

Appendix F – Real Estate



August 2024
Draft Version

Contents

1. PURPOSE..... 4
 Project Area Description 4
 Tentatively Selected Plan..... 4
 Authority 5

2. LANDS, EASEMENTS, AND RIGHTS-OF-WAY (LER) 6
 LER required for the construction, operation, and maintenance. 6

3. SPONSOR-OWNED LER..... 7

4. NON-STANDARD ESTATES 7

5. EXISTING FEDERAL PROJECTS 7

6. FEDERALLY OWNED LANDS 8

7. NAVIGATION SERVITUDE 9

8. MAPPING..... 10

9. INDUCED FLOODING 10

10. BASELINE COST ESTIMATE 10

11. RELOCATION ASSISTANCE BENEFITS 10

12. MINERAL ACTIVITY 10

13. SPONSOR ASSESSMENT 10

14. ZONING 11

15. SCHEDULE OF LAND ACQUISITION MILESTONES..... 11

16. FACILITY OR UTILITY RELOCATIONS..... 11

17. HTRW 11

18. LANDOWNER ATTITUDE 11

19. NOTIFICATION TO THE SPONSOR REGARDING THE RISKS ASSOCIATED
WITH LAND ACQUISITION BEFORE EXECUTION OF THE PROJECT
PARTNERSHIP AGREEMENT (PPA)..... 11

20. OTHER RELEVANT REAL ESTATE ISSUES 11

Exhibit A – NFS Risk Notification Letter..... 1

Exhibit B – NFS Capability Check List..... 3

1. PURPOSE

This Real Estate Plan (REP) has been prepared to present the real estate requirements required to support the Kaskaskia River Regional Port Continuing Authorities Program (CAP) Section 107 Small Navigation Projects Feasibility Report with Integrated Environmental Assessment, which evaluates the feasibility and environmental effects of implementing navigation improvement measures at the Kaskaskia Regional Port District (KRPD) Terminal 2 (KRPD#2). The study is being developed by the U.S. Army Corps of Engineers (USACE) St. Louis District in conjunction with the Non-Federal Sponsor, Kaskaskia Regional Port District (KRPD).

Project Area Description

KRPD#2 is located west of Baldwin, Illinois, in Randolph County, Illinois near river mile (RM) 18 on the Kaskaskia River, approximately 45 miles southeast of St. Louis, Missouri. The port terminal is located on an oxbow on the west side (right descending bank) of the Kaskaskia.

The study area includes two oxbows of the Kaskaskia River. These oxbows are U-shaped meanders of the river that were cut off from the main river channel at one end when the river was straightened for the Kaskaskia River Navigation Project.

The oxbow on which the KRPD#2 port terminal is located is called the south oxbow in this report. In the south oxbow, shallow depths (sedimentation) in the oxbow channel impact efficient use of the channel, causing delays resulting from the difficulty of transiting the oxbow, resulting in decreased efficiency and economic loss.

Tentatively Selected Plan

The Tentatively Selected Plan (TSP), Alternative 3a, consists of channel dredging in the south oxbow and disposal of dredged material at dredge disposal areas DD-1 and DD-2 (**Figure F-1**).

