



DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

28 JUN 1994

CECW-PE (10-1-7a)

SUBJECT: Metropolitan Region of Louisville, Kentucky, and
Indiana - Pond Creek Interim Feasibility Study

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood protection and wetland restoration improvements along Pond Creek in Jefferson County, Kentucky. It is accompanied by the report of the district and division engineers. These reports are in partial response to a resolution by the Committee on Environment and Public Works of the United States Senate, dated 5 May 1987. The resolution requested review of existing and potential flooding problems in the Pond Creek, Mill Creek, Beargrass Creek, and Floyds Fork drainage basins in the metropolitan region of Louisville, Kentucky. A final report in response to the resolution will be submitted later.
2. The reporting officers recommend constructing detention basins and channel enlargements for flood protection. The floodwater detention features include a 1,567 acre-foot capacity detention basin on the Northern Ditch tributary of Pond Creek. Additionally, a former limestone quarry located approximately 100 feet west of Fishpool Creek, a tributary of Southern Ditch, will provide 418 acre-feet of floodwater detention. Channel enlargements include widening along approximately 2.4 miles of Pond Creek and about 1.5 miles of Northern Ditch. This plan is the national economic development (NED) plan for flood control and would reduce expected average annual flood damages by about 80 percent. The project will have negligible adverse impact on fish and wildlife; consequently, separable fish and wildlife mitigation is not required.
3. The nearby Southwest Jefferson County flood protection project resulted in the degradation of habitat in the Pond Creek drainage basin. In this regard, the reporting officers recommend restoring 15 acres of wetland at the site of an inactive metropolitan sewer district wastewater treatment facility. The site is bordered by high quality bottomland hardwoods. Restoration would include modifying ponds and planting shrubs and bottomland hardwoods at the site.

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4. The reporting officers recommend constructing a hiking/bicycle trail in conjunction with a maintenance road adjacent to the Pond Creek channel enlargement. The proposed recreation component also includes facilities to be constructed on lands not required for the flood control project. The cost of this recreation betterment is not eligible for Federal participation in cost sharing and will be borne by the project sponsor.

5. Based on October 1993 price levels, the estimated first cost of the recommended plan is \$16,374,000, of which \$11,039,000 would be Federal and \$5,335,000 would be non-Federal. Average annual benefits and costs, based on an interest rate of 8 percent and a 50-year period of analysis, are estimated at \$3,942,000 and \$1,610,000, respectively. The average annual net benefit is \$2,332,000, and the benefit-cost ratio is 2.4.

6. Washington level review indicates that the proposed plan is technically sound, economically justified, and environmentally acceptable. The proposed project complies with applicable U.S. Army Corps of Engineers planning procedures and regulations. Also, the views of interested parties, including Federal, State, and local agencies have been considered.

7. Accordingly, I recommend that improvements for flood control and wetland restoration on Pond Creek be authorized for construction generally in accordance with the reporting officers' recommended plan, and with such modifications as in the discretion of the Chief of Engineers may be advisable. My recommendation is subject to cost-sharing, financing, and other applicable requirements of Public Law 99-662 for this kind of project. Also, this recommendation is subject to the non-Federal sponsor agreeing to comply with applicable Federal laws and policies, including the following requirements:

a. Provide a minimum of 25 percent, but not to exceed 50 percent, of total project costs assigned to flood control, as further specified below:

(1) Provide during construction a cash contribution equal to 5 percent of total project costs assigned to structural flood control;

(2) Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations determined by the Government to be necessary for the construction, operation, and maintenance of the flood control features of the project;

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(3) Provide or pay to the Government the cost of providing all retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged or excavated material disposal areas required for the construction, operation, and maintenance of the flood control features of the project;

(4) Provide, during construction, any additional amounts as are necessary to make its total contribution equal to 25 percent of total project costs assigned to flood control;

b. Provide 25 percent of total project costs assigned to restoration of fish and wildlife habitat resources, as further specified below:

(1) Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations determined by the Federal Government to be necessary for the construction, operation, and maintenance of the fish and wildlife habitat restoration features of the project;

(2) Provide, or pay to the Federal Government the cost of all retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged or excavated material disposal areas required for the construction, operation, and maintenance of the fish and wildlife habitat restoration features of the project;

(3) Provide any additional amounts as are necessary to make its total contribution equal to 25 percent of total costs assigned to restoration of fish and wildlife resources;

c. Provide 50 percent of the separable costs of the project assigned to the Federal plan for recreation, as further specified below:

