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February 5, 2019

Mr. Alex Hoxsie
U.S. Army Corps of Engineers
231 S. LaSalle Street
Suite 1500
Chicago, IL 60604

By E-Mail: alex.hoxsie@usace.army.mil

Re: Public Comment – Dredged Material Management Plan for the Chicago Area Waterway System – Vertical Expansion, Other Reasonable Potential Courses of Action and Adverse Impacts

Dear Mr. Hoxsie:

Please be advised that I represent the Southeast Environmental Task Force (“SETF”), a not-for-profit organization based in southeast Chicago. SETF’s mission is to improve environmental quality in the Calumet region. SETF accomplishes this by providing public education and advocacy on environmental and health issues. SETF works to improve the quality of life for community members through preservation of natural areas, sustainable development, and environmentally responsible business practices.¹ SETF’s members include residents who live, recreate and work in neighborhoods immediately adjacent to the Calumet waterways. Consequently, SETF has a strong public interest in the Dredged Material Management Plan that is now being developed by the U.S. Army Corps of Engineers (“Corps”).

SETF requested my assistance to address specific issues related to the Corps’ legal responsibilities. To this end, I previously submitted comments on behalf of SETF on March 5, 2018 and July 15, 2015. These earlier comments are attached and incorporated by reference. Other SETF members may be submitting written comments addressing other aspects of the Corps’ development of a Dredged Material Management Plan and its current evaluation of alternatives for dredged sediments.

SETF continues to oppose the development of a new Confined Disposal Facility (“CDF”) in Chicago. From SETF’s perspective, significant adverse impacts will result from developing a new CDF in Chicago. These adverse impacts apply to all the alternative locations for a new CDF. SETF’s position also informs its comments regarding adverse impacts and alternatives. In these comments, SETF will address four categories of adverse impacts. SETF will also put forward an alternative approach which it believes will eliminate the need for a new CDF and the vertical expansion of the existing CDF.

¹ <http://setaskforce.org/>

First, all the alternative locations for a new CDF are immediately adjacent to densely populated residential neighborhoods. These neighborhoods will be subject to air pollutant releases from the operations of a new CDF. These air releases will result from exposed pore water from saturated wet sediment during filling operations, rainfall events and when dredged material is reworked. A new CDF will be a new source of the same pollutants that are entrained in the dredged material. A new CDF will release these pollutants during the entire duration of its operations, for 25 years or more. For this reason, it is contrary to public health, safety and welfare to locate a new CDF in immediate proximity to densely populated neighborhoods. Also for this reason, SETF asserts that the total air impacts of a new CDF must be assessed. These environmental consequences must be evaluated in light of existing air quality conditions and the stationary and mobile sources that already affect air quality in the affected environments adjacent to any new CDF. It is also essential to evaluate the cumulative effects of these air impacts over the life of any new CDF, for example, the aggregate impact of air deposition of metals in soil in nearby residential properties.

Second, all the alternative locations for a new CDF will permanently foreclose the economic development of these large properties. All the alternative locations for a new CDF are in a Planned Manufacturing District, an area set aside by local Ordinance to attract new commercial and industrial enterprises that will generate positive economic development. Chicago Municipal Code 17-6-0401 *et. seq.* By contrast, a new CDF will permanently remove property from the tax base and will not generate tax revenue needed to support schools, parks, libraries and essential public services. By contrast to industrial and commercial future uses, a new CDF will generate few direct and indirect jobs. Jobs are needed to support families and neighborhoods. Dedicating land to a CDF forecloses other future uses that will contribute to tax base, jobs and economic development.

Contrary to the purposes of a planned manufacturing district and municipal land use priorities, a new CDF will contribute to the impoverishment of local communities and deprive residents of opportunities to benefit from good paying jobs in employment-rich, sustainable enterprises. Even worse, dedicating precious municipal land resources to a CDF will permanently remove this land from achieving its highest and best economic future because a CDF will require indefinite post-closure use restrictions. Notably, there is a landfill moratorium in the City of Chicago. For these reasons, SETF asserts it is necessary to assess the total direct and indirect economic impact of any new CDF by comparison to other alternative future uses, throughout the entire period of construction, operation, closure and post-closure. The need for this analysis is not based on mere speculation; the Corps' original primary proposal would have placed a CDF on the former Republic Steel site which instead is being used for the massive, job-rich, tax generating North Point development project.

Third, all the alternative locations for a new CDF will involve significant costs and complications related to land acquisition, remediation, construction, operations and maintenance, closure and post-closure. From a cost-benefit perspective, the inherent costs to establish a new CDF should be avoided if there are any other less expensive alternatives that achieve the project's purpose and need. Establishing a new CDF will also include uncontrolled, unpredictable risks; the requirements for land use approval, acquisition and remediation may be expensive, time consuming and/or obstructed through the political process. These factors may prove fatal to achieving the purpose and need of the project using a new CDF. SETF asserts the

alternatives should be evaluated on a cost-benefit basis and on the basis of their reasonable likelihood to achieve the project's purpose and need.

Fourth, SETF notes that establishing a new CDF adjacent to the Calumet River could cause and contribute to the problem of contaminated sediments. The Calumet waterways are experiencing rapid, exponential water quality improvements to the benefit of recreational users, anglers and aquatic life. These water quality improvements are the result of the elimination of combined sewer overflows following the completion of the Calumet Tunnel and Reservoir Project (culminating with TARP's interconnection with the Thornton Quarry reservoir). MWRDGC's Calumet Wastewater Treatment Plant now disinfects its effluent, leading to dramatic reductions in the levels of bacteria and pathogens in Calumet waterways. Unlike earlier decades, there are very few significant, direct dischargers into the Calumet waterways. These dramatic improvements in water quality demonstrate that sediment quality will also continue to improve, calling into question the need for a new CDF.

Just as importantly, a new CDF would become a new, significant source of contaminated effluent into Calumet waterways. That is, a new CDF at any of the alternative locations will discharge its polluted effluent into the Calumet River, thus creating a new, significant source of water pollution and sediment contamination. SETF asserts that the Corps must assess the impact of CDF-related pollutant loading on water quality, sediment quality and on the human and aquatic users of the Calumet waterways over the lifespan of the CDF. Ironically, because of this pollutant loading, a new CDF would immediately become the greatest threat, in perpetuity, to the ecological quality of the Calumet waterways.

