

PROVIDING FOR CONSIDERATION OF H.R. 2557, WATER  
RESOURCES DEVELOPMENT ACT OF 2003

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SEPTEMBER 23, 2003.—Referred to the House Calendar and ordered to be printed

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Mr. HASTINGS of Washington, from the Committee on Rules,  
submitted the following

R E P O R T

[To accompany H. Res. 375]

The Committee on Rules, having had under consideration House Resolution 375, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2557, the Water Resources and Development Act of 2003, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute.

The rule makes in order only those amendments printed in this report. The rule provides that the amendments printed in this report shall be considered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report.

Finally, the rule provides one motion to recommit with or without instructions.

## COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee Record Vote No. 198*

Date: September 23, 2003.

Measure: H.R. 2557—Water Resources and Development Act of 2003.

Motion by: Mr. Hastings of Florida.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Representative Candice Miller which adds new language amending the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to direct the Secretary to issue a regulation to prohibit a vessel with a ballast water tank from entering the Great Lakes if more than 5 percent of the tank contains ballast water. Requires that the master of the vessels certify with the Secretary before they depart the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements.

Results: Defeated 4 to 9.

Vote by Members: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Reynolds—Nay; Frost—Yea; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

## SUMMARY OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. Young: Manager's Amendment. Makes technical and confirming changes to project-related provisions, and authorizes or modifies additional projects brought to the Committee's attention following Committee action, including: Nine projects based on Reports of the Chief of Engineers: Tanque Verde Creek, Arizona, project for environmental restoration; Peroria Riverfront, Illinois, project for environmental restoration; South River, New Jersey, project for hurricane and storm damage reduction; Jacksonville Harbor, Florida, project for navigation; Manasquan to Barneget Inlets, New Jersey, project for hurricane and storm damage reduction; Bel Marin Keys Unit V, California, project for environmental restoration; Imperial Beach, California, project for storm damage reduction; Centralia, Chehalis River, Washington, project for flood damage reduction; Gwynns Falls, Maryland, project for ecosystem restoration. Authorizes 5 small projects and modifies 10 existing projects. Authorizes 3 small projects for navigation. Authorizes 1 and modifies 1 small project for improving the quality of the environment. Authorizes 1 and modification of 1 small project for emergency streambank protection. Modifies 2 navigation projects. Modifies 1 small project for flood damage reduction. Modifies 3 flood control projects. Deauthorizes portions of 2 navigation projects. Authorizes 4 Corps of Engineers studies. (20 minutes)

2. Kind: Requires the Corps to (1) fully mitigate habitat lost from the construction of Corps projects by replacing at a minimum, each acre of damaged habitat with an equivalent or superior acre of habitat; (2) complete at least 50 percent of mitigation before construction begins, with the remainder to be completed when project

construction is complete (except for those limited instances where that is not physically possible); and (3) prepare detailed mitigation plans that have a high likelihood of successfully replacing lost values and that require monitoring to ensure success. (20 minutes)

3. Rohrabacher: Amends language which permits ports to collect tonnage fees for local harbor purposes, by permitting such fees to be collected on a per container basis and permitting the funds collected to be used for security purposes or for infrastructure projects within or outside the harbor that are for transportation to, from, or through the harbor. (20 minutes)

#### TEXT OF AMENDMENTS MADE IN ORDER

##### 1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE YOUNG OF ALASKA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 8, line 7, before “Except” insert “(a) PROJECTS WITH CHIEF’S REPORTS.—”.

Page 8, before line 13, insert the following (and redesignate subsequent paragraphs accordingly):

(1) TANQUE VERDE CREEK, ARIZONA.—The project for environmental restoration, Tanque Verde Creek, Arizona: Report of the Chief of Engineers, dated July 22, 2003, at a total cost of \$4,878,000, with an estimated Federal cost of \$3,170,700 and an estimated non-Federal cost of \$1,707,300.

Page 8, line 14, before “The” insert the following:

(A) IN GENERAL.—

Page 9, after line 2, insert the following:

(B) EXPEDITING BRIDGE DESIGN AND CONSTRUCTION.—

The Secretary, in cooperation with appropriate non-Federal interests, shall immediately commence appropriate studies for, and the design of, a permanent bridge (including an evaluation of potential impacts of bridge construction on traffic patterns and identification of alternatives for mitigating such impacts) and, upon execution of a cost-sharing agreement with such non-Federal interests, shall proceed to construction of the bridge as soon as practicable; except that such studies, design, and construction shall not adversely affect the schedule of design or construction of authorized projects for flood damage reduction.

