

Chapter II

THE FIRST YEAR: A TIME OF TRIAL

General Clarke, in looking back over his years as Chief of Engineers, thought that it took about a year of meetings before Board members and Corps personnel came to appreciate and acknowledge the essential honesty and integrity of each other's position.¹ Actually it took a while longer. For his part, Clarke did everything he could to convince the Board members that they were not simply "window dressing." This statement, in fact, was one of the general's opening remarks when he addressed the group at the first EAB meeting on 25 May 1970 in Washington, D.C.² Expanding ideas contained in his letter of 2 April, Clarke noted five specific functions for the Board:

1. Examine existing and proposed policies, programs, and activities from an environmental point of view to define problems and weaknesses and suggest remedies

2. Advise on how the Corps can improve its relations with the conservation community and the general public, i.e., close credibility gaps

3. Review problems or issues pertinent to specific plans or projects

4. View its responsibilities within the context of the present and the future, rather than dwell on what some consider past mistakes

5. Consider the need for expanding its membership in the future³

One of the first issues raised at this meeting also became one of the most persistent, to which the Board returned several times. After a presentation on the Corps' Red River, Kentucky, study by Brigadier General Richard H. Groves, Deputy Director of Civil Works, Charles Foster mentioned that the current planning process was not very democratic since the Corps responded only to a narrow segment of the public interest. Because of this limitation, the Corps often became the "fall guy" when project proposals became public issues. Lynton Caldwell added that the Corps was forced to respond to specific requests and proposals when it should be looking at needs in a national context.⁴ The problem was formidable; a decade later the Corps was still wrestling with it.

At an afternoon executive meeting the Board elected Charles Stoddard as its Chairman. The members also reviewed an IWR draft of a proposed environmental policy letter that General Clarke intended to send out to field agencies. Additionally they agreed that Corps problems fell into three major areas: projects, permits, and Corps dredging and filling operations. The Board asked for information on specific cases before the next meeting so that it might better understand operating policies and procedures.⁵

On 2 June 1970 General Clarke's office distributed his environmental policy letter to Corps field activities. In it Clarke wrote, "our overall objective

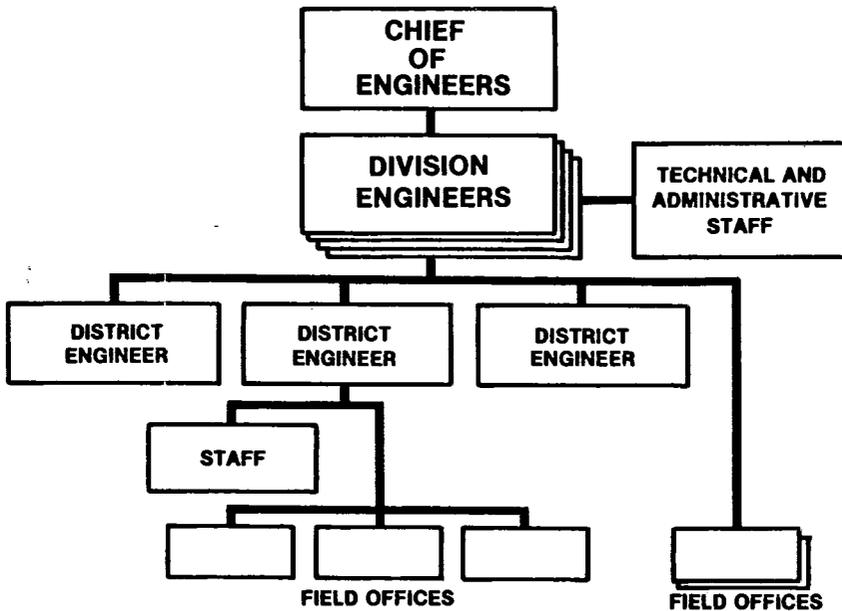
**Charles H. Stoddard, Chairman
Environmental Advisory Board
1970-1971**



in accordance with our mission will be to seek to balance the environmental and developmental needs of our nation.”⁶ He continued:

We will examine carefully environmental values when studying alternative means of meeting the competing demands of human needs; best solutions must be found to problems meeting needs and aspirations of the people we serve, not merely determination when a specific engineering solution is economically justified. . . . In recognition of the highly complex relationship between nature and man, we will encourage and support efforts to bring the best existing ecological knowledge and insights to bear on the planning, development and management of the nation’s water and related resources; environmental values will be given full consideration along with economic, social, and technical factors; special efforts will be made so that resources options will be kept open for future generations.⁷

While the rhetoric was encouraging, environmentalists wanted to see actual changes made. Many members of Congress also were becoming impatient, in particular Congressman Henry S. Reuss, Chairman of the Conservation and Natural Resources Subcommittee of the House Government Operations Committee. Reuss began hearings on the 1899 Refuse Act (33 U.S.C. 407) in early 1969, and in March 1970 he issued a report containing five principal recommendations.⁸ One was to have the Corps require and issue permits for discharges into navigable waterways. The recommendation, designed to strengthen drastically the nation’s water



Organization Chart of the Corps of Engineers' Civil Works Districts and Divisions.

pollution laws, was supported by recent Supreme Court interpretations which maintained that the 1899 Refuse Act must not be narrowly construed.⁹ Another significant recommendation had to do with altering harbor-line procedures for determining where in the harbor landfill could be dumped or structures built.¹⁰

In the months following publication of his report, Reuss continued to agitate for procedural reform within the Corps of Engineers. General Clarke was determined to be responsive. In the middle of May 1970, the Corps revised regulations for processing permits, clarifying the complementary responsibilities of the Corps and the Department of the Interior. Later that month a new regulation was issued which required permits for all harbor work shoreward of harbor lines. Finally, on 29 July, a day after Reuss had accused the Corps of "disgraceful" behavior in its narrow interpretation of the 1899 Refuse Act,¹¹ the Army announced that permits for all discharges into navigable waters would be required under Section 13 of the act.¹²

When General Clarke greeted the Board in Baltimore, Maryland, for the opening session of its second meeting, the 1899 Refuse Act was on many people's minds. Clarke outlined the vastness of the problem. At the time there were 40,000 to 130,000 unpermitted discharges into United States waters. These needed to be identified, and those responsible would be required to obtain Corps permits. To do this, however, required an additional two hundred employees and some \$4 million. More than twice this many personnel might be needed eventually.¹³ The Corps' earlier interpretation of

the 1899 act had been in accord with long-held views. Now all federal agencies recognized that the Refuse Act had to be vigorously enforced in order to prevent any deterioration of the nation's waters.

The real question on General Clarke's mind was how to include environmental considerations in Corps planning. He suggested that perhaps advisory boards ought to be created at the District level, but wondered where to find qualified people. Moreover, he was concerned that environmental obstacles might prolong the planning process and prevent projects from reaching higher authorities expeditiously. Clarke predicted, however, that "As the expertise of our planners increases, more of the environmental input will come about routinely and less as a result of issues being raised by environmental interests."¹⁴

One way to insure that the Corps integrated environmental considerations into the planning process was through the publication of *Environmental Guidelines for the Corps of Engineers* (ER 1165-2-500, Appendix A). These guidelines, promised in Clarke's letter to the field on 2 June, were drafted by the Institute for Water Resources and reviewed by the EAB at its October meeting. Originally intended to provide guidance for the Corps as well as general information for the public, the draft's final version served the first purpose better than the latter. Board members were divided over what the guidelines should emphasize. Caldwell, for instance, felt that perhaps "it is better to look professionally at the environment and worry less about what the public thinks."¹⁵ Clement wondered to what extent it was possible to meet increasing demands on national resources. Committee members generally agreed that the Corps needed plans for entire river basins, rather than for each individual project. Later, EAB members decided to submit individual comments on *Environmental Guidelines* by the beginning of the following month.¹⁶

Stoddard thought he had a better idea. He pursued a plan in the afternoon executive session which he had originally proposed the month before to Colonel Robert R. Werner, Assistant Director of Civil Works for Comprehensive Planning and EAB Secretary. The Chairman wished to solicit the advice of several Corps opponents on resolving environmental problems of selected controversial projects. Stoddard thought that suitable projects for inclusion in his proposal were the Cross Florida Barge Canal, the Kindred Dam, Worley Flats, and the Kickapoo River Dam. Colonel Werner had already expressed the Corps' reservations about letting the EAB become embroiled in controversial areas, but Stoddard was insistent. He felt that applying the proposed guidelines to the projects and then comparing the results with comments received from Corps adversaries would clarify the usefulness of *Environmental Guidelines*.¹⁷ It was finally decided to send questionnaires to various environmental groups.