As an alternative to constructing a new CDF or expanding the existing CDF, SETF asserts the Corps must accurately characterize the total volume of sediment, now and in the future, that must be land disposed. From SETF's perspective, the critical issue is not the total volume that will be dredged. Rather, the critical issue is the total volume of this dredged material that must be land disposed. SETF asserts that reasonable non-CDF alternatives will emerge from this analysis. SETF is asserting a triage approach for assessing the alternatives for dredged sediment. For example, very clean sediment can be disposed in open waters. Clean sediments – like those now found in the Calumet Harbor - can be beneficially reused without treatment. Other sediments with minimal contamination can be treated and, in whole or in part, beneficially reused. Because of observed, continuing improvements in sediment quality over time, this triage approach will dramatically reduce the volume of sediment that must be land disposed, potentially eliminating the need for a new CDF and also the vertical expansion of the existing CDF. In this triage approach, SETF acknowledges there may be contaminated sediments that must be placed in a controlled land disposal site; but this location must not be in the City of Chicago. If a much smaller facility is still required, a smaller facility could fit in locations that will new not require a CDF to be constructed or operated in the midst of densely populated neighborhoods in the City of Chicago.

Thank you for your consideration of these comments. Please contact me if you would like further information or to discuss this matter with SETF representatives.

Sincerely,

A handwritten signature in black ink that reads "Keith Harley". The signature is written in a cursive, slightly slanted style.

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March 5, 2018

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Re: Public Comment – Dredged Material Management Plan for the Chicago Area Waterway System

Dear Mr. Hoxsie:

Please be advised that I represent the Southeast Environmental Task Force (“SETF”), a not-for-profit organization based in southeast Chicago. SETF’s mission is to improve environmental quality in the Calumet region. SETF accomplishes this by providing public education and advocacy on environmental and health issues. SETF works to improve the quality of life for community members through preservation of natural areas, sustainable development, and environmentally responsible business practices.¹ SETF’s members include residents who live, recreate and work in neighborhoods immediately adjacent to the Calumet waterways. Consequently, SETF has a strong public interest in the Dredged Material Management Plan that is now being developed by the U.S. Army Corps of Engineers (“Corps”).

SETF requested my assistance to address specific issues related to the Corps’ legal responsibilities. Other SETF members may be submitting written comments addressing other aspects of the Corp’s development of a Dredged Material Management Plan.

Comment One: SETF Is Making A Proposal For An Alternative For Managing Dredged Material Which Should Be Evaluated As The Corps Fulfills Its NEPA Responsibilities

Pursuant to 40 C.F.R. §1502.14, SETF is requesting the Corps rigorously explore and objectively evaluate the following proposal for all or a portion of the dredged material that cannot be beneficially reused.

The Metropolitan Water Reclamation District of Greater Chicago (“MWRDGC”) is an Illinois unit of local government.² MWRDGC’s operations include a wastewater treatment plant, sludge

¹ <http://setaskforce.org/>

² 70 ILCS 2605/1 et seq.

—Named one of Chicago’s Top Charities by *Chicago* magazine, Nov. 2015 —

drying beds and related property and infrastructure in the Calumet Region where the Corp anticipates dredging.³

The MWRDGC is now implementing an innovative approach to address contaminated sediments in waterways in the Chicago region. This new approach is being employed to address contaminated sediments in the Collateral Channel, a 1600 ft. channel that is connected to Chicago Sanitary and Ship Canal. The Collateral Channel has not been used for commercial purposes for decades and the Channel has not been dredged during this period. Consequently, sediments have accumulated to just a few feet below the water surface. This sediment contains high levels of some categories of legacy pollutants, including organics and metals. In order to address the public health and environmental threats posed by these sediments, MWRDGC evaluated capping or dredging/off-site land disposal of contaminated sediments, which proved to be ineffective or costly strategies.

MWRDGC is now prepared to execute an entirely different strategy to address the Collateral Channel. Contaminated sediments, diluted with surface water, will be pumped directly to a nearby sewer interceptor through an existing sewer interceptor drop point. The sewer interceptor will transport the diluted sediments a mile to the MWRDGC's Stickney wastewater treatment plant, where this inflow will be treated using the facility's existing wastewater treatment infrastructure. The Stickney facility's NPDES permit already contemplates that inflow will include a significant volume of solids and also mandates protocols related to toxic, "priority" pollutants. A recent MWRDGC pilot study concludes that accepting contaminated sediment inflow will have an indiscernible impact at or near the wastewater treatment plant. Indeed, the total inflow of all Collateral Channel diluted sediment will constitute roughly 1/700th of one day's typical inflow to the Stickney facility. Several public and technical documents related to MWRDGC's Collateral Channel project are contained in a .pdf file that is attached to these comments.

Under this approach, there is no need to dewater or land dispose of sediments. The transportation of diluted sediments is accomplished using MWRDGC's existing sewer infrastructure. This strategy also capitalizes on treatment technologies that are already being employed at a permitted wastewater treatment plant to address the large volumes and diverse categories of pollutants generated in a complex, regional service area. The Collateral Channel pilot project was approved via permit by the U.S. Army Corps of Engineers, the Illinois Environmental Protection Agency, the Illinois Department of Natural Resources and the U.S. Coast Guard.

Like the Collateral Channel situation, the Calumet region includes a centralized wastewater treatment facility operated by MWRDGC. Sewer interceptors connect local waterways to the Calumet Water Reclamation Plant. These sewer interceptors are part of MWRDGC's 500-mile gravity flow system that directly connects to its wastewater treatment plants, deeper below ground surface than municipal systems. The Calumet facility on average treats 354 million gallons/day of wastewater that originates from over one million people, as well as commercial,

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[https://www.mwrld.org/irj/go/km/docs/documents/MWRD/internet/protecting_the_environment/Water Reclamation Plants/pdfs/FactSheet_WRPs_Calumet.pdf](https://www.mwrld.org/irj/go/km/docs/documents/MWRD/internet/protecting_the_environment/Water_Reclamation_Plants/pdfs/FactSheet_WRPs_Calumet.pdf)

industrial and non-point sources located in a 300 square mile region, including the entire southern portion of Chicago and 49 municipalities in southern Cook County. This service region encompasses the entire Calumet waterway system. The Calumet facility has a maximum treatment capacity of 430 million gallons/day. The facility removes 100 tons per day of solids from its wastewater inflow and operates large sludge drying facilities in which the sludge is processed into biosolids.