Page 9, after line 16, insert the following (and redesignate subsequent paragraphs accordingly):

(4) PEORIA RIVERFRONT, ILLINOIS.—The project for environmental restoration, Peoria Riverfront, Illinois: Report of the Chief of Engineers, dated July 28, 2003, at a total cost of \$15,182,000, with an estimated Federal cost of \$9,868,000 and an estimated non-Federal cost of \$5,314,000.

Page 9, line 21, strike “Report” and insert “Reports”.

Page 9, line 22, before “at” insert “and July 22, 2003,”.

Page 10, after line 12, insert the following (and redesignate subsequent paragraphs accordingly):

(6) SOUTH RIVER, NEW JERSEY.—The project for hurricane and storm damage reduction and environmental restoration, South River, New Jersey: Report of the Chief of Engineers, dated July 22, 2003, at a total cost of \$103,268,000, with an

estimated Federal cost of \$67,124,000 and an estimated non-Federal cost of \$36,144,000.

Page 11, after line 25, insert the following:

(b) PROJECTS SUBJECT TO FINAL REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed not later than December 31, 2003:

(1) BEL MARIN KEYS UNIT V, CALIFORNIA.—The project for environmental restoration, Bel Marin Keys Unit V, California, at a total cost of \$133,600,000, with an estimated Federal cost of \$100,200,000 and an estimated non-Federal cost of \$33,400,000.

(2) IMPERIAL BEACH, CALIFORNIA.—The project for storm damage reduction, Imperial Beach, California, at a total cost of \$11,922,000, with an estimated Federal cost of \$7,630,000 and an estimated non-Federal cost of \$4,292,000.

(3) GWYNNS FALLS, MARYLAND.—The project for environmental restoration, Gwynns Falls, Maryland, at a total cost of \$14,660,000.

(4) MANASQUAN TO BARNEGAT INLETS, NEW JERSEY.—The project for hurricane and storm damage reduction, Manasquan to Barnegat Inlets, New Jersey, at a total cost of \$60,649,000, with an estimated Federal cost of \$39,422,000 and an estimated non-Federal cost of \$21,227,000.

(5) CENTRALIA, CHEHALIAS RIVER, WASHINGTON.—The project for flood damage reduction, Centralia, Chehalias River, Washington, at a total cost of \$86,872,000, with an estimated Federal cost of \$56,467,000 and an estimated non-Federal cost of \$30,405,000.

Page 15, after line 10, insert the following (and redesignate subsequent paragraphs accordingly):

(3) RED LAKE FALLS, MINNESOTA.—Project for emergency streambank protection, Red Lake River, Red Lake Falls, Minnesota.

Page 16, after line 5, insert the following (and redesignate subsequent paragraphs accordingly):

(2) PALM BEACH HARBOR, FLORIDA.—Project for navigation, Palm Beach Harbor, Florida.

Page 16, after line 7, insert the following (and redesignate subsequent paragraphs accordingly):

(3) MISSISSIPPI RIVER SHIP CHANNEL, LOUISIANA.—Project for navigation, Mississippi River Ship Channel, Louisiana.

(4) AU SABLE RIVER, MICHIGAN.—Project for navigation, Au Sable River in the vicinity of Oscoda, Michigan.

Page 23, strike lines 10 and 11.

Page 23, line 12, strike “(C)” and insert “(B)”.

Page 23, line 12, strike “Secretary of the Army”.

Page 23, line 14, strike “district engineer” and all that follows through “out” on line 15.

Page 23, line 19, strike “(D)” and insert “(C)”.

Page 23, line 21, strike “liquidated”.

Page 24, lines 3 and 5, strike “partnership”.

Page 24, line 3, after “agreement” insert “under this section”.

Page 24, line 15, strike “liquidated”.

Page 25, strike line 7, and insert the following:

(d) PARTNERSHIP AND COOPERATIVE ARRANGEMENTS.—

(1) IN GENERAL.—Agreements entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5(b)) shall further partnership and cooperative arrangements with non-Federal interests and shall be referred to as “partnership agreements”.

Page 25, line 8, strike “(1) To” and insert “(2) REFERENCES TO”.

Page 25, line 14, strike “(2) To” and insert “(3) REFERENCES TO”.