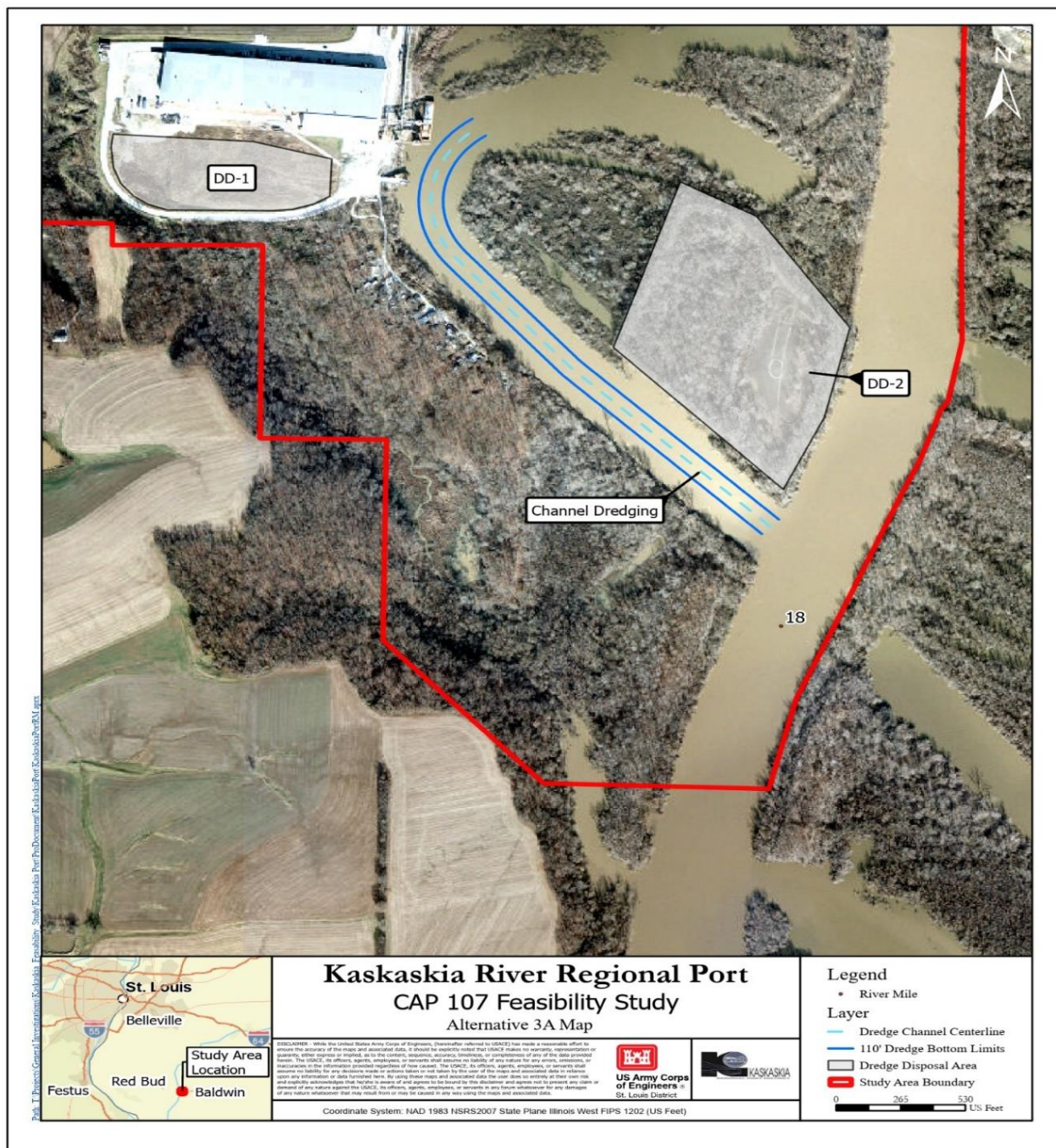


Figure F-1. TSP: Alternative 3a – Minimum (Two-Way Traffic)

Authority

This study is being carried out under USACE's Continuing Authorities Program (CAP) pursuant to Section 107 of the River and Harbor Act of 1960 (P.L. 86-645), as amended (excerpt below). Section 107 authorizes the Secretary of the Army, through the Chief of Engineers, to plan and construct small navigation improvement projects

that have not already been specifically authorized by Congress (33 USC 577).

SEC. 107. Ø 33 USC 577

(a) That the Secretary of the Army is authorized to allot from any appropriations hereafter made for rivers and harbors not to exceed \$62,500,000 for any one fiscal year for the construction of small river and harbor improvement projects not specifically authorized by Congress which will result in substantial benefits to navigation and which can be operated consistently with appropriate and economic use of the waters of the Nation for other purposes, when in the opinion of the Chief of Engineers such work is advisable, if benefits are in excess of the cost.

2. LANDS, EASEMENTS, AND RIGHTS-OF-WAY (LER)

The TSP consists of channel dredging in the south oxbow and disposal of dredged material at dredge disposal areas DD-1 and DD-2. Both dredge deposal areas are owned by the NFS (**Table F-1**).

Table F-1. Parcel Information for DD-1 and DD-2

Measure	Parcel ownership	Parcel #	Parcel size (acres)
DD-1	KRPD	0902700240 Lease Parcel #: 0902700250	81.75
DD-2	KRPD	0902800300 0902601000	41.25 6.53

LER required for the construction, operation, and maintenance.

