



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

REPLY TO
ATTENTION OF:

05 MAR 2002

CECW-PM

MEMORANDUM FOR

Commander, Mississippi Valley Division (CEMVD-MD-P)
Commander, Great Lakes and Ohio River Division (CELRD-PM)

SUBJECT: Implementation Guidance for Section 519 of the Water Resources Development Act of 2000 (WRDA 2000) – Illinois River Basin Restoration

1. Section 519 (enclosed) authorizes the Secretary to develop a comprehensive plan for the Illinois River basin and to implement restoration projects. The plan will address navigation, water quality, habitat, and economic opportunities. Components will include sediment transport, removal and disposal measures; fish and wildlife conservation and rehabilitation measures; land and water resources enhancement; long-term resource monitoring; and a computerized inventory and analysis. Following Federal, State and regional coordination, the plan will be forwarded to Congress by 11 December 2002, if funds are appropriated for this activity. The Secretary may implement activities to restore, preserve and protect the Illinois River basin. Activities may be justified by environmental benefits derived by the Illinois River basin, if the activities are cost-effective. Federal funds of \$100 million are authorized for restoration projects for fiscal years 2001-2004. The Federal share for a single restoration project is limited to \$5 million. The non-Federal cost-share of projects and activities is 35 percent. Operation, maintenance, repair, replacement and rehabilitation is a non-Federal responsibility. The sponsor may provide up to 80 percent its share with work in-kind. The Secretary may credit lands and work-in-kind towards the non-Federal share regardless of the date of acquisition or completion.
2. The development of the comprehensive plan should be consistent with watershed planning and should further watershed resource management. The basic policy related to watershed activities is found in Policy Guidance Letter No. 61. The objectives and the scope of this effort will be agreed upon by the U.S. Army Corps of Engineers and sponsor(s), and outlined in a negotiated agreement. The final document should identify actions to be undertaken by the various partners and stakeholders necessary to implement the comprehensive plan.
3. Work for this project may be budgeted within the \$100 million cost limit using normal budget procedures. Upon receipt of funds in the initial work allowance, up to \$500,000 of Federal funds may be used to prepare an initial assessment of watershed needs, define the procedures and responsibilities for implementing activities within this program, and negotiate a cost sharing agreement with a non-Federal partner. Proceeding with the next phase will be subject to HQUSACE approval of the initial assessment and execution of a cost sharing agreement. This agreement should follow the model Feasibility Cost Sharing Agreement and should be approved in

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the same manner. The activities included in the agreement will be cost shared 65/35. The sponsor may provide up to 80 percent of its share with work in-kind.

4. The initial assessment submittal will include a document describing the procedures and responsibilities for identifying critical restoration projects for implementation. The initial assessment may recommend critical restoration projects and resource monitoring measures for implementation concurrently with the preparation of the final assessment, if appropriate and if adequate supporting evaluations are included. These critical projects should be evaluated in accordance with existing procedures for ecosystem restoration projects and must be expected to result in independent, immediate, and substantial restoration, preservation, and protection benefits.

5. The final assessment (i.e., the comprehensive plan) will identify the needs and priorities for restoring, preserving, and protecting the Illinois River basin, including implementation of the components described above. The final assessment will, as needed, further define the criteria, products and processes for implementing activities for these components in this program. The final assessment may also identify opportunities for meeting restoration needs within the Illinois River basin under other programs such as the Upper Mississippi River System Environmental Management Program and the Continuing Authority Program. As described above for the initial assessment, the final assessment may identify, justify, and recommend activities for implementation under this program. The completed final draft assessment will be submitted to HQUSACE for review and processing to the Assistant Secretary of the Army (Civil Works) (ASA(CW)) and Congress as appropriate.

6. The implementation of each ecosystem restoration project and resource monitoring measure will require a Project Cooperation Agreement (PCA). For each project that involves credits for the sponsor, the PCA submittal package must include, preferably in the supporting decision document, a section titled Crediting Documentation to allow HQUSACE to transmit it to the ASA(CW) for approval. This section must include the necessary information to determine whether any work performed and/or financed by the non-Federal interest is integral to the project. The information must include an estimate of all non-Federal costs to determine which are creditable costs. The source of any funds not originating from the non-Federal sponsor must be identified. The credit for prior work may be afforded during the first year after the PCA is executed or after the work is completed and the costs are audited, whichever occurs later. Credit will be based on reasonableness, allocability and allowability of costs. The total amount of credit shall not exceed the non-Federal share. Reimbursement for the value of work which may exceed the non-Federal share of project costs is not authorized.

7. Since this authority involves multiple divisions and districts, the assessments should be managed in a regional fashion. Consideration should be given to forming an executive committee

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composed of CEMVD, CELRD, the State of Illinois, interested Federal agencies, and appropriate watershed or regional entities to coordinate efforts. The CEMVD will be responsible for overall executive direction and management, and will select a district to provide the overall project management service. The two MSC's should collaborate on developing the comprehensive plan. Each district should be responsible for detailed planning, design, construction, and monitoring of projects within its boundaries. Activities under this authority, if funded, should be coordinated with other ongoing studies to ensure that basin needs are addressed in the most effective manner.

8. This programmatic authority would not necessarily pre-empt or compromise other ongoing or planned studies, nor does it preclude implementation of Continuing Authority Program projects (e.g., section 206 and section 1135 projects).

FOR THE COMMANDER:



RALEIGH H. LEEF
Acting Chief, Planning and Policy Division
Directorate of Civil Works

Encl

SEC. 519. ILLINOIS RIVER BASIN RESTORATION.

