

Comments on the Draft Principles and Standards Sections of the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies"

Submitted By:

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Caloosahatchee River Citizens Association • Category Five/Wetlands Watch
Cedar River Festival Group, Inc. • Choctawhatchee Riverkeeper, Inc.
Citizens Against Widening the Industrial Canal • Citizens Committee to Complete the Refuge
Clarendon Chamber of Commerce • Clean Water Action • Clean Water Network
Clean Water Network of Florida • Coalition for Alternative Wastewater Treatment
Columbia River Crab Fisherman's Association • Committee on the Middle Fork Vermilion River
Conservancy of Southwest Florida • Conservation Council for Hawai'i
Conservation Council of North Carolina • Coosa River Basin Initiative • Cry of the Water
Defenders of Wildlife • Delaware Nature Society • Delaware Riverkeeper Network
Endangered Habitats League • Environmental Defense Center • Feather River (Sierra Nevada)
Float Fishermen of Virginia • Florida Billfish, Inc. • Florida Wildlife Federation
Freshwater Future • Friends of Arthur R. Marshall Loxahatchee National Wildlife Refuge
Friends of Chewacla Creek and the Uphapee Watershed • Friends of Perdido Bay
Friends of The Chemung River Watershed, Inc. • Friends of the Gauley River
Friends of the Rivers of Virginia (FORVA) • Friends of the Roanoke River
Galveston Bay Foundation • Georgia River Network • Great Egg Harbor Watershed Association
Gulf Restoration Network • Hackensack Riverkeeper, Inc. • Hands Across the Lake
High Country Citizens' Alliance • Idaho Rivers United • Izaak Walton League of America
Kentucky Resources Council, Inc. • Kootenai Environmental Alliance
Lake Champlain Committee • Lake Erie Region Conservancy • Lake Watch of Lake Martin
Lone Tree Council • Louisiana Audubon Council • Mankato Area Environmentalists
Michigan Wildlife Conservancy • Mid South Fly Fishers • Minnesota Conservation Federation
Missouri Coalition for the Environment • National Wildlife Federation
Natural Resources Defense Council • Nebraska Wildlife Federation • New River Foundation
NJ Environmental Federation • NJ/NY Environmental Watch • Ogeechee Riverkeeper
Ohio Environmental Council • Ohio River Foundation • Palm Beach County Reef Rescue
Passaic River Coalition • People For Puget Sound • Planning and Conservation League
Potomac River Association • Prairie Rivers Network • Quad Cities Waterkeeper
Raritan Riverkeeper • Restore America's Estuaries • River Network • Rivers Unlimited
Sand Mountain Concerned Citizens • Santa Barbara Urban Creeks Council
Save Our Saugahatchee, Inc. • Sierra Club • Sierra Club Delta Chapter
Southern Environmental Law Center • South Carolina Coastal Conservation League
South Dakota Wildlife Federation • Spokane Riverkeeper • Surfers' Environmental Alliance •
Surfrider Foundation • Texas Conservation Alliance • The Green Gallon Project, Inc.
The River Project • Tip of the Mitt Watershed Council • Upper Chattahoochee Riverkeeper
Washington Wildlife Federation • Waterkeeper Alliance
Western Lake Erie Waterkeeper Association • Wilderness East
Yell County Wildlife Federation

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Via Email: P&G@ceq.eop.gov

Terry Breyman
Associate Director of Natural Resources
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722 Jackson Place, N.W.
Washington, D.C. 20503

Re: Comments on the Draft Principles and Standards Sections of the "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies"

Dear Mr. Breyman:

The undersigned 105 national, regional and local taxpayer, professional, community and conservation organizations (Organizations) appreciate the opportunity to provide comments to the Council on Environmental Quality on the Proposed Principles and Standards Sections of the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&S). These comments are in addition to any that the Organizations may submit separately.

The undersigned Organizations have extensive experience working to solve water-related challenges in their communities, and have a vested interest in realizing a new water policy for America that makes environmental protection and restoration a driving objective for all federal water projects. We applaud the Council on Environmental Quality for recognizing that much has changed since the 1983 Principles and Guidelines (1983 P&G) were developed more than 25 years ago and for undertaking these revisions to the 1983 P&G. This is an extremely important process that will help bring the nation's water resources project planning into the 21st century.