Although both dredge deposal areas are owned by the NFS, a permit from the USACE is required for DD-2. DD-2 is encumbered by an easement identified as USACE Tract # 100E-2 (**Figure F-4**) grants to the United States of America the “perpetual right, privilege, and easement to enter upon, in, under, to dig, cut away, remove, deposit spoil material thereon and therein as may be required from time to time to construct, operate, and maintain the navigation channel, and/or maintain 'any part of the land designated as the operation and maintenance area.” Also “the perpetual right, privilege, and easement to flood, inundate, and to prohibit the exploration for, extraction from, and exploitation of minerals of any nature, kind and/or character, through vertical processes on, through, and in the land, area having a width of seven hundred feet, extending three hundred and fifty feet on each side of the above described centerline. No additional real estate is required for project implementation.

3. SPONSOR-OWNED LER

The NFS (KRPD) owns the identified parcels as shown in **Figure F-2**. Parcel information was obtained from Randolph County.

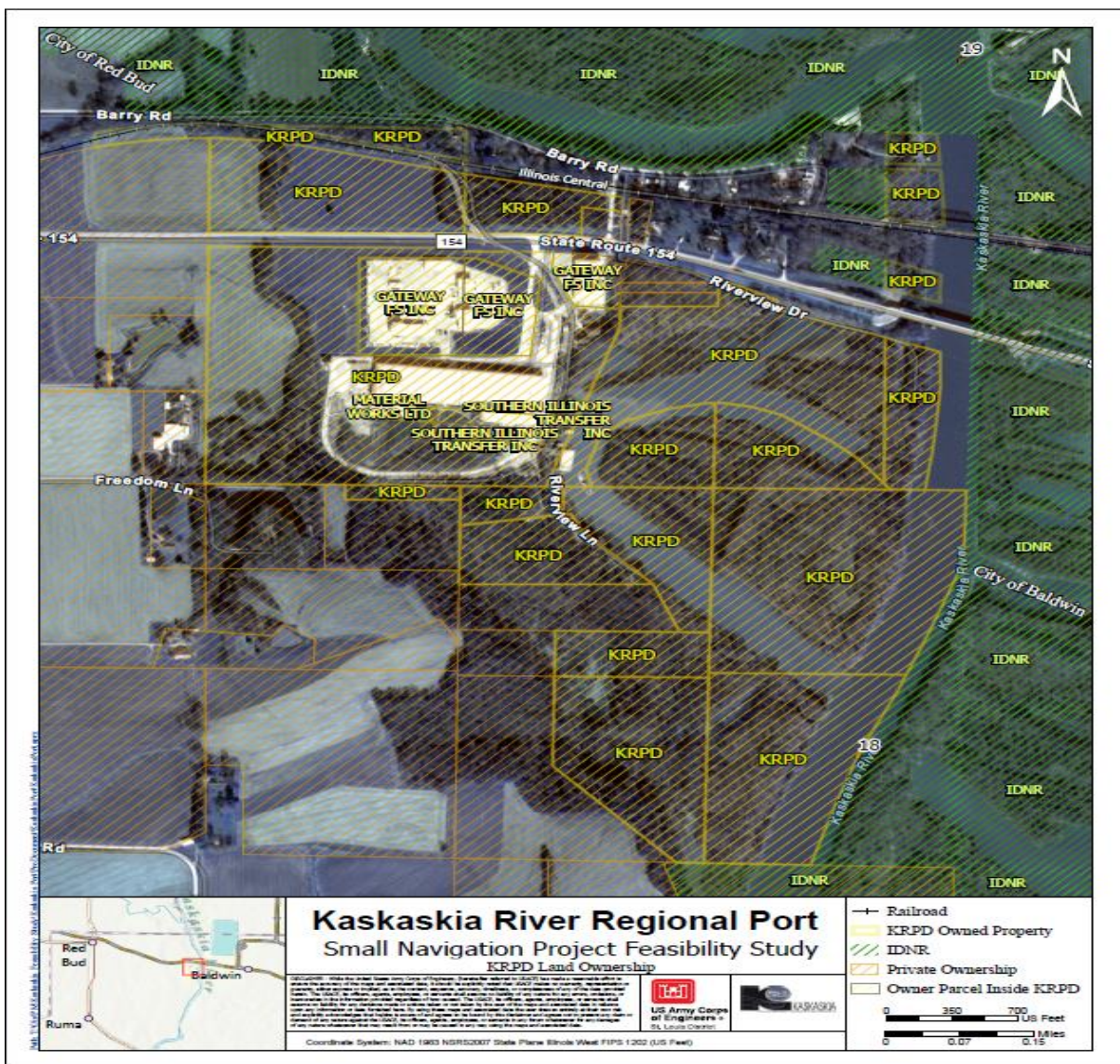


Figure F-2. Parcels Owned by KRPD

4. NON-STANDARD ESTATES

There are no Non-Standard Estates required for this project.

5. EXISTING FEDERAL PROJECTS

The Kaskaskia River adjacent to KRPD#2 is included in the Kaskaskia River Navigation Project (KRNP). The KRNP, authorized for construction by the River and Harbor Act of 1962, consists of the Jerry F. Costello Lock and Dam (formerly known

as Kaskaskia Lock and Dam) at RM 0.8, and a navigation channel 9 feet deep, 225 feet wide, and 36 miles in length from Fayetteville, Illinois to the confluence of the Mississippi River.

The USACE has two perpetual easements for the KRNP which overlap with the TSP. Although the NFS owns the lands and has such rights and privileges as may be used and enjoyed, it has to do so without interfering with or abridging any of the several rights and privileges the granted easement has given the United States of America. As stated in the easement documentation, “It is understood and agreed, that acceptance of this conveyance shall not be construed to eliminate the necessity for navigation permits or licenses required for any structure, or structures, to be placed in the Kaskaskia River, as improved under the authorized project, nor to foreclose the rights of the Secretary of the Army, or his duly authorized representative, to provide and approve the terms and conditions under which such structure or structures may be constructed, maintained, and operated by the permittee, including, but not limited to, any structure, or structures for withdrawals of water, or the return or discharge, of water into said river.”

