



DEPARTMENT OF THE ARMY  
CHIEF OF ENGINEERS  
2600 ARMY PENTAGON  
WASHINGTON, DC 20310-2600

JUN 08 2015

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on flood risk management, recreation, and ecosystem restoration along the Upper Des Plaines River and its tributaries in northeastern Illinois and southeastern Wisconsin. It is accompanied by the report of the district and division engineers. These reports respond to Section 419 of the Water Resources Development Act (WRDA) of 1999. Section 419 requested a study of the Upper Des Plaines River and Tributaries, Illinois and Wisconsin, upstream of the confluence with Salt Creek at Riverside, Illinois, to determine the feasibility of improvements in the interests of flood damage reduction, environmental restoration and protection, water quality, recreation, and related purposes. Preconstruction engineering and design activities will continue under this authority.
2. The reporting officers recommend authorizing a National Economic Development (NED) plan and a National Ecosystem Restoration (NER) plan to manage flood risks, enhance recreation opportunities, and to restore ecosystems in the Upper Des Plaines River watershed. Analyses of the reporting officers indicate that the proposed NED and NER plans are physically, functionally, hydraulically, and economically independent. The NED plan provides for reducing flood damages and risks by constructing an optimized system of three levee/floodwalls and two floodwater storage reservoirs near or adjacent to the main stem of the Des Plaines River in the city of Des Plaines, and communities of Franklin Park, Schiller Park, and River Grove, Illinois; and implementing non-structural flood risk management measures at up to 377 structures in nine communities in Lake County and Cook County, Illinois. Non-structural flood risk management measures will include elevating structures, dry flood-proofing, filling basements in combination with dry flood-proofing, wet flood proofing, constructing engineered low-level ring levees at large commercial or public building sites, and evacuating portions of floodplains. The floodplain evacuation (i.e., purchase and removal of frequently damaged structures) component of the non-structural plan will, to the extent practicable, be implemented on a willing seller basis; however, eminent domain will be utilized when determined to be warranted. Acquisition of structures for removal will comply with the provisions of the Uniform Relocations Assistance and Real Property Acquisition Policies Act (P.L. 91-646), as amended, and the uniform regulations contained in 49 Code of Federal Regulations, Part 24, including the provision of payment of relocation assistance benefits to eligible recipients. Additionally, the NED plan provides for separable, cost-shared, recreation features at three sites where flood risk management features are recommended for implementation. The NER plan will provide ecosystem restoration benefits by manipulating site conditions to return hydrology, hydraulics and geomorphology to a more natural state, restoring natural stream channels, and by reestablishing native plant

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

communities over an aggregate 6,859 acres (10.7 square miles) at seven sites across the watershed. For all ecosystem restoration projects, the recommended plan includes post-construction monitoring and adaptive management for a period of up to ten years to ensure project performance. The NER plan includes compatible incidental recreation features. The recommended plan will not have significant adverse effects; consequently, no mitigation measures, beyond best management practices and avoidance, or compensation measures will be required. All project sites are located in the states of Illinois or Wisconsin. Project costs are stated at the October 2014 price level. Equivalent annual costs and benefits are based on a 3.375 percent discount rate and a 50-year period of economic evaluation.

3. The estimated total first cost of the combined NED/NER plan, including recreation features, is \$307,087,000. All of the proposed flood risk management features are located in Lake and Cook Counties, Illinois. The first cost of the proposed structural and non-structural flood risk management features, not including recreation, is estimated as \$144,378,000. This amount includes \$96,623,000 allocated to structural flood risk management and \$47,755,000 associated with a non-structural flood risk management program. The currently estimated cost of proposed recreation associated with the flood risk management features is \$1,425,000. The estimated total cost of the NED plan, including recreation, is \$145,803,000. Proposed ecosystem restoration features are located in Kenosha County, Wisconsin, and Lake and Cook Counties, Illinois. The first cost of the recommended ecosystem restoration features is currently estimated as \$161,284,000. The federal share of the total project cost for the NED and the NER plans, including cost-shared recreation features, would be about \$199,393,000 (64.9 percent) and the non-federal share would be about \$107,694,000 (35.1 percent).

