

105TH CONGRESS
2D SESSION

S. 2649

To enact the Passaic River Basin Flood Management Program.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21 (legislative day, OCTOBER 2), 1998

Mr. TORRICELLI (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To enact the Passaic River Basin Flood Management Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PURPOSE.**

4 The purpose of this Act is to establish the preferred
5 alternative for flood control in the Passaic River basin,
6 New Jersey, to be implemented in place of construction
7 of the Passaic River Tunnel, while maintaining the integ-
8 rity of previously authorized Passaic River basin restora-
9 tion measures.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) HAZARD MITIGATION.—The term “hazard
4 mitigation” means—

5 (A) floodproofing; and

6 (B) acquisition of wetland throughout the
7 Passaic River basin for flood management pur-
8 poses or retention and detention.

9 (2) OVERSIGHT COMMITTEE.—The term “Over-
10 sight Committee” means the committee established
11 by section 3(j).

12 (3) PREFERRED ALTERNATIVE.—The term
13 “preferred alternative” means a qualified acquisition
14 and hazard mitigation plan for the project.

15 (4) PROJECT.—The term “project” means the
16 project for flood control, Passaic River Main Stem,
17 New Jersey and New York, authorized by section
18 101(a)(18) of the Water Resources Development Act
19 of 1990 (104 Stat. 4607).

20 (5) QUALIFIED ACQUISITION.—The term
21 “qualified acquisition” means a purchase by the Sec-
22 retary, in cooperation with State, county, and local
23 governments, of property that has sustained exces-
24 sive damage caused by at least 2 floods, including
25 the major flood in the Passaic River basin during
26 1984 and any subsequent flood.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of the Army.

3 **SEC. 3. COMPONENTS OF PASSAIC RIVER BASIN FLOOD**
4 **MANAGEMENT PROGRAM.**

5 (a) STRUCTURES IN THE FLOODWAY.—

6 (1) IN GENERAL.—The Secretary shall acquire,
7 demolish, and remove structures in the floodway of
8 the Central Passaic River basin where excessive
9 damage has occurred in at least 2 floods, including
10 the flood of 1984 and any subsequent flood.

11 (2) COST SHARING.—The cost of carrying out
12 paragraph (1) shall be paid in cooperation with
13 State, county, and local governments at a ratio of 75
14 percent Federal to 25 percent non-Federal.

15 (3) STABILIZATION.—The floodway land in the
16 Central Passaic River basin shall be stabilized as
17 part of the ecological restoration program under sec-
18 tion 101(a)(18)(C) of the Water Resources Develop-
19 ment Act of 1990 (104 Stat. 4609), and, where ap-
20 propriate, wetlands shall be created.

21 (4) MANAGEMENT.—After the land is vacated,
22 the land shall be held in perpetuity by the most ap-
23 propriate Federal or State agency, as determined in
24 consultation with the Oversight Committee, and
25 shall be managed as open space.

1 (5) BLUE ACRES PROGRAM.—This subsection
2 shall be carried out in conformance with the Blue
3 Acres Program of the State of New Jersey.

4 (6) CREDIT.—Crediting of land acquisition for
5 the non-Federal share of the cost of the project shall
6 remain in effect in accordance with section
7 101(a)(18)(C)(vii) of the Water Resources Develop-
8 ment Act of 1990 (104 Stat. 4609).

9 (b) ADDITIONAL STRUCTURES IN THE 10-YEAR
10 FLOODPLAIN.—

11 (1) IN GENERAL.—The Secretary shall acquire,
12 demolish, and remove additional structures, or
13 floodproof structures, to the 10-year floodplain in
14 the floodway of the Central Passaic River basin in
15 areas where excessive damage has occurred in at
16 least 2 floods, including the flood of 1984 and any
17 subsequent flood.

18 (2) COST SHARE.—

19 (A) ACQUISITION, DEMOLITION, AND RE-
20 MOVAL.—Funding for an acquisition, demoli-
21 tion, and removal under paragraph (1) shall be
22 shared 75 percent Federal and 25 percent
23 State.

24 (B) FLOODPROOFING.—Funding of
25 floodproofing under paragraph (1) shall be

1 shared 75 percent Federal, 15 percent property
2 owner, and 10 percent State.

3 (3) CRITERIA.—Criteria for acquisition and
4 floodproofing shall be developed by the Oversight
5 Committee.

6 (c) STRUCTURES IN THE PASSAIC RIVER BASIN.—

7 (1) TO THE 50-YEAR FLOODPLAIN.—

8 (A) IN GENERAL.—The Secretary shall
9 floodproof structures in the floodplain of the
10 Central Passaic River basin to the 50-year
11 floodplain in areas of high risk.

12 (B) COST SHARE.—Funding of
13 floodproofing under subparagraph (A) shall be
14 shared 55 percent Federal, 20 percent State,
15 and 25 percent property owner.

16 (2) REMAINDER.—In the remainder of the
17 floodplain to the 100-year protective flood elevation,
18 the Secretary, in cooperation with the State of New
19 Jersey, shall provide information on techniques to
20 deal with flood management.

