

**ILLINOIS RIVER BASIN RESTORATION
COMPREHENSIVE PLAN
WITH INTEGRATED ENVIRONMENTAL ASSESSMENT**

APPENDIX F

REAL ESTATE PLAN

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REAL ESTATE PLAN

I. PURPOSE OF THE REPORT

This Real Estate Plan is being submitted as the technical Real Estate document of the Illinois River Basin Restoration and Illinois River Ecosystem Restoration Feasibility and Comprehensive Plan with Integrated Environmental Assessment. The preparation is in accordance with Engineering Regulation (ER) 405-1-12 and follows the general outline for feasibility reports, even though this report is not seeking individual project implementation authority.

Actual site locations under this report have not been determined. There are a few cases where site-specific reports have been developed under this legislation but are yet to be approved.

This Real Estate Plan is to be considered tentative in nature and for planning purposes only. Several assumptions were made for report purposes in regard to lines on ground and ownership determination. Both property acquisition lines and the estimates of cost are subject to change, even after this report is approved.

Baseline Cost Estimates for Real Estate have been completed in a generalized sense for all of the sites. These baseline estimates—as well as some site-specific investigations—will be used to develop a concept level estimate for all of the proposed sites. Because this report is seeking a programmatic approval of future projects, additional planning reports will be submitted for approval prior to implementation of any specific project.

Government-owned or privately-owned lands were not mapped out or drawn at any of the proposed project locations. The Real Estate Division of the Rock Island District Corps of Engineers was asked to provide this information based on latest known communications. It is assumed that future projects that arise due to approval of the Illinois River Basin Restoration Comprehensive Plan will allow for the Real Estate Division to adequately provide detailed and accurate project information.

II. DESCRIPTION OF LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, AND DREDGED OR EXCAVATED MATERIAL DISPOSAL AREAS (LERRD) REQUIRED FOR CONSTRUCTION, OPERATION AND MAINTENANCE OF THE PROJECT

A. Project Locations and Description. Section 519 of the Water Resources Development Act (WRDA) 2000 defines the Illinois River Basin as the Illinois River in Illinois, its backwaters, its side channels and all tributaries, including their watersheds, draining into the river. The Illinois Basin comprises 55 counties within the states of Illinois, Indiana and Wisconsin (figure 1).



Figure F-1. Map of the Illinois Basin (shaded in yellow)

Alternative 6 is the preferred alternative for this study and provides for the following measures:

Ecological Integrity - Restoration would provide a measurable increase in the level of habitat and ecological integrity at the system level.

Sediment Delivery - reduce sediment delivery from Peoria Lakes tributaries by 40 percent, other tributaries upstream of Peoria Lakes by 11 percent, and tributaries downstream of Peoria Lakes by 20 percent. System benefits include reduced delivery of 20 percent to Peoria Lakes and 20 percent system wide.

Backwaters and Side Channel - restore 12,000 acres in 60 of the approximate 100 backwaters on the system; dredge an average of 200 acres per backwater, the optimal level of 40 percent of the approximate 500-acre average of backwater area. This would create optimal backwater and overwintering habitat spaced approximately every 5 miles along the system. Restoration of 35 side channels and protection of 15 islands.

Floodplain, Riparian, and Aquatic - restore 75,000 acres of mainstream floodplain (approximately 14.9 percent of total mainstream floodplain area), including approximately 31,700 acre of wetlands, 25,300 acres of forest and 18,000 acres of prairie; tributary restoration of 75,000 acres (approximately 8.8 percent of total tributary floodplain area) including approximately 47,600 acres of wetlands, 13,900 acres of forest and 13,500 acres of prairie; and aquatic restoration including 500 miles of tributary stream (16.6 percent of the approximately 3,000 miles of channelized streams) with a mix of improved in-stream aquatic habitat structure and channel meandering.