a. In accordance with the cost sharing provisions of Section 103 of WRDA 1986, as amended by Section 202 of WRDA 1996, the federal share of the first costs of the flood risk management projects would be about \$93,846,000 (65 percent) and the non-federal share would be about \$50,532,000 (35 percent). The cost of lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) is estimated at \$37,017,000. The project specific non-federal sponsors, the Illinois Department of Natural Resources, the Metropolitan Water Reclamation District of Greater Chicago, and the city of Des Plaines, Illinois, would be responsible for the operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of the project after construction, a cost currently estimated at about \$172,000 per year. The sponsors would also be fully responsible for removing and relocating utilities and discharge pipelines on project sites that are non-compensable, at an estimated cost of approximately \$5,431,000.

b. In accordance with the cost sharing provisions of Section 103 of WRDA 1986, as amended by Section 210 of WRDA 1996, the federal share of the first costs of the ecosystem restoration projects would be about \$104,835,000 (65 percent) and the non-federal share would be about \$56,449,000 (35 percent). The cost of LERRD for the ecosystem restoration projects is estimated at \$65,361,000. This amount exceeds the 35 percent non-federal share of the total cost of the restoration projects by an estimated \$8,912,000. The non-federal sponsors for the

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

ecosystem restoration projects have provided letters indicating their desire to voluntarily forgo reimbursement for the value of LERRD that exceeds the required 35 percent cost share. The total project cost includes \$1,490,000 for environmental monitoring and adaptive management. The project-specific non-federal sponsors including the Forest Preserve District of Cook County (FPDCC), Lake County Forest Preserve District (LCFPD), and Kenosha County, would be responsible for the OMRR&R of the project after construction, a cost currently estimated at about \$328,000 per year, which includes monitoring and adaptive management beyond the construction phase.

c. The NED/NER plan includes both separable and incidental recreation features. The flood risk management projects include the following separable recreation features, which will be cost-shared 50 percent federal and 50 percent non-federal: recreation trails at Touhy-Miner Levee and Floodwall, recreation trails and picnic areas at Fullerton Woods Reservoir, and recreation trails in Des Plaines, Illinois on lands that will be evacuated as a result of buyout and removal of frequently flooded structures. The \$1,425,000 total cost of recreation features will be shared equally, \$712,500 federal and \$712,500 non-federal, between the government and prospective non-federal project sponsors. The ecosystem restoration projects include incidental recreation features. These projects include the construction of woodchip trails for equipment access. Following construction, these features will be usable as recreation trails and annual OMRR&R will be a non-federal responsibility. Incidental recreation features will be cost-shared in accordance with ecosystem restoration cost sharing provisions.

4. Economic analyses indicate that the proposed flood risk management and recreation features are economically justified. Cost effectiveness and incremental cost analysis techniques were applied to evaluate the proposed ecosystem restoration alternatives to ensure that an efficient NER plan is recommended for authorization.

a. The total equivalent annual flood risk management costs are estimated to be \$5,675,000, including OMRR&R. The equivalent average annual benefits are estimated to be \$9,923,000 with net average annual benefits of \$4,284,000. The benefit-to-cost ratio for the flood risk management portion of the NED plan is approximately 1.7 to 1. The recommended plan would reduce overall average annual flood damages across the watershed by about 19 percent and would leave total average annual residual damages estimated at \$42,924,000. About 89 percent (\$39,398,000) of the total residual flood damages represent economic opportunity costs that would consist of transportation delay and re-routing costs that result from roadway flooding. Physical flooding damages to automobiles, and public, commercial, industrial, and residential structures would be reduced by about 48 percent, leaving average annual residual damages to automobiles and structures estimated at \$5,108,000. The analyses of the proposed levee/floodwall projects indicate that they will provide a greater than 95 percent probability of containing the 1-percent chance (100-year recurrence interval) flood. Full implementation of the proposed structural and non-structural flood risk management measures would remove approximately 1,400 structures from Federal Emergency Management Agency designated special flood hazard areas.

