area, by virtue of my experience in California.

Q: Familiarity sometimes can breed contempt.

A: Right.

Q: Can you tell me a bit more what you thought about the Corps of Engineers as an agency--positively, negatively, and so forth and so on.

A: Well, I had views--for example, during World War II in the combat area--that I thought the Corps did an outstanding job, and I always looked upon my own career and my service in World War II as a Corps officer as one of the outstanding events of my life. As a result I have a very high respect for the Corps, being part of it in a combat situation.

Following that, as a civilian primarily employed for the most part with the state of California and then later as an individual consultant, I had a very high regard for the Corps in terms of their technical capabilities and in terms of their ability to get something done: i.e., their

ability to design and their ability to construct water projects.

I had some problem with the Corps' planning effort, which I think was reinforced after I came into the job. I had some reservations about how the Corps carried out its planning operations, but overall I had a very positive--and I still have a very positive feeling with respect to the Corps' ability to get a job done. For example, in times of emergencies, there is no finer organization in the world than the Corps of Engineers to take care of problems that come up as a result of natural disasters and things of that nature.

Q: Well, when you look back over your time as the Assistant Secretary, and you look at the perceptions you came into the office with about the Corps, and then as you left the office, do you have any significant changes in those perceptions?

A: Yes. One of the things that I became aware of very early in my position as Assistant Secretary was that the Corps, over the years, had been very used to considering itself almost as an arm of the Congress. In other words, what I found was that Corps officials were very conscious of their relationship with the Congress and actually, it seemed to me, did more toward working with the Congress sometimes, almost, than they did working with the executive branch of government.

One of the things that I tried very hard to correct was to have the Corps recognize that it really is a part of the executive branch of government and, as such, has certain responsibilities as part of the Department of Army; and at certain times those activities may not be in consonance with the views of the Congress.

So I would say that one of the things or one of the perceptions which I had when I left my position as Assistant Secretary was recognition of the problem of the Corps in having to work directly with the Congress on one hand, particularly in connection with all of the things that the District Engineers and Division Engineers came up against in the field, versus being part of the administration team. That particularly is apparent with respect to the funding of water projects.

Congress, of course, each member of Congress--and I am certainly not being critical, I think it is a very natural thing--is very interested in getting all kinds of water projects for his area. And the Corps, I felt, always tried very hard to accommodate the members of

Congress in the planning for water projects in their areas.

From an administration standpoint, where there were severe restraints on the budget, it was necessary for this office--the Assistant Secretary of the Army, Civil Works--as part of the administration team and as a presidential appointee, to be aware of the financial problems of the administration and the need to balance the budget. Therefore, I often found that we were not able to comply with a lot of the things on which the Congress wanted us to spend money. So I became much more aware, after I was in the job and at the time I left, of that kind of problem than I was before I assumed the position.

Q: To what extent, if any, did you review the working policies of your predecessor when you came into the job? Did you feel that that had a bearing on your job, or were you starting off with a clean slate?

A: Well, I didn't know Mr. Blumenfeld, who was my immediate predecessor. However, I met him on a number of occasions subsequently. I did not have a chance to talk with him before I actually came into the job; but later on I had an opportunity to talk with him about a number of issues and found that we agreed on a great number of things.

I am not quite certain of all the things with which he was involved. Mr. Blumenfeld was not an engineer and, therefore, probably didn't come from the same perspective that I did. I suspect that one of the things the Corps probably experienced was that they found I would get into much more detail on their work than my predecessors, largely because of my familiarity with the subject.

That might have added to the discomfort that the Corps might have felt with my being in this job, because I had so much background knowledge with respect to water projects.

I found myself questioning many of the Corps' projects and asking for details, which my predecessors may not have done. In some instances I actually gave the Corps some rather positive directions with respect to a number of its projects.

Q: Let me get philosophical for a second. Let's not talk specifically about the Reagan administration, but let's talk about administration X and how water resources ought to be administered in any administration. Do you have some specific ideas about that?

A: Yes. Again, I don't view myself really as a political animal. I have served the President in a capacity in California as one of his appointees, but basically I have been a professional engineer throughout my career and have not been a politician.

And so, therefore, I have in my tenure as an Assistant Secretary, I would honestly say, tried to administer the activities of the Assistant Secretary's office as I thought was appropriate, not giving consideration to politics. And I think that I was able to do that, and I have a good feeling about that. The things that I was trying to do in my position as Assistant Secretary were things that were important for the betterment of the program and were not in any way connected with political expediency.

Q: You, of course, were a member of the President's Council on Water Resources and worked with the Department of Interior and so forth. How well did that Council work?

A: Well, I ended up being a little bit unhappy with the Cabinet-Council arrangement, and let me indicate why. The primary interface that we had with the Cabinet-Council was as a member of the Cabinet-Council on Natural Resources and Environment. And that Cabinet-Council was headed by the Secretary of the Interior.

The Secretary of the Army or the Secretary of Defense was not officially a part of that Cabinet-Council. But largely, probably as a result of my knowledge in the field and my prior acquaintance with Jim Watt, I was asked to be a part of those Council deliberations whenever it involved the subject of water. And as a matter of fact, Secretary Watt, very early in this administration, asked me to head a sub-Cabinet group of Assistant Secretaries concerned with problems in water resources development. And I did that. I acted as the head of a task force of Assistant Secretaries who looked at problems referred to it by the Cabinet-Council and made recommendations to the Cabinet-Council.

But one of the things I found was that after, for example, we were able to get concurrence of the Cabinet-Council on such things as cost sharing, the Department of Interior had different views which Jim Watt reflected independently as a Cabinet officer. And I guess I felt at the end of the Cabinet-Council deliberations, particularly on cost sharing, after about two years that the Secretary of Interior could independently reflect different views on water policy, notwithstanding actions

of the Cabinet-Council.

This troubled me. And so I guess, in summary, I am troubled by the Cabinet-Council arrangement because it seems to me that the Corps of Engineers, which has the major water program of the federal government, is somewhat at a disadvantage as opposed to the Department of Interior, which had a much smaller program but had a Cabinet member; whereas the Corps of Engineers had only sub-Cabinet representation by the Assistant Secretary of the Army.

So I guess, in the last analysis, I did not feel too good about the Cabinet-Council arrangement on water policy and the ability of the Assistant Secretary of the Army to be on a par with the Secretary of a large department.

Q: Can you outline more specifically what the major areas of disagreement were between you and the Department of the Interior?

A: Well, one of the things that came about was that I was able to get the Cabinet-Council to support a formula with respect to cost sharing for federal water projects for different purposes. And I felt very strongly that this was necessary in order that everyone be treated the same.

For example, the Corps has a large number of flood control projects in the United States and a large number of them on the drawing boards. I believed it was important to have some guidelines to give to the Corps in the field with respect to cost sharing--say, on flood control.

The Bureau of Reclamation projects are somewhat different. For the most part, they are very large projects. They involve primarily irrigation, whereas the Corps' projects might incidentally involve irrigation. And so the primary difference came, I would say, when the Bureau of Reclamation, through the Secretary of Interior, wanted to develop cost-sharing formulas on a case-by-case basis.

My concern on a case-by-case basis was that you had to be consistent; with the large number of projects that the Corps has, I viewed consistency as very important, because you certainly can't have one area of the country paying one amount for a flood control project and another area of the country paying a different amount.

In other words, I felt that while federal government has a certain financial responsibility with respect to flood

control projects, that responsibility has to be orchestrated on an equal basis throughout the country. So I would say the primary difference that finally evolved between the Secretary of Interior or the Department of Interior and the Department of Army, as represented by the Assistant Secretary, was the need to have a consistent formula provided throughout all the Corps areas, throughout the 50 states, as opposed to the Bureau's desire to proceed on a case-by-case basis in their areas of responsibility, which were the 17 western states.

Q: You would be in a position to know what, if any, specific ideas President Reagan has on water policies. Do you--can you explain to us what his views were? Were his views basically the same as yours?

A: Well, when I--let me give you an example. For example, when Reagan became Governor of California, as a result of the election in November 1966, I didn't know him. I had never met him. One of his key Cabinet officers at that time was the Director of Water Resources for the state of California. The state was just beginning this mammoth \$2.5-billion project that had been approved by the legislature and by the voters several years before.

Just before Christmas in 1966, I got a call from the Governor-designee, Reagan, introducing himself and saying that I had been highly recommended to head the Department of Water Resources, and would I accept an appointment as its director. He volunteered that he was not a water expert. We talked for a short time about the issues, after which I agreed to be his Director of Water Resources.

During my whole tenure as Director of Water Resources, which lasted almost seven years and allowed us to complete this major project to deliver water from the northern to the southern part of the state; the Governor was very supportive of what I wanted to do; and basically his only instruction to me was to carry out the mandates of the legislature and the people to build this project in an efficient and cost-effective manner. The project was in great financial trouble at that time because there were inadequate funds provided to complete it.

During our tenure, none of the disputes or contractor claims were ever settled in the Governor's office. Any inquiries that the Governor received with respect to the water program, he referred to me as the Director of Water Resources, and we worked them out.

However, he did support my effort to get additional funding from the legislature and supported me when I was criticized by people around the state on the job that was being done. So I would say that the Governor during that period got considerable exposure to water development, and I found his ideas pretty well coincided with mine. When I came into the Assistant Secretary position, I knew pretty well what the President's views were with respect to water policy.

Q: Did you have an opportunity to speak to the President about water resource policy after you took the job?

A: No, not directly. I spoke to a number of his staff and, of course, worked closely in the early days with White House staff and other departments.

Q: Let me ask you a series of questions dealing with the relationship between this office--OASACW--and other parts of the Department of Defense and the federal government. What kind of a relationship developed during your tenure between this office and the Secretary of the Army? Did you see the Secretary of the Army much? Was he interested in the program? And what was the communication?

A: Yes. Let me just say, from a personal standpoint, I felt I had a very good relationship with Secretary Marsh. I was the senior assistant of the four Assistant Secretaries of the Army; and whenever the Secretary and the Under Secretary were absent, I acted as Secretary of the Army.

I also made a great effort to attend things which weren't directly related to the Corps' civil works programs. For example, the Army Policy Council. I was a member of that. I attended a lot of Army functions in my role as one of the four Assistant Secretaries of the Army.

So I felt very comfortable, I felt very good about my relationship with the Secretary and my relationships with the Army. And even though my day-to-day exposures were not many, for example, with the Army Chief of Staff, we did interface, because I had additional responsibilities other than the Corps in my job.

One of these other responsibilities was Chairman of the Panama Canal Commission. As such, I worked very closely with the Southern Command in Panama, and that brought me into another kind of relationship with the Department of Army and the Department of Defense.

A third area of my responsibility was Arlington Cemetery. Again, this function heavily involved the Secretary of the Army. For example, our office advised the Secretaries on such things as the identification of a Vietnam unknown, determination of burial eligibility, and other problems of Arlington.

So I would say that I had an excellent relationship with the Secretary. I would also say that in the areas of my responsibility, which were the three--the civil works program, the Panama Canal, and Arlington--the Secretary left them very much up to me. In other words, he relied upon me to run those programs.

The only time he really became involved in our activities was when, for example, there was a particularly controversial subject. I tried to keep him advised on any controversy, so that when he had inquiries from members of Congress, he could be pretty well informed on the subject. And on a number of occasions, when I made decisions that were not popular with a member of Congress, the Secretary of the Army would get a call and be asked to intervene in the matter.

But let me say, the Secretary was always very good in that area; and while we had quite a number of meetings with members of Congress, he pretty well delegated to me the responsibility for running the Corps' civil works program, and only got into it when brought in either by me or by some member of Congress. That was also true with respect to the Panama Canal Commission and Arlington Cemetery.

Q: So you can't recall any instances where the Secretary of the Army actually said to you, "No, we are not going to do it this way," or something like that?

A: No, I don't. I don't recall a single situation. There were times when I think the Secretary said, "You know, I think we ought to try and see what we can work out here," but I don't ever remember a mandate he gave me that I didn't pretty well agree with.

And let me say the same thing is true with the Secretary of Defense. My primary dialogue with the Secretary of Defense came in connection with my chairmanship of the Panama Canal Commission. Because under the law, he is a member of that commission and that delegation comes down through the Secretary of the Army to me.

The Secretary of Defense has a great interest in the activities of the Panama Canal Commission, and I will

relate to you later how that is still being carried on, even though I have officially left the position of Assistant Secretary.

I have known the Secretary of Defense for 30 years and worked with him in California. He was a Cabinet officer for Reagan during part of the time that I was also a Cabinet officer. So I felt very comfortable with him on a personal basis.

Q: Let's go outside of DOD for a moment. How about OMB--your relationship with the people in the Water Resources Branch or with Mr. Stockman.

A: Well, most of my dealings with OMB were at a lower level than Mr. Stockman. In fact, I think I only remember a few meetings that involved Mr. Stockman.

Quite a bit of the policy activity was carried on with one of Mr. Stockman's assistants--one of his appointees, Mr. Khedouri, who had, in his area of responsibility, things such as the water resource programs of the Corps and the Bureau of Reclamation, and the Soil Conservation Service.

And then below him, I dealt very directly with Don Cluff, who headed the division that dealt with the water programs of the Bureau of Reclamation, the Soil Conservation Service, and the Corps of Engineers. So most of my activities with OMB were with him. Sometimes with Mr. Crabill, who is one level above Mr. Cluff. The rank in OMB starts out with Stockman, Khedouri, Crabill, and then Cluff. Cluff has a number of people below him we sometimes worked with also. So most of the contacts were made and most of the activity was carried on at the Cluff level, with Cluff and his assistants; although on occasion we got involved with Mr. Crabill and, from a policy standpoint, every once in a while with Mr. Khedouri.

Q: Was it a good relationship?

A: I would say the relationships from Crabill down were good--were very good. I would say that relationships above Crabill were pluses and minuses. I think there were some negatives as well as some positives.

Q: Were you--some policies that you were in favor of--were they overruled by OMB?

A: Well, one of the prime complaints, if you want to call it that, that I had with OMB is that they are in a key

position, not only in terms of budget but in terms of legislation.

And I really believed that, for example, in some areas of legislation which involved, say, the Corps programs, we should have been more a part of formulating those programs in the beginning rather than coming on later. An example, just to pick out a case in point, is the subject of cost sharing for navigational projects. The subject is highly controversial, and I really believed that it would have been beneficial to the administration if they could have really turned the Assistant Secretary of the Army's office and the Corps loose on working directly with the Congress on formulas to revise cost-sharing programs for navigational projects.

However, the upper levels at OMB held that subject pretty close to themselves; and I really felt that some of those legislative directions and implementations should have been worked out more, I guess, together than I felt they were.

Q: What was OMB's reasoning for that?

A: Well, I'm never quite sure. Of course, OMB has a very broad responsibility in terms of the federal budget that goes far beyond the Corps of Engineers' program. And I think there, of course, is a need for them to keep in perspective, say, the water resource programs as contrasted with a number of the other programs. Neither I nor the Corps would have knowledge of all of the pressures on OMB for other programs and the other demands for federal funds.

As a result, I believe one of their prime reasons for not delegating was the need for them to keep budgetary control over whatever was being proposed in the way of federal programs. I suspect that was the underlying reason why perhaps we weren't turned loose a little bit more toward developing formulas and working more closely with the Congress to solve the problem of cost sharing for navigational projects.

Q: Let's turn our attention for the moment to the relationship between your office and the Corps of Engineers. And, of course, right now what I am interested in is a general portrait by you. We will get into specifics later.

Let me take the bull by the horns and suggest that people feel that you got more involved in the bowels of the organization, so to speak, than your predecessors did.

What do you think should be the proper relationship between OASACW and the Corps of Engineers? And maybe we should divide it up and talk about OCE and then talk about the field.

A: Okay. Well, I--this comes back to an earlier comment I made which is that I think the Corps has a difficult problem as a result of their close relationship with members of Congress in the field, and that gets reflected up through OCE. It is an important relationship because the members of Congress look upon water projects as something positive for their areas; and they look upon the Corps, which has the expertise, to develop projects that will solve water problems for their particular area.

The Corps has a strong desire to maintain good relationships with the members of Congress and, as a result, tries to accommodate, I think, wherever possible, members in solving a water problem. From ASA's viewpoint, it may be that those projects which the Corps tries to develop for the benefit of a particular congressman or senator or for a particular area do not fit in with the administration's policies as reflected by ASA.

For example, I have always believed the Corps doesn't worry too much about the cost of a project. In other words, they go to Congress for the appropriations and Congress appropriates the money. And I think the Corps, for example, in making recommendations for the development of a water project to solve a problem, will develop what it believes to be the best engineering solution, which may end up costing a lot more than alternatives that might do the job.

One of the difficulties arises--and I think the Corps gets caught in the middle here--on the one hand of developing a project, the best project from an engineering standpoint, to solve a problem in a particular congressional district. On the other hand, there may be a lesser project, lesser in terms of scope and lesser in terms of cost, that might solve the problem from the vantage point of the administration and available funds.

This has created a problem on some occasions between ASA and the Corps. To use an example, I guess Mount St. Helens is probably one of the best examples. We finally asked the Corps, instead of making a specific recommendation on how to solve the problems brought about by Mount St. Helens, to give this office a number of alternatives from which we would make the selection of which project ought to go ahead. That created some real

problems because of the Corps' dialogue in the field, since it had developed a rapport with the local people on what it thought ought to be done. It turned out from the standpoint of ASA that something different should be done. This created some real problems between ASA and members of Congress who had been convinced that the Corps' solution to the problem should have been followed rather than what we decreed should be done.

Q: As a result of experiences such as that, did you try to sort of put a cap on the contact between Division and District commanders and congressmen?

A: No. No. I think it is important that they have a good relationship. But what we tried to do was to make certain that the Corps understood what we were trying to do--for example, from ASA's standpoint. And the second thing, and I think we were moderately successful but not completely, was to have the Corps' field people inform ASA on their various dealings with members of Congress. For example, if a member of Congress called about a particular problem--and they frequently did call a District Engineer or a Division Engineer, and that's appropriate for their area--but to let ASA know whatever dialogue took place so that when we got a question from the Hill with respect to the same problem, we would at least have been informed as to what dialogue had previously taken place between the Corps at the field level and the members of Congress.

I believe we made substantial progress in that area because now ASA is better informed from the field in its contacts with members of Congress. That is extremely important.

Q: I am going to get back to this a bit later; but the general thrust of your comment, it seems to me, impresses me right now as suggesting that you wanted to get some of the political considerations, political philosophy of this administration injected into the planning process earlier.

A: Let me talk about planning--not so much political considerations as economic and financial considerations--because if there is any part of the Corps' program that I have been more critical of than others, it is the planning process. Let me explain why.

Take a look, for example, at the Corps' planning program that would generally lead to water projects. Early in our administration, we examined some 500 planning reports that the Corps prepared, looking toward the solution of a

problem by the development of a project. Over half of those studies developed into a report which showed no feasible project could be constructed. The Corps spent, as I recall, some \$100 million on those project reports, which, it seemed to me, the Corps could have screened out at a much earlier date and saved the federal government large amounts of unnecessary expenditures.

That was the reason I asked the Corps to split its feasibility reports into two phases. The first I called a reconnaissance level report, which would be done at 100-percent federal cost in one year at about 20 percent of the cost of the full feasibility study. Then, if the Corps found that there was a project that looked like it might be feasible, to have the local project beneficiaries pay half of the remaining cost of preparing the feasibility report, while the federal government would pay the other half.

I further went on to say that of the one-half that would be borne by nonfederal interests, half of that could be an in-kind service. For example, if it were a state, the state has expertise in terms of information--basic data that it could supply to the Corps. I believed that any financial contribution from the local people in the planning process would do a lot toward screening out infeasible projects, because my experience in California told me that the minute project beneficiaries had to put up any money at all, they would look more carefully at whether they really needed a study. A review of the Corps' efforts in the past made it very clear that because the local people were not putting up any money, the Corps was spending substantial federal funds developing reports on projects which would never be built.

One of the things that I tried to do, and I think had some support in the Congress, was to have the Corps' planning process screen out infeasible projects at a much earlier date before so much time and effort and money had been spent unnecessarily. That, to me, is not politicizing the Corps. That is just good sense, good water resource planning; and it is the way good water projects ought to proceed, in my judgment. So when you asked the question--commented that I was attempting to politicize the process--I don't view it that way at all.

What I think I was trying to do was to make more sense out of the Corps' program, recognizing the constraints on the federal budget. I really tried to give the Corps direction which would assist in making the water projects more responsive and more meaningful.

Q: Well, let's pursue this for a moment since we are talking about planning.

A: Sure.

Q: One person in the Corps paraphrased a comment of yours. I don't remember where he heard it, but he said that you had said once that the goal of a planning process ought to lead to project construction. That is, plans that do not lead to work are basically a waste. Can you elaborate on that a bit?

A: Yes. I think--and I am not singling out Corps planners because I think this is true with planners in many organizations, and I know it is true in large water organizations--a lot of the planners like to plan for the sake of planning and to develop projects which will never be feasible to be implemented.

It seems to me that the planning process ought to develop programs in ways in which those programs can be implemented. If you are going to study a project which has no chance of going ahead, it seems to me the earlier you can determine that and cut off the effort, the more time, effort, and money will be saved by whoever is paying for the planning.

In the case of the federal government, it would save the federal government a considerable amount of money if you could determine infeasibility at a much earlier date. And so, yes, I believe that the planning for projects should lead to implementation. It should not be merely a planning effort which is discarded because it cannot be implemented.

Q: Of course, planning depends on authorizations and appropriations. If you are developing an early plan of feasibility study, and the project is either not authorized or else there is no appropriation passed, it is difficult to--well, I mean, how does the Corps take into account that kind of . . .

A: Well, I am not making the point with respect to the other activities of Congress. I am talking about a project that doesn't muster up and have a positive benefit-cost ratio. If you are only going to construct feasible projects as demonstrated by the benefit-cost ratio, then that ought to be determined at as early a date as possible, and efforts shouldn't be spent on projects where the benefits don't exceed the costs.

Q: Are you in a way faulting the Corps' economic analysis too, then, or are you just suggesting that they go beyond a reasonable point in developing the studies?

A: Well, I am not so much questioning the Corps' economic analysis, but what I am saying is that there ought to be a greater effort made earlier to determine how far to go in that planning process, particularly in the feasibility report. And if you can determine, say, through this reconnaissance effort which I asked the Corps to institute, that a project is not feasible, then that effort should be terminated.

Q: How do you feel about nonstructural solutions?

A: Oh, I think very often nonstructural solutions do have a place. On the other hand, I think you have to be careful that nonstructural solutions do not increase or take any more property off the local tax rolls than absolutely necessary. Often nonstructural solutions involve the acquisition of large amounts of land taken off the local tax roll, which presents some real problems to local government. Whereas, for example, a structural solution might result in much less property having to be taken off the tax roll.

Let me go on to say that land acquisition is not the only consideration. You have environmental considerations. So you have to balance all the issues. I believe that there are places for nonstructural solutions, but I think that you have to be extremely careful because so many of them involve such large acquisitions of property.

Q: Let's turn our attention for a moment from planning to one of the important thrusts of your tenure in office, and that is cost sharing.

A: Yes.

Q: You indicated in an earlier interview with John Greenwood that you wanted to do something to make nonfederal interests bear a greater share of the water resource costs. How successful do you think you were?

A: I would say only moderately successful. Maybe a better word would be minimally successful. I believe there are probably several reasons for that.

First of all, I think Congress, particularly certain members of Congress, like very much to demonstrate to their constituency their ability to get large amounts of federal money to build projects in their area. And it is

much more popular for a congressman, if a federal project has to be built to solve a problem in his area, to get all the money from the federal government than it is to tell the local people, "You are going to have to pay for part of it."

So my perception is that there was considerable resistance from some members of Congress who like the system the way it is, even though the present system and the stalemate in water project authorizations and funding have resulted in very few new projects being started in the last few years. My perception is that Congress has had a hard time biting the bullet, so to speak, to require nonfederal interests to pay a larger share of the cost of the projects, even though those nonfederal interests will be the primary beneficiaries.

The other thing that I think had a bearing on it--I have never felt that the Corps, including OCE, the Divisions, and the Districts, was very enthusiastic about going out to nonfederal sponsors and asking them to put up the money. This is a natural thing. I am not being unduly critical, but I have believed that while we tried to orchestrate what we wanted done from the standpoint of cost sharing at the ASA level, there has not been great enthusiasm in the Corps, particularly in OCE, to pick up that effort and to try to promote it with the field. Instead the Corps passively acceded to whatever we asked be done, but used very little in the way of initiative to further the effort.

That's been borne out by the fact that where we went out and developed some projects--I think we developed about 16 over the course of my tenure--Corps projects where the local people were willing to contribute more than the historical formula, most all of those had to be orchestrated from the office of ASA, rather than having the field use some initiative with respect to augmenting or facilitating those efforts.

Let me quickly say that I suspect part of the field's reluctance has been some uncertainty as to how far they could go with respect to some of these things. We tried, particularly in my last year, to correct that by being more positive with the field in terms of instructions, so that they could go ahead and make some overtures to the local people and bring in to ASA projects which they thought would pass muster under our cost-sharing goals, rather than having everything orchestrated solely from ASA.

Q: Well, let me ask you a question I am sure must have been

asked of you several times while you were in this office, particularly relating to flood control. How do you reconcile one situation where you have a relatively poor community that is going to be threatened by floods and devastated, and the cost sharing that would be imposed upon them, with another community that is rather well to do and presumably could afford to bear a greater financial contribution?

A: Well, that point has been raised a number of times and I always answer it this way--that the whole theory of feasible federal water projects is based upon a favorable benefit-cost ratio. In other words, the benefits should always exceed the cost.

As a result, the criteria which determine what is a feasible federal project are discriminatory already; because if, for example, you have an agricultural area that gets flooded very badly, and the benefits of providing that agricultural area with flood control don't exceed the costs, then the project is not feasible. So you are, in effect, discriminating against the poor areas or those that don't have the benefits already in your benefit-cost analysis by which you determine a federal project is feasible.

And so where you have limited funds, my perception is that the federal government can't take care of everybody's problem everywhere in the United States. There is just not enough money in the federal treasury to do it, and Congress and administrations before have indicated no willingness to try and do that. So you--what do you do? You try and spend federal money on those projects that are the most--that have the most benefits that come from the costs that you put in them. So you develop a benefit-cost ratio, and you say the best projects are those where the benefits are the highest because you benefit a larger number of people, at least in terms of the Corps' dollar evaluation.

So all that cost sharing proposes is extending that idea and basically trying to spread out what limited federal funds are available to the better projects. the better projects are those that have the highest benefit-cost ratio.

Q: Well, I can think of two possible answers from people who might oppose that position. One is that perhaps there is something wrong with the way in which the Corps develops its benefit-cost ratio. That perhaps there is a better way of going about it. And the other one is related, and that is simply that we are not just talking about

property values and so forth and so on. We are talking about lives of people and how does that figure into . . .

A: Well, presumably the Corps, when it makes its benefit-cost evaluation, takes into account those things.

But again, let me just say that if you look at the number of Corps projects that are either under construction, have been authorized, or are under study, you can add up to some \$36-billion worth of projects. Those projects aren't going ahead for lack of funding. So what is the sense of developing another theory which would act to put more projects on the board, when you cannot construct projects under the present rules. How then do you allocate the limited federal funds to water projects? It seems to me that one of the logical ways, and this has already been started over the years by the benefit-cost evaluation, is to take the limited federal funds and use them for those projects where the benefits are going to be the greatest and where there is a federal responsibility.

Accordingly, my answer to the question--how do you take care of the poor areas or how do you take care of the poor areas if the benefit-cost ratios don't exceed one to one now? The answer is, you can't. This may result in certain inequities, but the system is the best one we have. You have to have some screening device because you can't take care of everybody's problems all of the time. That is the dilemma that the federal government faces.

Q: What about a situation where you might have a community that has spent a substantial amount of money on flood control, and it has not been--it has not been successful, and therefore they appeal to the federal government for the funding to do a much more massive kind of a project, probably. Do you think the amount of money that the community has already invested in flood control ought to be considered in terms of federal investment?

A: Yes. As a matter of fact, one of the inequities of the present system for flood control is the way it has been administered in recent years under the law. When a federal project involves levees, then the nonfederal interests have to put up the costs of land, easements, and rights of way and the relocation of utilities.

On the other hand, if a flood control project involves the construction of a reservoir, then the federal government pays the entire cost. That to me is inequitable. That's why in the cost-sharing formulas

that I have been advancing for flood control, I talk about 35-percent nonfederal contributions, whether it is a reservoir or whether it is a levee project. At least everybody then would be getting a fair shake, as opposed to the present system where nonfederal interests on levee projects have to contribute substantially, whereas in reservoir projects nonfederal interests pay nothing.

Q: But the reservoirs might offer significantly additional protection to . . .

A: Well, you know, the engineers design projects to provide certain levels of protection, whether it is a levee or whether it is a reservoir--whether it is 100-year protection, 200-year, or whatever it is. So you build a reservoir to give yourself a certain degree of protection, whether it is 100-year or 200-year, and you design a levee project for exactly the same thing. So I don't--I don't see the argument there.

Q: Well, what I am suggesting is that, okay, if you have to build a reservoir to achieve that same amount of protection, the reservoir is probably going to cost more; and therefore the argument might be that in that case, you have to get more federal investment. Because . . .

A: Well, I don't think that argument makes sense. But there may be a further involvement when you have reservoirs. Very often the reservoirs are multipurpose; and if they are multipurpose features, then the other purposes should pay an appropriate allocated cost of that particular reservoir. It shouldn't all go to flood control, because very often now you build a flood control project that has other substantial benefits. The other beneficiaries--for example, hydropower, municipal purposes--should pay their own way, certainly.

Q: Let's talk about another aspect of cost sharing and that is deep port dredging. What was your position as Assistant Secretary on the question of deepening some of the major ports?

A: Well. I--here again--if you take a look at all the reports which the Corps prepared on the deepening of harbors--I can't remember the amount, but they run up to many billions of dollars--where every port envisages itself as developing, say, as a major coal export facility. That was popular about three years ago when there were big plans for coal. However, those plans have been somewhat dampened. At any rate, under the historical formula where the federal government paid the entire cost of deepening deep water channels, the project

beneficiaries should now pay a share of the cost of deepening, just as is being proposed in the case of flood control.

This is one of the areas where I have had a problem with OMB. OMB has only allowed us to talk about recovering 100 percent of the costs, whereas now the federal government recovers zero. My feeling was that there is still a federal interest in deepening channels, for example, and that there ought to be some middle ground between zero and 100 percent. The zero being the present system, and the 100 percent being what OMB has been advocating the last three years since I have been here.

I think there ought to be a middle ground; and when I commented earlier about my problems with OMB, I really felt that our office should be the lead agency in this area, working with the Department of Transportation. We should have been given the task of trying to work out an acceptable formula with the ports, in the case of deep water ports, and with the users of the inland waterway system. I would have hoped we could have developed a compromise which would move in the direction of nonfederal participation. There has been a complete stalemate in that area, which I don't think serves the interests of the country well. Some of those ports need to be deepened, and I think one way to screen out the better of them is again through a financial contribution.

I have an underlying theory on water projects, that the minute you ask people to contribute, you have an automatic screening device which is far better than any analysis that could be made by the technicians.

Q: Well, let's talk about another area then of cost sharing, and that is the area of recreation. Also, I think we get into the questions of water supply here. There is a letter that Don Cluff, chief of the Water Resources Branch of OMB, sent you on 3 March 1982, and I will read part of it just to remind you of what it says.

It says, "Unless further actions refine the administration's position on cost sharing, nonfederal interests should bear 100 percent of the costs of vendables such as recreation and water supply. Also projects recommended by agency heads are required to have the highest possible net national economic development--NED--benefits, or be specifically exempted from meeting this criterion by the Secretary. Rationale for the waiver and submission of the NED (plan) to OMB at the time of the review are required." Did you concur with this position?

A: I think there were some modifications of administration position following that communication from Cluff. Let me elaborate on those.

Well, first of all, recreation, I think, from the standpoint of the administration, is not a high priority item. In other words, I think the administration's position was that we should not now be spending federal money for recreation projects that were historically funded for the most part with federal money. The way the proposal was finally modified was that there were certain commitments that had been made to completed Corps projects for certain recreation facilities. We were able to work out some arrangements with OMB so that we--the federal government--kept certain of its commitments on recreation development on completed Corps projects.

What we did was to go back and have the Corps look at those parts of recreation facilities which were important from the standpoint of the health and the welfare and the safety of the people who would use a reservoir facility. For example, supposing that it was necessary to build certain minimal sanitary facilities. We were able to get the position at OMB modified on some completed Corps projects to allow us to go ahead at full federal expense to provide certain minimal facilities.

We were also able to secure OMB's approval for a development of recreation at a multipurpose Corps project where there was substantial nonfederal participation in that recreation, on a 50-50 formula as I recall. Again, the justification of the federal interest being the welfare and the safety of the public who would use a particular multipurpose facility.

Still another thing which we have done is to develop criteria for the kinds of recreation facilities which we felt were appropriate for federal assistance. I believe the Corps in the past has gone a little bit too far in the kinds of recreation facilities that were being prepared. For example, providing tennis courts, baseball diamonds, and other similar facilities that we thought should have been provided by the nonfederal interests, as opposed to sanitary facilities required for sanitary purposes.

As a result, we are still able to provide some recreational facilities at federal expense, notwithstanding the fact that it is not a high priority item. I think the feeling is that limited federal funds should be used for higher purposes--for example, flood control, navigation, and other such purposes. I generally agree

with that philosophy.

Q: Would you explain one point to me in this letter? Because I frankly don't understand it. How does one devote the highest possible NED? Is that not eventually a kind of subjective decision?

A: No, I think what he is saying is that you develop the project that has the most favorable benefit-cost ratio, and that if you want to develop a project that has a lesser benefit-cost ratio than the one with the highest, then you have to get an exception from the OMB and develop the rationale why you should go ahead. And let me give you an example of that. We had this come up.

You may have the highest NED, for example, on a project involving flood control that would only provide, say, 25-year protection. And my own feeling is that the Corps, if it is going to build a flood control project, should have a minimum level of protection, like 100-year protection. We had this happen, as a matter of fact, just before I left my position.

We were successful in at least two cases in getting a waiver on that maximum NED plan because it didn't make sense to provide a--to spend federal money for a flood control project that wouldn't provide a reasonable amount of protection.

Q: Okay. Another area which you got involved in that sort of bears on cost sharing is the area of mitigation.

A: Yes.

Q: And there was an issue involving contiguous versus non-contiguous lands and so forth.

A: Yes.

Q: Before we get into that, maybe you could explain your philosophy about mitigation to me, about the acquisition of lands to mitigate wildlife loss.

A: Well, let me say that, first of all, it has always been my feeling that appropriate mitigation is a project cost and should be paid for like other project costs. For example, if it is a--just to pick a point--supposing you have a multipurpose reservoir project for hydropower, flood control, and for municipal purposes; then it is my view that, to the extent the project needs to provide certain mitigation, then that mitigation ought to be a project cost and it ought to be paid for by the various

beneficiaries of that project.

Now, the thing I do feel quite strongly about is that if mitigation is required because of a reservoir project, then it is my view that you ought to mitigate as close as possible to that project and not thousands of miles away. The second thing is that, if possible, mitigation ought to be provided on land already acquired rather than proposing acquisition of more land off the tax roll.

So if it involves management of land, then the first thing you ought to do would be to look at whether or not you can manage the lands that you are acquiring for other purposes, for mitigation also. Or perhaps to better manage federal lands, say, that may be in the area for other purposes.

The other thing I have always believed is that, for example, in terms of fisheries, if you built a reservoir project and it destroys a certain kind of fishery--say a stream trout fishery--but at the same time, you create a large reservoir fishery of another species that you didn't have, there ought to be some way to balance out the enhancement that you have provided versus the benefits foregone.

I believe there has been a tendency to say that the way we take care of mitigation problems is to go out and acquire large blocks of land and do certain things on those new lands. My feeling is that there ought to be a look taken at other things you can do that don't necessarily involve the acquisition of large amounts of land to be removed from the tax roll solely for mitigation purposes.

Q: Were you able to discuss this with people like Mr. Arnett and people at the Fish and Wildlife Service and so forth? Did you ever have a colloquy about this?

A: Yes. Mr. Arnett and I worked very closely in California in a similar relationship where I was Director of Water Resources and he was Director of Fish and Game. I don't expect that he agrees 100 percent with my theory on mitigation versus his, but I think we agree on a number of things--particularly the need for better management.

Q: Are you familiar with what is called HEP--Habitat Evaluation Procedures--that I guess were mainly established by the Fish and Wildlife Service to evaluate the impact of a particular project by the Fish and Wildlife Service?

A: I am generally familiar, yes.

Q: Did you find it to be a satisfactory way to . . .

A: Well, I think their evaluation probably is about as good as you can get. You know that evaluation of fishery resources and wildlife resources is not an exact science. I believe we might question what the fishery and wildlife people conclude with respect to the amount of fish that are lost or the amount of wildlife habitat that would be lost, say, as a result of the construction of a certain project. So it is not surprising that there is probably not complete agreement between the project builders and the single-purpose fishery and wildlife people, in terms of their evaluation process. Certainly, their technology has come a long way and probably is about as good as is available at the present time.

I think the more difficult problem comes in after you identify it; what do you do about it?

Q: Did you ever--were you ever concerned about the kind of criticism that was generated at the local level by Fish and Wildlife officials at the Corps, you know, rather than coming up through channels in Fish and Wildlife? It would be criticism at the local level, that they would get out in the public arena.

A: Oh, yes. Very much so. In fact, this gets into the area also on regulatory reform, Section 404. Just to elaborate on the problem, the Corps, in administering the 404 program, has to take into consideration the views of the U.S. Fish and Wildlife Service, with respect to the effect of granting an individual permit. Also, to a lesser extent, the views of NOAA, who have responsibilities in ocean waters, and EPA.

