



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

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March 8, 2000

MEMORANDUM FOR JOHN PODESTA

FROM: GEORGE T. FRAMPTON, JR. *GTF*
SUBJECT: DIRECTIVE TO ARMY CORPS OF ENGINEERS

Recent articles in the Washington Post have highlighted a number of serious problems at the Army Corps of Engineers. These include unwillingness on the part of the uniformed commanders to respond to civilian direction or Administration policy. Last week, the Office of Special Counsel found probable cause to support a whistle-blower allegation that the Corps illegally altered the economic analysis of a multi-year \$50 million report in order to justify an otherwise economically unjustifiable \$4 billion project in the Upper Mississippi and Illinois Riverway.

Largely in response to concerns over several projects in the lower Mississippi River and White River in Arkansas (about which the President queried me recently), CEQ has been working with Joe Westphal, Assistant Secretary of the Army for Civil Works, for several months on a draft presidential directive to the Corps to review and update the federal *Principles and Guidelines* (P&G) which guide the Corps in doing its cost-benefit analysis on projects, including both environmental and economic analysis.

The P&G, as they are called, have not been updated since 1983. At the request of former Assistant Secretary for Civil Works Martin Lancaster, the National Research Council (NRC) of the National Academy of Sciences recently completed an analysis of the planning procedures of the Corps, including a review of the P&G. The NRC study concluded that the current P&G procedures are flawed and need to be revised because they (1) fail to reflect up-to-date statutory mandates in the environmental field applicable to the Corps that have been enacted since 1983; (2) do not reflect the latest scientific tools, especially relating to risk analysis; and (3) are biased against non-structural alternatives (i.e., biased in favor on concrete).

We propose that the President direct the Corps to update the P&G along the lines recommended by the NRC to better reflect contemporary water planning theories and statutes. This would insure a better assessment of the true environmental consequences and economic benefits of a potential project and make it more difficult for the Corps to manipulate the analysis in the manner alleged by the whistleblower. This would be an excellent proactive fix in response to recent revelations while also forcing a re-review of several projects, including the White River project in Arkansas. These projects are still in the planning process and have questionable benefit versus potential environmental harm contrary to Administration environmental policies.

Overall, the problems faced by the Corps of Engineers fall into three categories, and I would be happy to brief you on any or all of these:

1. Personnel. The Chief of Engineers, General Ballard, is scheduled to retire in June, if he is not retired sooner! Selection of his replacement is well along. This is an absolutely key appointment. Usually, the office of the Secretary of Defense does not review the selection...only the Secretary of the Army.
2. Management Controls. Traditionally, the Secretary of Defense has paid no attention to the Corps, and the Secretary of the Army not much more. Even the Assistant Secretary for Civil Works does not review the performance of the top generals. The civilian leadership, for instance, does not control the Corps' legislative shop. General Ballard has taken several steps to exacerbate the disconnect. Significant changes must be made here in administration and management authorities.
3. Policy. The directive outlined above would go a long way towards a more progressive policy direction at the Corps. More careful civilian leadership in constructing the Corps' annual budget is also essential.

I have attached a draft directive from the President to the Secretary of the Army. Let me know if you want to discuss this further.

DRAFT – NOT ADMINISTRATION POLICY

March 8, 2000

MEMORANDUM FOR THE SECRETARY OF THE ARMY
THE SECRETARY OF THE INTERIOR
THE SECRETARY OF AGRICULTURE
THE ADMINISTRATOR OF THE ENVIRONMENTAL
PROTECTION AGENCY
THE ADMINISTRATOR OF THE FEDERAL EMERGENCY
MANAGEMENT AGENCY

SUBJECT: ENHANCED PROTECTION OF WETLANDS AND WATER RESOURCES

I have made a concerted effort over the course of this Administration to put in place enduring changes in the Nation's approach to development in floodplains, to wetlands protection, and to protection of water resources. We have fundamentally changed our approach to minimize the damages that can result both from development in the floodplain and from flood control approaches that inadequately account for environmental impacts, particularly impacts to wetlands and riverine ecosystems.

Following the devastation of the Midwest Flood of 1993, I asked for a review of our floodplain management policies and developed a vision for the future reflected in the Army's Challenge 21 Program. Under this program, the Army Corps of Engineers is ensuring that flood damage reduction projects consider fully the use of non-structural approaches and floodplain restoration opportunities. A year ago, I asked the Corps to strengthen requirements for public review before authorizing fill activities in the 100-year floodplain. The Corps also commissioned a comprehensive assessment of its approach to water resource planning by the National Research Council of the National Academy of Sciences (NRC).

The NRC recently completed its report, "New Directions in Water Resources Planning for the U.S. Army Corps of Engineers." It reaffirms the need for more comprehensive approaches to water resource project planning, including flood damage reduction involving non-structural as well as structural solutions, and identifies barriers to the selection of non-structural alternatives. The NRC report also emphasizes the need to improve analytical methods for valuing the environmental benefits and detriments associated with its water projects, in order to quantify these important benefits during project assessment.

In order to respond to the legitimate concerns and proposals in the NRC report, and to advance the policies reflected in 1993 post-flood report, Challenge 21, and our Clean Water Action Plan, I am directing the Army to revise its principles and guidelines so that major project decisions adequately account for all environmental and resource impacts. This revision to the principles and guidelines should ensure that adverse impacts to wetlands, to water quality, and to wildlife

refuges, estuaries, coastal waters, and parks are avoided, and that any environmental mitigation complies with the highest standards expected of private parties. It should also assure that federal projects do not work against the purposes of other major federal programs, projects, and expenditures, and should ensure that cumulative impacts of projects across an entire watershed are considered fully. In addition, relevant policies should be modified to ensure appropriate valuation of environmental benefits and to better achieve the desired objectives of our non-federal, cost-share partners. Any projects still undergoing environmental review, as well as any pending projects that would adversely impact more than 500 acres of wetlands, should be revisited in light of these criteria.

The Army should work with the Department of the Interior and consult with the Environmental Protection Agency, the Federal Emergency Management Agency, and the Community Empowerment Board and provide a draft revision of the principles and guidelines for public review within ninety (90) days. I would like to finalize the revision by September 30, 2000.

It is especially important to ensure that any new safeguards are reflected in the ongoing implementation of the Nation's largest flood control program—the Mississippi River and Tributaries Project. No project has been more effective in controlling floods than the MR&T Project, authorized in 1928. However, as a product of its time, the MR&T Project has been implemented as a structural-only approach to flood damage reduction, and the benefits of flood hazard reduction have come at great expense to the floodplain and riverine ecosystems associated with what we have come to know as “America’s River.” Previous reports of the Secretary of Interior to Congress have attributed the loss of 1 of every 2 acres of the region’s nationally significant wetlands to the MR&T Project. These losses and other impacts from the MR&T project have been linked to the vast “dead zone” that has developed in the Gulf of Mexico. Accordingly, I am directing the Secretary of Army in cooperation with the Secretaries of Interior and Agriculture and the Administrator of the Environmental Protection Agency to chart a new direction for the ongoing implementation and operation of the Nation’s largest flood control program, one guided by the dual objectives of flood damage reduction and restoration of the natural functions and values of floodplain and riverine ecosystems.

I am asking the Chairman of the Council on Environmental Quality to ensure that appropriate agencies and constituencies are consulted in developing the revised principles and guidelines, and that the requirements of this directive are reflected in the supplemental guidance and in any relevant environmental analyses of particular projects.

This memorandum is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, or any other person.

William Jefferson Clinton