

Chapter 6
Special Topics, Planning Considerations, & Special Concerns

6.1. GENERAL PLANS AND COOPERATIVE AGREEMENTS

Project lands have long been made available to the FWS and state wildlife management agencies for fish and wildlife management purposes through a series of Presidential executive orders, federal laws, Public Land Orders, General Plans, and Cooperative Agreements some of which is described below. The Fish and Wildlife Service administers their managed lands as part of the National Wildlife Refuge System.

Three executive orders from President Franklin D. Roosevelt in 1935 to 1936 provided the first formal documentation of an agreement between the Corps and the FWS (then Bureau of Biological Survey) making lands available for administration by the Upper Mississippi Wild Life and Fish Refuge while retaining rights for the Corps to continue operations. A 1940 executive order expanded the lands made available to the FWS. General Plans and Cooperative Agreements were authorized in the Fish and Wildlife Coordination Act of 1934 and subsequent amendments in 1946 and later. The first cooperative agreement between Corps and FWS was signed on 15 May 1945.

General Plans were signed and completely executed by FWS and the Corps by January 21, 1954. The General Plans include exhibits identifying what lands are made available to the Fish and Wildlife Service. Additional step-down or third party cooperative agreements were established between the states and the FWS for state managed areas. The final action taken to place all transferred lands under the authority of the 1954 Cooperative Agreement was the revocation of all executive orders and public land orders that previously transferred Corps lands to the FWS. This was accomplished on February 19, 1954, by the publishing of Public Land Order 936. Henceforth, FWS administrative authority over Corps land depended exclusively on the General Plans and cooperative agreement.

The 1961 General Plans and 1963 Cooperative Agreement further elaborated the rights and responsibilities of the Corps, USFWS and states to lands along the Upper Mississippi River purchased by the Corps. It also provided the means for making minor adjustments at the district level in the lands transferred. (Additional information on the history of the GP-CA can be found in Section 8.3 of the 2001 Rivers Project Master Plan.)

Most recently, the Cooperative Agreement between Corps and USFWS was amended in 2001. The FWS and states of Illinois, Missouri, and Iowa signed updated cooperative agreements in 2012 to extend that amended language to the states. These cooperative agreements are often referred to collectively in this Master Plan as “the Cooperative Agreement”. The agreements define the roles of agencies in managing lands, addressing trespass and encroachment, marking boundary, and other management. They also reserve rights to the Corps for navigation and forest management/timber rights in part. The FWS also has purchased additional lands specifically for establishment of the refuge systems which are not included in the general plans or cooperative agreements identified above.

Corps natural resource management strategies for specific areas are called out in Chapter 5 and further detailed in the Mississippi River Project Operational Management Plan. The development of plans or other vegetative management activities will be fully coordinated with the USFWS and pertinent state agencies for input and review of compatibility of proposed actions on the wildlife enhancement uses of the area. The USFWS have identified habitat goals and objectives in the Refuge Comprehensive Conservation Plans and Habitat Management Plans and provided guidance to the Corps in this partnership effort.

A provision was made in the 1961 general plans which allowed that “minor adjustments may be made in the boundaries . . . by mutual agreement” between the District Engineer, Regional Director, Service, and the appropriate state official. An update of the administrative assignment of project lands (General Plan) under the Cooperative Agreement will be pursued as part, in part, through of the overall Master Plan revision. Therefore, this Master Plan reflects the proposed new General Plan assignments. Additional coordination may be necessary to fully ratify the proposed assignments. .

Once fully ratified, this update will increase the total amount of project lands presently in the General Plan by approximately **TBD** acres. Engineering Regulation 405-1-12 and other guidance should be referenced for future updates to general plan or cooperative agreement language. Table **5** lists the specific acreages involved for each pool. The proposed acreage figures are based upon computations taken from mapping used to illustrate the land classifications and administrative assignments. They do not represent legal real estate figures. The proposed acreages may be revised when the General Plan is officially finalized.

Figure 6-1. General Plan and Cooperative Agreement land acreage managed by USFWS, MDC, and IDNR.

