

## MEMORANDUM FOR THE RECORD

SUBJECT: Green River Locks and Dams 3, 4, 5 and 6 and Barren River Lock and Dam 1 Disposition Feasibility Study, Kentucky - Deauthorization of Inland Navigation, Civil Works Review Board Civil Works Review Board (CWRB)

1. The subject meeting was held 16 September 2014 from 1400 until 1700 Eastern Time at U.S. Army Corps of Engineers Headquarters, Washington, DC. The agenda (Enclosure 1) and list of attendees (Enclosure 2) are attached.
2. The purpose of the meeting was to obtain CWRB approval to release the Draft Chief's Report for State and Agency (S&A) Review. The Board Members included MG John Peabody, Mr. Steve Stockton, Mr. Theodore (Tab) Brown, Mr. James Hannon, Ms. Karen Durham-Aguilera, Ms. Brenda Johnson-Turner, and Mr. Edward Belk. Following all presentations and discussion, the Board voted unanimously to approve the release of the draft Chief's Report and the Final Feasibility Report for State and Agency review. Pertinent remarks follow below.
3. The meeting was opened by MG Peabody, CWRB Chair and Deputy Commanding General for Civil and Emergency Operations, who offered welcoming remarks and provided an overview of the meeting purpose. MG Peabody noted that there is not a local sponsor (inland navigation is 100% federally-funded), but there is a compelling interest to reduce the inventory of unused and low performing projects in the Corps' inventory so that we can focus resources on high performing projects. The actual disposition of projects is not common so there will be some discovery learning associated with this briefing and study. This study will be used as a template or baseline for future deauthorization and disposal studies. MG Peabody's opening remarks were followed by self-introductions of those attending in person.
4. COL Christopher Beck, Commander, Louisville District (District; LRL) presented the briefing of Green River Locks and Dams 3, 4, 5 and 6 and Barren River Lock and Dam 1 Disposition Feasibility Study, Kentucky including the study authority; overview of the study history; description of the Upper Green River system; the problems addressed; parties interested in future ownership; future without-project conditions; alternatives considered for disposal; available options for disposal; the recommended plan; public and agency involvement; and environmental and policy compliance.
5. The recommended plan is Congressional Deauthorization Only. In this alternative, the Corps only requests Congressional deauthorization of commercial navigation for Green River Locks and Dams 3, 4, 5, and 6 and Barren River Lock and Dam 1. This alternative is the critical first step for any follow-on actions. The cost to execute this alternative is \$0; however this alternative does not eliminate the ~\$20k annual costs for monitoring that we currently pay. Disposal is required to stop all payments against these sites. Additionally, while not specifically part of this alternative, there are disposal costs. The District's worst case estimate is that disposal could take up to \$250k to execute if all sites required additional study associated with the General Services

Administration (GSA) disposal process. The deauthorization is completely dependent on Congressional action (i.e. in a Water Resources Development Act). Following action and assuming full USACE funding, the transfer could take approximately 24 months after O&M funds are allocated. This may fluctuate based on what additional information may be required from GSA to dispose of the property. The District's estimate of \$250k takes into account potential requirements such as mussel surveys (including Threatened and Endangered (T&E) species) and additional photo documentation of the sites.

6. The following is a summary of questions and discussion, including responses from the District team in attendance that occurred during the District Commander's briefing at the CWRB:

A) MG John Peabody

- How much did we spend on the study? The District replied that from 1996 to 2005, approximately \$900k was expended. The study update (2013-2014) cost about \$240K.
- What authority did we use for the study? District replied that Section 216 is the study authority.
- Were there any injuries at Barren River Lock & Dam 1 when the boat went over the dam? District replied that there was 1 death when a johnboat went over Barren River Lock and Dam 1 in April 2014.
- What would the Rochester Regional Water Commission (RRWC) do if they took over Green River Lock & Dam 3? The District responded that the RRWC is actively pursuing a lease for the facilities because they use the pool for water supply. The interest from the RRWC centers on controlling the facilities and completing repairs to the lock and dam to ensure long-term stability.

