
Three Rivers Southeast Arkansas Study

Appendix G: Real Estate

THREE RIVERS SOUTHEAST ARKANSAS

Introduction

The Three Rivers Study, which encompasses the confluence of the Arkansas and White rivers with the Mississippi River in southeast Arkansas, is being conducted by the U. S. Army Corps of Engineers (USACE) to study the McClellan-Kerr Arkansas River Navigation System (MKARNS) in an effort to seek a long-term sustainable navigation system that promotes the continued safe and reliable economic use of the MKARNS.

There is a risk of breach of the existing containment structures near the entrance channel to the MKARNS on the White River. During high water events, water backing up the Mississippi can create significant head differentials between the Arkansas and the White rivers. The existing containment structures are subject to damaging overtopping, flanking and seepage that could result in a catastrophic breach. The uninhibited development of a breach, or cutoff, has the potential to create various navigation hazards, increase the need for dredging, and adversely impact an estimated 200 acres of bottomland hardwood forest in the isthmus between the Arkansas and White rivers.

Stage of Planning Process

This is a feasibility study. A planning Charette was conducted in September 2015, and an Alternatives Milestone Meeting was completed in December 2015. The study is in the Alternative Formulation and Analysis Phase. Utilizing a reasonable level of detail, the PDT has analyzed, compared, and evaluated the array of alternatives to identify a Tentatively Selected Plan.

Study Authority

Section 216, Flood Control Act of 1970 (Public Law 91-611) authorizes a feasibility study due to examine significantly changed physical and economic conditions in the Three Rivers study area. The study will evaluate and recommend modifications for long-term sustainable navigation on the MKARNS. Section 216 of the Flood Control Act of 1970 (Public Law 91-611) states:

"The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due to significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest."

Non-Federal Sponsor

The Arkansas Waterways Commission is the non-federal sponsor for the Three Rivers Southeast Arkansas Study. An amended feasibility cost-sharing agreement was executed in June 2015.

Purpose

Based on the Section 216 authority, the study is investigating alternatives that would minimize the risk of cut off development, including reducing the cost of maintenance associated with preventing cutoff development, while minimizing impacts to the surrounding ecosystem.

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Attachments:

Exhibit A	Project Location
Exhibit B	Preliminary Design
Exhibit C	Estates

1. Purpose of the Real Estate Plan

The purpose of this Real Estate Plan (REP) is to outline the real estate acquisition requirements necessary for the completion of the Section 216, Three Rivers Study.

The study is being conducted by the U. S. Army Corps of Engineers (USACE) to recommend modifications to the McClellan-Kerr Arkansas River Navigation System (MKARNS) that provide long-term sustainable navigation and promote the continued safe and reliable economic use of the MKARNS. Section 216, Flood Control Act of 1970 (Public Law 91-611) authorizes a feasibility study to examine significantly changed physical and economic conditions in the Three Rivers study area.

2. Description of Lands, Easements and Rights-of-Way (LERRD's)

The Three Rivers study area is located in rural sections of Arkansas and Desha counties, in southeast Arkansas (Exhibit A). The study area is approximately 208 square miles in total and includes approximately 64 square miles of the Dale Bumpers White River National Wildlife Refuge (the Refuge), currently managed by the U.S. Fish and Wildlife Service (USFWS).

The current design for the tentatively selected plan (alternative 1) encumbers approximately 15.5 acres of private land owned by The Anderson Tully Company (timber company). Acreage to be acquired of each type of estate will be identified as a more specific design is provided. Most of the identified acreage to be acquired from The Anderson Tully Company will be in fee (simple), while a small amount will be in temporary work area easement.

A majority of the project will be constructed on federally owned land, as described in paragraphs 5 and 6.

Mitigation for environmental damages due to the construction of this project is estimated to be approximately 10.0 acres. This land will be identified for acquisition in fee within the project study area during the design phase of the project.

3. Description of LERRD's owned by Non-Federal Sponsors

The Arkansas Waterways Commission, as the non-federal sponsor, owns no lands, easements or rights-of-way in the acquisition area.

4. Non-Standard Estates

Part of this project will be constructed on federal land managed by the U.S. Fish and Wildlife Service (USFWS). Prior to construction the USFWS will require the issuance of a compatibility use permit from their regional office. There will also likely be a requirement

for further permitting from the USFWS depending on the language used in the proposed compatibility use permit.

Due to the nature of this permitting and it originating from another agency, it will likely be considered a non-standard estate and require approval from HQ USACE Real Estate. All permitting must be reviewed by the USACE Real Estate Vertical Team prior to the signing of any Project Partnership Agreement (PPA) or similar agreement. No draft permits have been presented to the USACE PDT as of the drafting of this real estate plan.