Page 25, after line 18, insert the following:

(e) ENTRY OF AGREEMENT WITH DISTRICT ENGINEER.—After January 1, 2005, the agreement required to be entered into under section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)) shall be entered into with the district engineer for the district in which the project will be carried out, unless, before that date, the Secretary issues policies and guidelines for partnership agreements and delegates to the district engineers, at a minimum—

(1) the authority to approve any policy in a partnership agreement that has appeared in an agreement previously approved by the Secretary;

(2) the authority to approve any policy in a partnership agreement the specific terms of which are dictated by law, or by a final feasibility study, final environmental impact statement, or other final decision document for a water resources development project;

(3) the authority to approve any partnership agreement that complies with the policies and guidelines issued by the Secretary; and

(4) the authority to sign any partnership agreement for any water resources development project unless, within 30 days of the date of authorization of the project, the Secretary notifies the district engineer in which the project will be carried out that the Secretary wishes to retain the prerogative to sign the partnership agreement for that project.

(f) PUBLIC AVAILABILITY.—Not later than the 120th day following the date of enactment of this Act, the Chief of Engineers shall ensure that each district engineer has made available on the Internet all partnership agreements entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5(b)) within the preceding 10 years and all partnership agreements for water resources development projects currently being carried out in that district and shall make any partnership agreements entered into after such date of enactment available on the Internet within 7 days of the date on which such agreement is entered into.

Page 36, line 19, strike “conveyed to” and all that follows through the closing parenthesis mark on line 21 and insert “owned by an Alaska Native Regional Corporation or an Alaska Native Village Corporation (as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) or the Metlakatla Indian community.”

Page 74, after line 11, insert the following (and conform the table of contents of the bill accordingly):

**SEC. 2034. SUPPORT OF ARMY CIVIL WORKS PROGRAM.**

(a) IN GENERAL.—Notwithstanding section 2361 of title 10, United States Code, the Secretary is authorized to provide assistance through contracts, cooperative agreements, and grants to—

(1) the University of Tennessee, Knoxville, Tennessee, for establishment and operation of the Southeastern Water Resources Institute to study sustainable development and utilization of water resources in the Southeastern United States; and

(2) Lewis and Clark Community College, Illinois, for the Great Rivers National Research and Education Center (including facilities that have been or will be constructed at one or more locations in the vicinity of the confluence of the Illinois River, the Missouri River, and the Mississippi River), a collaborative effort of Lewis and Clark Community College, the University of Illinois, the Illinois Department of Natural Resources and Environmental Sciences, and other entities, for the study of river ecology, developing watershed and river management strategies, and educating students and the public on river issues.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out subsection (a)(1) \$5,000,000 and to carry out subsection (a)(2) \$5,000,000. Such sums shall remain available until expended.

Page 76, line 4, strike “**tatilek**” and insert “**tatitlek**”. Conform the table of contents of the bill accordingly.

Page 76, line 6, strike “**TATILEK**” and insert “**TATITLEK**”.

Pages 79 and 80, move section 3012 (relating to Los Angeles Harbor, Los Angeles, California) after section 3013 (relating to Larkspur Ferry Channel, Larkspur, California). Redesignate subsequent sections, and conform the table of contents of the bill, accordingly.

Page 87, after line 15, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 3028. JACKSONVILLE HARBOR, FLORIDA.**

The project for navigation, Jacksonville Harbor, Florida, authorized by section 101(a)(17) of the Water Resources Development Act of 1999 (113 Stat. 276), is modified to authorize the Secretary to extend the navigation features in accordance with the Report of the Chief of Engineers, dated July 22, 2003, at a total cost of \$14,658,000, with an estimated Federal cost of \$9,636,000 and an estimated non-Federal cost of \$5,022,000.

Page 87, line 24, after “project” insert “in accordance with the feasibility report of October 2002”.

Page 87, line 24, strike “\$12,926,000” and insert “\$12,632,200”.

Page 87, line 25, strike “\$6,547,000” and insert “\$7,882,493”.

Page 88, line 1, strike “\$6,379,000” and insert “\$4,749,707”.

Page 88, line 2, strike “\$925,000” and insert “\$1,044,400”.

Page 88, line 4, strike “\$468,500” and insert “\$651,706”.

Page 88, line 5, strike “\$456,500” and insert “\$392,694”.

Pages 89 and 90, move section 3032 (relating to Miami Harbor, Florida) after section 3029 (relating to Manatee Harbor, Florida). Redesignate subsequent sections, and conform the table of contents of the bill, accordingly.