I view these agencies to be single-purpose agencies. Their whole reason for existence is to protect and enhance, say, in the case of the U.S. Fish and Wildlife Service, the fishery and wildlife resources of the country. That is admirable, and I think it is an important function; yet, on the other hand, the Corps has the difficult job of balancing the environmental concerns with economic concerns and making decisions in the public interest.

For example, just to pose an exaggerated situation, suppose the Fish and Wildlife people say a particular project shouldn't be built because it is going to do a certain kind of damage to the fishery or the wildlife of the area. But suppose the Corps, as it gets all of its

input from various agencies and makes its own evaluation, says, "Sure it will damage the fishery to a very minimal extent, but the benefits of this project," for example, for flood control, "far outweigh the damage it is going to do to the fish and the wildlife." So therefore, the Corps determines that a permit should be granted for a local flood control project. Now, very often the fishery people, to get support for their position, will go out and get support of the local community from people who are concerned solely about the fishery. And it makes the Corps' job more difficult.

Getting back again to the 404 program, I think the Corps has to get the advice from the fishery people, for example, on the effect of a particular project on the fishery; but that can't necessarily control the Corps' decision because the Corps has a broader interest, a broader public interest, to look at than solely the matter of protecting the fishery in the given instance.

Let me give you an example of that. The city of Chesapeake in Virginia had a need to construct a flood control project because a number of years ago, under excessive rainfall conditions, many of its residents were flooded. As a result the town of Chesapeake wanted to spend its own money cleaning out an existing ditch so the water would drain from the area that had been flooded and thereby provide flood control protection. The fishery people and EPA said that you would destroy a wetland area if you cleaned out this channel and put the spoil on the banks. These agencies threatened to override the Corps' decision, which was to allow the flood control project to go ahead.

Members of Congress got involved in the act and were infuriated that the Fish and Wildlife people and EPA had been successful in holding up the construction of that flood control project by virtue of their ability to escalate decisions of a District Engineer to successively higher levels, thus delaying the time protection could be afforded to the area.

We finally got the problem worked out, but there is a case in point. In other words, I am not critical of Fish and Wildlife or EPA for advancing their point; but once they advance their point and the Corps takes it into consideration, then the Corps' decision should stand. The Corps' evaluation of that case was that the public interest provided such great flood control benefit to such a large group of people that it more than offset the 17 acres of wetlands that would be lost by cleaning out this channel and placing the spoil on the banks.

Q: Mr. Gianelli, one of the areas in which you were active from the very beginning was the area of new starts for the Corps of Engineers. Can you explain to me exactly what you had in mind; did you have in mind specific projects or just the idea of identifying projects that met the maximum standards of NED and so forth?

A: No. Let me say that one of the things that I had hoped was that I could get a chance to take whatever moneys might be available to the Corps for water projects and spread these moneys out over a larger number of projects, using innovative ways to secure nonfederal financing and cost sharing.

What I asked the Corps to do early on was to identify some of its better projects, where we could then go out and talk to the project beneficiaries about contributing more and particularly, also, maybe getting involved with what I called the up-front financing of some of these projects. My theory being that if we could demonstrate both to OMB and to the Congress that we could do that, then my hope was that the Corps could take whatever moneys were available to it and build many more projects than under the historical system.

The primary reason for my new-start effort was to demonstrate my conviction that there were people out there in the field, nonfederal sponsors, who would be willing, in order to get a project under way, to assist in financing and to guarantee a higher repayment than historically had been the case.

I didn't have any specific projects in mind when I started out, but I did have a particular theory that I wanted to demonstrate would work. As I anticipated, there are federal project beneficiaries who would be willing to share in the financing and provide additional repayments so that the projects could be expedited.

Q: Do you feel your expectations were met? I mean, in terms of identifying local sponsors?

A: Yes, in part, because we were able to identify a total of about sixteen projects, where we talked to the project beneficiaries, and we took that initiative from here. I brought back to Washington as a special assistant to me in this area, Mr. Robert Eiland, who had worked with me in California and who was familiar with these new ways of financing. I asked him to be the person that went out with the Corps and tried to put some of these proposals together. He was successful in doing that on some sixteen water projects; and we were able to get OMB's approval to

include in the President's budget the federal share of these projects, with the locals being agreeable to doing more than they would have done normally.

So I was successful, I believe, in demonstrating that it could be done. Where I was not successful was in having Congress allow us to go ahead to implement these proposals. And that was, I would say looking back upon my tenure, one of my biggest disappointments. Congress either didn't recognize or has not been willing thus far to recognize the need to move in a new direction and to go along with us in some of our efforts as a way of expediting project construction.

As a matter of fact, Congress prohibited our going ahead on these new starts until the policy committees of Congress took a look at what we were trying to do and agreed with our approaches, notwithstanding the fact that OMB had approved them and they were in the President's budget. In this year Congress deadlocked again, and neither the omnibus bills nor new starts were allowed to proceed.

Q: Let's turn our attention, then, to the subject of regulatory reform. Let's start at the top with the Task Force on Regulatory Reform. You are a member of the Task Force.

A: In fact, I was chairman of the Task Force.

Q: Did the Task Force work well together?

A: Yes. I think it was an excellent Task Force. You may recall that the Vice President's office was given the responsibility by the President of instituting regulatory reform in a large and quite a broad number of areas. And one of the areas that was identified, as a result primarily of complaints that the incoming administration received from people in the field, was the Corps' 404 program, which was simply not working. Number one, and the main point, was that the decisions were just not being rendered promptly. And further, that applicants were being required to do much more than could be reasonably expected in order to get a project under way.

And so the Vice President's office created a Task Force that made OMB and the Assistant Secretary of the Army's office responsible for heading the regulatory reform effort, and asked me to chair that effort. Participation included all of the agencies that were involved in the 404 process: for example, EPA, Interior, Commerce, and a few other less important agencies. The Soil Conservation

Service was also involved because of the projects of the Department of Agriculture and the interest of the Forest Service.

We were given certain mandates, among which was to modify the administrative processes so that the decisions could be reached in 60 days. Some decisions had taken months and even several years. Our first effort, then, was to work with some of the agencies with which the Department of Army and ASA had memoranda of understanding in connection with processing applications for 404 permits. Again, primarily, they were the Department of Interior, EPA, the Department of Commerce, and the Department of Agriculture. We were successful in revising the memoranda of understanding that dealt with the 404 process for those agencies.

The principal change that we made was to shorten the process. Under the historical process, the District Engineer would make the original decision on a 404 permit. However, if any of the other federal agencies didn't like that decision, they could appeal it successively up to the Division Engineer, to the Chief of Engineers, to the office of the Assistant Secretary of the Army for Civil Works, and finally to the Secretary of the Army.

Just that elevation process could take a year and a half or two years--just the time of referring it upward. It didn't seem to us that time was necessary; so what we did in the MOUs was to work out a process where instead of having all those successive levels, the decision would be made by the District Engineer. Then if one of the other agencies didn't like that decision, it would have to be appealed by the Assistant Secretary level of that agency to the office of the Assistant Secretary of the Army for Civil Works. The office of the Assistant Secretary would make the decision on whether it should be elevated and to what level. However, there would be only one elevation.

In other words, supposing the appeal was made to the Assistant Secretary and he said: "Okay, we will review it. We will let the Chief of Engineers review the decision." That would be it. Or perhaps after we had listened to the environmental agencies, we could say, "No, the District Engineer's decision will stand." That had the effect of very drastically reducing the number of elevations, first of all, because they had to go up to the Assistant Secretary level before an appeal could be made; and then it reduced the time that the District Engineer's decision would become final, because the most there could be was one elevation.

Q: Would it also have the effect of injecting again the politics at an earlier period? In other words, wouldn't the opponents say that since it is going to be elevated up to the office of a political appointee, decisions are no longer going to be made on the basis of specific regulations or even of engineering data, but on the basis of philosophy?

A: No. I don't think so. I don't think it will politicize it at all, certainly no more than the prior process. Very few decisions, if any, are made by a political appointee, say, by the Assistant Secretary himself. Most of the time, the question is whether or not there is new evidence which would require the Division Engineer or the Chief of Engineers to look at the decision of the District Engineer.

So we have still kept the decision in almost all cases at the Corps level, but maybe at only one level of the Corps. So I don't think it politicized the process at all. I think we did expedite the process materially; and our whole effort was to give the District Engineer more authority on the decisions and make it difficult for people to overrule his decision, because we felt that he was the person that had a better grasp of the facts in all of the public interest that might be involved.

Q: Did you also limit the grounds for appeal? In other words, that the grounds for appeal would only be procedural rather than general environmental considerations.

A: Well, generally that's right. And we said, for example, that we didn't think it was appropriate for the Fish and Wildlife Service to make an appeal on the basis of the project's economics. In other words, their appeal should be limited to their areas of responsibility. For instance, if the project and applicant were going to do damage to the fishery, then we felt the comments from the U.S. Fish and Wildlife Service should be limited to the effect on the fishery. The comments shouldn't have anything to do with whether it was a good flood control project or a bad flood control project. Flood control is the prerogative of the Corps. So yes, we did limit and restrict the agencies who appealed the District's decisions to only their areas of expertise. And this, I think, was a great improvement.

Q: And the agencies--you signed MOUs with the agency heads so there was obviously an understanding that this was the best way to go about it.

- A: Well, I think there was a recognition that the present system needed to be revised; and I think at that time we entered into the MOUs, the agency heads of those other agencies were satisfied that they would get a chance, if they really were unhappy with the decision, to ask for an elevation.
- Q: Now, you are no doubt familiar with this Baltimore Sun article, front page, that suggests that there was a substantial amount of disagreement between you and Mr. Arnett over some permit decisions.
- A: This goes to what I think has happened in the 404 program, which I reflected in my presentations to the Congress. Many people now view the 404 program as a wetlands protection measure, and I don't view it that way at all, nor did the Congress intend it to be when it enacted the Clean Water Act. If you go back and look at the origin of 404, its purpose was to protect the quality of the nation's waters. It didn't have anything to do with the wetlands.

Subsequent court decisions and administrative actions of prior administrations have focused largely on wetlands. However, you can destroy wetlands by a large variety of means other than a dredge-and-fill operation. You can destroy them by draining, clearing, and erosion, for example, all without a permit.

Part of the problem we had as we went through our regulatory reform was that people viewed it as an attack on the wetlands, and I didn't view it that way at all. It is not a wetlands protection measure per se, in my judgment, because it doesn't protect wetlands from the major causes of destruction. I believe that one of our problems, in regulatory reform, has been the perception that we are destroying the wetlands by the process that we have worked out. And I don't think that is true at all.

- Q: Can you have good water quality without protecting wetlands?
- A: Yes. It is stretching things pretty far to say that there is a relationship between wetlands protection and water quality in most cases. This is not to say whether or not wetlands should be protected. Some no doubt should be. However, Congress needs to bite the bullet and do it out in the open; Section 404 will not do it.
- Q: Of course, the definition of what is a wetland was a

judicial decision that expanded the Corps' responsibility so much and that, I guess, was . . .

A: Well, this is what I said to Congress; the Corps is charged with balancing environmental concerns and developmental concerns. They will look at the presentations that have been made by the Fish and Wildlife Service and by EPA and by NOAA in regard to a wetland, and then make a decision on an individual basis, based upon public interest considerations. The Corps has denied some applications where they believed there was some relationship to water quality that could be demonstrated, and the public interest required denial.

I believe the primary problem we have had on our regulatory reform is the perception that 404 is a wetlands protection measure, and it is no such thing. That is one of the things that I have said to Congress. If Congress wants to protect the wetlands, then maybe what they ought to do is pass a law that protects wetlands from all damage or all destruction. Then they ought to assign this responsibility to EPA or to the Fish and Wildlife Service. But it shouldn't be a Corps responsibility.

I question whether--if Congress reviewed the situation--whether they wouldn't come to the same conclusion I have--that 404 related to water quality, because it was part of the Clean Water Act, and was not a wetland protection measure, except in those cases where it could be demonstrated that the destroying of the wetland does have some effect on water quality.

Q: Do you think that the nation is suffering from too much wetlands loss? Of course, the environmentalists point out--and I think you got this article in the Baltimore Sun--point out that about a half a million acres will be lost each year.

A: Yes. But again, the inference is that it is being lost because of the Corps' 404 program, which is incorrect. We had the Corps take a look at the acreage that the Corps grants under 404 permits, and it is insignificant compared to the total acreage of the wetlands that is lost from other causes. For example, large amounts of wetlands are lost along the coastal areas, as in Louisiana, by erosion each year. Large numbers of wetlands are lost by draining the land, and that is not related to the 404 program.

So, again, the perception that all of the loss of wetlands is tied into the Corps' 404 program is

completely erroneous in my judgment, and I think we were able to demonstrate that. Nevertheless, there are still people who say that it's a wetlands protection measure; and therefore you are destroying our wetlands in your modification of the regulatory reform program.

Q: Well, it seems, in a sense, the issue is how much faith can these other agencies have and the American public have in the Corps? Because if you are suggesting that the Fish and Wildlife Service ought to confine their views to their particular responsibility, and the same with the National Marine Fisheries, EPA and so forth, and then those views are sent to the Corps and the Corps is the one that does the balancing act . . .

A: Which is exactly my view of what ought to happen.

Q: Then that suggests something--an attitude-- that probably is not shared by a fair number of people, who think of the Corps as specifically a construction agency that cannot be viewed as an agency that is going to view sympathetically environmental considerations.

A: Well, I don't think the record of the Corps verifies that at all. I think the Corps has been very sensitive to environmental concerns, and I think, if anything, the Corps may have given over-consideration to some of the environmental aspects, say, of an application for a 404 permit versus some of the benefits that would accrue. Any criticism that the Corps has not done a good job balancing, I think, is incorrect. In my view, the Corps has done an excellent job; I am sure, though, that some of the single-purpose environmental agencies will not view it that way, because they think the Corps ought to uphold the single-purpose views.

But again, they are single-purpose agencies. They don't have the responsibility to balance all the issues Congress gave the Corps. I believe that's why Congress gave the program to the Corps, because of its feeling that the Corps would do a better job balancing the issues. If you turned the 404 program over to the U.S. Fish and Wildlife Service, I suspect that there would be a great outcry to the Congress, because I don't think the Service has the ability to balance the issues like the Corps.

Q: How about the idea of the states taking over the 404 program? The general permit program. Are you in favor of having the states take over as many of these 404 responsibilities as possible?

A: Yes, I am.. I think that the more the states assume, the better it would be, because they are in an even better position to balance some of the issues closer to them; and they have a better ability to develop a feel for local interests. Yes, I would be in favor of states where they have a capability to do the kind of job that the Corps does in terms of balancing the issues.

Q: Well, that would involve the development, presumably, of a new office, and hiring people, and so forth.

A: Well, not necessarily. Some of the states have departments of environment or departments of development, or whatever they call them, where they could expand their activities to include the 404 program. I don't think many of them would have to establish new entities; instead, they could very well integrate the 404 program with some of the functions of those existing agencies. Many of the states have agencies that deal with water quality, and those agencies already do a lot of work in this area.

Q: Virginia, for instance, has a Water Quality Commission, I think it is called, which has very restricted powers in dealing with water quality. If they took over the 404 program as it is presently defined by the judiciary with all these navigable or potentially navigable areas, then there would be a substantial increase of their functions and probably of their expertise, wouldn't you think?

A: Well, it is pretty hard to generalize, because I think the states are so variable in terms of their capabilities. Some of the larger states could absorb a function, you know, with very little effort and probably without any great expense. For some of the smaller states, it might be much more of a problem. It is pretty hard to generalize.

Q: Let me go back to a presidential document, Executive Order 12291, issued 17 February 1981. This was one of the first ones that President Reagan issued. It deals with regulatory reform, and it says, among other things, "Regulatory action shall not be undertaken unless the potential benefits to society for the regulations outweigh the potential cost to society." And "regulatory objectives shall be chosen to maximize the net benefits to society."

It sounds nice, but how do you come up with a decision about the potential benefits to society versus the potential costs? Are we talking--was the President talking basically about your B-C ratio again?

A: No. This statement was not intended for regulatory reform efforts like ours and does not fit the 404 program. It would seem to apply more to somebody who is starting to promulgate a new regulation. However, the principle could certainly be applied to 404 and some tough questions asked on whether we get enough benefit in water quality improvement for the long delays, uncertainties, and public discontent we found in the program.

Basically we had a more direct mandate with respect to the 404 program when we received the specific instructions from the Vice President. So I believe we have to look more to what we received from the Vice President, as related to the 404 program.

Q: Another one of the statements is "Except as provided in Section 8 of this order, agencies shall prepare regulatory impact analyses of major rules, and transmit them along with all notices of proposed rulemaking, all final rules, to the Director as follows." The Corps has prepared these regulatory impact analyses on the proposed revisions to 404?

A: Again, I don't believe this applies to what we were doing on revising the 404 program.

Q: Before I go on to another subject, are there any other concerns or views you wanted to raise dealing with regulatory reform? I know it is a controversial issue.

A: Well, yes. It is sort of interesting--we have had our memoranda of agreement in place now for about two years, and my own feeling is that they are working pretty well. But there are a number of other actions that have to be taken. The Corps' regulations have to be revised, the regulations of other agencies also have to be revised, and definitions of jurisdiction have to be agreed to by EPA and the Corps, to name a few.

So there is still a lot of work to be done to complete the regulatory reform effort. That has been sort of frustrating because it seems to me that it has taken us far too long to complete the revision of the 404 program. This is due to the large number of regulations and the large number of other agencies who have to do their thing, in order to make the regulatory reform effort complete. It has been troubling to me that at every step of the way special interests have been able to slow down the process of regulatory reform, and I have been concerned about it. Recently the agencies that entered into the memoranda of agreement, because of pressure from

some of their single-purpose constituency, would like to change what we have already put in place. As a result, I don't believe the single-purpose agencies now view with complete satisfaction the way the system has been working since we provided for expedited action. For example, it has been clear to me that the U.S. Fish and Wildlife Service, prior to our reform effort, thought that it was a co-decisionmaker in the 404 process.

I have detected from the single-purpose agencies that they believe they may have lost a little of their clout, and I think it is true. However, I think it was necessary that it happen. I don't view that as negative. I view it as positive, and it demonstrates to me that previously they had undue influence on the Corps' decision.

Let me illustrate the point. There are some cases where a threat of elevation by a single-purpose environmental agency would cause an applicant to make unjustified concessions just to expedite the process. I believe our effort has stopped some of that from happening. In other words, I don't believe that the single-purpose agencies under the prior process should be allowed to blackmail an applicant who, because of time constraints, agreed to something that wasn't appropriate, just to prevent these agencies from elevating and delaying issuance of a permit for a matter of years.

As a result, I feel good about our regulatory reform effort. It has been a major effort of this office. Bob Dawson, my deputy, has headed it. We brought in various people from the field. We made Morgan Rees a special assistant in this area. Overall, I am very proud of our record with respect to regulatory reform.

Q: Do you feel that the reform effort has sort of petered out at all or . . . ?

A: I feel that it has lost some of its initial momentum, and it is harder now to complete all aspects of the reform effort than it would have been two years ago.

Q: Has there also been increased political sensitivity, particularly now in an election year?

A: I think that's probably inherent in a lot of things, and I think it is probably inherent in this process, too.

Q: Let me turn our attention for a moment to the area of environmental impact statements. I think fairly early, actually, in your administration you criticized the cost of environmental impact statements, and I think you also

criticized the length of time it took to prepare them. Could you elaborate on that a bit and tell me how successful you were in changing this?

A: Well, of course, the whole subject of environmental impact statements goes far beyond the Corps. It goes to agencies like the Council of Environmental Quality that have a large input and a large say as to the contents of the environmental impact statements.

I do worry sometimes about the degree of detail that some environmental impact statements become involved in, where there isn't a particular environmental problem. In other words, it has always seemed to me that if there is a specific environmental problem, that the environmental impact statement ought to try to address that very seriously in whatever detail is necessary. On the other hand, if there isn't, there should not be a great effort made to try and look at things which are not going to be important.

Q: You say apparent environmental impact, and I guess that's an important point because, well, take an obvious area--archeology. A lot of your archeological investigation--it is not going to be apparent at the beginning that there is anything six feet underground. How do you reconcile that to what you just said?

A: Well, all right, that is a good case in point. Suppose the Corps wants to build a reservoir which may inundate quite a large area. There are archeological consultants available who have expertise in areas in which there might be archeological finds. The advice of those people should be solicited before the Corps goes out and spends a large amount of money without some indication that important archeological finds are in the area.

So that's what I have in mind--that for example the Corps not, say, on its own, go out looking for all of these kinds of things, but rely on expertise that might be available that could zero in on a particular area, for example, that might be explored at whatever depth they think is appropriate. And I think that would be a good kind of example.

Q: Of course, archeologists are rather self-interested individuals, as most people are who get involved in consultant work. It would be to the archeologist's advantage to say, "Well, it's a possibility and maybe we should do it," and so forth and so on. I don't know--how would you get around that?

A: Well, you know, I believe any professional as time goes on is going to be evaluated on the basis of his record. If you have an archeologist who has struck out, in effect, after he has made many recommendations for detailed explorations without any finds, then I believe people will tend to discredit his abilities and look to others whose recommendations have resulted in substantial finds.

The same thing might be true with respect to fisheries and endangered species. It's a matter of judgment and of the importance of a particular application. If, for example, you are going to build a Westway project in New York, which involves several hundreds of millions of dollars, obviously it warrants spending more time and effort than should be spent on an application that proposes to fill in a small area to build a garage.

Q: Let's talk for a moment about relations with environmental groups. Did you have the opportunity to meet with the heads of some of the major environmental organizations in town?

A: Yes. In fact, I guess overall I felt pretty good about my relationship with the environmental organizations. The first thing we did was to--and we did this on a number of occasions--invite representatives of the various environmental organizations to meetings on matters of interest--organizations such as the Environmental Defense Fund, the Sierra Club, the National Wildlife Federation, the National Resources Defense Council, and others. I believe we were successful in establishing an important dialogue. Also, I was invited to address the annual meeting of the Environmental Defense Fund Associates in New York by Dr. Janet Brown, the Executive Director of the Environmental Defense Fund. And she said, "You know, I think you would help our attendance if you came, and people would like to hear your views," and I said great. I talked about regulatory reform and had a good dialogue with those present. After I returned to Washington I received a nice letter from her, in which she cited me as an example of a public official who was open in terms of things that he did and who wasn't reluctant to dialogue with the environmentalists.

Also we had strong support from the National Wildlife Federation and the other environmental organizations on our cost-sharing effort. So while I don't expect these environmental organizations to view me as one of their people, I think we developed a rapport and a relationship which involved mutual respect.

Q: Did you in any formal fashion solicit the views of the environmental organizations? The private environmental organizations on the 404 program, regulatory reform . . .

A: Well, yes. We had a number of direct dialogues with these organizations, and they did provide substantial input to our efforts. And, of course, these entities commented formally just like all the other interested parties in a very open reform process.

Q: Well, let's turn then to your relations with Congress, and here I am going to talk about people, names.

A: All right.

Q: Several of the important people involved in water resource development are Mr. Bevill, Mr. Whitten, and Mr. Roe. What kind of working relationship did you have with Mr. Bevill?

A: Well, let me say I never had a very close relationship with Mr. Bevill. We talked on a number of occasions, and I always felt he was a little resistant to our efforts on additional cost sharing and new starts. In fact, the appropriation committees did not go along with the new starts that we developed.

I am not sure Mr. Bevill is very enthusiastic about any change in the system which would have the effect of impinging upon the ability of the appropriation committee to get those projects that they want built versus what we might come up with on our new starts with additional cost sharing. I believe Mr. Bevill had certain projects in his own district which we had some problems supporting, and I think that may have caused a little strain.

Q: Did this involve the Tennessee-Tombigbee?

A: No. I think we were completely together on the Tennessee-Tombigbee Project itself. I believe our views as to the elaborateness and extent of the recreation and visitor facilities might have differed substantially with those of Mr. Bevill. So I viewed it as an honest difference because of our--coming from a different perspective. Obviously he wanted a facility in his area, say, a visitor facility or a recreation facility, that would please his constituents. However, we felt that there had to be constraints and that certain of those things should be funded by nonfederal interests if they were to be built. So that put a little strain, I would say, in the relationship.

But on Tennessee-Tombigbee, itself, there was no argument. The administration has actively supported the finishing of Tennessee-Tombigbee and funding for it; and certainly on the big issues like that, there is no problem.

Q: Where were the problems?

A: Oh, I think I just indicated that to you--primarily it is in connection with some of the small projects that involved improvements in his area, such as the elaborateness of visitor facilities or recreation facilities. Then also I suspect that our efforts at cost sharing were viewed skeptically.

Q: On Mr. Whitten, he is, of course, chairman of the House Appropriations Committee and I guess the dean of the House in terms of tenure in office. He has an enormous amount of influence. And he also has an enormous amount of interest in the Yazoo Basin in Mississippi--that area.

A: Well, let me say I had very little contact with Mr. Whitten, and, as I recall, the primary exchanges we have had were at Bevill's hearings, when he has appeared and generally offered his views on things in general. He has been, of course, very supportive of water development in the past. I don't recall any serious problems with Mr. Whitten.

Q: How about Mr. Roe?

A: I think the relationship with Bob Roe has been much closer than, for example, with Mr. Bevill, very largely because Mr. Roe is head of the Policy Subcommittee which is concerned with the Corps activities. I felt very good about my relationship with Bob Roe, and I think we see eye to eye on a great many things. I doubt he is willing to go as far as we wanted to go on cost sharing and up-front financing, but I think he recognizes the need for those things and moves, you know, in accordance with his own views on it. I appeared before him a great number of times on a variety of subjects.

Q: Let's turn to the Senate side. Senators Abdnor and Stafford. Could you give me a thumbnail sketch of your relationships with those two?

A: Yes. Senator Abdnor, of course, being the chairman of the Policy Subcommittee, and I had a very close relationship. I would say a very good relationship with both him and his staff, similar to that of Congressman Roe. Probably

not quite as close as the relationship with Congressman Roe, but almost. However, I felt very good about it; and I think he must have felt partly good about it because he put quite a statement into the record on the Senate floor when I left, complimenting me on the work that we had done. Congressman Roe was also quite complimentary upon my departure from Washington. I believe those statements reflected their views on our relationship, which were very positive.

Senator Abdnor has not had the same degree of experience in the water field and on the Corps' programs as Congressman Roe.

Q: How about Senator Stafford?

A: Senator Stafford--much less contact with, but a good relationship. Again, Senator Stafford was supportive of some of the things we were trying to do, and I would invite you to the statement that he put in the record too on my leaving, which indicated a concurrence and an appreciation of some of the things we have been trying to--that I have been trying to do as Assistant Secretary. So the relationship with Stafford was good.

Q: Two other senators who take an active interest in water resources, Senators Stennis and Hatfield.

A: Senator Stennis, I'd say minimal exposure, but good relationship. When I first came in, he was one of the first people that I dialogued with, and his great concern was Tennessee-Tombigbee. And so I think there was no problem there, because the administration was fully supportive of Tennessee-Tombigbee.

Senator Hatfield, the relations have been rocky; and let me say about that, I have an acquaintance with the senator that goes back to when he was Governor of Oregon. I knew him fairly well up there, and he knew me because of the problems of the two states that we worked on together. I believe he was Governor of Oregon at the time that President Reagan was Governor of California. He has a major concern which gets reflected in some of the problems of his area. One of them was deep water port navigation and the additional locks at Bonneville. Also, the senator has been very active, and we have dialogued, about Mount St. Helens.

Again, I have been disappointed that his committee has not been willing to go along with some of our new starts. Both he and Congressman Bevill have been waiting for the policy committees to give their stamp of approval on what

we have been trying to do, or to come up with their own cost-sharing formulas.

So, again, I feel good about my relationship with Senator Hatfield. I think we had a couple of spirited discussions initially, but I think the problems were worked out satisfactorily.

Q: Let me just drop one more name. Senator Moynihan.

A: Yes. I enjoyed Senator Moynihan very much. He was always, in a very gentlemanly way, needling me extensively when I came before his committee. He was very active on Senator Abdnor's committee. His needling took the form of pointing out I was a westerner, and he thought that the west had gotten too much of the federal share on water projects. He had some very competent staff members that, particularly in the early years of our administration, we worked very closely with. His staff agreed with many of the things that we were trying to do, and I believe the senator does also.

Q: On the 15th of December 1981, then Congressman Toby Moffitt, Chairman of the Environment, Energy, and Natural Resources Subcommittee of the Committee on Government Operations, wrote you a letter in which he talks about 42 projects that are between 21- and 25-percent complete. He says that "at today's interest rates, all but a comparative few of these projects would have negative or modest benefit-cost ratios." And, of course, requests that you take a look at them. What was the subsequent outcome of this letter, do you recall?

A: Yes. I think it resulted in an appearance that I made before his committee. His interest related to specific projects. The difficulty that I had with the points he was raising was that some related to projects that were either substantially under way or almost completed. I didn't feel that it was appropriate to go back and try to re-evaluate those projects because of, say, changed interest rates or whatever, when they were so far along in terms of being completed. I'm afraid he was reflecting the views of some of the opponents of certain projects.

Q: Environmental groups?

A: Primarily environmental groups, yes. But not always environmental groups. I believe one of the projects on his list was a reservoir project where substantial agricultural land would be flooded out. He seemed to be reflecting the views of those who would lose valuable

agricultural land by virtue of being in the reservoir area.

His questions were asked in sort of an oversight capacity; and I don't think they resulted in any major change, as I recall, in direction.

Q: Did you ask OCE to investigate all of these . . . ?

A: I don't know if we asked for all of them, but we asked about certain ones that we felt were appropriate. We asked OCE for some information on them. But I think that with others that were so far along, we pointed out the inappropriateness of trying to go back and evaluate or undo them at that late date.

Q: Let's turn our attention, then, to some of the projects that were fairly visible at one time or another during the time you were in office. Just begin with the letter A--Atchafalaya. Of course, this is a project that goes back some time, but the report came to your office--I think it was some time . . .

A: I think it was probably about the middle of my tenure.

Q: As you know, but just for the record, the report comes out of a long planning process that at one time or another involved private environmental groups, the federal Fish and Wildlife Service here, the state Department of Public Works in Louisiana, and so forth. The plan was viewed as a compromise among all these various construction and environmental agencies, and finally was accepted by the Governor of Louisiana, a Republican governor, Governor Treen.

Yet, when it got to your office it stayed there for a long time. And as a matter of fact, it has still not been--it has still not come out of this office. Can you explain the reasons why in light of the amount of interest in the report and support from the state of Louisiana?

A: Yes. Let me--I think there are two kinds of problems connected with the Atchafalaya. One of them is that all of the groups that did work on developing a compromise were not concerned about the cost and were free to recommend large expenditures of federal money. In other words, the people that worked out the compromises were not concerned about any limitation on availability of federal dollars, number one.

The second part of the problem--and this is still

unresolved, as far as I know--is a dispute between the local people around Morgan City as to whether or not the Avoca levees will be extended to provide flood control and possibly result in damage to the shrimp fishery in some of the waters in the adjacent areas. And with all due respect to the governor and with all due respect to the local politicians and the Congress, as far as I know none of them have really taken a strong stand with respect to that controversy. On the one hand, the people in Morgan City desire flood control, as opposed to some of the environmental groups and the fishery interests, who are very desirous of protecting the shrimp industry. A large portion of the project will depend upon what finally is done with respect to that levee extension, which is still under considerable controversy. Certainly one of the concerns that I have had is that before you can really plan that project in its entirety, you have got to decide whether the project is going to go ahead on the basis of its original design, which provided for that levee extension, or whether it is going to be eliminated.

Going back to the first part of the problem, the project's total cost, as I recall, involves a federal expenditure in excess of a billion dollars. Whether or not such a large federal expenditure can be justified is still a question.

It seems to me that those two problems have to be addressed and resolved before that project is going to be able to move ahead in part or in full.

Q: Well, now this extension you are talking about is the Avoca Island?

A: Yes.

Q: And as I recall, in the report that came to your office, the Chief [of Engineers] made a recommendation for further study of the Avoca Island extension, but the plan as drawn up by these various groups and approved by the Chief of Engineers suggested that what had already been agreed upon be built independently and would not be dependent upon the extension.

A: I don't think that's true. I think a lot of what has to be constructed down there in the lower end depends upon whether or not you are going to extend that Avoca Island levee. So I think there is not, maybe, agreement on the assumption you are just making.

The other thing, of course, as I say, is the large cost, the large federal nonreimbursable cost that would go

into that project; and much of it is for enhancement purposes, for recreation and fish and wildlife. Again, at the appropriate time, a decision will have to be made by the Congress and the administration on whether or not funds should be spent for those purposes as opposed to other perhaps higher uses elsewhere in the United States.

Q: Well, is there any question about the local contribution? I mean, it is substantial. So that really is not the issue.

A: Well, I believe the amount of local contribution is still an issue. While the state of Louisiana has agreed to do certain things, it's true, the last effort that was put forth by the governor went to Secretary of Interior Clark and proposed using some Interior funds for lands which might be acquired as part of the project, solely for wildlife and fishery enhancement.

Q: Could you be more specific about what you believe are the appropriate times for the administration to reach a decision and for Congress to reach a decision?

A: Well, I view the Avoca Island thing as almost a decision precedent, which is necessary to define specifically what the project is and what it is going to do. Fish and Wildlife are looking again at it. The Corps is looking again at it. I don't have any timetable on when that thing is going to come to any conclusion which may be acceptable to all of the parties of interest there, particularly the flood control interests versus the fishery interest in Louisiana.

And then, after that is resolved, it has got to be a matter of priority. The Corps has got many billions of dollars of authorized projects. There is also a further complication relating to authorizations. The project as set forth in the Corps' report involves parts of a project that are already authorized, parts of it involve a project which the Chief could authorize under his authority, and part requires authorization from the U.S. Congress. One of the problems that we had on detail was that Governor Treen wanted us to spend some money on parts of the project which Congress still has not authorized. I believe that is why he went to Interior.

So there will have to be those parts of the puzzle fitted together ultimately, but again, I come back to--I don't think that could be done until the problem is worked out on the Avoca Island levee, which is one of the major features of the problem.

Q: Okay. I think you have some very definite views about the Red River project that the Corps is involved in. Could you . . . ?

A: Well, I think the principal problem on the Red River project, which would establish a shallow navigation channel from Shreveport down to the Gulf, that needs to be looked at is whether the benefits of that project will exceed the costs.

Another problem on this project is the considerable amount of erosion that has taken place along the natural channel. The Corps has spent large sums of money trying to prevent extreme erosion in that reach of the Red River channel. I am quite concerned about what is going to happen when that project is complete, with respect to the erosion problem.

Q: So you are really questioning whether the project should be built at all?

A: Well, the first lock is essentially constructed.

Q: Yes.

A: The lock is completed and the second one is under way, since Congress has appropriated the necessary moneys and has required the Corps to proceed. It still doesn't mean that the project is going to be successful unless its problems are addressed. Of course, the Corps will do what the Congress demands be done and will use whatever funds are made available.

Q: So, to pursue it just for a moment, you are questioning two things about what the Corps has done: the geotechnical analysis regarding erosion, and also the cost-benefit--the economic--analysis about the potential benefits at the end. Would that be a fair statement?

A: I think that's a fair statement. Yes.

Q: Oregon Inlet.

A: Oregon Inlet. Yes.

Q: Do you want to tackle it?

A: Yes. Oregon Inlet as I viewed it when I first became involved represents a very difficult problem on the east coast. The problem is that you are trying to maintain a navigational channel into a development which has partially already taken place. In other words, there has

been substantial public moneys used to develop a fishery port, I guess you would call it, with processing facilities in Oregon Inlet. And that has envisioned the need to keep a channel open so that the fishery boats could use the facilities that have been constructed in Oregon Inlet.

Unfortunately, Oregon Inlet is located in an area where there is considerable shoaling and sand movement every year, and an area which is extremely susceptible to storms and movement of materials as a result of those storms. As a result, the Corps has had a very difficult time keeping the existing channel open. It has spent large amounts of money trying to accomplish that. In fact, the Corps has spent in the last two years, double or triple the amount that has been spent in prior years, using every conceivable way to keep those channels open, using both side-caster dredges and hopper dredges.

The problem has been that when that area shoals up, you can only get very shallow draft dredges in there, like a side-caster, to open it up. You haven't been able to get the bigger dredges in. It has been very difficult. Then after the Corps gets the channel opened, it has been very difficult to maintain.

The Corps developed a jetty plan involving the construction of two jetties. The jetties would be located, in part, on land that is under the control of the Department of Interior. That department has very strenuously objected to the jetty plan.

Q: On what basis?

A: On the basis that--well, two bases. On the basis that they, number one, don't have the authority to give the Corps the necessary land without legislation. Incidentally that problem is being addressed by legislation. Secondly, Interior claims it would cause untold damage to the refuge and other lands that are under their control. The present posture is, as I recall, that the project will have to be authorized by the Congress; and the Corps' report, as I recall, has just recently been finalized. We made certain recommendations to the Office of Management and Budget, where it is pending.

In the meantime, legislation has been introduced to allow Interior to give the Corps the necessary lands for the jetty, and I believe there will probably be efforts from the local people to secure the necessary authorization.

Q: Isn't there a touch of irony in this whole situation in the sense that if the Corps proves it can be successful in dredging, then it undermines the Corps' justification, it undermines the Corps' jetty plan. If you can clear the channel through dredging, you don't need a jetty.

A: That's the controversy. The Interior people have said, "Look, we think the Corps can keep the channel open, if they bring a hopper dredge in there; open it once and it will stay open." But the Corps did that last year and two years ago, and it hasn't stayed open. The Corps, I believe, now feels that while the channel opening with hopper dredges might have given temporary relief at a cost of several millions of dollars, it does not meet the objective of keeping the channel open.

The Corps, even with the increased effort and the money that was spent on trying to keep the channel open, believes the only long-term solution involves the construction of jetties. So I don't think there is any irony. I think it is a conclusion the Corps has reached, which I think Interior still doesn't buy; but here again, you know, this goes to one of the things that I said earlier. I don't think that Interior has the expertise to evaluate what is necessary to keep a channel open, as opposed to the Corps' expertise in this area. I don't think Interior ought to be telling the Corps and I don't think the public ought to be listening to the U.S. Fish and Wildlife Service as to what is the best way to keep that channel open. I think that is an area of Corps expertise and Corps responsibility, and, by golly, that's where it ought to rest.