6. FEDERALLY OWNED LANDS

The TSP is not located on lands owned by the United States of America but will impact two perpetual easements, as noted in Section 5. An easement identified as USACE Tract# 100E-1 (shown in teal in **Figure F-3**) grants to the United States of America the perpetual right, privilege, and easement to enter upon, in, under, to dig, cut away, remove, deposit spoil material thereon and therein as may be required from time to time to construct, operate, and maintain the navigation channel, and/or maintain “any part of the land designated as the operation and maintenance area. Also, the perpetual right, privilege, and easement to flood, inundate, and to prohibit the exploration for, extraction from, and exploitation of minerals of any nature, kind and/or character, through vertical processes on, through, and in the land area having a width of seven hundred feet, extending three hundred and fifty feet on each side of the above-described centerline.”

An easement identified as USACE Tract # 100E-2 (shown in teal in **Figure F-4**) grants to the United States of America the “perpetual right, privilege, and easement to enter upon, in, under, to dig, cut away, remove, deposit spoil material thereon and therein as may be required from time to time to construct, operate, and maintain the navigation channel, and/or maintain “any part of the land designated as the operation and maintenance area.” Also “the perpetual right, privilege, and easement to flood, inundate, and to prohibit the exploration for, extraction from, and exploitation of minerals of any nature, kind and/or character, through vertical processes on, through, and in the land, area having a width of seven hundred feet, extending three hundred and fifty feet on each side of the above-described centerline.”

In order to utilize lands under these easements for the TSP, The NFS will need to obtain a consent for easement from the USACE. A consent requires a formal request from the NFS stating proposed activities that are going to encroach on the USACE

easement. Attachments containing, design documents and exhibits detailing approximate dredge material quantity and frequency of use per year. Once all required documents are received by the USACE Saint Louis Real Estate office, 3 business days will be needed for internal processing.

