Attachment #12
NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Process to ensure that the government considers impacts to the human environment when making decisions

Public involvement
- NEPA allows public to participate and influence the decision
- Critical to ensure that all potential impacts are considered

Transparency and documentation for review and posterity
- Full disclosure and consideration of environmental information in agency decision-making
- Agencies must inform the public of potential impacts and alternatives and involve the public in decision-making
AGENDA

• Study Overview and Background
• Existing and Future Conditions
• Plan Formulation and Analysis
• Plan Evaluation and Selection
• Opportunities to Provide Input
Federal Navigation Authorities:

**Calumet Harbor and River**

**Cal-Sag Channel**

**Non-Federal Sponsor:**
- City of Chicago, as represented by Chicago Department of Transportation (CDOT)
The Chicago Area Waterway System (CAWS) is composed of:

1. Chicago River
2. Chicago Harbor
3. South Branch of the Chicago River
4. Chicago Sanitary and Ship Canal (CSSC)
5. Calumet-Saganashkee (Cal-Sag) Channel
6. Calumet River
7. Calumet Harbor

NOTE: Channels shown in color are projected to require dredging over the next 20 years.
Calumet Harbor & River is a single federal navigation project, shown separate here for clarity.
**WHY DREDGING IS NEEDED**

Shallow-draft barges and towboat

*Shoaling reduces efficiencies of commercial navigation*

Deep-draft vessels

*Shoaling requires some vessels to light load when authorized depths cannot be maintained*
BENEFITS OF DREDGING

- Unique connection between Great Lakes and Mississippi River navigation systems
- Chicago is the 2nd busiest port in the Great Lakes (2017)
- Calumet Harbor and River: 7.5 M tons annually (2015-2017)
- Cal-Sag Channel: 4.8 M tons annually (2015-2017)
- These waterway movements support Chicago’s regional economy:
  - Generate revenues for multiple industries: waterways, port services, warehousing, transportation, and fuel providers
  - Supports ~1,800 jobs annually
  - Supports ~$460 M in industry revenues annually
PROJECTED DREDGING NEEDS

- Calumet Harbor & River and Cal-Sag Channel

- 1,030,000 cubic yards (cy) over 20 years
  - Calumet Harbor 500,000 cy
  - Calumet River 500,000 cy
  - Cal-Sag 30,000 cy

- Assume 50,000 cy/year
  - ½ Harbor; ½ River

- Small amount reserved for Cal-Sag Channel
  - No current plans for dredging
  - Not dredged since 70s
QUALITY OF SEDIMENT AFFECTS MANAGEMENT

1. Very Clean, Sandy = Open Water or on the Beach
2. Clean Fine, Clay or Silt = Some Beneficial Uses
   - On land as fill
   - In water as habitat (wetlands)
   - Calumet Harbor Sediment
3. Contains Pollution = Other Management Technique
   - Private management (landfill), treatment, confined disposal
   - Calumet River & Cal-Sag Channel Sediment

### Table

<table>
<thead>
<tr>
<th>Open-water placement</th>
<th>Beneficial use</th>
<th>Confined disposal</th>
</tr>
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<tbody>
<tr>
<td>Direct placement into water</td>
<td>Parks</td>
<td>Material safely enclosed</td>
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<td>Roadbeds</td>
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<td></td>
<td>Urban Redevelopment</td>
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<td>Ecosystem Restoration</td>
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### MANAGEMENT MEASURES AND SCREENING

<table>
<thead>
<tr>
<th>Measures</th>
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<tr>
<td>No Action</td>
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<tr>
<td>Open Water Placement</td>
<td>Considered</td>
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<tr>
<td>Beneficial Use</td>
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<tr>
<td>Source Reduction</td>
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<tr>
<td>Minimizing Dredging Requirements</td>
<td>Ongoing</td>
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<tr>
<td>Private Management (landfill)</td>
<td>Not Feasible</td>
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<tr>
<td>Sediment Treatment/Remediation</td>
<td>Not Feasible</td>
</tr>
<tr>
<td>Confined Disposal</td>
<td>Considered</td>
</tr>
</tbody>
</table>

Bottom line: only feasible management measures are being considered in detail in the study report.
BENEFICIAL USE OF DREDGED MATERIAL

• Calumet Harbor material is suitable for beneficial use

• Corps policy requires dredged material be put to beneficial use to the greatest extent practicable

• The Corps and the City of Chicago are working together to develop a plan for beneficial use

• There is a continuing demand in the project area for clean fill material for multiple uses
CONFINED DISPOSAL

- Calumet River and Cal-Sag Channel material is not suitable for beneficial use

- Confined Disposal is the only viable and safe management measure for contaminated sediment from Calumet River and the Cal-Sag Channel

- This is based on a comparison of effectiveness, scale, environmental concerns, and cost
Public Outreach Resulted in these Actions:

- Submit letter of support for Calumet master planning effort
  - CMAP grant application successful

- Re-evaluation of measures
  - Additional sites
  - Beneficial use
  - Private Management (Landfill)
  - Treatment alternatives