	Total Fee Title Acres	USFWS		IA DNR		IL DNR		MDC		Corps		Outgrants	
		Land (Ac)	Water (Ac)										
Pool 11													
Pool 12													
Pool 13													
Pool 14													
Pool 15													
Pool 16													
Pool 17													
Pool 18													
Pool 19													
Pool 20													
Pool 21													
Pool 22													

6.2. UMRR-EMP HREPs

The Upper Mississippi River Restoration Environmental Management Program (Emp) along the Upper Mississippi River was first authorized in Section 1103 of the Water Resources Development Act of 1986. The Habitat Rehabilitation and Enhancement Projects (HREP) are environmental restoration projects that are authorized and funded through this program. The authorization also includes the Long Term Resource Monitoring Program. HREP design, construction, and monitoring costs are paid for through the program on federal lands and are cost shared at 35 percent on other non-federal public lands. This program involves separate funding from normal operations of the Project. It also completes separate planning processes for HREPs with full NEPA coordination with other agencies and the public including public meetings. The Master Plan does not serve as a planning document for HREPs. Future proposed or planned HREPs are not included in the document as this Master Plan is only reviewed every five years and may be used for twenty-five years or more and would not contain current information. Some HREP information on completed projects is included in Chapter 5.

6.3. HYDRO-GEOMORPHIC MODELING

The Upper Mississippi River Systemic Forest Stewardship Plan calls for reach level Hydro-Geomorphologic Modeling (HGM) and Analysis along the Upper Mississippi River. The information and data provided through this model for reach level analysis is currently available for the Mississippi River (and tributaries with navigation projects) floodplains within the St. Paul, Rock Island, and St. Louis Districts of the U.S. Army Corps of Engineers. However, the reach of the Mississippi River within the Rock Island District remains uncompleted.

The study overall area includes the impounded upper river Pools 1-26, the un-impounded river from Harford, IL to Cairo, IL, the Illinois River, and navigable portions of the Minnesota, St. Croix, Black, and Kaskaskia rivers. HGM provides system relationships determined from the geomorphic and topographic features, hydrologic conditions and past land use to provide insight to complex dynamics of natural limitations and site suitability and to where community types are expected occur. The Project intends to pursue completion of reach level HGM analysis throughout the Project in support of the Upper Mississippi River Systemic Forest Stewardship Plan and for OMP I and other Project plan development.

6.4. NON RECREATION OUTGRANT POLICY AND PROCESS

In 2009, the Corps issued a Non-Recreational Outgrant Policy (USACE, 2009a) stating that the primary rationale for authorizing any future non-recreational outgrant request for use on Corps lands or waters will be (1) no viable alternative to the activity or structure being located on civil works lands or waters, or (2) a direct benefit to the government. (See Appendix **G.9.**) The Corps intent of the policy is to meet legitimate needs for the use of Project lands and waters while sustaining our natural resources and protecting authorized Project purposes.

The policy applies to all new non-recreational outgrant requests for use of Project waters and Corps owned lands regardless of submerged or emergent status. Proposals to modify or renew existing outgrants will also be evaluated for policy compliance under this guidance. Alternatives to placement of the development on Project lands will be studied and considered. Early coordination with the Mississippi River Project's Operations Project Manager is essential. Later, a team comprised of a Project level representative, Real Estate, Operations, and other legal/technical elements as appropriate (Counsel, Engineering, Planning, Regulatory, etc.) can fully review outgrant requests. Payment for administrative costs for Project and District staff will be required in accordance with the latest Civil Works Policy Memorandum related to collections of civil works appropriations. Enclosure 3 of the policy provides guidance on statutory and/or non-statutory mitigation actions. Where required, a Mitigation Plan for statutory or non-statutory mitigation addressing temporary and long-term Project impacts must be approved prior to the issuance of the outgrant. Some local Project considerations, in addition to the national non recreation outgrant policy, are included below for: all non recreation outgrants, utility lines, and barge fleeting requests.

Additional General Non-Recreation Outgrant Considerations by Classification

Intensive-Use Recreation Areas and Recreation Facilities. Development of a non-recreation outgrant within or near recreation facilities could disrupt the use and enjoyment of these areas. Avoiding recreation areas or areas with intensive recreational use should be a consideration in identifying an appropriate site.