The Collateral Channel dredging will remove 1700 tons of sediments, which will be diluted with 5X water (one part sediment to five parts water). The total inflow to Stickney will be 75,000 gallons. By comparison, the Corps anticipates dredging 50,000 cubic yards of sediment on average per year from the Calumet waterways. One cubic yard of solid material equals 1.5 tons. Using a one part sediment to five parts water ratio, the total additional inflow to the Calumet Water Reclamation Plant would be 48,530,000 gallons of water. This total annual inflow is roughly equivalent to the Calumet facility's one day maximum treatment capacity.

SETF formally requests the Corps rigorously explore and objectively evaluate this alternative for all or a portion of the dredged material that cannot be beneficially reused. The Corps must include reasonable alternatives even if they are not totally within its jurisdiction. 40 C.F.R. §1502.14 (c). In fact, SETF's alternative includes the participation of a local unit of government in a way that may be beneficial to the overall viability of the Corps' activities and fulfilling the purpose and need for its proposal. SETF requests the Corps include this alternative in its evaluation of the Affected Environment and the Environmental Consequences, presenting the environmental impacts of this proposal and any alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options for the Corps and the public. 40 C.F.R. §1502.14. SETF requests that the Corps devote substantial treatment to this alternative to enable an evaluation of its comparative merits. 40 C.F.R. §1502.14(b).

Comment Two: Decisions About Management Alternatives For Dredged Material Should Be Based On Complete and High Quality Information About The Specific Location, Nature and Extent of Contaminants In Dredged Sediments Now and In The Future

SETF notes that the Corps must ensure the professional integrity, including scientific integrity, of its analyses, identifying methodologies used and the scientific and other sources relied upon for its conclusions. 40 C.F.R. §1502.24. In evaluating potential significant adverse effects, the agency must include this information unless the overall costs of obtaining it are "exorbitant". 40 C.F.R. §1502.22 (a). If the Corps is relying on incomplete information, the Corps must be clear where information is incomplete, assess the relevance of the incomplete information, provide a summary of existing credible scientific evidence, and use theoretical approaches and research methods generally accepted in the scientific community. 40 C.F.R. §1502.14.

A meaningful assessment of alternatives for dredged material cannot be made without a complete understanding of sediment conditions – including an analysis of the nature, extent and location of sediments with elevated contaminants - both now and during the anticipated duration of dredging activities in the future.

The Corps acknowledges that substantial amounts of the sediment it will dredge is now clean enough to be beneficially reused as clean fill. Beneficial reuse is now an alternative for

sediments dredged from the Calumet Harbor. Sediments from the Calumet Harbor previously were placed in a CDF due to their contaminant characteristics. The non-CDF, beneficial reuse management alternative for these sediments is the positive result of prior dredging episodes that over time removed sediments with legacy contaminants, the dramatic reduction of contaminant loading into the waterways (fewer, better controlled sources), natural attenuation and the elimination of combined sewer overflows/flow reversals due to systemic, regional improvements in wastewater infrastructure.

All of the factors reducing Calumet Harbor sediment contaminant characteristics are also relevant to sediment conditions in the Calumet River, Cal-Sag Channel and other interconnected waterways, now and in the future. The total volume of sediment from these waterways that can be beneficially reused now and, especially, in the future has not been assessed. This is critically important information because it could directly affect the size, location, lifespan, design characteristics and operations of a dredged material management plan or facility. Today, the volume of sediments that justify land disposal may be limited to a few “hot spots” or stretches of the waterway. Over the course of decades (the operating lifespan of a CDF), this volume could become much smaller or completely eliminated, as we now see in the Calumet Harbor.

It is irrational to construct a CDF without a highly detailed, specific analysis of sediment quality throughout the entire area that is to be dredged. It is a scientific error to conflate sediments in the Calumet River with sediments in the Little Calumet River with sediments in the Cal-Sag Channel. Mere interconnection does not establish that sediment conditions and management alternatives are the same. It is irrational to select the CDF alternative if predictive modelling suggests that in the future, the total volume of sediment justifying land disposal will become much smaller or will be eliminated. A large CDF is a 1970’s solution to a problem that may no longer exist in any meaningful way when dredging begins, and which may disappear entirely after that, as it did in the Calumet Harbor. The Corps’ 50,000 cubic yards annual estimate is complete guesswork, and must not be accepted as “prima facie” true. In turn, the only rational way to identify and assess alternatives is to have high quality information about the true nature, extent and location of sediments that will justify land disposal, if any, both now and in the future.

Comment Three: Any Environmental Review That Includes The Construction of a New CDF As An Alternative Triggers A Legal Responsibility to Conduct an Environmental Impact Statement

There is well-established Corps’ precedent for conducting an EIS as part of maintenance dredging projects that also include establishing a CDF. Simply, conducting an EIS for Corps’ actions that include maintenance dredging and CDF construction is the rule not the exception. A review of 38 new maintenance dredging/CDF construction projects in the Great Lakes region since NEPA’s passage clearly demonstrates that the use of an EIS is the standard practice for the Corps.⁴ This is an activity that normally requires an EIS. 40 C.F.R. §1507.3(1).

Name of CDF	EIS Completed?	Year EIS Completed
Bolles Harbor	Yes	1975
Buffalo Harbor Dike 4	Yes	1973
Buffalo Harbor – Small Boat	Yes	1972
Buffalo Harbor – Times Beach	Yes	1973

⁴http://www.lrd.usace.army.mil/Portals/73/docs/Navigation/GL-CDF/GL_CDF.pdf (Appendix A).

Calumet Harbor	Yes	1982 updated 1997
Cleveland Harbor Dike 10B	Yes	1994
Cleveland Harbor Dike 12	Yes	1973
Cleveland Harbor Dike 14	Yes	1976
Clinton River	Yes	1976
Clinton River Fisheries Site	Yes	1976
Detroit River– Pointe Mouillee	Yes	1977
Duluth-Superior Harbor	Yes	1977
East Chicago-IN Harbor/Canal	Yes	1999
Erie Harbor	Yes	1975
Grand Haven Harbor	Yes	1975
Grand Haven Harbor-Verplank	Yes	1974 updated 1998
Green Bay Harbor - Renard	Yes	1977
Holland Harbor -Riverview	Yes	1975
Holland Harbor - Windmill	Yes	1975
Huron Harbor	Yes	1973
Inland Route	Yes	1990
Kenosha Harbor	Yes	1974
Kewaunee Harbor	Yes	1974
Keweenaw Waterway	Yes	1986
Lorain Harbor	Yes	1975
Manitowoc Harbor	Yes	1974
Michigan City Harbor	Yes	1978
Milwaukee Harbor	Yes	1972
Monroe Harbor	Yes	1977
Monroe Harbor – Sterling Park	Yes	1982
Port Sanilac	Yes	1978
Rouge River	Yes	1976
Saginaw Bay	Yes	1975
Saginaw River	Yes	1975
St. Clair River	Yes	1973
St. Joseph Harbor	Yes	1977 updated 1984
Sebewaing Harbor	Yes	1978
Toledo Harbor- Site 3	Yes	1974 updated 1989

