DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20310-2600

REPLY TO
ATTENTION OF

CECW-P (1105-2-10a) 29 MAY 2003

SUBJECT: Riverside Oxbow, Upper Trinity River, Fort Worth, Texas

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on the Riverside Oxbow, Upper Trinity River, Fort Worth, Texas, ecosystem restoration project. 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 22 April 1988. The resolution requested a review of prior reports to determine the need for improvements for flood protection, environmental enhancement, water quality, recreation, and allied purposes in the Upper Trinity River Basin with specific attention on the Dallas-Fort Worth Metroplex. Riverside Oxbow is on the West Fork of the Trinity River in Fort Worth, Texas. Preconstruction engineering and design activities for the Riverside Oxbow, Fort Worth, Texas, proposed project will continue under authority of the April 1988 resolution.

2. The reporting officers recommend a Locally Preferred Plan (LPP), which is a combination of the national ecosystem restoration (NER) plan and additional local features (ALF). The ALF components would be funded entirely by the non-Federal sponsor, Tarrant Regional Water District. The NER component of the LPP consists of reestablishing low flows through an old oxbow on the West Fork of the Trinity River, including replacement of the Beach Street Bridge; creation of approximately 70 acres of emergent wetlands, open water, and vegetative fringe habitat; habitat improvement of approximately 180 acres of existing forested tracts, including establishment of a 150-foot-wide riparian buffer along the West Fork from Riverside Drive to East 1st Street; establishment of native grasses and forbs buffer on approximately 46 acres of land; reforestation of approximately 67 acres of land using a variety of native hard and soft mast trees and shrubs; and preservation and habitat improvements to approximately 207 acres of native floodplain grassland prairie. The NER plan also includes associated linear recreation along a 9,000-foot-long by 10-foot-wide concrete trail including one vehicular bridge, 1,400 feet of crushed aggregate trail, 7,600 feet of wood mulch equestrian trail, and associated facilities (access points, parking lot, and restroom facilities). The ALF component of the LPP would include reestablishing native species and protecting creek beds on 112 acres and eradicating invasive species on 80 of the 112 acres all contained within the Tandy Hills Nature Preserve, which is located on the south side of Interstate Highway 30; linear recreation

consisting of 7,700 feet of crushed aggregate trail and associated facilities (access points and parking lot) in the Tandy Hill Nature Preserve; three observation areas on the lands associated with the NER plan; and a new Gateway Park entrance road and bridge. In summary, the recommended plan, which includes both the NED and ALF components, provides for ecosystem restoration on approximately 512 acres of floodplain lands, 2 miles of oxbow river channel, 57 acres of wetlands, 112 acres of uplands, replacement of the Beach Street Bridge, and 25,700 feet of mixed surface linear recreation trails including one vehicular bridge.

3. Based on October 2002 price levels, the estimated total first cost of the recommended LPP project is $22,200,000, with an estimated Federal cost of $9,180,000 and an estimated non-Federal cost of $13,020,000. The estimated total first cost includes $13,355,000 for the ecosystem restoration components of the NER plan, $1,000,000 for the recreation components of the NER, and $7,845,000 for the ALF components. Following the cost sharing provisions of Section 103(c) of the Water Resources Development Act (WRDA) of 1986, as amended by Section 210 of WRDA 1996, the ecosystem restoration components of the NER plan would be cost shared 65 percent Federal and 35 percent non-Federal. As such, the estimated Federal and non-Federal share of the ecosystem restoration components of the NER plan would be $8,680,000 and $4,675,000 respectively. The non-Federal sponsor would be responsible for and receive credit for 100 percent of the cost of lands, easements, rights-of-ways, relocations and disposal areas (LERRDs) for the NER plan, which is estimated at $4,094,000. The remaining non-Federal project cost share would be about $581,000. In accordance with Section 103(c)(4) of WRDA 1986, the recreation components associated with the NER plan would be cost shared 50 percent Federal and 50 percent non-Federal. As such the estimated Federal and non-Federal share of the recreation components of the NER plan would be $500,000 and $500,000 respectively. The ALF components would be the full cost and responsibility of the non-Federal sponsor. In addition, the non-Federal sponsor would be responsible for 100 percent of the cost of operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project. The recommendation is also subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies. Based on October 2002 price levels, a discount rate of 5 7/8 percent, and a 50-year period of economic analysis, average annual costs for the NER plan are estimated at $969,000. The NER plan would produce approximately 305 average annual habitat units (AAHUs) resulting in average annual costs of $3,170 per AAHU. Based on the same economic criteria, the average annual costs and benefits for these recreation components are estimated at $79,000 and $805,000, respectively, with net benefits of $726,000 and a benefit-to-cost ratio of 10.0 to 1.

