



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

MAR 12 2009

CECW-LRD

MEMORANDUM FOR COMMANDER, GREAT LAKES AND OHIO RIVER DIVISION

SUBJECT: Implementation Guidance Section 3061 of the Water Resources Development Act of 2007 (WRDA 2007) – Chicago Sanitary and Ship Canal Dispersal Barriers Project, Illinois

1. Section 3061 provides that the existing Barrier I project and the Barrier II project in the Chicago Sanitary and Ship Canal (CSSC) shall be considered as a single dispersal barrier project. The barriers are designed to prevent the interbasin transfer of aquatic nuisance species between the Great Lakes and the Mississippi River. In addition, it directs that the Secretary, at full Federal expense, upgrade and make permanent the existing Barrier I demonstration project; construct Barrier II notwithstanding the existing project cooperation agreement with the State of Illinois; operate and maintain Barriers I and II as a system to optimize effectiveness; and conduct a study of the options and technologies for reducing the impacts of hazards that may reduce the efficacy of the barriers. Further, Section 3061 directs that the Secretary shall provide each State a credit for the funds contributed by that State for Barrier II. The credit may be applied to any cost sharing responsibility for an existing or future Federal project carried out by the Secretary in that State. In addition, Section 3061 authorizes a study at full Federal expense, on the range of options and technologies to prevent the spread of aquatic nuisance species between the Great Lakes and the Mississippi River by aquatic pathways. A copy of Section 3061 is enclosed.

2. The Chicago District will reallocate existing program funds from both accounts into a new single funding account, "Chicago Sanitary and Ship Canal Dispersal Barriers Project" and within available funds operate and maintain (O&M) the existing Barrier I until Barrier II has been constructed and is fully operational. As additional funds become available Chicago District will accomplish the following tasks at 100 percent Federal cost in accordance with Section 3061:

a. In order to insure effectiveness of the barrier system and recognizing the technical constraints of the existing demonstration project, Chicago District will upgrade and make permanent Barrier I.

b. Complete necessary design and construction activities for completion of Barrier II.

c. Draft an amendment to the existing PCA to reflect the changes directed by Section 3061(b): that construction costs will be at Federal expense rather than shared with the non-Federal sponsor; that O&M as well as repair, replacement and rehabilitation will be the responsibility of the Government at Federal expense; and that each State may be afforded

credit in an amount equal to the amount of funds (cash payments) contributed by that State for the Barrier II project toward an existing or future Federal project carried out by the Secretary in that State. Acquisition of additional lands, easements, rights-of-way, relocations, or dredged material disposal areas necessary for the project shall be at Federal expense. All other responsibilities in the existing PCA will remain unchanged. Approval and execution of the PCA amendment will be in accordance with standard policy and procedures regarding review and approval of PCAs.

d. Initiate the Hazards Study authorized in Section 3061(b) (1) (D). The study should address hazards that threaten the effectiveness of the barriers, including the potential bypassing of the barriers during high water events, and identify practical measures that can be used to eliminate or minimize such hazards. The study shall be conducted in consultation with appropriate Federal, state, local and nongovernmental entities.

3. In accordance with Section 3061 (b) (2), credit in an amount equal to the amount of funds (cash payments) contributed by a State toward Barrier II may be applied to any cost sharing responsibility for an existing or future Federal project carried out by the Secretary in that State. The amount of funds contributed by each State is as follows: State of Illinois \$1,799,073; and, States of Minnesota, Wisconsin, Indiana, Michigan, Ohio, Pennsylvania, and New York, \$67,857.15 each. A state should request credit from the appropriate geographic district. However, the Chicago District will maintain records to track the use of credit on an existing or future project for each State. Because applying the credit will reduce the amount of non-Federal funding for an existing or future project, additional funds must be appropriated to cover the amount of such credit.

4. Upon completion, all elements of the Barriers project shall be operated as a system to optimize effectiveness in preventing the inter-basin transfer of aquatic nuisance species. Future OMR&R will be budgeted in accordance with existing budgetary policies and procedures and will be dependent upon appropriations for those activities.

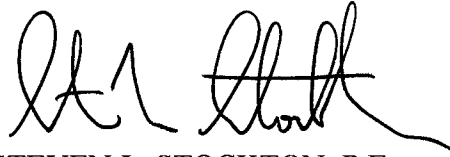
5. The feasibility study authorized by Section 3061(d) shall provide a thorough and comprehensive analysis of the options and technologies that could be applied to prevent the inter-basin transfer of aquatic nuisance species between the Great Lakes and Mississippi River through aquatic pathways. The impacts associated with the implementation of any of the final alternative plans shall include an impact analysis on all current uses of the CSSC. The analysis shall address the need to mitigate or provide alternative facilities or measures for the other users including commercial navigation, recreational navigation, storm water management and recreation. The study will be at 100% Federal expense and will be budgeted in accordance with the annual budget EC.

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The study shall be conducted in consultation with appropriate Federal, state, local and nongovernmental entities. No work may be initiated on this study until funds are specifically appropriated by Congress for the study.

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read 'S. L. Stockton', with a long horizontal flourish extending to the right.

STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encl

SEC. 3061. CHICAGO SANITARY AND SHIP CANAL DISPERSAL BARRIERS PROJECT, ILLINOIS.

(a) TREATMENT AS SINGLE PROJECT.—The Chicago Sanitary and Ship Canal Dispersal Barrier Project (in this section referred to as “Barrier I”), as in existence on the date of enactment of this Act and constructed as a demonstration project under section 1202(i)(3) of the Nonindigenous

Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4722(i)(3)), and the project relating to the Chicago Sanitary and Ship Canal Dispersal Barrier, authorized by section 345 of the District of Columbia Appropriations Act, 2005 (Public Law 108–335; 118 Stat. 1352) (in this section referred to as “Barrier II”) shall be considered to constitute a single project.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary, at Federal expense, shall—

(A) upgrade and make permanent Barrier I;

(B) construct Barrier II, notwithstanding the project cooperation agreement with the State of Illinois dated June 14, 2005;

(C) operate and maintain Barrier I and Barrier II as a system to optimize effectiveness;

(D) conduct, in consultation with appropriate Federal, State, local, and nongovernmental entities, a study of a range of options and technologies for reducing impacts of hazards that may reduce the efficacy of the Barriers; and

(E) provide to each State a credit in an amount equal to the amount of funds contributed by the State toward Barrier II.

(2) USE OF CREDIT.—A State may apply a credit provided to the State under paragraph (1)(E) to any cost sharing responsibility for an existing or future Federal project carried out by the Secretary in the State.

(c) CONFORMING AMENDMENT.—Section 345 of the District of Columbia Appropriations Act, 2005 (Public Law 108–335; 118 Stat. 1352) is amended to read as follows:

“SEC. 345. CHICAGO SANITARY AND SHIP CANAL DISPERSAL BARRIER, ILLINOIS.

“There are authorized to be appropriated such sums as may be necessary to carry out the Barrier II element of the project for the Chicago Sanitary and Ship Canal Dispersal Barrier, Illinois, initiated pursuant to section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note; 100 Stat. 4251).”.

(d) FEASIBILITY STUDY.—The Secretary, in consultation with appropriate Federal, State, local, and nongovernmental entities, shall conduct, at Federal expense, a feasibility study of the range of options and technologies available to prevent the spread of aquatic nuisance species between the Great Lakes and Mississippi River Basins through the Chicago Sanitary and Ship Canal and other aquatic pathways.