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

b. The total equivalent average annual aquatic ecosystem restoration costs are estimated to be \$5,661,000, including OMRR&R, monitoring, and adaptive management. The cost of the recommended aquatic ecosystem restoration projects is justified by restoring 9,034 Average Annual Habitat Units (AAHU), at an average cost of \$627/AAHU, on more than 6,859 acres of aquatic and riparian habitat. Implementing the NER plan will increase the net watershed habitat units by about 32 percent. The NER plan would restore the ecosystem in the most cost-effective manner by naturalizing the watershed hydrology, reestablishing natural fluvial and fire processes, increasing the richness and abundance of the native plant communities, and improving connectivity between natural areas. The restored aquatic habitat includes habitat and life requisites for three federally-listed and 89 state listed threatened and endangered species. The restored habitat will be located within the Great Lakes portion of the Mississippi Flyway, and would provide nationally and internationally significant habitat for migratory birds.

c. The equivalent annual cost of the proposed cost-shared recreation features is \$63,000, including OMRR&R. The equivalent average annual benefits are estimated to be \$456,000, with net average annual benefits of \$393,000. The ratio of benefits-to-cost for the recreation plan is approximately 7.2 to 1.

5. The NED Plan details:

a. Structural Flood Risk Management. The system of structural flood risk management features includes the 11,200 linear foot long Touhy-Miner Levee and Floodwall and the 200 acre-foot capacity Harry Semrow Driving Range Reservoir, both located in Des Plaines, Illinois; the 8,400 linear foot long Belmont-Irving Park Levee and Floodwall located in Franklin Park and Schiller Park, Illinois; and the 6,200 linear foot long Fullerton-Grand Levee and Floodwall and the 150 acre-foot capacity Fullerton Woods Reservoir, both located in River Grove, Illinois. The Illinois Department of Natural Resources, the Metropolitan Water Reclamation District of Greater Chicago, and the city of Des Plaines, Illinois will sponsor and share the costs of implementing these proposed structural flood risk management features. The estimated total first cost of the structural flood risk management features is \$96,623,000. The total equivalent annual costs are estimated to be \$3,930,000, including OMRR&R. The equivalent average annual benefits are estimated to be \$7,649,000, with net average annual benefits of \$3,719,000. The benefit-to-cost ratio for structural flood risk management is approximately 1.9 to 1.

b. Non-structural Flood Risk Management. Non-structural flood risk management features will be implemented at about 164 structures located in Gurnee, Lincolnshire, Long Grove, Riverwoods, and Vernon Township, in Lake County Illinois, and about 213 structures located in Des Plaines, Rosemont, Wheeling, and Wheeling Township, in Cook County Illinois. The city of Des Plaines will sponsor non-structural flood risk management treatments within its boundaries. The Illinois Department of Natural Resources will sponsor all other non-structural flood risk management features located in Lake and Cook Counties. The estimated total first cost of the non-structural flood risk management component of the NED plan is \$47,755,000.

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

The total equivalent annual costs are estimated to be \$1,745,000. The equivalent average annual benefits are estimated to be \$2,274,000, with net average annual benefits of \$529,000. The benefit-to-cost ratio for non-structural flood risk management is approximately 1.3 to 1.

c. Separable Recreation. The city of Des Plaines will sponsor the 11,200-foot-long asphalt Touhy-Miner Levee and Floodwall Recreation Trail and the 4,000-foot-long asphalt Des Plaines Floodway/Big Bend Drive Area Recreation Trail. The Fullerton Woods Reservoir Recreation Area will consist of a landscaped recreation site, picnic shelter, benches, parking lot, restroom, and asphalt trail. The FPDCC will sponsor the Fullerton Woods Reservoir Recreation Area. The estimated total first cost of the city of Des Plaines sponsored separable recreation features is \$461,000. The total equivalent annual costs are estimated to be \$18,000, including OMRR&R. The equivalent average annual benefits are estimated to be \$303,000, with net average annual benefits of \$285,000. The benefit-to-cost ratio is approximately 16.8 to 1. The estimated total first cost of the FPDCC sponsored separable recreation features is \$964,000. The total equivalent annual costs are estimated to be \$45,000, including OMRR&R. The equivalent average annual benefits are estimated to be \$153,000, with net average annual benefits of \$108,000. The benefit-to-cost ratio is approximately 3.4 to 1.