Page 89, after line 25, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 3032. TAMPA HARBOR-CUT B, FLORIDA.**

The project for navigation, Tampa Harbor, Florida, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818), is modified to authorize the Secretary to construct passing lanes in an area approximately 3.5 miles long and centered on Tampa Bay Cut B if the Secretary determines that such improvements are necessary for navigation safety.

Page 90, line 8, before “Federal” insert “a”.

Page 90, line 8, strike “and” and insert “or”.

Page 90, line 9, strike “agencies” and insert “agency”.

Page 91, after line 5, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 3034. CHICAGO SANITARY AND SHIP CANAL, ILLINOIS.**

(a) ONGOING PROJECT.—The project for improvement of the quality of the environment, Chicago Sanitary and Ship Canal, Illinois, being carried out under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a) to provide for a dispersal barrier for invasive species, is modified to allow that Federal assistance made available through other Federal agencies may be used toward payment of the non-Federal share of the costs of the project.

(b) NEW WORK.—The Secretary shall conduct a study of a project for the improvement of the quality of the environment, Chicago Sanitary and Ship Canal, Illinois, and if the Secretary determines that the project is appropriate, shall carry out a project under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), including upgrades or improvements to the existing barrier for aquatic invasive species. Federal assistance made available by other Federal agencies may be used toward payment of the non-Federal share of the cost of the project.

Page 100, line 23, before the period insert the following:  
and to authorize the Secretary to carry out the project in accordance with the report prepared by the non-Federal interest if the Secretary determines that the report meets the evaluation and design standards of the Corps of Engineers and that the project is feasible

Page 109, line 4, after “would” insert “not”.

Page 109, line 5, strike “the same” and insert “a lesser”.

Page 109, line 17, strike “\$18,000,000” and insert “\$18,200,000”.

Page 118, after line 20, insert the following:

(1) to include as part of the project flood protection works to reroute drainage to Raymondville Drain constructed by the non-Federal interests in Hidalgo County in the vicinity Edinburg, Texas, if the Secretary determines that such work meets feasibility requirements;

Page 118, line 21, strike “(1)” and insert “(2)”.

Page 119, line 3, strike “(2)” and insert “(3)”.

Page 119, line 5, after “determination” insert “, within 180 days after the date of enactment of this Act,”.

Page 120, line 13, before “construction” insert “design and”.

Page 120, lines 14 and 15, strike “before the date of the partnership agreement”.

Page 123, line 25, insert before the period the following:

; except that the authorized depth of that portion of the project extending riverward of the Charles M. Braga, Jr. Memorial Bridge, Fall River and Somerset, Massachusetts, shall not exceed 35 feet

Page 127, after line 19, insert the following (and redesignate subsequent paragraphs accordingly):

(4) MUSCATINE, IOWA.—The Mississippi River at Muscatine, Iowa project, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 164).

(5) FALMOUTH HARBOR, MASSACHUSETTS.—The portion of the project for navigation, Falmouth Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1172), beginning at a point along the eastern side of the inner harbor N200,415.05, E845,307.98, thence running north 25 degrees 48 minutes 54.3 seconds east 160.24 feet to a point N200,559.20, E845,377.76, thence running north 22 degrees 7 minutes 52.4 seconds east 596.82 feet to a point N201,112.15, E845,602.60, thence running north 60 degrees 1 minute 0.3 seconds east 83.18 feet to a point N201,153.72, E845,674.65, thence running south 24 degrees 56 minutes 43.4 seconds west 665.01 feet to a point N200,550.75, E845,394.18 thence running south 32 degrees 25 minutes 29.0 seconds west 160.76 feet to the point of origin.

Page 141, after line 3, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 4002. CHOCTAWHATCHEE, PEA, AND YELLOW RIVERS WATERSHED, ALABAMA.**

The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction, environmental restoration, recreation, and water supply in the Chactawhatchee, Pea, and Yellow Rivers watershed, Alabama.

Page 142, after line 8, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 4007. NAPA RIVER, ST. HELENA, CALIFORNIA.**

The Secretary shall conduct a comprehensive study of the Napa River in the vicinity of St. Helena, California, for the purposes of improving flood management through reconnecting the river to its floodplain; restoring habitat, including riparian and aquatic habitat; improving fish passage and water quality; and restoring native plant communities. In conducting the study, the Secretary shall review plans and designs developed by non-Federal interests and shall incorporate such plans and designs into the Federal study where the Secretary determines that such plans and designs are consistent with the Federal interest.