For decades, the nation invested in water resources projects designed primarily to fuel economic development. While these projects produced some positive economic benefits for the nation, they typically have altered and manipulated entire river systems and coastlines, at the expense of the important natural ecological services these systems provide. The environmental damage has been so great that federal water resources projects are recognized as one of the leading reasons that North America's freshwater species are disappearing five times faster than land based species, and as quickly as rainforest species.¹ Many large-scale structural water projects have also increased flood risks for communities downstream, reduced water quality, impaired recreational opportunities, and damaged economies that rely on a healthy environment. In addition, the economic benefits promised by these federal water projects often have not been realized.

¹ Ricciardi, Anthony and Rasmussen, Joseph B., "Extinction Rates of North American Freshwater Fauna"; *Conservation Biology*; 13 (5), October 1999, at 1220.

Climate change makes planning and operating water projects both more complicated and less certain. Likely effects of climate change on water-related resources include rising sea-levels, changes in glacial and snowmelt patterns, reduced snowpack in the West, additional ocean and estuary “dead zones,” declining ecosystem health, additional threats to biodiversity, and more frequent and severe storms, floods, and droughts. The nation is already experiencing some of these impacts, including earlier spring snow melt in the West. To increase the ability of both natural and human communities to thrive in the face of these changes, it is imperative that Federal water projects anticipate climate change and be designed and operated to protect communities, and to protect and restore healthy rivers, wetlands, and coastlines.

Congress recognized this need to shift federal water project development and operations in the Water Resources Development Act of 2007 (WRDA 2007), which established a new national policy that requires, among other things, that *all* water resources projects “protect the environment” by “protecting and restoring the functions of natural systems and mitigating any unavoidable damage to natural systems” and by “seeking to avoid the unwise use of floodplains.”² This policy augments the existing requirements of such bedrock laws as the Clean Water Act and the Endangered Species Act, which also require avoidance of impacts to the nation’s waters and the imperiled species that depend on them. National economic development, of course, remains a major part of water resources project development, but WRDA 2007 recognized that not all economic development is in the national interest by shifting the focus to seeking to maximize *sustainable* economic development.

To comply with these legal requirements, and to meet the challenges created by climate change, degraded water resources, increased urbanization and population growth, and economic development needs, the P&S must institute a new framework for water resources planning that turns its back on the failed approaches of the past. Rather than simply adding additional environmental considerations to the existing framework, the proposed P&S should establish a planning hierarchy with clear directives and criteria to ensure that federal law and policy, and national priorities, drive water resources planning. The final P&S should require avoidance of adverse environmental impacts to the maximum extent possible; shift water resources planning towards modern risk management, watershed, integrated water resources management, and economic sustainability approaches; and establish planning criteria that ensure compliance with these directives. Once all planning criteria are met, a benefit-cost analysis could be used to select among alternatives for those projects and programs that are principally intended to generate sustainable economic development benefits.

I. The Proposed Principles and Standards Move Water Resources Planning Forward

While these comments primarily focus on areas of needed improvement, the undersigned Organizations also wish to commend the Council on Environmental Quality and the federal agencies on the many positive elements contained in the proposed P&S. We greatly appreciate the change in language and tone in the proposed P&S, which sound very different than the existing planning framework. The undersigned Organizations believe that the following areas represent important and welcome steps forward in water resources planning:

² WRDA 2007 Section 2031(a), (a)(2), and (a)(3).

- Systemic recognition of the value of ecosystem services to people and communities;
- Extending project selection criteria beyond maximizing National Economic Development to include social and ecological benefits;
- Requiring use of the best available science, including the science of climate change, in project analyses;
- Recognition of the need for explicit analysis of risk and uncertainty;
- Adoption of modern planning paradigms, including watershed and integrated water resources management approaches;
- A focus on nonstructural alternatives; and
- Recognition of the role of environmental justice in project development.

