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

REPLY TO
ATTENTION OF:

CECW-PM (10-1-7a)

SUBJECT: Western Sarpy/Clear Creek Interim, Lower Platte River and Tributaries, Saunders and Sarpy Counties, Nebraska

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on the study of flood damage reduction improvements along the Lower Platte River in Saunders and Sarpy Counties, Nebraska. It is accompanied by the report of the district and division engineers. These reports have been prepared in partial response to a resolution by the Committee on Public Works and Transportation of the House of Representatives dated 28 September 1994. The committee requested review of the report of the Chief of Engineers on the Platte River, Colorado, Wyoming, Nebraska, published as House Document 197, Seventy-third Congress, Second Session, and other pertinent reports, to determine whether modifications of the recommendations contained therein are advisable at the present time, in the interest of flood control, environmental restoration, and other purposes.

2. Section 101(b)(21) of the Water Resources Development Act of 2000 (WRDA 2000), Public Law 106-541, authorized construction of the Western Sarpy and Clear Creek, Nebraska, project for flood damage reduction subject to the completion of a favorable report of the Chief of Engineers not later than 31 December 2000 and subject to the conditions recommended in that final report. The authorizing language for the Western Sarpy and Clear Creek project reflects an earlier project cost estimate of $15,643,000, which included the cost for the Nebraska Army National Guard's Camp Ashland. The cost estimates for the project and certain features have been refined to reflect current information and coordination with the U.S. Fish and Wildlife Service. This report constitutes the final report of the Chief of Engineers required by WRDA 2000.

3. The reporting officers recommend an overall plan for flood damage reduction, which consists of improving about 16 miles of existing levees along the Lower Platte River in Saunders and Sarpy Counties. The recommended plan would increase the level of protection by improving two existing non-Federal levees and filling in gaps in the levees in order to contain the 2 percent probability design flood (151,000 cubic feet per second) with an estimated reliability of about 60 percent. This would be accomplished by cut and fill activities with levee heights averaging 5 feet. On the right bank, a new ring levee would be constructed around Camp Ashland, and a new levee/weir (to partially protect against floods and to allow interior drainage) would extend below Camp Ashland to tie into the Burlington Northern Santa Fe Railway embankment. Also a new levee extension of

approximately 1.5 miles in length would be constructed between Camp Ashland and the Thomas Lakes development. A small portion of the Western Sarpy levee on the left bank would be relocated riverward to better protect the community of Beacon View. In addition, approximately 26 structures located between the levees will be raised above the 100-year flood level and flowage easements will be acquired on land between the levees. The proposed project will reduce average annual flood damages of $2,752,000 by about 47 percent. The creation of 40 acres of wetlands has been included to mitigate project impacts to fish and wildlife resources. In addition, project conservation measures have been included with the project to avoid or minimize impacts to endangered species. These conservation measures include island clearing, levee setback, side channel construction, and channel chutes. The recommended plan is the national economic development (NED) plan. The non-Federal sponsors are the Papio-Missouri River Natural Resources District and the Lower Platte North Natural Resources District.

4. Based on October 2000 price levels, the estimated total first cost for construction of the plan recommended for the U.S. Army Corps of Engineers implementation is $13,737,000, including construction cost, lands, easements, rights-of-way, relocations, and disposal areas (LERRD), for all features except those that are part of the Camp Ashland ring levee. The Camp Ashland ring levee ties into, but is not part of the Corps project. Based upon the requirements of WRDA 1986, as amended by Section 202 of WRDA 1996, the Federal share is $8,557,000 and the non-Federal share is $5,180,000. The total annual operation, maintenance, repair, replacement and rehabilitation (OMRR&R) cost for the recommended project, which is the responsibility of the non-Federal sponsor, is estimated to be $60,000 per year. The total first cost for the construction of a ring levee around Camp Ashland is $3,004,000. The Nebraska Army National Guard must provide for the construction and OMRR&R of this ring levee with full funding from non-Corps of Engineers Civil Works appropriations.

5. The plan recommended for Corps implementation is economically justified, having average annual flood damage reduction benefits of $1,120,000, based on a 50-year period of analysis and 6 3/8 percent interest rate. Average annual costs are $990,000, including OMRR&R. The resulting benefit-cost ratio is 1.13. The overall plan presented in the district and division engineers reports including the Camp Ashland ring levee is also justified.

6. Although the Omaha District must further analyze certain issues during preconstruction, engineering and design (PED), Washington level review indicates that the recommended plan generally is technically sound, economically justified, and environmentally and socially acceptable. The plan conforms to 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.

7. Due to the uncertainty of a number of items regarding the costs and benefits of the proposed project, as an initial step during PED, the Omaha District must reaffirm the economic feasibility of all elements of the recommended Corps plan and its compatibility with the Camp Ashland ring levee. In addition, the Omaha District must reexamine and report on the proposal to raise the structures between the levees as part of the non-Federal sponsor's LERRD responsibility. Furthermore, Omaha District must prepare a comprehensive gross appraisal and a comprehensive real estate plan that address all of the real estate requirements for the proposed project, as modified during PED, and that are consistent with policy requirements.

8. I concur generally in the findings, conclusions, and recommendation of the reporting officers. Accordingly, I recommend implementation of the authorized project in accordance with the reporting officers' recommended plan as it may be modified in accordance with the results of the required further PED analysis together 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 Public Law 99-662 (WRDA 1986), as amended by Section 202 of Public Law 104-303 (WRDA 1996), and in accordance with the following requirements, which the non-Federal sponsor must agree to prior to project implementation:

a. Provide a minimum of 35 percent, but not to exceed 50 percent, of total project costs allocated to structural flood control as further specified below:

(1) Enter into an agreement which provides, prior to execution of the project cooperation agreement, 25 percent of design costs;

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

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

(4) 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;

(5) 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; and

(6) Provide, during construction, any additional costs as necessary to make its total contribution equal to at least 35 percent of total project costs allocated to structural flood control.

b. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land that 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.

c. Assume responsibility for operating, maintaining, replacing, repairing, and rehabilitating (OMRR&R) the project or completed functional portions of the project, including mitigation features without cost to the Government, in a manner compatible with the project's authorized purposes and in accordance with applicable Federal and State laws and specific directions prescribed by the Government in the OMRR&R manual and any subsequent amendments thereto.

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 from 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 U.S.C. 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. Agree that, as between the Federal Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and, 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.

j. Prescribe and enforce regulations to prevent obstruction of or encroachment on the project that would reduce the level of protection it affords or that would hinder operation or maintenance 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," and Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), requiring non-Federal preparation and implementation of floodplain management plans.

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 the cost sharing provisions of the agreement.

n. Participate in and comply with applicable Federal floodplain management and flood insurance programs.

o. Do 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.

p. Inform affected interests, at least annually, regarding the limitations of the projection afforded by the project.

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

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