Q: Okay, continuing on with this list of projects, Yatesville. There were some questions there of land acquisition and . . .

A: Well, let's see. Yatesville, I believe, is a dam that was criticized, as I recall, by a lot of people who argued that it would take out of production valuable agricultural land and that the construction of the dam would be more detrimental than beneficial insofar as overall benefits are concerned. As I recall, this was a project of particular interest to Congressman Perkins, who has been very adamant in having that project go ahead.

The project, in addition to the problems that surfaced with respect to its benefits and its costs, as I recall, had a significant pollution problem in the upper reaches of the tributaries to the reservoir. I believe the Corps felt it might cause some difficult water quality problems

in any lake which was created there. I believe the Corps is still continuing to study that problem and is reluctant to see that project go ahead until the pollution problem can be solved.

Congressman Perkins has been successful in getting money into the appropriation act, which requires the Corps to make certain expenditures in respect to the project. It has been controversial. Certain moneys have been spent on land acquisition, and I think certain other moneys have been dictated to be spent last year, which the Corps is spending. But as far as I know, the Corps has not finally reached closure on the potential pollution problem.

Q: Just one more project--Westway.

A: Yes.

Q: To what extent did your office get involved with this project? Of course, there was a lot of controversy down at the District level.

A: Yes, it involved a Section 404 permit.

Q: The Chief of Engineers, himself, got involved in it, developing a . . .

A: Yes. We got involved to the extent of asking the Chief of Engineers to review a decision of the District Engineer which would have required two years more of fishery studies. That's been about the extent of our involvement as I recall.

It seemed to me that we ought to try and expedite a decision by the Corps on the Westway project so the project sponsors would know whether or not that project could go ahead. And so my main concern has been that the Corps, whatever its decision be, reach an expeditious decision, and that is why we asked the Chief to review the need for a two-year fishery study. The Chief concluded the environmental impact report could be completed without an additional two-year fishery study, but suggested that the Corps go ahead and complete this last winter's study, which now has been completed.

When I left my position, the Corps had not reached a decision on the results of the fishery studies that were made this year and its input into the environmental impact statement. My main concern has been the length of time it has taken to get a decision in that case, part of which is the Corps' fault and part of which is not. Part

of it involves things mandated by the court over which the Corps had no control.

Q: I said the last one, but maybe we ought to add one more right here; and that is Mount St. Helens.

A: Well, yes. I would hope you would ask about Mount St. Helens, because I think of all the projects that I have been involved in while in Washington, that's been the toughest and the most persistent. It probably is the single project that I have spent the most time on personally.

Basically, our administration came in early in 1981, the first year after the eruption of Mount St. Helens; and the Corps, when we came in, had spent pretty close to a quarter of a billion dollars cleaning up the Columbia River channel and building a number of settling basins, etc., to try and neutralize or partly control the problems caused by the eruption. When I arrived, there was a great push on behalf of the local people to have the Corps spend additional large amounts of money on Mount St. Helens' problems. The President himself got involved because the Governor of Washington made an appeal to him to expedite certain work.

I, working with the White House, felt that the problem was going to be with us for a long time, and that the Corps should look at the long-range solution to Mount St. Helens, rather than pouring in these very large amounts of money solely on an annual basis without any firm idea of long-term solutions. The President directed the Corps to develop a long-range plan to address the problems of Mount St. Helens, at Spirit Lake, and the sediment deposition downstream. He gave the Corps 18 months to develop this plan. The Corps prepared a plan and submitted a report in the time requested by the President. Some of the local interests and their representatives in Congress were unhappy that more funds were not provided to carry on more construction immediately.

The Corps came up with a report which, first of all, addressed the Spirit Lake problem. However, before we had a chance to address the Spirit Lake problem, the USGS came up with a report which indicated that Spirit Lake might fill more rapidly than originally planned, and therefore a potential crisis situation existed with respect to whether or not Spirit Lake would overtop and cause a tremendous amount of damage downstream. The Corps presented some alternatives to take care of that immediate problem right away before the long-term

solution could be put in effect. And as a result of an emergency effort in the fall of 1982, the Corps installed a large temporary pumping installation in a matter of 30 or 45 days, the purpose of which was to keep the level of Spirit Lake down so that it wouldn't overtop. The pumping was effective in keeping the water at a safe level.

In the meantime, OMB has approved the Corps' going ahead with the construction of a permanent outlet to Spirit Lake, to be completed in the spring of 1985.

The Corps is addressing the sedimentation problem which probably will involve the construction of a structure at the Green Valley site. The Corps is carrying out further studies to indicate the extent to which a structure at the Green Valley site could be staged, and how much each stage would cost. This report will be due in the fall of 1984 and will also indicate the extent to which there should be nonfederal participation in that sedimentation structure.

I believe we are headed toward a good solution--as good a solution as can be developed with respect to the whole Mount St. Helens problem, but it has been a very difficult one because of the uncertainty of the problem. Also, there has been a lot of criticism, because the Corps hasn't expended more money there. Our office has resisted efforts to have the Corps do work which we think is not going to contribute to the long-range solution. I believe the fact that we have been able to provide flood control and maintain navigation attests to the validity of our actions thus far the last three years.

Q: The Corps has been criticized because people have expressed concerns about the possibility that an earthquake or an eruption would spoil the tunnel again.

A: Well, you know, you can always hypothesize all kinds of conditions, and no one knows what mother nature is going to do at Mount St. Helens. We have to assume that there probably will be continual eruptions of steam and maybe a little material from Mount St. Helens, but nothing like what was experienced in 1980.

Even if there is a problem with a tunnel at Spirit Lake, the Corps has demonstrated it can put in emergency facilities to pump that lake down very rapidly. So that at the very worst, if the tunnel were blocked, you could reinstall the pumping installation. So I don't think failure of the Spirit Lake tunnel is one which changes the course that the Corps is following.

Q: Mr. Gianelli, one of the things that you got involved with basically had to do with a problem of definitions, and I am talking in particular about the definitions having to do with such things as standard project flood, maximum probable flood. Some of these questions came up, particularly relating to the Tug Fork Project. Could you explain a little bit about what the problems were there?

A: Tug Fork, if you are talking about the Tug Fork Project, presented some very unusual problems. First of all, the difficulty that you have in the Tug Fork area is that you have a very narrow canyon at the bottom of which are located towns and residences and a small amount of industry and business. You also have a highly variable flood situation. The difficulty is to provide a degree of flood protection in such a confined area that makes sense. The Corps has developed a number of plans for treating the whole area.

The Tug Fork Project was authorized in a rather unusual fashion. It did not have a detailed Corps report, and there was no limit put on the amount of funds that might be spent to provide flood control in that area. The problem we had was to address the most urgent problem to provide the most protection for the most people. The Corps developed a plan which involved flood-proofing and relocations, as well as some very massive structures.

The result of all of the dialogue that has taken place on Tug Fork has been an effort to construct certain structural features which will give the maximum protection to the maximum number of people. The Corps is proceeding on that basis. There are still unresolved problems of whether you build a new community for the relocated homes, and the extent to which you ought to spend money flood-proofing individual houses where the cost of flood-proofing might result in more than the property is worth.

Tug Fork is a difficult area to cope with. It is an area that is subject to highly erratic and big floods, but there are a lot of areas in the country that are similarly situated, and sometimes there is--it is just almost impossible to guarantee everybody that lives in such a confined area protection from any kind of flow that might occur. So I guess my view has been to try and do those things which make sense at reasonable cost and provide a maximum degree of flood protection to as many people as possible, and I think that's what the Corps has been doing.

The question you raised with respect to the definition of probable maximum floods is something which both the Army and the Bureau of Reclamation are looking at in conjunction with the National Academy of Sciences. One of my concerns has been that when we talk about maximum probable floods, we are unable to define exactly what protection that involves. And it has always seemed to me that we ought to talk about providing flood protection for floods that occur once in 100 years or once in 200 years, rather than some hypothetical value which is not possible to define with any degree of consistency throughout the country.

The problem of how much flood control should be provided at federal expense will be a continuing and controversial one, but I am hopeful that the National Academy of Sciences will be of assistance on standards which could be applied by all federal agencies.

Q: Did you have some feeling that if the Corps built a particular project--take the Tug Fork again--to standard project dimensions, the degree of protection afforded would be somewhat illusory?

A: Well, standard project flood is an evasive thing. I have never been able to get a specific answer to how much protection can be afforded a community. I guess I have been hopeful we would be able to develop better criteria, which would be more easily explainable to the general public. If you could say to them, you are protected against a flood that would occur only once in 200 years--that is something that they can understand. If you say you are going to be protected from a probable maximum flood but you are unable to define that, that may mean different things to different people in different areas.

Q: The Corps sometimes talks about protecting a particular area against catastrophic floods. Is there again the problem of what you mean by catastrophe?

A: Yes, I think there is. Again, rather than saying that, I think it is more meaningful to everybody if we could say that you will be protected from a certain frequency of flooding. I don't think you can ever guarantee everybody under all situations that they will be protected from any flood. We do not live in a risk-free society. I don't think we can afford to live in a completely risk-free society; so you do what makes sense, what is reasonable, and what you can afford.

Q: Would you be in favor, then, of a situation in which you build a flood control structure to somewhat lower

standards . than what the Corps has normally done, with the idea that in fact you are going to be imposing a limit on economic development in that area? In other words, you are saying, well--this is going to increase more and more if you keep on building in that area later and therefore, you know, don't. Basically you are telling people not to build too much in that area.

A: Well, I think the government has already established some guidelines before you can get flood insurance. There is some sort of a criterion that has already been provided there which relates to a 100-year flood. There is a recognition that, for example, the one-in-a-hundred-year flood may not be too unreasonable because, if you are ready to give flood control insurance with that level of protection, what that says to me is that there may be some risks beyond that; but that's one measure of an element of reasonableness.

Q: Another definition that you have is of a maximum credible earthquake.

A: Yes.

Q: Can you explain?

A: Well, earthquake is the same thing as flood. I mean, I think it is almost impossible to design something that you can guarantee to protect against any kind of a catastrophe which mother nature might create. Again, you have got to use what looks like reasonable criteria, based upon the experiences of the past; and if mother nature deals you a more severe blow, then maybe you won't be protected. At least you will have an element of protection for things that have occurred in the past.

Let me tell you--there is one other thing that needs to be considered in this matter of risk factor, and that is the potential for loss of life. For example, I think you ought to provide a higher degree of flood protection when you are constructing a dam and a reservoir above a populated area versus one that, if it failed, would merely flood agricultural land. I am hopeful that out of the study under way now, using the National Academy of Sciences, whatever they come up with as a suggested criterion for providing for flood control as a federal responsibility, that they do differentiate between those areas of large population which would be flooded, versus agricultural areas.

Q: Do you think the Corps has gotten involved too much in building dams in largely rural areas? That perhaps . . .

A: Well, I wouldn't say that. I think if we stay with the benefit-cost criterion, it seems to me that acts as a guide to the Corps on which projects are feasible from an economic standpoint. If you abandon the benefit-cost criterion and say we have got to protect this area no matter what the costs are, then it seems to me you do have a problem of priorities.

Q: One of the things that we sort of passed over before, and we didn't really get into when we talked about the planning process, was the principles and guidelines that were promulgated while you were in office, that replaced the earlier principles and standards.

A: Yes.

Q: Can you explain briefly, if possible, what the major advantages of the principles and guidelines are over the earlier principles and standards?

A: Well, this is one the Cabinet-Council did deal with, and I headed a task force on it. I think it was resolved pretty well with all agencies in agreement. The principal reason for the change was to simplify the planning process and to expedite it. The biggest change was to provide that projects be studied for the best NED plan.

Under the old principles and standards, if you came up with a plan which, from an environmental standpoint, was viewed as being the most attractive, there was no way to fund and to justify those things under the rules of the game that the federal government has to operate. So I think it wasn't that the new principles and guidelines wanted to ignore the environment. That wasn't the point at all. The point was that it just avoided having the Corps take all the time to prepare an environmental plan that never could be implemented; and so the rules, the new guidelines were developed with the idea of having the Corps take into account environmental concerns as it developed a plan to solve a particular problem, rather than a hypothetical plan which couldn't be implemented. The Water Resources Council was also eliminated in the process, which heretofore had been a major bottleneck in the processing of reports.

Q: Essentially, as I understand it then, in the planning process it was decided rather early in the procedure that, for instance, a nonstructural flood control solution was going to be inappropriate for this project. Rather than pursuing that at all, you just dropped it and

proceeded with the concrete--the structural solution. And, of course, that was determined by the B-C ratio. How about rather subjective environmental considerations or aesthetic considerations, things of that sort, which are probably not easily quantifiable but which, in fact, might be the preference of the local citizenry?

A: Well, of course, part of the idea of the new principles and guidelines was that there would be a much higher degree of local participation in the development of the plan in the first place. In other words, there would be a higher degree of identification of a problem and a working with them much more closely than perhaps the federal agencies had in the past.

Q: I want to turn our attention for a few moments here to the review process within the Corps, and I want to talk particularly about the Board of Engineers for Rivers and Harbors and also tangentially about the Mississippi River Commission. Turn to the Board for a moment:

I understand you were concerned about the Board considering certain things earlier in the planning process than otherwise had been done before. That, in fact--and I don't have it with me--you wrote a letter suggesting that certain political considerations be addressed earlier in the Board's review rather than just a strictly engineering and environmental analysis, which the Board had done before. Maybe you can clarify this for me.

A: Yes, let me first talk a little bit about the Corps' organizational structure and the problem that I see exists with its organization. The Corps, in recent years, apparently adopted the plan of decentralization of its activities extensively. And I have no quarrel with that. But it seems to me that one of the things that has happened is that the Chief of Engineers' office has lost control, in fact, of what comes up through the Districts and through the Divisions. In other words, it seems to me that one of the important functions of the Chief's office, in addition to review, is to insure that there is some sort of a consistency or standardization among the Districts and among the Division planning efforts.

In other words, you have to be careful when you decentralize that you don't at the same time fail to give adequate guidelines of how plans are to be developed; let me give you an example. We have felt--and I think it has come down from OMB, and I think you alluded to it earlier, and I made a comment about it too--that there should be a de-emphasis on recreational plans,

particularly single-purpose recreational projects. That message should have been relayed from the Chief's office to the Divisions and the Districts. As a result, the Districts should not now spend a lot of time and effort on developing single-purpose recreational projects. They are not a priority item for this administration because of fund limitations.

The same thing is true with respect to the Board for Rivers and Harbors. It needs to know, in fact, part of the rules of the game fairly early, so in their review process they can reflect the same kinds of things. In other words, they should not spend a lot of time on or should not approve a project which they know will never be able to get by OMB, in the light of the rules that are given to us of late by OMB in terms of project formulation.

The same thing is true with respect to mitigation. We have got instructions from OMB--I think there is a memorandum on this that came down from OMB--that before you propose the acquisition of large new blocks of land for mitigation purposes, you look at several other things, for example, better management of the lands that are under federal control and use of other project lands for mitigation purposes; look at some offsets or enhancements provided.

So what we are saying is, with those kinds of instructions and guidelines from OMB, the word ought to get all the way down to the Districts. OCE and the Board for Rivers and Harbors should reflect that in their review process, too, so that the reports don't come all the way up the line knowing in advance we are not going to be able to get OMB's approval to forward it to the Congress.

Q: Of course, as I am sure you know, when the Board was originally created back in 1902, the whole idea was that the Board be an independent board that would objectively analyze Corps projects and come up with a recommendation based on the best engineering and economic data. And you know, in other words, the reason for the development of the Board was to get the Corps out of the political arena. Do you think that what you are doing is basically reversing things and, if so, is new legislation necessary?

A: Well, I don't view some of the things I have talked about as political decisions. I view them as management decisions based upon today's realities. In other words, if there is a limited amount of money and management says

we ought to give priority to certain types of uses over others, I don't view that as being a political decision. I view that as being a management decision which ought to be reflected by the organization from top to bottom. Now, a political decision, in my judgment, is a decision about whether a project goes or it doesn't go on the basis of political considerations; and I don't view what I have been talking about as a political decision at all. I believe it is a management decision.

Q: Another agency that is involved in the review process within the Corps is the Mississippi River Commission. This has become a somewhat controversial commission in the sense that people argue about whether in fact it needs to exist at all nowadays. Could I get your views on that?

A: Well, I--of course, the Mississippi River Commission has a long history, as I am sure you know, and a lot of reasons for it. The problems of the Mississippi River are so large and so complicated that I suspect originally it was believed that you needed a special commission to deal with those problems. The Commission was created before you had some of the other organizational structures that are now in place.

Looking at it from a management standpoint, I don't know whether you really still need a Mississippi River Commission. It seems to me those functions of the Mississippi River are no different than the problems of the Columbia River Basin and other big basins, except of course that they are much larger and encompass a much larger area of the United States than any other river basin.

I think maybe their usefulness and their need may not be as great now, certainly as they were originally; and I think it does put another layer in the bureaucracy. In other words, you already have in place the Districts that deal with the problems. You have the Divisions, which deal with the problems of several Districts. And, of course, the Commission encompasses several Divisions or parts of several Divisions. But I would think that this function could be coordinated and carried on by something within the Chief's office rather than by a separate Mississippi River Basin Commission.

The problem, it seems to me, with a separate commission is that it has a tendency to go around the other institutional arrangements that are in place for other areas, and I don't know if that is particularly desirable. I guess politically it has been good for the

area because a great number of the key legislators have come from that area, and they can very well look out for the needs of the Mississippi area drainage basin. But whether that Commission is still necessary may be questioned. I have a feeling that the need may not be as great now as it was originally, and that it does create some problems within the Corps' internal organization structure.

Q: You know, the MRC was created originally to dilute the power of the Corps down there.

A: They've been very successful at getting federal water projects. If you take a look at the dollars the Corps has spent nationwide, my guess is that the Mississippi River Basin has received a disproportionate share.

Q: Of course, they would argue that also the amount of local investment has been greater down there--I mean, historically, going back to the 19th century.

A: If you take New Orleans, for example. I don't know what would happen in New Orleans if the Corps, under the auspices of the Commission, hadn't come in and done all the work they have done down there. I doubt if that area could have survived without the federal assistance provided.

As an aside, in today's atmosphere, just on the subject of wetlands that we talked about earlier, I wonder if you would have had the extent of development in the Louisiana area now, given the environmental laws that are now in place. It would be a very interesting thing to speculate on, I suspect.

PART II

- Q: Mr. Gianelli, one of the studies that was done, or at least completed, while you were Assistant Secretary was the National Waterways Study, done by the Institute for Water Resources. As you recall, this was a study that was authorized by Congress; it was designed to show what the future of America's waterway system was going to be until the end of the century, and what needed to be done to rehabilitate the system. When the study came to your office, as I recall, you put it on hold for a while; evidently you had some question about what to do with it. And I am wondering if you could elaborate on that a bit.
- A: I'm a little hazy on this. As I remember, the study started quite a bit in advance of my arrival on the scene in Washington. It is my recollection that when the report came across my desk, a question arose as to the economics and the usefulness of the study. Another question related to the assumptions made in the projections used in the study.
- Q: Do you have any recollection about any of the specific assumptions that you questioned or people questioned?
- A: No, I can't recall.
- Q: Okay. Another project, if you want to use that expression, that was authorized by Congress--ordered by Congress, really--was the idea of the minimum dredge fleet.
- A: Oh, yes. I am familiar with that.
- Q: And I want your impression of whether you, first of all, support it. Whether you think it is a good idea. Whether you think that having a minimum dredge fleet perhaps has put the Corps in a difficult position in terms of gearing up for wartime.
- A: Well, I think--here again, this was a subject where legislation or direction was given by Congress before I arrived. But I am well familiar with the study, and I remember some of the dialogue that took place with respect to it.

I guess I have some mixed feelings about the study. Apparently the driving force behind the legislation was

the private sector dredgers, who believed that if the Corps was not doing so much in the way of dredging, there would be more available for the private sector. Apparently the private sector had constructed a number of dredges in certain areas which were underutilized because the Corps had so many of its own dredges that it was operating.

But again, I have--as I say, I have mixed feelings. I think there is a need for the Corps to have some capability. Exactly what that capability is, and what it should be, is certainly arguable and, I would say, quite controversial. The matter of eliminating, for example, the dredges on the Great Lakes has been one of great controversy. But here again, the Corps, working with the private sector, determined that the private sector dredges would be available in the Great Lakes area to take care of any problems there, and that therefore it wasn't necessary for the Corps to have any dredgers in that area.

Again, as I say, I think the Corps needs to have some capability. Exactly what it ought to be I don't have any strong views on. And certainly the Corps has been trying to work with the private sector, so that, in case of emergency, the private sector fleet would automatically be made available to the Corps for that emergency work. If that all takes place and works out satisfactorily, that might be a partial answer then for the Corps having to maintain such a large fleet. Again, I believe there is some need for the Corps to have some basic capability in this area.

Q: Would you be in favor of using private sector vessels in a war zone?

A: Well, it isn't a matter of whether I would be in favor of it. I think it is probably a matter of whether the private sector would be willing to take that risk without some sort of guarantee. I believe that would be the issue. The issue would be whether or not you could get private sector dredges to operate, for example, under a condition of war. I don't know.

Q: Okay, let me turn to a completely different subject. And that's the subject of hydropower. I guess the easiest way to ask the question is just to ask, first of all, what do you think the Corps' role should be in hydropower development?

A: Well, first of all, I think you have to break hydropower down into several component parts. For example, if

hydropower is a part--a minor part, say--of a multi-purpose Corps project, where the major purpose is flood control or navigation, then it seems to me hydropower should be constructed at the same time by the Corps.

That doesn't mean that the Corps shouldn't try to work out an arrangement for some financial participation from, say, a power company who might be interested in the output. In that case, the Corps probably ought to go ahead and construct the power facilities; and some arrangement ought to be worked out, if possible, with the private sector to have them assist in the financing of the multipurpose project and to take over the power output.

In those cases where there is single-purpose hydropower, then I doubt very much whether the Corps should construct such a facility. In other words, if you are talking about a dam and reservoir that would be operated solely for hydropower, then it seems to me that it should be a nonfederal effort. I believe you have to look at the hydropower development in terms of what kind of hydropower you are talking about. Is it combined with another use, or is it a single-purpose use?

Q: Isn't it rather unlikely that you would have a project that would be solely hydropower without some kind of other benefits?

A: Oh, I don't think so. There might be a very minor amount of recreation--if it involved a reservoir pool. Very often power plants are constructed along a river, a so-called run-of-the-river plant, where it merely uses the flow that comes down that river. There are also several that are single-purpose hydropower reservoir projects which wouldn't have any appreciable multipurpose usage connected with them.

Q: Do you think that it would be possible for nonfederal entities to build a massive power project like we have had on the Columbia River for instance?

A: Well, yes. I believe so. The state of California, and this is my favorite subject, built a hydropower project at Oroville Dam. It is a multipurpose project, and it entered into a contract with the private power utilities in the state to purchase all of the power. The state took that contract and converted it into a quarter-billion-dollar revenue bond issue, which financed half the cost of the dam and reservoir. So, yes. I think it is absolutely feasible.

Q: Of course, California is a large state with a large population, and it might be more easily done in California than, say, in North Dakota or South Dakota.

A: No, I don't think the size of the state is the only criterion. The real criterion is whether or not there is a need for the power, and there is some power entity which would utilize all the power. For example, you could take Montana Power in the state of Montana. Montana is a very small state, but Montana Power Company is a large electrical power utility operating in that state, and certainly they would have a capability to build a very large plant.

Q: Okay. Let's go from the sublime to the pedestrian for a moment. When you were Assistant Secretary, you articulated some distinct views and, I suppose to some Corps employees, distasteful views, dealing with Corps conference schedules, travel and so . . .

A: Oh, yes. One of my pet peeves.

Q: Can you elaborate on that?

A: Well, yes. One of the problems, I think, with federal government agencies--and I don't think the Corps is necessarily alone on it--is that they are so far removed from the taxpayer that they don't stop and think about what things cost and who is paying the bill. It has troubled me a very great deal when the Corps schedules conferences around the United States where Corps employees have to come long distances and spend a day or two traveling for the purpose of attending a conference. It may be important for some participation, but my experience is that the Corps has an excess of employees attending conferences. Let me give you an example of something that has happened in the last couple of weeks.

I just received a brochure from the American Society of Civil Engineers, of which I am a member, announcing a dredging conference in Florida some time this fall. The dredging conference is sponsored by ASCE, the Corps of Engineers, and a couple of other agencies. But anyway, looking through that three- or four-day conference schedule, there were 112 presentations scheduled by Corps employees.

Q: Different employees? 112 different employees?

A: I don't know if they are all different, but I suspect that probably there will be between 75 and 100 different employees traveling from all over the United States to

participate in this conference. It seems to me that some responsible Corps official ought to sit down and figure out whether or not something like that is really worthwhile, and whether or not it warrants that large a number of Corps people participating in the conference. In addition, I suspect there are more Corps employees attending who will not be presenting papers.

That's of course one type of situation. Another one involves conferences in which the Corps is not making a presentation, but in which they like to participate. I have the same criticism there. That the Corps very often sends, in my judgment, large numbers of employees to listen to presentations that are made by others, when it seems to me the Corps could very well send maybe a couple of people. Somebody could tape it, if necessary, and then a summary of that conference could be put out by the Corps' public relations officer or whatever, so that it could be disseminated widely among the Corps employees who might be interested.

It costs large amounts of money for people to sit in and attend conferences all over the United States. I suspect some of the other federal agencies are just as guilty, although I haven't had exposure to them to that same extent. Yes, I have been and I still am very critical of the large number of Corps employees that attend meetings and conferences. I believe the number is grossly in excess of what really is necessary.

Q: To be a gadfly for a moment, I suppose that many of the engineers, the professionals in the Corps would argue that attendance at not all but some of these conferences is part of being a professional. That you can't do the work without exchanging information and participating and frankly making yourself visible among your professional colleagues. Given that, do you still believe that Corps involvement is top heavy?

A: Well, I believe it is very excessive, and I feel very strongly about that. Take the case I just cited--and I think if you go back and look at a number of other cases, you will find similar situations. For example, if you are a professional engineer in the private sector, you have to screen very carefully what things you attend because it costs you money to go to those things, as well as not being productive during this period. The Corps doesn't worry because it is not paying for it. The Corps employees, I think, go because they like to go or feel it is of some value. But I doubt very much whether anybody ever sits down and figures out whether the exact benefits obtained by that participation would be worth the cost of

sending that person from wherever they have to come to attend it.

Let me say that I am not necessarily picking on the Corps. In my old Department of Water Resources in California, I had them adopt some very stringent rules concerning participation in conferences and attendance, because again the taxpayers are footing the bill; and it seems to me that federal employees, as well as state employees, have a responsibility to report to the citizenry about the desirability of attending.

Let me make one other point, too, in this regard. There is nothing that makes private citizens so unhappy as going to a meeting and finding a bunch of people who are being paid by the taxpayer sitting in at that meeting. I am not saying one or two, but I am saying ten, fifteen, or twenty. And that really gives the organization a bad name in terms of its public image, because the public understands that it is paying the bill. There is a very careful balance that has to be kept in this regard.

Q: One of the first meetings you attended when you became Assistant Secretary was a meeting of the Environmental Advisory Board that the Corps has. Can you, in a nutshell, give me your impression of the Environmental Advisory Board, its use, its effectiveness, and whether the Corps should retain it.

A: I talked to General Bratton at some length, as I recall, after I attended the first meeting, about that subject generally, concerning boards and commissions. It was my suggestion that perhaps it would be well to broaden the scope of that Environmental Board to include people of other disciplines, for example, to include folks like economists. As a matter of fact, I believe General Bratton has moved to broaden the scope of that board, and I think he feels that it does perform some service to him. It is largely an entity which serves the Chief of Engineers of the Corps. It doesn't serve the Assistant Secretary's office. And, apparently, there has been some feeling in the past that it provides some value, and I wouldn't argue with that.

One of the problems I think you have--and the same thing would be true, for example, if you had a board composed of all economists or if you had a board composed of all engineers--is that there needs to be an interchange among some of the key disciplines to bring balance into whatever comes out of such a group. For example, if you had strictly wild-eyed environmentalists on a board, then it seems to me the results that the Corps might obtain

wouldn't be as useful as they might be otherwise, because the board might propose solutions which are not implementable. Whereas, if you have a broader sector of maybe an economist, engineer, environmentalist, or whatever, then it seems to me the positions that the board may arrive at originally will have the benefit of the dialogue that might take place among all the disciplines.

Again, I believe the Chief of Engineers has felt that the board provides some service to him.

Q: Are you suggesting that the board should not strictly reflect the traditional environmentalist point of view then? It ought to be more responsive to the economics of a particular project?

A: Well, again, if I were the Chief, it seems to me I would view such a board as one which might give advice in a number of areas.

Q: What was your impression of the board meeting you attended?

A: Well, I didn't attend the whole meeting. I just attended a part of one. And I don't even recall, as a matter of fact, what the principal topic was at that time.

Q: Well, let's see. I think it was held in Washington, in Arlington as I recall. I attended that meeting myself.

A: Yes, it was at the Marriott Hotel.

Q: That's right. And you had representatives from the EPA and the Fish and Wildlife Service and a number of services there. I forget--I think the subject was mitigation. Okay. I want to ask you a number of questions . . .

A: Well, one of the things that has been suggested, I think, is that a mitigation bank be established. And that every project would provide certain benefits, if you want to call it that, or certain monies or whatever to that environmental or to that mitigation bank.

My feeling is--and I think OMB sort of reinforced this--for example, take a reservoir. A reservoir is constructed. It may cause certain in-stream values to be lost or whatever. I'm not quite sure. Maybe certain wildlife. And I think it--certainly it has always been my feeling that you ought to try and mitigate in an area where the damage has occurred.

In other words, it didn't seem appropriate to me to provide a mitigation bank, for example, in the state of California and contribute to mitigation damage, say, in the state of New York. It seems to me that if there is damage in the state of New York, by virtue of a Corps project, then the mitigation should take place as close to the area where the damage occurs as possible. That's one theory that I feel fairly strong about.

Another one is that, say in a reservoir project, the Fish and Wildlife people fail to include positive values that might occur as a result of constructing a project. Let me give you an example of that. Supposing a reservoir inundates a certain number of miles of stream in which there had been trout. Okay, on the other hand, the creating of a reservoir there might create, for example, a great bass fishery.

So it has always seemed to me that as the Corps gets criticized for creating problems by virtue of constructing a project, it never gets credit for some of the good things that those projects do. And so I have always felt that when you say to the Corps, "Certain damages occurred here as a result of the loss of the trout fishery," you ought to, on the other side of the ledger, say to the Corps, "but you have created a reservoir here which has a great striped bass fishery, and so therefore we will provide mitigation to the extent that one doesn't take care of the other." I think you have to be a little careful how you apply that, but the main point I want to make is that it seems to me that as you consider mitigation, it is necessary to consider enhancement. And I have a feeling that the single-purpose environmental agencies at times don't look at the good that is created by Corps projects. They always look at the bad, and they want the bad mitigated. And I don't think that's quite fair.

There are a couple of other points, too, that it seems to me are important. Very often, I think, the single-purpose environmental agencies will ask the federal government to acquire large additional land areas in order to mitigate. While that may be advisable in some areas, it seems to me that the first thing that should be considered, rather than to suggest that the federal government take more private property off the tax rolls, would be to see if you could better manage whatever federal properties might be in the area.

For example, often when you acquire land for a reservoir, you acquire it along ownership boundaries, instead of

just around the edge of the reservoir. So, before going out and acquiring large acres of additional federal lands for mitigation, they ought to consider better management of the lands that are available.

I just wanted to add those points because I think mitigation is important. However, I believe people have taken advantage of the Corps and tried to get it to provide much more than is fair, particularly in the way of acquiring large amounts of additional land to be taken off the private tax roll.

Q: Do you think--do you attribute something a bit underhanded to these single-purpose agencies when they try to get the Corps to pay more money for this kind of mitigation activity? Or do you think perhaps these agencies basically have bad planning, or the prognostications are too cautious? In other words, you know, you talk about the lake being converted to a bass lake from a fishing stream; but it will take a few years presumably for it to turn into that bass lake, and maybe the people in, say, Fish and Wildlife are simply erring on the side of caution and are not making any assumptions about what is going to happen to that project. Do you think there is anything like . . .

A: Well, I think the--I think one of the problems is that some of the single-purpose environmental agencies tend to look at every project as being bad. I think that is unfortunate because, looking at the many projects which the Corps has built around the United States--and elsewhere, too, as a matter of fact--a lot of them are providing great environmental benefits. For example, I think the recreation that is provided around Corps lakes and the scenic values are tremendous. Yet, the Corps never gets credit for that in terms of the single-purpose agencies which are always trying to get them to do more.

My experience tells me that the single-purpose environmental agencies, like Fish and Wildlife Service, have a tough time getting funds to carry out what they would like to do in terms of enhancing what they view to be their areas of responsibility. And so I think they look at the Corps, and I suppose the same thing is true with the Bureau of Reclamation or a power company or whatever, as somebody who has a source of funds which can help them accomplish their objective. I think that's probably the real problem, if you shake it down. It's the concept that these single-purpose agencies can get more by beating the developing agencies, if you want to call them that, over the head and knowing that certain projects are needed and that they can sort of blackmail a

project into providing, for example, things that perhaps are not quite justified or warranted.

Q: How would you resolve the problem?

A: I would resolve it hopefully by providing a more balanced analysis of what is required in the way of mitigation, looking at some of the things I mentioned earlier: in other words, looking at some of the plus values that Corps projects might provide as well as just the negative values.

Q: So you are talking about a guidance that presumably would cover OMB, and it would apply to all federal agencies.

A: That's right. In fact, as I recall, I think OMB has issued some instructions on this along the lines of what we have been talking about--my recollection of it anyway. And I think that is appropriate. I don't see that there is anything wrong with that. I think honest mitigation should be provided for. But I think at the same time certainly you should give credit, and you should avoid taking large amounts of property off the tax rolls that might not be necessary if you can provide the mitigation some other way.

Q: Let's turn our attention to the Corps, and particularly to the Corps' leadership. First, let me ask you a general question. Can you characterize the senior civil works civilian staff and the senior civil works military staff? Do you see differences in the outlook of the military versus civilian? Who does the job better?

A: First of all, I have been very impressed with the military officers of the Corps. I think they are outstanding people, and by and large they do an excellent job. Comparing them with the Corps' Civil Service civilian staff, I think the Corps' military officers are more flexible and more willing to look at things from a variety of different ways than the Civil Service staff. This is not surprising and it is not unnatural. I think any time you have a civilian bureaucracy, there is a desire to protect one's own turf; and I think there is a concern that change presents uncertainties. Civilian personnel recognize that it may be a long-term career with them, and they may view suggestions for change as possibly threatening to their careers. I don't think the military component of the Corps looks at it that way, since they change assignments on a regular basis.

The Corps officers are going to be serving in the Army of the United States in some capacity, whether there is a

Corps civil works function or not; so they are not threatened in the same way that the Civil Service work force is. So again in making the comparison, I have felt that the Corps' military personnel are more flexible in trying to deal with changes that may be attempted in an organization. I want to be sure, however, that what I am saying is not interpreted as picking on the Corps' civilians. I am not at all. I think what I have said is true with any large Civil Service organization. It is interesting with the Corps though, because you have the military and the civilian force integrated. Normally you don't have that in most organizations; they are composed entirely of civilians.

But it makes an interesting comparison, and the comparison is the one I think I alluded to that the Corps officers have impressed me. I think they are more flexible. I think they are more willing to try something new because I don't think they view their current jobs as ones that are going to go on forever; and eventually they will be moving on to other assignments.

Q: So, in short, you consider the military officers in the Corps a distinct plus for the Corps of Engineers.

A: By all means. That is correct.

Q: One argument that might be made by people who would argue otherwise is that the civilian leadership comes to their jobs with a tremendous amount of experience, and that they may see some problems that the military wouldn't see, and therefore they may be more cautious than the military leadership. Would you agree with that?

A: Well, I think they are more cautious. I don't think there is any doubt about that. But, again, the situation is changing in the federal government, particularly in all of the federal water agencies--the situation being one that requires some changes in past practices if the programs are going to survive.

This gets back to the thing that we talked about before, and that's the subject of cost sharing and financing. In my view, the civil works program, as it has been known historically, is not going to survive if some way isn't found to take a little of the burden off the federal taxpayer or the general fund of the Treasury.

Q: Would you say that the civilian leadership in the Corps is dishonest?

A: Oh, no. Oh, no. Certainly not. I would say that they

are overly rigid, in my view, and narrow in terms of some of their thinking, but certainly not dishonest, no.

Q: Did you feel that they were loyal to you when you were Assistant Secretary? Were you satisfied with their follow-through, I suppose?

A: I don't think anybody was disloyal. We may have had differing views, but I don't see that as being disloyal. I think there was a reluctance--let's put it this way--on the part of a number of civilian personnel to pursue some of the objectives we were trying to accomplish. But again, I don't view that as being disloyal. It is a differing of views, and again, as I indicated earlier, I think it is natural that the Civil Service personnel have some turf to protect. As a result, I may have represented the unknown, which is what happens when you start talking about changes.

Q: Mr. Gianelli, you have been particularly critical of the Corps' planning process; what I would like to do is ask you a number of questions that mainly relate to the planning process, and a number of these questions are outgrowths of the first interview we had.

Let's first of all talk about the review process in the Corps of Engineers. You said something to the effect in the first interview that you felt more projects ought to be able to be lopped off at the District Engineer level and never go through this multiple review process that the Corps has. The question is, don't you believe, though, that the proper authority to make a final decision on a project is the Chief of Engineers?

A: No, I don't think so. If the money comes from the federal taxpayer and the federal budget, the Secretary of the Army has an overall responsibility in this area. And it seems to me that someone who is more familiar with the, you might say, objectives of a particular administration should be making some of the critical decisions, because of limited funds. Let me put it that way.