Page 144, after line 22, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):



**SEC. 4015. FALL RIVER HARBOR, MASSACHUSETTS.**

The Secretary shall conduct a study to determine the feasibility of deepening that portion of the navigation channel of the navigation project for Fall River Harbor, Massachusetts and Rhode Island, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), seaward of the Charles M. Braga, Jr. Memorial Bridge, Fall River and Somerset, Massachusetts.

Pages 144 and 145, move sections 4016 (relating to Chicago, Illinois) and 4017 (relating to South Branch, Chicago River, Chicago, Illinois) after section 4011 (relating to Calumet Harbor, Illinois). Redesignate subsequent sections, and conform the table of contents of the bill, accordingly.

Page 150, after line 25, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 4033. LAKE ERIE DREDGED MATERIAL DISPOSAL SITES.**

The Secretary shall conduct a study to determine the nature and frequency of avian botulism problems in the vicinity of Lake Erie associated with dredged material disposal sites and shall make recommendations to eliminate the conditions that result in such problems.

Page 154, after line 12, insert the following:

(20) Schuylkill River watershed, Pennsylvania.

Page 157, after line 22, insert the following (and redesignate subsequent paragraphs accordingly):

(10) \$25,000,000 for the project described in subsection (c)(23);

Page 160, after line 25, insert the following:

(5) Project for environmental restoration, Gwynns Falls, Maryland.

Page 161, line 1, after “SPECIAL RULE” insert “FOR EGMONT KEY, FLORIDA”.

Page 161, after line 10, insert the following:

(d) SPECIAL RULE FOR GWYNNNS FALLS, MARYLAND.—The report on the project for environmental restoration at Gwynns Falls, Maryland, referred to in subsection (a)(5), shall be treated as being consistent and in compliance with the consent decree entered into between the United States and the Mayor and City Council of Baltimore, Maryland, filed with the United States District Court for the District of Maryland on April 26, 2002, and no policy of the Secretary with respect to work performed under a consent decree shall delay completion of this report and its submission to Congress.

Page 166, after line 7, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5020. FORT YUKON, ALASKA.**

The Secretary shall make repairs to the dike at Fort Yukon, Alaska, so that the dike meets Corps of Engineers standards.

Page 167, after line 6, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5023. HELENA AND VICINITY, ARKANSAS.**

The Secretary shall accept as fulfilling the non-Federal cost sharing responsibilities for the project for flood control, Helena and Vicinity, Arkansas, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4112), the non-Federal cash contribution of \$568,000 and the lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal sponsor as of September 1, 2003, and the Secretary shall not seek to recover any reimbursement from the non-Federal sponsor related to advanced payments to, or work performed for, the non-Federal sponsor under the authority of sections 103 and 104 of the Water Resources Development Act of 1986 (33 U.S.C. 2213, 2214).

Page 170, after line 16, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5029. PLACER AND EL DORADO COUNTIES, CALIFORNIA.**

(a) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish a program to provide environmental assistance to non-Federal interests in Placer and El Dorado Counties, California.

(b) **FORM OF ASSISTANCE.**—Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in Placer and El Dorado Counties through water and wastewater projects, programs, and infrastructure.

(c) **OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) **PARTNERSHIP AGREEMENTS.**—

(1) **IN GENERAL.**—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) **REQUIREMENTS.**—Each partnership agreement entered into under this subsection shall provide for the following:

(A) **PLAN.**—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) **LEGAL AND INSTITUTIONAL STRUCTURES.**—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) **COST SHARING.**—

(A) **IN GENERAL.**—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) **CREDIT FOR WORK.**—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) **CREDIT FOR INTEREST.**—In case of a delay in the funding of the non-Federal share of a project that is the

subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(g) CORPS OF ENGINEERS EXPENSES.—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000. Such sums shall remain available until expended.

Page 170, lines 19 and 20, strike “amended—” and all that follows through “by” on line 21 and insert “amended by”.

Page 170, line 22, strike the semicolon and all that follows through line 5 on page 171 and insert a period.

Page 175, after line 22, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5033. SAN PABLO BAY WATERSHED AND SUISUN MARSH ECOSYSTEM RESTORATION.**

(a) SAN PABLO BAY WATERSHED, CALIFORNIA.—

(1) IN GENERAL.—The Secretary shall complete work, as expeditiously as possible, on the ongoing San Pablo Bay watershed, California, study to determine the feasibility of opportunities for restoring, preserving and protecting the San Pablo Bay watershed.

