

THE WHITE HOUSE  
WASHINGTON

November 17, 1986

MR. PRESIDENT:

Attached for your approval is enrolled bill H.R. 6, the Water Resources Development Act of 1986.

Approval of the bill is recommended by OMB, the Corps of Engineers, the EPA, Counsel's Office, and the Offices of Legislative Affairs, Public Intergovernmental Affairs, Public Liaison, and Policy Development. The Treasury, Transportation, and Justice Departments and the Office of Communications all have no objection to the bill.



David L. Chew

LAST DAY FOR ACTION: November 17th

Please note: The Office of Legislative Affairs has requested two original signing pens. They are attached for your convenience.

Eno

Center for  
Transportation



APPROVED

NOV 17 1986  
Prime Ceremony: Oval Office  
11:30 AM

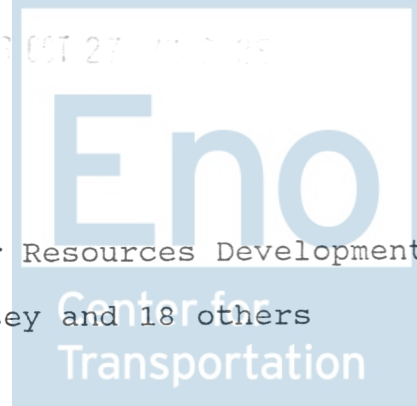
EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 25 1986

OCT 27 1986



MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 6 - The Water Resources Development Act of 1986  
Sponsors - Rep. Roe (D) New Jersey and 18 others

Last Day for Action

Purpose

(1) Authorizes the Army Corps of Engineers to construct 300 new water resource projects at a total cost of \$16 billion, \$9 billion of which would be Federal cost (including 100 projects costing \$2.5 billion that are authorized contingent on further Secretary of the Army review); (2) imposes a new user fee on commercial cargo using U.S. harbors and channels; (3) increases the existing inland waterway fuel tax; (4) establishes new cost-sharing formulas that increase the local share of new Corps water project costs; and (5) authorizes 12 new Corps of Engineers or Department of the Interior water resource programs at a total cost of \$900 million.

Agency Recommendations

Office of Management and Budget	Approval
Corps of Engineers	Approval (Signing statement attached)
Environmental Protection Agency	Approval (Informally)
Department of the Treasury	No objection (Informally)
Department of Transportation	No objection (Informally)
Department of Justice	No objection (Informally)
Department of the Interior	Defers to Army
U.S. Trade Representative	No comment (Informally)
Department of State	No comment (Informally)

Discussion

Throughout much of the Nation's history, the construction of major water projects has been considered primarily a Federal responsibility because development of the country's water resources was viewed as essential to our economic growth. Starting in the 1970's, by which time most of the Nation's cost-effective water resource infrastructure was in place and a

growing need for project maintenance had developed, the nature and extent of the Federal role came increasingly into question. No major omnibus water project authorization bill has been enacted since 1970. Starting about a decade ago, and aggressively pursued by your Administration, a policy was promoted of requiring non-Federal interests to pay a greater and more equitable share of water resource project costs, and of requiring more payment during construction rather than afterwards. Such a policy is designed to eliminate marginal projects, reduce the scale of some projects, and help to stretch scarce Federal monies to cover the more deserving projects.

H.R. 6, which passed the Senate by 84 to 2 and the House by 329 to 11, represents the successful culmination of a protracted and difficult effort to achieve meaningful cost-sharing reform for the principal Federal water resources development agency, the Army Corps of Engineers.

