

Appendix K
DRAFT MEMORANDUM OF AGREEMENT

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Memorandum of Agreement

**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES FISH AND WILDLIFE SERVICE
AND
THE DEPARTMENT OF THE ARMY
FOR
UPPER MISSISSIPPI RIVER RESTORATION PROGRAM
PIASA & EAGLES NEST ISLANDS
HABITAT REHABILITATION AND ENHANCEMENT PROJECT
POOL 26, MISSISSIPPI RIVER MILES 207.5 THROUGH 211.5
JERSEY AND MADISON COUNTIES, ILLINOIS**

1. PURPOSE

The purpose of this memorandum of agreement (MOA) is to establish the relationships, arrangements, and general procedures under which the U.S. Fish and Wildlife Service (USFWS) and the Department of the Army (DA) will operate in constructing, operating, maintaining, repairing, rehabilitating, and replacing the Piasa & Eagles Nest Islands Habitat Rehabilitation and Enhancement Project (HREP) separable element of the Upper Mississippi River Restoration Program (UMRR).

2. BACKGROUND

Section 1103 of the Water Resources Development Act of 1986, Public Law 99-662, 33 U.S.C. 652, authorizes construction of features for the purpose of enhancing fish and wildlife resources in the Upper Mississippi River System. The project area (outlined in red on Exhibit A) is managed as a national wildlife refuge under a cooperative agreement signed 21 January 1954 between the Department of the Interior, USFWS, and the U.S. Army Corps of Engineers. This agreement was amended in 1958, 1963, 1986, and 2001. Management of the project area has been assumed by the Illinois Department of Natural Resources under a successive cooperative agreement with the USFWS dated 03 May 1954, recently amended in 2012. Under the conditions of Section 906(e) of the Water Resources Development Act of 1986, Public Law 99-662, 33 U.S.C. 2283 (e), all construction costs of those fish and wildlife features for the Piasa & Eagles Nest Islands HREP are 100 percent Federal first costs, and pursuant to Section 107(b) of the Water Resources Development Act of 1992, Public Law 102-580, 33 U.S.C. 652(e)(7)(A), all costs of operation, maintenance, repair, rehabilitation, and replacement "OMRR&R" for the Piasa & Eagles Nest Islands HREP are the responsibility of the Illinois Department of Natural Resources through their cooperative agreement with the USFWS.

3. GENERAL SCOPE

The project to be accomplished pursuant to this MOA shall consist of rehabilitating and improving fish and wildlife habitat in the Pool 26 of the Upper Mississippi River. The project involves dredging of a side channel, construction of a river training structure, construction of islands. The project is located on the left descending bank of the Upper Mississippi River between river miles 207.5 through 211.5. The features would be constructed to improve habitat conditions for resident and migratory fish and wildlife that use the area.

4. RESPONSIBILITIES

A. DA is responsible for:

- 1) Construction: Construction of the project features to include necessary stabilization and vegetation measures.
- 2) Major Rehabilitation: The Federal share of any mutually agreed upon rehabilitation of the project that exceeds the annual operation and maintenance requirements identified in the Feasibility Study Report and that is needed as a result of specific storm or flood events.
- 3) Construction Management: Subject to and using funds appropriated by the Congress of the United States, and in accordance with Section 906(e) of the Water Resources Development Act of 1986m Public Law 99-662, 33 U.S.C. 2283(e), DA will construct the Piasa & Eagles Nest Island National Wildlife Refuge HREP as described in the Feasibility Report/Environmental Assessment, [INSERT DATE], applying those procedures usually followed or applied in Federal projects, pursuant to Federal laws, regulations, and policies. The USFWS will be afforded the opportunity to review and comment on all modifications and change orders prior to the issuance to the contractor of a Notice to Proceed. If DA encounters potential delays related to construction of the project, DA will promptly notify USFWS of such delays.
- 4) Maintenance of Records: The DA will keep books, records, documents, and other evidence pertaining to costs and expenses incurred in connection with construction of the project to the extent and in such detail as will properly reflect total costs. The DA shall maintain such books, records, documents, and other evidence for a minimum of three years after completion of construction of the project and resolution of all relevant claims arising therefrom, and shall make available at its offices, at reasonable times, such books, records, documents, and other evidence for inspection and audit by authorized representatives of the USFWS.