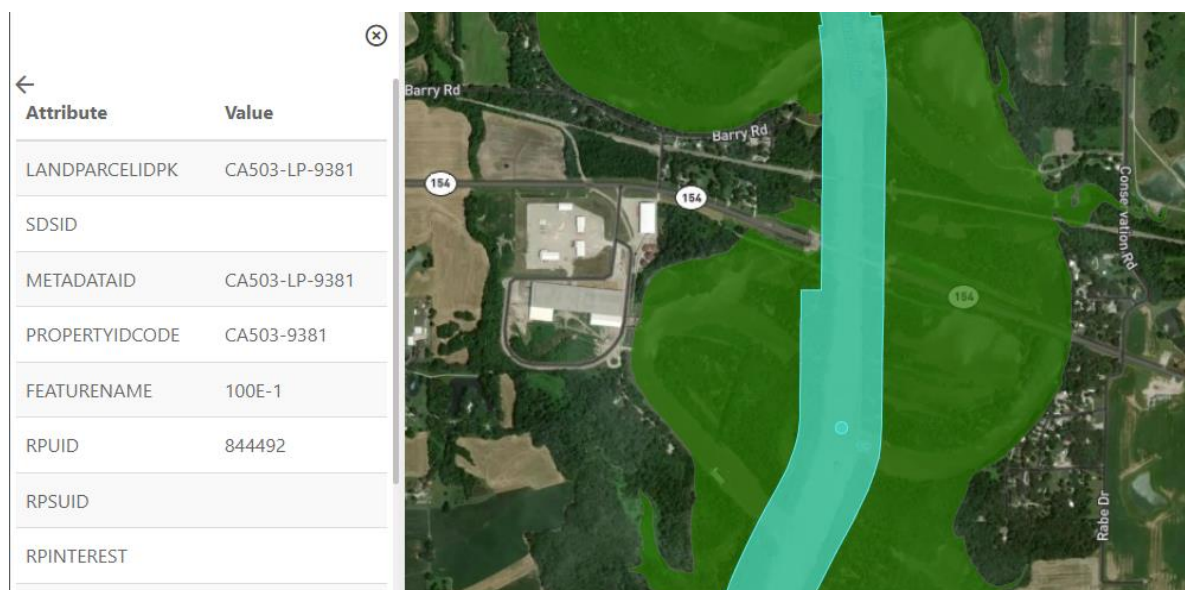


Figure F-3. USACE TRACT # 100E-1

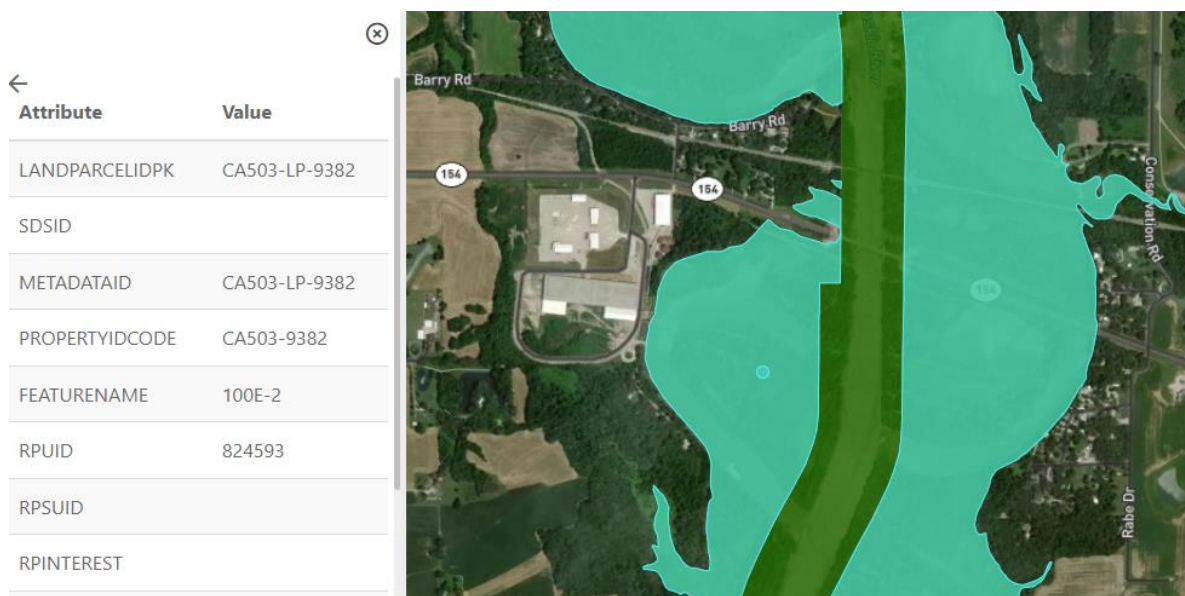


Figure F-4. USACE TRACT# 100E-2

7. NAVIGATION SERVITUDE

The legal determination has been made that the use of navigation servitude is available for the Project.