Interestingly enough, the Tennessee-Tombigbee Waterway, an extremely controversial project to enable vessels to go from the Tennessee River to Mobile Bay, did not appear on Stoddard's list. However, the Board



Major General Francis P. Koisch
Director of Civil Works
1969-1972

did ask why the environmental study for the project only considered ways to reduce undesirable effects rather than the broader question of whether the waterway should be constructed at all. A skeptical observer of the EAB, Major General Francis P. Koisch, Director of Civil Works, curtly dismissed this objection: the project was past the point at which such issues could be debated.¹⁸

On 10 December 1970 General Clarke made public the Corps' *Environmental Guidelines* in a speech to the Lower Mississippi Valley Flood Control Association in New Orleans.¹⁹ The document candidly admitted that the Corps, responding to the wishes of the American people, had been preoccupied with economic growth and development. Today however, Clarke proclaimed, the demands for resources must be reconciled with the need to preserve our natural environment. To this end the Corps "will encourage and support efforts to bring the best existing ecological knowledge and insights to bear on the planning, development and management of the Nation's water and related resources."²⁰ *Environmental Guidelines* obligated the Corps to insure public participation in planning projects and to analyze and evaluate the environmental effects throughout the planning, design, and construction stages. In cases where the environment might be adversely affected, the projects were to be modified to lessen or eliminate the damage. Four general environmental objectives for the Corps were listed:

- a. *To preserve* unique and important ecological, aesthetic, and cultural values of our national heritage.
- b. *To conserve* and use wisely the natural resources of our Nation for the benefit of present and future generations.
- c. *To enhance*, and use wisely the natural and man-made environment in terms of its productivity, variety, spaciousness, beauty, and other measures of quality.
- d. *To create* new opportunities for the American people to use and enjoy their environment.²¹

The net effect of *Environmental Guidelines* was the creation of a more sophisticated planning process. Every study would include a clear statement of the problem and would address various environmental features which needed to be protected, preserved, or developed. In short, the Corps was to develop a new sensitivity to the environment and the public interest.²²

Nevertheless, EAB members still had reservations about the Corps' commitment. They had not reviewed the final draft of *Environmental Guidelines*, and they found the publication disappointing. For one thing, they wanted more explicit guidelines that included procedures to address and assess properly all environmental impacts of a project. Also, they maintained, even greater effort was required to involve "the general public and particularly conservation-environment interests in the development and review of proposed plans and other activities."²³ Other recommendations of the Board included (1) a thorough evaluation of the backlog of Corps projects in order to reappraise their effect on the environment, (2) the deauthorization of those projects that would cause serious environmental deterioration, (3) the continued incorporation of environmental as well as engineering concerns in post-authorization planning, and (4) "a much greater willingness" by the Corps to deny a permit on environmental grounds—the burden of proof should shift to those desiring a permit.²⁴

The EAB discussed some of these problems at the third meeting, held in San Francisco on 3-4 December 1970. Colonel Werner explained that the Corps had concluded that longer drafts of *Environmental Guidelines* would not have been sufficiently clear to those charged with implementing the new directives.²⁵ Harold Gilliam disagreed. He thought that the document was too general and susceptible to negative reaction. Clement pressed the Corps to give environmental matters the highest priority and suggested that the Corps urge the Water Resources Council (WRC) to do the same. Moreover, the Corps needed to strengthen its environmental staff.

In response to specific questions and suggestions from Gilliam,²⁶ the Corps agreed to distribute *Environmental Guidelines* to the public as a pamphlet. Gilliam also wanted to know whether the Corps could develop a rigorous definition of "environmental quality," but the Corps thought that the more general description was sufficient. In response to questioning about adequate public access to open meetings, one Corps observer noted that such meetings were held when working people could normally attend; and although local people did not "guide" any project, they did have, in effect, veto power. The Corps was not ready to accept one suggestion, namely, that environmental advisory boards be required on the District level; but instructions were being prepared on how Districts could get environmental advice. In-house training programs, meanwhile, were being established to orient Corps personnel to environmental matters. The Corps did not agree, as had been recommended by some Board members, that environmental costs should—or could—be included within the total costs of a project. Finally, the Corps had embarked on several research, floodplain information, and land