(2) REPORT.—Not later than March 31, 2008, the Secretary shall transmit to Congress a report on the results of the study.

(c) SUISUN MARSH, CALIFORNIA.—The Secretary shall conduct a comprehensive study to determine the feasibility of opportunities for restoring, preserving and protecting the Suisun Marsh, California.

(d) SAN PABLO AND SUISUN BAY MARSH WATERSHED CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—The Secretary may participate in critical restoration projects that will produce, consistent with Federal programs, projects, activities, immediate and substantial ecosystem restoration, preservation and protection benefits in the following sub-watersheds of the San Pablo and Suisun Bay Marsh watersheds:

- (A) The tidal areas of the Petaluma River, Napa-Sonoma Marsh.
- (B) The shoreline of West Contra Costa County.
- (C) Novato Creek.
- (D) Suisun Marsh.
- (E) Gallinas-Miller Creek.

Participation in such critical restoration projects may include assistance for planning, design or construction.

(2) NON-FEDERAL INTERESTS.—Notwithstanding the requirements of section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), a nonprofit entity may serve, with the consent of the affected local government, as a non-Federal sponsor for a project undertaken pursuant to this section.

(3) COST SHARING.—Before carrying out any project under this section, the Secretary shall enter into a partnership agreement with the non-Federal interest that shall require the non-Federal interest—

- (A) to pay 35 percent of the cost of construction for the project;
- (B) to provide any lands, easements, rights-of-way, dredged material disposal areas and relocations necessary to carry out the project; and
- (C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the project.

(4) CREDIT.—The Secretary shall credit toward the non-Federal share of the cost of construction of a project under this section—

- (A) the value of any lands, easements, rights-of-way, dredged material disposal areas, or relocations provided for carrying out the project, regardless of the date of acquisition;
- (B) funds received from the CALFED Bay-Delta program; and
- (C) the cost of the studies, design and construction work carried out by the non-Federal interest before the date of execution of a partnership agreement for the project if the Secretary determines that the work is integral to the project.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$40,000,000.

Page 176, after line 17, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5034. UPPER KLAMATH BASIN, CALIFORNIA.**

(a) **DEFINITION OF UPPER KLAMATH BASIN.**—In this section, the term “Upper Klamath Basin” means the counties of Klamath, Oregon, and Siskiyou and Modoc, California.

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish a program to provide environmental assistance to non-Federal interests in the Upper Klamath Basin.

(c) **FORM OF ASSISTANCE.**—Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in the Upper Klamath Basin through water and wastewater and ecosystem restoration projects, programs, and infrastructure.

(d) **OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) **PARTNERSHIP AGREEMENTS.**—

(1) **IN GENERAL.**—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) **REQUIREMENTS.**—Each partnership agreement entered into under this subsection shall provide for the following:

(A) **PLAN.**—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) **LEGAL AND INSTITUTIONAL STRUCTURES.**—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) **COST SHARING.**—

(A) **IN GENERAL.**—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) **CREDIT FOR WORK.**—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) **CREDIT FOR INTEREST.**—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) **LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.**—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$25,000,000. Such sums shall remain available until expended.

Page 181, after line 11, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5041. COOK COUNTY, ILLINOIS.**

Section 219(f)(54) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 535; 114 Stat. 2763A–221) is amended—

(1) by striking “\$35,000,000” and inserting the following:

“(A) IN GENERAL.—\$35,000,000”;

(2) by adding at the end the following:

“(B) CREDIT.—The Secretary shall credit toward the non-Federal share of the cost of the project not to exceed \$80,000 for the cost of planning and design work carried out by the non-Federal interest before, on, or after the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.”;

and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this section) with subparagraph (B) (as added by paragraph (2) of this section).

Page 186, after line 20, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5045. SOUTHWEST ILLINOIS.**

(a) DEFINITION OF SOUTHWEST ILLINOIS.—In this section, the term “Southwest Illinois” means the counties of Madison, St. Clair, Monroe, Randolph, Perry, Franklin, Jackson, Union, Alexander, Pulaski, and Williamson, Illinois.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program to provide environmental assistance to non-Federal interests in Southwest Illinois.

(c) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance for water-related

environmental infrastructure and resource protection and development projects in Southwest Illinois, including projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) **NONPROFIT ENTITIES.**—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity.

(h) **CORPS OF ENGINEERS EXPENSES.**—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$40,000,000. Such sums shall remain available until expended.