Connectivity - restore fish passage at all mainstem dams on the Fox River (12 dams), all dams on the West Branch of the DuPage River (5 dams), all mainstem dams and one tributary (Salt Creek) of the Des Plaines River (17 dams), Wilmington and Kankakee Dams on the Kankakee River, Bernadotte Dam on the Spoon River, and the Aux Sable Dam.

Water Level - create 107,000 acres of storage area at an average depth of 1.5 feet and 38,400 acres of infiltration. Increase water level management at navigation dams using electronic controls and increased flow gauging. Results include an 11 percent reduction in the 5-year peak flows in tributaries, an overall average 20 percent increase in tributary base flows, and up to 66 percent reduction in the occurrence of half-foot or greater fluctuations during the growing season in the mainstream Illinois River. This alternative also would see benefits accrue from drawdowns in LaGrange or Peoria Pools.

Water Quality - anticipate improvements in water quality due to reduced sedimentation, phosphorus and nitrogen delivery. These improvements would result from sediment delivery reduction measures and water level management measures.

If fully implemented over the next 50 years, Alternative 6 would:

- provide a measurable increase in system ecological integrity;
- reduce systematic sediment delivery by 20 percent;
- restore 12,000 acres of backwaters;
- restore 35 side channels;
- protect 15 islands;
- restore 75,000 acres of mainstream floodplain;

- restore 75,000 acres of tributary floodplain;
- restore 1,000 stream miles of aquatic habitat;
- provide fish passage along the Fox, DuPage, Des Plaines, Kankakee, Spoon, and Aux Sable Rivers;
- reduce the 5-year peak flows in tributaries by 11 percent;
- increase tributary base flows by 20 percent;
- produce a 66 percent reduction in water level fluctuations along the mainstream during the growing season; and
- provide system level improvements in water quality.

The recommendation includes extending the current authorization through 2015.