B. FWS Responsibilities: Upon completion of construction as determined by the District Engineer, St. Louis, the USFWS shall accept the project as part of the General Plans lands cooperatively managed between the USFWS and IDNR.

C. Non-Federal Responsibilities: In accordance with Section 107(b) of the Water Resources Development Act of 1992, Public Law 102-580, 100 percent of all costs associated with the OMRR&R of the Piasa and Eagle's Nest Islands Habitat Rehabilitation and Enhancement Project, in Jersey and Madison Counties, Illinois will be borne by the IDNR. These functions will be further specified in the Project OMRR&R Manual to be developed by the DA with participation by USFWS and IDNR and provided to both agencies upon its completion.

5. MODIFICATION AND TERMINATION

This MOA may be modified or terminated at any time by mutual agreement of the parties. Any such modification or termination must be in writing. Unless otherwise modified or terminated, this MOA shall remain in effect for a period of no more than 50 years after initiation of construction of the project.

6. REPRESENTATIVES

The following individuals or their designated representatives shall have authority to act under this MOA for their respective parties.

USFWS: Regional Director
U.S. Fish and Wildlife Service
Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056

DA: District Engineer
U.S. Army Corps of Engineers, St. Louis
1222 Spruce Street
St. Louis, MO 63103-2833

7. EFFECTIVE DATE OF MOA

This MOA shall become effective when signed by the appropriate representatives of both parties.