B) Mr. Steve Stockton

- Did we look at costs associated with stabilization of the locks and dams? The District replied that no work is required to prepare these facilities for acceptance by the GSA. However, the study did look at costs to remove the dams and fill the lock chambers.

C) Mr. James Hannon and MG John Peabody

- Would GSA take the properties "as is"? The District replied that early coordination with GSA indicates that they will take the properties "as is."
- Why would they need to inspect if they are taking "as is"? Ms. Johnson-Turner responded that GSA would have to inspect in order to develop a strategy of how to market the site.

D) MG John Peabody

- We need to document the costs associated with the disposal including reduction of liability. Are the benefits outweighing the costs?
- He expressed concern with the unknowns such as impacts to water supply, liability, environmental, and safety.

E) MG John Peabody

- Is Green River 6 above Mammoth Cave? District responded that Green River 6 is below Mammoth Cave National Park and impounds water into Mammoth Cave.

F) Mr. James Hannon

- Do we remove liability if we deauthorize? The District clarified that the Corps remains liable for the facilities until they are disposed.

G) Mr. Steve Stockton

- Any thought to a systems approach to deauthorization? District responded that to date, the largest interest in addressing these sites from a systems approach has been from the U.S. Fish and Wildlife Service (USFWS). Deauthorization is a package and the disposal will likely occur on a site by site basis.

H) MG John Peabody

- What are the environmental advantages to retaining the structures? District responded that the structures currently benefit some species, but in the long-term the removal of the dams would have the largest benefit to the ecosystem. Any impact to T&E species would be temporary and could be mitigated through controlled demolition. This is supported in feedback that was received from the USFWS.
- Do we know what the T&E species are that are present? District responded that various mussels, darters and Kentucky cave shrimp are the primary T&E species of concern.
- Is there still navigation at Green River 1 and 2? District responded that there is still active navigation at these two facilities.
- What are the interested parties in these facilities for water supply? District responded that the largest interest in water supply is associated with Green River 3.

I) Mr. Theodore (Tab) Brown

- Once we deauthorize, why is the Corps obligated to continue to expend funds on the properties? District responded that the Corps will still own the properties and will need to maintain minimum safety features such as signs and conduct periodic site visits.

J) Mr. James Hannon

- Is there limited fencing or barricades now; does the \$20k per year address these items? District responded that the \$20K per year does not address repairs to any existing fencing or barricades. The \$250K accounts for any additional barricades/signs that may be installed.

K) Ms. Brenda Johnson-Turner

- The \$250K covers everything needed for disposal including potential environmental analysis? District confirmed.

L) MG John Peabody

- Is there a liability to hold onto the structures? District responded that there is a liability to hold onto the structures and that it increases the longer we maintain possession.

M) Mr. Steve Stockton

- Have we considered disposing of structures as a system? Possibly work with American Rivers or The Nature Conservancy? How can we bundle the facilities to make them more attractive to a future recipient? District noted that there is interest from these stakeholders in looking at the system as a whole.
- Can we change the recommendation to include special legislation to direct deauthorization to a specific entity? Board discussion that we need to maintain flexibility in the disposal process and specific legislation may not be necessary.

N) Mr. James Hannon

- What appropriation would cover the \$250K for disposal? District provided the Kentucky River as an example where funds were provided for caretaker activities following Congressional Deauthorization. It was also noted that the Kentucky River example received specific Congressional direction in the 1990's to directly transfer to the Kentucky River Authority.

O) Mr. Edward Belk

- With Mr. Tab Brown, commented that we could capture the appropriation source in the Chief's Report.
- Reminded everyone that this is a 2-step process (deauthorization then disposal).

P) MG John Peabody

- How do we put a value on liability? This is a missing policy in USACE.
- Noted that the issue is not about disposing of the properties as quickly as possible, but rather in a comprehensive and definitive manner.
- Responded to slide on study comments received to-date by noting that there was no strong sentiment in one direction or the other on the removal of Green River 6. District responded that there was strong feedback to remove Green River Dam 6 and some of the concerns voiced represented a misunderstanding of the impact to the two ferries in Mammoth Cave National Park.
- Was there any damage to Green River 6 as a result of the 2011 flood events? District responded "No."

