



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

REPLY TO  
ATTENTION OF:

CEMP-NAD

OCT 24 2005

SUBJECT: Craney Island Eastward Expansion, Norfolk Harbor and Channels, Hampton Roads, Virginia

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on the study to expand the existing Craney Island Dredged Material Management Area (CIDMMA) for future dredged material and ultimately for construction of a container port by the Virginia Port Authority (VPA). It is accompanied by the report of the district and division engineers. These reports are in full response to a resolution by the Committee on Transportation and Infrastructure of the United States House of Representatives adopted 24 September 1997. The resolution requested a review of the report of the Chief of Engineers on the Norfolk Harbor and Channels (Deepening), contained in House Document 99-88, 99<sup>th</sup> Congress, 1<sup>st</sup> Session, and to conduct a study of eastward expansion of the Federally-owned CIDMMA. The resolution further called for the study to be directly coordinated with the sponsor, the Commonwealth of Virginia, through the Secretary of Transportation represented by the VPA, and to give specific attention to rapid filling to accommodate anticipated port expansion and to the operation of the existing facility while extending the useful life of CIDMMA, as well as to take into account all relevant environmental issues and the subsequent transfer of the expanded area of CIDMMA to the Commonwealth of Virginia. Preconstruction Engineering and Design (PED) activities for this proposed project will be continued under the authority provided by the resolution cited above.

2. The reporting officers recommend a plan to expand the existing CIDMMA. The plan is the Locally Preferred Plan (LPP) and consists of a 580-acre eastward expansion to an elevation of +18 feet mean lower low water (MLLW) to provide additional dredged material capacity and a suitable platform to construct a container handling terminal. The alternative with the most net remaining benefits consists of the eastward expansion with strengthening of the west dike at the existing CIDMMA in 2028. Perimeter dikes for the Recommended Plan would be constructed around the area of the new cell to contain dredged material. The western limit of the proposed cell would tie into the existing east dike of the CIDMMA. In addition, the plan includes construction of an access channel to a depth of 50 feet (MLLW) to serve the VPA's container port. In preparation for future port development, the 580-acre area would be divided by a dike into two dredged material receiving areas consisting of 220 and 360 acres. The 220-acre area would be filled with dredged material first and would be the area where the VPA would begin

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port construction. The 360-acre area would begin to receive dredged material after filling of the 220-acre area. Once the 360-acre area is filled, it would also be turned over to the VPA for port construction. The entire eastward expansion provides an additional three years of dredged material capacity. The initial phase of the port terminal on the 220-acre area is projected to be operational by 2017. To expedite construction and minimize problems associated with settlement of the dikes, the dikes would generally be constructed in the following way: (1) pre-dredge to a depth of -60 feet (MLLW) on the dike alignment; (2) dredge suitable sand from the Atlantic and Thimble Shoal channels for construction of the dike; (3) place the dike material in the pre-dredged hole to elevation +18 MLLW; (4) install a cross dike to subdivide the interior into a southern cell of approximately 220 acres and a northern cell of approximately 360 acres; (5) install wick drains to expedite the remaining settlement of the dikes; and (6) install spill boxes in the newly created eastward cell.

3. Based on October 2005 price levels, the total first cost for construction of the Recommended Plan is \$671,340,000. The U.S. Army Corps of Engineers (USACE) Civil Works program provides for Federal interest in general navigation features (GNF) associated with navigation improvements. Excluded are interests in the development of port lands, facilities, and infrastructure. Under existing law and policy, the USACE cost-sharing responsibility for the recommended eastward expansion plan (LPP) is limited to the present value of the least-cost long-term dredged material placement method, identified as a west dike strengthening on the existing CIDMMA without any lateral expansion. Federal cost-sharing will be limited to that amount which would ordinarily be applied to an expansion of CIDMMA for dredged material purposes only. Additionally, Federal participation in the access channel, as a GNF, is based on depth in accordance with provisions of the Water Resources Development Act of 1986 (WRDA 1986), as amended. All depths require an additional 10 percent contribution by the non-Federal sponsor over a period not to exceed 30 years. Accordingly, the estimated Federal cost for construction of the eastward expansion and access channel, after the 10 percent repayment, is \$12,042,000 and \$13,810,000, respectively, for a total estimated Federal share of \$25,852,000. The estimated non-Federal share is \$645,488,000 or 96 percent. Annual operation and maintenance (O&M) costs for the Recommended Plan are estimated at \$209,000 annually. The O&M costs consist entirely of maintenance dredging of the access channel, which will be cost-shared between Federal and non-Federal interests. The Federal Government will be responsible for 100 percent of the costs for maintaining the channel to a depth of 45-feet. The Federal and non-Federal interests will cost share equally any additional costs beyond the 45-foot increment and up to the 50-foot increment.

4. Based on October 2005 prices and a Federal discount rate of 5.125 percent, the estimated average annual cost of the Recommended Plan is \$75,389,000, average annual benefits are \$333,566,000 and average annual net benefits are \$258,179,000. The project's benefit-to-cost ratio is 4.4 to 1.0.

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5. I generally concur in the findings, conclusions, and recommendations of the reporting officers. The plan developed is technically sound, economically justified, and environmentally and socially acceptable. The plan conforms 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 administrative and legislative policies and guidelines.