21 (d) WETLANDS.—

22 (1) IN GENERAL.—The Secretary shall
23 acquire—

24 (A) wetlands in the floodways throughout
25 the Great Piece Meadows of the Central Passaic

1 River basin to supplement the wetlands acqui-
2 sition (approximately 5,369 acres) authorized
3 under section 101(a)(18)(C)(vi) of the Water
4 Resources Development Act of 1990 (104 Stat.
5 4609); and

6 (B) upland transition areas with signifi-
7 cant wildlife or other natural values.

8 (2) MANAGEMENT.—The Secretary shall trans-
9 fer the wetlands and transition areas to the United
10 States Fish and Wildlife Service, or an appropriate
11 State agency, which shall manage the wetlands and
12 transition areas in accordance with proper wetlands
13 management principles so as to ensure the ecological
14 integrity of the wetlands and transition areas as
15 wildlife habitat and important components of the
16 hydrological cycle of the Passaic River basin.

17 (e) STRATEGIC LAND.—

18 (1) IN GENERAL.—The Secretary shall acquire
19 strategic land in the State of New Jersey and the
20 State of New York to prevent flooding.

21 (2) EMPHASIS.—In carrying out paragraph (1),
22 the Secretary shall emphasize land acquisition in the
23 Highlands Province.

24 (3) COOPERATION.—The Secretary shall carry
25 out this subsection in cooperation with the Palisades

1 Interstate Park Commission, the State of New Jer-
 2 sey, the State of New York, and other Federal agen-
 3 cies (including the Forest Service, the United States
 4 Fish and Wildlife Service, and the National Park
 5 Service).

6 (f) MOLLY ANN'S BROOK.—The Secretary shall ac-
 7 quire land to prevent flooding from increasing in—

8 (1) the High Mountain area in Wayne, New
 9 Jersey; and

10 (2) the urban area of the Molly Ann's Brook
 11 project in North Haledon, New Jersey.

12 (g) PASSAIC RIVER RESTORATION PROJECT.—

13 (1) IN GENERAL.—The Secretary shall complete
 14 the Passaic River Restoration Project from Little
 15 Falls to Newark Bay, New Jersey.

16 (2) RIPARIAN LAND AND PARKLAND DEVELOP-
 17 MENT.—In cooperation with the Passaic River Res-
 18 toration Steering Committee, the Secretary shall un-
 19 dertake acquisition of riparian land and parkland
 20 development and redevelopment in the Passaic River
 21 basin.

22 (3) URBAN SPACE.—The Secretary shall ac-
 23 quire parcels of urban space, such as Hilltop in
 24 Essex County, New Jersey.

1 (h) STREAMBANK RESTORATION.—The Secretary
 2 shall complete the streambank restoration element of the
 3 project for flood control, Passaic River Main Stem, New
 4 Jersey and New York, authorized by section
 5 101(a)(18)(B) of the Water Resources Development Act
 6 of 1990 (104 Stat. 4608), known as the “Joseph G. Min-
 7 ish Passaic River Waterfront Park and Historic Area,
 8 New Jersey”.

9 (i) REMEDIAL ACTIONS.—The Administrator of the
 10 Environmental Protection Agency shall assist the Passaic
 11 Valley Sewerage Commissioners in the implementation of
 12 remedial actions for the combined sewer overflows in the
 13 lower Passaic River Basin from the Great Falls to Newark
 14 Bay.

15 (j) OVERSIGHT COMMITTEE.—

16 (1) ESTABLISHMENT.—There is established a
 17 committee to be known as the “Oversight Commit-
 18 tee” for the implementation of the preferred alter-
 19 native.

20 (2) MEMBERSHIP.—The Oversight Committee
 21 shall be composed of 14 members, appointed as fol-
 22 lows:

23 (A) CORPS OF ENGINEERS.—The Sec-
 24 retary of the Army shall appoint 1 member to
 25 represent the Corps of Engineers.

(B) APPOINTMENTS BY THE GOVERNOR OF
NEW JERSEY.—The Governor of New Jersey
shall appoint 12 members, as follows:

(i) 2 representatives of the New Jersey legislature who are members of different political parties.

(ii) 1 representative of the State of New Jersey.

(iii) 2 representatives of county government.

(iv) 2 representatives of local government.

(v) 1 representative of the Palisades Interstate Park Commission.

(vi) 1 representative of the North Jersey District Water Supply Commission.

(vii) 1 representative of each of—

(I) the Association of New Jersey Environmental Commissions;

(II) the Passaic River Coalition;

and

(III) the Sierra Club.

(C) APPOINTMENT BY THE GOVERNOR OF
NEW YORK.—The Governor of New York shall

1 appoint a representative of the State of New
2 York.

3 (3) DUTIES.—

4 (A) IN GENERAL.—The Oversight Commit-
5 tee shall—

6 (i) supervise, review, and make rec-
7 ommendations on all elements of the pre-
8 ferred alternative; and

9 (ii) provide guidance on appropria-
10 tions for the efficient implementation of
11 the project.