Q) Mr. James Hannon

- Believes we should deauthorize and then fence the \$250K in O&M and move out to dispose of these structures.

7. COL Steven Roemhildt, Commander, Great Lakes and Ohio River Division (LRD), followed with recommendations supporting approval of the final Report and release of the report for State and Agency Review. He found the project complied with all applicable laws and policies and that the recommended plan is the right thing to do at this point in the project lifecycle. COL Roemhildt also noted that we still need to clarify where the funding would come from and that LRD played an important role on the Project Development Team and looked at risk mitigation. He highly recommended approval of the plan.

8. Presentation by Inland Navigation Planning Center of Expertise and Agency Technical Review (ATR) Team Lead. Ms. Beth Cade provided a summary of the review plan and review requirements for the study and then introduced Mr. Corey Lawton. Mr. Lawton presented slides and reported that all comments have been resolved and the review requirements have been met. There were no comments from the Board on ATR.

9. Mr. Mark Matusiak, Review Leader, Headquarters Office of Water Project Review (OWPR), presented a summary of ideas of policy issues addressed during the review of the Feasibility Report, as well as their resolution. Key notes include the following:

- This is an unusual study as the formulation is not what would typically be expected.
- Stated that it may appear that more work was done than necessary for the recommended plan but the results of all of that work is what led to the recommendation of only deauthorization
- In Progress Review at draft report stage was essential.
- Commented that OWPR reviewer Paul Rubenstein said that LRLs coordination with SHPO was outstanding.
- While the ultimate recommendation did not require all of the evaluations conducted, the District was prudent in addressing these issues even if not necessary for the final recommendation.

A) Mr. Tab Brown

- Requested confirmation that we would spend up to \$250K for disposal that included required documentation of the historic properties to comply with Section 106. District provided confirmation.

B) Mr. James Hannon

- We can use this information to help us determine what things should be considered for future deauthorizations.
- HQ has identified the potential of 300 navigation structures that could be added to a possible deauthorization list.
- This study could define how we approach these in the future.

10. Following is a summary of questions and issues raised and remarks made during the Board's discussion of the Feasibility Study:

A) Mr. Steve Stockton

- We need to keep this study moving toward State and Agency review. But need to add additional discussion on the disposal process (do the disposal ourselves, accelerate the process). Clearly need to divest of these structures as quickly as possible and clarify how we get the authorities we are asking for from Congress.

B) MG John Peabody

- We have spent too much money on the few dispositions we have completed so far. We are setting a new precedent here, a model or template, on how to process these in the future. We need a broader understanding of the deauthorizations and disposals

that the Corps has already done. We need to throw something against the wall and see what sticks.

C) Mr. James Hannon

- We need to maximize the agility of the disposal process, but identify how the process can be effective with resources, dissolve responsibility for projects and move to someone else expeditiously. Lots of good effort and we have answered all of his questions.

D) Ms. Brenda Johnson-Turner

- Commended LRL/LRD. Our project meets the goals and objectives. This is the first chance for USACE to right size the infrastructure inventory. Need to ensure that the Chief's Report language is correct.

E) Mr. Tab Brown

- Need to look at what we learned from this study for future studies. Asked if there are any foreseeable effects to T&E species? The District reported that any impacts from disposal would depend on the final use of each facility. In the case of removal, we would anticipate that long-term impacts would be beneficial.

F) Ms. Durham-Aguilera

- Good job LRL. Pioneering effort. Need to figure out the future of these studies but not lose sight of why we are here...to prepare a Chief's Report for deauthorization.

G) Mr. Edward Belk

- Good intellectual exercise. Good job LRL. Enterprise implications. We made a good case and moving to deauthorization is a good decision. But we need to plan for how to deal with these in the future. Need a way to define the federal liabilities to help with future investment decisions.

H) Mr. Steve Stockton

- Good job LRL

I) Mr. Alex Hettinger, Office of Management and Budget

- OMB has no comments at this time.