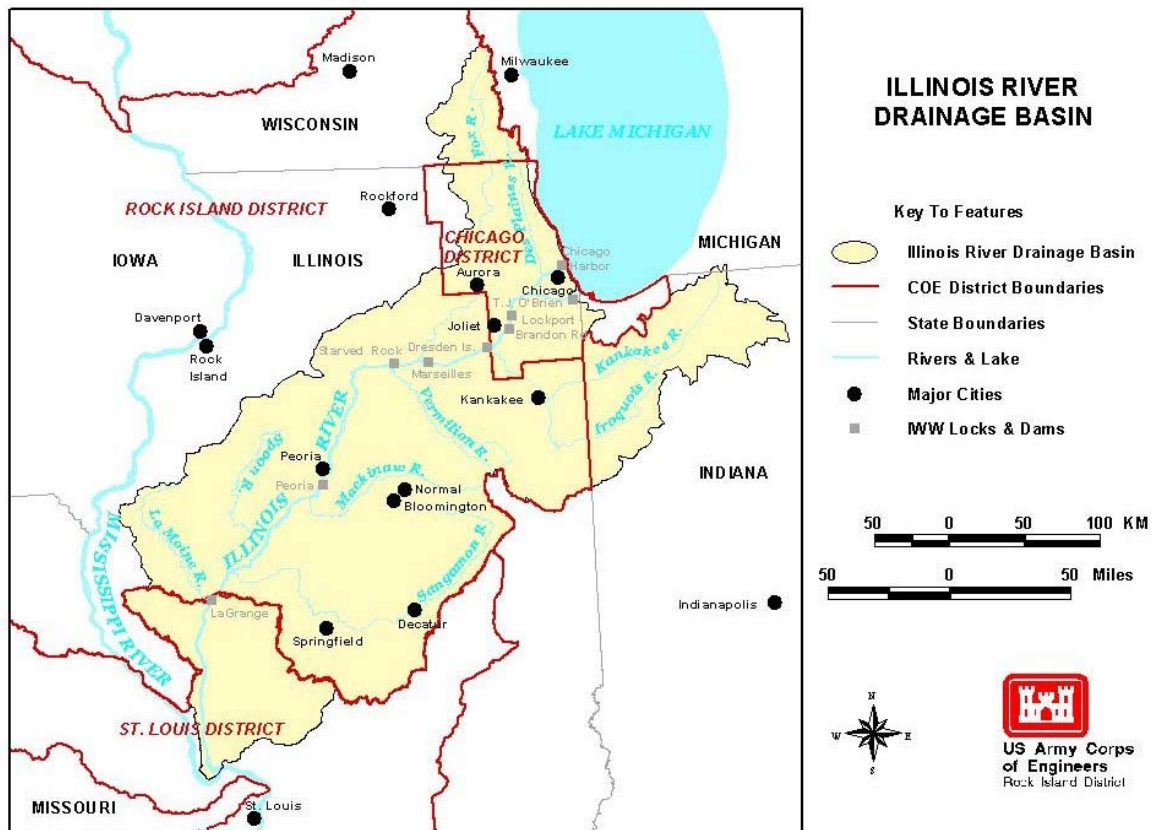


Figure F-2. Map of Illinois River Drainage Basin

1. Location. Site-specific locations are not available for the purpose of this report.

2. Project Description and Rationale. For the purposes of this report, an estimate of \$3,000 per acre was assumed for agricultural and recreation lands anticipated for the project. This amount includes contingencies but does not include land acquisition expenses. Land values in residential and urban areas could be considerably higher. As an example, the Waubonsie project land was valued between \$6,000 and \$8,000 per acre. It is uncertain at this time where other projects will be located.

3. Baseline Cost Estimate. A baseline cost estimate has not been prepared for this report due to the lack of actual locations and the number of landowners involved. Figures were given to the Engineering Division of the Rock Island Corps of Engineers to aid in development of their construction figures, i.e. \$3,000 per acre. Gross Appraisals will be performed as individual project areas are developed, actual land boundaries are determined, and the number of landowners are known. Four reports—Pekin Lake – Northern Unit; Pekin Lake – Southern Unit; Waubonsie Creek; and Peoria – Upper Island—that have been established under this authority contain gross appraisal information and Baseline Cost Estimates.

4. Summary of Estates and Acres Required. This section will be addressed in future Real Estate Plans for each individual project, as applicable.

5. Map of Possible Areas of Impact Due to Construction. There are no maps that represent the possible areas of impact due to construction. There are currently no references to landowner boundaries. There is also no reference as to the location of proposed project areas. Future real estate reports will include the applicable Section, Township, and Range details.

B. Location

A determination of actual boundaries of federally-owned lands and privately-owned lands has not been made. Information in this Real Estate Plan Appendix is based entirely on assumption and is to be utilized for initial planning purposed only.

As each project is proposed for implementation the issue of the proper estate to be acquired will be revisited. There is a recommendation within this document that estates less than Fee be authorized for this project where they represent the appropriate estate. The possible estates to be utilized for each individual site component are listed in paragraph D, Summary of Estates Required.

Since the lands could not accurately be located or addressed there were several assumptions made in the establishment of estimated costs. Any additional costs would be determined on a case-by-case basis.

C. Consolidated Summary of Type and Number of Properties Affected by the Proposed Project

This Real Estate Plan is based on assumptions and limitations. There have been no property data searches made or detailed mapping performed. Each individual proposed project area will contain specific information that reflects the estimated number and type of properties affected.

D. Summary of Estates Required

1. Standard Estates. The following standard estates from ER 405-1-12 may be utilized for the project. Additional estates required for access may be necessary and will be reviewed during each individual plan preparation.

Fee Title Estate

The fee simple title to (the land described in Schedule A)(Tract Nos. _____, _____ and _____), subject, however, to existing easement for public roads and highways, public utilities, railroads and pipelines.

