



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

MAR 31 2006

REPLY TO  
ATTENTION OF:

CEMP-NAD (10-1-7a)

SUBJECT: Poplar Island Environmental Restoration Project Expansion, Chesapeake Bay,  
Talbot County, Maryland

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on the general reevaluation of the Poplar Island, Maryland, project. It is accompanied by the report of the district and division engineers. Section 537 of the Water Resources Development Act (WRDA) of 1996, as amended, directed that the Secretary of the Army carry out a project for the beneficial use of dredged material at Poplar Island, Maryland. Operations to restore Poplar Island, Maryland, by the beneficial use of material dredged for the maintenance of the Port of Baltimore navigation channels commenced in 2000. Those operations are continuing. Detailed study of the project expansion was conducted under the authority of Section 204 of WRDA 92, as amended (U.S.C. 2326). Through the current general reevaluation, the reporting officers propose a plan to modify and expand the existing project at Polar Island, Maryland. Preconstruction engineering and design activities for the modified project will be continued under the authority cited above.

2. Land subsidence, rising sea level, and wave action are causing valuable remote island habitats to be lost throughout the Chesapeake Bay. The Poplar Island Environmental Restoration Project, Talbot County, Maryland, is an environmental restoration project located in the Chesapeake Bay; approximately 39 miles (34 nautical miles) south-southeast of the Port of Baltimore. The existing project will beneficially use up to 40 million cubic yards (mcy) of dredged material from the Federal navigation channels serving the Port of Baltimore to ultimately restore 1,140 acres of remote island habitat in Chesapeake Bay, including 570 acres of tidal wetlands. The reporting officers recommend a 575-acre expansion of the existing Poplar Island, Maryland, project into the shallow bay waters to the north and northeast of the existing project and an increase of the elevation of the upland habitats associated with the currently authorized project by about 5 feet (a vertical expansion plan component). These project modifications would use an additional 28 mcy of dredged material from Federal navigation channels. The additional island acreage created would be comprised of 29 percent wetland habitat (165 acres), 47 percent upland habitat (270 acres), and 24 percent open water habitat (130 acres of open-water embayment habitat plus 10 acres of tidal gut habitat). This habitat would improve productivity in the surrounding area, while providing an environmentally sound method for the use of dredged material from the Chesapeake Bay approach channels to the Port of Baltimore. Cost effectiveness and incremental cost analysis techniques were used to evaluate alternative ecosystem restoration plans. The

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recommended plan is the most efficient and cost-effective and provides the greatest environmental benefits of several alternatives considered. The recommended plan is the national ecosystem restoration plan (the NER plan). Based on the analysis for the Poplar Island expansion, operations of the expansion and the existing project will be modified to include the placement of dredged material from the southern approach channels to the C&D Canal south of the SassafRAS River and also placement of dredged material from other Federal navigation channels at the PIERP. As the various elements of the restoration project are constructed, existing structures and facilities will be adapted to accommodate passive recreational and/or educational uses compatible with the project's ecosystem restoration purpose and objectives. Recreation and education components of the plan include: boat docking facilities, kiosks with informative signage, self-guided/interpretive nature trails and boardwalks, avian observation areas, picnic areas, and other resting/viewing areas. These facilities could support volunteer opportunities to participate in environmental stewardship, such as bird census and research opportunities, as well as research opportunities for educational institutions.

3. Cost sharing principles of Section 204 of WRDA 1992 are applicable to the current project as authorized in Section 537 of WRDA 1996. Project cost sharing for environmental restoration under Section 204 of WRDA 1992 requires that the non-Federal sponsor provide 25 percent of the cost associated with construction of the project for the protection, restoration, and creation of aquatic and ecologically related habitats, including provision of all lands, easements, rights-of-way, and necessary relocations. Cost sharing for recreation features requires that the non-Federal sponsor provide 50 percent of the cost associated with construction cost. Recreation facilities will be constructed on existing project lands required for the environmental restoration. Further, the non-Federal project sponsor must pay 100 percent of the operation, maintenance, replacement, and rehabilitation costs associated with the project. The first cost for the project expansion is estimated as \$256.1 million at October 2005 price levels. The Federal Government share of the project first cost for the expansion of the project would be \$192.1 million and the non-Federal share of the costs would be \$64 million. Operations, maintenance, repair, rehabilitation, and replacement (OMRR&R) costs for the completed project are projected to be less than 2 percent of the total project cost and would be a non-Federal responsibility. The first costs of the recommended recreation facilities are estimated at \$600,000. The Federal Government and the non-Federal sponsor would each share 50 percent of the cost or \$300,000. The OMRR&R cost for the recreation features are estimated at \$5,000 annually and are the responsibility of the non-Federal project sponsor.