8. MAPPING

Figure F-1 shows the TSP, Alternative 3a – Minimum (Two-Way Traffic).

9. INDUCED FLOODING

There is no indication that the project features will induce flooding by the construction or operation and maintenance of the project. See Section 3 of Appendix B – Hydrology and Hydraulics for more information.

10. BASELINE COST ESTIMATE

The total estimated real estate cost of the TSP is \$98,000. A federal administrative cost of \$13,000 is budgeted for real estate support during PED and Construction phases.

Cost Category	Cost
01: Lands and Damages (FY24\$)	\$83,000
IMPROVEMENTS (FEE)	\$60,000
INCIDENTAL COSTS (10%)	\$6,000
CONTINGENCY (25%)	\$17,000
02: Total Relocations (FY24\$)	\$0
30/31: PED/Construction Management	\$13,000
FEDERAL ADMIN COST (1 TRACT)	\$10,000
CONTINGENCY (25%)	\$3,000
Total Lands and Damages (FY24\$)	\$98,000

Table F-2. Relevant costs

11. RELOCATION ASSISTANCE BENEFITS

This project does not require the issuance or implementation of temporary or permanent relocation benefits to residential, farm, or business entities.

12. MINERAL ACTIVITY

There are no known mineral rights or activities affecting the study area.

13. SPONSOR ASSESSMENT

The acquisition of lands, easements, rights-of-way, relocations, and disposal lands (LERRDs) are the responsibility of the NFS. The NFS has the legal authority and power to enter into the Project Partnership Agreement (PPA).

14. ZONING

No known zoning ordinances are proposed in lieu of, or to facilitate, acquisition in connection with the project.

15. SCHEDULE OF LAND ACQUISITION MILESTONES

Following approval of the CAP 107 KRRP Draft report, and execution of the Project Partnership Agreement (PPA), the NFS will proceed with acquisition of the lands required real estate interest, after a notice to proceed is issued. Typically, a period of one year is allowed to complete all land acquisition activities for a project.

TASK	Duration
Survey and Mapping	60
Consent to Easement	3
Right of Way Certification	63

Table F-3. Real Property Acquisition Major Milestones

16. FACILITY OR UTILITY RELOCATIONS

There are no requirements for facility or utility relocations.

17. HTRW

This Feasibility Report includes an Integrated Environmental Assessment. A Finding of No Significant Impact (FONSI) was prepared and is awaiting signature. No known contaminants exist within the project area. A Phase 1 Assessment is in progress (Appendix E).

18. LANDOWNER ATTITUDE

There is no known landowner opposition to this Project.

19. NOTIFICATION TO THE SPONSOR REGARDING THE RISKS ASSOCIATED WITH LAND ACQUISITION BEFORE EXECUTION OF THE PROJECT PARTNERSHIP AGREEMENT (PPA)

The NFS has the legal authority and power to enter into the PPA and to provide the necessary real estate interests. The NFS has been notified, in writing, of the risks associated with acquiring land before execution of the PPA.

20. OTHER RELEVANT REAL ESTATE ISSUES

There are no other known real estate issues at time of this report.

Prepared by:
Edwin Ramos
Chief, Planning & Acquisition Branch
Saint Louis District
U.S. Army Corps of Engineers

Reviewed by:
Jennifer L. Wilson
Chief, Real Estate Division
Saint Louis District
U.S. Army Corps of Engineers

Exhibit A – NFS Risk Notification Letter



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. LOUIS DISTRICT
1222 SPRUCE STREET
ST. LOUIS, MISSOURI 63103

August 29, 2023

SUBJECT: Continuing Authorities Program, Section 107 Kaskaskia River Regional Port
Notification of Real Estate Acquisition Risk

Mr. Ed Weilbacher, IMPE
General Manager
Kaskaskia Regional Port District
336 North Main Street.
Red Bud, Illinois 62278

Dear Mr. Weilbacher:

The purpose of this letter is to inform the non-federal partner, the Kaskaskia River Regional Port (herein referred to as the "Sponsor"), about the real estate requirements and the risks involved in acquiring real estate before the Project Partnership Agreement (PPA) is signed by the Sponsor.