Temporary Work Area Easement

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A)(Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land), and to perform any other work necessary and incident to the construction of the _____ Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Channel Improvement Easement

A perpetual and assignable right and easement to construct, operate, and maintain channel improvement works on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____) for the purposes as authorized by the Act of Congress approved _____, including the right to clear, cut, fell, remove and dispose of any and all timber, trees, underbrush, buildings, improvements and/or other obstructions therefrom; to excavate, dredge, cut away, and remove any or all of said land and to place thereon dredge or spoil material; and for such other purposes as may be required in connection with said work of improvement; reserving, however, to the owners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Flowage Easement (Permanent Flooding)

The perpetual right, power, privilege and easement permanently to overflow, flood and submerge (the land described in Schedule A) (Tracts Nos. _____, _____, and _____) (and to maintain mosquito control) in connection with the operation and maintenance of the _____ project as authorized by the Act of Congress approved _____, and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the representative of the United States in charge of the project, may be detrimental to the project, together with all right, title and interest in and to the timber, structures and improvements situate on the land (excepting _____ (here identify those structures not designed for human habitation which the District Engineer determines may remain on the land)); provided that no structures for human habitation shall be constructed or maintained on the land, that no other structures shall be constructed or maintained on the land except as

may be approved in writing by the representative of the United States in charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill; 1/ the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and States laws with respect to pollution.

1/ If sand and gravel or other quarriable material is in the easement area and the excavation thereof will not interfere with the operation of the project, the following clause will be added: "excepting that excavation for the purpose of quarrying (sand) (gravel) (etc.) shall be permitted, subject only to such approval as to the placement of overburden, if any, in connection with such excavation;"

Road Easement

A perpetual and assignable easement and right-of-way in, on over and across (the land described in Schedule A) (Tracts Nos. , and) for the location, construction, operation, maintenance, alteration and replacement of (a) road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B); 2/ subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

2/The parenthetical clause may be deleted, where necessary; however, the use of this reservation may substantially reduce the liability of the Government through reduction of severance damages and consideration of special benefits; therefore, its deletion should be fully justified.

Flowage Easement (Occasional Flooding)

The perpetual right, power, privilege and easement occasionally to overflow, flood and submerge (the land described in Schedule A) (Tracts Nos.____, ____ and ____). (and to maintain mosquito control) in connection with the operation and maintenance of the _____ project as authorized by-the Act of Congress approved _____, together with all right, title and interest in and to the structure; and improvements now situate on the land, except fencing (and also excepting _____ (here identify those structures not designed for human habitation which the District Engineer determines may remain on the land) 3/ ; provided that no structures for human habitation shall be constructed or maintained on the land, that no other structures shall be constructed or maintained on the land except as may be approved in writing by the representative of the United States in

charge of the project, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill;

3/ the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used and enjoyed without interfering with the use of the project for the purposes authorized by Congress or abridging the rights and easement hereby acquired; provided further that any use of the land shall be subject to Federal and State laws with respect to pollution. If sand and gravel or other quarriable material is in the easement area and the excavation thereof will not interfere with the operation of the project, the following clause will be added: "excepting that excavation for the purpose of quarrying (sand) (gravel) (etc.) shall be permitted, subject only to such approval as to the placement of overburden, if any, in connection with such excavation;"

Railroad Easement

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. , and) for the location, construction, operation, maintenance, alteration and replacement of a railroad and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the landowners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B;); 4/ subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

4/ The use of this reservation clause may substantially reduce the liability of the Government through reduction of severance damages.

2. Justification for Easement Estates in Lieu of Fee. Acquisition of easement estates in lieu of Fee estates is proposed for future projects based upon the extent of the interest required for the construction, operation, and maintenance of each respective project. A Channel Improvement Easement is adequate for the project needs in that all restoration work will be performed within the stream or directly adjacent to the stream.

A Temporary Work Area Easement would be required to provide staging areas for equipment and supplies, and to be used as material disposal placement sites. In addition, acquisition of easements versus Fee Simple Title to proposed lands is preferred by the primary project sponsor, the Illinois Department of Natural Resources (Illinois DNR), and by the public and private landowners whose lands may be needed for future projects. There are landowners who do not wish to convey Fee Simple Title to the project sponsor. However, they are receptive to granting the necessary easement estate to the sponsor so that project features may be incorporated on their lands.

