

**Alliance for the Great Lakes ♦ American Bottom Conservancy
American Rivers ♦ Arkansas Wildlife Federation
Arkansas' White River Chapter #698, Trout Unlimited
Citizens Against Widening the Industrial Canal
Columbia River Crab Fisherman's Association
Committee on the Middle Fork Vermilion River ♦ Community Clean Water Institute
Cry of the Water ♦ Defenders of Wildlife ♦ Delaware Nature Society
Endangered Habitats League ♦ Friends of the North Fork and White Rivers
Georgia River Network ♦ Great Egg Harbor Watershed Association
Gulf Restoration Network ♦ Holy Cross Neighborhood Association
Izaak Walton League of America ♦ Louisiana Audubon Council
Lower Mississippi Riverkeeper
Lower Ninth Ward Center for Sustainable Engagement and Development
Mid-South Fly Fishers ♦ Missouri Coalition for the Environment
National Wildlife Federation ♦ Natural Resources Defense Council
Ohio Environmental Council ♦ Ohio River Foundation ♦ Oregon Wild
Palm Beach County Reef Rescue ♦ Potomac River Association
Prairie Rivers Network ♦ Rivers Unlimited
Save The River/Upper St. Lawrence Riverkeeper
Seagrass Management, LLC ♦ Sierra Club
South Carolina Coastal Conservation League ♦ South Dakota Wildlife Federation
Southwest Missouri Fly Fishers ♦ Surfrider Foundation
Vermont Natural Resources Council ♦ Western Pennsylvania Conservancy
Yell County Wildlife Federation**

July 31, 2009

[Via Email to P&G@ceq.eop.gov](mailto:P&G@ceq.eop.gov)

Council on Environmental Quality
Attn: Terry Breyman
722 Jackson Place, NW.
Washington, DC 20503

Dear Mr. Breyman:

The undersigned national, regional and local conservation organizations appreciate the opportunity to provide comments to the Council on Environmental Quality (CEQ) as it continues the process of revising and updating the quarter-century-old Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (P&G). This is an extremely important process that will help bring the Nation's water resources project planning into the 21st Century.

We thank CEQ for granting the Corps Reform Network an extension until July 31, 2009 to submit comments. 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 of all federal water projects.

While the P&G have historically only applied to the Corps of Engineers (Corps), Tennessee Valley Authority, Bureau of Reclamation, and USDA Natural Resources Conservation Service water projects, CEQ is seeking comments on “developing uniform planning standards for the development of water resources that would apply government-wide.”

Because this process for revising the P&G adds to the process initiated by the Bush Administration by: 1 – Positioning CEQ, instead of the Corps, as the lead entity to facilitate the P&G revision process, and 2 – Considering applying the P&G government-wide beyond the four traditional federal water construction agencies, CEQ has initiated this proceeding to provide an opportunity for additional agencies and interests to provide suggestions on what a revised P&G should look like and feedback on the consideration of applying the P&G government-wide.

Applying the P&G Government-Wide

Our organizations support establishment of government-wide water planning principles that ensure that protecting and restoring natural systems, and protecting public health and safety, are the top priorities for water projects. As a result, we support the development of such water project planning principles that apply government-wide, with more specific guidance tailored to individual federal agencies that engage in federal water projects.

It is entirely appropriate and logical for CEQ to provide key leadership in this effort given its special coordinating role among all federal agencies and departments on a broad range of water and land related programs and policies. In drafting a P&G applicable to the entire federal government, it is essential that CEQ and all federal agencies participating in the drafting process commit to ensuring that the final product will in fact place environmental protection and restoration as the primary emphasis of all federal water projects. Otherwise, there exists the danger of burdening restoration programs in other agencies with injecting economic considerations in projects whose primary purpose and design is restoration.

A revised P&G that does not produce the paradigm shift we envision threatens to compel other federal agencies to deliver the environmentally damaging projects that the Corps and other agencies have delivered us with the current P&G. This is a tremendous opportunity to usher in a new era of stewardship towards our water resources. A revised P&G that ‘gets-it-right’ could be the basis for a sustainable 21st century water policy. Similarly, a revised P&G that ‘gets-it-wrong’ could spread the unacceptable status quo among other federal agencies to the detriment of our natural resources and public safety.

What to Consider During the P&G Revision Process

The nation can no longer afford the status quo – or some minor amendment to the status quo – approach to planning water resources projects. A healthy future demands a fundamentally different approach to project planning, and CEQ should approach the revision process with this critical premise in mind. It is essential that the new Principles set forth clear policies to guide development of water projects. These policy statements should be unambiguously drafted and should establish mandatory requirements for project planning.

Policy statements that instruct federal agencies to ‘balance’ environmental interests with competing interests is not sufficient and could not only sustain the bias that the Corps has traditionally given to structural projects that damage the environment, but spread that bias across the entire government. CEQ should use clear and unambiguous policy statements in the revised P&G, which can be accomplished by using firm and binding language such as ‘federal agencies shall.’ The policy directives that the new P&G create should be real directives that federal agencies cannot stray from. CEQ should carefully consider the language it uses in the revised P&G to ensure that the P&G are real, firm, and binding directives to agencies.