II. Despite These Steps Forward, the Proposed Principles and Standards Do Not Establish the Much Needed New Paradigm for Water Resources Planning

While the proposed P&S take the important steps discussed above, they fundamentally retain the 1983 P&G approach to water project planning that has destroyed rivers, coasts, and wetlands; created unacceptable risks to public safety; and wasted taxpayer dollars. The proposed P&S roll back current approaches to restoration planning and will make many restoration projects less environmentally sound. The proposed P&S do not ensure protection of healthy rivers, wetlands, and coasts and do not ensure compliance with the nation's environmental laws.

The undersigned Organizations have the following major concerns with the proposed P&S:

- (1) The proposed P&S retain economic development as the overriding objective for all water resources projects by requiring that *all* projects “maximize net national economic, environmental, and social benefits” and “encourage sustainable economic development.” While environmental protection and restoration are discussed in the proposed P&S, there is no stand alone environmental protection objective. This undermines the congressionally-mandated requirement that all water projects must protect the environment. Requiring all projects to maximize national economic benefits also fundamentally alters the current approach to restoration planning and will undermine the ability of restoration projects to focus on ecological objectives like restoring natural hydrology and improving ecosystem services. Promoting economic development is also an inappropriate planning objective for numerous federal agencies, including the U.S. Fish and Wildlife Service, the National Park Service, and the Federal Emergency Management Agency, because their missions do not include economic development.
- (2) The proposed P&S rely almost exclusively on a project-by-project benefit-cost analysis to determine whether a project should be constructed using federal tax dollars. There are two main problems with this. First, this approach will continue a process of piecemeal planning that cannot respond to the enormous, and often watershed or basin-wide, water resources challenges facing the nation. While watershed scale and integrated water resources management planning are acknowledged in the proposed P&S, the project-by-project approach remains embedded as the fundamental driver in the planning process. Second, benefit-cost analyses cannot provide an accurate assessment of whether or not a project is in the federal interest, and typically are so rife with problems that they preclude

even the most basic assessment of whether a project's actual benefits will exceed its actual costs. While the proposed P&S take a step forward by requiring an assessment of the value of ecosystem services in the benefit-cost analysis, this requirement does not remedy the many problems with the benefit-cost tool. In fact, the addition of ecosystem services, which are notoriously difficult to quantify, may make the analysis more subject to manipulation. While there is certainly a role for benefit-cost analysis, it should not be the foundation for the nation's water resources planning.

- (3) While changes to sea level, hydrology, and water resources are among the most certain of the challenges posed by climate change, the proposed P&S fail to provide direction and guidance as to how those challenges are to be met. Climate change is acknowledged, but the proposed P&S do not address the most fundamental climate-changed induced problem — that the nation can no longer rely on historical hydrological records as a guide to the future. The proposed P&S also do not ensure protection of healthy rivers, wetlands, and coastlines that increase the ability of natural and human communities to withstand the changes that will occur as the Earth's climate continues to change. It is essential that the P&S adopt principles and standards that effectively guide planning in the face of the certain, yet difficult to quantify, challenges created by climate change.
- (4) WRDA 2007 shifted the emphasis in analysis of economic development from general economic development to “sustainable economic development.” However, the proposed P&S fail to provide guidance or require analysis of a project's impacts on such sustainability. A number of methodologies have been developed to carry out such analyses, and while none are perfect, an evaluation of sustainability is fundamental to complying with the national water policy enacted by WRDA 2007. At an absolute minimum, given the need to address climate change, the energy uses associated with the construction and operation of any water project must be fully and carefully evaluated.
- (5) While WRDA 2007 directed revision of the 1983 P&G as it applies to the U.S. Army Corps of Engineers (Corps), the proposed P&S would apply to a wide variety of agencies, many with missions and histories very different from those of the Corps. Despite this expansion of scope, the proposed P&S remain heavily focused on the Corps' flood damage reduction and navigation mission areas. The proposed P&S do not advance the planning of:
 - Agencies with responsibility for environmental restoration and management, such as the U.S. Fish and Wildlife Service, the National Park Service, and the National Oceanic and Atmospheric Administration. The proposed P&S also roll back Corps restoration planning.
 - The Bureau of Reclamation, which has a primary focus of assisting the nation in meeting the water demands of the West while protecting the environment and the public's investment in these structures. The Bureau is the largest wholesaler of water in the country and the second largest producer of hydroelectric power in the western United States. Because the Bureau operates in an environment where most water has already been appropriated, and the hydrologic effects of climate change are already pressing, the future work of the Bureau will need to focus on how to make the

Bureau's existing projects and systems provide more benefits using the same, or less, water. Integrated water resources management should be the standard, and mandatory, approach for Bureau projects, but the proposed P&S does not include such a requirement.