All of these projects are analogous to the existing proposal in that they entail maintenance dredging and the establishment of a CDF with ancillary operations. A more careful review of these CDFs reveals that the Corps has concluded an EIS is necessary for both in-water and upland sites. The upland sites on this list include Clinton River, East Chicago, the Grand Haven sites, Green Bay-Bayport, the Holland Harbor sites, Inland Route, Keweenaw Waterway, Michigan City, the Monroe Harbor sites, Port Sanilac, Rouge River, Saginaw River, St. Clair River, St. Joseph Harbor, the Sebewaing Harbor sites and Toledo Harbor-Riverside Park. The Corps concluded an EIS was necessary for a maintenance dredging/CDF project for the Calumet region (the Calumet Harbor EIS), both as part of the original project and as part of changes in operation.⁵ This is precisely the same geographic context as the existing proposal. More recently and in an immediately adjacent area, the Corps concluded an EIS was necessary to perform

⁵ Intent to Prepare A Draft EIS In Conjunction With Proposed Maintenance Dredging of the Indiana Harbor and Canal, and the Construction of a CCF at East Chicago in Lake County, IN. Federal Register Vol 59, Issue 49 (March 14, 1994).

maintenance dredging of the Indiana Harbor and Canal and the construction of a new upland CDF site in East Chicago, IN.⁶

The Corps has a forty-year precedent for undertaking Environmental Impact Statements for maintenance dredging/CDF construction projects, including a comparable project in the very location as the present process. For this reason, SETF asserts it would be unreasonable, arbitrary and capricious, and against the weight of evidence for the Corps to seek to avoid conducting an EIS as part of the present process.

The Corps has consistently undertaken Environmental Impact Statements for maintenance dredging/CDF construction projects for one unavoidable reason – it is legally required. This activity does not fall under any Categorical Exclusion established by the Corps, nor is it the type of project identified by the Corps as requiring only an Environmental Assessment. Rather, this activity involves the construction of a major project. SETF asserts the Corps must undertake an EIS as part of the environmental review of any proposal that includes the construction of a new CDF as an alternative.

The relevant provision of NEPA provides that “all agencies of the Federal Government shall...include in every recommendation or report on...major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official.” 42 USC 4332(2)(C). This report, or EIS, considers the environmental impact of the proposed project. While an agency may prepare an Environmental Assessment to determine the significance of the environmental impact, a Finding of No Significant Impacts is only appropriate when the project’s effects are insignificant. 40 CFR 1501.1, 1501.4.

NEPA aims to establish procedural mechanisms that compel agencies including the Corps to take seriously the potential environmental consequences of a proposed action. *Ocean Advocates v. U.S. Army Corps of Engineers*, 402 F.3d 846 (9th Cir. 2004). The Corps cannot avoid preparing an EIS by making conclusory assertions that an activity will have only insignificant impacts on the environment. *Id.* The Corps can only avoid an EIS based on a convincing statement of reasons that an activity will have only an insignificant impact on the environment. *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 1998). An EIS must be prepared if substantial questions are raised as to whether a project may cause significant degradation of some human environmental factor. *Idaho Sporting Cong. V. Thomas*, 137 F.3d 1146, 1149 (9th Cir. 1998). Notably, to trigger this requirement, public commentators need not show that significant effects will in fact occur. *Id.* at 1150. Raising substantial questions whether a project may have significant effects is sufficient. *Id.*, and *City of Waltham v. United States Postal Service*, 11 F.3d 235, 240 (1st Cir. 1993).

The Council on Environmental Quality has adopted regulations governing implementation of NEPA. In determining whether a federal action requires an EIS because it significantly affects the quality of the human environment, an agency must consider the significance of its actions in light of their context and intensity. 40 CFR 1508.27. Context refers to the setting in which the

⁶ Intent to Prepare a Supplemental Environmental Impact Statement (SEIS) in Conjunction with Proposed Changes in Operation of Chicago Area Confined Disposal Facility at Chicago, Cook County, Illinois. Federal Register Vol 62, Issue 72 (April 15, 1997).

proposed action takes place. 40 CFR 1508.27(a). Intensity means the severity of the impact. 40 CFR 1508.27(b).

In considering the severity of the potential environmental impact, a reviewing agency may consider up to ten factors that help inform the significance of a project, such as the unique characteristics of the geographic area, including proximity to an ecologically sensitive area; whether the action bears relationship to some other actions with individually insignificant but cumulatively significant impacts; and, the level of uncertainty of the risk and to what degree it involves unique or unknown risks. 40 CFR 1508.27(b)(3),(5),(7),(10). Notably, the presence of any one of these factors is sufficient to require preparation of an EIS. *National Parks & Conservation Association v. Babbitt*, 241 F.3d 722, 731 (9th Cir. 2001).

A 25-year Dredged Material Management Plan that could incorporate the construction of a new CDF on a riverfront property in Chicago is a major federal project that will significantly affect the environment. Failure to undertake an EIS would be contrary to Corps precedent. 40 C.F.R. §1507.3(1). It would also be contrary to the legal requirements which direct how the Corps must conduct its activities, and would be subject to legal challenge. There are multiple significant environmental impacts.

1. Permanent Alteration of Urban Quality and The Built Environment Including Foreclosing Alternative Reuse Options for Urban Land Resources: The primary management proposal – which includes the construction and operation of a confined disposal facility (CDF) - will create a large facility with an even longer lifespan. As proposed by the U.S. ACE, a CDF will be needed for the period subsequent to 2022 and will accept dredged material for 25 years thereafter. However, the U.S. ACE has not calculated the duration of the post-closure period during which the site will still be subject to ongoing security, maintenance and monitoring requirements. Because these post-closure requirements will continue indefinitely, the U.S. ACE is proposing to establish a “forever” facility as an inherent part of its proposal for managing dredged materials. Moreover, because this “forever” facility will be created as a direct, foreseeable consequence of federal activity, the U.S. ACE cannot avoid its present-day obligation to complete an EIS by invoking a transfer of the closed facility to a local non-federal sponsor. By virtue of federal activity, a significant area of land in Chicago will be permanently altered, foreclosing multiple future land use options and permanently altering potential uses of adjacent land. Because of the CDF alternative will permanently alter urban quality, the built environment and other potential reuse options for a large area of land, SETF asserts an EIS should be completed as part of any environmental review that includes a new CDF.