THE DEPARTMENT OF ARMY

THE U.S. FISH AND WILDLIFE SERVICE

BRYAN K. SIZEMORE
COL, EN
Commanding

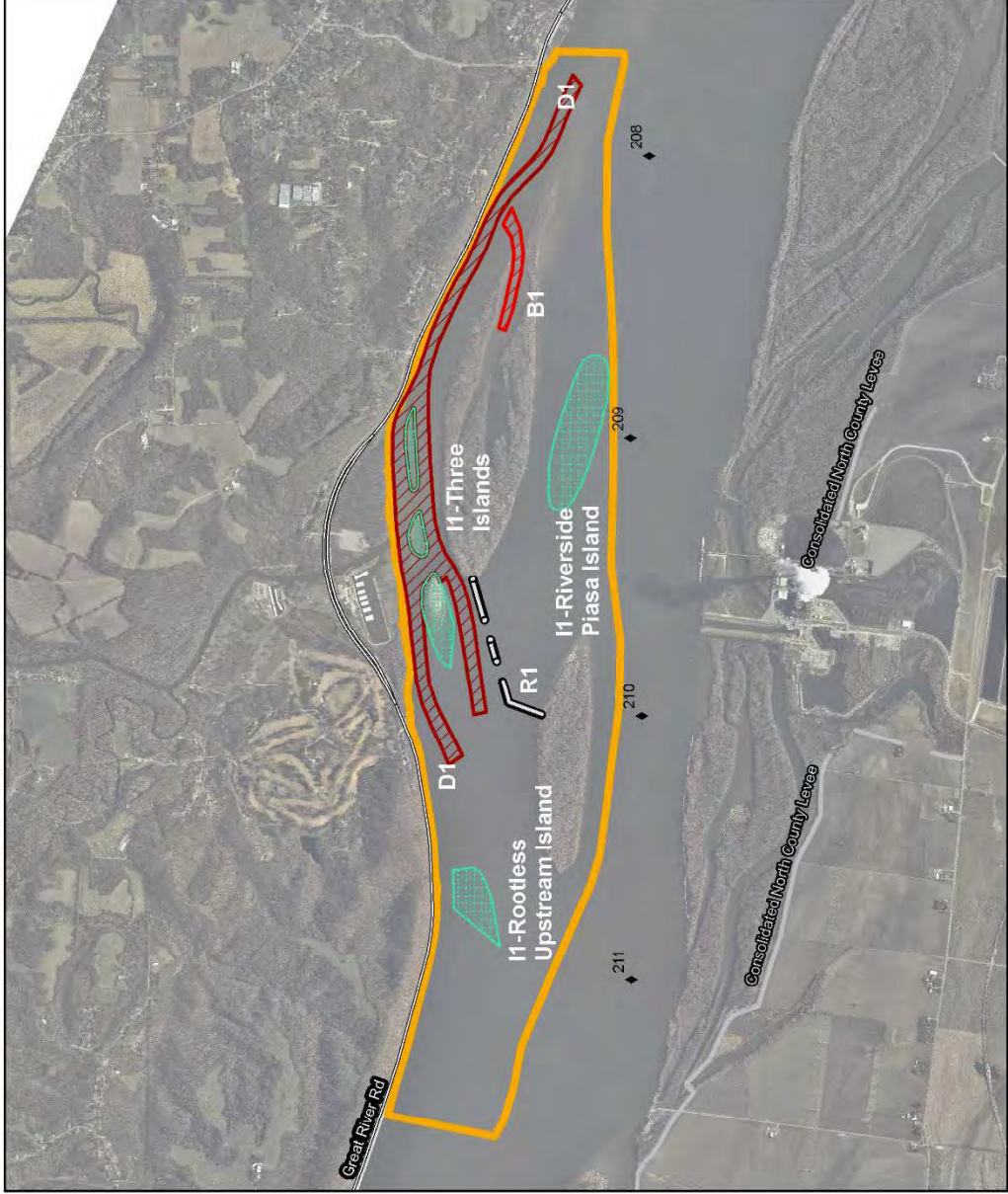
Thomas O. Melius
Regional Director
U.S. Fish and Wildlife Service

Dated: _____

Dated: _____



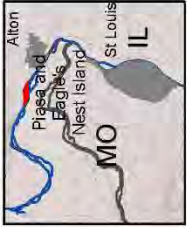
Tentatively Selected Plan



Piasa and Eagle's Nest Island Habitat Rehabilitation & Enhancement Project

- ◆ UMR Miles
- Levee
- Highways
- Rock Structure R1
- Restore Islands
- 200ft Diced Channel D1
- Backwater Dredging B1
- Boundary

Location Map



THIS MAP WAS PREPARED BY THE MISSOURI DEPARTMENT OF GEOLOGICAL AND METEOROLOGICAL SURVEY (DGS) FOR THE U.S. ARMY CORPS OF ENGINEERS (USACE) PROJECT. THE USACE HAS REVIEWED THIS MAP FOR TECHNICAL ACCURACY AND FOR THE PRESENCE OF ANY INFORMATION THAT MAY BE INFRINGING ON THE RIGHTS OF ANY PARTY. THE USACE DOES NOT WARRANT THE ACCURACY OF THIS MAP OR THE PRESENCE OF ANY INFORMATION THAT MAY BE INFRINGING ON THE RIGHTS OF ANY PARTY. THE USACE DOES NOT WARRANT THE ACCURACY OF THIS MAP OR THE PRESENCE OF ANY INFORMATION THAT MAY BE INFRINGING ON THE RIGHTS OF ANY PARTY.



EXHIBIT A

CRAINS ISLAND HABITAT
REHABILITATION AND ENHANCEMENT
PROJECT MEMORANDUM OF
AGREEMENT

Certification of
Review

The Memorandum of Agreement for the Piasa & Eagles Nest Islands Habitat Rehabilitation and Enhancement Project, Jersey & Madison Counties, Illinois, is in compliance with all applicable laws and regulations.

Office of Counsel

DATED: _____

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