The use of an easement estate versus a fee estate would require case by case evaluation. District Counsel may also be tasked to prepare a legal opinion applying the facts of the specific project with regard to the navigation servitude. The Headquarters USACE must approve the use of a non-standard estate. Fee would be the required estate in areas where project features include recreation.

III. LANDS REQUIRED OWNED BY THE SPONSOR

Not all of the sponsors for this project have been identified. The Illinois DNR has shown interest in the Illinois region of the study area. Other sponsors and lands in Wisconsin and Indiana will be determined as the need arises. These lands will be identified in future planning documents as required.

IV. NON-STANDARD ESTATE DISCUSSION

There are currently no non-standard estates being proposed within this report.

V. FEDERAL PROJECT WITHIN THE LERRD REQUIRED FOR THE PROJECT

Previous Federal projects lay within the boundaries of some of the anticipated proposed project features. These lands will be identified in future planning documents as required.

VI. FEDERALLY-OWNED LAND WITHIN THE PROJECT AREA

Along the Mississippi River, the United States has acquired all the real estate interests needed for the construction, operation and maintenance of the navigation channel project; the situation along the Illinois Waterway (IWW), however, is different. Portions of the IWW were improved or were in the process of being improved by non-Federal entities prior to the United States assuming complete control of the Illinois Waterway Navigation Project with respect to improvement for the purpose of navigation; therefore, the United States did not acquire a real estate interest in all of the lands that are affected by the construction, operation and maintenance of the IWW Navigation Project. As a result, the existing real estate interests and rights the United States has with respect to the real estate required for the construction, operation and maintenance of the Illinois Waterway Navigation Project is a complex mixture and varies with each location along the waterway. Following is a summary explanation of the existing real estate interests and rights which the United States has along the IWW.

By Public Law 520, 71st Congress, dated 3 July 1930, Congress authorized the United States to undertake the project for improvement of navigation on the Illinois Waterway, in accordance with the report of the Chief of Engineers as submitted in Senate Document Numbered 126, 71st Congress 2nd Session. In the report of the Chief of Engineers, it is explained that the Constitution of the State of Illinois prohibits the State from conveying title to any of the real estate and associated improvements that the State had acquired and developed for the improvement of the waterway. The Secretary of War asked the Attorney General of the United States to confirm whether or not, upon the Illinois Waterway Project being authorized by Congress, the United States would have complete control of the waterway including the structures, even though the State of Illinois could not formally convey title to the United States. The Attorney General concluded that, with respect to the parts of the waterway that are navigable streams improved by the State, the United States may, under appropriate acts of Congress, take complete control over the improvement and regulation of navigation without any amendment to the Constitution of Illinois or permission from the State. The Governor of the State of Illinois, in a brief to the Secretary of War dated 19 March 1930, states the opinion of the Governor, "that, upon adoption of the Illinois Waterway by the Federal Government, and upon an appropriation being made for its completion,

the Federal government will acquire as full and complete jurisdiction and control of said waterway and its appurtenances, as if, by appropriate authority, conveyance of title had been made by the State of Illinois.” Therefore, while the State of Illinois did not convey title of the real property interest and associated improvements acquired and developed by the State of Illinois for the waterway, it was the understanding and intent of both the United States and the State of Illinois that the United States would have complete control of the waterway upon the project being authorized by Congress, as if title had been conveyed. This provides only a brief summary of what is contained in the Chief of Engineers report. For a complete understanding of the circumstances, refer to the full text of the communications in Senate Document Numbered 126, 71st Congress 2nd Session.

In other portions of the IWW including part of the Des Plains River, the Lockport Lock, the Chicago Sanitary and Ship Canal, the Chicago River and the Calumet-Sag Channel, the Metropolitan Water Reclamation District of Greater Chicago (MWRD) acquired real estate interests and developed improvements prior to the United States being authorized to develop those portions of the waterway for navigation.