6. The views of interested parties, including Federal, state, and local agencies, have been considered. During coordination of the Draft Environmental Impact Statement (EIS), the National Marine Fisheries Service (NMFS) expressed concerns regarding impacts of the recommended project on Essential Fish Habitat (EFH). As a result, a more thorough EFH assessment was conducted in the Final EIS. In addition, the recommended \$50-million mitigation plan enhances EFH by providing fish spawning, nursery, and feeding habitats with restored wetlands, oyster reefs, and bottom sediments. In addition, NMFS determined that Endangered Species Act (ESA) Section 7 consultation may be necessary regarding sea turtles and right whales. In this regard, the reporting officers have conducted informal consultation and have determined that data acquired subsequent to publishing the Draft EIS are sufficient to make a "not likely to affect" determination and to permit NMFS to make an informed analysis of ESA compliance. The USACE and the VPA recognize that the level of detail regarding engineering, design and construction/operation of the new cell and terminal will increase during PED preparation and, therefore, have committed to the preparation of a Supplemental EIS that will incorporate the new information for port development.

7. Accordingly, I recommend implementation of the recommended project in accordance with the reporting officers' plan 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 WRDA of 1986, as amended. Also, this recommendation is subject to the non-Federal sponsor's agreeing to comply with all applicable Federal laws and policies, including the following requirements:

a. Provide during construction initial project costs of the Recommended Plan (LPP) for the eastward expansion of CIDMMA in excess of the Federal responsibility, whose contribution is limited to the present value of the least-cost long-term dredged material alternative, estimated at \$12,042,000. The remaining costs for the eastward expansion, which is the responsibility of the non-Federal sponsor, is estimated at \$633,846,000. In addition, the non-Federal sponsor will provide a portion of initial construction of the access channel, as a GNF in accordance with WRDA 1986, as amended, currently estimated at \$11,642,000. Therefore, the total non-Federal share of the construction cost of the recommended LPP is \$645,488,000 (96 percent).

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(1) Provide, during construction, any additional funds needed to cover the non-Federal share of design costs;

(2) Provide all lands, easements, rights-of-way, and relocations and perform, or ensure the performance of, any relocations determined by the Federal Government to be necessary for the initial construction and O&M of the project; and

(3) Provide, during construction, any additional amounts as are necessary to make its total contribution required by item "a" currently estimated at \$645,488,000 (96 percent).

b. For so long as the eastward expansion project elements remain authorized, operate, maintain, repair, replace, and rehabilitate the completed project elements, or functional portion of project elements, 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.

c. With regard to the access channel, provide 50 percent of the annual incremental cost to maintain the access channel at a depth greater than 45 feet in accordance with WRDA 1986, as amended. The total cost of maintaining the access channels is currently estimated at \$209,000. This cost is mostly attributed to depths of 45 feet or less. The incremental cost of maintaining the channel deeper than 45 feet will be a small portion of this cost, if not negligible.

d. Retain for ownership of those lands created with dredged material to facilitate port development for so long as the project remains authorized and regulate the use, growth, and development of port facilities on those lands.

e. Allow the USACE to collect additional tolls in accordance with the existing authorization for CIDMMA contained in the Rivers and Harbors Act of 1946 and computed on the basis of the least-cost dredged material disposal plan identified in this Feasibility Report.

f. Give the Federal Government a right to enter, at reasonable times and in a reasonable manner, upon property that the non-Federal sponsor, now or hereafter, owns or controls for access to the project elements for the purpose of inspection, and, if necessary after failure to perform by the non-Federal sponsor, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project elements. No completion, O&M, repair, replacement, or rehabilitation by the Federal Government shall operate to relieve the non-Federal sponsor of responsibility to meet the non-Federal sponsor's obligations, or to preclude the Federal Government from pursuing any remedy at law or equity to ensure faithful performance.

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g. Hold and save the United States free from all damage arising from initial construction, O&M, repair, replacement, and rehabilitation of the project elements and any project-related betterments, except for damages due 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 elements in accordance with the standards of 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 determined to be 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, amended, 422 U.S.C. 9601-9875, that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for initial construction and O&M of the project elements. However, for lands that the Federal Government determines to be subject to the navigation servitude, the non-Federal sponsor must obtain prior written instruction from the District Engineer regarding the method of testing and must perform such investigations only in accordance with those instructions. The Government shall have no obligation under the Project Cooperation Agreement for the costs of any investigations performed under this paragraph.

j. Assume complete financial responsibility, as between the Federal Government and the non-Federal sponsor, for all necessary cleanup and response cost of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-ways that the Federal Government determines to be necessary for the initial construction or O&M of the project elements, inclusive of mitigation.

k. Agree that the non-Federal sponsor shall be considered the operator of the project elements for the purpose of CERCLA liability. To the maximum extent practicable, operate, maintain, repair, replace, and rehabilitate the project elements in a manner that will not cause liability to arise under CERCLA.

l. Agree to hold the Federal Government harmless from any associated CERCLA liability or cleanup costs related to this project, inclusive of mitigation.

m. 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 the 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-

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of-way required for the initial construction and O&M of the project elements, including those necessary for relocations, borrow materials, and dredge or excavated material disposal, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

n. Comply with all applicable Federal and state laws and regulations, including, but not limited to, Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army." Non-Federal sponsor is also required to comply with all applicable Federal labor standards requirements including, but not limited to, the Davis-Bacon Act (40 USC 276a et seq), the Contract Work Hours and Safety Standards Act (40 USC 327 et seq), and the Copeland Anti-Kickback Act (40 USC 265c).

o. For so long as the project elements remain authorized, the non-Federal sponsor shall ensure continued conditions of public ownership and use of the facility upon which Federal participation is based.

p. All LRR's necessary for the project must be provided by the non-Federal sponsor free and clear of all environmental hazards.

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 Congress as a proposal for authorization and implementation funding. However, prior to transmittal to Congress, the Commonwealth of Virginia, the non-Federal sponsor; interested Federal agencies; and other parties will be advised of any modifications and will be afforded an opportunity to comment further.



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