The major features of H.R. 6 include authorization for:

- the construction by the Army Corps of Engineers of 300 new projects, with a total cost of \$16 billion, \$9 billion of which would be Federal cost, including port, inland waterway, flood control, shoreline protection, and water resources conservation and development projects (100 of these projects, with Federal costs of \$1.7 billion, are authorized contingent on favorable recommendations to Congress by the Secretary of the Army). Of the 200 projects fully authorized for construction, 50 (\$1.4 billion in Federal costs) are of dubious economic or environmental merit, or have been incompletely studied. The Administration is on record opposing funding for these projects even if H.R. 6 authorized them;
- new project cost-sharing formulas and navigation revenue measures that were agreed to in the summer of 1985 by the Administration and the Senate leadership:
  - o a 0.04 percent ad valorem fee, beginning on April 1, 1987, based on the value of goods loaded and unloaded at U.S. ports, yielding some \$150 million annually for deposit into the newly created Harbor Maintenance Trust Fund, which would be used to pay up to 40 percent of the harbor maintenance dredging costs now paid exclusively by the Federal Government;
  - o a 100 percent increase in the current ten cents per gallon fuel tax, phased in over several years, beginning in 1990, yielding some \$50 million annually

in additional revenue when fully effective in 1995, which would be deposited into the Inland Waterway Trust Fund to help defray construction and rehabilitation costs of our inland and coastal waterways; and

- o new and higher non-Federal cost-sharing (as much as fifty percent) including some payment during the construction phase, for harbor, flood control, hydroelectric, irrigation, recreation, hurricane protection, beach erosion control, and planning projects. Overall, this enhanced cost-sharing will increase Federal receipts by some \$2 billion over what current law would yield;

-- \$100 million for 50 new water project studies; and

-- various other activities that the Administration opposed, with Federal authorizations totaling \$900 million, such as increased fish and wildlife mitigation for Corps of Engineers projects, the Upper Mississippi River Environmental Management Program, streambank erosion control, lake cleanup, grants to States for inspection and monitoring of non-Federal dams (but no funds for repair or rehabilitation of such dams) and Federal operation, maintenance, and rehabilitation funding for the New York State Barge Canal (also known as the Erie Canal).

The enrolled bill would impose a new control over Corps programs by establishing an annual Federal obligation ceiling for the civil works construction program. The ceiling would start at \$1.4 billion in 1987 and increase \$100 million annually to \$1.8 billion in 1991 -- roughly 10 percent per year over the projections in the 1987 Budget.

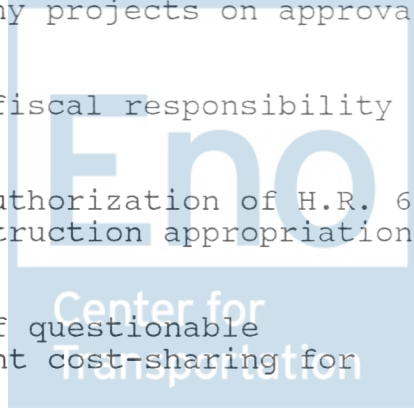
Using reasonable assumptions on how many of the authorized projects and programs would receive appropriations, we estimate that H.R. 6 would generate outlays of \$1.8 billion, for the period 1987-1991, versus the \$1.0 billion assumed in the 1987 Budget for new Corps of Engineers water resource projects over that period (these outlays are net of the increased cost-sharing and user fees). The \$800 million difference therefore represents added pressure for increased deficits. The actual outlays, however, are subject to the annual budget process, which should be able to hold them to acceptable levels.

The Army has prepared a section-by-section analysis of H.R. 6, which is attached to its enrolled bill views letter. In its enrolled bill views letter, the Army Corps of Engineers strongly recommends approval as it observes that H.R. 6 would:

- apply cost-sharing to virtually all new Corps construction, resulting in smaller scale and more cost-effective projects;



- condition the authorization of many projects on approval of the Secretary of the Army;
- be responsive to the concern for fiscal responsibility in domestic programs;
- provide for automatic project deauthorization of H.R. 6 projects that do not receive construction appropriations within five years; and
- screen out studies for projects of questionable feasibility by requiring 50 percent cost-sharing for these project planning studies.



Finally, the Corps concludes that the enrolled bill "gives the Administration the reforms which it has sought in the area of Federal water program development. While it contains some objectionable projects and provisions, it also provides safeguards to control obligation of Federal funds."

Conclusion

I concur in Assistant Secretary Dawson's comments on H.R. 6, and join him in recommending approval.

