

# GLMRIS

GREAT LAKES AND MISSISSIPPI RIVER INTERBASIN STUDY



AQUATIC NUISANCE SPECIES



ECOSYSTEMS



NAVIGATION



RECREATION



FLOOD RISK MANAGEMENT



WATER USE

## AQUATIC NUISANCE SPECIES CONTROLS REPORT

WABASH-MAUMEE BASIN CONNECTION

FORT WAYNE, INDIANA

## APPENDIX E REAL ESTATE



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## **1.0 General**

This Real Estate summary will accompany the report developed by the United States Army Corps of Engineers (USACE) entitled Aquatic Nuisance Species Controls Report, Wabash-Maumee Basin Connection, Fort Wayne, Indiana. The purpose of this report is to present the results of a USACE investigation to provide a range of options and technologies to prevent the spread of aquatic nuisance species (ANS) between the Mississippi River Basin and the Great Lakes Basin at the headwaters of the Wabash and Maumee Rivers near Fort Wayne, Indiana. The ANS Controls Report includes information on no-action, non-structural alternatives and structural alternatives. This Real Estate summary only applies to the nine structural alternatives analyzed in Section 3.5 of the ANS Controls Report. The structural alternatives will require the acquisition of private or State-owned real estate interests. A detailed description of each structural alternative is also included in Section 1.5 of Appendix F.

## **2.0 Project Area**

The project area is defined as the headwaters of the Wabash and Maumee Rivers, primarily situated within Allen County in northwest Indiana, near the city of Fort Wayne. The area extends southwest along the Little Wabash River to the city of Huntington, Indiana. The principle area of concern is Eagle Marsh, a major unit of the Little River Wetlands Project (LRWP). Eagle Marsh is an urban natural area used primarily for conservation, education, and recreation. The property is owned by the State of Indiana and managed by the LRWP. The area downstream from Eagle Marsh is primarily agricultural in nature. Some structures associated with agricultural practices are present in this area, but substantial commercial and residential development is not present. The structural alternatives would be located on lands bordered by the I-69 corridor to the east, the Norfolk and Southern Railroad to the south, Aboite Road to the west and U.S. Highway 24 to the north.

## **3.0 Standard Estates**

The following standard estates would most likely be required to support the various structural alternatives identified in Section 3.5 of the ANS Controls Report.

### **3.1 Temporary Work Area Easement (RWTWE)**

A temporary easement and right-of-way in, on, over, and across the subject lands for a period not to exceed 3 years. The possession of the land is granted to the Grantee for use by its representatives, agents, and contractors as a work area, including the right to 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 aforementioned 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.

### **3.2 Road Easement (RWRDE)**

A perpetual and assignable easement and right-of-way in, on, over and across the subject lands for the location, construction, operation, maintenance, alteration and replacement of a road 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; subject however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

### **4.0 Non-Standard Estates**

There are several structural alternatives presented in this report that require the construction of an earthen levee, I-wall, and/or fence to inhibit the movement of ANS. The real estate interest traditionally used to support the construction of a levee or I-wall is the Flood Protection Levee Easement (RWLVE). The Flood Protection Levee Easement is defined as “a perpetual and assignable right and easement in the subject lands to construct, maintain, repair, operate, patrol and replace a flood protection levee [or wall], including all appurtenances thereto...” However, the project alternatives considered in this report utilize traditional flood protection structures to inhibit the movement of ANS, not for flood protection purposes. As a result, the standard estate language would need to be modified to meet the needs of the project. Fences would be considered appurtenant structures, and would be covered under a modified levee easement.

If the final recommended alternative requires the use of a non-standard estate, the estate’s description will be included in the Real Estate Plan of a feasibility report or other decision document that would be reviewed and approved by HQUSACE prior to the commencement of acquisition activities.

## 5.0 Valuation of Real Estate Interests

Screening-level land value estimates have been prepared for each structural alternative by USACE for the purpose of this Real Estate summary. The estimates yielded a per acre value of \$7,500, based on recent agricultural land sales within the main project area. Alternative F is located within the city of Huntington; a per acre value of \$50,000 is used for this alternative only. A summary of conceptual Real Estate costs is provided in the Section 6.0, Table E-1.