Now, I don't mean to say that they have got to make every one. For example, I think there are some delegations that can be made and have been made which allow the Chief and lower echelons to make decisions. But again let me point out that the Chief of Engineers is a career military man. He doesn't worry particularly about the goals of a particular administration in terms of balancing the budget and so forth. And it seems to me, when you are talking about projects to be pursued, those

critical decisions have to be made by people who are part of an administration and are responsible to that administration.

And I think they should preferably be made at the Secretarial level, delegated down--in this case in the civil works projects--to the Assistant Secretary. Because I think if the administration--any administration--makes enough bum decisions, then, of course, that will show up in the polls, and they will be replaced by people who have different priorities.

Again, I don't agree that all the critical decisions on programs should be made by the Chief.

Q: If I understand you correctly then, what you are saying is that the District Engineer ought to be basically representing the administration's position on some of these basic issues when it comes to . . .

A: Let's back down a little bit on the chain of command. I think this is one of the things we talked a little bit about before. I have felt all along that the Chief's office and even the Divisions have delegated perhaps too much authority to the Districts without an opportunity to review. And let me elaborate on that.

A District Engineer may see certain needs from his own perspective that may be absolutely justified. On the other hand, if there is some limitation in funds, for example, maybe his priorities and his projects can't be implemented. There might not be enough money to go around. So there has to be somebody who can take that District Engineer's request, for example, along with all the other District Engineers' requests; and the first screening level should be at the Division Engineer level; and then certainly the critical decisions need to be made, in my judgment, at the Chief's level, at the Corps' Washington office.

Because only there can all of the Corps' programs be put into perspective and be looked at in terms of need, given whatever constraints exist, particularly fiscal constraints. So I think that it's well for a District Engineer to make recommendations, but I think the actual decisions on what finally is done in that District, for example, need to be carried up the line into the Washington area.

I think that is inevitable. And that isn't a criticism of the District Engineer. It's a need to balance all of the needs throughout the country with the limited

financial resources and personnel that are available to carry out those things. So I don't view the District Engineer as working for the Assistant Secretary. I think that coming down through the Chief's office, the District Engineer has a certain kind of direction in terms of what an administration feels should be emphasized, for example, certain kinds of projects, just to take a case in point.

Q: Last time we talked together, I asked you a few questions about the Board of Engineers for Rivers and Harbors. I would like to pursue that line for a moment. Do you think the board is really capable of performing an independent review?

A: Well, it's tough for them to do that. They are an integral part of the Army, an integral part of the Corps of Engineers, and it seems to me it is very difficult to keep them in a posture where they have all of the expertise and they have the freedom to be completely objective without any influence at all. I think it is very difficult for them. I think it is an important role, but, in answer to your question, I think it is difficult for them to retain a completely independent posture.

Q: Should they? Let me ask you that.

A: Well, I think if they are going to perform a function--and I think they can perform a function--they should be as independent as possible. One of the suggestions we had with respect to the Board for Rivers and Harbors was that they be more familiar from a direct standpoint with some of the policies of an administration.

Just to give you an example, I think the administration through OMB had adopted a rather strong position with respect to recreation development. And it seemed to me that it would have been helpful for the Rivers and Harbors Board to know of that position, with respect to recreation development, before they passed on Corps projects where there might be recreation involved. In other words, I think they could provide an independent check and provide an independent view, recognizing what, for example, some of the policies of an administration might be--again using recreation as a case in point.

Q: Well, how do you reconcile that, then, with being an independent review board?

A: Well, I think the independent review, as I see it, is necessary to take a look at whatever the Corps sends up

and to see whether it makes sense from an economic standpoint, from a political standpoint, if you will, and certainly from an administration standpoint. So I think they can be independent, but still be cognizant of the objectives of a particular administration.

Q: So they won't necessarily then make the decision based on the best engineering or the best environmental consideration or the best financial package, if you will. The decision will be based at least partly, then, on administration policy.

A: I think it would be, partly, yes. I am not suggesting that they ought to, for example, recommend an infeasible project. I think it goes without saying that that's an important part.

But again, coming back to the case I cited--and again, I think the administration felt very strongly because of the limited funds--development, say, of projects solely for recreation should take a back seat, and perhaps not move at all. The Rivers and Harbors Board ought to know that, it seems to me, and certainly shouldn't keep sending up projects for recreation time after time, if, for example, we know in advance that they are not going to be able to pass muster.

Q: Well, if the board were more as you describe it or wish it, then what would be the function of OCE in reviewing the board's reports?

A: Well, I'm a little fuzzy on how OCE interfaces with the board, frankly. I never have completely understood how that works. The Chief, of course, gets his recommendations from the Rivers and Harbors Board, but he also gets them from his own staff, I assume. And I am not clear how the Chief, for example, in rendering a decision--if the Rivers and Harbors Board came out with one recommendation and his staff came out with another recommendation--would view the respected positions or the respected recommendations. I am just not sure how he would handle that.

But I guess the way I would look at it is the OCE would largely be responsible for, you might say, issuing the directions down to the Divisions and down to the field in terms of the kinds of things they ought to be doing. Then, the Rivers and Harbors Board would be the review at that level. In other words, I would view the task of the Office of the Chief of Engineers and his staff, OCE, to be one of direction. But, again, when the reports come back in, I am not quite clear as to how the Chief views

the two entities.

Q: Well, in your mind, if the board did act as you suggest it should, would there be any reason for a review process within OCE?

A: Well, I think OCE needs to be sure that its directions are being implemented, and that when things get done, for example, in the field, they are being done on a consistent policy throughout all of the Corps. I think that is one of the great needs, to make certain that every Division and every District operates on a consistent basis; and there is a great need that certainly would have to be filled by the Office of the Chief of Engineers.

So I view the OCE as more of an in-line staff operation from the Chief down to the Division, then to the Districts; and I view the Rivers and Harbors Board as solely a board which would review something before it becomes a finished product.

Q: You, of course, tried to work with Congress on developing some various cost-sharing programs, including programs for navigation projects. To what extent were you successful with cost sharing in navigation; and to the extent that you weren't, can you identify what the major problems were?

A: Yes. I think, looking at the whole subject of cost sharing, I would say the most frustrating area of cost sharing is in the navigation area--in both the deep draft and inland waterways systems. I felt that OMB put some unnecessary constraints on our office in terms of dealing with the subject of cost sharing for navigation and the inland system, both. For example, they took a very hard-nosed position with respect to cost sharing on deep water navigation, namely, all the cost had to be repaid. On the inland system, OMB wanted operation maintenance also to be taken over 100 percent by nonfederal interests, as well as all costs to be repaid 100 percent.

My view on the whole subject of navigation, both the inland system and the deep water ports, is that traditionally the federal government paid for the whole thing. Now, OMB seems to be going to the other extreme, deciding that the U.S. government shouldn't pay for any of it. I still feel that there is some area of federal responsibility in navigation projects, just as there is in flood control; and that we, ASA, working with the Corps, should have been afforded more flexibility in

working with the Congress on that particular issue.

I still believe that there is a middle ground that could be reached which would allow navigational projects to go ahead. But at the time I left, at least, that wasn't apparent--that progress would be made in that area.

Q: In response to another question I asked last time, you said that the Corps doesn't always worry much about the cost of a project, that they simply developed what they considered to be the best engineering solution and then let the costs work out for themselves or whatever. On what basis could the Corps recommend a project which was not in the NED plan based on the administration's guidance?

A: Well, of course, we hope to address the issue in part by having, under the new planning guidelines, the NED plan as the one that would be advanced. That would presumably take care of the matter, because you would plug into the economics the benefits as well as cost. You wouldn't just have the best engineering solution. Hopefully that would partly take care of that problem.

Another thing that I have been concerned about, and just to illustrate the point, the Corps has some tremendously large projects which haven't been authorized. For example, let me pick out one in California--the Santa Ana River Flood Control Project. That project is going to cost well over a billion dollars. From the very beginning, the Corps developed an all-river plan there for 500-year flood protection, as I recall, based upon certain assumptions that would take place in upstream development. It was my view that such a plan would never get off the ground because, first of all, it is too expensive; and I am not sure that the local people would be able to carry their end of it. It is partly a levee project for which the locals, even under the present rules, would have to pay land easements and rights of way and relocation of utilities, and that would be a pretty substantial amount.

So I felt that in developing the report--and I asked the Corps to do this--to come up with some alternatives and also some staging which would allow the policy-makers and the budget people some flexibility in dealing with a solution of the Santa Ana river flood control problem. The Corps did work out, then, a series of alternatives which, in effect, involved a staging of the overall project, and then attached different degrees of flood protection to those various stages.

To me, that's what the Corps should be doing. That, to me, gave them, the decision-makers, a chance to see what the alternatives would be, to see what the benefits would be, and to see what you could get by with in terms of cost and protection. Then, the policy-makers could make a decision based upon those alternatives. But when the Corps, as they did originally, only presented the all-river plan with no staging at all and at a cost of more than a billion dollars, the project could not move.

Q: Did the staging involve different stages of construction? In other words, would you perhaps build stage one, construct stage one first, and then stage two? Or could they be done together?

A: No, basically it was to build part of the project which would give you a lesser degree of flood protection at a much lesser cost, and then come along later when the need arose and add on other elements. Now, as I recall, and I think the discussion is still pending, part of the staging might involve some funds which couldn't be economically used for subsequent stages. If that is the case, then you have to rack up what the staging is going to cost and how long it may last, to see whether it is worthwhile foregoing some of the benefits that would be provided if you built it all at once.

Q: Well, yes, that's really what I was getting to in a sense--that the staging, while it might make it more feasible for the locals to get themselves involved, might in the end result in a higher cost for the project.

A: But the alternative very well may be that if you try to go the whole way at one time, you may find the cost so prohibitive that nothing is done. Then you have to ask yourself the question, "Is it better to do nothing or is it better to do something to give some additional protection, recognizing that you aren't giving as much as the ultimate desirable plan would provide."

Q: Would the protection be enough to warrant continued activity in the area? In other words, would it give a false sense of protection to the inhabitants, do you think?

A: Well, it would have to be made very clear what they were getting for whatever they were buying. Some of the alternative plans provided 100-year protection. We made it very clear that that's exactly what they were getting. They weren't getting 500-year protection. They were getting 100-year protection. Well, if that is all they can afford, the choice then should be largely local--if

they are putting up a fair amount of money--as to what do they want. Do they want to take the risk, or do they want to try and raise the additional money?

So, to me, that's the way a planning project should come forward. It should come forward with maybe the best engineering solution; but if that looks like it is going to be terribly costly, then it seems to me the decision-makers need to have some options available to them so that decisions can be made not merely on the basis of taking it all or nothing; but, maybe, is there something we can do to give some additional benefits at costs that can be afforded?

Q: You also mentioned in the first interview your consternation over these 500 reports that the Corps has--planning reports--most of which do not result in projects. Why do you feel that the Corps could have screened out these reports at an earlier date?

A: Well, one of the things I advocated, and I think Congress has picked up on it, was to break down the feasibility reports into two parts. And I think we covered this maybe in part of our earlier conversation. If you follow that procedure, then the Corps could prepare a reconnaissance report which would give some feeling for whether or not a project was feasible and whether there were project sponsors willing to contribute. That could be done at roughly a fourth or a fifth of the cost of the full feasibility report and within a shorter period of time.

So what I am saying is that if there is some way to break down these project reports, as we have asked the Corps to do, and if you had a repetition of the 500 reports, you could save, as I recall, probably \$75 to \$100 million of what otherwise would be the cost of preparing the full feasibility reports for those 500 projects.

Q: Do you think the reports would be better reports with the locals sharing in their cost?

A: Excuse me--I am not clear on your question.

Q: You suggested that the feasibility reports would involve cost sharing, too.

A: Yes.

Q: Do you think that the quality of the report would be better because of the cost sharing?

A: Well, I don't know about the quality of the report, but I know it would be more responsive. For example, if a project's sponsor or project beneficiary is going to have to pay for part of the feasibility cost, then he will be pretty sure that he's serious about what he wants. He is not merely trying to have a study made that is not going to go anywhere.

I don't know about the quality of the report, but I do feel that it would be much more responsive to the local interests if there was a degree of financial participation. That's what we are talking about in the second stage of the feasibility report, as opposed to the reconnaissance stage which we suggested would still be funded 100 percent by the federal government.

Q: You also suggested that the acid test of a good report is that it leads to a project. Do you feel that there might be some studies the Corps makes that are good studies simply because they provide information, statistics, and insights, even if the study does not lead to a project?

A: Well, you know, we talked a little earlier about the waterways study. Now, the waterways study was not designed to lead to a project. It was designed to provide an inventory of requirements. I assume that is basically what it was. So I don't have any problem with that kind of report. But I am talking about reports that relate to specific projects, as opposed to reports of a general nature which would be informative--again, using the waterway report as an example of what I would say is an informative report.

Q: Well, okay, let's get away from those kinds of studies on the national waterways and just talk about feasibility reports. Do you think that specifically there may be some validity in having feasibility reports that don't lead inevitably to projects; but because the survey has been done and a lot of information has been gathered about a particular proposed project, just the gathering of that information and statistics might have some value to the Corps and to the general public?

A: Well, of course, the theory of the reconnaissance level report is that you don't collect information that you don't need. The hypothesis you are making is that just because you collected a bunch of data you therefore ought to put it in a formal report; then my answer to that is you shouldn't have collected the data in the first place. So, no, I haven't been able to figure out what advantage there is to having everybody go to the trouble of putting out a feasibility report if we know it is not going

anywhere.

Q: Well, okay, if I may press it just for a moment.

A: That's all right.

Q: I am a historian so let me give you a historical example. Back in the 19th century the Corps was asked to survey various railroad routes to the Pacific. I think there were five railroad routes that were surveyed, and private interests, as it turned out, with a lot of government support, built railroads on two of those five routes. But wasn't the information the Corps gathered on those three other routes of some use?

A: Well, I don't know whether that's a very good example. You are talking about an overall report for transportation on the nation's railroads, and at that time the federal government, as I recall, deeded land to private railroads to help them get along, too. So I would assume there is an overriding national interest there, as much as there might have been in the waterways study, which would dictate a special consideration of that.

But I am talking about where you build a flood control, irrigation, or recreation project to serve Podunk Community. That's what I am talking about, and that's normally what your reports are all about. And I can't see any advantage in going to a feasibility study with respect to a report for Podunk Project if there is no chance of that project being built.

Q: Well, I guess what I am saying is, what if you genuinely aren't certain that the project will be built or could be built there? I mean, aren't there a substantial number of projects--proposals--where it is not clear that route X for a waterway or location Y for a reservoir is necessarily that much better than location A for a reservoir, and therefore you have got to do reports on both sites?

A: Well, that's the purpose of a reconnaissance level report, to do just exactly what you are saying--to look at possible alternatives in a general sort of a way and come up with what is the best solution for a full feasibility report. So it seems to me, and I might say that I have been involved with a lot of these things, I can't see any value to pursuing it to the degree you are talking about under the cases you cite.

Q: So you would say that the reconnaissance reports do

provide enough data to . . .

A: Tell you whether a project is good or bad or should be pursued. And particularly if you ask the project sponsors for the next stage to put up part of the funds to carry it to a full feasibility study.

Q: This really, I think, relates back to the answer you just gave me. You mentioned at one point in the last interview that you feel that planners like to plan for the sake of planning.

A: Yes. That's a general characterization, you understand. I am not accusing every planner. But I am saying that, generally speaking, I think this is a syndrome that goes through almost all the planning activities.

Q: Can you pinpoint any particularly egregious examples of this?

A: Well, I think the fact that you had to go back to these 500 reports that I was talking about, of which less than half were determined to have any feasibility at all, is perhaps a pretty good example of that.

Q: In those 500 reports, of course, some are still with us. I guess a fair number of them are.

A: Well, as a matter of fact, of those that were determined to be feasible, these reports, as I recall, were written between the period of 1973 and 1981. And I think you can count on one hand the number of projects that are proceeding, even with those that showed some feasibility. So just because you had a feasible project--the Corps had feasibility reports on those--it didn't mean those projects were going ahead.

Q: Well, one reason why the projects might not be going ahead, of course, is because Congress didn't appropriate the money.

A: Well, that's right. If you add up all of the Corps' potential projects, as I remember, the figure was some \$36 billion worth of projects. There is no way in the world that you are going to get money from the general taxpayer, the general fund, to build the kind of projects that the Corps is talking about in this feasibility report category.

Q: Well, to what extent should the Corps take that kind of practical, political consideration into its planning process? In other words, the Corps says to the Congress,

"Okay, here are 400 projects, 500 projects, that to a greater or lesser extent, depending on benefit-costs and so forth and so on, are feasible projects."

A: You mean the benefit-cost ratio is greater than one to one.

Q: Exactly. Yes. So, "Congress, now you decide. You tell us what is supposed to be built and what shouldn't be built." Is there anything particularly wrong with that?

A: Yes, I think the Corps is abrogating its responsibility, and that is to provide the best technical expertise and the best recommendation possible. And when you present the Congress with, say, let's take half of those 500 reports, which is about what I think they determined to be feasible, then you would only have a handful of them that are going to be augmented.

It seems to me that there is something wrong in the system somewhere if you can't at least prioritize those projects that have the best chance of going ahead. And that's why I come back to the point that there is no greater way to determine whether a project is going to go ahead than by having the project beneficiaries willing to put up a little money. That's the best criterion that there is. You can run all of the benefit-cost ratios you want, but if there isn't the project beneficiary willing to assume some of the financial responsibilities with respect to that project, it is not worth a darn in my view.

Q: So, following your philosophy, too, you would require a substantial increase in cost sharing to get these projects done.

A: Well, wait a minute. Let's back up. We are talking about the reports now. What I have said before and what I have advocated is that the reconnaissance level study be conducted at about 20 percent of the cost of the full feasibility study. And then the remaining feasibility study would be 75 or 80 percent of the total cost remaining to be paid. And that 75 or 80 percent would be cost-shared by the nonfederal interest to the tune of 50 percent.

Then, I further said that if the local entity has some capabilities, like a state or organized district, to provide in-kind services, that could take up the 25 percent. So what we are really finally saying is that in some situations, the local interest could get a feasibility report by only putting up 25 percent of the

cost of that feasibility study, the federal government putting up 50 percent, and the locals putting up the rest by an in-kind service.

Q: I see.

A: So it's not that costs are going to be the same. It is just that you have somebody who thinks they may want to go ahead and build a project, be a financial participant. And again, I say, that's the best test of feasibility there is--the willingness of a project beneficiary to put up some money, particularly at that stage.

Q: This suggestion that the local interests do provide some degree of cost sharing, 20 percent or whatever, for feasibility reports--what kind of a response did you get from OCE on that?

A: Oh, considerable resistance, because, first of all, it is a difficult and unpleasant task to go out and ask people to do that. And secondly, once people are putting money into a study, they are going to demand a product for the money they put out. In the past, if the Corps runs out of money it goes back and gets Congress to give it some more to finish a particular feasibility study. In the future the Corps would have to be accountable to local interests.

Q: You also mentioned the 16 projects that were passed down while you were Assistant Secretary, where the locals were willing to contribute more than what had traditionally been asked of them; and you mentioned that these projects really were orchestrated from your office rather than from the field. Didn't you actually direct that these projects would be done under your centralized direction?

A: Well, here's--let me go back and reconstruct how we got into that--the whole aspect. First of all, we adopted some cost-sharing percentages. Rightly or wrongly, we said, "Let's see if we can't get this amount of participation by nonfederal interests," and it varied depending upon the particular use. And we said, "Let's--you the Corps give us a list of what you consider to be your most feasible projects or those that have the best chance of going ahead. Let's try it out on those projects."

So the Corps initially gave us those projects on which it had completed studies, which it felt were, you might say, in the upper percentages of having the best chance of going ahead. Then we, at our office, said, "Okay, let's take those projects and we will go out with the

Districts and talk to the potential project beneficiaries and see if they are willing to accept the percentages that we have said we feel are necessary to move these projects ahead from the administration's standpoint." And that's the way it worked. In other words, yes, I brought in a special assistant, a fellow who worked with me in California, a registered engineer, to help in this effort.

Q: What was his name?

A: His name was Robert Eiland. He had a lot of experience working with the financial people in California and some of the things we did, and I asked him if he would take that experience and try to apply it against these projects that the Corps had selected. And as I say, I think the number was 14 or 16 projects over the course of three years, where the project beneficiaries had indicated some willingness to proceed with a higher degree of cost sharing if these projects could move ahead.

Q: I see. In response to another question, you made the statement that you felt the Chief of Engineers had lost some of his control over the field, over the Divisions and Districts.

A: Yes.

Q: Did you--I didn't follow that up by asking you whether you had any specifics in mind. Let me follow it up now.

A: Well, I don't particularly want to get into specific projects, but there are a number of projects which I felt should have been screened out by the Chief's office or the OCE prior to going forward. And basically, it seemed to me that they needed to make certain that all the Divisions and all the Districts were operating in a consistent, uniform way, pretty much in accordance with the policies that would have been set down through the chain of command.

And some of the projects, it seemed to me, should never have reached the Secretary's office, should have been screened out by the Corps prior to the time they got there. They were screened out at the Secretary's level when it was found that the economics didn't prove out or that some assumptions had been used by the Districts in preparing them that were not consistent with those being used by the others.

So that's the feeling, and it partly ties into the dis-

cussion we had in the earlier interview on decentralization. I think decentralization is great; but there needs to be some control over that decentralization or you are going to be in a big, fat mess all the time, because you are going to have inconsistent policies being followed by a large number of Districts; and I think that is highly undesirable.

Q: Did some of these projects also have a fair amount of political pressures behind them?

A: I suspect that many of them might have, yes. I suspect that's so.

Q: Can you give me the names of a few?

A: No, I don't want to get into any specific projects, because I don't think that would provide any useful purpose. One indication would be to take a look at some of the projects that might have been added on by the Congress over the President's budget. Now that might give you some inkling of some of those projects. But not in all cases, certainly.

Q: Let me go backwards in time for a moment. You mentioned that you had some problems with the Corps' planning effort prior to taking the Assistant Secretary's position. You were somewhat familiar with the Corps' planning process. Can you elaborate for a second on what those problems were?

A: Yes, and again I don't want to get into specific projects, but I can give you the kinds of problems that existed. First of all, the planning process took an inordinately long period of time. In the case of the one project I have talked about, I think it took five or six years. Then, when the report was completed or just before the report was completed, it was indicated that it wouldn't be able to be finalized without an additional appropriation, because they needed some additional information.

So the net effect of the planning process, at least the one I am talking about, was that, first of all, it took too long. And secondly, they ran out of money. And then there was a delay caused by having to go back and get an appropriation for a subsequent year from the Congress to finish the report. And then lastly it came out, I would say, after much too long a period, in a way that wasn't particularly useful to the local interests.

Q: Let me throw something at you that actually has been

thrown at me by a few people in the Corps, and get a response from you. That you have some problems with planners, because planners give people hope, and hope leads to political pressure, and that you would rather not see projects developed in that kind of way. Is there anything to that kind of statement?

A: Well, I think that's accurate. I hate to see the Corps reduced to building projects that are solely politically popular or which are built because of political pressure, because I don't think that does the Corps' reputation any good. One of the things that I tried to do when I was Assistant Secretary, with, I'd say, only moderate success, was to try and have the good projects come to the top and have those projects go ahead.

Now, politically, that hasn't taken place, and I don't know whether it will. But it seems to me that the Corps' future in the civil works area needs a better base under it than merely a project which is forced upon it by Congress through legislation. I think that is unfortunate because then you are going to have some bad projects, and I think the Corps' reputation will not be served under that process.

Q: You mentioned Mount St. Helens as an example of a project where the Corps wanted something more expensive than what you came up with. Can you explain in a bit more detail what resulted from your intervention in that project? What specifically did you recommend should be done?

A: Well, let's back up to where I saw the thing headed from the very beginning, and that was with building a gigantic structure which may or may not ultimately be needed. And my problem was that Mount St. Helens was a unique thing because it was an act of God, I guess you would say. It presented the Corps and the people with a physical situation that hasn't existed anywhere in the world as far as we have been able to tell.

The eruption, in effect, blew off the top of a mountain and deposited that mountain in some of the valleys around it, one of them being in the Cowlitz watershed. The question became, after that happened, what was the best way to provide a control and protection to people downstream in particular as a result of this act of nature that was certainly unforeseen and could never have been anticipated.

The crux of the whole thing was the estimate of how much material would move and how fast. The Corps made some estimates which I believed were on the very high side;

and experience, if you could gain a little time, would give you a better handle on exactly what would happen up there in terms of how the problems would unfold.

What I've done there, if I have done anything, is to require a more thoughtful, orderly process for the solution to the Mount St. Helens problem. If I've done anything, I suspect that is what I have done.

Q: And you think that . . .

A: And in the process probably saved the government a large amount of money and saved an embarrassment, which might have subsequently resulted if the Corps had done the wrong thing.

Q: What do you think the Corps was going . . . ?

A: The Corps wanted to build a massive structure at one location, which may or may not ultimately be needed. In fact, I think the Corps' latest studies indicate that it may not be needed at all now, because the movement in the last four years since Mount St. Helens erupted has now turned out to be much less than the Corps originally anticipated, particularly in the first year. I am not saying that critically, because the Corps obviously was erring on the side of being conservative, but without regard to the cost. Now this again gets into the matter of trying to relate cost to solutions.

Q: Getting away from planning for a moment and into engineering, how would you characterize, generally speaking, the Corps' engineering efforts? Do you think the Corps does good engineering?

A: Yes, I think they do. If anything, they do too conservative engineering, but they certainly do competent engineering. But, again, maybe over-design, for example, in some instances. We are looking at that now in connection with dam safety. You may recall the study that is under way involving the Bureau of Reclamation and the Corps and the National Academy of Sciences on the criteria for flood control, for example.

Q: Well, then, how about the estimates that the Corps comes up with for its engineering work? I attend civil works staff meetings, and one thing that impresses and depresses me at the same time, if you will, is the fact that Corps estimates are habitually much higher than the estimates that the private sector is coming up with for the project.

It has been suggested that one reason the Corps estimates are high is because the Corps doesn't practice some of the cost-saving methods that you see in the private sector. That the private sector, because it is interested in gaining a profit, is looking for ways to save money, whereas perhaps the Corps isn't. Do you think there is any validity to this?

A: Well, I think you have got to split down--I think you have got two things mixed together in your comments, if I read you right. First is the Corps' original cost estimates--how good are they? Then, second is what does the cost of a project turn out to be as related to the cost estimates? So you really have two separate items.

I think the Corps by and large does a good job in terms of estimates of what a project will cost based upon its own design. The design may be a little overly conservative, but I think they do a good job on the estimates. By and large, at least with most of the jobs that I recall, the bids came in pretty close to the Corps' estimates. I think they have been pretty good. I think the thing perhaps you are alluding to is that the actual cost of the job may turn out more.

Q: Well, what I am talking about are situations where you have the solicitation of bids--of course, it is based on government estimate--and it could be for anything from a dredging operation to a particular stretch of levee, okay?

A: Yes.

Q: And it has not been uncommon--I can't recollect how it was two years ago. I've just become more sensitive to these things in the last two years. But in the last couple of years it has been not uncommon for your government estimate for a particular project to come in at least 40 percent above the low bid for the project.

A: Yes.

Q: And even 30 percent over the high bid in some cases.

A: Yes.

Q: You know--and it seems to me from the outside, not being an engineer or an economist--that there must be something wrong when you have such a lack of compatibility between the government estimate and . . .

A: Well, I think the Corps tends to be conservative in terms

of its estimates. I think that's true. But the other thing is we are operating now in some rather unusual times--at least I would categorize them in that way. What you have had, for example, going back about ten years, is, for at least more than half that period, an extremely high rate of inflation; so it is pretty hard to predict how much inflation you have to add to a project that is going to be constructed over a period of four or more years.

On the other hand, the last two years, what you've had is sort of an unemployment situation where contractors will really cut corners in order to get a bid. So I think there has been an explanation for some bids coming in the way they have. The situation is not stable enough to allow a good estimate to be made which carries construction over a several-year period.

Now, going back, say, 20 years or more, you could pretty well figure that you would have an escalation of 2 or 3 percent per year, or whatever it was, and plug that into your cost estimates and come out pretty good. But when they varied somewhere between 5 and 15 percent, that makes it pretty difficult; and where you are projecting over a four- or five-year construction period, it makes it pretty hard.

Q: You know, the whole problem leads to some substantial complications, it would seem to me. First of all, of course, you have an inflated budget being worked up by the Corps, based on these estimates coming in from the Districts. Secondly, you have money being returned to OCE because the money is not going to be spent, as it turns out, and the Corps has to decide how it is going to spend it. It could return it to the Treasury, of course, but it could ask, presumably, for the money to be applied to another project.

Now . . .

A: And that happens. For example, a case in point. The dredging, the annual dredging at Mount St. Helens, I think, was done from funds that were saved from the very thing you mentioned. So, yes, you are right; it is used then for other purposes, and presumably those other purposes will be screened out as to their desirability and necessity.

Q: Did your office approve those transfers of money?

A: Yes. Transfers over a certain amount came through our office for approval, yes.

Q: And so your office would be able to produce a running total of how much money was being transferred from . . .

A: Well, we rely on the Corps to keep a running total, but on an individual project basis, and the dredging is a good case in point, we certainly approved the use of funds which the Corps saved from some other construction project for that dredging on the Columbia River.

Q: Do you know whether, while you were Secretary, money was returned to the Treasury from the Corps?

A: I don't know. If it was, it wasn't very much, I assume, because the Corps has always seemed to me to be pressed because of inadequate funds.

Q: Excuse me, but, again from the outside, it would seem to me that since you would be very interested in getting as much bang for the buck as possible from the Corps of Engineers, your office would be necessarily monitoring how much money was being returned to OCE for redistribution and would possibly get on the District Engineers who perhaps in some cases habitually were coming up with government estimates that were very, very high over the private sector bid. I mean, it would seem to suggest prima facie that there is bad engineering going on out there, and so it comes as some surprise to me that maybe you weren't as cognizant of that as I would have thought you would be.

A: It is a good idea but it would require staff augmentation in the ASA office. The ASA staff doesn't have great numbers; in fact, we have fewer than ten professionals, and I didn't want to build up another bureaucracy. OMB suggested we should expand the staff. In fact, OMB indicated it would approve additional staffing for ASA if we wanted to exercise additional control over certain of the Corps' functions.

My decision was no, because I think we are better advised to require the Corps to do it, rather than try and, for example, have our own engineering staff perform a detailed review of the Corps' material that comes in. The Corps ought to do that, and I don't think that it warrants a duplicative staff in ASA. I think we ought to keep our staff as small as possible to carry out the responsibility that we have.

And it may be that you are right. It may be that we-- that ASA has not given enough attention to the area of money management, which is what I guess you are really talking about.

Q: I'll tell you what I am talking about--not so much keeping other books, but simply getting down into the roots of the organization and finding out why you have Districts coming up with these high estimates on what I sense is a habitual basis.

A: Well, this is an important area; and maybe ASA, certainly working with OMB, who has a great interest in that also, ought to take a look at this thing and see whether or not we should do something like that. But if it looks like it is a problem that ought to be looked at, ASA should watch that very carefully because I think they are interested in the prudent expenditure of funds--particularly in these times of budget constraints.

Q: Let me turn our attention to a subject I think we touched upon last time but maybe not as much as we ought to have, and that is the question of the Corps' role in mobilization. To what extent should mobilization be used to justify the Corps' continued involvement in civil works?

A: Yes. That's a troublesome one. I think I mentioned earlier that I went through mobilization in World War II. I felt that the work we did with a Corps of Engineers construction battalion at that time was expedited considerably by the effort of the District Engineer in Honolulu, Hawaii, which was the first place we went right after U.S. involvement in World War II began--we arrived a month after Pearl Harbor.

And with Hawaii in the mess it was, if it hadn't been for the District Engineer doing what he did in the way of lining up equipment and supplies, our job over there, which was to take care of a lot of the damage and prepare for potential invasion, would have been much more difficult. I think it is a very important role.

Now, a problem arises if you try to have a large stand-by force that is justified by mobilization. What are you going to have them do for a good part of the time until there really is mobilization? You can do a lot of mobilization planning, but a couple of people could do that.

The real demand is when you have a crisis. So it has always been hard for me to see how you can justify maintaining a staff solely for mobilization purposes. I just think that you have to have them doing some meaningful work while they also have a mobilization assignment. I have believed that the existing Corps

organization could be rapidly expanded or diverted in the case of mobilization, to take care of the country's needs. That happened in World War II, and I am sure the Corps didn't have the widespread organization that it has now.

So, mobilization is important. The Corps needs to be prepared for it. But to create a body of personnel who have that as their only assignment--I have trouble with that concept.

Q: Well, I know that Senator Moss back in the mid-1960s suggested one alternative when he was coming up with a suggestion for a cabinet-level office of water resources. He suggested that he would reassign the Corps' civilian personnel--civil works civilian personnel--to this new Department of Natural Resources, but with the understanding--the stipulation--that the personnel, when war seemed imminent, would have some specific mobilization assignment to do, but under civilians rather than under military.

Do you think that that kind of . . . ?

A: Well, I think that's basically the situation now. The Corps has, for example, a large civil works force, which, if there was a war emergency, would be diverted to those emergency needs. That is exactly what would happen. So whether you need more or not is an arguable point. But I think it is important that the Corps be able to do just what we are talking about--be able to take their present forces, redistribute them in terms of a national emergency, and use them where they would be the most necessary or most useful.

Q: What's your conception of the Corps as a federal engineer?

A: Well, as I said before, I think the Corps has the most competent assemblage of technical experts in the engineering field of any organization. And I believe other federal agencies, when they need that kind of expertise, ought to call on the Corps. I think the Corps should do more in the way of acting as a federal engineer. We tried, for example, to enlarge the Corps' area of responsibility with EPA. And I still feel that the Corps could do a better job, for example, of managing the Superfund than EPA. EPA needs to tell the Corps which sites need to be taken care of, but once that determination is made, then the Corps could do the job and, I think, much more expeditiously than EPA.

That may be true in other areas, too. The energy area has a number of things which the Corps could do, in the nuclear and other areas. The Corps in the past has done that. They had a mission here, quite a number of years ago, I believe, on post offices. So I believe the Corps ought to be the federal engineer where it is appropriate for a federal agency to provide those kinds of services.

Q: Let me pursue this thing with the Superfund for a moment. As I recollect, the Superfund program was passed during the Carter administration and had some trouble getting off the ground; and it didn't really get off the ground even after the Reagan administration came into power for quite some time. Can you explain what the situation was with Superfund when you came into office, and what you contributed to getting the thing going?

A: Well, principally, that is an EPA problem. Superfund is administered by EPA. My perception of the difficulty in recent years is that EPA had not got its act together with respect to Superfund. There was money there. It had to be set aside. There were funds there that could be available for that clean-up purpose. However, they hadn't decided what the problem was specifically at each site, what had to be done to remedy it, and set some sort of a priority.

The Corps pointed out to EPA that there were certain bottlenecks that EPA experienced in terms of land acquisition, etc.; and we said: "The Corps has got expertise in this area. Why don't you just tell the Corps you want them to clean up the site and let them move ahead doing everything necessary to carry out the mission." And I don't think we really ever accomplished that. I think maybe EPA did a little bit more, but still my belief is that they haven't called on the Corps as much as they could to help administer that program for the benefit of everyone.

Q: Do you have any reasons, have any ideas why they haven't?

A: Well, there may be a couple of reasons. There is the desire of any agency which has a responsibility to carry out, to build a work force to carry it out rather than to rely on a sister federal agency.

The other one is that I think EPA was under great pressure from the private sector, which felt that they could do it all. The private sector could not do the kind of thing we are talking about that I believe the Corps should do. For example, the Corps could

standardize designs on clean-up and could expedite the work. Now, I am not arguing that the private sector shouldn't do much of the work, but I thought there was a larger role for the Corps to play than the one they have been playing in the Superfund clean-up program.

Q: To what extent were you involved in attempts to reorganize the Corps? Actually, I say attempts. There were some cases where the changes were actually made, of course. Now, let me divide it into two areas. First of all, going back to when you first came into your office, there were decisions about closing down some Districts and realignment--realignment both of District functions and specifically of regulatory functions. What was your feeling about all that? Did you feel the Corps had too many offices out there?

A: Well, let's break it down into two parts. Let's talk about the District offices, first of all. I think the Corps was under considerable pressure from OMB, in terms of reduction of personnel as a result of budgets going down, to utilize their personnel in a more efficient way. The Corps, itself, then determined--because I remember talking to General Bratton about this--that it could do that best by closing down certain offices or changing some of the functions, which it tried to do but politically could not accomplish.

I agreed with the Corps. I thought that the Corps was right. If you are going to be squeezed on forces, it is better to maintain a full capability here and not try to spread them out and not have the capability anywhere. So I agreed with what the Corps was trying to do, but it wasn't able to be accomplished.

With respect to regulatory reform, I think we felt that the regulatory reform effort throughout the Corps should be beefed up. In other words, that additional personnel and the level of those personnel should be higher than it was. We wanted the Corps--and they did, at our suggestion--to look at, for example, raising the regulatory personnel in the Districts and the Divisions to a higher level, so that they more nearly approached that of the engineers rather than a much lower level, so that you could attract even some engineers into those regulatory jobs.

So I think, in terms of regulatory reform, we did push the Corps pretty hard to look at upgrading their regulatory personnel and augmenting it to take care of what we perceived to be a pretty important problem.

Q: Aren't many of the people in the regulatory branches already engineers?

A: Some of them are. But a lot of them are not--at least, that was my understanding. There may be more of them now; but I think if you go back three years, you will find a lot of those who were heading the regulatory effort were not. It was difficult to keep good engineers in regulatory reform due to lower pay and classification.

Q: Do you think there is any way of getting around the kinds of congressional pressures you have to deal with when you are talking about closing down District or Division offices, mainly by reassignment of their functions?