(a) ILLINOIS RIVER BASIN DEFINED- In this section, the term 'Illinois River basin' means the Illinois River, Illinois, its backwaters, its side channels, and all tributaries, including their watersheds, draining into the Illinois River.

(b) COMPREHENSIVE PLAN-

(1) DEVELOPMENT- The Secretary shall develop, as expeditiously as practicable, a proposed comprehensive plan for the purpose of restoring, preserving, and protecting the Illinois River basin.

(2) TECHNOLOGIES AND INNOVATIVE APPROACHES- The comprehensive plan shall provide for the development of new technologies and innovative approaches--

- (A) to enhance the Illinois River as a vital transportation corridor;
- (B) to improve water quality within the entire Illinois River basin;
- (C) to restore, enhance, and preserve habitat for plants and wildlife; and
- (D) to increase economic opportunity for agriculture and business communities.

(3) SPECIFIC COMPONENTS- The comprehensive plan shall include such features as are necessary to provide for--

- (A) the development and implementation of a program for sediment removal technology, sediment characterization, sediment transport, and beneficial uses of sediment;
- (B) the development and implementation of a program for the planning, conservation, evaluation, and construction of measures for fish and wildlife habitat conservation and rehabilitation, and stabilization and enhancement of land and water resources in the basin;
- (C) the development and implementation of a long-term resource monitoring program; and
- (D) the development and implementation of a computerized inventory and analysis system.

(4) CONSULTATION- The comprehensive plan shall be developed by the Secretary in consultation with appropriate Federal agencies, the State of Illinois, and the Illinois River Coordinating Council.

(5) REPORT TO CONGRESS- Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing the comprehensive plan.

(6) ADDITIONAL STUDIES AND ANALYSES- After transmission of a report under paragraph (5), the Secretary shall continue to conduct such studies and analyses related to the comprehensive plan as are necessary, consistent with this subsection.

(c) CRITICAL RESTORATION PROJECTS-

(1) IN GENERAL- If the Secretary, in cooperation with appropriate Federal agencies and the State of Illinois, determines that a restoration project for the Illinois River basin will produce independent, immediate, and substantial restoration, preservation, and protection benefits, the Secretary shall proceed expeditiously with the implementation of the project.

(2) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out projects under this subsection \$100,000,000 for fiscal years 2001 through 2004.

(3) FEDERAL SHARE- The Federal share of the cost of carrying out any project under this subsection shall not exceed \$5,000,000.

(d) GENERAL PROVISIONS-

(1) WATER QUALITY- In carrying out projects and activities under this section, the Secretary shall take into account the protection of water quality by considering applicable State water quality standards.

(2) PUBLIC PARTICIPATION- In developing the comprehensive plan under subsection (b) and carrying out projects under subsection (c), the Secretary shall implement procedures to facilitate public participation, including providing advance notice of meetings, providing adequate opportunity for public input and comment, maintaining appropriate records, and making a record of the proceedings of meetings available for public inspection.

(e) COORDINATION- The Secretary shall integrate and coordinate projects and activities carried out under this section with ongoing Federal and State programs, projects, and activities, including the following:

(1) Upper Mississippi River System-Environmental Management Program authorized under Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652).

(2) Upper Mississippi River Illinois Waterway System Study.

(3) Kankakee River Basin General Investigation.

(4) Peoria Riverfront Development General Investigation.

(5) Illinois River Ecosystem Restoration General Investigation.

(6) Conservation Reserve Program (and other farm programs of the Department of Agriculture).

(7) Conservation Reserve Enhancement Program (State) and Conservation 2000 Ecosystem Program of the Illinois Department of Natural Resources.

(8) Conservation 2000 Conservation Practices Program and the Livestock Management Facilities Act administered by the Illinois Department of Agriculture.

(9) National Buffer Initiative of the Natural Resources Conservation Service.

(10) Nonpoint source grant program administered by the Illinois Environmental Protection Agency.

(f) JUSTIFICATION-

(1) IN GENERAL- Notwithstanding Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962-2) or any other provision of law, in carrying out activities to restore, preserve, and protect the Illinois River basin under this section, the Secretary may determine that the activities--

(A) are justified by the environmental benefits derived by the Illinois River basin; and

(B) shall not need further economic justification if the Secretary determines that the activities are cost-effective.

(2) APPLICABILITY- Paragraph (1) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the Illinois River basin.

(g) COST SHARING-

(1) IN GENERAL- The non-Federal share of the cost of projects and activities carried out under this section shall be 35 percent.

(2) OPERATION, MAINTENANCE, REHABILITATION, AND REPLACEMENT- The operation, maintenance, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(3) IN-KIND SERVICES- The Secretary may credit the value of in-kind services provided by the non-Federal interest for a project or activity carried out under this section toward not more than 80 percent of the non-Federal share of the cost of the project or activity. In-kind services shall include all State funds expended on programs and projects that accomplish the goals of this section, as determined by the Secretary. The programs and projects may include the Illinois River Conservation Reserve Program, the Illinois Conservation 2000 Program, the Open Lands Trust Fund, and other appropriate programs carried out in the Illinois River basin.

(4) CREDIT-

(A) VALUE OF LANDS- If the Secretary determines that lands or interests in land acquired by a non-Federal interest, regardless of the date of acquisition, are integral to a project or activity carried out under this section, the Secretary may credit the value of the lands or interests in land toward the non-Federal share of the cost of the project or activity. Such value shall be determined by the Secretary.

(B) WORK- If the Secretary determines that any work completed by a non-Federal interest, regardless of the date of completion, is integral to a project or activity carried out under this section, the Secretary may credit the value of the work toward the non-Federal share of the cost of the project or activity. Such value shall be determined by the Secretary.