5. Any existing federal projects

The main purpose of this study is to seek alternatives which provide long-term sustainable navigation and promote the continued safe and reliable economic use of the McClellan-Kerr Arkansas River Navigation System (MKARNS). The MKARNS is a federal project managed by the USACE, Little Rock District. Much of the project will be constructed on federal land owned in fee and managed by the USACE.

Also in the area is the Dale Bumpers White River National Wildlife Refuge, which is federal land owned in fee and managed by the USFWS. Much of the project will be constructed on this project.

6. Any federally owned land

The USACE manages federally owned land in the project area of which approximately 200.61 acres will be encumbered to construct the project.

The USFWS manages federally owned land in the project area of which approximately 27.45 acres will be encumbered to construct the project. At a minimum, a compatible use permit must be issued from the USFWS prior to constructing the project on their managed land.

7. LERRD that lies below the ordinary high water mark

Part of the project entails the “re-opening” of the historic cut-off between the Arkansas and White Rivers. This work will require the removal of a great deal of soil and rock to allow an exchange of water between the two rivers to better mimic how the rivers exchanged water prior to the construction of the MKARNS.

This work will be completed on fee land managed by the USACE and land lying below the ordinary high water mark both in the navigation channel and in the historic cut-off. Any work conducted below the high water mark will be within navigation servitude both in the navigation channel and within the historic cut-off.

8. Maps

A map depicting an overview of the project area is exhibit “A.” Exhibit “B” depicts the current design of the project (Alternative 1).

9. Any possible flooding

Induced flooding is not anticipated by the construction or operation and maintenance of the project.

10. Cost Estimate

In following PGL-31 and the smart planning paradigm, a rough order of magnitude cost estimate was prepared as opposed to a gross appraisal. The value of lands, improvements and severance damages are not expected to exceed 10% percent of total project costs. Only approximately 15.00 acres of the project is to be constructed on privately owned land. Total LERRD costs are estimated at \$300,000 including contingency and will be 100% federal cost.

11. Relocation Benefits (01 Code of Accounts)

There are no expected acquisitions requiring PL 91-646 relocation benefits.

12. Mineral activity

There is no known mineral activity in the vicinity of the project.

13. Assessment of Non-Federal Sponsors

Not applicable. LERRD for this project will be acquired by the federal government.

14. Application of zoning ordinances

The LERRD required for this project is not subject to any zoning ordinances.

15. Land Acquisition Milestones

General elements contributing to acquisition timelines are landowner attitude, funding, manpower resources, and title issues. Some title defects can require significant time and efforts to cure. In some cases, curative efforts may require forced probate or condemnation to identify and provide legal notice to all owners. Where condemnation is required, an additional two (2) years would be required after all negotiation efforts fail. Nevertheless, the federal government can “take” immediate position of the properties needed for the project through eminent domain proceedings. If the properties are condemned, just compensation to the landowners will be decided in court.

The estimate schedule for real estate acquisition for this project is as follows:

Right-of-Entry: two weeks/per parcel
Survey: four weeks/per parcel
Mapping: one week/per parcel
Title: eight weeks/per parcel
Appraisal: ten weeks/per parcel
Acquisition: four weeks/per parcel
Condemnation: two years

Each item is listed with estimated completion schedule by individual action. These actions will overlap in schedule. The total acquisition schedule is estimated at six (6) months without condemnation. With condemnation, the total acquisition schedule is estimated at two and one-half (2.5) years.

16. Facility or utility relocations (02 Code of Accounts)

There are no known facility or utility relocations.

17. Known contaminants

There are no known or potential Hazardous, Toxic, and Radioactive Waste (HTRW) lands involved for either alternative proposed for this project. There are also no visible contaminants noted on or adjacent to the LERRD’s required for the proposed project.

18. Support or opposition to the project

There has been no known opposition to this project. However, no public meetings have been conducted as of yet.

19. Statement that Non-Federal Sponsor has been notified in writing about the risks associated with acquiring land

Not applicable. All LERRD will be acquired by the federal government.

20. Other real estate issues

The largest real estate risk in this project lies in the availability of USFWS managed land. If the USFWS determines this project is not compatible to the management of the refuge surrounding this section of the MKARNS, they will not provide the needed permitting. However, the refuge manager along with other representatives of the USFWS, as well as well-respected environmental leaders in Arkansas, have been deeply involved in alternative selection and design process thus far. They are currently agreeable to this project as it is expected to produce viable environment benefits for the refuge and the surrounding areas.