4. Washington level review indicates that all components of the recommended plan are technically sound, and environmentally and socially acceptable. In addition, the ecosystem restoration components of the NER plan are incrementally justified and the recreation components of the NER plan are economically justified. The ecosystem restoration and recreation components of the NER plan conform with essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and

legislative policies and guidelines. Also, the views of interested parties, including Federal, State and local agencies have been considered.

5. I generally concur in the findings, conclusions, and recommendations of the reporting officers. However, I note that the Tandy Hills ALF components could also be implemented as a complementary local plan rather than as part of the federally authorized project and in either case the non-federal sponsor would be responsible for 100 percent of the cost of construction and implementation of the ALF components.

6. 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 or 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, Tarrant Regional Water District; the State of Texas; interested Federal agencies; and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further. My recommendation is subject to the non-Federal sponsor agreeing to comply with applicable Federal laws and policies, including the following requirements:

a. Provide 35 percent of the separable project costs allocated to ecosystem restoration, 50 percent of the separable project costs allocated to recreation, and 100 percent of the costs allocated to the locally preferred plan (LPP) which are in excess of the costs allocated to the National Ecosystem Restoration (NER) plan, as further specified below:

(1). Enter into an agreement, which provides, prior to execution of a project cooperation agreement for the project, 25 percent of design costs for ecosystem restoration and recreation features and 100 percent of design costs allocated to the LPP which are in excess of the costs allocated to the National Ecosystem Restoration (NER) plan.

(2). Provide, during construction, any additional funds needed to cover the non-federal share of design costs.

(3). 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 project.

(4). 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 project.

(5). Provide, during construction, any additional costs as necessary to make its total contribution equal to 35 percent of the separable project costs allocated to ecosystem restoration, 50 percent of the separable project costs allocated to recreation, and 100 percent of the costs allocated to the LPP which are in excess of the costs allocated to the National Ecosystem Restoration (NER) plan.

b. For so long as the project remains authorized, operate, maintain, repair, replace, and rehabilitate the completed project, or functional portion of the project, including mitigation features, at no cost to the 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 Government in the OMRR&R manual and any subsequent amendments thereto.

c. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land which the local 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.

d. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element.

e. 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 Government or the Government's contractors.

f. 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.

g. 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 USC 9601-9675, that may exist in, on, or under lands, easements or rights-of-way 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 Government determines to be subject to the navigation servitude without prior specific written direction by the Government.

h. Assume complete financial responsibility 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 Government determines necessary for the construction, operation, or maintenance of the project.

i. To the maximum extent practicable, operate, maintain, repair, replace, and rehabilitate the project and otherwise perform its obligations in a manner that will not cause liability to arise under CERCLA.

j. Prevent obstructions of, or encroachments on, the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) that might reduce the ecosystem restoration purpose, hinder its operation and maintenance, or interfere with its proper function, such as any new development (including recreation facilities or features) on project lands or the addition of facilities that would degrade the ecosystem restoration benefits of the project.

k. 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, and performing relocations for construction, operation, and maintenance of the project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.

l. Comply with all applicable Federal and State laws and regulations, including Section 601 of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, 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."

m. Provide the non-Federal share of that portion of the costs of mitigation and data recovery activities associated with historic preservation, that are in excess of 1 percent of the total amount authorized to be appropriated for the project, in accordance with cost sharing provisions of the project cooperation agreement;

n. Not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is authorized.

o. Provide and maintain necessary access roads, parking areas, and other public use facilities, open and available to all on equal terms.

p. Obtain all necessary water rights for the operation of the project.

ROBERT B. FLOWERS
Lieutenant General, U.S. Army
Chief of Engineers