

**EXCERPTS OF REMARKS BY
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Being former Corps of Engineers, I may catch myself saying “we” at times when I talk about the Corps. I still think in those terms.

On the way to Boston, I read Killing Patton, which is a pretty good book. I’ve read a lot about history, especially World War II history. Bill O’Reilly puts a different flavor to it. He’s got a great team of researchers, but it reminded me of a story George Patton when he was in North Africa at the beginning of World War II. The U.S. couldn’t get into Europe yet, so we went into North Africa and he was the Corps commander at the time – a lieutenant general, three-star, and he was very strict on uniform.

Of course he had his own ivory handled pistols, but for his Army and for his Corps he established some pretty high standards. One of the standards was that you couldn’t wear the black watch cap, the knit cap that we see pretty often. In the desert it gets cold at night and soldiers are bound to do what soldiers will do.

Patton was riding along one day and he sees a unit putting up the communications lines and cables. A linesman was working on top of a pole and he had a black watch cap on. Patton pulled the car over and started chewing out this lineman. The lineman sort of looked down, didn’t pay a whole lot of attention to him and, as a good soldier, just kept doing what he had to do. He had a mission to perform!

Patton was getting a little bit more irritated and said, “Listen, son, the rule in this Corps is there’s no watch caps allowed. You’re supposed to be wearing your helmet.” This soldier still didn’t pay any attention to him. So, finally Patton got so perturbed he said, “Listen. I am Lieutenant General George Patton. I am your Corps commander.” The soldier looks down and says, “Sounds like a nice job. Don’t screw it up!”

So, that’s why I hesitate to get big introductions. I might screw it up!

Let’s talk about Federal water policy and answer the question “Why is the Army involved in locks and dams in the Cape Cod Canal?” In 1802, President Thomas Jefferson established the first U.S. engineering school at West Point, and he wanted to do that for both military and civil purposes.

So, you have this body of engineers now and in 1824, there was a fight in the New York-New Jersey Harbor over shipping rights. New York had given a steamboat shipper named Ogden the exclusive rights to operate in the New York-New Jersey Harbor. The New York Supreme Court approved that right.

The case then went to the U.S. Supreme Court and Chief Justice John Marshall went to the Commerce Clause and said, No, that's wrong. For interstate commerce it's a Federal action, not a state action. So that began a pretty big expansion of Federal authority in the Commerce Clause alone and you see more and more of that today.

In 1824, that same year, Congress passed the Rivers and Harbors Act. At the time, Congress understood that our rivers had a lot of obstacles and if you've read Mark Twain's Life on the Mississippi, you'll know what that meant for shipping. Congress knew that a survey was needed. So who did they go to? They went to the engineers. Who were the engineers? They came out of West Point. And where were they going? They were going to the Army. That's how your Army got involved in water resources.

The General Survey Act considered road and canal routes, and then they added more authority 26 years later for potential river flooding because they knew floods weren't totally intrastate. Many of them were interstate.

In 1879 Congress established the Mississippi River Commission and that was dual purpose. It had both flooding and navigation responsibilities. In one of my previous jobs, I commanded part of the Corps, the Mississippi Valley Division of the Corps, and was president of the Mississippi River Commission, which involves a Presidential appointment and Senate confirmation. that Commission still is alive and well today. It had three Army general officers on it, an admiral from NOAA, and three civilian members.

In 1899, Congress said, We have problems with construction and navigable waterways, so let's give it again to that body of engineers. But because the Federal government and the Army already had these authorities they said let's give it navigable waterways. That's why you have Section 10 of the Rivers and Harbors Act of 1899. The Rivers and Harbors Act of 1899 was an appropriations act, and an appropriations act actually gave this Section 10 authority. That's the authority that Colonel Baron would use in the Cape Cod Canal in building those two bridges.

During 1927, there was a major flood in the Ohio River and Mississippi River Basins. It all combined to come down the lower Mississippi. At one point, the flood was 100 miles wide. Can you imagine that? Flood waters were 100 miles wide across the Mississippi Delta, the Yazoo area, all the way to Monroe, LA. 100 miles!

This was a big, big flood, so in 1928 Congress looked at the problem of interstate flooding and recognized the need for Federal involvement. So Congress passed the Flood Control Act of 1928 and established the Mississippi River and Tributaries Project. Today if you look at historic maps of the Mississippi River, you'll see it much straighter. That's a result of the Act because that gets floodwaters out faster.

But that causes other problems because when you take out turns in rivers, you get oxbows and lakes, which is kind of nice, but you lose part of the environment at the same time, and you'll see control features in the River, dikes that control the flow so that it self-scours the channel as it flows through.

This was all coming out of the Mississippi River and Tributaries Project. As time went on, Congress gave more authority to the Corps: beach erosion in 1930 and then the 1936 Flood Control Act that said, "OK, Corps, you now have a nationwide mission for flood control."

Congress then added hydropower and today I think the Corps runs about 2.5% of the nation's power through their hydropower projects. Most of it is in the Northwest on the Columbia River and the Snake River.

Recreation areas were added in 1944. Why would the Federal government task the Army with authority for recreation areas." Well, when you have a dam and flood control mission, you impound the water and let the water out before flood season, then hold it during the flood and meter it out after flood goes by. But around this body of water, what do you have? A whole lot of land. The Corps operates 11 million acres, about the size of Vermont.

Now, that's nothing compared to the National Forest Service, but it's a lot of territory. So, around all these lakes, the people said, "Hey, we want to get in and enjoy the lakes," so that's why you have this recreation mission of the Corps.

Public Law 84-99, is a big one because now the Corps, when a flood comes, can go flood flight, even if it's not a Corps dam or levee. That law gave authority to the Corps to do that.

The two major laws, of course, were the National Environmental Policy Act and the Clean Water Act in 1970 and 1972.

You probably read about the recent "Waters of the United States" (WOTUS) court cases and decisions during the last two months. If you want to build a pier on a lake or river, you've got to get a permit for it. There's a lot of controversy right now. but the Clean Water Act belongs to EPA to administer except for Section 404 which is the filling of those waters. That's the Corps permitting authority,

It's one of those cases when Congress said, "OK, EPA, you can administer it, but when it comes to permitting, we want a balanced approach." So the Corps has to balance all these other requirements. EPA doesn't; EPA's pretty singularly focused, well, dual—water and air. So, that's why the Army got that authority for filling the waters of the United States.

Now, in 1986, the Water Resources Development Act introduced cost sharing. A lot of projects at the time were Federally funded only. This Act required localities to share in the costs. After that, Congress added emergency response authorities. Post-Katrina, I commanded the Corps' emergency response in New Orleans.

In the '90s the Corps received authority for environmental preservation, so now much of the Corps' budget goes to preserving the environment and restoration. If you know about the history of the Everglades back in the 20s and 30s and 40s, you know the Everglades would flood often. It's a swamp, they're all wetlands, but there were people in Florida moving and building out into the wetlands, so they said, "Stop the flooding." So it was a big project for the Corps and it worked wonderfully.

During the active hurricane season about seven or eight years ago, this system worked well. Nothing was flooded. Remember the 2004 hurricanes: Charley, Frances, Jeanne, and Ivan? Remember when Florida almost got blown off the map that year? The flooding was not a problem. Wind was the problem. Flooding was not. So what happened? With all those straight channels and flood controlled canals running through Florida, we almost ruined the Everglades because the Everglades didn't get the water it used to get. So now we're going back with this newer authority with the Everglades Restoration Plan to restore the Everglades to a more natural flow. That's difficult because there are a lot of people that are now living in the Everglades who must be moved. You also need to buy that land back so you can get water flowing there.

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