Exhibit A

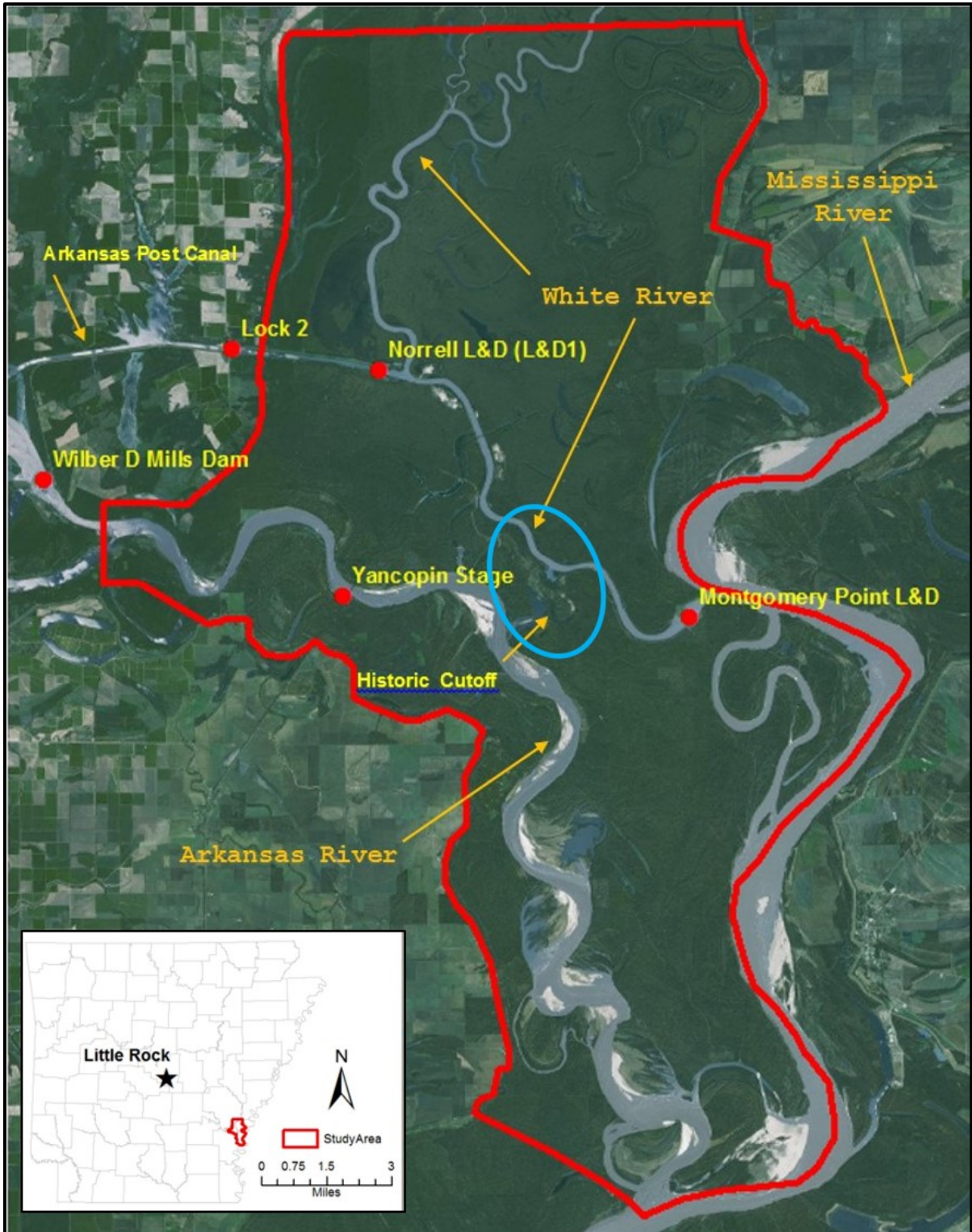
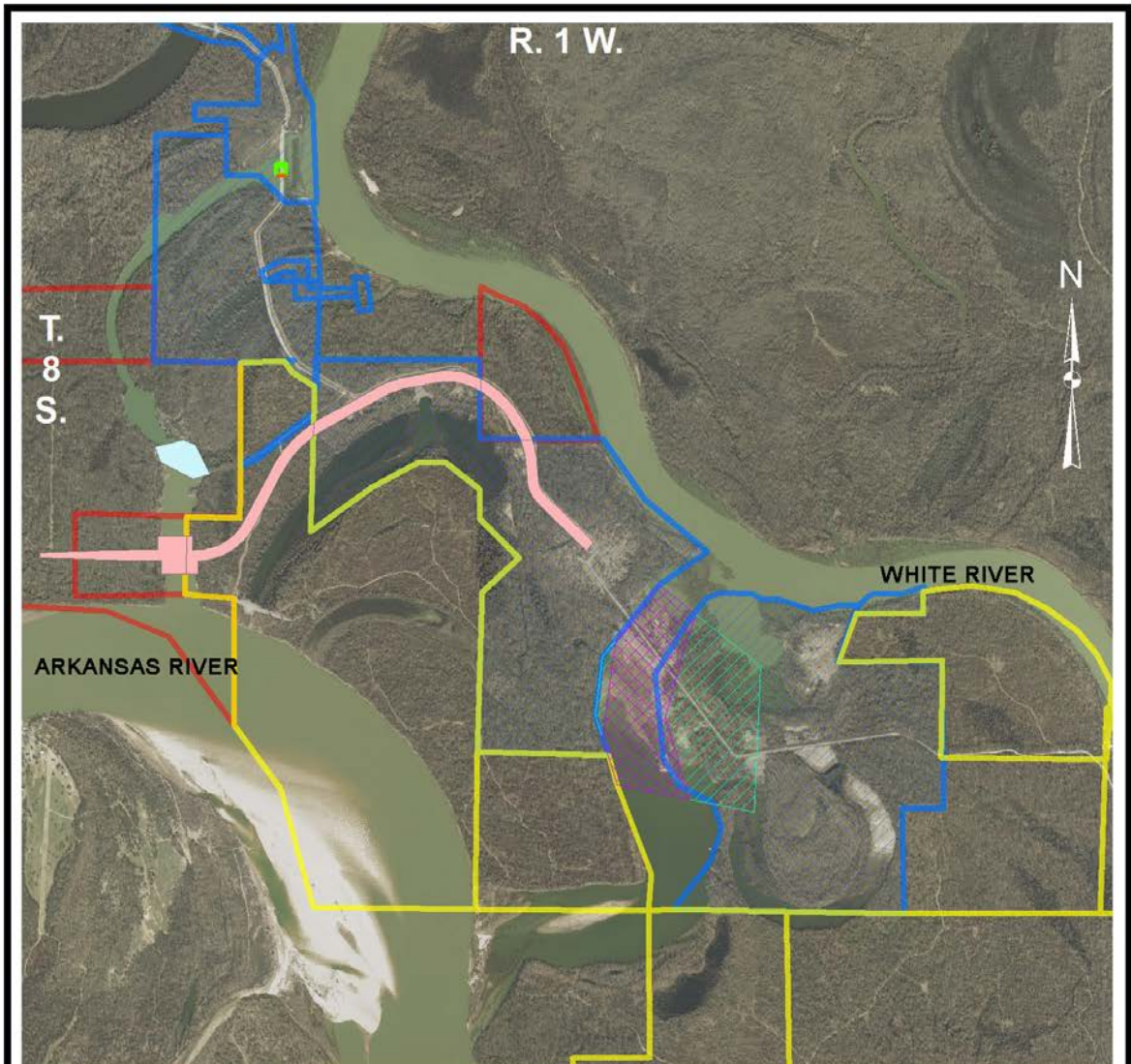