2. Impacts On Ecological and Recreational Resources: The proposed CDF will be located in the midst of multiple ecologically valuable resources, all in proximity to the locations of proposed CDF facilities. These areas are well known to the Corps, including areas that were delineated in studies such as the Lake Calumet Special Area Management Plan developed by the Corps’ Chicago District. These natural areas include:

* a cluster of wetlands called the Hyde Lake wetlands surround Indian Creek, a fish run that connects Wolf Lake to the Calumet River. (See: http://www.cityofchicago.org/dam/city/depts/zlup/Sustainable_Development/Publications/Chicago_Nature_and_Wildlife_Plan/Hyde_Lake_Marsh_and_Indian_Creek.pdf);

* another cluster of wetlands, the Indian Ridge Marsh complex, which serves as restored habitat for heron and egret populations and dozens of other bird species. (See: <http://www.lrc.usace.army.mil/Missions/CivilWorksProjects/IndianRidgeMarsh.aspx>);

* the 580-acre Wolf Lake Conservation area, maintained by the Illinois Department of Natural Resources. (See: <http://www.dnr.illinois.gov/Parks/Pages/WilliamWPowers.aspx>);

* the Calumet River, a tributary of Lake Michigan, which hosts multiple boating facilities including the Cook County Forest Preserve District property at Beaubien Woods, which is used extensively by recreational watercraft and anglers and is an increasingly rich habitat for aquatic life and other wildlife;

* the ecologically valuable resources incorporated into the Calumet Open Space Plan (See: http://www.cityofchicago.org/content/dam/city/depts/zlup/Sustainable_Development/Publication_s/Calumet_Open_Space_Reserve/COSR_plan.pdf) and the Illinois-sponsored Millennium Reserve (See: <http://www.millenniumreserve.org/Priorities/>).

The Corps' proposal must be viewed in light of its potential direct and indirect impacts on the preservation and enhancement of ecologically valuable areas in the Calumet region, including areas in close proximity to potential CDF sites. Moreover, the Corps must fully interact with multiple governmental entities and NGOs that are now working cooperatively on a comprehensive plan that could affect the Corps' conclusions about alternatives, mitigation measures and future uses. See also: 33 U.S.C. 1268(11)(C). This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required as part of any environmental review that includes a new CDF.

3. Environmental Impacts on Nearby Residential Areas: There are multiple densely populated residential neighborhoods in proximity to the possible locations of a proposed CDF, including Hegewisch, South Deering, the East Side and Altgeld Gardens (which has been determined to be eligible for listing on the National Register of Historic Places). For purposes of the following demographic analysis, SETF compiled data for the area within a five mile radius centered on the LTV site, 11600 S. Burley, Chicago, IL 60617. This area encompasses all of the 10 sites presented at the February 20, 2018 Stakeholder Roundtable.

According to the demographic feature of U.S. EPA's ECHO database, 280,711 people live within this 5-mile radius. There is population density of 4,811 people/square mile, and a total of 101,600 households. This area includes 75,392 children and the dozens of schools and municipal parks they utilize. This is an environmental justice area, with more than 90% of residents being either African-American (72%) or Hispanic (19%). As an environmental justice area, there should be an enhanced commitment by the Corps to provide a full and complete opportunity for public participation in the manner that can only be achieved through an EIS. Because this is an EJ community, the Corps should conduct a complete analysis to ensure its activities do not create a significant, adverse and disproportionate impact. These enhanced EJ protocols must align with Council on Environmental Quality guidelines:

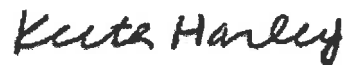
https://www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf

Residents who attended the informal Corps hearing in July, 2015 about its previous CDF proposal raised several issues about the impacts of a CDF. They indicated that a CDF was contrary to future uses that would enhance the quality of life for nearby neighborhoods. The use of the land for the disposal of contaminated materials is contrary to Chicago and Cook County legal prohibitions on new landfills because disposal areas are contrary to local land use, environmental and public health priorities. Residents expressed opposition because a CDF would displace more positive and beneficial uses of riverfront property. The local Alderwoman requested a complete analysis of the nature and extent of risks posed by the CDF. Residents expressed concerns about being exposed to releases of contaminants from exposed and dispersed materials in the decades-long period during which a facility would operate. This is especially important because a CDF would be a new source in area already characterized by poor air quality.

The Corps' proposal must be viewed in light of its potential cumulative direct and indirect impacts on the residential neighborhoods in the Calumet region. This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required as part of any environmental review that includes the construction of a new CDF.

Thank you for your consideration of these comments. Please contact me if you have any questions, responses or require additional information.

Sincerely,



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July 15, 2015

U.S. Army Corps of Engineers
Chicago District
Attn: Planning Branch
231 S. LaSalle Street, Suite 1500
Chicago, IL 60601

By E-Mail: chicagodistrict.pao@usace.army.mil

Re: Draft Report – Chicago Area Waterway System: Dredged Material Management Plan & Integrated Environmental Assessment

To Whom It May Concern:

Please be advised that I represent the Southeast Environmental Task Force (SETF), a not-for-profit organization dedicated to environmental education, open space preservation and pollution prevention on the southeast side of Chicago, Illinois. SETF's members include several individuals who live in neighborhoods immediately adjacent to the Calumet Area waterways and to the proposed location of a new confined disposal facility. Consequently, SETF has a strong public interest in the proposed dredged material management plan developed by the U.S. Army Corps of Engineers (Corps), especially the Corps' proposal to place a new confined disposal facility on a 43-acre riverfront site in Chicago.

SETF requested my assistance to address legal issues related to the Corps' legal responsibilities to complete an Environmental Impact Statement. Other SETF participants may be submitting written comments addressing other aspects of the Corps' Dredged Material Management Plan.

By way of summary of my comments, SETF asserts this is a major federal project that will have a significant effect on the environment. For this reason, SETF asserts the Corps must complete an Environmental Impact Statement if it decides to continue with this federal activity.

