

THE WATERSHED PROTECTION PROGRAM - PUBLIC LAW 566

By

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A. Legislative history

1. First Congressional attempt to deal with flood damages at their source was in Flood Control Act of 1936, Public Law 738.
 - a. Assigned responsibility to U. S. Department of Agriculture for surveys and treatment of upper watersheds to reduce flood-water and sediment damages.
 - b. Procedure was cumbersome; program aroused little public interest; only 11 watersheds were authorized by the Congress for operations.
 - c. Authority was repealed in 1954 when Public Law 566 was enacted.
2. Poage Bill, introduced by Congressman Poage several years ago.
 - a. Was designed to bring treatment of watersheds down to local level, where people can understand and participate in it.
 - b. Was generally supported by the public and by both political parties, but failed of passage because of more pressing business.
3. "Pilot Watersheds" in 1953, inspired chiefly by Congressman Hope.
 - a. Initial appropriation of \$5,000,000 under authority of Public Law 46.
 - b. About 60 projects selected throughout the country, as demonstrations.
 - c. Will continue only until these selected projects are completed.
4. Watershed Protection and Flood Prevention Act, Public Law 566, was enacted on August 4, 1954.
 - a. Also known as Hope-Aiken Act, for its principal sponsors.
 - b. Original bill was virtually same as Poage Bill.

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- c. Bill was sponsored by both political parties. General purpose had no opposition but some details were debated in Senate committee.

B. General provisions of the Act

1. Public Law 566 re-states the national interest in upstream flood prevention and in improving watershed conditions. Assistance by the Federal government to communities is justified in obtaining these results.
2. It is aimed primarily at alleviating local flood-water and sediment problems which originate on small watersheds.
3. Program is based on a complete watershed program consisting of sound land use, improvement of soil and plant cover to provide best practical watershed conditions, small and medium-sized water-retarding and sediment control structures to deal with surplus storm runoff and sediment.
4. The Act also provides for agricultural phases of water development and use, with improvement of watershed conditions above project works.
5. Program is to be carried on by a partnership of local communities and the Federal and state governments.
6. It provides for a continuing program, under responsibility of the Secretary of Agriculture.

C. Program requirements

1. Limitations on use of funds
 - a. The Act restricts this program to small watersheds, of 250,000 acres (about 391 square miles) or less.
 - b. The Act also prohibits using watershed protection funds for any single structure exceeding 5,000 acre-feet of total capacity.
 - c. Watershed protection funds cannot be used to pay any cost for providing storage capacity for irrigation and other beneficial use of water. A Flood-retarding reservoir can be enlarged to provide such storage, if sponsors have required water rights and state permits, but additional cost must come from other sources.

2. Economic justification

In every project, anticipated benefits must exceed the estimated costs, on an average annual basis. Project as a whole, and each major structure and separable part of the project plan, must be economically justified in accordance with Circular A-47, issued by Bureau of the Budget.

3. Cost Sharing

a. Local interests must provide rights-of-way, assume responsibility for future maintenance of project, acquire any water rights needed, insure that state water laws are respected, and pay an equitable share of project costs.

b. In general, Departmental policy requires that non-Federal interests contribute:

(1) about one-half of total project cost, including essential land treatment measures on the watershed, value of rights-of-way, capitalized value of O & M costs for 50 years, and some incidental project expense;

(2) a substantial cash contribution to the contract cost of structures such as detention dams and channel improvements.

4. Other items of local cooperation

a. In general, local people must recognize their problem and be anxious to solve it. They must furnish local initiative and leadership in developing the project. Federal government will assist by furnishing technical services and some financial help.

b. To insure well-rounded watershed plan, local sponsors must obtain agreements to carry out proper farm plans and conservation measures essential to successful operation of the project, from owners of at least 50 percent of land which drains into each reservoir built with Federal assistance. This is to reduce storage capacity needed for storm runoff and sediment over the 50 years used for amortizing investment, thereby minimizing construction and maintenance costs.

5. Duration of project

Departmental policy aims at projects which can be completed in five years or less, although up to ten years may be acceptable in some circumstances.

D. Applications for watershed protection projects

1. The Congress intends that this program shall be controlled by people living in and directly affected by these small watersheds.
2. A project can be initiated only by application from a legally organized local group.
3. Applications must be approved by the governor or his designated state agency before Secretary of Agriculture can assist the applicants.

E. Project work plans

1. Responsibilities in planning

- a. Work plan must be acceptable to local sponsors, Soil Conservation Service, and to government agencies for lands under their jurisdiction.
- b. Work plan that is presented to the Congress covers all lands, private, state, and Federal, in the watershed project.
- c. Major responsibilities in project planning
 - (1) local sponsors are primarily responsible for project plan.
 - (2) By delegation from Secretary of Agriculture Soil Conservation Service has major responsibility for assisting local sponsors to plan and develop watershed project, and for presenting a coordinated, technically sound and economically justified work plan to the Congress.
 - (3) Forest Service is responsible for program on forested lands.
 - (4) Other Federal land-management agencies, such as Bureau of Land Management, plan improvements on their lands.

2. Relations with other programs

- a. A project work plan must be compatible with full development of major river basin.