(1) Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations determined by the Federal Government to be necessary for the construction, operation, and maintenance of the Federal plan for recreation;

(2) Provide, or pay to the Federal Government the cost of all retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged or excavated material disposal areas

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required for the construction, operation, and maintenance of the Federal plan for recreation;

(3) Provide any additional amounts as are necessary to make its total contribution equal to 50 percent of the separable costs of the project assigned to the Federal plan for recreation;

d. Provide 100 percent of the costs of the local plan for recreation that are in excess of the costs of the Federal plan for recreation as further specified below:

(1) Provide all lands, easements, and rights-of-way, including suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations determined by the Federal Government to be necessary for the construction, operation, and maintenance of the local plan for recreation that are not required for the Federal plan for recreation;

(2) Provide, or pay to the Federal Government the cost of all retaining dikes, wasteweirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged or excavated material disposal areas required for the construction, operation, and maintenance of the local plan for recreation that are not required for the Federal plan for recreation;

(3) Provide any additional amounts as are necessary to make its total contribution equal to 100 percent of the costs of the local plan for recreation that are in excess of the costs of the Federal plan for recreation;

e. For so long as the project remains authorized, operate, maintain, repair, replace, and rehabilitate the completed project, or functional portion of the project, at no cost to the Federal Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and any specific directions prescribed by the Federal Government;

f. Grant the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor owns or controls for access to the project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project;

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g. Hold and save the Government free from all damages arising for the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the United States or its contractors;

h. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project to the extent and in such detail as will properly reflect total project costs and in accordance with the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 CFR section 33.20;

i. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675, that may exist in, on, or under lands, easements or rights-of-way that the Federal Government determines to be necessary for the construction, operation, and maintenance of the project, except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Federal Government determines to be subject to the navigation servitude without prior specific written direction by the Federal Government;

j. Assume complete financial responsibility, as between the Federal Government and the non-Federal sponsor, for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be necessary for the construction, operation, or maintenance of the project;

k. To the maximum extent practicable, operate, maintain, repair, replace and rehabilitate the project in a manner that will not cause liability to arise under CERCLA;

l. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the uniform regulations contained in 49 CFR, part 24, in acquiring lands, easements, and rights-of-way, required for the construction, operation, and maintenance of the project, including those necessary for relocations, borrow materials, and dredged or excavated material disposal, and inform

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all affected persons of applicable benefits, policies, and procedures in connection with said act;

m. Comply with all applicable Federal and State laws and regulations, including, but not limited to, section 601 of Title VI of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.II issued pursuant thereto and published in part 300 of Title 32, case of Federal regulations, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army;"

n. Provide 25 percent of that portion of total historic preservation mitigation and data recovery costs attributable to flood control that are in excess of 1 percent of the total amount authorized to be appropriated for flood control;

o. Provide 25 percent of that portion of total historic preservation mitigation and data recovery costs attributable to restoration of fish and wildlife resources that are in excess of 1 percent of the total amount authorized to be appropriated for restoration of fish and wildlife resources;

p. Provide 50 percent of that portion of total historic preservation mitigation and data recovery costs attributable to the Federal Plan for recreation that are in excess of 1 percent of the total amount authorized to be appropriated for recreation;

q. Provide 100 percent of that portion of total historic preservation mitigation and data recovery costs attributable to the Local Plan for recreation that are in excess of 1 percent of the total amount authorized to be appropriated for recreation;

r. Participate in and comply with applicable Federal floodplain management and flood insurance programs in accordance with section 402 of Public law 99-662;

s. Not less than once each year, inform affected interests of the extent of protection afforded by the project; and,

t. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in preventing unwise future development in the floodplain and in adopting such regulations as may be necessary to prevent unwise future development and to ensure compatibility with protection levels provided by the project.

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8. The recommendation contained herein reflects the information available at this time and current departmental policies governing formulation of individual projects. It does not reflect program and budgeting priorities inherent in the formulation of a national civil works construction program nor the perspective of higher review levels within the executive branch. Consequently, the recommendation may be modified before it is transmitted to the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsor, the Commonwealth of Kentucky, interested Federal agencies, and other parties will be advised of any modifications and will be afforded an opportunity to comment further.



ARTHUR E. WILLIAMS
Lieutenant General, USA
Chief of Engineers