

Before the
Department of Defense
Department of the Army
U.S. Army Corps of Engineers

Economic and Environmental Principles and Guidelines
for Water and Related Land Resources Implementation Studies;
Availability of Proposed Principles and Request for Comments

**Comments of the
NATIONAL WATERWAYS CONFERENCE, Inc.**

The National Waterways Conference, Inc. (NWC or Conference) submits these comments in response to the request for comments published in the Federal Register on September 12, 2008. 73 Fed. Reg. 52960. The notice provides to interested individuals and organizations the opportunity to submit comments on the proposed principles of water resources planning (Principles) issued in response to the directive contained in Section 2031 of the Water Resources Development Act of 2007 (WRDA 2007). Publ. L. 110-114. 121 STAT. 1041

The National Waterways Conference, established in 1960, is the leading national organization to advocate for the enactment of common-sense water resource policies that maximize the economic and environmental value of our inland, coastal and Great Lakes waterways. Conference membership is comprised of the full spectrum of water resources stakeholders, including waterways shippers and carriers, industry and regional associations, port authorities, shipyards, dredging contractors, flood control associations, levee boards, engineering consultants, and state and local governments. In recognition of the public value of our Nation's waterways system and its contributions to public safety, a competitive economy, security, environmental quality and energy conservation, the Conference submits these comments to the Corps for its consideration.

General Comments:

The most significant feature of the Secretary's proposed revision to the existing Principles and Standards is a significant departure from the water resources investment framework that has been in place since the first Principles and

Standards promulgated in 1973. The Secretary, through these proposed Principles, proposes a minimum benefit cost ratio of 1.5 for adding increments to Federal investment in a water resources project. The arbitrary threshold of 1.5 for incremental investment adds to the substantial confusion that abounds throughout the proposed guidance. Adding to the dilatory impacts of the incremental BCR threshold, the proposed Principles would add an additional criterion to project selection. Under this criterion project alternatives with greater BCRs would get higher weights over those with lesser BCRs - "while meeting critical needs." The manner in which higher and higher BCRs would be traded off against "critical needs" is absolutely unclear. In other words, the proposed Principles fail to identify what contributes to determining a benefit cost ratio for a proposed project. The emphasis on higher BCRs in this proposal would sacrifice significant net benefits and is inconsistent with "efficient use of the nation's resources" as asserted in the National Objective. We strongly urge the Secretary to withdraw the proposed Principles, revise them in accordance with stakeholder comments received at the June 5 hearing, and resubmit them for public review.

Detailed Comments:

1. The proposed single national objective of these proposed Principles significantly departs from the water resources planning objectives that have been in place since the Water Resources Planning Act of 1965. Since that Act, Federal water resources planning has been based on four planning objectives: National Economic Development (NED), Environmental Quality (EQ), Regional Economic Development, and Social Well Being. Since 1980, the Federal Principles and Standards have been based on two equivalent planning objectives: NED and EQ. The failure of these proposed Principles to recognize multi-objective planning, especially environmental quality, ignores the Corps' restoration mission and gives no clear guidance to planners to pursue environmental quality as an objective on a par with efficiency.

2. We strongly recommend that the proposed Principles be revised to restore multi-objective planning as the basis for Federal water resources planning. In addition to National Economic Development and Environmental Quality, the revised Principles should also incorporate a regional economic development objective as well as a social effects objective. The Corps already pursues a limited regional economic

development objective in the form of what is called "the Locally Preferred Plan" in which project increments that are suboptimal in maximizing National Economic Development must be paid for by non-Federal interests. National welfare would be better served if the Corps merely planned to objectives that included regional economic development and separated plan formulation from cost-sharing. The only judgment of the desirability of regional contributions of a plan is the willingness of a non-Federal sponsor to assume the cost of increments that don't contribute to maximizing national economic development benefits. Regional economic development should be an explicit objective and treated in a more rigorous evaluation context considering its trade-offs with environmental quality and other social effects. By the same token the exclusion of other social effects as an objective continues the tyranny of excluding the less privileged from participation in flood safety projects because low income communities typically have low property values. The result is that these communities also score low damage reduction benefits, the primary benefit the Corps uses to formulate flood risk management projects. The Principles should also provide that all benefits which accrue directly from a potential project - including such things as effects on public safety, net job impacts within the U.S. and the negative consequences arising out of a decision not to implement a project - be considered in the evaluation of project alternatives.