Environmentally Sensitive Areas. Environmentally sensitive areas are located throughout Corps lands and waters. Archeological resource areas are unique and potential developments shall make every effort to avoid these areas. The wetlands within the Project are globally significant and efforts should be taken to minimize or avoid impacts to wetlands. There is designated critical habitat for other species in non-forested habitat such as Higgins eye – pearly mussel on Project lands or shoreline. The location of the potential outgrant footprint is also important in relation to topography, soils, and stream/waterway crossings. Impacts to steep and/or erodible slopes as well as streams and associated riparian zones should be minimized or avoided. Some of these areas are designated with an Environmentally Sensitive Area classification. Project has data on locations of ESAs as well as locations of threatened and endangered species and cultural sites not available to the public. The data that the Government has is not a definitive or complete list and may require additional survey or investigation by the requesting entity.

Wildlife Management. Forested habitats represent a unique resource as a significant part of a globally important bird area. Avoiding or minimizing impacts to these forested habitats should be given strong consideration when selecting a development location due to the significance of the habitat. There are no forested areas designated as critical habitat on Project lands though threatened and endangered species such as the Indiana bat have been documented on Project and much of the habitat is suitable for Indiana bat roosting.

Vegetative Management. Vegetative management plans are critical to resource protection within the potential utility outgrants and must be approved in the evaluation process.

Additional Utility Line Outgrant Considerations

If there are no reasonable and feasible alternatives to avoid Corps lands, initial consideration should include already-disturbed corridors such as existing highways and utility corridors. These roadways have already been removed from recreational use and have disturbed/impacted the natural environment. Placing utility corridors adjacent to primary existing roadways, i.e., state and county arterial and collector roads, rather than small access roads within Corps recreation areas, could potentially decrease the recreational and environmental impacts.

Existing Utility Corridors. The use of existing utility corridors should be evaluated to determine whether the proposed utilities can be placed along the same corridor. Using an existing corridor could cause less disruption to Corps lands than constructing a new corridor. Grouping utilities into an existing utility corridor could reduce the recreational and environmental impacts.

Footprint on Corps Lands. The width of the Mississippi River Project varies throughout the corridor. If a proposed utility outgrant alignment cannot avoid Corps lands, options that minimize the utility footprint should be given strong consideration.

6.5. BARGE FLEETING CONSIDERATIONS

Barge fleeting is a commercial navigation activity and as such the full scope of planning on the subject falls outside of the Master Plan and is more appropriate under Navigation plans. This section is intended only to provide information regarding stewardship of federal lands as it relates to barge fleeting.

Barge fleeting defined: When barges are not in use for hauling commodities they are sometimes parked along the river shoreline. The temporary parking of barges along the river shoreline is known as fleeting. Fleeting areas are analogous to railroad yards where cars are temporarily stored and trains are assembled and disassembled. Fleeting occurs on private as well as public land. The navigation industry often utilize permanent structures or buoyed anchors to attach barges to.

Regulatory and Real Estate approval process: Section 404 and Section 10 of the Clean Water Act are regulations that apply to fleeting structures regardless of land ownership. The Corps' Regulatory Branch coordinates and applies these regulations. Corps Real Estate approval would also be required for permanent structures on lands where the Corps has federal fee title ownership. This may include submerged lands, depending on location, where the Corps holds a Real Estate interest. Industry representatives should contact the Corps regarding any proposed fleeting structures that may affect Corps lands or riverbed. The Real Estate approval process would follow the non-recreation outgrant policy and details provided herein for any proposed fleeting structure on Corps fee title.

The navigation industry historically used the practice of tying off to trees during casual (temporary) mooring. The Corps encourage the use of off-shore structures for fleeting instead of

trying off to trees on Corps lands to reduce impacts to trees and other shoreline environment. Drafting.