On balance the Congress has produced as good a bill as could be expected in this area. It includes both Administration-supported harbor and inland waterway user fees, and increased water project cost-sharing by non-Federal interests. Also, some massive new programs in the House version in H.R. 6 have been dropped. The trade-off is full authorization of many water projects and programs that are of dubious economic or environmental benefit, or have been incompletely studied. Another 100 unreviewed projects are authorized subject to review and approval by the Secretary of the Army.

The increased non-Federal cost-sharing and contingent authorizations subject to Secretary of the Army review and approval will winnow out many objectionable projects. However, even with the increased cost-sharing and user fees, pressure will mount on the appropriations side for project and program funding substantially higher than the 1987 Budget levels -- especially in the out-years. We will need to deal vigorously with this pressure in the annual budget process.

The Army Corps of Engineers has prepared for your consideration a signing statement in which we concur.

James C. Miller III  
Director

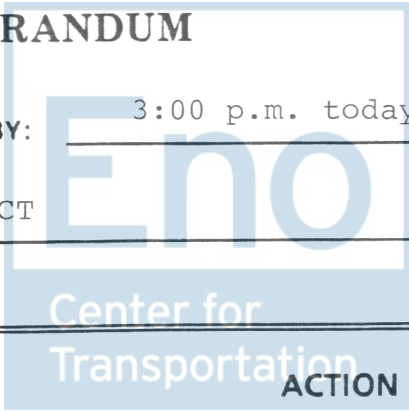
A large, handwritten signature in dark ink is written over the typed name and title of James C. Miller III. The signature is stylized and appears to be "J.C. Miller III".

Enclosures

## WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/27/86 ACTION/CONCURRENCE/COMMENT DUE BY: 3:00 p.m. today

SUBJECT: H.R. 6 -- WATER RESOURCES DEVELOPMENT ACT



	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER	<input type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
* BALL <i>OK</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN <i>Neck</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN <i>Approval</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
DANIELS <i>OK</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	WALLISON <i>See memo</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	CLERK	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KINGON <i>N. Com</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MASENG <i>fine</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide your recommendation/comments on the attached enrolled bill and signing statement by 3:00 this afternoon.  
Thank you.

RESPONSE: \* OLA wants signing pen

500-1000  
27 OCT 27 11:11 AM

THE WHITE HOUSE  
WASHINGTON  
October 27, 1986



MEMORANDUM FOR DAVID L. CHEW  
STAFF SECRETARY AND  
DEPUTY ASSISTANT TO THE PRESIDENT

FROM: PETER J. WALLISON *PJW*  
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 6: the "Water Resources  
Development Act of 1986" and Signing Statement

As requested by your staffing memorandum of today, this office has reviewed Enrolled Bill H.R. 6, the "Water Resources Development Act of 1986," and recommends that the President approve it. We have no legal objection to the proposed signing statement. We believe, however, that no signing statement is necessary in this case because the proposed statement would not add to the legislative history and the President's remarks in South Dakota will make the same points.

Thank you for bringing this matter to our attention.



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON, DC 20310-0103

24 OCT 1986

Eno

Center for  
Transportation

Honorable James C. Miller III  
Director  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Miller:

This is in response to your request for the views of the Department of the Army on H. R. 6, 99th Congress, "The Water Resources Development Act of 1986."

H. R. 6 is the successful culmination of Administration efforts to develop a new charter for the Federal water resources program. The Department of the Army strongly recommends approval of H. R. 6.

Enclosed is a section-by-section analysis of the enrolled enactment. From the policy perspective, the most important of the 14 titles are Title I, Cost Sharing; Title XIV, Revenue Provisions; and Title IX, General Provisions.

The cost sharing provisions contained in Title I are applicable to virtually all new construction to be undertaken by the Army Corps of Engineers. The formulas apply to separable elements of ongoing projects as well as new projects. The only exceptions to the applicability of the cost sharing are a few specifically identified projects. The formulas are very close to those agreed to by the Administration and the Senate Majority Leadership in the summer of 1985. The largest increases in cost sharing will be in the case of the deep draft navigation and rural flood damage reduction projects.

The effects of the new cost sharing formulas will be to reduce the scale of projects. This decrease in scale typically will be accompanied by an increase in project cost-effectiveness. Equally important will be a reduction of adverse effects on the environment. For this reason, the Administration's cost sharing reform efforts have enjoyed the strong support of environmental groups. Since individual projects will be smaller and because non-Federal sponsors will contribute funds, a





larger number of projects can be supported within a given level of Federal expenditure.