4. The cost of the recommended environmental restoration plan is justified by the restoration of approximately 165 acres of wetland habitat, 270 acres of upland habitat, and 130 acres of sheltered open water habitat and would provide for achievement of these habitat increases in the most cost-effective manner. The habitats constructed as part of the project expansion would restore additional remote island habitat, a scarce and rapidly vanishing ecosystem niche within the Chesapeake Bay region that provides a vital connection for avian species between open-

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water and mainland terrestrial habitats within the region. The lateral and vertical expansion would also provide additional important foraging habitat for special-status species such as the Federal-listed Bald Eagle, which nests on Coaches Island adjacent to the project; and bird islands in the wetland cells of the lateral expansion would be specifically designed to encourage nesting by State-listed Least Terns. The lateral and vertical expansion of the project would continue the contribution of the existing project to the goals of the Chesapeake Bay Program watershed partnership through its habitat and ecosystem recovery and preservation efforts. Recreation features are economically justified, providing average annual benefits of \$133,000. Based on an average annual cost of \$39,000, the recreation features have net annual benefits of \$93,500 and a benefit to cost ratio of 3.4.

5. I generally concur with the findings, conclusions, and recommendations of the reporting officers. The plan as developed is technically sound, economically efficient, 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. Specific requests have been made for additional coordination with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as detailed designs proceed on the project with respect to the final foot print of the open water embayment features and extent of borrow activities. USACE has agreed to continue close coordination with these agencies and other affected parties as the design and construction process continues.

7. Accordingly, I recommend implementation of the authorized 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 86, as amended. Also, this recommendation is subject to the non-Federal sponsor agreeing to comply with all applicable Federal laws and policies, including the following requirements:

a. Provide a minimum of 25 percent of total ecosystem restoration costs as further specified below:

1) Provide 25 percent of design costs allocated by the Government to ecosystem restoration in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

2) Provide, during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs allocated by the Government to ecosystem restoration;

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3) Provide all lands, easements, and rights-of-way, including suitable borrow, and perform or ensure the performance of all relocations determined by the Federal Government to be necessary for the construction, operation, and maintenance of the project;

4) Provide all improvements required on lands, easements, and rights-of-way to enable the proper placement of dredged or excavated material associated with the construction, operation, and maintenance of the project;

5) Provide, during construction, any additional amounts as are necessary to make its total contribution at least 25 percent of ecosystem restoration costs.

b. Provide 50 percent of total recreation costs as further specified below:

1) Provide 25 percent of design costs allocated by the Government to recreation in accordance with the terms of a design agreement entered into prior to commencement of design work for the project;

2) Provide during the first year of construction, any additional funds necessary to pay the full non-Federal share of design costs allocated by the Government to recreation;

3) Provide all lands, easements, and rights-of-way, including those required for relocations, and borrowing of material, and the disposal of dredged or excavated material; perform or ensure the performance of all relocations; and construct all of the improvements required on lands, easements, and rights-of-way to enable the disposal of dredged or excavated materials all as determined by the Government to be required or to be necessary for the construction, operation, and maintenance of the recreation features;

4) Provide, during construction, any funds necessary to make its total contribution for recreation equal to 50 percent of the recreation costs;

5) Provide during construction, 100 percent of the total recreation costs that exceed an amount equal to 10 percent of the Federal share of total ecosystem restoration costs.

c. For so long as the project remains authorized, operate, maintain, repair, replace, and rehabilitate the project, or functional portion of the project, 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.

d. Shall not use the project or project lands, easements, and rights-of-way as a wetland bank or mitigation credit required for another project.

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e. Provide and maintain recreation features and public use facilities open and available to all on equal terms.

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 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. No completion, operation, maintenance, 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 other remedy at law or equity to ensure faithful performance.

g. Hold and save the United States 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 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, for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence are required, to the extent and in such detail as will properly reflect total project costs, and in accordance with the standards for 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 ensure performance of, 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), PL 96-510, as amended, 42 U.S.C. 9601-9675, that may exist in, on, or under lands, easements, or rights-of-way that the Federal Government determines to be required for the construction, operation, and maintenance of the project. However, for lands that the Federal Government determines to be subject to the navigation servitude, only the Federal Government shall perform such investigations unless the Federal government provides the non-Federal sponsor with prior specific written direction, in which case, the non-Federal sponsor shall perform such investigations in accordance with such written direction.

j. Assume, as between the Federal government and the non-Federal sponsor, complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated substances located in, on, or under lands, easements, or rights-of-way that the Federal

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Government determines to be necessary for the construction, operation, or maintenance of the project.

k. Agree, 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. 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.

l. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements, and rights-of-way, required for the construction, operation, and maintenance of the project, including those necessary for relocations, the borrowing of materials, or the placement of dredged or excavated material, and inform all affected persons of applicable benefits, policies, and procedures under said Act.

m. Comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, PL 88-352 (42 U.S.C. 2000d); Department of Defense Directive 5500.11 issued pursuant thereto; 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 all applicable Federal labor standards including, but not limited to, 40 U.S.C. 3141-48 and 40 U.S.C. 3701-08 (reversing, codifying, and enacting without substantial change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 267a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c *et seq.*).

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 the Congress as a proposal for authorization and implementation funding. However, prior to transmittal to the Congress, the sponsors, the State, 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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