6. The NER plan details:

a. Kenosha County will act as non-federal sponsor for aquatic ecosystem restoration at two (2) locations: 1,619 acres of riparian habitat at the Bristol Marsh site and 689 acres of riparian habitat at the Dutch Gap Forested Floodplain in Bristol, Wisconsin. The estimated first cost for the Bristol Marsh restoration is approximately \$43,112,000. The equivalent average annual cost is \$1,341,000. Expected benefits are an increase of 2,251 AAHU. The estimated first cost for the Dutch Gap Forested Floodplain restoration is approximately \$18,880,000. Based on a 3.375 percent discount rate and a 50 year period of economic evaluation, the equivalent average annual cost is \$612,000. Expected benefits are 1,286 AAHU. The total cost of the Kenosha County-sponsored restoration projects is currently estimated as \$61,992,000. The value of LERRD for the Kenosha County-sponsored restoration projects is estimated at \$29,372,000. This amount exceeds the 35 percent non-federal share of the total cost of the restoration projects by an estimated \$7,674,000. Kenosha County has provided a letter indicating their desire to voluntarily forgo reimbursement for the value of LERRD that exceeds the required 35 percent cost share.

b. The LCFPD will act as non-federal sponsor for aquatic ecosystem restoration at three (3) locations: 1,601 acres of marsh and riparian habitat at Red Wing Slough and Deer Lake Wetland Complex, 429 acres of riparian habitat at Pollack Lake and Hastings Creek Riparian Wetlands, both in Antioch, Illinois, and 698 acres at the Gurnee Woods Riparian Wetlands, in Wadsworth, Illinois. The estimated first cost for the Red Wing Slough and Deer Lake Wetland Complex restoration is approximately \$30,219,000. The equivalent average annual cost is \$1,093,000. Expected benefits are 1,513 AAHU. The estimated first cost for the Pollack Lake and Hastings Creek Riparian Wetlands restoration is approximately \$10,420,000. Based on a 3.375 percent

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

discount rate and a 50 year period of economic evaluation, the equivalent average annual cost is \$432,000. Expected benefits are an increase of 626 AAHU. The estimated first cost for the Gurnee Woods Riparian Wetlands restoration is approximately \$17,902,000. The equivalent average annual cost is \$590,000. Expected benefits are increase of 939 AAHU. The total cost of the LCFPD sponsored restoration projects is currently estimated as \$58,541,000. The value of LERRD for the LCFPD sponsored restoration projects is estimated at \$20,519,000. This amount exceeds the 35 percent non-federal share of the total cost of the restoration projects by an estimated \$30,000. The LCFPD has provided a letter indicating their desire to voluntarily forgo reimbursement for the value of LERRD that exceeds the required 35 percent cost share.

c. The FPDCC will act as non-federal sponsor for aquatic ecosystem restoration at two (2) locations: 811 acres of riparian habitat at the Northbrook Floodplain and Riparian Complex in Wheeling, Illinois, and 1,007 acres of riparian habitat at the Beck Lake Meadow and Floodplain Forest in Des Plaines and Glenview, Illinois. The estimated first cost for the Northbrook Floodplain and Riparian Complex restoration is approximately \$20,060,000. The equivalent average annual cost is \$827,000. Expected benefits are 925 AAHU. The estimated first cost for the Beck Lake Meadow and Floodplain Forest restoration is approximately \$20,691,000. The equivalent average annual cost is \$775,000. Expected benefits are 1,494 AAHU. The total cost of the FPDCC-sponsored restoration projects is currently estimated as \$40,751,000. The value of LERRD for the FPDCC-sponsored restoration projects is estimated at \$15,471,000. This amount exceeds the 35 percent non-federal share of the total cost of the restoration projects by an estimated \$1,209,000. The FPDCC has provided a letter indicating their desire to voluntarily forgo reimbursement for the value of LERRD that exceeds the required 35 percent cost share.