12 (B) PRIMARY CONSIDERATIONS.—The
13 Oversight Committee shall primarily consider
14 flood management projects that are non-
15 structural and that maintain and restore the ec-
16 ological integrity of the river systems.

17 (4) MEETINGS.—The Oversight Committee
18 shall hold meetings regularly.

19 (5) TERMINATION.—The Oversight Committee
20 shall terminate on the date on which the preferred
21 alternative project is completed.

22 (6) REPORTING.—The Oversight Committee
23 shall annually submit to the Governor of the State
24 of New Jersey, the Governor of the State of New
25 York, and Congress a report describing the achieve-

1 ments of the project and any impediments to com-
2 pletion of the project.

3 (7) ASSISTANCE.—The Secretary, in coopera-
4 tion with the State of New Jersey, shall—

5 (A) cooperate with the Oversight Commit-
6 tee;

7 (B) provide administrative and technical
8 assistance to the Oversight Committee; and

9 (C) respond to all requests and rec-
10 ommendations made by the Oversight Commit-
11 tee in a cooperative manner so as to expedite
12 and complete the preferred alternative.

13 (k) PREFERRED ALTERNATIVE.—Congress—

14 (1) finds that the preferred alternative is the
15 most appropriate solution to flooding in the Passaic
16 River basin; and

17 (2) directs that the preferred alternative shall
18 be implemented immediately.

19 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) FLOODWAY.—

21 (1) IN GENERAL.—There is authorized to be
22 appropriated \$45,000,000 to begin the Federal por-
23 tion of the buyout of floodway structures authorized
24 by section 301(b)(10) of the Water Resources Devel-
25 opment Act of 1996 (110 Stat. 3710).

1 (2) COST SHARE.—The \$15,000,000 made
 2 available by the State of New Jersey for the Blue
 3 Acres portion of the Green Acres Bond Act of 1995,
 4 approved by the voters of the State of New Jersey,
 5 shall constitute the 25 percent non-Federal cost
 6 share.

7 (b) ACQUISITION OF FRESHWATER WETLANDS;
 8 FLOODPROOFING.—There are authorized to be
 9 appropriated—

10 (1) \$3,000,000 for the acquisition of freshwater
 11 wetlands in the floodplains within the Passaic River
 12 basin; and

13 (2) \$10,000,000 for the floodproofing of struc-
 14 tures in the floodplains within the Passaic River
 15 basin.

16 (c) ACQUISITION OF LAND IN THE HIGHLAND PROV-
 17 INCE.—

18 (1) TOTAL AUTHORIZATION.—There are au-
 19 thorized to be appropriated—

20 (A) \$400,000,000 for the acquisition of
 21 land in the Highlands Province to reduce flood-
 22 ing in the Passaic River basin in New Jersey;
 23 and

1 (B) \$75,000,000 for the acquisition of land
2 in the Highlands Province to reduce flooding in
3 the Passaic River basin in New York.

4 (2) ANNUAL AUTHORIZATION.—Of the amounts
5 authorized by paragraph (1)—

6 (A) there is authorized to be appropriated
7 \$40,000,000 for each fiscal year for acquisition
8 of land in the State of New Jersey; and

9 (B) there is authorized to be appropriated
10 \$25,000,000 for each fiscal year for acquisition
11 of land in the State of New York.

12 (d) PARKLAND.—There is authorized to be appro-
13 priated \$300,000,000 for the acquisition of land and the
14 development and redevelopment of parkland along the
15 Passaic River from Little Falls to Newark Bay, Kearny,
16 of which \$30,000,000 shall be made available for each fis-
17 cal year for the State of New Jersey.

18 (e) JOSEPH G. MINISH PASSAIC RIVER WATER-
19 FRONT PARK AND HISTORIC AREA.—

20 (1) IN GENERAL.—There is authorized to be
21 appropriated \$75,000,000 for the completion of the
22 Joseph G. Minish Passaic River Waterfront Park
23 and Historic Area, New Jersey.

1 (2) COST SHARE.—The Federal share of the
 2 cost of the project described in paragraph (1) shall
 3 be 100 percent.

4 (f) PREFERRED ALTERNATIVE.—

5 (1) IN GENERAL.—There are authorized to be
 6 appropriated—

7 (A) \$1,100,000 for each fiscal year for the
 8 implementation of the preferred alternative and
 9 administration of the Oversight Committee; and

10 (B) \$5,000,000 for the acquisition of land
 11 at High Mountain.

12 (2) PROJECT BUDGET.—

13 (A) IN GENERAL.—For the combined
 14 sewer project in the lower Passaic River basin,
 15 a project budget shall be established of
 16 \$85,000,000, of which \$65,000,000 shall be the
 17 Federal share.

18 (B) AUTHORIZATION OF APPROPRIA-
 19 TIONS.—There are authorized to be appro-
 20 priated, for the purpose of making a grant to
 21 the Passaic Valley Sewerage Commission—

- 1 (i) for fiscal year 1999, \$22,000,000;
- 2 (ii) for fiscal year 2000, \$22,000,000;
- 3 and
- 4 (iii) for fiscal year 2001, \$21,000,000.

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