Page 197, after line 20, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5053. LAKE PONTCHARTRAIN, LOUISIANA.**

For purposes of carrying out section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1271), the Lake Pontchartrain, Louisiana, basin stakeholders conference convened by the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and United States Geological Survey on February 25, 2002, shall be treated as being a management conference convened under section 320 of such Act (33 U.S.C. 1330).

Page 199, after line 22, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5059. CROOKSTON, MINNESOTA.**

The Secretary shall conduct a study for a project for emergency streambank protection in the vicinity of Highway 2, Crookston, Minnesota, and, if the Secretary determines that the project is feasible, may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r); except that the maximum amount of Federal funds that may be expended for the project shall be \$6,500,000.

Page 203, after line 8, insert the following (and redesignate subsequent sections of the bill, and conform the table of contents of the bill, accordingly):

**SEC. 5065. DELAWARE RIVER, TRENTON, NEW JERSEY.**

The Secretary shall provide assistance to address floating and partially submerged debris in that portion of the Delaware River downstream from Trenton, New Jersey.

Page 206, after line 20, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5069. GATEWAY POINT, NORTH TONAWANDA, NEW YORK.**

The Secretary shall review the shoreline stabilization, recreation, and public access components of the feasibility report for waterfront development at Gateway Point, North Tonawanda, New York, entitled “City of North Tonawanda, Gateway Point Feasibility”, dated February 6, 2003, and prepared by the non-Federal interest and, if the Secretary determines that those components meet the evaluation and design standards of the Corps of Engineers and that the components are feasible, may carry out the components at a Federal cost not to exceed \$3,300,000.



Page 207, after line 18, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5071. TIMES BEACH DIKE, BUFFALO, NEW YORK.**

As part of operation and maintenance of the Buffalo Harbor and Buffalo River navigation projects, the Secretary may repair the Times Beach confined disposal facility dike, Buffalo, New York.

Page 217, after line 13, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5092. J. PERCY PRIEST DAM AND RESERVOIR, OHIO RIVER BASIN, TENNESSEE.**

The Secretary shall plan, design and construct upgrades to the existing trail system at the J. Percy Priest Dam and Reservoir, Ohio River Basin, Tennessee, authorized by section 4 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved June 28, 1938 (52 Stat. 1217), including design and construction of support facilities for public health and safety associated with trail development. In carrying out such improvements, the Secretary is authorized to use funds made available by the State of Tennessee from any Federal or State source, or both.

Page 218, after line 8, insert the following (and redesignate subsequent sections, and conform the table of contents of the bill, accordingly):

**SEC. 5094. EAST TENNESSEE.**

(a) **DEFINITION OF EAST TENNESSEE.**—In this section, the term “East Tennessee” means the counties of Blount, Knox, Loudon, McMinn, Monroe, and Sevier, Tennessee.

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish a program to provide environmental assistance to non-Federal interests in East Tennessee.

(c) **FORM OF ASSISTANCE.**—Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in East Tennessee, including projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(d) **OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) **PARTNERSHIP AGREEMENTS.**—

(1) **IN GENERAL.**—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) **REQUIREMENTS.**—Each partnership agreement entered into under this subsection shall provide for the following:

(A) **PLAN.**—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) **LEGAL AND INSTITUTIONAL STRUCTURES.**—Establishment of such legal and institutional structures as are nec-

essary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$40,000,000. Such sums shall remain available until expended.

Page 230, line 23, strike “\$20,000,000” and insert “\$30,000,000”.

Page 230, line 24, strike “1001(1)” and insert “1001(a)(1)”.

Page 234, line 17, strike the closing quotation marks and the final period.

Page 234, after line 17, insert the following:

“(96) PLACER AND EL DORADO COUNTIES, CALIFORNIA.—\$35,000,000 to improve the efficiency and use of existing water

supplies in Placer and El Dorado Counties, California, through water and wastewater projects, programs, and infrastructure.

“(97) ARCADIA AND SIERRA MADRE, CALIFORNIA.—\$20,000,000 for water-related infrastructure, Arcadia and Sierra Madre, California.

“(98) EL PASO COUNTY, TEXAS.—\$25,000,000 for water-related infrastructure and resource protection and development, El Paso County, Texas.

“(99) ATLANTA, GEORGIA.—\$35,000,000 for implementation of a sanitary sewer overflow control plan, Atlanta, Georgia.

“(100) CHATTAHOOCHEE RIVER, GEORGIA.—\$20,000,000 for implementation of wastewater infrastructure and resource protection to enhance water quality in and adjacent to the Chattahoochee River, Georgia.