A thoughtful and rigorous assessment of the role that the current P&G have played in promoting the degradation of our Nation’s water resources is also essential for ensuring that the revised P&G do not continue to produce projects that degrade our environment. For example, it is essential to understand why non-structural approaches to solving water resources problems have been used in so few circumstances during the past 25 years in order to overcome any bias against non-structural approaches in the revised P&G. It is also essential to understand what, in the P&G, has led to so many exaggerated navigation traffic estimates that failed to materialize after projects were completed. The P&G revision process should seek to identify additional questions like these to ensure the most effective improvements to the P&G. Such look-back studies should become a routine process for informing future federal water project planning.

Sound revisions to the P&G also require a clear understanding of the overarching water resources issues and challenges currently facing the Nation. This may require commission of key studies, and clearly will require the engagement of a broad range of experts, academics, economists, scientists, other federal agencies and governmental entities, and the public. The CEQ is well-positioned to draw from the expertise of all relevant federal agencies, experts and the public during this revision process. CEQ should also ensure adequate time to address the numerous problems with the P&G that have been identified in reports issued by the National Research Council of the National Academies, the Government Accountability Office, and the Department of the Army Inspector General.

Now that CEQ is considering extending the reach of the P&G by applying it government-wide, CEQ must consider how it will apply a standard set of principles to different agencies that have fundamentally different missions. Agencies that have a mission of environmental protection and restoration must be delivered a P&G that aids in achieving that mission, not a P&G that imposes economic development/cost criteria that have no bearing on that agency’s restoration mission.

Problems with the Current P&G

For decades, the Nation has invested in water resources projects in an effort to fuel economic development, and to protect local communities through structural projects designed to control flooding and manipulate river systems and coastlines. While these approaches have produced some positive economic benefits for the Nation, they have also caused significant damage to the nation's rivers, streams, and wetlands. This in turn has caused major and significant damage to fish and wildlife, increased the flood risk for many communities, reduced water quality, impaired recreational opportunities, and damaged economies that rely on a healthy environment.

The transformation of the nation's rivers brought about by a century of federal levees, dams and dredging projects are among 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 The damage is so widespread that the National Research Council has called for the establishment of a national goal to restore riparian functions along America's rivers.²

In some instances, federal investments in economic development projects have caused unintended consequences that have put entire communities at risk. The potential dangers from such unintended consequences were made tragically clear in the aftermath of Hurricane Katrina. Corps projects along the Mississippi River are a well recognized cause of the enormous – and clearly unintended – loss of coastal Louisiana wetlands that were not available to buffer Hurricane Katrina's storm surge before it reached the New Orleans area. The Corps-built Mississippi River Gulf Outlet greatly exacerbated the hurricane's impacts by funneling and intensifying the storm surge into New Orleans. Corps flood protection projects in New Orleans encouraged the development of high-risk areas that suffered the brunt of the flooding. And the city's fate was sealed by improperly designed levees and floodwalls that were supposed to protect New Orleans, but did not.

Many of these problems can be traced to the fact that the current P&G – which have directed our water resources development for 25 years – focus almost exclusively on maximizing National Economic Development at the expense of the environment. This has led to an institutional bias for approving large and environmentally damaging structural projects. Two National Academy of Sciences panels and the Department of the Army Inspector General have concluded that the Corps has an institutional bias for approving large and environmentally damaging structural projects, and that its planning process lacks adequate environmental safeguards.³ Less environmentally damaging, less costly, nonstructural measures that would result in the same or

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

² National Research Council, *Riparian Areas: Functions and Strategies for Management 2* (2002). The National Research Council has concluded that protecting and restoring riparian areas will have a "major influence on achieving the goals of the Clean Water Act, the Endangered Species Act, and flood damage control programs." *Id.*

³ National Research Council, *New Directions in Water Resources Planning for the U.S. Army Corps of Engineers*, 1999, at 4, 21, 61-63; National Research Council, *Inland Navigation System Planning: The Upper Mississippi River-Illinois Waterway*, 2001, at 25-28; 53-54; US Army Inspector General, *Report of Investigation*, Case 00-019, 2000, at 7-8.

better outcomes are routinely ignored or given short shrift, resulting in projects that are unnecessarily destructive, costly, and in many cases, simply not needed.

The current P&G also do not adequately address the many challenges we are facing from climate change, which is leading to increasing sea-level rise, changes in glacial and snowmelt patterns, additional ocean and estuary “dead zones,” declining ecosystem health and threats to biodiversity, and more frequent and severe storms, floods, and droughts. Healthy rivers, wetlands, and coastlines are vitally important to helping our communities withstand the increased storms, floods, and droughts that will occur as the earth’s climate continues to change. These natural systems absorb flood waters; act as barriers between storm surges and homes, buildings, and people; recharge groundwater supplies; and filter pollutants from drinking water. They also provide critical habitat for fish and wildlife, and exceptional recreational opportunities. These major changes in climate and weather patterns mandate a fundamental transformation in the direction of water resources planning.

