CHAPTER 7

REPORT PREPARATION, PROCESSING AND PROJECT AUTHORIZATION, DEAUTHORIZATION

7-1. Preauthorization Planning Reports.

a. Types and Objectives. Feasibility studies are undertaken in response to specific Congressional direction or other available authority, with the basic objective of formulating recommendable solutions to water resources problems. Several kinds of planning reports are prepared, depending on the genesis of the study, to document results and seek project authorizations.

(1) Feasibility (Survey) Report. This report is prepared in partial or full response to a Congressional study authority. (When in partial response it is referred to as an "interim" feasibility report, unless it follows one or more such reports and completes response to the study authority. Then it is referred to as the "final" feasibility report.)

(2) Section 216 Report. This is a feasibility (survey) report to Congress recommending changes to a completed project. Decision to undertake feasibility studies and prepare a report rests with the Corps. Such reports are authorized by Section 216 of the Flood Control Act of 1970.

(3) Fish and Wildlife Report. This is a report to Congress recommending the addition, to an authorized project, of land acquisition and other measures for fish and wildlife purposes as warranted but not provided for in the project authority. Such reports are prepared under authority of Section 2 of the Fish and Wildlife Coordination Act or, if the project is complete, under Section 216.

b. Organization and Content. It is intended that each report be a complete decision making document. Detail shall be sufficient to fully support the essential analyses and conclusions of the study, to support the recommendations, and to enable reviewers to understand the rationale for the conclusions and recommendations. The main report will describe and summarize the results of studies so that, in combination with conclusions and recommendations, it will constitute a cohesive, readable document easily understood by interested laymen. The report shall demonstrate conformance with WRC's Principles and Guidelines (P&G) including suitable consideration of the National Environmental Policy Act (NEPA) and other environmental statutes. If recommendations are for authorization of a Federal project or other overt Federal action, the main report will incorporate a concise environmental assessment (EA) or environmental impact statement (EIS) whichever is most appropriate. Particular care shall be given to so writing the report recommendations that, should Congressional authorization be provided by reference thereto, there can be no doubt about what was intended and what is authorized. (See paragraph 5-13)

c. Study Conduct. Feasibility studies will be conducted in two phases to provide a mechanism to accommodate greater non-Federal participation in Corps feasibility studies. The reconnaissance (first) phase will provide a preliminary indication of the potential of the study to yield solutions which could be recommended to the Congress as Federal projects. The results will provide the basis for evaluation, within and outside the Corps and the Administration, of the merits of continuing the study and allocating feasibility phase

funds. The reconnaissance phase is expected to accomplish the following four essential tasks:

(1) Determine that the water resource problem(s) warrant Federal participation in feasibility studies. Comprehensive review of other problems and opportunities is deferred to feasibility studies.

(2) Define the Federal interest based on a preliminary appraisal consistent with Army policies, costs, benefits, and environmental impacts of identified potential project alternatives.

(3) Prepare a Management Plan.

(4) Assess the level of interest and support from non-Federal entities in the identified potential solutions and cost sharing of feasibility phase and construction. A letter of intent from the non-Federal sponsor stating the willingness to pursue the feasibility study described in the Management Plan and to share in the costs of construction is required.

The reconnaissance phase shall be based on the P&G and the needs of prospective non-Federal sponsors. The outputs of the reconnaissance phase are a Section 905(b) (WRDA 86) Preliminary Analysis and a Management Plan. The feasibility (second) phase will be conducted under current Federal guidelines and statutes and will result in a feasibility report with a recommendation to Congress. This two-phase procedure is intended to result in concentration of resources on those studies with substantial non-Federal support, and should increase the proportion of completed studies that lead to implementation of projects.

d. Programming. Feasibility studies, once initiated, are to be prosecuted with a view to completion in as short a period as possible and at the least cost consistent with achieving sound, professional determinations and quality reports. The reconnaissance phase should be scheduled for completion within 6-12 months from initial obligation of funds to a signed Feasibility Cost Sharing Agreement (FCSA). The feasibility phase should, normally, be completed in no more than three years from the date of the first allotment of funds after completion of the reconnaissance phase. Reporting officers must be alert to the need to terminate study at any time when accumulated information establishes this is advisable. When no recommendation for Federal action can be made, the goal is nevertheless to conclude the study in such a way that a useful product can be provided to non-Federal interests. Report organization will be the same as for reports in which Federal action is recommended, but abbreviated to the essential information needed to support the recommendation, consistent with the level of study. It may, however, be expansive enough to record any basic data developed in the course of study which might be of future use to local interests.