“(101) LASSEN, PLUMAS, BUTTE, SIERRA, AND NEVADA COUNTIES, CALIFORNIA.—\$25,000,000 to improve the efficiency and use of existing water supplies in the counties of Lassen, Plumas, Butte, Sierra, and Nevada, California, through water and waste water projects, programs, and infrastructure.

“(102) IMPERIAL COUNTY, CALIFORNIA.—\$10,000,000 for wastewater infrastructure to improve water quality in the New River, Imperial County, California.

“(103) CONTRA COSTA WATER DISTRICT, CALIFORNIA.—\$23,000,000 for water and wastewater infrastructure for the Contra Costa Water District, California.”.

Page 235, after line 12, insert the following (and conform the table of contents of the bill accordingly):

**SEC. 5115. WAGE SURVEYS.**

Employees of the United States Army Corps of Engineers who are paid wages determined under the last undesignated paragraph under the heading “Administrative Provisions” of chapter V of the Supplemental Appropriations Act, 1982 (5 U.S.C. 5343 note; 96 Stat. 832) shall be allowed, through appropriate employee organization representatives, to participate in wage surveys under such paragraph to the same extent as are prevailing rate employees under subsection (c)(2) of section 5343 of title 5, United States Code. Nothing in such section 5343 shall be considered to affect which agencies are to be surveyed under such paragraph.

**SEC. 5116. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**

(a) IN GENERAL.—It is the sense of Congress that, to the extent practicable, all equipment and products purchased with funds made available under this Act should be American made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

**2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KIND OF WISCONSIN, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES**

Page 56, strike lines 8 through 22 and insert the following:

“(3) COMPLETION OF MITIGATION.—To ensure concurrent mitigation, the Secretary shall implement at least 50 percent of re-

quired mitigation before beginning project construction and shall implement the remainder of required mitigation as expeditiously as practical, but not later than—

“(A) the last day of construction of the project or separable element of the project; or

“(B) in those instances in which it is not technically practicable to complete mitigation concurrent with the last day of project construction because of the nature of the mitigation to be undertaken, as expeditiously as practicable, but in no case later than the last day of the first fiscal year beginning after the last day of construction of the project or separable element of the project.”.

(b) FULL MITIGATION PLAN CONTENTS.—Section 906(d) of such Act (33 U.S.C. 2283(d)) is amended—

(1) in the first sentence of paragraph (1)(A)—

(A) by inserting after “Congress” the following: “, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment,”;

(B) by striking “a recommendation with”; and

(C) by inserting “fully” before “mitigate”; and

(2) by adding at the end the following:

“(3) STANDARDS FOR MITIGATION.—

“(A) IN GENERAL.—To fully mitigate fish and wildlife impacts, the Secretary shall develop and implement mitigation plans under paragraph (1) that will—

“(i) acquire and restore at least one acre of superior or equivalent habitat of the same type to replace each acre of habitat negatively affected by the project; and

“(ii) implement additional activities necessary to ensure that mitigation will result in replacement of all functions of the habitat negatively affected by the project, including spatial distribution and natural hydrologic and ecological characteristics.

“(B) PROBABILITY OF SUCCESS.—A mitigation plan submitted by the Secretary under paragraph (1) shall have a high probability of successfully mitigating the adverse impacts of the project on aquatic and other resources, hydrologic functions, and fish and wildlife.

“(4) MITIGATION PLAN CONTENTS.—A mitigation plan shall include—”.

Page 57, line 15, strike “any necessary”.

Page 57, line 20, strike “(4)” and insert “(5)”.

### 3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROHR-ABACHER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 74, after line 11, insert the following:

#### SEC. 2034. PORT OR HARBOR DUES.

Section 208(a) of Water Resources Development Act of 1986 (33 U.S.C. 2236(a)) is amended—

(1) by inserting “or container fees” after “tonnage duties or fees”;

(2) in paragraph (1)(A)—

(A) by striking “or” at the end of clause (i);

(B) by striking “and” at the end of clause (ii) and inserting “or”; and

(C) by inserting after clause (ii) the following:

“(iii) to finance the cost of construction and operation and maintenance of any infrastructure project for a harbor, including an infrastructure project outside the boundaries of the harbor if the project is for transportation to, from, or through the harbor; and”; and

(3) in paragraph (1)(B) by inserting “and security” after “emergency response”.

Conform the table of contents of the bill accordingly.