6.6. PROJECT BOUNDARY

Project boundary monumentation and a clear, positive delineation of boundary lines on the ground are essential to protect the integrity and resources of the Project. Corps surveyors during Project acquisition completed the original Project boundary surveys. Private development and active and increasing adjacent to public lands and typically results in encroachments. Often encroachments are found in areas with inadequately marked boundaries, lack of physical delineations, and diminishing natural buffers. The vast majority of the boundary has not been surveyed since acquisition in the late 1930s. Much of that boundary monumentation is covered by up to several feet of sedimentation. Large scale improvements starting largely in the 1960s to levees coincident with federal property boundaries may have affected some monumentation. Accurate field definition of project property boundaries would also benefit other agencies responsible for administration of project lands. Establishment of project boundaries is critical to assure overall management control and proper administration. The support to survey, monument, and post the project boundary to detect and prevent encroachments in cooperation with our managing agency partners should be pursued to aid in such management problems.

Boundary Survey

Corps surveyors, during project acquisition, completed the original project boundary surveys totaling more than 392 miles of monumented boundary. This is typically the landward side of the Corps owned shoreline.

There is a need to have all project land boundaries resurveyed, monumented and officially approved. A compliance evaluation of the Project boundary needs to be completed on the original Project boundary monumentation to determine what percentage of the Project boundary is defensible. Through surveying, most of the original boundary could be recovered and re-monumented as needed. All boundary lines would need to be surveyed and monumented in accordance with Corps and federal standards.

After each segment of the re-surveyed boundary line is approved, the boundary lines should be immediately delineated with posts and signs, and trespass and encroachments recorded and resolved. On General Plan lands, the Cooperative Agreement identifies agency roles, responsibility, and cooperation in these efforts.

Maintenance of Project boundary lines includes surveillance, and replacement and repair of monuments, posts and signs. Resolution of existing and future trespass and encroachment will continue in accordance with operational management plans, ER 405-1-12, and the Cooperative Agreement.

Riparian boundary surveys due to accretions, relictions, or eruptions of riparian lands effecting project ownership would remain an additional need after land surveys are completed.

Land Ownership Changes Due to River Processes

Additional lands outside the footprint of original acquisition were identified in the mapping as Corps lands. Any discrepancy of the identification of ownership of these lands formed by accretions, relictions or avulsions will be handled on a case by case basis. Existing Corps mapping was referenced, in part, during this mapping process including acquisition tract mapping, geographic information system (GIS) mapping of Corps real estate tracts, and the 1989 LUAP mapping which identified additional, mostly accreted, areas as Corps lands. The Upper Midwest Environmental Science Center's Long Term Resource Monitoring land cover 7 class data was utilized during mapping of land and water areas on Corps acquired tracts and land area on identified Corps lands outside of specifically acquired tracts.

Project lands and riparian boundaries indicated on the mapping plates of this Master Plan do not necessarily represent legal ownership, but rather show general ownership boundaries using the most accurate data available at the time. Legal ownership information is available through the Real Estate Branch at the Rock Island District office in the Clock Tower Building Annex on the Rock Island Arsenal.

6.7. VOLUNTEERS AND PARTNERSHIPS

Volunteering and partnering are essential tools that allow the Corps to effectively manage recreation and environmental resources. In order to successfully meet the agency's recreation and stewardship missions and to foster shared values, vision, and a sense of ownership, it is imperative that the Corps work together with volunteers, state and federal governments, private/public organizations, local communities, and other partners to maintain or advance programs, from wildlife protection and habitat improvement, to recreation facility enhancements.

The Mississippi River Project has various partnerships, which currently include one cooperating association and four Memorandums of Understanding or Memorandums of Agreements. The partnership program at the Mississippi River Project has embraced this reality and is committed to fully exploring the potential development of new public-private partnerships to leverage limited appropriated funds and human resources.

Public Law 98-63, Supplemental Appropriations Act of 1983 authorized the Corps' Volunteer Program. (See Appendix D.25.) Volunteers play an important role in protecting the natural resources and maintaining recreation facilities. Volunteers serve as campground hosts, operate visitor centers, conduct programs, clean shorelines, and maintain park trails and facilities, among a number of tasks. Corps personnel can recruit their own volunteers or get help from the Volunteer Clearinghouse, www.corpslakes.us/volunteer, (1-800-VOL-TEER or 1-800-865-8337), a national information center for people interested in volunteering at Corps lakes across the country. Mississippi River Project annually averages 100 volunteers who donate over 10,000 hours of volunteer service.