7. In accordance with the current Engineer Circular (EC) on review of decision documents, all technical, engineering and scientific work underwent an open, dynamic and vigorous review process to ensure technical quality. This included an Agency Technical Review (ATR), a (Type I) Independent External Peer Review (IEPR), and USACE Headquarters policy and legal review. All concerns of the ATR have been addressed and incorporated into the final feasibility report. USACE conducted the IEPR in accordance with Section 2034 of the Water Resources Development Act of 2007, USACE EC 1165-2-214, and the Office of Management and Budget's Final Information Quality Bulletin for Peer Review (2004). A Section 501(c)(3) (Internal Revenue Code) non-profit science and technology organization, independent and free of conflicts of interest, established and administered the peer review panel. The IEPR panel consisted of five members with expertise in hydraulic engineering, geotechnical engineering, economics, ecology, and plan formulation. The review panel identified and documented sixteen final comments. Of these, two were designated as having high significance, seven as having medium significance, and seven as having low significance. All IEPR review comments have been resolved and resulted in no significant changes to the plan formulation, engineering assumptions, and environmental analyses that supported the decision-making process and plan selection. The final report and environmental assessment also underwent state and agency review. All comments from the above referenced reviews have been addressed and incorporated into the final documents as appropriate. Overall the reviews did result in improvements to the technical clarity

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

and overall quality of the report. A safety assurance review (Type II IEPR) of the structural flood risk management components of the project will be conducted during the design phase of the project.

8. Washington level review indicates that the project recommended by the reporting officers is technically sound, environmentally and socially acceptable, cost effective and economically justified. The plan complies with all 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 administrative and legislative policies and guidelines. Also, the views of interested parties, including federal, state and local agencies have been considered.

9. I generally concur with the findings, conclusions, and recommendations of the reporting officers. Accordingly, I recommend that the plan to manage flood risks, restore ecosystems, and provide additional recreation opportunities for the Upper Des Plaines River and Tributaries, Illinois and Wisconsin be authorized in accordance with the reporting officers' recommended plan at an estimated cost of \$307,087,000 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 federal and state laws and policies, including Section 103 of WRDA 1986, as amended, 33 U.S.C. § 2213. The non-federal sponsors would provide the non-federal cost share and all LERRD. Further, the non-federal sponsors would be responsible for all OMRR&R. This recommendation is subject to the non-federal sponsors agreeing to comply with all applicable federal laws and policies, including but not limited to:

a. Provide 35 percent of design costs in accordance with the terms of a design agreement entered into prior to commencement of design work;

b. Provide a minimum of 35 percent, but not to exceed 50 percent of total structural flood risk management costs as further specified below:

(1) Provide, during the first year of construction, any additional funds necessary to pay the full non-federal share of design costs allocated by the government to the structural flood risk management features;

(2) Provide, during construction, a contribution of funds equal to 5 percent of total structural flood risk management costs;

(3) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the structural flood risk management features;

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

(4) Provide, during construction, any additional funds necessary to make its total contribution for structural flood risk management equal to at least 35 percent of total structural flood risk management costs;

c. Provide 35 percent total non-structural flood risk management costs as further specified below:

(1) Provide, during the first year of construction, any additional funds necessary to pay the full non-federal share of design costs allocated by the government to the non-structural flood risk management features;

(2) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the non-structural flood risk management features;

(3) Provide, during construction, any additional funds necessary to make its total contribution for non-structural flood risk management equal to 35 percent of total non-structural flood risk management costs;

d. Provide 35 percent of total ecosystem restoration costs as further specified below:

(1) Provide, during the first year of construction, any additional funds necessary to pay the full non-federal share of design costs allocated by the government to the ecosystem restoration features;

(2) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the ecosystem restoration features;