Comment One: There is well-established Corps' precedent for conducting an EIS as part of maintenance dredging projects that also include establishing a CDF. Simply, conducting an EIS for Corps' actions that include maintenance dredging and CDF construction is the rule not the exception. A review of 38 new maintenance dredging/CDF construction projects in the Great Lakes region since NEPA's passage clearly demonstrates that the use of an EIS is the standard practice for the Corps.¹

Name of CDF	EIS Completed?	Year EIS Completed
Bolles Harbor	Yes	1975
Buffalo Harbor Dike 4	Yes	1973
Buffalo Harbor – Small Boat	Yes	1972
Buffalo Harbor – Times Beach	Yes	1973
Calumet Harbor	Yes	1982 updated 1997
Cleveland Harbor Dike 10B	Yes	1994
Cleveland Harbor Dike 12	Yes	1973
Cleveland Harbor Dike 14	Yes	1976
Clinton River	Yes	1976
Clinton River Fisheries Site	Yes	1976
Detroit River– Pointe Mouillee	Yes	1977
Duluth-Superior Harbor	Yes	1977
East Chicago-IN Harbor/Canal	Yes	1999
Erie Harbor	Yes	1975
Grand Haven Harbor	Yes	1975
Grand Haven Harbor-Verplank	Yes	1974 updated 1998
Green Bay Harbor - Renard	Yes	1977
Holland Harbor -Riverview	Yes	1975
Holland Harbor - Windmill	Yes	1975
Huron Harbor	Yes	1973
Inland Route	Yes	1990
Kenosha Harbor	Yes	1974
Kewaunee Harbor	Yes	1974
Keweenaw Waterway	Yes	1986
Lorain Harbor	Yes	1975
Manitowoc Harbor	Yes	1974
Michigan City Harbor	Yes	1978
Milwaukee Harbor	Yes	1972
Monroe Harbor	Yes	1977
Monroe Harbor – Sterling Park	Yes	1982
Port Sanilac	Yes	1978
Rouge River	Yes	1976
Saginaw Bay	Yes	1975
Saginaw River	Yes	1975
St. Clair River	Yes	1973
St. Joseph Harbor	Yes	1977 updated 1984
Sebewaing Harbor	Yes	1978
Toledo Harbor- Site 3	Yes	1974 updated 1989

All of these projects are analogous to the existing proposal in that they entail maintenance dredging and the establishment of a CDF with ancillary operations. A more careful review of these CDFs reveals that the Corps has concluded an EIS is necessary for both

¹http://www.lrd.usace.army.mil/Portals/73/docs/Navigation/GL-CDF/GL_CDF.pdf (Appendix A).

in-water and upland sites. The upland sites on this list include Clinton River, East Chicago, the Grand Haven sites, Green Bay-Bayport, the Holland Harbor sites, Inland Route, Keweenaw Waterway, Michigan City, the Monroe Harbor sites, Port Sanilac, Rouge River, Saginaw River, St. Clair River, St. Joseph Harbor, the Sebewaing Harbor sites and Toledo Harbor-Riverside Park. The Corps concluded an EIS was necessary for a maintenance dredging/CDF project for the Calumet region (the Calumet Harbor EIS), both as part of the original project and as part of changes in operation.² This is precisely the same geographic context as the existing proposal. More recently and in an immediately adjacent area, the Corps concluded an EIS was necessary to perform maintenance dredging of the Indiana Harbor and Canal and the construction of a new upland CDF site in East Chicago, IN.³

The Corps has a forty-year precedent for undertaking Environmental Impact Statements for maintenance dredging/CDF construction projects, including a comparable project in the very location as the present proposal. For this reason, SETF asserts it would be unreasonable, arbitrary and capricious, and against the weight of evidence for the Corps to seek to avoid conducting an EIS as part of the present proposal.

Comment Two: The Corps has consistently undertaken Environmental Impact Statements for maintenance dredging/CDF construction projects for one unavoidable reason – it is legally required. This activity does not fall under any Categorical Exclusion established by the Corps, nor is it the type of project identified by the Corps as requiring only an Environmental Assessment. Rather, this activity involves the construction of a major project. SETF asserts the Corps must undertake an EIS for the present maintenance dredging/CDF construction proposal in order to fulfill clear legal mandates.

The relevant provision of NEPA provides that “all agencies of the Federal Government shall...include in every recommendation or report on...major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official.” 42 USC 4332(2)(C). This report, or EIS, considers the environmental impact of the proposed project. While an agency may prepare an Environmental Assessment to determine the significance of the environmental impact, a Finding of No Significant Impacts is only appropriate when the project’s effects are insignificant. 40 CFR 1501.1, 1501.4.

NEPA aims to establish procedural mechanisms that compel agencies including the Corps to take seriously the potential environmental consequences of a proposed action. *Ocean Advocates v. U.S. Army Corps of Engineers*, 402 F.3d 846 (9th Cir. 2004). The Corps cannot avoid preparing an EIS by making conclusory assertions that an activity will have on insignificant impacts on the environment. *Id.* The Corps can only avoid an

² Intent to Prepare A Draft EIS In Conjunction With Proposed Maintenance Dredging of the Indiana Harbor and Canal, and the Construction of a CCF at East Chicago in Lake County, IN. Federal Register Vol 59, Issue 49 (March 14, 1994).

³ Intent to Prepare a Supplemental Environmental Impact Statement (SEIS) in Conjunction with Proposed Changes in Operation of Chicago Area Confined Disposal Facility at Chicago, Cook County, Illinois. Federal Register Vol 62, Issue 72 (April 15, 1997).

EIS based on a convincing statement of reasons that an activity will have only an insignificant impact on the environment. *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 1998). An EIS must be prepared if substantial questions are raised as to whether a project may cause significant degradation of some human environmental factor. *Idaho Sporting Cong. V. Thomas*, 137 F.3d 1146,1149 (9th Cir. 1998). Notably, to trigger this requirement, public commentators need not show that significant effects will in fact occur. *Id.* at 1150. Raising substantial questions whether a project may have significant effects is sufficient. *Id.*, and *City of Waltham v. United States Postal Service*, 11 F.3d 235, 240 (1st Cir. 1993).

The Council on Environmental Quality has adopted regulations governing implementation of NEPA. In determining whether a federal action requires an EIS because it significantly affects the quality of the human environment, an agency must consider the significance of its actions in light of their context and intensity. 40 CFR 1508.27. Context refers to the setting in which the proposed action takes place. 40 CFR 1508.27(a). Intensity means the severity of the impact. 40 CFR 1508.27(b). As noted above, there are 38 examples of maintenance dredging/CDF construction projects – including a project in the same location as the present proposal – in which the Corps has concluded an EIS is required.