use programs which addressed environmental considerations.²⁷

The EAB reviewed several projects in the South Pacific Division. Some Board members thought the projections for the area to be served by the proposed Worley Flat Dam on the Pescadero Creek were self-fulfilling.²⁸ By way of illustration, Gilliam suggested that not constructing the project could halt the anticipated population growth in the region. Stoddard asked why the Corps should get into what was essentially a local protection problem. The entire matter of the work on the Pescadero was left open pending further conferences between the Corps and local interest groups.

Stoddard next raised the subject of the questionnaires sent to various environmental groups about controversial projects. He complained that the Office of the Chief of Engineers (OCE) had done little to resolve problems identified by the groups. Indeed, the Corps' approach seemed more suited to that of an advocate than of an objective planner. He recommended that a reappraisal team be established to review certain projects. Clement suggested that the Corps drop some of the "old dogs," projects which had been authorized long ago. General Koisch noted, however, that the backlog of projects was not large, totaling some \$2 billion in value. Beyond that, no project could be revived without express authorization of Congress. Major General Carroll H. Dunn, Deputy Chief of Engineers, agreed with Caldwell that the best way to deauthorize a project was by appealing to individual congressmen.²⁹

A month after the San Francisco meeting, Stoddard sent a long letter to Clarke in which he elaborated the EAB's concerns about the Corps' project evaluation procedures. Two paragraphs from the five-page letter present the basic issue:

1. The environmental groups have raised a number of issues which appear to us to be legitimate and substantive. In this regard, we would like to call to your attention that the facts as noted by the environmental groups are substantially different from those identified in the Corps Fact Sheets. It is worth noting too, that some of these do not relate to environmental quality alone but to economic and other considerations; most important, the failure of the Corps to give sufficient consideration to alternative solutions. On the matter of environment, per se, the general attitude of the opponents has probably been expressed best by one group which called the Corps environmental statement "... and exercise to [*sic*] advocacy rather than objectivity."

2. We note in the information we have received from both sides very little substantive effort on the part of the Corps to address or resolve these issues. We find little evidence of any initiative by your field offices to respond directly to the points raised by the principal opponents of the projects in an objective manner. We have no indications that your Washington office plays any active role in mediating or arbitrating these controversies or other wise attempting to resolve them. In most instances, the attitude of the Corps toward project opponents appears to be, at best, defensive and, at worst, antagonistic. We find in some cases, in fact opponents believe, that the Corps appears to be out vigorously "selling" its proposals and promoting opposition to the

opponents before project authorization. The climate is certainly not conducive to fruitful discussion or resolution. It is no wonder that many of these conservationists have felt forced to resort to political activism or even litigation. What we find, at any rate, is a serious communication problem.³⁰

Stoddard noted that reappraisal of projects usually occurred only after a national controversy developed. In order to anticipate and respond to environmental issues before the Corps became involved in public controversy, several actions were suggested:

1. The assignment of one "broadly experienced planner from your office with a solid background in environmental considerations to act as your own personal representative."
2. The convening of a meeting by the Chief's representative to discuss a controversial project. The participants would include "the Division and District Engineers involved, the *one* civilian member of the review team who knows most about the project, regardless of grade, and the principal representatives of opposing environmental groups. If possible to do so, a member of this Board should be asked to participate."
3. Prior to the meeting, the initiating District Office should provide a statement indicating how the project originated, the specific objective it seeks to accomplish, and why it must be undertaken at that time.
4. Issues which could not be resolved at the meeting should be clearly identified. "The Corps, under the supervision of the Chief's representative and in coordination with opponents, should develop a detailed plan for the study and evaluation of the issues in conflict."
5. The results of the meeting and the plan of study, with review and comment by opponents, should be submitted to the Chief and the Advisory Board for review, comment and approval.
6. "Under the general direction of the Chief's representative the responsible office should conduct the study as approved, with full coordination with the opponents and using consultants acceptable to both sides wherever advisable."
7. "The results of the study, the meeting and final fully documented recommendations should be submitted to the Advisory Board and to the Chief for discussion at the Advisory Board meeting; at which point the Board would make its recommendations to the Chief. The final decision, of course, would be up to the Chief."