(3) Provide, during construction, any additional funds necessary to make its total contribution for ecosystem restoration equal to 35 percent of total ecosystem restoration costs;

e. Provide 50 percent of total recreation costs as further specified below:

(1) Provide, during the first year of construction, any additional funds necessary to pay the full non-federal share of design costs allocated by the government to the recreation features;

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

(2) Provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated material all as determined by the government to be required or to be necessary for the construction, operation, and maintenance of the recreation features;

(3) Provide, during construction, any additional funds necessary to make its total contribution for recreation equal to 50 percent of total recreation costs;

f. Provide, during construction, 100 percent of the total recreation costs that exceed an amount equal to the sum of the following:

(1) 10 percent of the federal share of total structural flood risk management costs; plus

(2) 10 percent of the federal share of total ecosystem restoration costs; plus

(3) 10 percent of the federal share of total non-structural flood risk management costs;

g. Not less than once each year, inform affected interests of the extent of risk reduction afforded by the flood risk management features;

h. Agree to participate in and comply with applicable federal floodplain management and flood insurance programs;

i. Comply with Section 402 of the WRDA of 1986, as amended (33 U.S.C. 701b-12), which requires a non-federal interest to prepare a floodplain management plan within one year after the date of signing a project partnership agreement, and to implement such plan not later than one year after completion of construction of the flood risk management features;

j. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their use in adopting regulations, or taking other actions, to prevent unwise future development and to ensure compatibility with protection levels provided by the flood risk management features;

k. Prevent obstructions or encroachments on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) such as any new developments on project lands, easements, and rights-of-way or the addition of facilities which might reduce the level of protection the flood risk management features afford, reduce the outputs produced by the ecosystem restoration features, hinder operation and maintenance of the project, or interfere with the project's proper function;

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

l. Shall not use the ecosystem restoration features or lands, easements, and rights-of-way required for such features as a wetlands bank or mitigation credit for any other project;

m. Keep the recreation features, and access roads, parking areas, and other associated public use facilities, open and available to all on equal terms;

n. For so long as the project remains authorized, operate, maintain, repair, rehabilitate, and replace the project, or functional portions of the project, including any mitigation features, 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 regulations and any specific directions prescribed by the federal government;

o. Give the federal government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-federal sponsors own or control for access to the project for the purpose of completing, inspecting, operating, maintaining, repairing, rehabilitating, or replacing the project;

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

q. Perform, or ensure performance of, 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), Public Law 96-510, as amended (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 required for construction, operation, and maintenance of the project. However, for lands that the federal government determines to be subject to the navigation servitude, only the federal government shall perform such investigations unless the federal government provides the non-federal sponsors with prior specific written direction, in which case the non-federal sponsors shall perform such investigations in accordance with such written direction;

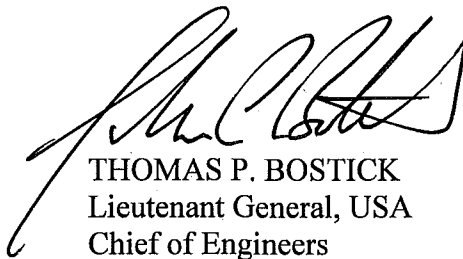
r. Assume, as between the federal government and the non-federal sponsors, complete financial responsibility for all necessary cleanup and response costs of any hazardous substances regulated under CERCLA that are located in, on, or under lands, easements, or rights-of-way that the federal government determines to be required for construction, operation, and maintenance of the project; and

s. Agree, as between the federal government and the non-federal sponsor, that the non-federal sponsors shall be considered the operator of the project for the purpose of CERCLA liability, and to the maximum extent practicable, operate, maintain, repair, rehabilitate, and replace the project in a manner that will not cause liability to arise under CERCLA.

DAEN

SUBJECT: Upper Des Plaines River and Tributaries, Illinois and Wisconsin

10. 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 Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the sponsors, the states of Illinois and Wisconsin, interested federal agencies, and other parties will be advised of any significant modifications and will be afforded an opportunity to comment further.



THOMAS P. BOSTICK  
Lieutenant General, USA  
Chief of Engineers