In considering the severity of the potential environmental impact, a reviewing agency may consider up to ten factors that help inform the significance of a project, such as the unique characteristics of the geographic area, including proximity to an ecologically sensitive area; whether the action bears relationship to some other actions with individually insignificant but cumulatively significant impacts; and, the level of uncertainty of the risk and to what degree it involves unique or unknown risks. 40 CFR 1508.27(b)(3),(5),(7),(10). Notably, the presence of any one of these factors is sufficient to require preparation of an EIS. *National Parks & Conservation Association v. Babbitt*, 241 F.3d 722, 731 (9th Cir. 2001).

A 25-year Dredged Material Management Plan that incorporates the construction of a new CDF on a 43-acre riverfront property in Chicago is a major federal project that will significantly affect the environment. Failure to undertake an EIS would be contrary to Corps precedent. It would also be contrary to the legal requirements which direct how the Corps must conduct its activities, and would be subject to legal challenge.

Comment Three: When viewed in light of Corps precedent and its legal responsibilities, it is clear the Corps must undertake an EIS as part its proposed activity in the present case. SETF asserts the following five factors are among the reasons that dictate that an EIS must be completed.

Duration: The federal activity is a dredged material management plan with an estimated duration of 25 years. The primary proposal – which includes the construction and operation of a confined disposal facility (CDF) for these dredged materials at 122nd Street and Carondelet Avenue – will create a 43-acre facility with an even longer lifespan. As proposed by the U.S. ACE, Phase I of site construction will begin in 2017 and CDF

closure will occur in 2043. However, the U.S. ACE has not calculated the duration of the post-closure period during which the site will still be subject to ongoing security, maintenance and monitoring requirements. Because these post-closure requirements will continue indefinitely, the U.S. ACE is proposing to establish a “forever” facility as an inherent part of its proposal for managing dredged materials. Moreover, because this “forever” facility will be created as a direct, foreseeable consequence of federal activity, the U.S. ACE cannot avoid its present-day obligation to complete an EIS by invoking the anticipated 2043 transfer of the closed facility to a local non-federal sponsor. See also: 33 U.S.C. 1268(11)(C). By virtue of federal activity, 43 acres of land in Chicago will be permanently altered. Because of the significance and duration of the proposed project, SETF asserts an EIS should be completed.

Land Use: The proposed confined disposal facility will be constructed and operate on a 43-acre riverfront site located within the municipal boundaries of the City of Chicago. The site is a former industrial property that is improved with a turning basin on the Calumet River, a rail line along the eastern perimeter of the property and public road access to the south. The land is part of an industrial corridor that includes dozens of active facilities. Nearby facilities include the Ford Motor Torrence Avenue Assembly Plant and its more recently constructed supplier park, which was built on former industrial property immediately adjacent to the proposed CDF. Consequently, SETF questions the credibility of U.S. ACE assumptions that there are no other reuse options for the location of its proposed CDF.

The U.S. ACE federal activity will indefinitely foreclose alternative uses of this land. In addition it will permanently alter the future potential uses of adjacent land. Because of the location of the site near waterways and other ecologically valuable areas, industrial properties and residential neighborhoods, it will permanently affect regional land use. SETF asserts these major, significant impacts on this complex urban environment context justify an EIS.

Ecological and Recreational Resources: The proposed CDF will be located in the midst of multiple ecologically valuable resources, all within one mile of proposed facility. These areas are well known to the Corps, including areas that were delineated in studies such as the Lake Calumet Special Area Management Plan developed by the Corps’ Chicago District.

To the south, a cluster of wetlands called the Hyde Lake wetlands surround Indian Creek, a fish run that connects Wolf Lake to the Calumet River. (See: http://www.cityofchicago.org/dam/city/depts/zlup/Sustainable_Development/Publications/Chicago_Nature_and_Wildlife_Plan/Hyde_Lake_Marsh_and_Indian_Creek.pdf)

To the west, there is another cluster of wetlands, the Indian Ridge Marsh complex, which serves as restored habitat for heron and egret populations and dozens of other bird species. (See: <http://www.lrc.usace.army.mil/Missions/CivilWorksProjects/IndianRidgeMarsh.aspx>)

To the east is the 580-acre Wolf Lake Conservation area, maintained by the Illinois Department of Natural Resources. (See: <http://www.dnr.illinois.gov/Parks/Pages/WilliamWPowers.aspx>)

The Calumet River forms the western perimeter of the proposed CDF. The Calumet River is a tributary of Lake Michigan, and is used extensively by recreational watercraft. It is also an increasingly rich habitat for aquatic life and other wildlife.

These natural resources do not exist in isolation, but instead, are part of a network of interconnected ecological resources in the greater Calumet region. Two recent efforts to characterize and create a unified regional approach to these ecologically valuable resources are the Chicago-sponsored Calumet Open Space Plan (See: http://www.cityofchicago.org/content/dam/city/depts/zlup/Sustainable_Development/Publications/Calumet_Open_Space_Reserve/COSR_plan.pdf) and the Illinois-sponsored Millennium Reserve (See: <http://www.millenniumreserve.org/Priorities/>), which is also part of President Obama's Great Outdoors Initiative.

The Corps' proposal must be viewed in light of its potential direct and indirect impacts on the preservation and enhancement of ecologically valuable areas in the Calumet region, including areas in close proximity to its preferred CDF site. Moreover, the Corps must fully interact with multiple governmental entities and NGOs that are now working cooperatively on a comprehensive plan that could affect the Corps' conclusions about alternatives, mitigation measures and future uses. This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required.

Environmental Impacts on Nearby Residential Areas: There are two densely populated residential neighborhoods in proximity to the proposed CDF, Hegewisch and the East Side.

According to the demographic feature of U.S. EPA's ECHO database, 56,319 people live within a 3-mile radius of the intersection of 122nd Street and Carondelet Avenue. There is population density of 2,298 people/square mile, and a total of 19,588 households. This is an environmental justice area, with more than 60% of residents being either African-American (21.27%) or Hispanic (49.6%). As an environmental justice area, there should be an enhanced commitment by the Corps to provide a full and complete opportunity for public participation in the manner that can only be achieved through an EIS. Because this is an EJ community, the Corps should conduct a complete analysis to ensure its activities do not create a significant, adverse and disproportionate impact.