6.8. WATER TRAIL

The Mississippi River is a destination for paddling recreation opportunities such as kayaking and canoeing. Currently there are several formal designated water trails within the Mississippi River Project area that support these activities and are managed by other agencies at a local level. None of the current water trails transverse the entire 314 Mississippi River Miles of the Project.

The Rivers Project in St. Louis District has partnered with organizations to designate a water trail on the Mississippi River in their management portion. An opportunity may exist to increase that current water trail to include the portion of the Mississippi River managed by Rock Island District.

A water trail that expands the length of the Mississippi River Project would provide paddlers a designated trail and facilities to travel the Mississippi River from Northern Iowa to Northern Missouri. The opportunity to designate a water trail along this portion of the Mississippi River could become available through organization, support by outside groups, and multiple partnerships. Most of the infrastructure, such as restrooms and camping opportunities, is already available to support a water trail but partnership coordination to incorporate that infrastructure into a designated water trail is needed.

6.9. VISITOR CENTER

The Mississippi River Project Visitor Center is located at Lock and Dam 15 on the Rock Island Arsenal. Due to increased security measures put in the past 5-10 years, visitor access to the Visitor Center has become more difficult which in return has decreased the amount of visitors and the efficiency of the facility.

Three proposals have been identified to combat the current limitations to the Visitor Center:

1. Partner with the Rock Island Arsenal to move the Davenport Gate to allow the Visitor Center parking lot to be outside the Arsenal security gates. This would require removing and installing security fencing, security gates, and guard station.
2. Build a new Visitor Center on the Davenport, IA side of Lock and Dam 15. This would place the Visitor Center off the Arsenal and outside the current restricted area.
3. Build a new Visitor Center near the Mississippi River Project Office at Lock and Dam 14. Smith Island and the boardwalk outside the Project Office are popular with fishermen, eagle viewers and photographers.

6.10. UTILITIES

All recreation areas at the Mississippi River Project, with the exception of Fisherman's Corner and Thomson Causeway, have local wells and septic systems for utilities. Many of these systems were originally installed when the recreation areas were constructed and have met or are nearing the end of their design life cycle. Additionally, the environmental regulations and building standards have changed since the systems were originally construction, therefore, significant modifications may be necessary to keep these utilities active. As major modifications to the

utility infrastructure are needed, either to meet regulations or because of failure, the Project will investigate the feasibility of connecting to municipal utilities. The Project will continue to investigate all options and availability of each system.

6.11. MITIGATION

Mitigation locations on Project involve areas that were restored and/or enhanced to accommodate the negative impact or permanent conversion of native vegetation from a different location on project. The negative impacts to the natural function of the system include maintenance, upgrades, or improvements to existing non-recreational outgrants. Great care needs to be considered to reduce and prevent unreasonable impacts to development of Project lands which will result in further fragmentation of native vegetation community types.

6.12. PRIVATE EXCLUSIVE USE

Private exclusive use involves placing private recreational structures or pursuing certain activities along Corps shorelines that are limited to the individual and are usually not available to the general public. Engineering Pamphlet 1130-2-540 defines Private Exclusive Use as the use or occupancy of individually owned permanent structures for human habitation sited on public land and water areas at Corps civil works projects. Any action at a Corps project that precludes use of the land and waters by the general public is considered to be “private exclusive”.

Shoreline Management

The purpose of the Shoreline Management Plan (SMP), completed in 1989, was to furnish guidance for the management, protection, and preservation of the Mississippi River's environment while allowing a balanced use of the shoreline. Within this plan, the Rock Island District established its policy concerning private exclusive use of Corps of Engineers-owned property. The SMP discusses the conditions and restrictions of such private exclusive use(s). The plan does not apply to Corps administered cottage site and residential leases or to commercial marina or navigation activities.