If this project requires the acquisition of various real estate interests to support the design features, the procedures for acquiring real estate right-of-way in conjunction with Federal Programs are outlined in the Uniform Real Property Acquisition and Relocation Assistance Act, Public Law 91-646, as amended. Detailed discussions will be held with the Sponsor when final right-of-way requirements for the project are identified by the U. S. Army, Corps of Engineers, St. Louis District, Real Estate Division.

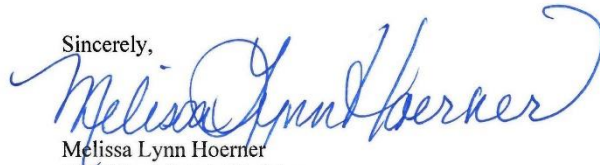
The St. Louis District is advising the Sponsor of the potential risks associated with starting an acquisition program before execution of the PPA. Generally, these risks include but are not limited to, the following:

1. Congress may not appropriate funds to construct the proposed project.
2. The proposed project may otherwise not be funded or approved for construction.
3. A PPA mutually agreeable to the non-Federal partner and the Government may not be executed and implemented.
4. The non-Federal Partner may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of the Comprehensive Environmental Response, Compensation, and Liability ACT of 1980, as amended (CERCLA).

5. The non-Federal Partner may acquire interests or estates that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project.
6. The non-Federal Partner may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under P.L. 91-646, as well as the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Government's notice to commence acquisition and performance of the Lands, Easements, Rights-of-Way, Relocations and Disposals (LERRDS).
7. The non-Federal Partner may incur costs or expenses in connection with its decision to acquire or perform LERRDS in advance of the executed PPA and the Government's notice to proceed which may not be creditable under the provisions of Public Law 99-662 or the PPA.

We look forward to working closely with you on this important project. If you have questions regarding this information, please contact Edwin Ramos at 314-331-8180 or edwin.a.ramos@usace.army.mil.

Sincerely,



Melissa Lynn Hoerner
Chief Real Estate Division
Saint Louis District
Mississippi Valley Division
U.S. Army Corps of Engineers

Exhibit B – NFS Capability Check List

I. Legal Authority:

- a) Does the sponsor have legal authority to acquire and hold title to real property for project purposes? YES
- b) Does the sponsor have the power of eminent domain for this project? YES, for lands held by private citizens.
- c) Does the sponsor have “quick-take” authority for this project? YES, for the lands held by private citizens.
- d) Are any of the lands/interests in land required for the project located outside the sponsor’s political boundary? YES - Although the NFS owns the land for the needed dredge disposal areas, the USACE has an easement that encumbers the entire parcel.
- e) Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? NO

II. Human Resource Requirements:

- a) Will the sponsor’s in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? YES
- b) If the answer to II.a. is “yes,” has a reasonable plan been developed to provide such training? YES
- c) Does the sponsor’s in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? YES
- d) Is the sponsor’s projected in-house staffing level sufficient considering its other workload, if any, and the project schedule? YES
- e) Can the sponsor obtain contractor support, if required in a timely fashion? YES
- f) Will the sponsor likely request USACE assistance in acquiring real estate? NO

Kaskaskia River Regional Port Feasibility Study with Integrated Environmental Document
Draft Report - Appendix F – Real Estate

III. Other Project Variables:

- a) Will the sponsor's staff be located within reasonable proximity to the project site? YES
- b) Has the sponsor approved the project/real estate schedule/milestones? YES

IV. Overall Assessment:

- a) Has the sponsor performed satisfactorily on other USACE projects? YES
- b) With regard to this project, the sponsor is anticipated to be: The NFS's capability is assessed as
FULL CAPABLE

V. Coordination:

- a) Has this assessment been coordinated with the sponsor? YES
- b) Does the sponsor concur with this assessment? YES

Prepared By, Edwin Ramos
Chief, Planning & Acquisition Branch Real Estate Division
St. Louis District,
US Army Corps of Engineers