Also significant are the revenue provisions in Title XIV. An ad valorem fee, based on the value of goods loaded and unloaded at U. S. ports, would be imposed beginning April 1, 1987. This .04 percent fee will be collected by the U. S. Customs Service and, even with the several exemptions provided in the enactment, would raise approximately 30 percent of harbor operation and maintenance costs annually, initially. The inland waterways fuel tax is increased beginning on January 1, 1990. The current 10-cent tax will be raised to 11 cents and then raised 2 cents annually thereafter until 1995, when it would be raised to 20 cents and remain at that level. The funds raised under the fuel tax will be used to finance one-half the cost of construction of certain new lock and dam projects.

In addition to these reforms sought by the Administration, the enactment also authorizes approximately 300 new projects, with a total first cost of about \$16 billion. Also, 293 previously authorized projects with an estimated total first cost of \$11 billion are deauthorized.

It is noteworthy that the enactment provides that, for 21 projects with a total first cost of about \$1.5 billion, authorization is ultimately subject to the recommendations of the Secretary of the Army. In the case of 62 miscellaneous projects authorized with little or no study, provision is made for Secretarial review and comment before construction can be initiated.

An additional attractive provision of H. R. 6 is that, for the first time, an annual Federal obligation ceiling for construction is established for the Civil Works program. An annual ceiling is set beginning at \$1.4 billion in Fiscal Year 1987. This ceiling increases by \$100 million annually until Fiscal Year 1991, at which time the ceiling amounts to \$1.8 billion. While these amounts are in excess of current Administration projections for the Civil Works program, they represent an attempt by the Congress to be responsive to the concern for fiscal responsibility in domestic programs.

Title IX establishes a procedure whereby cost increases of more than 20 percent beyond those resulting from price escalation and additional studies would require further Congressional authorization. In the past, there has been little control on cost increases once construction of a project commenced. Another attractive policy provision is automatic deauthorization of projects authorized in H. R. 6 which do not receive construction money within the next five years. Also, the enactment affirms the current Administration practice of requiring 50/50 cost sharing of feasibility studies undertaken by the Army Corps of Engineers. The intent of this policy is to ensure that the studies which are funded by the Federal Government are responsive to non-Federal concerns and priorities and, in fact, produce projects that are supported by sponsors and to quickly terminate studies which will not produce a feasible project.

In summary, this legislation gives the Administration the reforms which it has sought in the area of Federal water program development. While it contains some objectionable projects and provisions, it also provides safeguards to control obligation of Federal funds.

These reforms and safeguards, I would point out, would have been impossible to achieve without the personal involvement of the the Associate Director for Natural Resources, Energy, and Science; the Deputy Associate Director for Natural Resources; and the Acting Chief of the Water Resources Branch. Again, the Department of the Army strongly recommends approval of H. R. 6 by the President.

Sincerely,



Robert K. Dawson  
Assistant Secretary of the Army  
(Civil Works)

Enclosure  
(Under Separate Cover)



Section 1311. Jack D. Maltester Channel

Main channel, San Leandro Marina, CA is renamed the Jack D. Maltester Channel.

TITLE XIV REVENUE PROVISIONS

Section 1401. Short Title, "Harbor Maintenance Revenue Act of 1986"

Section 1402. Imposition of Harbor Maintenance Tax

Imposes a charge of four cents per \$100 on the value of commercial cargo loaded or unloaded at harbors in the U.S. Excludes Columbia River upstream of Bonneville, inland waterways, channels or harbors not open to public navigation, channels or harbors which have not received Federal funds for construction or operation and maintenance since 1977 or which have been deauthorized before 1985. Also exempts domestic shipments (other than the movement of crude oil from Alaska) between the U.S. mainland and Alaska, Hawaii and U.S. possessions, fish and other aquatic life caught on a U.S. vessel, ferries, and vessels which use fuel subject to inland waterway taxes from port charges. Subsection (d) provides that the ad valorem fee will not apply to bonded cargo entering the U.S. for direct exportation to a foreign country. The ad valorem fee will not be collected until the study described in Section 1407 is complete, and a determination is made that traffic diversions will not occur.