- Corps projects that are increasingly being pressed into providing water supply as populations grow and the climate changes. These issues are becoming increasingly contentious in the Southeast, and are likely to become problematic in other areas of the country as well. As with the Bureau, integrated water resources management will be an essential tool for the Corps' ability to address water supply issues.

III. Federal Law and Policy Require a New Paradigm for Water Resources Planning

To meet the nation's 21st century water resources needs, water resources planning must be driven by federal law and policy and modern planning approaches, not simply by benefit-cost analysis. As called for by key congressional leaders, the proposed P&S should establish a mandatory planning and decision-making hierarchy with clear directives and criteria to ensure that federal water projects comply with federal law and policy and address national priorities. These should include "clear directives to avoid adverse environmental impacts to the maximum extent possible, along with specific requirements that ensure compliance. For example, a clear requirement to first consider and utilize non-structural and restoration approaches to solving water problems, where practicable, would provide the type of direction needed to preserve the natural systems that can protect communities facing catastrophic flooding, droughts, and sea level rise caused by climate change."³ Once all planning criteria are met, a benefit-cost analysis could be used to select among alternatives for those projects and programs that are principally intended to generate sustainable economic development benefits.

The planning hierarchy should:

- (1) Establish maintaining and restoring the health of the nation's water resources to achieve long-term sustainable ecosystem integrity as a primary and stand-alone objective for all water resources projects, as required by WRDA 2007;
- (2) Require the use of nonstructural and restoration approaches whenever practicable because these types of approaches can effectively solve many water resources problems while avoiding adverse environmental impacts and improving the health of the nation's waters and the natural and human communities that depend on them. This standard is required by the Clean Water Act, which prohibits the construction of federal (and private) water projects if there is a practicable alternative which would have less adverse impact on the aquatic ecosystem;
- (3) Require the use of watershed and integrated water resources management approaches to ensure the most efficient and environmentally sound planning possible for the full range

³ Letter to the Honorable Nancy Sutley, Chair of the Council on Environmental Quality from Senators Russell Feingold, John McCain, Barbara Boxer, Benjamin Cardin, Joseph Lieberman, and Mary Landrieu, dated November 17, 2009.

of water resources projects covered by the final P&S;

- (4) Ensure that water resources planning increases the ability of natural and human communities to withstand the changes wrought by climate change, including by requiring that project planners use the best available science about the current and projected impacts of climate change in project design and operation, and by protecting and restoring healthy rivers, wetlands, and coastlines;
- (5) Ensure that restoration planning is driven by ecological and not economic development objectives so that restoration can focus on restoring natural functions and processes to improve the health, sustainability, and resiliency of ecosystems and to obtain long term ecological and hazard reduction benefits. Restoration projects should also be evaluated through a cost-effectiveness analysis (not a benefit-cost analysis), as required by law; and
- (6) Ensure that planning and recommended water resources projects comply fully with federal law, including the Clean Water Act's requirements to avoid and minimize adverse impacts to aquatic resources. This includes avoiding and minimizing impacts to hydrologic regimes, ecologically sound instream flows, floodplain and river corridor processes, geomorphic processes, and ecological processes.

IV. Conclusion

The undersigned Organizations appreciate the opportunity to provide comments on the proposed P&S and are committed to improving the Nation's water planning process. The proposed P&S take an important first step in this direction by emphasizing the value of healthy rivers, wetlands, and coasts; and by including the important planning concepts identified in Section I of these comments.

However, the undersigned Organizations cannot support the proposed P&S in its current form, and urge the critical changes discussed in these comments to ensure that federal planning is capable of meeting the nation's 21st century water resources needs. Federal law and policy, and the dire condition of the nation's water resources, mandate a stand-alone environmental protection objective and a mandatory planning hierarchy with clear directives and criteria to ensure that Federal water project planning is driven by federal law and policy and national priorities.

Sincerely,

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