Stoddard listed eight controversial projects which the Board felt could be used to test the above approach:³¹

- Kindred Dam (Sheyenne River), North Dakota
 - La Farge (Kickapoo River), Wisconsin
 - Logan Dam (Clear Creek), Ohio
 - Salem Church (Rappahannock), Virginia
 - Pescadero Creek (San Mateo County), California
 - Forked Deer (Obion Rivers Project), Tennessee
 - Lower Granite Dam (Snake River), Washington, Oregon, and Idaho
 - Gillham Dam (Cossatot River), Arkansas
- The Corps examined Stoddard's letter cautiously. In general, the OCE Civil Works Directorate felt that existing procedures dealt with most

problems effectively, and "a procedure for handling exceptional cases should not be activated until routine procedures fail."³² Corps personnel also noted that certain modifications would need congressional approval. In all cases, however, "selection of projects for exceptional treatment and reevaluation should be by the Chief of Engineers in consultation with EAB."³³

At the next EAB meeting General Clarke delineated his position on the Board's proposals. He had two major reservations. First, he feared that members would "probably lose credibility with their constituencies" if they became involved in the details of handling problem projects. Second, the intrusion of OCE personnel at the District level would destroy the Corps' decentralized organization. When District and Division Engineers faithfully followed OCE guidance, problem projects could be handled and resolved in the field.³⁴

Clarke's comments cleared the air but hardly reconciled opposing views, for it was evident by the end of 1970 that significant differences existed between the Chief's expectations of the EAB and the Board members' perceptions of their roles. Clarke had hoped that the creation of an advisory board of environmentalists would convince Corps opponents of his sincere effort to incorporate their values into project planning. However, almost all the EAB members joined the Board with a skeptical "show-me" attitude. Gilliam probably reflected the feeling of his Board associates when he answered the rhetorical question "Why did I join the Board?":

The chief reason was curiosity. Perhaps the most urgent issue of our time is the conflict between engineering and ecology; development and conservation; technology and the environment. Can this nation, dominated for two centuries by the drive for development, now change its course and begin to give high priority to the natural systems that nurture all life on earth? I could think of no better place to look for an answer than in a continuing around-the-table confrontation between engineers and environmentalists. If it did not work out, I reasoned, I could always resign.³⁵

Certainly cooperation, not "confrontation," was what the Chief had in mind when he established the EAB; but the Board's impatience raised obstacles to the relationship he wished to achieve. Members wanted the Corps to change rapidly, and they became frustrated when Clarke's guidance was not translated into immediate action at the District level. For them, the actions of District Engineers were the acid test of the Corps' dedication to environmental values, and these actions could best be evaluated by analyzing specific projects. Therefore, rather than simply providing advice to the Corps' senior managers at the Office of the Chief of Engineers, EAB members sought a greater role at the level of initiating offices. General Clarke, supported by his civil works staff, felt that changes at the District level could be accomplished by preparing explicit guidelines and then insuring that the Districts followed them. Advisory Board members did not wholly agree. The process, for one thing, took too long. More important, though not stated as bluntly, was the question of competence at the District level. Too many District employees

continued to display the "we-like-to-build" mentality and showed little interest in conservation. Board members urged that local environmental advisory boards be established. Indeed, some wished to delegate to the local boards veto power over projects. This of course was impossible. The Chief of Engineers was charged by both the Department of the Army and Congress to make such decisions.

What was to be done? A couple of weeks before the upcoming Vicksburg meeting in March 1971, Clement had testified at a congressional hearing. In response to Senator Philip Hart's question about how the EAB was doing, Clement said that the Vicksburg meeting would provide the answer. However, he later openly expressed his discontent to Colonel Werner. The Board, he felt, was being little used: "One doesn't usually ask for advice unless one plans to use it."³⁶ Clement's colleagues shared his unease. Gilliam, for example, complained at Vicksburg that the Corps' formal reply to his letter of 28 September was "too general and not fully responsive." Foster was anxious that the Board's feelings and recommendations be formally circulated throughout the Corps.³⁷ The growing discontent threatened the future of the EAB. Clement, who was elected to succeed Stoddard as the Board's Chairman, faced a difficult challenge. So did General Clarke.