The shoreline allocation mapping for the Corps-owned shoreline of the Upper Mississippi River, Pools 11-22 under the Shoreline Management Plan was completed as part of the 1989 Land Use Allocation Plan. The plan allocated, into four classifications where additional private recreational structures and activities will either be prohibited or allowed. These shoreline classifications were incorporated into the Rock Island District's 1989 Land Use Allocation Plan (LUAP) definitions. The interrelationship between the four shoreline use classifications and the six land use classifications from those 1989 plans are explained in the following table.

1989 SMP Classification	1989 LUAP Land Classification	Protected Status	Prohibited access areas included
Limited Development Areas	Recreation Low Density – Special Use	New permits/licenses may be issued	No

Public Recreation Areas	Recreation Intensive Use	Private structures not compatible	No
Prohibited Access Areas	Project Operations	Private structures not compatible	Yes (in part)
Protected Shoreline Areas	Recreation Low Density – Public Use, Wildlife Management/Reserve Forest, Project Operations or Natural Area	No new private structures	No

This Master Plan replaces the 1989 LUAP both in writing and mapping for land classification. It does not provide an update to the protected area shoreline classifications. Until such time the SMP is able to be updated, the SMP will continue to utilize the 1989 LUAP for functional reference to locate specific shoreline protected area classifications noted in the table.

It is the Corps intent to update the SMP after completion of this Master Plan revision. A Master Plan supplement will likely be utilized at that time to ensure the Master Plan mapping and writing properly coincide with the updated SMP.

Cottages

Water and land areas at Corps projects are maintained for the benefit of the general public. After completion of the locks and dams in the late 30s, many cottages were legally established on Corps lands along the Mississippi River. Section 4 of the Flood Control Act of 1944, (later amended by PL 99-662, 17 November 1986) authorized the Secretary of the Army to grant leases of lands at water resources development projects for such periods, and upon such terms, and for such purposes as he may deem reasonable in the public interest. As a result of this the Government advertised certain sites along the Mississippi to be developed as recreational cottage sites in the early 1950s.

There are 455 recreational cottage site and 29 residential leases on Federal land along the Mississippi River in the Rock Island District. In 1966, the Chief of Engineers established a policy to phase out all cottage site and residential leases on Federal lands along the Mississippi River to comply with a floodplain management Executive Order and to return the land to public use. The policy resulted in a deadline of 31 December 1989 for all of the leases to be eliminated. The policy was in effect until 1986. In 1986, the United States Congress passed Public Law 99-662, which requires that these leases be continued after 31 December 1989 until such time as the lease is terminated by the lessee or by the Secretary of the Army. The law provides that the Secretary of the Army may terminate a lease if the land is required for a higher public use or if the lessee substantially violates the terms and conditions of the lease. The law further provides that any continuation of the leases shall be at fair market rental. The leases were all re-appraised prior to renewal of the leases in 1990. The rental will continue to be reviewed at five-year intervals and adjustments made to require payment of fair market rental. FEMA and the state floodplain and emergency management agencies have concerns about the cottages sustaining flood damage that results in repetitive insurance claims and disaster assistance claims. In view of Public Law 99-662, the Corps cannot terminate the leases solely because they are in the floodplain or because a

lessee makes repetitive insurance or disaster assistance claims. FEMA requires the local communities to enact and enforce flood plain management ordinances to retain eligibility for flood insurance. The District Real Estate office coordinates with the local communities where leases are located to determine that the lessees are complying with local requirements regarding repair and reconstruction of flood damaged structures to limit future flood damages at the lease sites.

Leases that are terminated or relinquished are no longer available and the site restoration is the responsibility of the former lessee. Cottage lease sites that are not longer in effect will result in a change in land classification, without requiring a Master Plan supplement, as noted in Chapter 5.

Present policy stresses procedures for management of these private cottages based on regional, project or site specific considerations in accordance with federal, state and local laws. These established procedures are applicable to all new, expanded or existing cottages. The cottage site and residential lease policies are based on the Water Resources Development Act of 1986 [Public Law 99-662, Section 1134(a, b, and c)] and other Corps policy statements.

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