Revised P&G Should Fundamentally Transform the Current Approach to Water Resources Project Planning

Congress established a new federal policy for federal water projects in section 2031(a) of the Water Resources Development Act of 2007 (P.L. 110-114). This new national policy requires that federal water projects reflect national priorities, protect the environment, and encourage economic development. By statute, the P&G are to achieve these goals by, among other things: (1) seeking to maximize sustainable economic development; (2) seeking to avoid the unwise use of floodplains and flood-prone areas and minimizing adverse impacts and vulnerabilities where such areas must be used; (3) protecting and restoring the functions of natural systems; and (4) mitigating any unavoidable damage to natural systems. This new national policy makes protecting healthy rivers, floodplains, wetlands and coastal environments that protect and sustain communities the primary objective for water resources planning.

Our organizations believe that the Nation requires a fundamentally new approach to water resources project planning that places the primary emphasis of project planning on protecting and restoring the Nation’s water resources. We urge that the revisions to the P&G produce this vital shift. Again, the nation can no longer afford the status quo – or some minor amendment to the status quo – approach to planning water resources projects. To the contrary, a healthy future demands a fundamentally different approach to project planning based on at least the following key principles:

- (1) Maintaining and restoring the health of our nation’s rivers, streams, and wetlands – and the many ecosystem services that they provide – is the highest priority for project planning. All projects shall be designed to work with, and maintain, the integrity of natural systems (including a river’s natural instream flow) to the maximum extent possible.

- (2) No project shall be proposed or constructed unless it has been fully and comprehensively evaluated to ensure that the project will not put the public at risk. This must include an assessment of the potential for unintended consequences (for example, flood protection or navigation projects that increase flood heights downstream or promote new development in floodplains, unacceptably low levels of protection from structural flood control projects, funneling storm surge through navigation channels, inadequate design and construction techniques that could lead to catastrophic structural failures).
- (3) Federal agencies should utilize up-to-date global warming science in project planning and management. No project shall be proposed or constructed unless the federal agency has fully and comprehensively evaluated the appropriateness and adequacy of the project in the face of the known consequences of global climate change, including increased floods, storms, droughts, and sea level rise; and the critical value of healthy rivers, streams, wetlands, and coasts in buffering communities, and fish and wildlife, from such climate change impacts.
- (4) No project shall be proposed or constructed unless the federal agency has fully and independently analyzed, evaluated, and properly defined, the problem that needs to be addressed. For example, when a community or interest group maintains that there is a flooding problem that must be resolved, the federal agency should fully examine whether there in fact is a problem that needs to be addressed, and whether the actual problem is one that is appropriate for resolving through federal investment. For example, we would posit that repeated high water on low lying agricultural land is not a flooding problem. Instead, the problem is more properly defined as the natural system limiting agricultural income. In such a case we would also argue that addressing that “problem” by constructing a project to increase agricultural income is not an appropriate investment of federal resources, particularly when the environment must be damaged to do so. Similarly, in evaluating a so-called flooding “problem,” the federal agency should independently investigate whether it is actually more beneficial to allow the natural flooding process to take place.
- (5) No structural project shall be constructed if a non-structural approach would solve the problem. If there is a way to address the properly defined problem through non-structural approaches, then the study of structural approaches *should not proceed*. For example, would upstream wetland and stream restoration resolve a downstream flooding problem? Could traffic congestion on a river be addressed through scheduling or crew training instead of through construction of new locks? For water supply projects, could aggressive conservation and efficiency efforts across user groups address water needs more effectively and securely than a new storage project?
- (6) If a portion of the problem could be addressed through non-structural approaches then any further study should include those non-structural approaches as the first and mandatory elements of any plan recommended by the federal agency. In such cases, structural approaches should be used only to the extent that they are needed to address the remainder of the properly defined problem.

- (7) Projects that encourage development in undeveloped floodplain areas shall not be considered or constructed.
- (8) Future economic or market trends should be used to economically justify a project only if the projected future trends are based on established and demonstrated current trends with substantial certainty, and should only be projected for limited periods into the future.

Our organizations urge that the P&G be revised to establish, and ensure implementation of, these key principles. We recognize that many additional key principles and important proposals are likely to be identified as the P&G revision process moves forward.

Conclusion

The undersigned Conservation Organizations believe that the Nation requires a fundamentally new approach to water resources project planning that places the primary emphasis of project planning on protecting and restoring the Nation’s water resources. We urge that the revisions to the P&G produce this vital shift, and that CEQ establishes a full and open process for ensuring the most effective revisions to the long-outdated P&G.

Sincerely,

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