Residents who attended the informal Corps hearing on its proposal raised several issues about the impacts of the CDF. They indicated that the CDF proposal was contrary to future uses that would enhance the quality of life for nearby neighborhoods. The use of the land for the disposal of contaminated materials is contrary to Chicago and Cook County legal prohibitions on new landfills because disposal areas are contrary to local land use, environmental and public health priorities. Residents expressed opposition because the CDF would displace more positive and beneficial uses of the 43-acre

riverfront property. The local Alderwoman requested a complete analysis of the nature and extent of risks posed by the CDF. Residents expressed concerns about being exposed to releases of contaminants from exposed and dispersed materials in the decades-long period during which the facility is proposed to operate. This is especially important because the CDF would be a new source in area already characterized by poor air quality.

The Corps' proposal must be viewed in light of its potential cumulative direct and indirect impacts on the residential neighborhoods in the Calumet region, including areas in close proximity to its preferred CDF site. This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required.

Impacts on Water Quality, Sediment Quality and The Diversity, Productivity and Stability of Aquatic Organisms In The Area of the Site⁴: The Environmental Assessment honestly acknowledges that neither the Corps nor its local sponsor currently own or control the site of the proposed CDF. One consequence of this is also reflected in the EA – without have access to the site, the Corps' ability to characterize existing environmental conditions at this former industrial property is limited. The Corps characterizes this as “risk and uncertainty”. Although the Corps has reviewed environmental data derived from Illinois EPA files, there are significant gaps in this data. For example, it's been 10-year since the Illinois EPA review of a remedial action on the site. The Illinois EPA-approved remediation was “focused”, meaning contingent on future uses, institutional controls and engineered barriers that may not address the CDF now contemplated by the Corps. The Illinois EPA has expressed questions about the adequacy of some aspects of the subsurface investigation. The site is one portion of a larger industrial property, and may be impacted by releases of contaminants from other portions of this larger property.

Perhaps the most significant omission in existing data relates to groundwater, both in terms of hydrogeology and contaminant conditions. For purposes of the Illinois Site Remediation Program, groundwater can be legally excluded from site remediation activities, typically because there is a legal restriction on the use of groundwater as a potable resource. Consequently, there is little data about existing groundwater conditions at the proposed CDF site and therefore, no basis to project the consequences of depositing a large mass of sediment on the hydrogeology and contaminant releases on and in the area of the site.

Because of its federal mandate, the Corps – unlike a typical site developer in Illinois – cannot avoid a full and complete analysis of existing groundwater conditions on and near the site of its proposed CDF. It also cannot avoid a full and complete analysis of the impacts of its future use of the site as a CDF on site hydrogeology and contaminant releases. This legal responsibility attaches to this project because of the riverfront location of the proposed CDF. There is a potential for contaminated groundwater – which has not been characterized or remediated – to be released now and in the future from this site into the immediately adjacent Calumet River. Unlike a typical private site developer, the Corps must characterize the impacts on water quality, sediment quality and

⁴ 33 U.S.C. 1268(11)(B)

the diversity, productivity and stability of aquatic organisms in the area of the site. The Corps has not and currently cannot fulfill this mandate to assess the impacts of releases of contaminants in groundwater from its proposed CDF location into the Calumet River. This legally mandated analysis is not incorporated into the existing Environmental Assessment, and of itself justifies an Environmental Impact Statement. An agency must prepare an EIS if environmental impacts are uncertain. National Parks & Conservation Association v. Babbitt, 241 F.3d 722, 731 (9th Cir. 2001) “[p]reparation of an EIS is mandated where uncertainty may be resolved by further collection of data.”

Comment Four: SETF asserts that only an EIS will provide a full and complete opportunity for public engagement on this controversial proposal. It is also the only way to ensure consultation and/or concurrence with the complete range of federal, state and local units of government that have relevant jurisdiction and expertise in relationship to different aspects of this complex urban environment.

The Corps’ public outreach activities in this matter have been completely disjointed and ineffective. For example, it appears there was a six-year gap between the initial solicitation of comments from some relevant parties and a public meeting. Upon information and belief, the Corps originally solicited public comments in letters sent on or about March 13, 2009. The January 6, 2010 response of the City of Chicago is particularly noteworthy, so it is attached to these comments and labeled as SETF Attachment One. The City’s five-year old response is entirely consistent with many of the comments in this letter and comments expressed during the recent public meeting. Through its Department of Environment, the City expressed the following concerns about the Corps’ activities:

1. The City’s DOE has concerns regarding the construction and siting of a new confined disposal facility and “...looks to discuss other options including the reuse of sediments to allow for reclamation of the existing CDF”.
2. Any new CDF will require engineering and site planning to protect groundwater and surface water conditions.
3. The City’s DOE “strongly recommends early outreach and coordination with the community as part of any planning process.”
4. The City’s DOE recommends the Corps engage in a multi-agency initiative to assess the reuse options for sediments, including the Metropolitan Water Reclamation District, the Illinois EPA and the Illinois Department of Natural Resources.
5. Consistent with the Calumet Open Space Plan, the City’s DOE discourages the use of open spaces in the Calumet region based on concerns for the protection of human health and the environment, surface water management and site planning to maintain the natural setting and ecological objectives.

By contrast to the City’s 2010 recommendations, the Corps’ present proposal is a public outreach shambles. This was a consistent theme in comments made by the small group of public participants in the recent public meeting. Participants, including the Ward

Alderwoman, questioned why the Corps waited so long to conduct public outreach, failed to proactively engage affected stakeholders, failed to provide meaningful answers to basic questions regarding risk assessment and the development of its proposal, and offered only a truncated public comment period with very little notice.

Fortunately, the Corps may still remedy the shortcomings of its public process by conducting an Environmental Impact Statement. An EIS provides a carefully structured process to ensure a full and complete opportunity for stakeholder involvement, including notice, scoping, consultation, the development of a draft EIS, public hearing(s), a written comment period, and a response to significant public comments. For a major federal project significantly affecting the environment – for example, a proposed dredged material management plan that incorporates the construction of a new CDF – stakeholders can contribute actively to critical elements of the EIS, including: 1. alternatives for achieving the purpose and need consistent with 40 CFR 1502.14 ; 2. an understanding of the affected environment for both the primary proposal and the alternatives consistent with 40 CFR 1502.15; 3. an understanding of the environmental consequences of the primary proposal and the alternatives consistent with 1502.16; and, 4. potential mitigation and minimization measures and the identification of context sensitive solutions consistent with 40 CFR 1502.16 and 1508.20. None of this has occurred in the Corps' existing piecemeal, ad hoc, fits-and-starts approach.

Thank you for your consideration of these comments. Please do not hesitate to contact me if you have any questions.

Sincerely,



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