J) Mr. Doug Lamont, Deputy Assistant Secretary of the Army for Civil Works

- Very thought provoking proposal. No formal benefit-to-cost ratio on this study, but need to know institutional benefits. Noted that there is value in deauthorizing. Also, asked if there were any submerged pipelines in the pools or any wastewater lines.

K) Mr. Tab Brown

- We want to deauthorize but do we need the additional information now or after deauthorization?

L) Ms. Karen Durham-Aguilera

- Concerned we are getting caught up in the disposal process and losing sight of deauthorization. Need to move out on State and Agency review.

M) MG John Peabody

- LRL did a solid study on a difficult project and was able to distill the scope down to what was needed. A residual concern is surety toward what we do in the future, not how fast we do it. Need to identify the liabilities formally as part of the deauthorization process.
- Questioned if bifurcated model is the right way.
- Assigned a tasker to Mr. James Hannon to put together a list of past deauthorizations/disposals – Is the pure deauthorization model the right one?

11. Motion made to release report for State and Agency review. Motion seconded. The Board voted unanimously for release of the draft Chief's Report and the Final Feasibility Report for State and Agency review.

12. Tasker for LRL – Change the report title to take “disposition” out since all we are doing is deauthorizing.

13. Lessons Learned (presented by COL Beck) for the Louisville District were discussed as follows:

- This study has captured the complex issue of disposal and compliance with State and federal laws. This, like many other USACE actions, has strong support on both sides of the issue. That has necessitated working with stakeholders continuously, particularly as we looked at issues like the Rochester Dam study in 2010.
- Evaluating the risk and consequences of lock and dam failures has clearly been essential in formulating this recommendation. This study allowed us to make prudent recommendations while considering appropriate risks.
- There have been two main policy impacts over the life of this study. Originally these considerations were not foremost in our recommended alternatives but through working with the vertical team, we had a more clear understanding of HQ viewpoints and policy implications toward our recommendation.
- Although this was a legacy study we still executed SMART planning principles in this latest iteration. The most critical aspect was vertical team integration early and often throughout the process leading to policy discussions and considerations the team may not have otherwise discussed.

14. MG Peabody closed by commenting that the Louisville District did great work laying out tough issues. MG Peabody thanked everyone for their attendance and participation and closed the meeting at approximately 1700.

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**Green and Barren Rivers Locks and Dams Disposition, KY  
Deauthorization of Inland Navigation Project  
Civil Works Review Board – 16 September 2014**

**AGENDA**

**SECOND TIME CHANGE, NOW 2:00pm START**

**ROOM CHANGED TO 3K55**

- 1400 Welcome and Introductions  
MG John Peabody  
*CWRB Chair and  
Deputy Commanding General for Civil and Emergency Operations*
- 1410 Project Briefing  
COL Christopher Beck  
*District Commander, Louisville District*
- 1455 Division Support  
COL Steven Roemhildt  
*Division Commander, Great Lakes and Ohio River Division*
- 1510 Agency Technical Review  
Ms. Beth Cade *(via phone)*  
*Review Mgmt Office Representative, Planning Center of Expertise for Inland Navigation*  
Mr. Crorey Lawton *(via phone)*  
*ATR Team Lead (New Orleans District)*
- 1515 Break (15 minutes)  
MG John Peabody  
*CWRB Chair*
- 1530 Policy Review Assessment  
Mr. Mark Matusiak  
*Review Lead, Office of Water Project Review*
- 1535 Board Discussion  
MG John Peabody  
*CWRB Chair*
- Member Questions
  - Office of ASA(CW), OMB Questions
- 1600 Action  
Mr. Theodore Brown  
*Chief, Planning & Policy Division*
- 1605 Lessons Learned / After Action Report:  
COL Christopher Beck  
*District Commander, Louisville District*
- What was supposed to happen?
  - What did happen?
  - Why did it happen that way?
  - How will we improve next time?
- 1620 Lessons Learned  
LRD, OWPR, Others
- 1630 Close  
MG John Peabody  
*CWRB Chair*