3. The proposed Principles fail to implement a watershed approach to Federal water resources planning as called for in WRDA 2007. We strongly recommend that the proposed Principles be revised to fully incorporate a watershed approach into the planning principles.

4. Peer review by experts from within the agency is an important element of successful planning. It can add to the knowledge available to planners and is best integrated into the planning process on an ongoing basis. Where appropriate, outside independent experts should be brought into the planning process to confirm the agency's analytical methods and analysis, the conclusions of the report based on these methods and analysis, or the way in which the agency conducted the planning process. We support having the Corps' planning process go through a formal peer review process. However, as called for in WRDA 2007, this peer review needs to be focused on the procedures, processes, and new technologies applied to a planning report and its recommendations rather than reviewing

the specific conclusions or recommendations of a planning report. Peer review should be integral to the planning process, occurring seamlessly at key milestones throughout plan formulation. Otherwise, the peer review phase is going to add time and money to an already consuming planning process.

5. The development of the "with and without plan condition" is critical to establishing the basis for establishing the Federal interest in alternative water resources plans. The description of the with and without project conditions relies heavily on extrapolation. Revision of the Principles should provide guidance to water resources planners that identifies general strategies for incorporating uncertainty into the with and without project conditions. If the proposed revision's reliance on "an objectively based, extrapolation of current conditions into the future" is "one approach to look at future conditions," then what are alternative approaches that address the uncertainty that universally daunts planners? What are the roles of scenario based planning, sensitivity analysis and adaptive implementation? How should climate change be incorporated into with and without project conditions? The proposed revision ignores one of the most important guidance challenges. The proposed revision suffers from a glaring omission of guidance that provides a planning strategy for uncertainty.

6. We strongly object to the integration of availability of federal resources in the plan alternative evaluation. The result of such integration will be to bring budgetary deliberations, which can change significantly from year to year, into the planning process. The evaluation of alternative plans needs to be separate from budgetary decisions. The planning process of the Corps of Engineers has been rigorously kept separate from the budgetary process. This separation is necessary to keep the planning decision process based on policy and technical considerations and not compromised by anticipated budgetary priorities. Adding budgetary constraints to the planning process will lead to the demise of the orderly, structured planning process of the Corps due to the introduction of **perceived** budgetary availability. Budgetary considerations are an annual matter and should not be used to artificially limit the identification of investment opportunities. Accordingly, budgetary considerations should not enter the project decision process until the final selection phase - or even later, not during the planning process.

7. Historically, the Secretary has formulated and selected a flood risk management plan based on maximizing net national economic development benefits. In this procedure, benefits are estimated based on the value of flood damages with no direct benefit associated with reducing flood risk. Public safety has been incidental to economic optimization. As a consequence, low income communities with low property values generally receive less public safety protection from flood risk management projects. The experience of Hurricanes Katrina and Rita demand a substantial and clear statement of the manner in which Corps' flood safety projects will integrate public safety. The Secretary's proposed Principles related to public safety are vague and ambiguous. Making public safety consistent with "engineering standards" is encouraging but the Secretary's proposed Principles must make clear that "engineering standards" include "public protection standards" that are currently applied within the risk management community. The language in 9.3 Agency Exception suggests that safety is a consideration that will not be fully integrated into all alternative plans and that safety is subject to a separate justification outside the project selection rules. This consideration further suggests that unless the Secretary grants an exception, public safety will continue to be incidental to economic justification, with the unacceptable result being that lower income communities will continue to receive differential treatment in this regard. Before the proposed Principles are promulgated, the Secretary must substantially improve and clarify the integration of public safety as noted.

Respectfully submitted,

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