The Department of the Army entered into a Memorandum of Agreement with MWRD which provides for the Department of the Army to operate and maintain certain improvements that were developed by MWRD on portions of the waterway in the Chicago River, the Chicago Sanitary and Ship Canal and part of the Des Plains River including, but not limited to, the Chicago River Lock and Lockport Lock, and to perform certain additional activities in connection with maintenance of portions of the waterway. The agreement also states that the MWRD and the Department of the Army hereby convey to each other, at no cost, all rights of entry and/or easements necessary for each to carry out its responsibilities under this agreement.

The Calumet-Sag Channel project was authorized with the provision that a local interest shall furnish all lands and easements necessary to prosecute the work. MWRD signed Assurance Agreements for the Calumet-Sag Channel Project agreeing to furnish free of cost to the United States all lands, easements, rights-of-way, relocations, and dredged or excavated material disposal areas (LERRD) necessary for the new work and for subsequent maintenance when and as required. The MWRD subsequently has conveyed easements, fee title and rights-of-entry to the United States over areas required by the United States for the project.

Subsequent to the United States assuming control and operation of the various portions of the IWW, the United States proceeded to acquire certain additional real estate interests, in the name of the United States, that were required for the construction, operation and maintenance of the IWW Project.

Therefore, the real estate interests and rights which the United States has for the Illinois Waterway Project vary greatly, depending on the specific portion of the project. Table 1 provides a basic summary of the entities believed to hold real estate interests required for the various parts of the Illinois Waterway Project at both the Locks and Dams and in the Pools.

Table F-1 identifies entities believed to hold existing real estate interests—that is, Lock and Dam and Pool area sites—required for the IWW in the various project portions.

*Illinois River Basin Restoration
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With Integrated Environmental Assessment*

*Appendix F
Real Estate Plan*

Table F-1. Illinois Waterway Ownership Facts

Project Portion	Lock and Dam Site Ownership	Pool Area Ownership
LaGrange Lock & Dam	United States	There is no indication in the records of any real estate interests acquired for the LaGrange Pool.
Peoria Lock & Dam	United States	State of Illinois and United States
Starved Rock Lock & Dam	State of Illinois	State of Illinois and United States
Marseilles Lock, Canal and Dam	State of Illinois and United States	State of Illinois and United States
Dresden Island Lock & Dam	State of Illinois	State of Illinois and United States
Brandon Road Lock & Dam	State of Illinois	The United States has some real estate interests. This pool is primarily contained by walls. If there is any additional real estate interest held for the pool, it would likely be the State of Illinois and/or the MWRD.
Lockport Lock, and Chicago Sanitary & Ship Canal	MWRD	MWRD
Calumet Sag Channel	No Lock	United States and MWRD
T. J. O'Brien Lock	United States	None known
Chicago River, Chicago Harbor and Lock	Located in Chicago District; real estate information unavailable in Rock Island District.	Located in the Chicago District; real estate information unavailable in the Rock Island District.

The Corps of Engineers maintains records only of those real estate interests that are held by the United States for the Illinois Waterway Project. It would be ideal to have complete documentation of all of the real estate interests needed for the project stating who holds the interests. However, to identify all of the real estate interests held by the other entities that are required for the project would require a significant effort and expenditure of funds to research and compile the records. Therefore, it is most practical to identify who may currently have real estate interests for the project on a case-by-case basis as the need arises.

With respect to the real estate interests that were previously acquired by the State of Illinois for the Illinois Waterway Project where the state has not actually conveyed title to the United States, if any new work is to be done on that property, it would at least require a title search to verify that the State of Illinois still owns the property. If the State of Illinois owns the property to be affected by new work, it may also be prudent to verify with the State of Illinois that they agree the property is part of that which the United States assumed control of for the purpose of improving navigation.