# Green and Barren River Locks and Dams Disposition, KY Deauthorization of Inland Navigation Project

## Civil Works Review Board

16 September 2014 – **SECOND TIME CHANGE NOW 2:00pm; ROOM 3K55**

### Attendees

#### **Civil Works Review Board (CWRB)**

#### **Name:**

CWRB Chair and Deputy Commanding General for  
Civil and Emergency Operations

MG John Peabody

Director of Civil Works

Mr. Steve Stockton

Chief, Planning and Policy Division

Mr. Theodore (Tab) Brown

Chief, Operations and Regulatory Community of Practice

Mr. James Hannon

Director, Contingency Operations and Office of  
Homeland Security

Ms. Karen Durham-Aguilera

Acting Chief, Real Estate Directorate

Ms. Brenda Johnson-Turner

Director of Programs, Mississippi Valley Division

Mr. Edward Belk

#### **Office of Management and Budget (OMB)**

OMB Examiner

Mr. Alex Hettinger

OMB Examiner

Mr. Gary Waxman

#### **Department of the Army – Office of Assistant Secretary of the Army for Civil Works**

Deputy Asst Secretary of the Army (Proj Planning & Review)

Mr. Doug Lamont

Economist

Mr. Tom Hughes

#### **Planning and Policy Division**

Acting Deputy, Planning and Policy Division

Mr. Bruce Carlson

#### **Office of Counsel**

Counsel, USACE

Mr. Scott Murphy

Counsel, USACE

Ms. Mayely Boyce

#### **Office of Water Project Review (OWPR)**

Chief, Office of Water Project Review

Mr. Wes Coleman

Policy Review Lead

Mr. Mark Matusiak

Policy Review Team

Mr. Charles (Lee) Ware

Policy Review Team

Mr. Doug Gorecki

Policy Review Team

Mr. Alonzo Golden

Policy Review Team

Mr. Chandra Pathak

Policy Review Team

Mr. Jeff McKee

Civil Works Review Board Team

Ms. Patricia Bee

Civil Works Review Board Team

Ms. Marilyn Benner

**Green and Barren River Locks and Dams Disposition, KY  
Deauthorization of Inland Navigation Project**

**Civil Works Review Board**

**16 September 2014 – SECOND TIME CHANGE NOW 2:00pm; ROOM 3K55**

**Attendees (cont.)**

**Great Lakes and Ohio River Division Regional Integration Team (LRD RIT)**

Civil Works Deputy, LRD RIT	Ms. Yvonne Prettyman
Planning Manager, LRD RIT	Mr. Jay Warren

**Great Lakes and Ohio River Division (LRD)**

Division Commander	COL Steven Roemhildt	
Chief, Planning and Policy	Mr. John Zimmerman	
Environmental Lead	Dr. Hank Jarboe	(via phone)
Economics Lead	Mr. Mark Hammond	(via phone)
Division Counsel	Mr. Kyle Shaw	(via phone)
Planning Lead	Mr. Ron Sadri	(via phone)
Real Estate Lead	Mr. Bill White	(via phone)
Engineering Lead	Mr. Anirban Bhattacharyya	(via phone)

**Louisville District (LRL)**

District Commander	COL Christopher Beck	
Deputy District Engineer for Programs & Project Mgmt	Mr. Steve Durrett	(via phone)
Chief, Planning Branch	Ms Sharon Bond	
Study Manager	Mr. Nathan Moulder	
Chief, Plan Formulation Section	Ms. Amy Babey	
Chief, Project Management and Programs	Ms. Joanne Milo	(via phone)
Office of Counsel	Ms. Barb Lollar	(via phone)
Real Estate Lead	Mr. Jason Meyer	(via phone)
Cultural Resources Lead	Ms. Jan Marie Hemberger	(via phone)
Environmental Lead	Mr. Drew Russell	(via phone)
Engineering Lead	Mr. Robert Wheeler	(via phone)
Cost Engineering Lead	Mr. Dale Polston	(via phone)
Hydraulics and Hydrology Lead	Ms. Jessica Fox	(via phone)

**Planning Center of Expertise for Inland Navigation (PCX-IN) – Great Lakes & Ohio River Div.**

PCX-IN RMO Representative	Ms. Beth Cade	(via phone)
ATR Team Lead ( New Orleans District)	Mr. Corey Lawton	(via phone)