A: There has got to be some way to get around that problem, because it doesn't make any sense to maintain a District office where it can't function properly. If you are going to strip it of some of its key personnel, then you might as well do away with the office and let that be handled by an adjacent area, for example.

Politically, I don't know how you do it. Every congressman who had a District office, or every senator, if you were going to take it and move it out of his state, will be heard on the issue. Hopefully, there will be enough statesmen around that ultimately they will see the merit of doing whatever is proposed in the way of consolidation or whatever, and will not resist us on that.

I think the only way, probably, to do it is to be careful that you take into account the political considerations. For example, if you are going to close down an office in one area, have some way of offsetting that somehow, so that it doesn't become completely negative throughout.

Q: Offsetting it presumably by giving that area another kind of office? I mean, it wouldn't have to be a Corps offset necessarily--is that what you are suggesting? It could be an offset from, say, a large Naval contractor or something like that.

A: It could be--yes. It could be anything along those lines. The military bases have the same problem. Every time you try to close down a military base, you have the same problem. So it is a problem that is not unique to the Corps' District offices; but it is a problem that, I think, runs through the federal government in many departments where they want to change their organizational structure.

Q: Talking to you about reorganization and so forth leads inevitably to discussing the Grace Commission report.

A: Yes.

Q: Let me ask you, first of all, do you know Peter Grace at all? Did you have any . . . ?

A: No. I don't know Peter Grace.

Q: Did he talk to you, or did any of his people talk to you?

A: I think I had one session with two of the people who were assigned to the Defense Department, who ultimately got to work on some of the Corps' material.

Q: They made several rather significant recommendations concerning the Corps of Engineers. And I would like to talk about a couple of them. First of all, they recommended that on the civil works side, the Corps contract out more AE&D work.

A: Well, let me--before you ask--comment on the Grace Report in general.

Q: Okay.

A: When Reagan became governor, he did a similar thing. He appointed what he called a Citizens Task Force to work with the various departments of state government for a period of time, and they were on leave from their industry. The department that I headed had about six of these businessmen, assigned for six months, who came and physically were present in our department for the entire period, talking to all of us, having numerous conferences, and so forth. They came up with some 85 recommendations, and we implemented about 75 of them. Their assignment was completed within about nine months of the time the administration took office.

We couldn't implement some of the recommendations because it took legislation or involved other parties. But I viewed their efforts very positively, and they really brought into state government the private sector viewpoint.

I don't view the Grace Commission effort quite the same way. My experience with the Grace Commission, in terms of, say, the civil works function of the Corps, consisted of one talk with them for maybe an hour. I made some suggestions to them, and there was no indication they followed up on any money-saving suggestions. They also

came up with some recommendations that, in my judgment, were impractical. And so, basically, I guess I have kind of a lukewarm feeling about the efforts of the Grace Commission, having seen essentially the same thing in California.

Q: I am glad you put that in. Well, of course, their recommendations caused some consternation within the Corps of Engineers, and as I was saying before, one of the recommendations was that the Corps contract out a lot more of its AE&D work. It looked to the military side and saw there was a substantial percentage of AE&D work that was contracted out, and the question was, why can't civil works people do the same amount of contract work. Do you have any response to that?

A: Well, I think--my own feeling on how you divide up the work is that you try to maintain a capability in the Corps, for example. In other words, you have to have enough work to keep a competent hydrologist or a seismologist, for example. Then you build a work force that has enough of those disciplines to take care of the problems that continually confront the Corps.

Then, if you have peak loads, my feeling is that you ought to handle those peaks with the private sector to the maximum extent possible. It is very disruptive and inefficient for an organization like the Corps to have to go through extremely high peaks and valleys of personnel. You just can't keep a competent work force if you have to do that.

The ideal thing would be to have a work force at what you might call an optimum minimum level, so that you aren't hiring and firing people every year; then, as you have additional needs for something very special, you bring in the outside sector.

Q: If I can be the gadfly for a moment, then what about the idea that you simply have a sufficient number of engineers to act as quality control managers and administrators, so to speak, but you still let the private sector do most of the work; and then the work would simply have to be approved, of course, through channels--through District, Division, and OCE. But it would be a small body of presumably top-level engineers, who would be saying, "Okay, this work coming in from Morrison Knudsen"--or something like that--"it's good work, you know, go to it." What about that idea?

A: Well, I think that's going too far. If you are going to have a federal agency that has a capability to take on

different kinds of things, then you have to give that agency, it seems to me, the personnel and the expertise needed to carry out those things. Remember, also, the need to have a mobilization capability within the Corps.

Again, I believe that there is an appropriate role for the federal agencies, as well as state or local agencies, to have in connection with this kind of a function. It relates also to maintaining a capability to take care of emergencies or contingencies. Mount St. Helens is a good example. I think the Corps responded to that more quickly, probably, than anybody in terms of going up there and handling the problems that occurred. If you had had to staff up for that, it would have taken a long time, and you'd go out on competitive bidding. So I think there is a justification for a federal agency, and the Corps as we are now talking about, to have a continual capability in certain areas.

I think, really, a quality control plan would not go nearly far enough. At least, that's my judgment.

Q: Well, another suggestion that came out of the Grace Commission was that serious consideration be given to the consolidation of construction agencies. Do you have any response to that?

A: Well, when you say construction agencies, I don't know how far you go. If you are talking about water, I suppose you are talking about, really, three--Bureau of Reclamation, Soil Conservation Service, and the Corps.

Q: They may have thrown in TVA, too. I'm not certain.

A: Maybe TVA, too. Well, I guess my only response is that, while there certainly is some overlap--obviously there is--they have separate functions. For example, the Bureau of Reclamation operates only in the 17 western states. Its primary mission is irrigation. Okay. While the Corps does operate in the western states, it doesn't have, as I view it, a primary mission of irrigation. So irrigation takes a special kind of people to make various crop studies and water requirements and other related information.

I don't think that there is necessarily a duplication. So I don't know that you accomplish too much by trying to bring them all together, because then you would have to segregate them again, according to their areas of responsibility. Soil Conservation Service has concerned itself with small structures, working with the farmers very meticulously; so I don't think you save anything by

bringing the Soil Conservation Service engineers into the Corps, for example. I don't really think you save anything by putting together these various agencies--the consolidation of these organizations.

Q: I take it that you would not agree with those people, those critics, who say that the Corps of Engineers should get out of the civil works business.

A: No. I think there is a need for the Corps in that area, and I think it fills that need well and should continue to do so.

One of the other things the Grace Commission said that I don't agree with is that operation and maintenance should be turned over to the private sector; and I can't see that at all. Take, for example, the inland navigational system. I just can't envision anyone other than the Corps operating the nation's navigation systems. I think that was a misdirected recommendation. Certainly, as related to things like navigation that the corps does.

Q: I want to take a moment to talk about some of your non-Corps of Engineers activities as Assistant Secretary, but let me jump to another question and then come back. And the question is, can you explain why you left the office?

A: It was understood at the White House. I guess it was a combination of things. First of all, I never had any intention of staying longer than one term. And, secondly, I felt that in an approaching election year, I couldn't really accomplish much more by staying in the job. And I had a strong desire to return to California.

Q: Could you elaborate on what you mean by stating that with the election year coming, you wouldn't be able to . . . ?

A: Well, the Congress seemed to me to have a hard time dealing with some of the difficult problems, as did the administration in an election year. For example, in the areas of cost sharing, there was no great progress going to be made in that area because people didn't want to rock the boat. I thought I had given all the input I could give to the administration and to the Congress on that subject, and I didn't see any useful purpose in staying around any longer.

Q: Would you say that part of the problem was the Secretary of the Interior?

A: Well, I wasn't too happy with Interior on a couple of

occasions. But I wouldn't say that contributed to my decision to leave, no.

Q: In the Cabinet-Council, did not you and the Secretary or the Secretary's representative have some differences of opinion on cost sharing?

A: Yes. Particularly when Secretary Watt was there. I wasn't there long enough with Secretary Clark. But I think Secretary Watt and I did have some differences, largely by virtue of the different missions of our two organizations. Reclamation, in my judgment, has a different kind of project authorization procedure, for example. Each one of their projects is authorized on an individual basis. They go before different committees. And by and large they are very large projects, and each one of them is different, so they can orchestrate it without worrying too much about consistency.

I view the Corps' problem as different. I view the Corps as operating on a 50-state basis, and it is very important that the Corps deal uniformly with its constituency. For example, people who were desirous of flood control--the amount of federal contribution for flood control should be the same throughout the United States.

We had some differences of views in that regard; but again I don't view them as having been critical, and certainly they didn't play a significant part in terms of my decision to return to California.

Q: Well, I can understand your wanting to come back to Pebble Beach.

A: Yes. It was always my intention to do so.

Q: Mr. Gianelli, let's turn out attention for a moment to the non-Corps activities that you were involved with as Assistant Secretary of the Army for Civil Works. Two major non-Corps activities are the involvement in the Panama Canal and the administration of Arlington Cemetery. First of all, let me ask you how much time do you think is spent by the Secretary's office each year on Corps of Engineers work, Arlington, and the Panama Canal. Can you give me a rough kind of breakdown?

A: Yes, I have tried to do that and thought about that quite a bit. I'd say, if you took a time allocation, about 75 percent of my time would go to the Corps, about 20 percent to Panama, and maybe about 5 percent to Arlington, roughly. However, that changes from time to

time.

For example, the Panama Canal Commission required, when you went to Panama for a board meeting, a week at a time. But then there might not be anything for a couple of weeks or very little for the next two or three weeks after you got back. But I would say that's about a breakdown in terms of time and probably personnel, too, if you look at the personnel in the ASA's office.

Q: Do you have many people, or any people, who get involved in these three different areas--you know, just one person getting involved in three different areas?

A: Well, before I left, we took steps to reorganize part of the office. And I might indicate that to you. Before, we had a military assistant to the Panama Canal Commission chairman, who operated on a full-time basis on the Panama Canal activities, provided liaison in defense-related matters, and so forth. He also had a personal secretary. So those were two people.

The secretary of the commission has an office over in the Pennsylvania Building, in the District, and has, in addition to himself, about half a dozen people that work with him there. They primarily interface with the Congress and take care of the commission's activities that way. That office was responsible to me as the chairman of the commission, but it was separate from ASA. In other words, that's all they did.

Just before I left, it became apparent that we didn't need a military assistant on a full-time basis for Panama, so the office is now going through a reorganization. The full-time military assistant left for another assignment in September. In anticipation of that, we have taken the assistant executive officer of the ASA office and given him the responsibilities for Panama Canal and Arlington matters, in addition to backstopping the executive officer. These are both military colonels--one is a full colonel; the other is a lieutenant colonel. So from now on there will be a military person who does operate in the three areas, but his prime responsibility will be Panama. And then, beyond that, he will do Arlington. If he has any time left over, he will help out the executive officer.

Q: How about civilian personnel?

A: Civilian personnel, the female secretary, will be the same way. She will be allocated to the three functions basically, instead of solely with regard to the Panama

Canal. And that's about the only change, although the Panama Canal Commission office will stay the same over in the District.

Q: Okay, well, regarding the Panama Canal, what are the primary activities that you get involved with?

A: Well, let me also say as a further reasoning for the reorganization of the military assistants, I believe that it would be helpful to have a Corps officer as the person who would be involved with the Panama Canal affairs. That has not been the case in the past.

The Panama Canal Commission is a unique agency. It is a nine-person commission with five U.S. members and four Panamanians. I am the chairman of the commission, and the law provides that I can control the vote of the U.S. members if that were ever necessary. I have only done that once. My job as the chairman of the commission is to preside over the commission meetings where policy is established and budgets are considered. The chairmanship also requires considerable testifying on the Hill for the commission.

Q: May I ask what was the particular vote which you . . .

A: It had to do with a wage issue that was presented to the commission, as I recall.

Q: How many times a year did you go down to Panama?

A: About four or five times a year. While I was in the job of Assistant Secretary, I went down there 16 times over the approximately three-year period. The commission normally has four meetings a year, and three of the meetings are in Panama and one in the United States; but I found it necessary to go down there between meetings on occasion to take care of some element of business for the commission. For example, I accompanied the Secretary of Defense on one of his visits last year; I wanted to be sure he had an opportunity to view some of the canal operations.

Q: What kind of things are you talking about?

A: Well, some of the commission's activities interface with the military and the defense of the canal, and the defense generally. So it is necessary for me, as chairman of the commission, to keep in touch with the Southern Command, which operates out of Panama. Many of the personnel problems we have cover both military and commission personnel. Mr. Weinberger had not been to

Panama before, and I was anxious that he see the operation of the canal and some of its problems.

The commission will go out of business in the year 2000 when the whole facility is turned over to Panama. In addition to the full-time U.S. administrator, there is a Panamanian deputy administrator on the job. The two of them operate as the managers of the system on site, but the policy decisions are made by the full commission.

Q: Was there not a Panama Canal Commission before the treaty, too?

A: Yes, throughout recent years prior to the treat, there was the Panama Canal Company which was headed by a Corps of Engineers general acting as Governor of the Canal Zone. There was also a board of directors that served this Panama Canal Company. That all changed with the treaty. The treaty did away with all that, and you now have a commission, a nine-man commission, which will be in existence until the year 2000.

Q: And you are the chairman of the commission.

A: I'm the chairman.

Q: You still are chairman of the commission?

A: Well, yes. What happened was that when I indicated that I wanted to come back to California and resign my position as Assistant Secretary of the Army, the Secretary of Defense indicated that he would like very much for me to stay on as chairman of the Panama Canal Commission. I told him I would be willing to do that on a voluntary basis if the law could be changed that would authorize me to do that, since the present law assumes the Assistant Secretary of the Army for Civil Works would carry out that function. Legislation was introduced and was passed in June and signed by the President, allowing me, even though I retired from my position as Assistant Secretary, to carry on as chairman of the Panama Canal Commission at the pleasure of the Secretary of Defense.

Q: Does it specifically name you?

A: Yes. It names me. Now, when I leave, the function will undoubtedly go back to the ASA unless they change the law again. But a specific law was passed to allow me to continue as chairman of the Panama Canal Commission on a voluntary basis, without pay, so long as the Secretary of Defense wanted me to do so.

Q: Why do you think the Secretary was so keen on having you remain?

A: Well, I think he believes that the chairmanship of the commission is a very sensitive position. I had been down there for three years. Practically all of the members of the commission are recent appointees, except one who carried over. I believe he just felt that at this particular time, with the new president of Panama going to take office in October, it would be better to have an experienced person involved for the time being.

Q: Does that also mean that, in fact, you still have authority in OASACW--I mean, in terms of dealing with the people there who are working on Panama Canal matters?

A: Well, for example, the military assistant that I talked about will be responsible to me in terms of Panama Canal Commission activities. He will be responsible to ASA, whoever is there, for other functions that he performs. So there will still be an interplay, that's right.

Q: What is your feeling about the Panama Canal treaty?

A: Well, I think something had to be done down there at the time they signed the treaty. I am reading another book, incidentally, which gives the history of the negotiations, by former Ambassador to Panama William Jordan. I'm only part way through it. But it talks about all the negotiations, which I'm finding very enlightening. I guess my feeling was that something had to be done down there to change the relationship with Panama. Whether we had to go as far as we did or not, I think, is still a question, but I certainly don't think it is up to me to second-guess those people who were negotiating the treaties.

We are having some problems now that could have been avoided if the treaty had allowed more discretion to the commission. So there are some things, in hindsight, that would have been a lot easier if they had done them differently, certainly.

Q: Is the Panamanian government cooperating with American authorities in general?

A: Well, generally, but one of the things that I have perceived is that the economy down there is in very bad shape. Any time the government of Panama can get some additional outside financial help from anybody, they are going to try and do it. As a result, it seems to me they are making continual efforts to get the United States to

do more things down there which probably are not appropriate for the United States to do. For example, one of the arguments we are having right now is on widening the canal. The Panamanians think the U.S. government should provide funds for the enlargement. We don't think that's the case. It should be funded by those who will benefit from the work.

The other problem that concerns me somewhat is the lack of continuity in the Panamanian government. For example, they will have had four presidents there since I've been on the commission in the last three and a half years.

The other thing that I worry a little bit about is whether or not, when the Panamanians assume the responsibility for operating the canal in the year 2000, they will perform the necessary maintenance to keep the canal open and operating. The trans-isthmus railroad, which was turned over to Panama at the time of the treaty, is in very bad shape now due to lack of maintenance and attention.

Q: Are there some issues dealing with Panama that perhaps you want to put on the tape that I haven't asked you about?

A: Yes. There are two--two big issues that are going to have to be faced. One of them is whether or not the canal can be widened. There are certain stretches of the canal that are constrained now, primarily the Culebra Cut where only one ship can go through at a time. That widening will cost several hundred million dollars. The other issue is that the treaty required a study to be made before the year 2000 on whether or not it was feasible to build a sea-level canal. And that is going to be a controversial and complex issue and a difficult one. The State Department is heading a task force to look at that problem. The Corps has a member on that task force. He attends every meeting on this subject. They are developing the study plan right now. One of the things the task force is coming up with, in addition to studying the sea-level canal, is to look at other alternatives, like adding other locks or enlarging the present system.

Those are going to be two issues that will be in the forefront in the years immediately ahead, in addition, of course, to the continuing problems that the canal has in terms of its operation and maintenance.

Q: Well, generally speaking, what kind of problems are you talking about?

A: Well, those are the problems of a system more than seventy years old--keeping it operating. The problems of setting adequate tolls to make certain the canal operation is self-supporting.

Another argument before the Congress now is on accident claims; how claims to accidents are to be handled. The treaty provided that the claims on accidents outside the locks be handled differently than those inside the locks. P.L. 96-70, which implemented the treaty, provided that the Congress had to approve damage claims over \$120,000 outside the locks. The Congress has received about a dozen of those claims in the last few years, and it hasn't been able to act on them. This inaction presents a difficult situation.

Another problem is the desire by some of the South American countries to keep the tolls at a very low rate and to give themselves some sort of a priority, because they say they have a vested interest in the canal and should be accorded special treatment. There is also agitation to make the Canal Commission operate independently as a corporate entity rather than being an appropriated U.S. federal fund agency. At present we have to secure approval of the Congress on appropriations, yet we have to operate within the tolls we collect.

You also have the continuing problem that the Panamanians don't recognize Public Law 96-70, which is the implementation law passed by the Congress following the treaty. These are just some of the problems.

Q: When was the last time tolls were raised?

A: We raised them a year ago in March. About a year and a half ago.

Q: Do you have any idea how many times the tolls have been raised since . . . ?

A: Not very many times. In fact, I think this was about the third toll increase. There was an increase when the treaty was passed, because with the advent of the treaty we are now paying Panama around \$75 million a year, whereas before they were paid only one or two million dollars. So there had to be a big increase at the time the treaty was signed; but the one last year was the first one since that time.

We don't believe we are going to have to raise tolls

again next year so long as the traffic goes up. One of the things that happened to adversely affect the tolls was that the Panamanians in 1982 built a trans-isthmus oil pipeline, which eliminated about six ships a day that formerly transited the canal. That drop in traffic was a big drop in revenue for us. That is one of the reasons we had to raise tolls last year. Those big supertankers that came down from Alaska pumped oil across the isthmus in a pipeline instead of using ships. In addition, ocean traffic was generally down everywhere in the world.

Overall, I believe it makes sense to have the commission as part of the ASA's civil works activities, because there are interfaces with the Corps. It is an engineering job. The Corps did supervise the completion of the canal; and if any substantial new work is going to be carried on there, I would expect the Corps to have a major role in that.

Q: Let's turn our attention to Arlington Cemetery for a moment. Any particular problems associated with Arlington?

A: Yes. Arlington has a number of unique problems, and that's one area in my Washington assignment where I probably accomplished the most. I was able to get a commitment out of OMB to build a visitor facility at Arlington, which is very badly needed. In the budget that we worked out with OMB this year, \$700,000 has been allocated for design; and OMB is committed in the next two years to provide \$15-\$20 million to complete the visitor facility. So I am very, very pleased about that. The other thing that we accomplished was the interment of a Vietnam unknown. I am pleased now that our efforts culminated in the interment of a Vietnam unknown, so that he could be honored as well as the unknowns from World Wars I and II and the Korean conflict. I feel good about having a major role in each one of those efforts.

There are other continual problems with Arlington Cemetery. For example, there is the matter of qualification for burial. Extremely sensitive. The law provides that certain criteria have to be met before you are eligible to be buried there, and there are provisions for exceptions to those rules. Decisions on exceptions have to be made by the Secretary of the Army or by the President. The requests are extremely sensitive sometimes because they may be from important political figures or other prominent Americans.

We have been able to administer that program and make recommendations both to the Secretary and to the

President on interment with a minimum of conflict. I believe we have kept it the way it was originally intended--as a shrine for those war dead who served their country.

Q: I would just like to ask you a couple of questions in closing. Were you always a Republican?

A: No. I've not always been a Republican. In fact, I was appointed by the then Governor Reagan in California when I was a registered Democrat. I was one of his first appointees and was his first appointee as a registered Democrat. I had not been active in politics, but I was registered as a Democrat at that time. I have since changed but did not do so until I left the Reagan administration in California, because I didn't want to be accused of changing my registration in order to court his favor. So I stayed a Democrat until I resigned as Director of Water Resources. Then I changed to a Republican about 11 years ago and have been one ever since.

Q: Would you--to what extent would you think of yourself as a political animal?

A: I really never have thought of myself as a political animal but rather as a professional engineer. That's partly responsible for the way I approached some of the problems that I believed the Corps had. I guess I wanted the Corps to be nonpolitical, and I wanted to have the Corps do things which were nonpolitical and based on merit. In retrospect, I guess that's a little naive. But I still harbor the desire to see the Corps have to react to political pressure as an exception rather than the rule.

I am told that I got much more involved with what the Corps was doing during my term than any of the other Assistant Secretaries have since the office was created, and I guess that reflects on the fact that I feel I am more of a professional than I am a political person.

Q: You might recall the last time I talked to you; we had this little dialogue at one point in which you were talking about the Board of Engineers for Rivers and Harbors and about their being more responsive to some of the administrative positions than they have been. And I said something to the effect, "Isn't that bad, though, injecting political questions into an independent review process?" And you said, well, you just thought that was good management. And so the question is, do you think that the Republican philosophy, at least as articulated

by Ronald Reagan and by the people whom Reagan has appointed, reflects better management?

A: Well, let me say this. When you talk about the Corps' civil works programs, I view, for example, the last administration of the Democrats as being more detrimental to the Corps' civil works programs than our efforts. For example, President Carter, as I recall, very prominently made it known that he wasn't enthusiastic about civil works projects and even had a hit list of federal water projects.

I have never been able to tell what the rationale was for developing that hit list, if he had one. We haven't approached the problems that way. The President believes there is a role for the federal government, say, in water resource development. And there is certainly a role for the Corps in the federal government. But that role has got to be an appropriate one. So I guess what we were trying to do was to build a base which would allow good Corps civil works projects in the future to go ahead unencumbered by the political pressure that I think has existed in the past. That was my goal, at least, because I could see from my exposure that the Corps was being required to do some things that didn't make much sense in terms of project feasibility or needed projects.

So I guess I had hoped to develop a system that would be more meritorious and more nonpolitical, which would allow projects to go ahead when they had merit, and which would provide funding other than solely from the federal government.

I have viewed what this administration has been trying to do as being more for good water projects but changing the way in which they were authorized and funded. We didn't have any kind of a hit list. But what we did try to say was, "Let's have the good projects go ahead and provide more of a system whereby meritorious works could proceed whether they were sponsored by an influential member of Congress or not." Hopefully, it would remove connotations of pork barrel. At the same time, the credibility of the Corps' programs, both within the government and more importantly with the taxpayers themselves, would be enhanced.

Q: Well, in closing then, let me give you the opportunity to make any other comments or observations you wanted to make that maybe I haven't elicited from you at this point.

A: No. The only point I want to leave, though, is that I

had a very high regard for the Corps when I came into the job, from my past exposures and from being a World War II Corps officer. I still have that high regard for the Corps. I think maybe many of your questions tended to focus on the negative and to create the impression that I am not a Corps supporter.

I guess my hope is or was to have the Corps operate in what I believe would be a highly professional manner, which would enhance its reputation throughout the nation as the government's engineer. So I hope that, in retrospect, anybody who views my time in Washington will see it as one in which I tried to make some changes but with the hope and expectation of enhancing the Corps as an entity, rather than tearing it down. I had no desire and still have no desire to dismantle the Corps. That is the furthest thing from my mind. But what I did have in mind was to try to make it operate in a way that I felt was more responsible and which would add to its credit in the future. If anything, I hope people can look back on some of the things that I tried to do as forerunners of the future and as attempts to move the Corps in that direction.

Q: Mr. Gianelli, your answer leads me to another question. And let me just make one observation before I ask you the question.

As you must know, or realize, the relationship between you and the Corps was not always smooth. There were times that the Corps, I suppose I can speak generically, was somewhat suspicious of your motives. At least reluctant sometimes to implement your decisions. And so the question is, now looking back, is there anything you think you could have done to smooth the relationship with the Corps: something that may have gotten what you wanted done quicker, but might not have ruffled the feathers of some of the people in the Corps as it did?

A: There is one thing that I did feel bad about and that was that I wasn't able to spend more time with the Districts in the field. I really felt that some of the things we were trying to do didn't get down to the District level in the way that I intended. I think it would have helped to have more sessions at the District level with District staff so that there was a chance for dialogue back and forth. I think that would have been more helpful. Unfortunately, there are only so many hours in the day. In retrospect, I would have tried, somehow or other, to reprogram myself and let some other things go at the Washington level in order to spend more time in the field, particularly with the Districts, because

that's where the people meet the public. And while OCE is important in terms of the scheme of things, as are the Divisions, the District Engineers are the fellows who are really on the firing line; and I think it would have been helpful to spend more time with them.

The other thing that I wanted to do, and I just got started at the end, was to make arrangements for communicating with the field directly. I found that if there was a particular subject of interest, I could bring in somebody who was an expert in that area and tape an informal dialogue for immediate distribution to the field. The feedback from those tapes was helpful in knowing how well our messages were getting down to the District level. I used this technique quite successfully in California. I did that once with the Corps, and it was in connection with a presentation I made to the Congress on regulatory reform. I don't know whether you ever saw it or not, but we found out that it had been taped by one of the public education TV channels. So we got the tape, and I spoke at the beginning and at the end of the tape to put it in perspective, and we sent it to the field. I got some very favorable responses.

Q: How about OCE? Is there anything that you think you could have or would have done differently?

A: I don't know whether there was anything more with respect to OCE specifically. There might have been some more informal sessions with key personnel on various subjects, again, to provide me with their input as well as to keep them better informed on what I was trying to do. In other words, more of a two-way dialogue. I always felt more resistance to change at the OCE level than at the District level.

Q: How much were you involved in the reorganization of OCE?

A: Practically not at all. It was submitted to me, and I asked General Bratton to hold it up for a while--which he did--because, you may recall, it came about at the time we were having a new Director of Civil Works. I asked the general to hold it up until we had a new director on board, which he did. The reorganization was his idea. We finally signed off on the arrangement, although I still have some mixed feelings about whether it was good or not. However, the Chief was anxious to bring it about; so when we were able to get the new Director of Civil Works aboard and he could feel comfortable with it, we approved implementation. But it was at the Chief's initiation.

Q: Why would you have to sign off on something like that? I mean, it is an internal Corps reorganization.

A: Well, the problem was, it changed some of the relationships that ASA had with the Corps' top people. I think the Chief did it probably as a matter of courtesy, and I think if he hadn't done it, it might have created some problems. I think in anything that affects the interrelationship of the office, it's good, certainly good management, to run it by the office of ASA, whether it is required or not.

Q: Okay, well, thank you very much for your time.

A: Well, I am delighted.

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USACE Suppl 1 to AR 190-29

DAEN-CWO-R

DEPARTMENT OF THE ARMY
U. S. Army Corps of Engineers
Washington, D. C. 20314

USACE Supplement 1
to AR 190-29

20 August 1984

Military Police
MISDEMEANORS AND UNIFORM VIOLATION NOTICES REFERRED TO U. S.
MAGISTRATE OR DISTRICT COURTS

Issue of further supplements to this regulation by Commanders, FOA, is prohibited except upon approval of DAEN-CWO-R. If supplements are issued, Division Commanders and CDR, separate FOA will furnish one copy each to HQDA (DAEN-CWO-R and DAEN-ASP-R) WASH DC 20314; DIST CDR will furnish required copies to the appropriate DIV CDR.

AR 190-29, 1 April 1984, is supplemented as follows:

Page 1, Applicability. Add the following:

This regulation also applies to all U. S. Army Corps of Engineers civilian personnel with the authority to enforce the petty offenses contained in 36 CFR Part 327.

Page 1, Sec I, Para 1, Purpose. Add the following:

It also pertains to violations of 36 CFR Part 327 committed by persons on lands or waters owned in fee by the United States at U. S. Army Corps of Engineers civil works water resource development projects.

Page 2, Sec II, Para 7, Court appearances. Add the following:

U. S. Army Corps of Engineers civilian personnel with citation authority will coordinate, through the proper district office channels, with local U. S. Magistrates or District Courts to obtain a court-approved list of offenses requiring a mandatory appearance.

Page 3, Sec III, Para 8, General. Change the following:

b. Corps personnel will substitute "appropriate district office channels or the U. S. Attorney's Office" in place of "the installation staff judge advocates" in this section.

b. (1) It will be the option of each district to pre-stamp the district court office on DD Form 1805.

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Page 3, Sec III, Para 9, Completion, issue, and disposition procedures. Add the following:

b. (1) Each district office will coordinate with the U. S. Magistrate's office the automated location code to be entered on DD Form 1805.

Change the following:

b. (2) Corps personnel with citation authority will enter their badge numbers instead of their social security numbers in the appropriate blocks.

Add the following:

b. (4) Each district office will coordinate with the U. S. Magistrate's office the automated identification codes to be entered on DD Form 1805.

Page 4, Sec III, Para 11, Notification to commanders and supervisors. Add the following:

c. For the U. S. Army Corps of Engineers, ENG Form 4337 (Offense/Incident Report) will be used in lieu of DA Form 3975 (Military Police Report) to notify installation commanders of violation notices issued. ENG Form 4337 will be mailed to the installation to which the cited employee is assigned, Attention: Provost Marshal.

Page 5, Sec IV, Game Enforcement. This section does not apply to the U. S. Army Corps of Engineers.

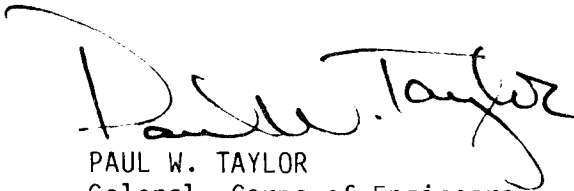
Page A-1, App A, Brief Preparation Guide for DD Form 1805. Change the following:

A-1 (a) Corps personnel will enter their badge number in the appropriate box instead of their social security number.

Page B-1, App B, Common Hunting, Fishing, Trapping, Environmental Protection, and Safety Violations.

This Appendix does not apply to the U. S. Army Corps of Engineers.

FOR THE COMMANDER:


PAUL W. TAYLOR
Colonel, Corps of Engineers
Chief of Staff

Headquarters
Department of the Army
Washington, DC
1 March 1984

***Army Regulation 190-29**

Effective 1 April 1984

Military Police

**Misdemeanors and Uniform Violation Notices Referred to US Magistrate
or District Courts**

Summary. This regulation sets forth the revised objectives and procedures applicable to the referral and trial by US Magistrates of misdemeanors committed on Army installations. It describes the proper use, preparation, and disposition of the revised DD Form 1805 (United States District Court Violation Notice) used to refer offenses to the US Magistrate.

Applicability. This regulation applies to the Active Army. It does not apply to the Army National Guard or the US Army Reserve except when serving as part of the Active Army. It applies to all military and civilian law enforcement and security personnel assigned to Army installations and to contractor personnel when authorized to issue violation notices.

Impact on New Manning System. This regulation does not contain information that affects the New Manning System.

Supplementation. Supplementation of this regulation is prohibited without prior approval from the Office of Army Law Enforcement, HQDA(DAPE-HRE), WASH DC 20310.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested improvements. The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA(DAPE-HRE), WASH DC 20310.

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**Section I
General**

1. Purpose

This regulation sets forth policies and procedures for the handling of misdemeanors referred to US Magistrates or District Courts. It pertains to petty offenses and other

misdemeanors, including, but not limited to, most moving and standing traffic violations, and certain violations of conservation, environmental protection, and safety laws, committed by service members and civilians on military installations.

*This regulation supersedes AR 190-29, 17 June 1977.

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2. Related publications *

Related publications are listed below.

- a. Section 13, title 18, United States Code (18 USC 13).
- b. Section 668, title 16, United States Code (16 USC 668).
- c. Section 703, title 16, United States Code (16 USC 703).
- d. Section 718, title 16, United States Code (16 USC 718).
- e. Section 3372, title 16, United States Code (16 USC 3372).
- f. Sections 3401 and 3402, title 18, United States Code (18 USC 3401 and 3402).
- g. Title 18, United States Code Annotated (Rules of Procedure for the Trial of Misdemeanors before United States Magistrate, 1 June 1980).
- h. AR 190-5 (Motor Vehicle Traffic Supervision)
- i. AR 340-18-5 (Maintenance and Disposition of Intelligence, Security, Military Police, and Mapping Functional Files).
- j. AR 420-74 (Natural Resources: Land, Forest, and Wildlife Management).
- k. FM 19-10 (Military Police Operations).

*Related publications are merely a source of additional information. The user does not have to read them to understand this regulation.

3. Explanation of abbreviations and terms*a. Abbreviations.*

- (1) CVBCentral Violations Bureau
- (2) DMVDepartment of Motor Vehicles
- (3) DODDepartment of Defense
- (4) MOSmilitary occupational specialty
- (5) MPmilitary police
- (6) SSNsocial security number
- (7) UCMJUniform Code of Military Justice
- (8) USUnited States
- (9) USCUnited States Code

b. Terms.

(1) *Collateral*. Payment of a fixed sum in lieu of appearance in court.

(2) *Juvenile*. A person under 18 years old.

(3) *Misdemeanor*. Any offense not punishable by death or imprisonment for a term exceeding 1 year. Included are violations of those provisions of State laws made applicable to US military reservations by 18 USC 13.

(4) *Officer*. Any Army installation law enforcement agent, either military or civilian, who is authorized to issue DD Forms 1805, (including Statement of Probable Cause and, if appropriate, Promise to Appear portions of DD Form 1805).

(5) *Petty offense*. Minor misdemeanors that are not punishable by imprisonment for more than 6 months or a fine of more than \$500.

4. Responsibilities

a. Provost marshals or security officers charged with law enforcement operations will establish procedures to—

(1) Enforce all laws and regulations pertaining to misdemeanors.

(2) Select, train, and employ Army installation law enforcement personnel in accordance with doctrine contained in FM 19-10.

(3) Assure adherence by Army installation law enforcement personnel to provisions of this regulation with the exception of changes dictated by the US Magistrate or District Court of the judicial district in which the installation is located.

b. Installation staff judge advocates will advise Army installation commanders and provost marshals or security officers concerning implementation of this regulation as requested.

**Section II
US Magistrate System****5. Relationship to US Army**

The US Magistrate system provides DA with the means to process and dispose of certain categories of misdemeanors by mail. Under this system, US Magistrates and District Courts may, by local court rules establish the payment of a fixed sum in lieu of court appearance in cases involving certain misdemeanors.

6. US Magistrate system objectives

This system will provide—

a. Uniform procedures for the collection of fines, the forfeiture of collateral in lieu of appearance of fines, the forfeiture of collateral in lieu of appearance, the scheduling of mandatory hearings or voluntary hearings requested by defendants, and the keeping of records.

b. A simple but sure method of accounting for fines, for collateral, and for violation notices issued.

c. Convenience to the public.

d. Enforcement of misdemeanors laws on Army installations.

7. Court appearances

a. Each District Court may determine, by local court rule, which offenses require mandatory appearances by violators. Installation provost marshals or other law enforcement officials will coordinate through installation staff judge advocates with local US Magistrates or District Courts to secure a court-approved list of offenses requiring mandatory appearance before the local US Magistrate.

b. Optional appearances may be requested by violators—

(1) *At the time a DD Form 1805 is issued*. Law

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enforcement officials issuing the DD Form 1805 will refer violators to the proper US Magistrate if a hearing is requested by the violator.

(2) *By mail.* These violators include those who—

(a) Are not present at the time a DD Form 1805 is issued (for example, for a parking violation).

(b) Subsequently volunteer to appear before the US Magistrate rather than forfeit the collateral indicated on DD Form 1805.

c. Violators who use the mail-in procedure to request an optional appearance before a US Magistrate must place checkmark in box "C" and follow instructions pertinent to box "C", DD Form 1805 (violation's copy). The violator will be notified by the Clerk of the US District Court of the time, date, and place to appear for the hearing.

Section III Use of DD Form 1805

8. General

a. The basis for initiating action by the US Magistrate system is the DD Form 1805. The form is designed to provide legal notice to violators. It also records information required by the US District Court, law enforcement authorities, and, if appropriate, State motor vehicle departments. The form is a four-ply citation printed on chemically carbonized paper and prenumbered in a series for accounting control. The form will be bound in books of 10 violation notices per book. Installation law enforcement agencies will be accountable for each DD Form 1805 issued and for stock on hand. Accountable records will be destroyed after 2 years as required by AR 340-18-5.

b. Provost marshals or other law enforcement officials will coordinate through installation staff judge advocates with the US Magistrate of the judicial district in which the installation is located. Information listed below, as a minimum, must be obtained from the US Magistrate before referral of violators to the US Magistrate or District Court.

(1) List of misdemeanors for which the mail-in procedure is authorized and the amount of collateral for each offense. The district court address will be prestamped (using a locally procured stamp) on the violator's copy of the DD Form 1805 by the issuing authority.