- b. State and other Federal agencies with water programs in major river basin, such as Bureau of Reclamation and Corps of Engineers, are consulted while project is being planned.
 - c. Local sponsors must insure that all local water programs are considered adequately in planning the project.
3. Review by other interested agencies
- a. Draft of work plan is informally reviewed by all interested local, state, and field offices of Federal agencies, including all technical branches of Soil Conservation Service.
 - b. When satisfactory work plan is completed by state conservationist, it is sent by the Administrator (SCS) to all interested Federal departments at Washington level and to the governor. They are allowed 60 days for comments, which accompany work plan when it goes to the Congress.
4. Submission to the Congress
- a. Work plan is then submitted by Secretary of Agriculture through the President and Bureau of the Budget to the Congress.
 - b. Agricultural committees in both houses have 45 session days to act on work plan. It is not acted on by the entire Congress.
 - c. Approval by both Congressional committees is authority for construction.

F. Project installation

1. Allotment of funds

Secretary of Agriculture allots watershed protection funds, from lump sum appropriation for this program, to specific approved projects, dependent on progress of land treatment by land owners, readiness of local sponsors to contribute their share of cash cost, proper distribution of projects throughout the country, and other criteria.

2. Responsibilities in installation

- a. Soil Conservation Service will place Federal funds in trust fund with that of local sponsors before each contract is awarded.

- b. After June 30, 1956, calling for bids, awarding of contracts, and actual conduct of project construction must be done by local sponsors.
 - c. Soil Conservation Service will continue to furnish technical assistance in connection with designing structures and preparing plans and specifications for bidders, and will furnish day-by-day inspection during construction to insure that Federal funds are spent properly.
 - d. Land owners install essential land treatment on private and states lands at their own expense with whatever help is available through going programs.
 - e. Essential land treatment on Federal land in watershed project is installed by land management agencies, with normal appropriations as far as possible, supplemented by watershed protection funds when necessary.
3. Responsibilities in operation and maintenance
- a. After project construction is completed, local sponsors assume responsibility for operation and maintenance of all works installed primarily to benefit private lands.
 - b. Maintenance of land treatment installed to protect and improve Federal lands is done by land-management agencies at Federal expense.

G. Principal problems

- 1. Many low-income communities need and apply for a local watershed protection project but find that they are unable to finance the non-Federal share of the cost.
- 2. Most states are not prepared to accept financial responsibility under the concept of a three-way partnership of the Federal government, state, and local community. It seems that protection of its tax base, by preventing lowering of property values caused by flood damages, would justify the state providing a part of the local or non-Federal share of project cost.
- 3. In New Mexico and other western states, large ownership of Federal land complicates development of watershed projects. It is accepted policy that

the Federal government should improve and maintain its property in as good condition as is expected of private land owners. Unfortunately, few Federal land-management agencies receive appropriations adequate to restore badly deteriorated watershed lands. Such lands become the source of flood-water and sediment damages to private irrigated farms and small communities.

4. Many local sponsoring organizations have no experience in construction and are not equipped to handle contracts and construction.

H. How the Watershed Protection Program operates in New Mexico

1. Organization

- a. State conservationist, R. A. Young, responsible for carrying out the program.
 - b. Applications studied and approved for the state by State Engineer.
 - c. Authority to plan specific projects issued by Administrator, SCS, who also approves project work plans before being sent to the Congress.
 - d. Technical assistance to local sponsors in planning a project given principally by work plan party, consisting of geologist, hydrologist, hydraulic engineer, economist, survey engineer, and rodmen.
 - e. Assistance in soils, range and other technical fields furnished as needed by other technicians in the state.
 - f. Technical training and supervision in planning given by Engineering and Watershed Planning Unit at Albuquerque. This unit also helps in Arizona, Colorado, and Utah.
2. Nineteen applications have been accepted by State Engineer.
 3. Washington has authorized planning for the Hatch Valley Arroyos, Dona Ana Arroyo, Upper Rio Penasco, and Tramperos Creek.
 4. Work plan party has initiated project planning on first three listed.
 5. Project work plan for Hatch Valley Arroyos is being reviewed by all Federal agencies at Washington level; will soon be submitted to the Congress. Dona Ana Arroyo work plan almost completed.

- I. Inter-agency cooperation in water resource programs
 1. Federal departments are directed to establish committees to facilitate coordination of Federal activities in water and related land resources.
 2. Committees usually consist of Federal Departments of Agriculture; Army; Commerce; Health; Education and Welfare; Interior; and Federal Power Commission. Field committees also include representatives of the states.
 3. Existing committees
 - a. Washington - Inter-Agency Committee on Water Resources.
 - b. Field - Missouri Basin Inter-Agency Committee, Columbia Basin IAC, Pacific Southwest IAC, Arkansas-White-Red Basins IAC, New York-New England IAC.
 - c. PSIAC includes New Mexico west of Continental Divide. AWRBIAC includes Canadian and Dry Cimarron Basins in northeastern New Mexico.
 4. Section 6 of Public Law 566 specifically authorizes Secretary of Agriculture to engage in cooperative surveys and water developments with other agencies and the states.