Pending the execution of a Project Partnership Agreement (PPA) and prior to any acquisition activities, a market value appraisal report will be required to be provided by the non-Federal sponsor. The appraisal report will be reviewed by USACE for compliance with the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) and the Uniform Standards of Professional Appraisal Practice (USPAP). All acquisitions will be performed in accordance with Public Law 91-646, as amended.

## 6.0 Real Estate Costs

The following table indicates conceptual Real Estate costs for each structural alternative:

Alternative	Description	Permanent Acres	Temporary Acres	Total Lands	Total Costs
Alternative A	Construct I-wall	6.53	21.26	\$95,000	\$119,000
Alternative B	Construct Fence and Reconstruct Left Descending Graham-McCulloch Berm	12.76	26.64	\$151,000	\$189,000
Alternative C	Construct Earthen Berm and Pump Station	2.80	3.10	\$27,000	\$34,000
Alternative D	Construct Permeable Berm with Telemetered Sluice Gates	14.90	7.60	\$125,000	\$157,000
Alternative E	Construct Fence / Earthen Berm Combination	15.51	22.15	\$161,000	\$202,000
Alternative F	Construct Bar Screen Barrier at Existing Weir (Huntington Dam)	1.20	0.70	\$68,000	\$85,000
Alternative G	Construct Vertical Drop Structures with Telemetered Sluice Gate	2.30	1.50	\$20,000	\$25,000
Alternative H	Reconstruct Left Descending Graham McCulloch Berm	16.29	30.23	\$184,000	\$230,000
Alternative I	Reconstruct Left Descending Berm, Demolish Right Descending Berm, Construct Vegetation Filter Strip	24.31	32.95	\$248,000	\$310,000

\*Temporary Work Area Easements are estimated at 3 years in duration. \*\*Total Costs include a 25% contingency

*Table E-1. Summary of Conceptual Real Estate Costs of Structural Alternatives*

Preliminary Right-of-Way Plans have been developed for the purpose of the ANS Controls Report and are included in Appendix G, Sheets RW101 through RW114. When a final alternative is recommended and final Right-of-Way plans are available, a formal Real Estate tract register will be developed to include owner, estate, and acreage data. The tract register and a detailed Real Estate Project Map will be included in the Real Estate Plan of an approved feasibility report or other decision document.

## **7.0 Navigational Servitude**

Navigational Servitude does not apply to this project.

## **8.0 Induced Flooding**

As a result of the preliminary analysis conducted for the ANS Controls Report, it has been determined that induced flooding will be a likely consequence of constructing many of the structural alternatives identified. Further calculations will be conducted during the design phase of the project following the recommendation of a final alternative. If it is determined that permanent or occasional flowage easements will be required to support the project, a Physical Takings Analysis will be prepared by USACE in accordance with Federal and State laws regarding just compensation payment requirements.

Reference Section 3.5 of the ANS Controls Report for discussion of the structural alternatives and their respective flooding impacts. Section 5.0 of the ANS Controls Report provides a summary discussion regarding potential mitigation requirements relative to the potential to induce flooding for each of the nine structural alternatives considered.

## **9.0 Environmental Mitigation**

Environmental mitigation requirements will be determined when a final alternative is selected.

## **10.0 Mineral/Timber/Landfill Activity**

The project area substantially consists of agricultural lands. No timber activity is present or anticipated that could affect the project. An active landfill is located east of Eagle Marsh within the headwaters area. The landfill is owned and operated by United Refuse Company, Inc. The operation of the landfill is not anticipated to interfere with any of the alternatives identified in the ANS Controls Report.

## **11.0 Public/Landowner Concerns**

The potentially affected private landowners have not been contacted. When the timing is appropriate, the USACE and non-Federal sponsor will maintain communications with all stakeholders including private landowners and State and local government officials. The State of Indiana through the Indiana DNR is the majority landowner in the study area and has expressed their support for the project and lent their expertise during the production of this report. However, Indiana DNR leadership has communicated their unwillingness to participate as a non-Federal cost-sharing partner citing the issue of ANS migration as having national implications. Reference Section 7.2 of the ANS Controls Report for more discussion regarding interagency cooperation.