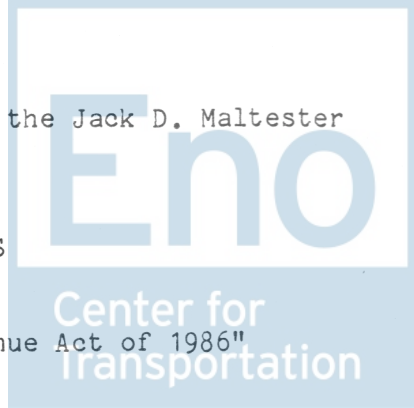
Section 1403. Creation of Harbor Maintenance Trust Fund

Creates the "Harbor Maintenance Trust Fund" consisting of funds directly appropriated or credited and those transferred by the St. Lawrence Seaway Development Corporation. Those appropriated will be equal to the Harbor Maintenance Tax received. The Trust Fund will be used for the O&M of the U.S. portion of St. Lawrence Seaway and a portion of the O&M on other commercial channels and harbors. In addition, it will pay for rebates of tolls charged in connection with use of the St. Lawrence Seaway.

Section 1404. Inland Waterways Tax

Revises the inland waterways tax as follows:

<u>If use occurs</u>	<u>The Tax/Gallon in cents is:</u>
Before 1990	10
During 1990	11
During 1991	13
During 1992	15
During 1993	17
During 1994	19
After 1994	20



Also adds the Tennessee - Tombigbee Waterway to the list of waterways subject to the fuel tax.

Section 1405. Inland Waterways Trust Fund

Creates the "Inland Waterways Trust Fund" made up of appropriated amounts equivalent to the Inland Waterways Tax received. Trust funds will be used for construction and rehabilitation expenditures for navigation on the inland waterways; however, not more than one-half of the cost of construction of any inland navigation project may be paid from the Trust Fund.

Section 805. St. Lawrence Seaway Expenditures and Rebates of Tolls

Requires the St. Lawrence Seaway Development Corporation to transfer to the Harbor Maintenance Trust Fund all revenues derived from tolls charged in connection with use of the St. Lawrence Seaway. This section also provides for a rebate of tolls paid to the St. Lawrence Seaway Development Corporation by users of the U.S. portion of the Seaway.

Section 1406. Report on Reduction or Elimination of Tolls on the Great Lakes and the St. Lawrence Seaway

Requires that, within two years of enactment, the Secretary of State in consultation with the Secretary of Transportation, initiate discussions with Canada in order to reduce or eliminate all tolls on the international Great Lakes and St. Lawrence Seaway and to report to the Congress on the progress of such discussions.

Section 1407. Study of Cargo Diversion

Directs the Secretary of the Treasury, in consultation with the U.S. ports, the Secretary of Transportation and the Secretary of the Army, to study the impact of the port user tax on potential diversions of cargo. The report is to be submitted to Congress within one year of enactment.





OFFICE OF THE EXECUTIVE CLERK  
TRACKING SHEET FOR PRESIDENTIAL DOCUMENTS

TITLE:

HR 6 - Water Resources

TYPE DOCUMENT:

PROCLAMATION

LETTER (S)

EXECUTIVE ORDER

MESSAGE TO THE CONGRESS/SENATE

MEMORANDUM

STATEMENT BY THE PRESIDENT

DECISION MEMORANDUM

SIGNING STATEMENT

OTHER:

RECEIVED:

(Advance: 10/27/86  
Date: 1/ /86

Time: 9 (a.m./p.m.)  
Time:            a.m./p.m.

SENT TO CORRESPONDENCE FOR TYPING IN FINAL:

(Advance: 10/27/86  
Date: 1/ /86

Time: 9:30 (a.m./p.m.)  
Time:            a.m./p.m.

*Hold*

TO DAVID L. CHEW'S OFFICE:

Date: 1/ /86

Time:            a.m./p.m.

INFO, INCLUDING STENCIL, TO PRESS OFFICE:

Date: 1/ /86

Time:            a.m./p.m.