Exhibit B



THREE RIVERS FEASIBILITY STUDY - 2017

LEGEND:

- OWENS LAKE STRUCTURE (TEMPORARY) 0.38 AC.
- OWENS LAKE STRUCTURE (PERMANENT) 0.42 AC.
- ALTERNATIVE -1 LEVEE 57.36 AC.
- ALTERNATIVE -1 MELINDA HEADCUT 8.42 AC.
- ALTERNATIVE -1 HISTORIC CUT-OFF 93.42 AC.
- ALTERNATIVE -1 HISTORIC CUT-OFF (NAVIGATION SERVITUDE) 83.56 AC.

PROPERTY OWNERSHIPS:

- Anderson Tully Co. - 15.50 AC.
- Corps of Engineers - 200.61 AC.
- U.S. Fish & Wildlife Service - 27.45 AC.

COUNTIES: ARKANSAS & DESHA
 STATE: ARKANSAS
 1 inch = 2,400 feet



US Army Corps of Engineers®
 Little Rock District
 Real Estate Division

DATE: MARCH 8, 2017
 FN: THREE RIVERS FS
 EXHIBIT "B"

Exhibit C

Estates

Fee (Simple)

The fee simple title to (the and described in Schedule A) (Tracts Nos. , and), Subject, however, to existing easements 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 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.