## **12.0 Cooperation with Others**

The U.S.D.A., National Resources Conservation Service (NRCS) is currently seeking applicants within the ANS Controls Report study area to participate in their Wetlands Reserve Program (WRP). Through the purchase of an easement, the WRP gives landowners an opportunity to protect, restore, and enhance wetlands on their property<sup>1</sup>. The USACE has participated in discussions with Indiana NRCS staff to ensure that once an alternative is recommended, the project will not conflict with WRP efforts being conducted in the area. Generally, WRP Compatible Use Permits are authorized by the NRCS for activities that further both the long-term protection and enhancement of the wetland and other natural areas of the [easement area]<sup>2</sup>. If any alternatives are constructed, they will have a positive effect on the development of wetlands within the project area. In general, the NRCS has expressed support for an ANS Controls construction project.

In the event that the NRCS purchases a WRP easement on lands needed to support the recommended alternative, the required interests would be acquired by the non-Federal sponsor subject to the existing WRP easement. Alternatively, if the USACE identifies a recommended plan and the required real estate interests are identified prior to NRCS's purchase of a WRP easement, the NRCS has agreed to exclude the required portion from their program.

<sup>1</sup> "Wetlands Reserve Program – NRCS." 20 April 2011. <http://www.nrcs.usda.gov/programs/wrp>

<sup>2</sup> USDA National Office - WRP Compatible Use Guidance (WRP Manual 514.20 and 21)

## **13.0 Existing Federal Interests and Rights**

The NRCS currently has an interest in the majority of what is referred to as Eagle Marsh through the Wetlands Reserve Program easement. The WRP easement was granted by the State of Indiana and the LRWP in return for contributing a percentage of the funds used to purchase the

property from a private owner. No other Federal interests are known to exist within the project area.

#### **14.0 Public Law 91-646 Relocation Assistance Benefits**

P.L. 91-646 Relocation Assistance will be addressed when a final alternative is recommended. However, no relocation benefits are anticipated.

#### **15.0 Outstanding Conditions**

There are many outstanding conditions at this conceptual level of the project. When a final alternative is recommended issues such as identifying a non-Federal Sponsor, borrow and/or disposal sites and necessary utility relocations will be addressed.

#### **16.0 Facility, Utility and Cemetery Relocations**

Any conclusion or categorization contained in this appendix, or elsewhere in this report, that an item is a utility or facility relocation to be performed by the Public Sponsor as part of its LERRD responsibilities is preliminary only. The Government will make a final determination of the relocations necessary for the construction, operation and maintenance of the project after further analysis, and completion and approval of a Final Attorney's Opinion of Compensability for each of the impacted utilities and facilities.

##### **16.1 Facility, Utility and Road Relocations**

Facility, utility and road relocations are indicated on the Plan Sheets located in Appendix G, Sheets CS101 through CS114.

If relocations are required to support the final recommended alternative, Attorney's Opinions of Compensability will be prepared to determine whether the owners have compensable interests in the land on which the impacted portion of the facility or utility is located. The non-Federal sponsor will be responsible for ensuring the performance of all relocations. A more detailed analysis of relocations requirements will be developed as part of an approved Real Estate Plan.

##### **16.2 Cemeteries**

No cemeteries are believed to exist within the project area. A thorough investigation will be performed when a final alternative is recommended.



### **17.0 Hazardous, Toxic, and Radioactive Waste (HTRW) Impacts**

HTRW impacts will be determined when a final alternative is recommended.

### **18.0 Environmental and Historical Preservation Considerations**

Compliance with the National Environmental Policy Act (NEPA) and the National Historical Preservation Act (NHPA) will be met prior to selection of a final plan.

### **19.0 Non-Federal Sponsor**

A viable non-Federal sponsor has not been identified. Upon the execution of a Project Partnership Agreement, the non-Federal sponsor will be required to provide all lands, easements, and rights-of-way, including those required for relocations, the borrowing of material, and the disposal of dredged or excavated material.