



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

REPLY TO
ATTENTION OF:

CECW-PM (10-1-7a)

29 DEC 2000

SUBJECT: Sand Creek Watershed, Wahoo, Nebraska

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on environmental restoration and recreation within the Sand Creek watershed in Saunders County, Nebraska. It is accompanied by the report of the district and division engineers. These reports are in partial response to a resolution by the Committee on Public Works and Transportation of the House of Representatives dated 28 September 1994. The resolution requested the U.S. Army Corps of Engineers "to review 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 along the Lower Platte River and its tributaries from its mouth to Grand Island, Nebraska." Section 503 of the Water Resources Development Act (WRDA) of 1996, which states in pertinent part, "The Secretary may provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration and development projects at Lower Platte River Watershed, Nebraska," also provided partial authorization.

2. Section 101(b)(20) of WRDA 2000 authorized construction of the Sand Creek project for ecosystem restoration and 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 Sand Creek project reflects an earlier project cost estimate of \$29,840,000. The cost estimate for the project has been refined to reflect current information. This report constitutes the final report of the Chief of Engineers required by WRDA 2000.

3. The plan developed by the U.S. Army Corps of Engineers Omaha District, the Lower Platte North Natural Resources District, and the city of Wahoo consists of creation of a 960-acre lake (Lake Wanahoo) and wetland complex in the lower reaches of Sand Creek, creation of 7 small sediment trap/wetlands (totaling 184 acres) in the upper reaches of the watershed, and restoration of 14 acres of bottomland wetlands at the 7 small sediment trap/wetlands. The plan would, over time, provide a total of 1,170 additional wetland acres. The project would provide an immediate increase of 690 acres of restored and created palustrine wetlands, including scarce and significant Todd Valley wetlands and

CECW-PM

SUBJECT: Sand Creek Watershed, Wahoo, Nebraska

bottomland wetlands, 480 acres of lacustrine deepwater habitat, 420 acres of grassland, and an increase of 6,680 terrestrial habitat units. Ultimately, the lacustrine deepwater habitat would also become palustrine wetland habitat. In addition, the proposed project would annually remove 71,000 tons of sediment, 45 tons of phosphorus, and 84 tons of nitrogen from downstream surface waters in the watershed. Although the project was formulated for environmental restoration, incidental flood damage reduction benefits of \$136,000 and recreation benefits of \$713,000 also would be realized. The non-Federal sponsors are the Lower Platte North Natural Resources District; Saunders County, Nebraska; and the city of Wahoo, Nebraska.

4. As reported by the district engineer and based on October 2000 price levels, the estimated first cost for construction of the recommended project is \$26,189,000, with a Federal cost of \$16,571,000 and a non-Federal cost of \$9,618,000. The estimated Federal cost share of environmental restoration components is \$15,065,000, and the maximum Federal recreation component cost limit is \$1,506,000. The estimated non-Federal share of the environmental restoration component is \$8,112,000 with an additional \$2,168,000 for recreation development (including a non-Federal recreation cost of \$662,000 for sponsor requested recreation items in excess of the Federal recreation cost limit of \$1,506,000). There is also a non-Federal transportation component to this project. The Wanahoo Lake embankment would serve as the road top crossing over Sand Creek for the Nebraska Department of Roads Highway 77 bypass. The cost of \$2,570,000 to accommodate the bypass road would be a 100 percent non-Federal cost. Total construction cost for all features at the site is estimated at \$29,841,000.

5. Washington level review indicates that there is an ecosystem restoration project that is technically sound, environmentally justified, cost effective, and socially acceptable. However, based on information provided in the report, it is not evident that the reporting officers have developed the optimal ecosystem restoration plan that conforms with the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Land Related Resources Implementation Studies.

6. Therefore, I recommend implementation of the project subject to the following conditions. As an initial step during preconstruction engineering and design, the district shall evaluate a complete array of alternatives to identify the plan that is formulated and designed to optimize ecosystem restoration benefits. The district engineer shall present this plan as a basis for identifying the Federal interest and participation in the recommended project. Such recommendation shall be subject to the approval of the Chief of Engineers. It must be understood that the complete plan formulation process may result in substantial modifications to the plan that the reporting officers are currently recommending.

CECW-PM

SUBJECT: Sand Creek Watershed, Wahoo, Nebraska

7. Any plan subsequently recommended would be based upon cost sharing as required by Section 103 of WRDA 1986, as amended by Section 210 of WRDA 1996. Under these acts, costs allocated to environmental restoration require a non-Federal sponsor share of 35 percent and a Federal share of 65 percent. Costs allocated to recreation would be shared 50 percent non-Federal and 50 percent Federal, in accordance with Section 103(c)(4) of WRDA 1986. The prospective project sponsor, the Lower Platte North Natural Resources District, would provide all lands, easements, rights-of-way, including suitable borrow and dredged or excavated material disposal sites, and all relocations. Any recommendation would be subject to the non-Federal sponsor agreeing to the revised plan and to comply with applicable Federal laws and policies, including the following requirements:

a. Provide 35 percent of the separable project costs allocated to environmental restoration, 50 percent of the separable project costs allocated to recreation, and 100 percent of the separable costs exceeding the federally supportable plan, as further specified below:

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

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

(3) 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;

(4) 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

(5) Provide, during construction, any additional costs as necessary to make its total contribution equal to 35 percent of the separable project costs allocated to environmental restoration, 50 percent of the separable project costs allocated to recreation, and 100 percent of the separable costs exceeding the federally supportable plan.

b. For so long as the project remains authorized, operate, maintain, repair, replace, and rehabilitate the completed project, or functional portion of the project, at no cost to the Government, in accordance with applicable Federal and State laws and any specific directions prescribed by the Government.

CECW-PM

SUBJECT: Sand Creek Watershed, Wahoo, Nebraska

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

d. 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 purpose 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.

e. 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.

f. Hold and save the Government free from all damages arising for 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.

g. 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.

h. 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.

i. 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.

CECW-PM

SUBJECT: Sand Creek Watershed, Wahoo, Nebraska

j. 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.

k. Prevent obstructions of or encroachment on the project (including prescribing and enforcing regulations to prevent such obstructions or encroachments) which might reduce the ecosystem restoration and level of flood protection it affords, or hinder its operation and maintenance, or interfere with its proper functioning, such as any new development on project lands or the additions of facilities which would degrade the benefits of the project.

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 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.

m. 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."

n. Provide the non-Federal share of that portion of total cultural resource preservation mitigation and data recovery costs attributable to environmental restoration and recreation that are in excess of 1 percent of the total amount authorized to be appropriated for environmental restoration and recreation.

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.


ROBERT B. FLOWERS
Lieutenant General, U.S. Army
Chief of Engineers