(2) List of misdemeanors requiring mandatory appearance by the violator before the US Magistrate. The Magistrate's name and location and the dates and times of appearance will be cited when scheduling a violator to appear before the US Magistrate.

c. DD Form 1805A (Statement of Probable Cause) and DD Form 1805B (Promise to Appear) will be used in compliance with installation staff judge advocate and

US Magistrate or District Court policies and instructions. The Statement of Probable Cause printed on the back of the original DD Form 1805, is required to support the issuance of a summons or an arrest warrant. The Promise to Appear, printed with instructions to the violator on the inner flap of the envelope, is optional and some US Magistrates or District courts may elect not to use it.

9. Completion, issue, and disposition procedures

a. Information entered on DD Form 1805 is dependent on—

(1) The type of violation (standing, moving traffic violation, or nontraffic offense).

(2) Whether the violation cited requires the mandatory appearance of the violator before a US Magistrate.

b. Follow the instructions below to complete DD Form 1805 (fig 1).

(1) *Block 1.* Enter the location code. This code is the primary means by which the court clerks' offices identify different agencies and specific installations in a district or circuit.

(2) *Blocks 2 and 3.* Enter the charging officer's social security number in block 2. The officer will sign in block 3.

(3) *Blocks 4 and 5.* Enter the date and time of the commission of the offense charged. Under some circumstances, time of the commission of the violation may differ from the time the violator is cited for the offense; the infrequency of such occurrences does not warrant a separate time block. In those situations where the time differs, note the information on the face of the form.

(4) *Block 6.* Enter the identification code that is used in automated systems to print out the nature of the offense on the US Magistrate's calendar and docket. If needed, the local US Magistrate or District Court will help complete this block.

(5) *Block 7.* Indicate the place where the violation occurred.

(6) *Block 8.* Enter the specific statute or regulation violated. The general term "code section" is used as a generic term as the agencies may refer to Federal statutes, the Code of Federal Regulations, or State statutes assimilated into Federal law.

(7) *Block 9.* Enter the description of violations charged. Include road conditions in this block (dry, wet, icy, slushy, snowy, muddy, surface debris) if a vehicle-related offense.

(8) *Blocks 10 through 20.* Self-explanatory. Record the identification of the alleged violator. When required, the violator's rank may be added to the information contained in block 10 and the violator's social security number added to block 26.

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(9) *Blocks 21 through 27.* Identify the automobile or other vehicle involved in a vehicle-related offense.

(10) *Blocks 28 through 30.* Enter the place and time of court appearance. The completion of this part of the form will vary among the District Courts and will depend on local scheduling practices of the Magistrates and clerks of the court. The officer in those districts where it has been determined that the scheduling of the court appearance should be handled by the officer at the time of the citation will complete these blocks. However, where the scheduling of a court appearance is handled by the clerk's office or by the magistrate, such information should *not* be completed at the time the violation notice is issued. The violator, in such cases, will be notified of a court date by mail. It is essential that installation staff judge advocate and law enforcement officials confer with the clerk's office (and/or the magistrate) in their district to determine what procedures to follow.

(11) *Block 31.* Enter the amount of collateral that the District Court has preset for the particular offense charged, if applicable.

(12) *Blocks 32 through 38.* Complete these blocks only for those districts that process violation notices *manually*. (Consult the local clerk's office to determine if completion of these blocks is required.)

(13) *Block 39.* Identify mandatory and optional court appearances (options are explained on the inner flap of the envelope). Either box A or B must be checked by the officer in each case. Box C is included to accommodate those districts where law enforcement officials do not set a court date at the time the violation notice is issued.

c. The completed fourth copy (gold card stock) of DD Form 1805 is issued as follows:

(1) For violations occurring when the violator is absent (for example, parking offenses), all entries concerning the violator will be left blank. The fourth copy will be placed on the violator's vehicle.

(2) In all other cases, the fourth copy of the completed DD Form 1805 will be issued to the violator.

d. Other copies of the issued DD Form 1805 will be turned in no later than the end of each tour of duty to the installation law enforcement authority for the following disposition:

(1) The original (white) and the second copy (yellow) will be forwarded by transmittal, no later than the next working day, to the Central Violations Bureau of the local US District Court.

(2) The third copy (pink) is retained by the issuing installation law enforcement authority.

10. Fines, collateral, and nonpayment delinquencies

Army law enforcement agencies *will*—

a. *Not* accept or otherwise collect any fines or collateral or keep records of fines or collateral paid or not paid.

b. Take no action concerning nonpayment delinquencies *except* where warrants are issued for the violator by the proper court authorities.

11. Notification to commanders and supervisors

When DD Form 1805 is used to cite military personnel and DOD-affiliated employees for misdemeanors, the violator's unit commander or supervisor will be advised as follows:

a. When DD Form 1805 is used to cite military personnel and DOD-affiliated employees for mandatory appearance type violations, an information copy of DA Form 3975 (Military Police Report) will be provided to the violator's unit commander or supervisor. The DA Form 3975 will denote the date, time, place, and type of violation. The date, time, and location where the violator is scheduled to appear before the US Magistrate will also be indicated.

b. When DD Form 1805 is used to cite military personnel and DOD-affiliated employees for violations that are disposed of by mail, the commander or supervisor will be advised by use of the DA Form 3975 or by another locally prescribed procedure.

12. Use of Statement of Probable Cause (fig 2)

a. This statement serves as the basis for an arrest warrant or a summons if the violator or offender failed to appear before the US Magistrate or to pay the specified fine (collateral). This statement—

(1) Should be completed at the time the DD Form 1805 is completed.

(2) Will be used according to local guidance provided by the installation staff judge advocate and the US Magistrate or District Court.

(3) Will be keyed to the number of the DD Form 1805 issued to the violator or offender.

13. Use of Promise to Appear (fig 3)

This portion of DD Form 1805 will be used only according to the policy and instructions provided by the US Magistrate or District Court and the installation staff judge advocate. If used, it will be keyed to the number of the DD Form 1805 issued to the violator or offender.

14. Disposition of personnel subject to the UCMJ

Personnel subject to the UCMJ who pay a fine or forfeit collateral or whose cases are disposed of in accordance with this regulation will not be punished under the provisions of the UCMJ for the same violation. Installation commanders should establish policies on how to refer active duty Army personnel to the US Magistrate for

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disposition when the violator's conduct constitutes a misdemeanor within the magistrate's jurisdiction and is also a violation of the UCMJ. Such policies must be consistent with directives of higher headquarters and coordinated through installation staff judge advocates and with local US Magistrates or US District Courts.

15. Disposition of juvenile offenders

Juveniles are not subject to the jurisdiction of US Magistrates or District Courts without a certification by the US Attorney General that the State juvenile court lacks jurisdiction, refuses to assume jurisdiction, or does not have adequate programs and services available (18 USC 5032). Therefore, coordination should be made with local juvenile authorities concerning the disposition of offenses committed by juveniles on Army installations.

Section IV Game Enforcement

16. General

Game enforcement is part of the fish and wildlife management program that enforces Federal, State, and installation fish and wildlife laws and regulations in support of conservation, environmental protection, and safety policies. (See AR 420-74, chap 5, for the overall fish and wildlife management program.)

17. Areas under exclusive Federal jurisdiction

On installations or facilities or parts of them over which exclusive Federal jurisdiction exists, the laws of the State relative to fish and game concerning the bag limits and other related measure are operative only as Federal laws, and are enforceable by Federal officials including military police. A State official may exercise authority as both a State and Federal official. A State game warden may also be a Deputy US Game Marshal and thereby would be authorized to enforce Federal law.

18. Concurrent jurisdiction

Where concurrent jurisdiction exists, State game laws may be enforced by either Federal or State officials.

19. Referral to US Magistrate

Federal and State law violations that apply to military reservations under the provision of 18 USC 13 may be referred to the US magistrate in accordance with the provision of this regulation and established local procedures, using DD Form 1805.

20. Fish and wildlife law enforcement personnel duties

a. The provost marshal or security officer charged with law enforcement operations is responsible for—

(1) Enforcing laws and regulations affecting fish and wildlife.

(2) Selecting, training, and employing military installation fish and wildlife law enforcement personnel (military personnel with primary MOS 95B (Military Police) or qualified civilian personnel capable of operating independently in remote areas).

(3) Appointing law enforcement personnel based on the installation size, fish and wildlife resources, and volume of hunting and fishing on the installation.

b. Law enforcement personnel will—

(1) Enforce all laws and regulations affecting fish and wildlife including those in appendix B.

(2) Enforce all environmental and safety laws and regulations.

(3) Serve as liaison between the military installation and the Federal, State, and local law enforcement agencies in matters of fish and wildlife enforcement.

(4) Provide assistance and information to personnel using US Government recreational facilities.

(5) Perform related functions such as assisting in predator control, managing special hunting and fishing seasons, operating check stations, and assisting in fishing and hunting safety classes and public information programs.

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VIOLATION NO. 45604		UNITED STATES DISTRICT COURT VIOLATION NOTICE (Subject to the Privacy Act of 1974)			
1 LOC CODE	2 BADGE NO.	3 OFFICER'S SIGNATURE			
VIOLATION CHARGED					
4 DATE MO DAY YR		5 TIME AM PM		6 VIOLATION CODE	
7 PLACE		8 CODE SECTION			
9 DESCRIPTION (For traffic violations, describe road condition)					
VOID					
AGAINST THIS PERSON					
10 NAME (Last, First, Middle Initial)					
11 STREET ADDRESS					
12 CITY	13 STATE	14 ZIP	15 PHONE		
16 BIRTH DATE MO DAY YR	17 SEX	18 RACE	19 HEIGHT	20 WEIGHT	
OR THE OWNER OR OPERATOR OF THIS VEHICLE					
21 TAG NUMBER AND YEAR	22 STATE	23 VEH MAKE	24 VEH BODY	25 YEAR	
26 OPERATOR'S PERMIT NO.		27 STATE		28 COURT APPEARANCE	
29 COURT ADDRESS		30 DATE MO DAY YR		31 HOUR	
32 FIRST NAME					
33 LAST NAME					
34 INITIAL					
35 COLLATERAL					
36 \$					
37 MANDATORY APPEARANCE: If Box A is checked, you MUST appear in court at the time and place shown above.					
38 OPTIONAL APPEARANCE: If Box B is checked, you MUST either: 1 Pay the collateral amount shown by mailing within 7 days; or 2 Appear in court at the time and place shown above. If the officer did not give you a hearing date and you wish to appear in court, check Box C and mail within 7 days.					
39 DD FORM 1805 (Accountable) Use previous edition. 82 JAN					
C <input type="checkbox"/>					
CVB COPY					

Figure. 1 Sample of DD Form 1805.

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Appendix A**Brief Preparation Guide for DD Form 1805
(United States District Court Violation Notice)****A-1.** *All violations will require—*

- a.* SSN of the issuing MP (placed in space marked “Badge No.”).
- b.* Date of notice (also violation date unless otherwise shown).
- c.* Description of violation, including place and time if applicable.
- d.* Violation code number and issuing location code number (as determined by local US Magistrate or US District Court).
- e.* In addition to the above required items, additional entries specified below according to the type of offense committed and whether court appearance is required.

A-2. *Parking Offenses require—*

- a.* Vehicle description (make, color, body type), licensing State, and motor vehicle license plate number.
- b.* If violator is present, driver’s permit number, address, and name.

A-3. *Moving traffic offenses require—*

- a.* Entries specified in paragraphs A-1 and A-2.
- b.* Violator’s birthdate, sex, race (if it appears on driver’s permit), height, and weight.

A-4. *Nontraffic offenses require—*

- a.* Entries specified in paragraph A-1.
- b.* Violator’s name, address, birthdate, sex, race, height, and weight.

A-5. *All mailable disposition offenses require—*

- a.* Above data as appropriate.
- b.* Amount of the fine or collateral.
- c.* Checkmark in box B.

A-6. *All mandatory court offenses require—*

- a.* Above data as appropriate.
- b.* The location of court (local US Magistrate or US District Court address).
- c.* The date and time of appearance (if known by officer).
- d.* Checkmark in box A.

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By Order of the Secretary of the Army:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

Official:

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

Distribution: *Active Army*: To be distributed in accordance with DA Form 12-9A requirements for AR, Military Police—C; *ARNG and USAR*—None.

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Appendix B**Common Hunting, Fishing, Trapping, Environmental Protection, and Safety Violations**

B-1. Hunting, fishing, or trapping without the proper license or permit.

B-2. Hunting, fishing, or trapping out of regulatory season.

B-3. Hunting, fishing, or trapping in a closed or unauthorized area.

B-4. Hunting, fishing, or trapping by unauthorized methods.

B-5. Hunting, fishing, or trapping with unauthorized equipment.

B-6. Violations of hunting, fishing, or trapping, taking or possession (bag) limits.

B-7. Trespassing.

B-8. Littering.

B-9. Polluting waterways.

B-10. Violation of US Coast Guard regulations.

B-11. Transporting a loaded firearm in a vehicle.

B-12. Possession of illegally taken fish or game.

B-13. Violation of assimilated State hunting, fishing, or trapping laws.

B-14. Violation of provisions of the Lacey Act, 16 USC 3372, as amended. This act prohibits, among other things, importing, exporting, transporting, selling, receiving, or acquiring any fish, wildlife, or plant taken or possessed in violation of any State, Federal, or foreign law, treaty or regulation. It also requires the marking and labeling of containers or packages containing fish or wildlife transported in interstate commerce.

B-15. Violation of the Migratory Bird Treaty Act, 16 USC 703, as amended. This act provides that, except as permitted by regulations, it is unlawful to pursue, hunt, take, capture, kill, possess, offer for sale, sell, offer to barter, offer to purchase, purchase, exchange, deliver for shipment, or cause to be exported any migratory birds or their parts or nests.

B-16. Violation of the Migratory Bird Hunting Stamp Act, as amended. Section 718, title 16, United States Code. This act requires persons over the age of 16 taking migratory waterfowl to carry a Federal migratory bird hunting and conservation stamp validated by the person's signature written in ink across the stamp.

B-17. Violation of the Bald Eagle Protection Act, as amended. Section 668, title 16, United States Code. This act provides that persons may not take, possess, sell, purchase, barter, transport, export, or import Bald or Golden Eagles, or their parts, nests, or eggs, *except* by permit issued by authority for the Secretary of the Interior.

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STATEMENT OF PROBABLE CAUSE
(for issuance of an arrest warrant or summons)

I state that on _____, 19____, while exercising my duties as a law enforcement officer at or near _____

in the _____ District of _____

The foregoing is based upon:

- ☐ my personal observation
☐ my personal investigation
☐ information supplied to me from my fellow officer's observation
☐ other (explain above)

I declare under penalty of perjury that the information which I have set forth above and on the face of the violation notice is true and correct to the best of my knowledge.

Executed this _____
 day of _____

(Signature)

(Print Name)

(Print Title)

Probable cause has been stated for the issuance of a warrant for the arrest of the violator named or identified herein.

(Date)

(United States Magistrate)

Figure 2. Sample of Statement of Probable Cause (DD Form 1805).

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PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 133 and 8012.

PRINCIPAL PURPOSE: To record information on minor offenses which will be referred to a U.S. Magistrate for disposition.

ROUTINE USE: To inform subject individual and the appropriate U.S. Magistrate that the individual will be prosecuted for a minor offense.

DISCLOSURE IS MANDATORY: The individual's military commander or civil police as appropriate will be contacted for assistance. The individual will be charged with hindering a law enforcement official in the performance of duty.

INSTRUCTIONS

A. MANDATORY APPEARANCE. If BOX A is checked on this notice **YOU MUST APPEAR** in court at the time and place shown or as notified by the court.

B. OPTIONAL APPEARANCE. If BOX B is checked on the face of this notice **YOU MUST DO ONE OF TWO THINGS. YOU MUST EITHER:**

1. PAY THE COLLATERAL AMOUNT SPECIFIED. If you wish to dispose of your case **WITHOUT HAVING TO APPEAR IN COURT**, mail your personal check or a money order in this envelope within 7 days for the amount of the collateral specified. Do not send cash by mail. Write on your check or money order the number of the violation notice and the location code (which appear at the top of the notice) and make it payable to CLERK, U.S. DISTRICT COURT.

Payment of the collateral ("fine") will signify to the court that you do not contest the charge nor request a court hearing. If you are charged with a motor vehicle violation, a record of your forfeiture of collateral may be reported to the Department of Motor Vehicles of your state for whatever action the state deems appropriate.

or

2. APPEAR IN COURT. If the officer has written on the face of this form a date and a place for a court hearing, you may appear there to contest the charge(s) against you.

If no court date has been given to you by the officer and you wish a court hearing, check BOX C on the face of this notice and mail this form within 7 days. Make sure that your address and telephone number appear on the face of the notice. The court will notify you of your hearing date.

NOTICE

If you fail to return this notice within 7 days or fail to appear in court at the time scheduled for you to appear, the United States District Court may issue a summons ordering you to appear or issue a warrant for your arrest. If you are charged with a motor vehicle violation, the court may also report your non-compliance to the Department of Motor Vehicles of your state, which may affect the renewal of your driving privileges. Furthermore, the court may increase your fine or impose additional penalties. Any fine or collateral assessed is paid directly into the U.S. Treasury.

PROMISE TO APPEAR

45604

(Violation Number)

My signature below signifies that I have received a copy of the violation notice. It is not an admission of guilt. I promise to appear for trial at the time and place specified on the violation notice or any other date set by the court in the future.

(Signature of Violator)

(Signature of Officer)

(Date)

Figure 3. Sample of Promise to Appear (DD Form 1805).

HQ AR003377-HQ AR003388

DAEN-CWO-R

DEPARTMENT OF THE ARMY
U. S. Army Corps of Engineers
Washington, D.C. 20314

ER 1130-2-418

Regulation
No. 1130-2-418

1 February 1984

Project Operation
COOPERATIVE AGREEMENTS FOR LAW ENFORCEMENT SERVICES AT
CIVIL WORKS WATER RESOURCE PROJECTS
(PL 94-587)
LOCAL SUPPLEMENT TO THIS REGULATION IS PROHIBITED
EXCEPT UPON APPROVAL OF HQUSACE (DAEN-CWO-R) WASH DC 20314

1. Purpose. This regulation provides policy and guidance for the establishment and management of cooperative agreements for increased law enforcement services at Civil Works water resource projects administered by the U.S. Army Corps of Engineers.

2. Applicability. This regulation is applicable to all HQUSACE/OCE field operating activities having responsibilities for Civil Works water resource projects.

3. References.

- a. Section 4 of the Flood Control Act of 1944, as amended (16 USC 460d).
- b. Section 234, Public Law 91-611, (84 Stat. 1818), Flood Control Act of 1970.
- c. Section 120, Public Law 94-587, (90 Stat. 2917), Water Resources Development Act of 1976, as amended by Public Law 96-536, (94 Stat. 3166).
- d. Public Law 95-224, (92 Stat. 3), Federal Grant and Cooperative Agreement Act of 1977.
- e. 36 CFR Chapter III, Part 327, Rules and Regulations Governing Public Use of Corps of Engineers Water Resources Development Projects.
- f. ER 1130-2-414
- g. ER 1130-2-420

4. General.

Section 120(a) of reference 3c authorizes the Secretary of the Army, acting through the Commander, USACE, to contract with states and their political subdivisions to obtain increased law enforcement services at Corps water resource projects to meet needs during peak visitation periods.

This regulation supersedes ER 1130-2-418, dated 8 December 1977, and cancels RCS-DAEN-CWO-53.

HQ AR003377

ER 113G-2-418

1 Feb 84

5. Policy.

a. It is the policy of the Corps to provide, to the extent of its authorities, a safe and healthful environment for public use of lands and waters at Civil Works water resource development projects. To implement this policy and to augment the citation authorities granted to the Corps by reference 3b, district commanders are hereby delegated the authority to enter into cooperative agreements with states or their political subdivisions to obtain increased law enforcement services at Civil Works water resource projects.

b. This regulation does not diminish or otherwise limit the existing law enforcement responsibilities of the state or local law enforcement agencies.

c. Non-Federal law enforcement personnel shall not be given Federal citation authority for enforcement of regulations contained in Title 36 (35 CFR 327). Enforcement of Title 36 regulations shall remain the responsibility of the Corps.

d. Cooperative agreements for increased law enforcement shall be for those projects or portions of projects that are operated and maintained by the Corps. Law enforcement services will not be provided under this program to those outgrant areas operated and maintained by a non-Federal sponsor.

e. Cooperative agreements for increased law enforcement shall be used only when and where increased law enforcement is necessary to provide a practical level of surveillance to minimize threats to the safety of project visitors. Project managers shall assure that cooperative agreements for law enforcement are used only where needed and are managed to provide the greatest public benefit for the Federal funds invested.

6. Criteria.

a. State and local law enforcement agencies generally have the same authorities and law enforcement responsibilities on lands administered by the Corps as they do elsewhere in their respective jurisdictions. Because of this, requests by a district commander, or authorized representatives of the commander, for emergency or unanticipated law enforcement assistance will normally be considered non-reimbursable.

b. In order to provide reimbursement for law enforcement services supplied by a state or local enforcement agency, a cooperative agreement, in conformance with the cooperative agreement format in Appendix A, must be executed and approved by the district commander prior to the provision of such services.

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c. The project manager will analyze the necessity for increased law enforcement. This involves a study of available data such as recreation use patterns, records on stolen or vandalized property, incident reports, reports of survey and local crime data. Empirical judgement of the project manager is important in evaluating the need for increased law enforcement but should not be the sole basis for initiating cooperative agreements. A summary of the analysis of need for increased law enforcement will be placed on file at the project office. When increased enforcement is deemed appropriate, the summary of the analysis will be used in preparing the plan of operation discussed in paragraph 6i.

d. Cooperative agreements shall be consummated only with those public law enforcement agencies legally empowered to enforce state and local criminal and civil laws on the projects for which increased law enforcement is being sought. Non-Federal law enforcement personnel employed to fulfill the conditions of cooperative agreements for increased law enforcement must meet all the qualifications, including minimal law enforcement training, required by state and local laws and regulations.

e. Law enforcement services acquired by cooperative agreement under this program shall be limited to those increased law enforcement services required to meet the needs of the public during peak visitation periods. Peak visitation periods are any periods during the year when visitation is sufficiently high to cause significant increase in risk to visitor welfare.

f. The Cooperator shall provide personnel, equipment and supplies which are required to provide the increased law enforcement services agreed upon with the Corps. The Corps shall not reimburse the Cooperator for the purchase of any equipment or supplies desired by the Cooperator for use under this program. However, the Corps shall reimburse the Cooperator for the reasonable costs incurred in the rental or use of such equipment which is allocated to the work performed under the agreement. Such costs may include: (1) a depreciation or use allowance for such equipment as determined by the service life evaluation system used by the Cooperator, and (2) the costs of necessary maintenance and repair of the property which neither adds to its permanent value nor appreciably prolongs its intended life, but keeps it in efficient operating condition.

g. The Cooperator shall provide a copy of the Cooperator's basic daily log for the period during which the law enforcement services were rendered. Copies of these logs shall be compiled by the Cooperator and submitted to the Corps a minimum of once a month throughout the effective period of the current plan of operation.

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h. An appropriate orientation program will be given by personnel of the Corps to all law enforcement personnel assigned to projects under cooperative agreements. The purpose of this orientation will be to familiarize the non-Federal law enforcement personnel with the policies and procedures of the Corps, and to familiarize personnel of the Corps with the functions and duties of the state or local law enforcement agency. The Corps shall reimburse the Cooperator for the cost per man hour as set out in paragraph 6i(3) for attending the orientation program.

i. A cooperative agreement shall include, as an attachment, a plan of operation for the provision of law enforcement services. The plan of operation shall be prepared jointly by the district commander, or an authorized representative of the commander and the Cooperator, and shall contain, but not necessarily be limited to, the following information:

(1) Name and location of the project or projects and specific areas (recreation and others) that require increased law enforcement services.

(2) Description of the increased law enforcement services to be provided by the Cooperator under the cooperative agreement. Identify the time-of-day, number of hours-per-day, number of days-per-week, number of patrols, officers per patrol, and effective starting and ending dates.

(3) Cost-per-man-hour for the provision of reimbursable law enforcement services, and the costs for operation and maintenance of such equipment as allocated for use under the cooperative agreement (see paragraph 6f).

(4) Names of specific individuals within the Corps and the cooperating agency designated to serve as contacts during execution of the agreed to services.

(5) Description of the billing procedures to be used for the increased law enforcement services. The Cooperator shall provide, at a minimum, the total charges, the number of hours involved, and the starting and ending dates of the billing period.

(6) A limit on payments for law enforcement services that may be claimed by the Cooperator in each fiscal year.

j. The project manager will monitor the Cooperator's performance to assure compliance with the terms of the cooperative agreement, including the plan of operation. If appropriate and necessary, the project manager may use techniques such as radio contact or personal contact with the Cooperator and/or a watchman's time clock to assure that the Cooperator fulfills patrol

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requirements specified in the agreement. Deficiencies in the Cooperator's performance will be documented and reported to the district commander or the designated representative of the commander.

7. Funding.

a. Section 120(b) of PL 94-587 authorizes a maximum appropriation of \$6,000,000 per fiscal year for cooperative agreements for increased law enforcement.

b. Funding requests for law enforcement agreements will be included as part of the O&M budget submittal for each fiscal year. HQUSACE (DAEN-CWO-R) will issue division funding authority ceilings annually.


8. Annual Report - Fiscal year data, will be compiled and entered into the Natural Resource Management System (NRMS). The data will include the information defined in Appendix B. Instructions for entering data are contained in Appendix A, ER 1130-2-414. RCS: DAEN-CWO-39(R2) applies.

FOR THE COMMANDER:

2 Appendixes

APP A - Format for
Cooperative Agreement

APP B - Reporting Requirements for Law
Enforcement Cooperative Agreements
through the NRMS


PAUL F. KAVANAUGH
Colonel, Corps of Engineers
Chief of Staff

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1 Feb 84

APPENDIX A

FORMAT FOR AGREEMENT FOR LAW ENFORCEMENT SERVICES

COOPERATIVE AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
(STATE OR POLITICAL SUBDIVISION)
FOR
THE PROVISION OF LAW ENFORCEMENT SERVICES

This agreement, entered into this _____ day of _____, 19____, by the U.S. Army Corps of Engineers (district) (hereinafter referred to as the Corps) and (state or political subdivision), (hereinafter referred to as the Cooperator). Witnesseth that:

WHEREAS, the construction of the _____ (hereinafter called the "Project") was authorized by the _____ Act, approved _____ (Public Law _____), and the provision of recreation resources in (state of political subdivision) was authorized by *(the same) *((the provision of (the Federal Water Project Recreation Act of 1965) *Section 4 of the 1944 Flood Control Act, as amended (16 U.S.C. 460d)); and

WHEREAS, it is the responsibility of the Corps, in administering the Project lands, to provide the public with safe and healthful recreational opportunities; and

WHEREAS, the Cooperator has the authority to enforce the state and local laws for (law enforcement jurisdiction) on such lands, and WHEREAS, Section 120 of the Water Resources Development Act of 1976 (Public Law 94-587) authorizes the Corps to contract with states and their political subdivisions for the purpose of obtaining increased law enforcement services on Project lands to meet needs during peak visitation periods; and

WHEREAS, it is in the best interests of the Corps to obtain the assistance of the Cooperator in the enforcement of state and local laws on Project lands.

* Select applicable authority for the recreation development.

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NOW, THEREFORE, the parties hereto mutually agree as follows:

Article 1. Plan of Operation.

(a) The Corps and the Cooperator have agreed to a Plan of Operation which describes the scope and extent of law enforcement services to be provided by the Cooperator in accordance with this agreement. Such Plan of Operation, as concurred in by the Cooperator, is attached hereto as Appendix A and made a part hereof.

(b) It is recognized and understood that the Corps and the Cooperator may, at the request of either, renegotiate the Plan of Operation. The renegotiated Plan of Operation shall, upon written acceptance thereof by both parties, supersede Appendix A.

Article 2. Obligations of the Cooperator.

(a) The Cooperator agrees to furnish law enforcement services as follows:

(1) Normal, emergency, or unanticipated enforcement of civil and criminal laws of the state and local jurisdiction on Project lands and waters without claim for reimbursement under this agreement.

(2) The enforcement of the civil and criminal laws of the state and (local jurisdiction) on Project lands in accordance with the schedules and duties described in the Plan of Operation, with payment by the Corps in accordance with Article 3 of this agreement.

(b) The Cooperator agrees to provide personnel, equipment, and supplies which are required in order to provide the law enforcement services requested by the Corps in accordance with subparagraph (a) above.

(c) The Cooperator agrees to prepare a Daily Enforcement Log of a format provided or approved by the Corps and to submit this log to the Corps at least once a month throughout the effective period of the current Plan of Operation.

(d) The Cooperator agrees to assign only those personnel who are qualified and trained pursuant to the requirements of state and local laws and regulations to undertake the law enforcement services to be provided under Article 2(a)(2). Where state and local standards for the qualifications of law enforcement personnel do not exist, the Cooperator will advise the Corps of the experience, qualifications and training of those personnel expected to be assigned law enforcement duties under this agreement and assign such duties to them only with the approval of the Corps.

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Article 3. Obligation of the Government. Subject to the availability of funds, the Corps agrees to pay the Cooperator for the total cost of the law enforcement services to be provided in accordance with the obligations agreed to be undertaken by the Cooperator in Article 2(a)(2), including the costs of operation and maintenance of such equipment as is required for the provision of such services identified in the Plan of Operation under Article 1. At the request of the Cooperator, partial payments may be made as the law enforcement services are performed based on billings as identified in the Plan of Operation under Article 1 and approved by the Corps.

Article 4. Period of Services. The period of this agreement shall be from the date of execution until terminated by mutual agreement, or on written notice from either party to the other, as set forth in Articles 6 and 10.

Article 5. Disputes. (Insert the clause in DAR 7-103.12.)

Article 6. Default. In the event that either party to this agreement fails to meet any of its obligations hereunder, the other party may immediately terminate the whole or any part of this agreement. Such termination shall be effected by written notice of either party to the other.

Article 7. Exclusion of Federal Employee Benefits. It is understood and agreed that the services to be provided by the Cooperator and its employees shall not be considered to fall within the scope of Federal employment, that the Cooperator and its employees shall not be considered as agents or employees of the Federal government, and that none of the benefits of Federal employment will be conferred under the terms of this agreement.

Article 8. Release of Claims. The Cooperator agrees to hold and save the Corps, its officers, agents or employees, harmless from liability of any nature or kind, for or on account of any claims for damages that may arise during the performance of the law enforcement services by the Cooperator under this agreement.

Article 9. Transfer or Assignment. The Cooperator shall not transfer or assign this agreement, nor any rights acquired thereunder, nor grant any interest, privilege, or license whatsoever in connection with this agreement without the approval of the Corps.

Article 10. Termination for Convenience. The Corps or Cooperator may, on 30 days written notice, terminate this agreement, in whole or in part, when it is in the best interests of either party. If this agreement is so terminated, the Corps shall be liable only for payment in accordance with the payment provisions of this agreement for services rendered prior to the effective date of termination (DAR 7-1902.16).

Article 11. Equal Opportunity. (Insert the clause in DAR 7-103.18(a).)

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Article 12. Gratuities. (Insert the clause in DAR 7-104.16.)

Article 13. Examination of Records by Comptroller General. The Cooperator agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this agreement or such less time specified in Appendix M of the Defense Acquisition Regulation have access to and the right to examine any directly pertinent books, documents, papers, and records of the Cooperator involving transactions related to this agreement.

Article 14. Audit by Department of Defense. Upon request, the Cooperator shall provide, and the Corps shall have the right to examine, books, records, documents, and other evidence of accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this agreement.

Article 15. Any changes in the provisions of this agreement which are necessary and proper will be made by formal amendment signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first written above.

U.S. ARMY CORPS OF ENGINEERS
(DISTRICT)

(STATE OR POLITICAL SUBDIVISION)

BY _____
Colonel, Corps of Engineers
District Engineer

By _____
(Title)

DATE _____

(Necessary approvals and countersignatures required by state or political subdivisions with respect to execution on behalf of the state or political subdivision must be ascertained by the cooperator and his counsel and added to the signature block.)

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APPENDIX B

Reporting Requirements for Law Enforcement
Cooperative Agreements Through the NRMS

B-1. Beginning with the 1983 update, all projects with reporting responsibilities as specified in reference 3f, will report the following information through the Natural Resource Management System (NRMS) (RCS DAEN-CWO-39(R2)): Specific card and card column numbers will be identified in ER 1130-2-414.

B-2. Information requirements for annual reports on cooperative agreements for law enforcement services are as follow:

a. Total Number of Cooperative Agreements - Report the total number of cooperative agreements for increased law enforcement services in effect during the fiscal year. In cases where one cooperative agreement is applicable to more than one reporting project, each project will count the agreement in computing the project total.

b. Total Funds Paid to Cooperating Agencies - Report the total amount of funds paid to agencies cooperating for increased law enforcement services during the fiscal year. If one cooperative agreement is applicable to more than one project, each project will report the funds expended in the project's 16.01 account.

c. Total Administrative Costs - Report the total costs associated with the administration of the cooperative agreements for increased law enforcement services. If one cooperative agreement is applicable to more than one project, each project will report the amount of their funds expended in administration of the agreement.

d. Total Man-Hours of Increased Law Enforcement Service - Report the total number of man-hours of increased law enforcement services realized as a result of the fiscal year cooperative agreement(s) for law enforcement service. If one cooperative agreement is applicable to more than one project, each project will report the man-hours of increased service provided to that project.

e. Total Number of Law Enforcement Actions - Report the total number of written warnings, citations, and arrests issued on the project by cooperating agencies while conducting the services specified in the agreement(s) for increased law enforcement. (Note: Two actions against the same person should be reported as two separate actions.)

HQ AR003389-HQ AR003806

Engineers of Independence

A Documentary History of the Army Engineers in the American Revolution, 1775-1783

Paul K. Walker



HQ AR003389

THE COVER

The cover illustration by Frederick C. Yohn depicts activity typically performed by the Corps of Engineers and the companies of sappers and miners during the Revolutionary War. "Col. William Prescott at the Battle of Bunker Hill," Historical Paintings Collection, The Continental Insurance Companies

Engineers of Independence
A Documentary History of the Army Engineers
in the American Revolution
1775—1783

by

Paul K. Walker

Office of History
Headquarters
U.S. Army Corps of Engineers

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Foreword

The U.S. Army Corps of Engineers traces its origins to the earliest moments of our existence as a nation. Soon after assuming command of the Continental Army in July 1775, General George Washington acknowledged the critical shortage of officers with technical skills and made the first of several appeals for more engineers. He never obtained a sufficient number. But Army Engineers, their ranks filled largely with Frenchmen, erected fortifications from Boston to Charleston, mapped terrain for their commanders, laid out encampments, and cleared the way for the Army on the march. They experienced their finest hour at the siege of Yorktown in 1781. The Revolution clearly demonstrated the necessity for a trained corps of native American officers. That need was finally fulfilled with the establishment of the military academy at West Point more than twenty years later.

In *Engineers of Independence* Dr. Walker weaves together a colorful, concise narrative with original documents to tell the story of the beginnings of the Army Engineers. Many of the documents are reproduced here for the first time. The resulting account will appeal to general readers and scholars alike.



J. K. Bratton
Lieutenant General, USA
Chief of Engineers

The Author

Paul K. Walker obtained his Ph.D. degree in American history from the University of North Carolina, Chapel Hill. He is the author of *The Corps Responds: A History of the Susquehanna Engineer District and Tropical Storm Agnes* (1976) and "Business and Commerce in Baltimore on the Eve of Independence," *Maryland Historical Magazine* (1976). Before joining the staff of the Historical Division, Office of the Chief of Engineers, as a historian, Dr. Walker taught American history at several colleges in the Baltimore area.

I am grateful to Don Higginbotham and Robert K. Wright, Jr., for their insights and constructive suggestions.

Billie Walker meticulously edited the manuscript and offered support and helpful criticism throughout the research and writing stages.

As author, I am solely responsible for interpretations and conclusions and for any errors of omission or commission.

Washington, D.C.

Paul K. Walker

Preface

This collection of documents, including many previously unpublished, details the role of the Army engineers in the American Revolution. Lacking trained military engineers, the Americans relied heavily on foreign officers, mostly from France, for sorely needed technical assistance. Native Americans joined the foreign engineer officers to plan and carry out offensive and defensive operations, direct the erection of fortifications, map vital terrain, and lay out encampments. During the war Congress created the Corps of Engineers with three companies of engineer troops as well as a separate geographer's department to assist the engineers with mapping.

Both General George Washington and Maj. Gen. Louis Lebègue Dupontail, his third and longest-serving Chief Engineer, recognized the disadvantages of relying on foreign powers to fill the Army's crucial need for engineers. America, they contended, must train its own engineers for the future. Accordingly, at the war's end, they suggested maintaining a peacetime engineering establishment and creating a military academy. However, Congress rejected the proposals, and the Corps of Engineers and its companies of sappers and miners mustered out of service. Eleven years passed before Congress authorized a new establishment, the Corps of Artillerists and Engineers.

In editing these documents I have retained the original spelling, grammar, and punctuation, with the following exceptions: I occasionally inserted or removed punctuation for easier reading, always capitalized the first letter after a period, and changed & to *and* and &c. to *etc.* Where feasible, when documents were available in both published and unpublished form, the original manuscripts were used. The glossary explains the many engineering terms used. Permission has been received to reproduce all material under copyright. Credit lines indicate the sources of documents and illustrations. Full citations are contained in the bibliography.

The contributions of many persons have enhanced this volume. The staff of the Historical Division, Office of the Chief of Engineers, gave invaluable assistance throughout. Lenore Fine first suggested the project and along with Jesse A. Remington provided continued encouragement. John T. Greenwood and Frank N. Schubert read and commented upon the entire manuscript. Agnes Riedel assisted with research, typing, and proofreading. Dorothe M. Grande advised on editorial matters. Dale Floyd offered helpful criticism. Alfred M. Beck, assisted by Margaret B. Combs, guided the manuscript through the final stages of production.