The United States also has the right to construct, operate and maintain the navigation project in areas located below the ordinary high water line without the requirement to obtain any real estate interest in those areas. Questions have been raised in discussions relative to the Navigation Study and associated Environmental Restoration projects as to whether or not navigation servitude applies in the case of environmental restoration work. If navigation servitude does not apply, it will require that appropriate real estate interests be obtained for such work where it is located below the ordinary high water line, the same as for areas located above the ordinary high water line. This can be a critical factor in determining the total cost and feasibility of such projects. To determine the real estate interests required for environmental restoration projects will first require a definite determination as to whether or not navigation servitude applies. If such projects located below the ordinary high water line are to be proposed and pursued, a request should be made early on for a legal determination as to the applicability of navigation servitude in such cases in order that the full extent of any real estate interests required for the project can be determined.

It is unknown at this time as to what federally-owned lands exist within the Indiana and Wisconsin portions of the basin. This will be addressed in future planning reports for each individual project.

VII. NAVIGATIONAL SERVITUDE

All of the projects with real estate located below the Ordinary High Water line within the Navigational Servitude will be evaluated. An Attorney's Opinion of Compensability addressing the use of the servitude for these types of projects will be prepared on a case-by-case basis.

VIII. POSSIBILITY OF INDUCED FLOODING DUE TO PROJECT

It is unknown at this time if induced flooding will be caused within the project areas. However, site-specific project evaluations will determine potential effects and seek to avoid induced flooding.

IX. RELOCATION ASSISTANCE BENEFITS

All of the projects that evolve from the Illinois River Basin Restoration Comprehensive Plan will be evaluated as to the provisions and requirements necessary for relocation assistance benefits. This will be performed during each project plan as necessary.

The Relocation Assistance Program mandated by Public Law 91-646 would be utilized in the event that any person would be displaced from their home, business, or farm. Relocation benefit costs are separate and in addition to the acquisition payments of real property. Relocation benefits would be reviewed during the study phase for each respective project that may be implemented. Project lands would be typically located within the river itself or on flood prone land that is unimproved. It is anticipated that implemented projects that would affect improved lands would not involve a significant number of displacements.

X. MINERAL ACTIVITY/TIMBER HARVESTING IN PROJECT AREA

Mineral, oil, and gas rights will not be acquired except in areas outside the Navigational Servitude where development would interfere with project purposes. Mineral rights not within the servitude will either be acquired where necessary (for project purposes) or will be reserved and subordinated to the Federal government's right to regulate their development in a manner that will not interfere with the primary purposes of the project, including public access. Each proposed project would be evaluated to determine where minerals should be acquired, reserved and subordinated, or in some cases left entirely outstanding. The multiplicity of ownerships in mineral interests, the variety of minerals, and the different methods of mineral exploration, recovery, and production make it impracticable to define in advance specific guidelines concerning the reservation of mineral interests and their subordination to primary project purposes in any given project. The implementation of real estate planning documents will fully discuss and consider the need for or extent of acquisition and/or reservation of mineral interests.

XI. SPONSORS' LEGAL AND PROFESSIONAL CAPABILITY TO ACQUIRE LERRD

As individual projects are submitted for approval, an assessment of sponsor capabilities would be made. Proposed sponsors would be reviewed for their legal and professional capability to acquire the required LERRD.

The Illinois DNR will be the sponsor for the following identifiable projects within the basin area that is lying within the Rock Island District Corps of Engineers boundary: Pekin Lake – Northern Unit; Pekin Lake – Southern Unit; Waubonsie Creek; and Peoria – Upper Island. Separate reports and Real Estate Plans have been developed for these projects.

The Illinois DNR has the knowledge and capability to adequately take care of their Real Estate responsibilities. However, due to limited staffing, the Illinois DNR may require assistance to support them in their acquisition activities. The acquisition activities for each individual project will be assessed on a case-by-case basis to determine the need for assistance.

The sponsors for lands lying within the basin area of Indiana and Wisconsin have yet to be determined.

XII. ZONING ORDINANCES PROPOSED

It is uncertain if zoning ordinances will be proposed for this project. This will be further investigated as each individual project is planned and developed.