POSTED: 1/ /86

Time:            a.m./p.m.

NOTIFICATIONS:

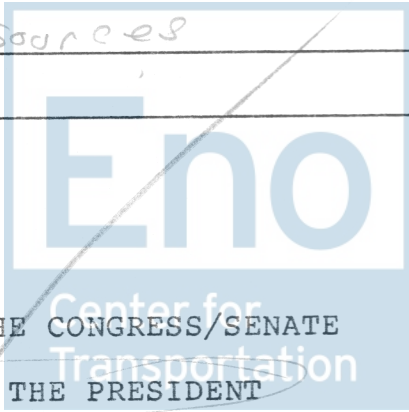
           (initial) Each time a report or message is transmitted to the Congress, call Jane Moody, ext. 2230.

           (initial) N.S.C., when appropriate (Carol Cleveland, Cathy Millison, or Cathy Bergeron, ext. 6534).

           (initial)

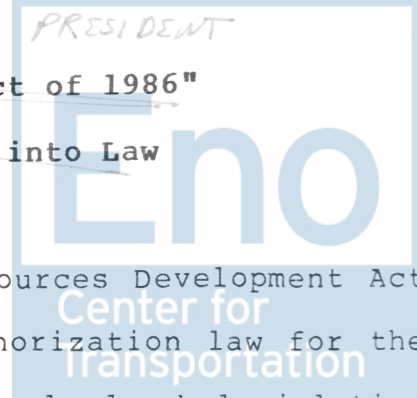
OTHER INFORMATION:

*Statement Not issued*



SE 10/27 9:20a  
Please read &  
send to Corresp. for advance prep. & hold.

STATEMENT BY THE PRESIDENT  
~~"Water Resources Development Act of 1986"~~  
~~Statement on Signing H. R. 6 into Law~~



I have signed H.0R. 6, the Water Resources Development Act of 1986. The act is the first major authorization law for the Army Civil Works program in 16 years. This landmark legislation ends years of debate over the Federal role in water resources development and serves as a cornerstone for future planning, construction, and operation of water projects by the Army Corps of Engineers.

ok  
The most notable reform contained in H.0R. 6 is the recognition that beneficiaries of water projects should be full participants in the development and financing of those projects. Substantial non-Federal participation in project financing and cost sharing provides assurance of a project's productivity and spreads limited Federal funds among more projects. Significant non-Federal cost sharing also contributes to preservation of environmental values by reducing the scale of projects. H.0R. 6 generally reflects new project cost sharing formulas and navigation revenue measures that were agreed to last summer by this Administration and the Senate leadership and that have been successfully applied in recent negotiations for new water project construction starts. The final legislation represents extensive bipartisan efforts and cooperation to revitalize the Federal water program by responding in a creative way to the need to reduce Federal outlays for domestic programs.

Final from  
this 10/27/86

Although H. R. 6 contains reforms that are necessary for future development and conservation of the Nation's water resources, it also includes some new authorities and projects that have not yet satisfied the requirements for technical feasibility, economic justification, and environmental acceptability; that represent new areas in which the appropriate Federal role is not clearly established; or that may not adequately reflect current budgetary constraints and priorities. Such projects and programs will be carefully scrutinized prior to the budgeting of funds to implement them.

I commend the effort by the Conferees on H. R. 6 and the action by <sup>the</sup> Congress as a whole in enacting this landmark legislation. The Nation's water resources development program can now proceed in a rational, deliberate manner.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

November 17, 1986

The President today signed H.R. 6, The Water Resources Development Act of 1986, which (1) authorizes the Army Corps of Engineers to construct 300 new water resource projects at a total cost of \$16 billion, \$9 billion of which would be Federal cost (including 100 projects costing \$2.5 billion that are authorized contingent on further Secretary of the Army review); (2) imposes a new user fee on commercial cargo using U.S. harbors and channels; (3) increases the existing inland waterway fuel tax; (4) establishes new cost-sharing formulas that increase the local share of new Corps water project costs; and (5) authorizes 12 new Corps of Engineers or Department of the Interior water resource programs at a total cost of \$900 million.

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