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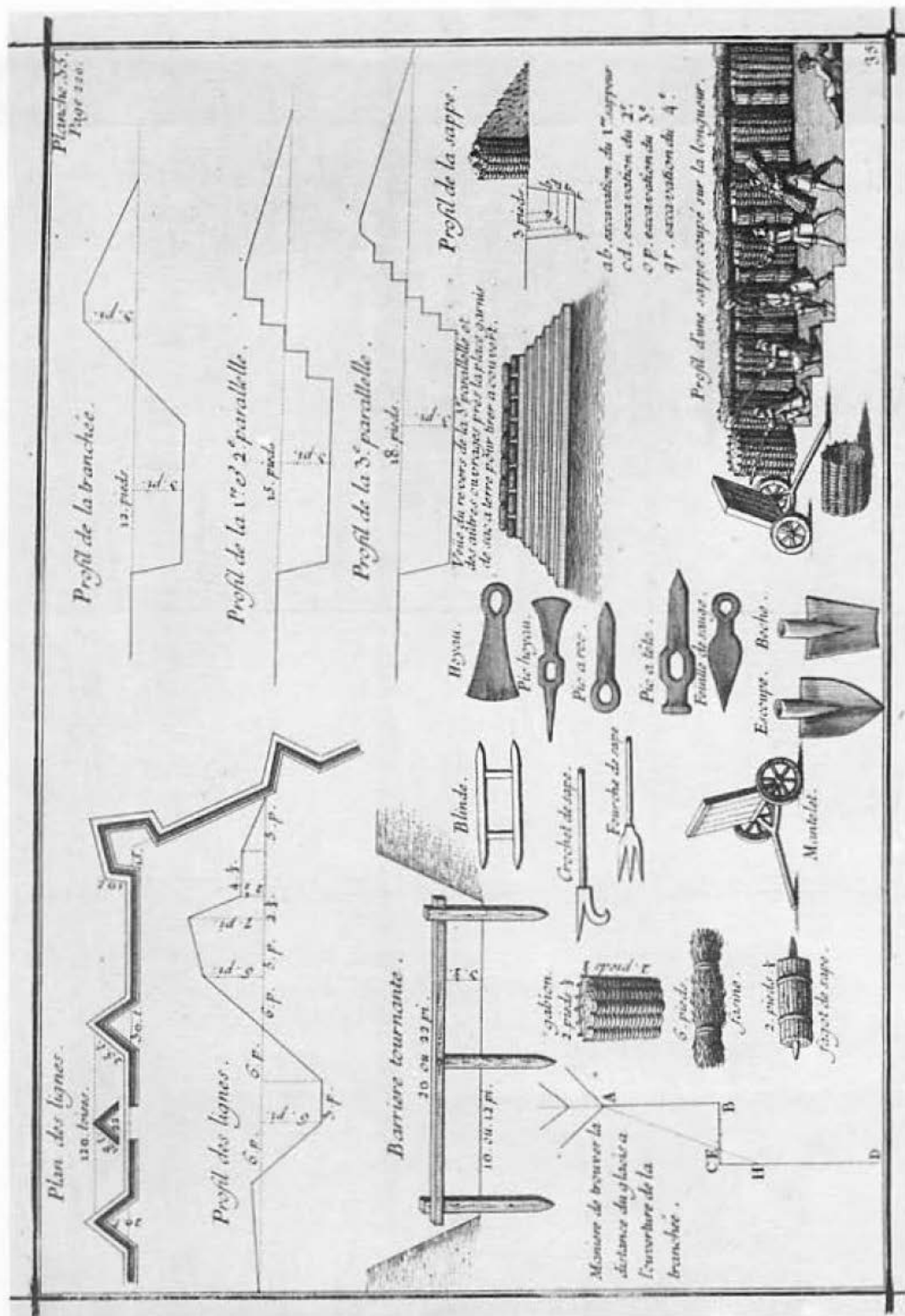
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Chapter I

THE SEARCH FOR ENGINEER OFFICERS AND THE FORMATION OF THE GEOGRAPHER'S DEPARTMENT

When the American colonies went to war with Great Britain in April 1775, they had to do more than fight. They had to build an army. At first colonial militia units, acting independently, fought the British regulars; but on 14 June 1775 Congress established the Continental Army with General George Washington as Commander in Chief. On July 3 Washington assumed command in Cambridge, Massachusetts. His immediate concerns were to strengthen his fledgling army and confine the British to Boston. To enable his forces to check any British advances into the countryside, Washington quickly had to supplement existing earthworks with new ones.

From the start the predominantly defensive nature of the war convinced Washington he would need trained engineers, but he experienced continual frustration in his efforts to find them. "The Skill of those engineers we have . . . [is] very imperfect and confined to the mere manual exercise of cannon," he complained to the president of Congress, "whereas the war in which we are engaged, requires a Knowledge comprehending the Duties of the Field and Fortifications."¹ The shortage of qualified engineers was so acute because formal schooling in siegecraft, the erection of field fortifications, and technology was practically nonexistent in America. Officers with technical knowledge had gained it largely through their reading, and the few officers with engineering experience had acquired it while serving under British engineers in the colonial wars.

EIGHTEENTH-CENTURY FRENCH ENGINEERING MANUAL.
This page taken from Deidier's Le Parfait Ingénieur Français includes designs for parallel trenches and defensive lines, as well as sketches of engineer tools and a sap excavation, bottom right. Because no American training manuals existed, the Continental Army's engineers had to rely on English and French texts. American editions of Englishman John Muller's treatises on artillery and fortifications and an English translation of the Count de Clairac's Field Engineer appeared in the early part of the Revolution.

Deidier, *Le Parfait Ingénieur Français*

2

HQ AR003406



engineer and artillerist, notably during the French and Indian War. In 1763 the crown rewarded him with the Magdalen Islands in the gulf of St. Lawrence-an area a bounding in seal and cod-and half-pay as an officer for life. In 1770 Gridley bought half-interest in an iron-rich pond near Sharon, Massachusetts. He soon opened a forge which later became a source of cannon and mortars for the fledgling Continental Army. When war broke out in 1775, his decision to side with the rebels cost him the Magdalen Islands and his life pension. No likeness of Gridley has been found.

Military Engineer, December 1947

HQ AR003407

Washington's first Chief Engineer was Col. Richard Gridley, a 65-year-old engineer and artillery veteran of the colonial wars, whom the Massachusetts Provincial Congress had named in April 1775 chief engineer, colonel of artillery, and major general of provincial troops. Gridley was the ranking engineer at the Battle of Bunker Hill, where he enlisted Capt. Jeduthan Baldwin, another colonial war veteran, as an assistant. Lt. Col. Rufus Putnam of the Massachusetts forces joined Gridley and Baldwin as an engineer when Brig. Gen. John Thomas, commander of the American right wing at Roxbury, needed assistance in erecting defenses.

Clearly Gridley had the most military experience, yet his knowledge was probably strongest in the field of artillery and limited in the area of fortifications—a situation that troubled Washington. On the other hand, Putnam, a millwright by vocation, felt himself lacking as an engineer, and was later to recall:

I informed the General [Thomas] that I had never read a word on the Subject of Fortification, that it was true that I had ben Employed on Some under British Eengineers [sic] but pretended to no knowledge of Laying works. But there was no excuse would do, undertake I must.²

Putnam neglected to mention, however, that as deputy surveyor for the province of Florida in 1774 he had explored and mapped portions of the lower Mississippi.

For several reasons Washington was generally unenthusiastic about his first Chief Engineer. Gridley's age and a wound received at Bunker Hill kept him inactive throughout much of the summer and fall of 1775, a time when his advice and assistance were needed. In addition, until November 1775 Gridley commanded the Continental artillery, a role that diverted much of his attention from engineering. The fact that Washington had not personally chosen Gridley—he had assumed his position by virtue of his standing in the Massachusetts provincial forces—placed further distance between the Commander in Chief and his Chief Engineer. Gridley's rank of major general in the Massachusetts forces proved another thorn in Washington's side. Wishing to avoid alienating brigadier and major generals who thought Gridley's provincial rank too high to renew in the Continental Army, Washington recommended against a major general's commission for Gridley.³

In December 1775 Washington underscored his reluctant acceptance of Gridley as Chief Engineer. "We have no one here better Qualified, he has done very little hitherto in that department," Washington informed Congress. "But if the Congress chuse to appoint him, I will take care that he pays a proper attention to it."⁴ Although Washington developed a strong preference for Putnam, Gridley continued as Chief Engineer until Washington

moved to New York City in April 1776. Thereafter Gridley remained as chief engineer for the Army's Eastern Department, headquartered in Boston, and Putnam joined Washington's staff as Chief Engineer.

Even had Washington and Gridley worked together more effectively, the Commander in Chief's need for more engineers would have been scarcely less desperate. The engineering crunch affected the states as well as the Continental Army. As most states gradually became convinced of the danger of attack to their coastlines, rivers, and key port cities, where the majority of colonial Americans lived, they planned new fortifications or restoration of defenses that had languished since the end of the Seven Years' War in 1763. In some cases the states managed to get technical assistance outside the Army. Pennsylvania, for example, enlisted David Rittenhouse, a noted inventor, to work on the Delaware River defenses. South Carolina employed Ferdinand de Brahm, the nephew of a distinguished geographer.

There was so much work to be done that the states clamored for more engineers, apparently believing that Army engineers should be at their disposal. The Pennsylvania Committee of Safety, for example, wanted Washington to dispatch an engineer to plan and supervise the works it had authorized for Billingsport on the Delaware River. Rhode Island's Governor Nicholas Cooke wanted similar support at Newport. In both cases the Commander in Chief had to refuse: he had more than enough in New York to keep his few engineers busy. Actually Washington had to postpone completion of essential fortifications in the Hudson Highlands because of the shortage of Army engineers.⁵ In June 1776, nearly a year after first taking command, Washington still lamented that he had "but one [Putnam] on whose Judgement . . . he would wish to depend in laying out any work of the least consequence." During that summer four volunteers received commissions as engineer officers, but still more were needed.⁶

Soon most states were required to accept the viewpoint of Maryland's Charles Carroll, Barrister. "We must . . . avail ourselves of the skill of such [engineers] as we can meet with among ourselves, though their Knowledge be not so perfect or complete," he advised the state's Council of Safety.⁷ On the other hand, Virginia and South Carolina competed successfully with the Continental Army for engineers. As revealed in the following letter, the two states offered pay and travel allowances sufficient to win over from Maj. Gen. Charles Lee the only two engineers in his Southern Department. Despite Lee's badgering, it was a long time before Congress adequately settled the pay for Army engineers or acknowledged his arguments that engineer officers were required to travel more frequently than most other officers, usually alone, and hence were entitled to special benefits.

1. "IT WAS INDEED, IMPOSSIBLE FOR THEM TO EXIST"

Charles Lee to Richard Peters.

Charleston, August 2, 1776

I often represented to Congress how difficult or impossible it would be to engage, or retain after they were engaged, any engineers of tolerable qualification on the wretched pay established. The two appointed to my district have, as I expected, quitted the service. It was indeed, impossible for them to exist. [John] Stadler, I hear, has entered into the service of Virginia. [Baron] Massenbaugh is retained by this Province at fifty-four dollars per month, a servant, rations, and his travelling expenses. He formerly begged his dismissal from me, assuring me, I believe sincerely, he was zealous in the cause of America; that he would willingly, if I chose it, enlist as a common soldier; but that to ride about the Continent from North to South, find horses, and appear like a gentleman, was impossible.

—Force, *American Archives*, 5th ser., 1:721.

As the hope of reconciliation with Britain faded in late 1775 and it became clearer that a protracted war was likely, the colonists began to look abroad for economic and technical assistance. On December 2 Congress directed its Committee of Correspondence "to use their endeavours to find out and engage in the service of the united colonies skilful engineers, not exceeding four," but no further action was taken that year.⁸

Finally in April 1776 Congress sent Silas Deane, an ambitious ex-congressman from Connecticut, to France as an agent. His instructions charged him with arranging the exchange of American goods for needed supplies; purchasing clothing, munitions, and artillery; and pursuing the possibility of an alliance with France. In addition Congress directed Deane to implement its earlier resolution regarding engineers. Deane's mission marked the first active recruiting by Congress of engineers across the Atlantic.

As Britain's most powerful enemy and the center of technical education in Europe, France was the most logical source of engineers for the Continental Army. The French engineer corps was a highly developed branch of the army with its own rigorous training program provided by the Ecole du Corps



SEBASTIEN LE PRESTRE DE VAUBAN. *Most of the foreign engineers in the Continental Army had studied the principles of this master of military engineering at the great French engineering school at Mezieres.*

Library of Congress

Royale du Genie, founded in 1749 at Mezieres. This program combined theoretical instruction with practical exercise.⁹

At Mezieres, the young officers still keenly felt the influence of Sebastien le Prestre de Vauban, the great seventeenth-century French engineer and master of siegecraft. Vauban's theories on the attack of fortified places emphasized that besieging forces could cut their losses by approaching

tresses systematically through a series of interconnected parallel trenches, and that additional protection in the form of temporary earthworks and other trenches was essential. The best defense was a defense in depth, substituting small-scale forts for the usual projecting outworks attached to the main enceinte.¹⁰ Most of the French volunteers who eventually served as engineers in the Continental Army had been imbued with Vauban's doctrines at Mézières.

Deane's activities in France provoked immediate controversy at home. He was suspected of profiteering and was criticized for encouraging so many foreigners to come to America with promises of positions in the Continental Army. Literally besieged by volunteers, Deane often proved incapable of recognizing the best qualified officers among them.

Philippe Charles Tronson du Coudray,¹¹ a French artilleryman and author of technical works on gunpowder, metallurgy, and artillery, was an exception. The artilleryman combined proven expertise with access to valuable military stores. He was a competent, if somewhat headstrong, officer; and, as described by Deane, his manner and disposition were well suited to the antimonarchical American cause. That Coudray planned to bring "two hundred pieces of brass cannon, with every necessary article for twenty-five thousand men" clinched the argument in his favor.

2. "HE IS A PLAIN, MODEST, ACTIVE, SENSIBLE MAN, PERFECTLY AVERSE TO FRIPPERY AND PARADE"

Silas Deane to the Committee of Secret Correspondence.

August 15, 1776

. . . M. Coudray, the Engineer, . . . obtained liberty last week to go for America with as many Engineers as he should choose, and was not only assured of M. Beaumarchais¹² being able to procure the stores he had stipulated for, but received orders for them, and liberty to take two hundred pieces of brass cannon, lest part might be intercepted. M. Coudray has the character of the first Engineer in the Kingdom, and his manners and disposition will, I am confident, be highly pleasing to you, as he is a plain, modest, active, sensible man, perfectly averse to frippery and parade. My friends here rejoice at the acquisition; and considering the character of the man, and at whose hands I in effect received him, I must congratulate you on it. Several young gentlemen of fortune, whose families are nearly connected with the Court, are preparing to embark for America, by each of whom I shall, without disguise, write you the characters they sustain here. I have told them that merit is the sole object with the Congress. . . .

. . . M. Coudray was not in the Turkish service as I was informed; it was a gentleman [Kermorvan] who proposes accompanying him; but he is an officer of the first eminence, an Adjutant-General in the French service, and his prospects here of rising are exceeding good; but he is dissatisfied with an idle life. His proposals in general have been, that he should be General of the Artillery, and subject only to the orders of Congress or their Committee of War, or of their Commander-in-Chief of the Army where he might be. In the next place, that he should rank as Major-General, and have the same wages, etc., coming in as youngest Major-General for the present, and rising of course.

Many other particulars are not yet adjusted; but considering the importance of having two hundred pieces of brass cannon, with every necessary article for twenty-five thousand men, provided with an able and experienced General at the head of it, warranted by the Minister of this Court to be an able and faithful man, with a number of fine and spirited young officers in his train, and all without advancing one shilling, is too tempting an object for me to hesitate about, though I own there is a silence in my instructions. I therefore honestly declare I am at your mercy in this case, and I have no uneasiness of mind on the occasion; for should I be sacrificed, it will be in that cause to which I have devoted my life. . . . The terms of M. Coudray may be thought high; but consider a person having a certain and permanent service and leave his native country, to go he hardly knows where, and it must be supposed he will ask at least as good terms as he could have in his own country. . . .

—Force, *American Archives*, 5th ser., 1:1018, 1020–21.

Deane was right: volunteers like Coudray were venturing into the unknown by joining the Continental Army and they deserved ample rewards. But the certain alienation of native American officers as well as the volunteers' self-interested desire ultimately to advance their own rank in France were important factors that Deane ought to have weighed more carefully.

In September 1776 Deane concluded an agreement with Coudray. The terms were exceedingly generous and sure to evoke renewed controversy. The agreement gave Coudray the rank of major general and command of the artillery and the yet-to-be-formed corps of engineers. He was to receive a pension equal to half-pay; and when he traveled on duty the Congress was to supply him with horses and carriages, a benefit Washington and Lee had been seeking in vain for engineers already in service.

3. AGREEMENT BETWEEN DEANE AND COUDRAY FOR SERVICE IN THE CONTINENTAL ARMY

September 11, 1776

1. The Sieur Du Coudray, under title of General of Artillery and Ordnance, and in rank of Major-General in the Forces of the United Colonies, shall have the direction of whatever relates to the Artillery and Corps of Engineers, under the order and control only of the Congress of the United Colonies, their Committee of War, or the Commander-in-Chief for the time being.

2. The Corps of Artillery and Engineers, as well officers as soldiers composing the same, shall be under his immediate command, with all the privileges and authority annexed to such command respecting either rewards or punishments, and in case of vacancy in said corps by death, removal, or new creations, it shall be for him to recommend to the Congress, or their Committee of War, the persons proper for filling the same.

3. Whatever relates to the supplying the said corps with provision, to the construction of artillery and fortification, to any plan or scheme relative to these objects, will be consulted on with him, and the execution of whatever may be agreed on committed to him, as within his department.

4. His allowance for pay and table shall be the same as to a Major-General in the service of the United Colonies in a separate command. Should he be made a prisoner, the same shall be continued. Should he by accident of war in the said service be rendered incapable of serving, or should he choose after six years' service to retire, he shall be allowed an honourable annual stipend or reward by the Congress, the particular amount of which Mr. Deane refers to the honourable Congress.

5. Monsieur Du Coudray shall be furnished with an Adjutant, two Aids-de-Camp or one Aid-de-Camp, and a Secretary, and Designer, at the expense and in the pay of the United Colonies.

6. Monsieur Du Coudray's expenses, also those of his servants, in their voyage to America, shall be refunded him by the United Colonies. . . .

11. Considering the particular situation of Monsieur Du Coudray as a foreigner, and his uncommon exertions for and in behalf of the United Colonies, it is agreed, that his pension or annual stipend on his quitting the service, as afore-agreed, shall be the one-half of his pay and table whilst serving, or other equivalent gratification.

12. Horses and carriages will be supplied Monsieur Du Coudray, at the expense of the United Colonies, when he has occasion for removing from one part of the Continent to another; also to the officers proposing to go

out with him, or advance to him such sum as will be sufficient to procure them in the Colonies where they are serving.

13. Considering the situation of the American war at this time, Mr. Deane thinks that two Engineers, four Captains, and four Lieutenants, with the proposed Adjutant-General will be as many as he can prudently agree for at present. ...

-Force, *American Archives*, 5th ser., 2:284-85.

In early December 1776 Benjamin Franklin joined Deane in Paris to negotiate a treaty of alliance with the French. Upon his arrival Franklin reiterated Congress's call for engineers to King Louis XVI, who responded



BENJAMIN FRANKLIN AT THE COURT OF FRANCE. *Franklin spent almost nine years, 1776-85, in France, furthering the interests of America.*

Record Group 66, National Archives

by ordering the Comte de St. Germain, his minister of war, to recruit a group of Royal Engineers to serve in America. St. Germain turned to Louis Lebègue Duportail, an engineer officer whose work the previous summer on a new set of regulations for the Royal Engineers had earned him the war minister's acclaim.

Duportail offered his services to the American commissioners on condition that his grade in the Continental Army would be higher than the one he currently held in the French army. Then on 11 January 1777 he demanded command of all engineers in America. The next day Duportail laid down further stipulations: his pay was to begin on the day of his departure from France and his rank in America was to be higher than his new rank by brevet upon leaving France. Unlike Coudray, Duportail agreed to pay his own passage to America.

As a treaty of alliance had yet to be signed, the king ordered utmost secrecy surrounding the preparations to send French engineer officers to aid in the American Revolution. To accompany him to America Duportail chose three men of lesser rank in the Royal Engineers—Jean Baptiste de Gouvion, Jean Baptiste Joseph de Laumoy, and Louis de Shaix La Radière. By 17 February 1777 all four volunteers had signed contracts with the American commissioners.¹³ Granted a two-year leave by the king, they sailed from Nantes under assumed names. The group landed initially at Santo Domingo; and from there, except for Laumoy, who was detained by illness, they made their way first to North Carolina and then to the seat of Congress at Philadelphia.

Meanwhile, under the terms of the Deane-Coudray agreement, several French officers signed up as members of Coudray's staff. They began arriving in America in March and April 1777. Because Coudray's actions jeopardized the secrecy of French aid, the French government ordered him to renounce his commission and stay home. He ignored the order, stole out of the country, and finally reached America in May. Additional officers hoping to join the Coudray group crossed the Atlantic of their own accord.

The need for engineers remained acute, particularly in the south, where Charles Lee complained with characteristic hyperbole: "There is not a man or officer in the Army, that knows the difference betwixt a Chevaux de Frise, and a Cabbage Garden."¹⁴ However, the price of attracting engineers threatened to wreck the chances of obtaining any more. Most members of Congress and Army officers were revolted to find foreigners granted commissions that in many cases placed the newcomers above Americans already in service. When Coudray presented himself in Philadelphia, his reception was chilly. In the eyes of Congress Deane had gone too far.

Washington recognized the problem too and suggested restraint in making promotions, except in the case of artilleryists and engineers. Engineers, wrote the Commander in Chief, "are absolutely necessary and, not to be had here, but proper precaution must be observed in the choice of them."¹⁵

Washington declared further that he had two engineers (not named) “who, in my judgment know nothing of the duty of Engineers. Gentlemen of this profession ought to produce sufficient and authentic testimonials of their skill and knowledge, and not expect that a pompous narrative of their Services and loss of papers (the usual excuse) can be a proper introduction into our Army.”¹⁶

In July 1777 tensions mounted. On the 5th Duportail and his companions presented their credentials to Congress. The Royal Engineers grumbled that Coudray had “duped Deane” and “made a . . . bargain for himself, and all the officers with him.”¹⁷ At the same time Major Generals John Sullivan, Nathaniel Greene, and Henry Knox threatened to resign because Coudray the newcomer would outrank them.

Still more volunteers, led by the Marquis de Lafayette, a wealthy nobleman inspired by the American cause, also arrived in Philadelphia in July. They too had promises from Deane. Congress was in a quandary. The various groups of French volunteers had besieged James Lovell, a French-speaking member of Congress’s Committee on Foreign Applications, for assistance. Much to his displeasure, several of the French officers made him their interpreter and liaison with Congress. Lovell admitted to fellow congressman William Whipple, the “contending endless talkers and writers have entirely destroyed me,” and noted, “there is as much pulling and hauling about rank and pay, as if we had been accustomed to a military establishment here 150 years.”¹⁸ Yet Lovell took up Duportail’s cause.

Lovell’s support for Duportail was based on his conviction that the four Royal Engineers were “the only officers . . . procured by the *real* political Agents of Congress.” The congressman further argued that the four “legitimate” engineers were being grossly underpaid and that the nature of their profession demanded that horses be made available to them. Significantly, Lovell opposed utilizing “military strangers” except in the case of engineers and one or two officers to serve as instructors-at-large for the Army. Once again the critical shortage of engineers and the desperate need for their technical services combined to overcome American uneasiness about enlisting foreigners.

4. “THERE IS SINGULAR HARDSHIP IN THE CASE OF THESE GENTLEMEN”

James Lovell to George Washington.

Philadelphia, July 24th [1777]

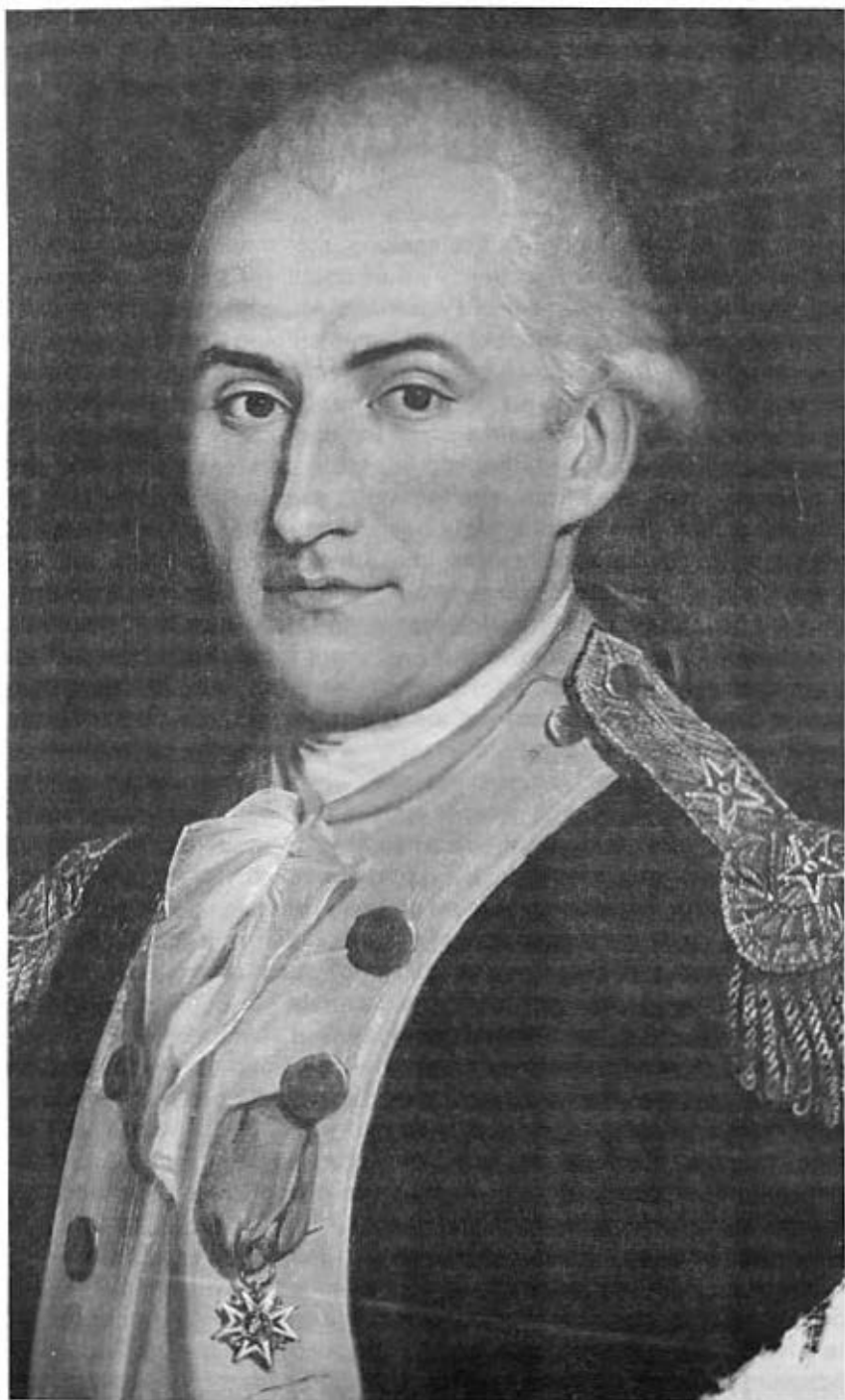
Sir

. . . The Corps of Engineers is very honorable in France; and officers from it are sought by different european Powers. These Gentlemen who are

come over into our service made an agreement with our Commissioners to rise one degree from the rank they held at home, upon a supposition that the practice of Europe had been regarded here. But when they arrived, they found instances very different with respect to officers in all other corps. It was their mishap also to see a Major of Artillery [Coudray] affecting to be exalted four ranks, as a Chief in his proper line and theirs also. They made a representation of these circumstances and appealed to the Equity of Congress. But, they had arrived at a time when the Infatuation of some here and the wild conduct of one abroad [Deane] had rendered a Spirit of reformation absolutely necessary as to the point of rank. The ingenuous, however, must own that there is singular hardship in the case of these Gentlemen. The only officers ever sent for by us, procured by the *real* political Agents of Congress, coming out with the good wishes of the french Ministry, being of undoubted rank and ability in their Profession, find themselves in the Dilemma of becoming the first examples of our new reforming Spirit, or else of going home during a Campaign, which their high sense of honor will not allow. . . . Mr. Du C[oudray] having created himself to the Command of Artillery *and* Engineers, persuaded Mr. Deane that it would be impossible to get any from the *military* corps of Engineers now called *royal* because their Demands would be so exorbitant; and that it would be also unnecessary, because we ought not to build fortified Places in America to serve as secure Holds to our Enemy when once taken from us; and that therefore, a few *Bridge and Causeway-makers* would answer all the ends of military Engineers. Such he brought with him; who were quite ready to fall under the command of an *artillery* direction; when not the lowest officer of the royal corps of Engineers would have submitted to such a novel pretension. . . . Mr. Du C[oudray] has given full scope to *his* species of Ingenuity, here [before Congress], as in

LOUIS LEBÈGUE DUPORTAIL. *Charles Willson Peale painted this portrait of Duportail (1743–1802), who served as Chief Engineer in the Continental Army during 1777–83. Born to a noble family in Pithiviers, France, Duportail attended the French school of military engineering at Mézières and was a Royal Engineer when he volunteered for the American Revolution. He served with distinction during the Philadelphia campaign and at West Point, frequently helping Washington coordinate plans with officers commanding the French forces in America. Captured at Charleston in 1780, Duportail was exchanged in time to command the engineers at the Battle of Yorktown. He returned to France in 1783 to become a brigadier general of infantry and later secretary of war. His support for Lafayette during the French Revolution forced him into hiding. To escape the Reign of Terror, Duportail fled to America and as an émigré settled on a farm near Valley Forge. Heeding Napoleon's order that émigré officers return home, Duportail sailed for France in 1802. His ship was lost at sea.*

Independence National Historical Park Collection



the Neighbourhood of Mr. Deane. I have been told that he has said, if he could not be employed himself, he would bring it about that these others should not. This may be an absolute Falsehood. But, I will own it comes the nearest of anything, which I can conceive of, to explain the delays which have taken place in regard to these Engineers, who ought to have been sent to your Excellency long ago. They have remained subject to the crucifying expences of this city, because their employment seemed to interfere with Mr. Du Coudray's Pretensions, tho' those very Pretensions had been rejected. Your Excellency would doubtless smile, if you should ever hear, that even a number of *Peasants* disputed 3 days about the difference between the consequences of a man's being Colonel in Chief, or First Colonel, or Colonel to take rank and Command of all heretofore appointed, or Colonel *commandant* of Engineers. Would not a Brigadier or Major General of Engineers alike annul the supremacy of the differently worded commissions? Or rather, do not the 4 different modes give like command? I shall pass from rank to pay. These Gentlemen not only far from the prophesied exorbitancy in demand of rank, never received one shilling in France as Gratification; tho' others who were *not sent for* received large sums, and claim pay from their embarkation, and even pensions for life. But Doctr. Franklin, supposing it would be less trouble to himself and more agreeable to the Engineers to see to their own passages, stipulated their pay from the 13th. of Feby. As no Regulations have yet been made in regard to Cavalry or Engineers, these Gentlemen have received 5 months pay as Infantry; which will not refund the expenses of their voyage. I am really uneasy when I find manly honourable Intentions do not meet with at least equal emoluments with artful suspicious tricking contractors. If these officers do not walk to camp, it is not because they were furnished by the Board of war with horses upon my application for them: And yet the nature of their Profession demands a provision of this Kind. Are they suddenly to reconnoitre a Camp, a River, a shoar, or a whole neighbouring country thro' which an army is to march, and to make the speediest return to the Generals, on foot? I trust your Excellency when asking for Engineers had ideas of something beyond what the sinister views of an ambitious foreigner has sought to inspire us with here; which is forming a causeway, or cutting a ditch or planking a bridge. And I shall consequently rest satisfied that you will receive the Officers now presenting themselves to you, and secure to them such honors and emoluments as you shall find them to merit from their education and abilities *exemplified under your command*.

No one has been more backward than I in desiring to see foreigners in our service, to the slight of my countrymen. And, except Engineers, I could not admit the thought of our wanting any military strangers other than one or two veteran Adjutants or Majors, who know our language well, and could serve as instructors-at-large to our spirited and well-attached young american Officers.

I wish these Engineers could speak english better than they do; but they can receive orders and give them in english, and will speedily learn to speak. . . .

—Burnett, *Letters of Members of Congress*, 2:417–20.

On 29 July 1777, when Duportail, Radière, and Gouvion reported to Washington's headquarters near Philadelphia, they found Coudray already at work on defenses in the vicinity. Sensing the friction between Coudray and Duportail, Washington sent the latter back to Philadelphia. He confided to Maj. Gen. Horatio Gates, the commander at Philadelphia, "I perceive there is a Jealousy between them [Duportail and Coudray] and setting them to work together would only create confusion and widen the Breach."¹⁹

Throughout the summer of 1777 Duportail continued to press for acceptance of Lovell's argument: the Royal Engineers were the only engineers legitimately authorized by Congress. Even though Congress on July 22 attempted to soothe Duportail by voting him seniority and command over all previously appointed engineers, controversy continued to surround Coudray. On August 11 Congress appointed a special committee to define Coudray's powers, for the time being depriving him of his command duties and naming him to the innocuous post of "Inspector General of Ordnance and Military Manufactories."

The Coudray problem aggravated the inherently difficult engineering situation until mid-September, when Coudray's nervous horse jumped from a pontoon bridge into the Schuylkill River. Coudray drowned.²⁰

Coudray's death made Duportail's position secure. Yet in the fall of 1777 the Royal Engineers nearly decided to return home because they felt mistreated. They were particularly disturbed about matters of pay, perquisites, and rank. Having used promises of rank and pay to attract foreign volunteers, particularly engineers, the rebels were now not fulfilling their pledges. Although the patriots could ill afford to lose Duportail's services, a number of times during the war they came perilously close to doing just that.

By November Congress had still not paid the French engineers and Washington was loaning them horses and servants. As demonstrated in the following two documents, Duportail's response to this situation was prompted by a genuine feeling of humiliation and real need. In seeking a settlement of pay and perquisites, he argued that engineers deserved more pay as their duty in comparison to other officers "is much more laborious and painful." Moreover, because engineers were frequently away from camp and thereby facing higher living expenses, they deserved special compensation. Horses and servants were added necessities.

Although he commanded all engineers, Duportail found the rank of colonel intolerable. He no longer accepted Congress's argument that his promotion and those of his companions were being delayed to discourage claims by other foreigners seeking advancement. In Duportail's view the Chief Engineer should have been at least a brigadier general to earn respect for his opinions among the generals he frequently advised and to gain compliance with his commands. Moreover, Duportail contended, higher rank would silence the personal insults leveled by those "who do not love the french."

5. "I HAVE HERE REQUESTED NOTHING BUT WHAT IS ABSOLUTELY NECESSARY FOR OUR SERVICE"

Memorial of Louis Duportail to Congress.

Fall 1777

I beg to lay before the honourable congress the following requisitions to be by them determined or to authorize his excellency general washington to Settle them according the knowledge he has of our Service.

1. To Know what pay is allowed to our rank, I would observe that the pay of engineers in europe is much higher than any of the other officers, it is, that the duty of an engineer is much more laborious and painful, in time of war their pay is raised Because in actual Service their expenses are much increased, they are obliged to be continually out to acquire a Knowledge of the country, therefore cannot live So cheap as in camp.
2. To fix the number of horses, a lieutenant engineer in france have tow [two] horses, I hope it will not Be thought unreasonable when I ask tow for a lieutenant colonel and tow for a major, I ask three for me Because it is necessary that I Be always near the general [Washington].
3. To fix the rations of forage according the number of horses, when to our rations the number fixed for your officer in the artillery in the Same rank as our Seems to me Sufficient.
4. As it is impossible to find here Servants, I hope that his excellency general washington may be allowed to appoint us out of the troops.
5. There are Several Small expences attending our Service, for an instance the labourers we are obliged to employ, proper, colours, are to Be considered, it is our custom to make this a Separate account. Signed By the engineer who has employed those things. And after By me, and Soon after By his excellency the general washington.

I beg the honourable congress to observe that I have here requested nothing but what is absolutely necessary for our Service, as we must join

the army as Soon as possible I hope for an Speedy answer, and if the requisitions accepted, that we may Be allowed our pay to commence the 13th of february as has Been fixed; if the honourable congress authorized his excellency general washington to settle this Business, I ask to the honourable congress to let me have 200 dollars, and 150 to mr. de la radiere and the same to m de Gouvion. We want absolutely that monney to be provided with every thing for the campain; for our purses have Been empty in our passage from france, and what we have received is very far from that we have expended. . . .

—Papers of the Continental Congress, roll 51.

6. "THE CHIEF ENGINEER SHOULD HAVE A RESPECTABLE RANK IN THE ARMY"

Louis Duportail to the President of Congress.

November 13, 1777

Sir:

When we [the Royal Engineers] entered the Service of the united States, we publicly declared to the honorable Congress that we would Serve during this campaign only in the Stations of colonel, lieutenant-colonel and major. . . . The congress found our reasons well grounded; but wished that we might, for the present, remain satisfied with our commissions, to give an example and in order to Stop the pretensions and Claims of the french officers and other foreigners. We were told that it was intended that the different grades Should be considered and regarded as on a level with the commissions in the european armies; and to accustom to consider them in the Same light, but in the mean time we were promised that we Should not [be] left long with the commissions we then accepted and that the congress only wanted to have an opportunity of Saying that a Lt colonel in the royal corps of french Engineers had been Satisfied in this army with the rank of colonel, a major in Said corps with the rank of Lt. Colonel, a Captain with that of a major.