XIII. SCHEDULE OF LAND ACQUISITION MILESTONES

The implementation of study documents will take place as each project is proposed. The time and cost to prepare Real Estate Plans, Real Estate Design Memorandums and Real Estate maps, as applicable, will vary depending on the size and nature of each proposed project.

Upon approval of the implemented study document, real estate acquisition schedules would be variable and be based on the number of tracts involved, sponsor capabilities, and input by the individual project sponsors. As required, each respective Real Estate Plan or Real Estate Design Memorandum would provide a schedule of land acquisition milestones.

XIV. FACILITY OR UTILITY RELOCATIONS

Each project submitted for implementation approval will undergo an evaluation of facility or utility relocation. If applicable, a Preliminary Attorney's Opinion of Compensability will be prepared in accordance with ER 405-1-12 and included in the Real Estate Plan or Real Estate Design Memorandum, as applicable.

The issue of relocation of towns is unknown and unlikely at this time due to the uncertainty of the environmental feature.

XV. IMPACTS OF SUSPECTED OR KNOWN CONTAMINANTS

Environmental site assessments would take place prior to the implementation of each respective project and any environmental conditions or contamination issues would be addressed at that time.

Minor impacts associated with site acquisition usage, dredging, and dredged material placement may occur during the construction of proposed projects; however, no significant adverse impacts are expected. The use of best management practices and proper construction techniques would minimize adverse water quality impacts. No separable lands have been identified as being needed for mitigation purposes.

XVI. LANDOWNERS' SUPPORT OR OPPOSITION TO THE PROJECT

Since no detailed site specific project boundaries have been identified, it is unknown at this time whether landowners support or oppose the projects. The State of Illinois would seek to work with willing landowners. This intent may not apply to other sponsors or areas of Wisconsin and Indiana where the sponsors have not yet been identified. The sponsors would however retain the ability to utilize Eminent Domain proceedings per the Project Cooperation Agreement (PCA).

XVII. RISKS OF ACQUIRING LANDS BEFORE EXECUTION OF THE PCA OR AUTHORIZED DOCUMENTS

Prior to execution of the PCA, in accordance with ER 405-1-12, Chapter 12, the Sponsors will be advised in writing of the risks associated with acquiring land. There are provisions in the Section 519 language of WRDA 2000 that state:

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

There may be lands that apply to this provision. If such lands arise, the appropriate documentation will be provided to the Secretary for determination.

XVIII. OTHER REAL ESTATE ISSUES RELEVANT TO THE PROJECT

The non-Federal sponsors shall provide a percentage of the cost of construction of any project carried out, including provision of all the LERRD required to accommodate construction, operation, and maintenance of the project. If the value of LERRD exceeds the percentage of total project costs, the sponsors may be reimbursed for that portion in excess of the percentage, or the Government may assume financial responsibility for payment of the portion that exceeds that percentage.

A Real Estate Plan will be prepared in accordance with ER 405-1-12 for all lands that are to be acquired by the sponsors for each proposed project.

The Government and each respective sponsor will enter into a Project Cooperation Agreement (PCA) prior to initiation of land acquisition by the sponsor. Generally, the sponsor is responsible for 100 percent of all operation and maintenance costs of the project.

There is currently no standard model PCA available for this project. A PCA has been approved for the Peoria – Upper Island Project. Over time, as additional projects are completed, a model PCA will be pursued.

In the event that the LERRD required by a proposed project is encumbered with a conservation easement estate, the critical “bundle of sticks” of ownership may not be available to convey to the USACE, such as the right to construct, overflow and inundate the land, etc. Most conservation programs entail partnerships with others, to include federal agencies, state agencies, or non-governmental offices. The management by many different agencies contributes to the complexity of conservation type programs. The value of proposed project lands encumbered with a pre-existing conservation easement may be affected. Therefore, the allowance of a LERRD credit for encumbered project lands would require additional research, as necessary.