7-2. Processing and Review of Preauthorization Planning Reports.

a. Assignment. Investigations of potential water resources projects by the Corps are commonly authorized in acts or resolutions of Congress. After the President has signed a Congressional Act authorizing an investigation, or after the Chief of Engineers has received formal notification of a committee resolution authorizing an investigation, the Chief of Engineers normally assigns the task of report preparation to (1) the division which has jurisdiction in the area subject to investigation, who in turn, assigns the task to the

district for the location; or (2) the Mississippi River Commission, in the case of localities under jurisdiction of that commission, who then will normally assign the task to the district for the location.

b. Single Review. Feasibility reports will be reviewed only once. Technical review is accomplished at the district level, and policy compliance review is accomplished at HQUSACE. HQUSACE policy compliance review focuses on underlying assumptions, conclusions and recommendations, and analyses in the context of established policy and guidance. Districts are responsible for the quality and accuracy of the technical aspects of the feasibility report. Major Subordinate Commands are responsible for quality assurance of the district review process. The goal is to resolve issues and policies as they arise during the course of the feasibility study rather than identifying and resolving issues after the feasibility report is prepared.

c. HQUSACE Policy Compliance Review. Transmittal letters forwarding the feasibility report are sent to the Director of Civil Works with a copy to the Chief of Planning Division. Concurrently copies of the feasibility report and transmittal letter will be sent to the Policy Division (CECW-A) for initiation of the policy compliance review. HQUSACE goal is to initiate the state and agency review as soon as possible after receipt of the feasibility report and complete all other HQUSACE review actions necessary to process the report immediately after the state and agency review period expires. HQUSACE policy compliance review of feasibility reports will concentrate on the adequacy of district compliance with the Project Guidance Memorandum. After completion of the state and agency review, and after HQUSACE has completed its review of the final feasibility report, the Chief of Engineers will sign the final Chief's Report and transmit the report package to the Assistant Secretary of the Army for Civil Works (ASA(CW)).

d. Consideration by Office Management and Budget (OMB). The report package, along with a copy of ASA(CW)'s proposed letter of transmittal to Congress, is furnished to OMB by the Office of the Assistant Secretary for review and determination of the relationship to the program of the President. (Executive Order 12322)

e. Submission by the Secretary of the Army. ASA(CW)'s letter transmits the report of the Chief of Engineers and accompanying papers, including a letter from OMB setting forth its views, to Congress. This constitutes the final step in the processing of feasibility studies authorized by Congress.

7-3. Authorization of Plans for Improvements. Projects undertaken under the Civil Works program receive specific authorization by legislative action of the Congress, except for projects under certain continuing or special authorities. Upon receipt of a report in Congress, it is referred to the Senate Environment and Public Works Committee (SEPWC) and House Transportation and Infrastructure Committee (HTIC). Reports that contain recommendations for authorization or information which should be made readily available for future reference are printed as a House or Senate Document and become the basis for Congressional authorization action. Reports which do not contain recommendations for authorization are usually not printed but are available to the committees for consideration. The committees or individual members of Congress may introduce a special bill proposing authorization of a particular project. Usually, the reports are accumulated and are considered by the committees for inclusion in an omnibus authorization bill. However, projects of less

than $15 million Federal cost may be approved by resolutions of both Committees.

a. Congressional Hearings. The SEPWC and HTIC establish a schedule of hearings. Each report is discussed at their hearings to permit the Corps to present a brief summary of information and to permit interested members of Congress, other Federal agencies, the States and the public, opportunity to present their views.

b. Authorization of Projects under $15 million Federal Cost. Section 201 of the 1965 Flood Control Act, Public Law 89-298, as amended, provides a procedure for authorization of projects with an estimated Federal first cost of construction of less than $15 million. Under the Section 201 procedures, qualifying projects may be authorized upon adoption of approval resolutions by both SEPWC and HTIC. The decision to recommend authorization in accordance with Section 201 is made by the Secretary of the Army. Such recommendation is made in the letter transmitting the study report to Congress. Use of this authority will be recommended by the Secretary of the Army only in those cases where there is little or no controversy and there is no departure from established policy.

7-4. Preconstruction Engineering and Design. Preconstruction studies are required to establish the basic design of the project features in final detail. The further planning and engineering study and reporting efforts required subsequent to completion of the preauthorization feasibility report are discussed in Chapter 9.

7-5. Deauthorization Review Program.

a. Studies. Section 710 of WRDA 1986 requires an annual Corps submission to Congress of a list of authorized but incomplete preauthorization feasibility studies which have not had funds appropriated during the preceding five full fiscal years. Submission of the list will not constitute a recommendation for deauthorization, but merely fulfillment of the requirement to provide a list of studies that meet the criteria for listing as set by Congress. Congress then has until 90 days after its submission to appropriate funds for studies on the list. Any studies which do not have funds appropriated before the end of the 90-day period will, thereafter, no longer be authorized.

b. Projects. The provisions of Section 1001 of WRDA 1986 provide for automatic deauthorization of projects specifically authorized by Congress. They supercede all requirements and provisions of Section 12 of Public Law 93-251, as amended.

(1) Section 1001 provides criteria for submission of a list to Congress identifying any unconstructed project or separable element that has not had funds obligated during 7 full fiscal years. Submission of the list does not constitute a recommendation for deauthorization, but rather fulfillment of the requirement to submit a list of projects meeting the criteria set by Congress. A project or separable element on the list which does not have funds obligated within the 30-month period following submission of the list to Congress is no longer authorized after that period. A list of those projects and separable elements meeting the Section 1001 criteria is required every two years.

(2) Pursuant to Section 1001, the lists of projects and separable elements deauthorized in accordance with (1) above, will be published in the Federal Register.