As this Scheme of government Seeme'd to us very sound and Judicious, and that we wished from the very beginning to be useful we consented to Serve with our present commissions, but as we are to pay a proper attention to our rank and to the corps we belong to in france, as it must not be Said against us, that, when the french Engineers are usually preferred in foreign Courts we have been here worse use'd than the other french officers, we declared to the honorable Congress, that we would Serve during this campaign only, with our actual rank.

Now as the campaign is drawing to its end, and Supposing that, contrary to our wishes, we Should be induce'd to leave this continent, as we have hardly time enough left to reach france towards next January (which is the time appointed for appearing at our corps if we do not continue the Service here) I have the honour to present your Excellency with the present petition, Demanding for me the rank of Brigadier-general, for Mr. de la Radiere of colonel, for Mr. de Gouvion the rank of Lt. Colonel.

Intreating your Excellency to convey our demand to the honorable congress. I could undouted apply directly to congress Since i ask only the accomplishing of the promises made to me; but i own that the ranks we call for would flatter us infinitely more if they were granted to us by the recommendation of your Excellency. The motives i have already mentioned only concern our Selves. But i could add Several relating to the Service. In all the european armies the Chief Engineer is almost always a general officer, because as he is to take orders from the commander in Chief only it is fit he Should himself be a general officer. More over the Chief Engineer who has a most essential department Should have a certain weight and be regarded in the army, as he is continually in the Case of consulting general officers he ought to be upon an equal footing with them, or else being oblig'd to Submit to their opinion or Shy of defending his own, his Zeal Cools by degrees; he withdraws, and Soon becomes an useless member in the army.

The execution of the different works requires that the chief Engineer Should have a respectable rank in the army, I must add that it is more necessary in this country than elsewhere. Have i not Seen the colonels of the army and even the militia colonels refusing to follow my directions about the works. They have been accustomed to Say that they are colonels as much as I and had no orders to receive from me; accordingly each of them worked as he thought proper.

I cannot express all the difficulty i met with, and i can Say that i had need of the largest, Stock of patience and Zeal to be kept from abandoning them entirely.

As it is not just that we Should lead a more disagreeable life than the last officer of the army, i will beg leave from his Excellency to add a few reasons more. The rank of colonel unless with the command of a regiment is very little respected, because it is given to a vast many people who are not in the military line. We Suffer very much from this defect in the establishment and indeed very little regard is paid us in the army. If we take up quarters we have to contend for them; the Soldiers even offer to take them from us and we have often been forced to drive them out. If we pass before the line, the Soldiers who do not love the french and even some ill-bred officers give us bad language, our Servants are insulted, our Wagoners are chased from every place, and when they mention the names and ranks of their masters, they are laught at; thus on public Service and in private life we meet with anxieties and mortifications which we

can bear no longer. The rank of general officer which i call for will immediately put a Stop to those inconveniences, as it is respected here it will give our corps the becoming weight and regard So as to make us take a liking to our functions and to give us the means to fulfill them in the most useful manner for the Service of the united States.

—Papers of the Continental
Congress, roll 51.

Congress accepted Duportail's immediate arguments pertaining to rank, making him a brigadier general on 17 November 1777. But the issues of pay and perquisites and that of command relationships among all of the Army's engineers were not resolved to his satisfaction for some time.

In considering the Royal Engineers superior to all other engineers in America, whom he viewed as "engineers only by name," Duportail identified a key problem that troubled Washington as well. Whatever his discontents, Duportail would serve as Chief Engineer for the duration of the war.

7. "WE BELIEVED THAT THE CONGRESS WOULD BE SENSIBLE"

Louis Duportail to the President of Congress.

Camp White plaines, 27th August 1778

Sir:

His Excellency Gen. Washington intending to establish in the Department of which I have the honour to be Chief, proper Order and Connection, I must give you notice of a Matter that is only for the Congress to determine.

When we first Came into the Country (I mean the few french Engineers sent by the Court) we inquired if there were in the American Army any Engineers, either born in the Country or Strangers, who had practised already in that Profession and thought able to do that duty. We learned that there were not—that all the Gent. who had the title of Engineers had received it for the first time of the Congress—and they were beholden for it to the necessity the Congress were under, at the time they were appointed, of giving Commissions in that department to the first gentlemen that offered their Service.

We then conceived it against Reason and the advantage of your Service, that we Should be exposed to follow the directions of those new Engineers; we believed that the Congress would be Sensible, that it would be unjust and contradictory to ask the Court of france for Engineers and to

place them in their Art under Persons who are Engineers only by name, that to do so would abase our abilities on a level with theirs, and therefore hinder our being more useful than they. Thus we required of the Congress that not any of us Should be ever commanded by them. The Congress found our request just and reasonable. They made a resolve by wich I was to command all the Engineers employed in the United States, whatever might be their Commission. The Same was expressed in my Brevet. As for the three other french Engineers, it was said to us that their Commissions were Constructed So, that they had a right to command the other Engineers who had not Similar commissions. The difference was that our gentlemen were Called Col, Lt Col or major *of the* Engineers whereas the others were called only Col. Lt. Col. or major Engineer. Thus it was understood likely, that they were in the Same Case of any officer, whatever, either of foot or Horse, that has a commission of Col. or Lt Col. and is not yet Col. or Lt Col. of the Reg[imen]t—his Commission do not hinder him being under the command of the Col. or Lt Col. of the Regt even of the major. Yet Some time ago there happened some difficulty about it—A Col. Engineer, would not acknowledge Mr. de la Radiere, Col. of the Engineers, for his Superior. It is a matter of importance, Sir, that these things Should be determined, and I beg you do your endeavors to have them as Soon as possible

—Papers of the Continental
Congress, roll 51.

Though most of the Coudray group ultimately returned to France, Congress happily commissioned three of his associates as engineer officers.²¹ In addition, three other Frenchmen received engineer commissions during the first six months of 1778.²² Congress issued the last engineer commission to a foreigner on 2 March 1780.²³ Despite the influx of foreign volunteers, the Army never had as many engineers as it needed.

Washington's compelling need for technical assistance also forced him to seek creation of a separate geographer's department to supplement the work of the engineers. Reconnaissance of potential battle sites, camps, areas of troop movement, and enemy positions was vital. "The want of accurate maps of the country which has hitherto been the scene of war," Washington complained early in 1777, "has been of great disadvantage to me." While the British had a plethora of well-executed maps, inadequate facilities made extremely difficult the duplication of what maps Washington's overworked engineers could produce. To remedy the problem he proposed that the Army employ men specifically to map "Roads, Rivers, Bridges, and Fords over them, the mountains and the passes through them."²⁴

As usual Washington had to badger Congress to act on his request for Army cartographers. Finally in mid-July 1777, he proposed the appoint-

ment of "a good Geographer to Survey the Roads and take Sketches of the Country where the army is to Act," and suggested placing the geographer in charge of the guides, "who must have a head to procure, govern, and pay them."²⁵ For the Army's first geographer Washington nominated Robert Erskine, a "thoroughly skilled" man who had already assisted the Army as a mapmaker and who before the war had developed a steam pump, worked on a centrifugal hydraulic engine, written on rivers and tides, and been accepted into the Royal Society of London.

Erskine readily agreed to the appointment as "geographer and surveyor of the roads." As revealed in his letter of consent, Erskine possessed a keen sense of the problems inherent in surveying and mapping. He carefully outlined the needs and capabilities of his department so "that more may not be expected than it is practicable to perform." As assistants he preferred "young gentlemen of Mathematical genius, who are acquainted with the principles of Geometry, and who have a taste for drawing." The new geographer was both eager to begin work and highly qualified.

8. ERSKINE OUTLINES "WHAT MAY REALLY BE ACCOMPLISHED BY A GEOGRAPHER"

Robert Erskine to George Washington.

Ringwood, August 1, 1777

May it please Your Excellency:

... It is then perhaps proper to begin with a general view of the nature of the business in order to shew what may really be accomplished by a Geographer, that more may not be expected than it is practicable to perform; and that an estimate may be made of the number of assistants required should the Map of any particular district be required in a given time. It is obvious that in planning a country a great part of the ground must be walked over, particularly the banks of Rivers and Roads; as much of which may be traced and laid down in three hours as could be walked over in one; or in other words a Surveyor who can walk 15 miles a day may plan 5 miles; if the country is open, and stations of considerable length can be obtained, then perhaps greater dispatch can be made; very little more, however, in general can be expected; if it is considered that the Surveyor, besides attending to the course and measuring the distance of the way he is traversing, should at all convenient places where he can see around him, take observations and angles to Mountains, hills, steeples, houses and other objects which present themselves, in order to fix their site; to correct his work; and to facilitate its being connected with other Surveys. A Surveyor might go to work with two Chain-bearers and himself; but in

this case he must carry his own instruments, and some of them must frequently traverse the ground three times over at least; therefore, to prevent this inconvenience and delay, as men enough can be had from Camp without additional expense, six attendants to each surveyor will be proper; to wit, two Chain-bearers, one to carry the Instrument, and three to hold flag staffs; two flags, indeed, are only wanted in common; but three are necessary for running a straight line with dispatch; and the third flag may be usefully employed in several cases besides. From what one Surveyor can do, it will therefore appear that in making a plan, like all other business, the more hands are employed in it, the sooner it may be accomplished; likewise, that the director of the Surveyors will have full employment in making general observations, and connecting the different surveys as they come in, upon one general Map; and, at any rate, that a correct plan must be a work of time.

A great deal however may be done towards the formation of an useful Map, by having some general outlines justly laid down; and the situation of some remarkable places accurately ascertained; from such data, other places may be pointed out, by information and computed distances; in such a manner as to give a tolerable idea of the Country; especially with the assistance of all the maps in being, which can be procured: and this, perhaps, is as much as can be expected, should plans be required to keep pace with the transitions of War.

Navigable Rivers, and those which cannot be easily forded, and likewise the capital roads, should be laid down with all the accuracy possible; but, in the Map of a country, the general course of fordable rivers need only be attended to; it not being practicable to express small windings but on large scale, the same accuracy not being required here which is necessary to ascertain the quantity and boundaries of private property. In general, therefore, the adjacence to, and intersection of, such rivers with roads, will determine their course with sufficient exactness: the situation of woods and mountains, too, may be remarked in a similar manner.

Young gentlemen of Mathematical genius, who are acquainted with the principles of Geometry, and who have a taste for drawing, would be the most proper assistants for a Geographer. Such, in a few days practice, may be made expert surveyors. The instrument best adapted for accuracy and dispatch is the Plain-Table; by this, the Surveyor plans as he proceeds, and—not having his work to protract in the evening—may attend the longer to it in the day. One of these instruments, with a chain and ten iron-shod arrows, should be provided for each of the Surveyors it may be thought proper to employ. . . .

—Heusser, *Washington's Map Maker*, pp. 163–65.

Although regulations for the geographer's department were never formally established, Erskine's pay was set at \$4 and four rations per day. In accepting that amount Erskine made it known that geographers in Britain received one guinea, or approximately \$5, per day plus expenses; but he conceded that at that rate his pay would exceed that of a major general.²⁶ The assistants—who numbered from two to six—received \$2 per day and one ration, and the chain bearers 50 cents per day. Each member of the department was granted an allowance for travel and for purchasing instruments and other essentials.

Dissatisfaction with their pay led two of Erskine's assistants in 1780 to place before him the following urgent appeal. Especially at issue was the surveyors' contention that they had been bypassed when other departments of the Army received pay increments. Despite support for increased pay from both Erskine—who emphasized his department's contributions to the war effort—and Washington, Congress rejected the surveyors' request. As a result it became difficult to recruit surveyors.²⁷

9. "WE ARE FAR FROM WISHING TO RAISE FORTUNES BY THE CALAMITIES OF OUR COUNTRY"

Simeon DeWitt and Benjamin Lodge to Robert Erskine.

Morristown, February 12th, 1780

Dear Sir:

As the Directors of our affairs undoubtedly wish to do justice between the Public and its servants, we beg leave to request the favor of you, when arrived at Philadelphia, to represent the difficulties under which the Surveying Department labors at present, which, we flatter ourselves, only requires to be known to be redressed.

Formerly common Surveyors, whose acquaintance with the business was limited by the Needle and Protractor, were paid at least fifteen shillings per day, exclusive of their expenses; while persons of acknowledged abilities received from twenty to forty shillings and upwards; which was a considerable inducement for those whose genius pointed that way to qualify themselves for the profession; whereas, our pay at present is no more than two Continental Dollars a day, without any kind of allowance or emolument, except a ration and travelling expences, a charge allowed in every profession.

The officers in the line of the Army, have received a considerable addition to their pay, under the denomination of subsistence money; besides the benefit of State supplies: and the wages of other Departments of the Army, whose pay was formerly less than ours, has been greatly

augmented; while we have been entirely overlooked, merely for want of having proper application in our behalf.

In the present case, we are far from wishing to raise fortunes by the calamities of our Country; but at the same time we believe our Country is as far from wishing us to present our fortunes to them, along with our services, without any prospect of reimbursement, which at present is the case. Our pay, so far from supplying us with clothes, has not been adequate, for these twelve months past, to the furnishing us with shoes, and now is not sufficient for washing.

If therefore the continuance of our Service be thought necessary, we have no doubt that the Surveying Department will be so arranged, as in some degree to make up for the Depreciation; and fix our pay in such a manner, as shall prevent the like inconvenience in future; the readiest way to do which, in our opinion, would be to regulate it by the price of Specie.

—Heusser, *Washington's Map Maker*, pp. 208–09.

Upon Erskine's sudden death in October 1780, his 24-year-old assistant, Simeon DeWitt, immediately succeeded him. The following spring Congress created a new position, geographer general of the southern army.²⁸ Capt. Thomas Hutchins, a respected engineer and cartographer, filled the post. During the climactic Yorktown campaign of 1781, both geographers and their assistants provided invaluable aid to the Army. After the peace DeWitt resigned to become surveyor general for New York State; Hutchins remained with the Army to direct surveys in the Northwest Territory.²⁹

SURVEY OF NEW YORK AND CONNECTICUT. Under the direction of Robert Erskine (1735–80), the geographer's department accomplished a tremendous amount of work. This survey, prepared in 1778 by Erskine with the assistance of William Scull, was one of the numerous sketches designed to aid Washington. The key, at right, shows symbols for roads, both surveyed and unsurveyed, and for foot-paths, "commanding heights," and taverns. By 1780 Erskine reported that "from the Surveys made, and materials collecting and already procured, I could form a pretty accurate Map of the four States of Pennsylvania, New Jersey, New York and Connecticut" (Erskine to Philip Schuyler, 12 February 1780, quoted in Heusser, Washington's Map Maker, p. 209).

Courtesy New-York Historical Society, New York City

Chapter II

THE FORMATION OF THE CORPS OF ENGINEERS AND THE RECRUITMENT OF ENGINEER TROOPS

In the autumn of 1776, Silas Deane continued to recruit experienced engineer officers abroad. At home, on September 16, Congress authorized enlargement of the Continental Army to 88 infantry battalions. Col. Rufus Putnam seized the opportunity and submitted to General George Washington the first plan to establish a corps of engineers as a permanent and distinct branch of the Army with its own regulations. In an explanatory letter, Putnam argued that engineer troops comprising artificers and sappers and miners were essential if the corps's officers were to execute fortifications satisfactorily. As Chief Engineer and a trusted advisor, Putnam pressed Washington to act expeditiously.

Keenly aware that technically skilled officers were rare, Putnam regarded the implementation of his plan as a means of supplying the Army with "regular-bred" engineers. As for himself, he said: "I . . . [have] not the vanity to suppose that my knowledge . . . [is] Such as to give me a Claim to the first rank in a Corps of Engineers."¹ He offered to resign in favor of a more qualified officer when the time came.

1. "WITH OUT A CORE OF ENGINEERS . . . THE WORKS NEVER WILL BE PROPERLY EXECUTED NOR DON IN A REASONABLE TIME"

Rufus Putnam to George Washington.

September 26, 1776

I Hope the Importence of the Subjects will be as Sufficent appollogie for the Freedom I take in addressing your Excelency at this time. I have long Wondered that no Corps of Engineeers was yet Established. The Number of Works to be Executed; the Nesesity of Dispatch in them; the Imposability for Common hands to be made at once to Comprehend what they ought to do. With out a Core of Engineeers is Established the Works Never will be properly Executed nor don in a Reasonable time. And I Cannot give my Ideas of Such a Core and there duty Better then In the Words of Mr.

Maigrets.² Speaking of them; Subordnary Disepline he Sals the first part of the Disepline Consists of the Divition of one Corps Into Several. And the Subdivition of the Latter into Still less; again: in the Construction of places that Corps of Workmen are Devided into Several others Who are called Bands. The officers of Each of those Companys Should be Engineeers. And tis a Leading Circumstance to the Success of any action that the Soldiers and there officers Should be acquainted with Each other Before hand. And tis from the Engineeers that the former are to Recive ordors for the Works of attack; defense; and Construction of places. Tis Evedent that the latter ought to be charged With the Conduct and Command of them. Engineeers are the Natural officers of Workmen. Ancient and constent useage has Confirmed the practise. Again: if teachers Ware appointed to Each of these priniple Corps, Such a Number of Hopefull youth might be formed as would be a grate Benifit to the Service. These Work men are properly Speeking Soldiers or Rather Both one and tother. There Business Being Either Fighting or Working as ocation Requiurs. The first Excersise to be taught them is the use of there arms; the Next is to keep them to there Business. The third kind of Exercise is the Instructing them in the Several forms of Dementions and Properties of Works. Again. All Workmen Imployed in Building of any kind may Serve very well for Works of Fortification. Again: by this means you may have good Miners and Sappers in abundance who in time of Seages may Ease the Engineeers and Even Supply the Want of them up on ocation. Two years Experiance has fully Convinced me Sir that till the Engineeers are Rendered Intependent of any other Department for there artificers till they have Miners and Sappers or persons Seperate from the Common Futeague men to take Care of Sinking the Ditch properly laying the turf well and to Build the parrapet with its propper Talus. I say till this is don No Engineer will be able to Execute his Works Well. Nor do them in a Reasonable time. The Service has already Suffered Much and will Continue So to do till Some Such Corps as

RUFUS PUTNAM. Millwright, surveyor, and member of a company of carpenters during the French and Indian War, Putnam (1738–1824) served briefly as Washington's Chief Engineer in 1776. Despite Putnam's lack of training, the Commander in Chief quickly grew to regard him as his favorite engineer. Even after taking a line command at the end of 1776, Putnam continued to give Washington engineering advice, occasionally erecting fortifications or engaging in reconnaissance. After the war Putnam surveyed the Maine territory and, as a director of the Ohio Company, founded Marietta, Ohio. President Washington appointed him judge of the Northwest Territory in 1790 and later named him the first surveyor general of the United States. The portrait is by Charles Willson Peale.

Independence National Historical Park Collection



what I have mentioned is Established and to Convince your Excellency that I have no Intrusted motives but the Common good; in this adress I Beg leave . . . to Inst the Department Serve the army are or may be So well Suplyed with Regular Bread Engineers.

—Washington Papers, roll 38.

In his plan Putnam designated the carpenters as the largest group among the artisans in each company of sappers and miners. He set the artisans' pay lower than that commonly given those hired on contract by the Army. The regular pay of the Chief Engineer remained unchanged.

2. PUTNAM DETAILS THE FIRST PLAN FOR A CORPS OF ENGINEERS

Rufus Putnam to George Washington.

October 3, 1776

The following establishment of artificers, etc., are in proportion to the eighty-eight battalions of Infantry as one company to five and a half battalions, which I think is as small a proportion as will answer the ends proposed. The battalions in general may give fifty each for the works; the miners and sappers are in proportion to these nearly as one to ten. The carpenters will not exceed, if we are to consider they have in charge the making of platforms, chevaux-de-frise gates, guardhouses, ordnance stores and barracks within the fortifications or necessary for the garrison of each place, and many other things in the Engineer department. I have had no regard to carriages, beds, boxes, and other matters belonging to the Artillery; nor wagons or other carriages belonging to the Quartermaster's Department or barracks for the quartering of troops in general, nor any stores for the Commissary (except for the different fortresses, these only come within the Engineer department.) However, if the carpenters are thought to exceed, there may be a part of them attached to the Artillery, and the same with regard to smiths, and they may also be employed in any other department, when the fortifications do not require their labour. For my own part I should rather choose to increase their number than lessen them some; if the service does not require their labour they are not to be paid more than other troops, and subject to like duty. . . .

Field and Staff Officers in each Battalion	Their pay per month in doll[ar]s	Their extra allowances
		<i>Dollars per month</i>
1 Colonel or Chief Engineer	60	15
1 Lieut. Col. or Chief Director	50	15
1 Major or Sub-Director	40	15
1 Surveyor	33 $\frac{1}{3}$	30 for 2 clerks
1 Adjutant		
1 Chaplain		
1 Surgeon		
1 Mate		
1 Quartermaster		
1 Paymaster		
<div style="display: flex; align-items: center;"> <div style="font-size: 4em; margin-right: 10px;">}</div> <div> Their pay the same as in the Battalion service </div> </div>		

Each Company to consist of the following Officers, Artificers, etc., their pay the same as in the Battalion service:

	Their extraordinary allowance per day when employed in the works [<i>in dollars</i>]
1 Captain or Engineer in ordinary	1/2
1 Capt. Lieut. or Engineer extraordinary	3/8
1 Lieutenant or Sub-Engineer	1/3
1 Ensign or Practitioner Engineer	1/4
4 Sentinels or Train men of Band	1/6
4 Corporals or 2 Train men of Band	1/7
2 Drums and Fifes	—
30 Carpenters or Wheelwrights	1/8
5 Smiths	1/8
6 Masons	1/8
25 Miners and Sappers	1/8*
20 Labourers	1/12
<div style="display: flex; align-items: center;"> <div style="font-size: 4em; margin-right: 10px;">}</div> <div>for each man</div> </div>	

* In time of siege one-fourth of a dollar.

—Force, *American Archives*, 5th ser., 2:892–93.

Noting that “some establishment . . . is highly necessary and will be productive of the most beneficial consequences,” Washington quickly forwarded Putnam’s plan to Congress.³ When Congress failed to act, Putnam resigned his commission as engineer colonel and took command of the 5th Massachusetts Regiment. Truly dismayed by the loss of his favorite engineer, Washington protested to Congress: “Altho’ he is not a man of Scientific knowledge, he is indefatigable in business and possesses more practicale Knowledge in the Art of Engineering than any other we have in this Camp or Army.”⁴

Two months after taking command of the Army engineers in November 1777, Brig. Gen. Louis Duportail renewed pressure on Washington and Congress to establish a corps of engineers on a permanent basis. The Chief Engineer put forward his first written plan—reproduced below—in January 1778 at Valley Forge, where recent experience had convinced him of the need for additional engineer officers and for engineer troops.

At the outset Duportail stressed the Continentals' "deficiency in the practice of manoeuvres." Requiring added protection in the field, the Army had no choice but to employ fortifications. Duportail wisely pointed out the value of artificial as opposed to natural fortifications: they were adaptable to all situations. As engineer troops Duportail favored "vigorous Soldiers" with "preference . . . given to Carpenters and Masons."

After less than six months in America, Duportail already recognized the need for a unified command of the engineer troops and for coordinated planning of defenses. He urged particular care in selecting officers for the companies of sappers as they would replace the French officers when they returned home. This concern about the future of the engineer corps in America was an important aspect of Duportail's plan. By proposing that the sappers and miners be "instructed in every thing that relates to the construction of Field works," he renewed Putnam's linkage of engineering education with the formation of companies of engineer troops.

Duportail preferred reassigning men from the line to the sappers and miners rather than recruiting. Ultimately both approaches were tried. Neither worked very well.

3. DUPORTAIL PROPOSES "AN ESTABLISHMENT WHICH IS ABSOLUTELY INDISPENSABLE"

Louis Duportail's plan for an engineering corps.

January 18, 1778

If fortification is necessary in any Armies, it is peculiarly so in those, which like ours, from a deficiency in the practice of manoeuvres cannot oppose any to those of the enemy—being necessitated therefore to receive him on their own ground, they ought always to be protected either by a natural or artificial Fortification, if it were only to have (under favor of the resistance of this fortification) sufficient time to ascertain the Result of the Enemy's movements—where his principal force is directed—and where his greatest effort is to be made.

With respect to natural fortification—all situations do not afford it—and to rely entirely upon it, would involve prodigious restraint in the choice of Positions and exclude many excellent ones considered relatively to the

operations of War—it is therefore much more advantageous to have recourse to artificial Fortification which is applicable in all Situations.

The very great difficulties which I experienced in the last Campaign, both in setting on foot the most simple work and having it executed with the necessary Conditions, induce me to propose to His Excellency an Establishment which is absolutely indispensable, if he chooses to derive hereafter those succours from Fortification which it holds out to him.

I would desire to have companies of Sappers formed—they should be instructed in every thing that relates to the construction of Field works—how to dispose of the Earth—to cut the Slopes—face with turf or sods—make fascines—arrange them properly—cut and fix Palisades, etc.

The Sappers should be distributed in the different works, and a sufficient number of fatiguemen drawn from the line should be joined to them to work under their direction, by which means the work would be executed with a perfection and celerity which otherwise will ever be unknown in this army—it is, I believe, altogether useless to enlarge upon a matter so obvious—I proceed therefore immediately to the principal Conditions on which the Corps should be formed.

1st. The pay ought to be greater than that of ordinary foot soldiers because the Service is exceedingly hard—this is the practice in Europe, and they receive besides extraordinary pay when they work. Choice ought to be made of vigorous Soldiers and the preference should be given to Carpenters and Masons.

2. The Non-commissioned officers ought all to read and write, and be intelligent persons of good characters.

3. The Companies of Sappers ought to be altogether under the Command of the Head Engineer—for if the Major Generals had a right to employ them as they pleased, each, from a desire of fortifying his Camp in his own way, would ask for Sappers and they would all be taken from the Engineers. Besides as such partial works do not enter into the general plan of the position they are for the most part useless, ill concerted, and sometimes even dangerous.

4. The Captains of Sappers will be charged with the detail of their Companies, and each of them will be accountable to the Commanding officer of the Engineers in order that he may always know the State of the Companies, their Strength, etc.

5. Each Company should always have its Tools with it, carried on a waggon provided for the purpose—The Company should be answerable for all Tools lost—and in case any should be broken the pieces are to be produced to the officer to whom the detail of the Company is to be committed.

The Camp of the Sappers to be assigned by the Commanding officer of the Engineers adjacent to the place where they are to be employed.

Of the Officers—If it be important to choose the Privates in these Companies—it is much more so to choose the officers—The Congress ought,

in my opinion, to think of forming Engineers in this Country to replace us when we shall be called home—The Companies of Sappers now proposed might serve as a school to them—they might there acquire at once the practical part of the Construction of Works, and if choice be made of young men, well bred, intelligent and fond of Instruction, we shall take pleasure in giving them principles upon the choice of Situations, and the methods of adapting works to the ground.

If His Excellency approves my Plan—I would advise the speedy execution of it—in order that the Companies may have served their Apprenticeship before the opening of the Campaign.

These Companies ought not to be composed of Recruits—but Soldiers answering the description above should be taken from the line for the purpose. While I am employed in representing the defects of my branch of the Army—I entreat His Excellency to observe that four Engineers are not sufficient—of the four, one is always detached and sometimes two, which is the case at present—and I am left with only one officer—it is impossible for us to do the Service of the Army. . . .

—Kite, *Duportail*, pp. 47– 50.

Although Washington strongly endorsed Duportail’s suggestions, Congress again delayed action.⁵ However, on a recommendation from the Committee for Arrangements in the Army, Congress followed through on the plans of Putnam, Duportail, and Washington and voted on 27 May 1778 to establish three companies of engineer troops. The pay scale set by Congress was considerably higher than that put forward by Putnam. The engineer troops were to receive instruction in field fortifications. Their duties—the first engineering duties spelled out by Congress other than those given specifically to the Chief Engineer—were to guide fatigue parties in erecting fortifications and to repair damaged works.

4. “THEIR BUSINESS SHALL BE TO INSTRUCT THE FATIGUE PARTIES”

Resolution of Congress.

May 27, 1778

Resolved, That in the engineering department three companies be established, each to consist of—

	Dollars pay per month
1 Captain	50
3 Lieutenants, each	33⅓
4 Sergeants, each	10
4 Corporals, each	9
60 Privates, each	8⅓

These companies to be instructed in the fabrication of field works, as far as relates to the manual and mechanical part. Their business shall be to instruct the fatigue parties to do their duty with celerity and exactness: to repair injuries done to the works by the enemy's fire, and to prosecute works in the face of it. The commissioned officers to be skilled in the necessary branches of mathematics, the non-commissioned officers to write a good hand.

—Ford, *Journals of the Continental Congress*, 11:541–42.

On 4 June 1778 Congress conveyed their resolution to the Commander in Chief with orders to put the new arrangements into effect. He readily complied and in general orders issued on the 9th called for three captains and nine lieutenants to officer the companies of sappers. These orders amplified Congress's resolve by stating that "as this Corps will be a school of Engineers it opens a Prospect to such Gentlemen as enter it and will pursue the necessary studies with diligence, of becoming Engineers."⁶ Although nothing was said specifically at the time about the type of curriculum envisioned or how the instruction would be carried out, it was clearly intended that some sort of education would be available.

Difficulties in finding officers and enlisted men delayed full activation of the companies of sappers and miners more than two years. Duportail began interviewing officer candidates at once but volunteers came forward slowly. Of the eleven officers first nominated in March 1779, eight eventually received commissions.

As Duportail sought officers for the companies of engineer troops, Congress on 11 March 1779 passed a resolution forming the Army engineers into the Corps of Engineers. The Chief Engineer was required to report regularly to the Continental Board of War and the Commander in Chief and to propose annually the most advantageous placement of the engineers.

5. "THE ENGINEERS . . . SHALL BE FORMED INTO A CORPS"

Resolution of Congress.

March 11, 1779

Resolved, That the engineers in the service of the United States shall be formed into a corps, and styled the "corps of engineers;" and shall take rank and enjoy the same rights, honours, and privileges, with the other troops on continental establishment.

That a commandant of the corps of engineers shall be appointed by Congress, to whom their orders, or those of the Commander in Chief, shall be addressed; and such commandant shall render to the Com-

Philadelphia 14 May 1776 306

Sir

I received your excellency's letter and the Dispatch of Congress
inclosed which appoints me President of the Board of the
engineers. I beg you to receive and accept of the Congress my
thanks and assure them that I will make all my endeavours
to answer their expectations in the place which they are pleased
to trust me with.

I have the honor to be with the highest respect

to

your most obedient
and very humble servant
Benjamin Franklin

In the making the president of Congress

mander in Chief, and to the Board of War, an account of every matter relative to his department:

That the engineers shall take rank in their own corps, according to the dates of their respective commissions:

That every year, previous to the opening of the campaign, the commandant of the corps shall propose to the Commander in Chief and to the Board of War, such a disposition of the engineers as he shall judge most advantageous, according to the knowledge which he is supposed to have of their talents and capacity.

Resolved, That the Board of War be empowered and directed to form such regulations for the corps of engineers and companies of sappers and miners, as they judge most conducive to the public service; and that the Board report such allowances as they judge adequate and reasonable to be made to officers of the corps of engineers for travelling charges, and when on command at a distance from camp, or in places where they can not draw rations.

—Ford, *Journals of the Continental Congress*, 13:305–06.

Congress also devised regulations for the Corps of Engineers and the sappers and miners. After reviewing the regulations, Washington submitted revisions relating to extra pay and travel allowances. Highly sensitive to arousing jealousy in other branches of the Army, he contended that the regulations should stipulate extra pay only “in cases of extraordinary fatigue and danger.” As for travel allowances, he preferred to deal with the engineers’ special needs as part of a general regulation, “for discriminations always produce discontent.”⁷ Congress agreed and incorporated the changes.

The regulations, which follow, outline the duties of the Chief Engineer and his subordinates and clarify command relationships. Engineers were directed to take part in selecting and planning encampments, to make plans of the works under their direction, and to keep a journal of all sieges. The sappers and miners’ main task was to construct field works as directed by the engineers, but when stationed at the head of the army on the march they were to perform the duties of pioneers, clearing the roads of obstructions and making repairs. Importantly, the regulations again addressed the issue of education: engineers were to lecture on technical subjects to the sappers and miners when they were not engaged with other duties.

LOUIS DUPORTAIL’S LETTER OF ACCEPTANCE. *In this letter to the president of Congress, dated 14 May 1779, Duportail accepted appointment as commandant of the Corps of Engineers.*

Record Group 360, National Archives

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To The Honourable Henry Laurens President of the Honourable
the Members in General Congress Assembled this 13th Day
of October 1778.

The Memorial of Richard Gridley Humbly Sheweth

That your Memorialist has served in the Continental Army
from the beginning, and has served faithfully as Chief Engineer
for the Original Establishment of Forty Dollars p. Month, &
Although all other Establishments have been enlarged yet
the Corps of Engineers has been forgotten, and as the Money
has been long depreciating, or the price of all Commodities
have been rising, your Memorialist does not now receive
more than One tenth part of his Original pay in Value,
which is no ways equal to support that Character, & he has
been for a Considerable time a Warfare at his own Expence, &
prays this Honourable Congress to Grant him a Reimbursement
equal to his Loss, as it will be much more easy & just for
the public to support that Loss, than your Memorialist's

The Honourable Congress were pleased to resolve on
the 17th of November 1778 that Congress will Indemnify him
for any Loss of Staff pay which he may sustain in consequence
of his having been in the Service of the United Colonies.

Your Memorialist Avers, that he never has received any
Staff pay from Great Britain since December 24th 1778, nor
does he expect it, neither has he received any Staff pay from
the United States since he has been in the Continental Service
& prays Your Honours to direct him how he shall draw for
his Staff pay, & at what times, either Quarterly, or Half
Yearly, his Staff pay was Five shillings Sterling & days
& your Memorialist as in Duty bound shall ever pray.

Rich^d Gridley

HQ AR003443

6. REGULATIONS FOR THE CORPS OF ENGINEERS

From George Washington's general orders.

July 30, August 2, and August 3, 1779

1st. The Commandant of the Corps of Engineers or commanding Engineer in an army shall render an account to the commanding General of every thing that concerns the service of the Corps, and shall, in all cases which relate to the department act under the orders and with the concurrence of the commanding General.

2ndly. Whenever the army is on a march an Engineer shall attend the Quarter Master General or officer ordered to fix on the place of encamping, to give his advice and opinion thereon, and he shall also as soon as may be take a plan of the camp and report it to the General.

3rdly. The Commandant of the corps of Engineers and the commanding Engineer in a separate Army shall send plans of the more important positions and places occupied by the army in which they shall respectively serve to the board of War. These plans will of course be delivered to the Commander in Chief or General commanding a separate army by the Commandant of the Corps of Engineers or commanding Engineer.

The Subordinate Engineers will also report plans of works intrusted to them by their superior officers, to such superior officers; and no plans are to be communicated by any Engineer to any other person or persons whatever.

4thly. In the attack of Towns, Forts or fortified Camps of an enemy, by regular approaches, the commanding Engineer shall direct the operations under the authority and with the approbation of the commanding General, to whom he shall daily transmit a plan, marking out the progress of the attack and shall likewise from time to time transmit to the Board of War a plan of the said attacks together with a journal of the operations.

5thly. In a besieged place the commanding Engineer shall direct the defence of it under the orders of the commanding officer of the Garrison and he shall keep an exact journal of all the operations in order that it may serve for his justification and for that of the garrison in case of a surrender.

RICHARD GRIDLEY'S PETITION TO CONGRESS. *In this memorial dated 13 October 1778, Richard Gridley, chief engineer of the Army's Eastern Department, complained that Congress had not increased his original pay of \$60 per month: "Although all other Establishments have been enlarg'd, . . . the Corps of Engineers has been forgotten." As prices had risen, money had depreciated to the point that he estimated his pay at no more than one-tenth its original value.*

Record Group 360, National Archives

Of the Companies of Sappers and Miners:

1st. Until men are inlisted for the purpose, Companies of Sappers and Miners not exceeding three shall be formed as circumstances may require by drafts from the line at the direction of the Commander in Chief and be under the command of the Commandant of the Corps of Engineers until otherwise ordered by Congress.

[2ndly.] Each company to consist of a Captain, a Capt. Lieutenant and a 1st. and 2nd. Lieutenant, four serjeants, four Corporals, one Drummer, one Fifer and Sixty privates.

3rdly. The duty of the Companies of Sappers and Miners shall be (under the direction of the Engineers) to construct field-works of every kind and all works necessary for the attack or defence of places as circumstances may require.

4thly. When a company or part of a company of Sappers and Miners is detached with any body of troops without an Engineer, the officer commanding the company or part of the company shall take his orders directly from the commanding officer of the troops, and whensoever an Engineer having the charge of any works shall be absent, the officer of the Sappers and Miners commanding the detachments employed in constructing them, shall direct the works agreeable to the plans and instructions formed by such Engineer.

5thly. When the Companies of Sappers and Miners shall not be sufficient to perform the duties assigned them, the commanding Engineer shall apply to the commanding General to furnish him with such a number of fatigue men from the line, as the service shall require.

6thly. The officers of the line detached with the command of fatigue parties, for assisting in constructing the works shall not interfere in directing them, but shall be wholly confined to keeping their soldiers employed and maintaining a proper order and discipline.

7thly. The Sappers and Miners shall, in case of extraordinary fatigue and danger, have such gratuities over and above their pay as the commanding Engineer with the concurrence of the commanding General of the Army shall think they deserve.

8thly. The officers of Sappers and Miners shall enjoy the same rights honors and privileges with the officers of the like ranks in the other corps of the army.⁸

11thly. From the time the men are drafted and during their continuance in these companies they are to be left out of the Pay-Rolls of their respective regiments.

14thly. The Sappers and Miners shall be taught the established manual Exercise and Evolutions on days when they are not employed in the particular duties of their department and the same police and discipline shall be practiced in their companies as in the other parts of the army.

15thly. The Commandant of the Corps of Engineers shall take the most effectual and expeditious method to have the Sappers and Miners in-