- Conduct an EIS rather than an EA
  - Based on public concerns

- Extended public comment period
  - From 45 to 60 days
CONFINED DISPOSAL SITE SELECTION

- 60+ sites considered in 2015
- Identified additional new sites

Key Site Criteria:

- **Size** – provide required capacity
- **Natural Resources** – avoid quality habitat
- **Current Use** – prefer under-utilized land
- **Env. Conditions** – avoid likely response actions
- **Operability** – practical to build and fill
- **Waterway Access** – efficient handling and transportation
- **Upland Site** – beneficial use opportunity

5 sites appear to meet all of the above criteria
CONFINED DISPOSAL SITE SELECTION

Final Array of Alternatives

- No Action
- Vertical Expansion of Existing Chicago Area CDF
- Former KCBX North Terminal
- Former Wisconsin Steel Site
- 116th Street and Burley Avenue
- Former LTV Steel Site

Detailed design, cost, and environmental analysis is used to identify the Tentatively Selected Plan (TSP)
# ECONOMIC EVALUATION OF ALTERNATIVE PLANS

<table>
<thead>
<tr>
<th></th>
<th>LTV</th>
<th>Wisconsin Steel</th>
<th>KCBX</th>
<th>116th and Burley</th>
<th>Vertical Expansion</th>
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<td>Average Annual Benefits</td>
<td>$10,900,000</td>
<td>$10,900,000</td>
<td>$10,900,000</td>
<td>$10,900,000</td>
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<td>Average Annual Costs</td>
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<td>Lifecycle Cost</td>
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<td>2.2</td>
<td>2.1</td>
<td>2.2</td>
</tr>
</tbody>
</table>

- LTV, 116th & Burley, KCBX, and Vert. Expansion preliminary cost estimates are within 2%

- Consider addition criteria/risks in selecting between seemingly equivalent alternatives
TRADEOFFS ANALYSIS + SELECTION OF A TSP

Vertical Expansion has less risk

- Furthest away from homes
- Addresses many concerns heard during public outreach
- Lower real estate risks
  - Little monetary value
  - Publicly owned
  - Will not change future end use as open space
- Lower existing contamination risks
  - Same as current use
  - Operated safely since 1984

The Tentatively Selected Plan is the Vertical Expansion Alternative
NEPA ANALYSIS – ENVIRONMENTAL IMPACT STATEMENT

Natural Resources
• Geology & topography
• Hydrology & hydraulics
• Water quality
• Air quality
• Contamination (HTRW)

Biological Resources
• Flora & fauna (plants & animals)
• T&E species
• T&E critical habitat
• Other high quality habitat
• Wetlands
• Floodplains

Social/Cultural Resources
• Environmental justice
• Historic structures
• Tribal resources
• Recreation & aesthetics
• Noise
• Public health and safety

Economic Resources
• Traffic and transportation
• Waterborne commerce
• Local economic development
• Regional economic development
• Jobs
TSP CONCEPTUAL DESIGN

Beneficial Use

- **Berms** (with clay lining)
- **Cap** (2.5’ with 6” of topsoil)
- ID beneficial uses for remainder (key assumption)

Contaminated Material Safely Confined in Facility Interior

- **Two Stages** (~11’ each)
- Restrictions on Future Use to protect the cap
• Calumet Harbor / mouth of Calumet River
• Existing CDF constructed in 1984
• Previously lake bottom
• Future use restricted to parkland or open space
**FACILITY DESIGN**

- Dikes around facility
- Liner
- Fencing and cover
- Water treatment
- Vegetation, silt fencing
- Sampling and testing

**PURPOSE**

- Contain sediment away from humans
- Prevents groundwater seepage
- Secures facility, keeps people out
- Keeps contaminants from re-entering waterway
- Prevent exposure of workers and residents to dust
- Monitor sediment quality and successful confinement
TENTATIVELY SELECTED PLAN

What does this plan mean for the region?

- **SAFETY.** No significant adverse impacts identified in EIS
  - Operated safely since 1984
  - Design features on the proposed facility will continue to ensure safety

- **EFFICIENCY.** Shortest development time for new facility means fewer navigation impacts

- **ENVIRONMENTALLY RESPONSIBLE.**
  - Removes polluted sediment from the environment
  - As far away from homes as possible
  - Beneficial use of clean sediment

- **FUTURE PARK USE.** End state will be a lakefront park or open space

- **COST EFFECTIVE.** Responsible use of taxpayer dollars
## STUDY SCHEDULE

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Begin Study</td>
<td>Fall 2013</td>
</tr>
<tr>
<td>3 Stakeholder Roundtable Meetings and 2 Public Workshops</td>
<td>Feb-June 2018</td>
</tr>
<tr>
<td>Tentatively Selected Plan Milestone</td>
<td>28 Feb 2019</td>
</tr>
<tr>
<td><strong>Draft Report Released – Start of Public and Agency Review</strong></td>
<td>03 May 2019</td>
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<tr>
<td><strong>Public and Agency Comments Due</strong></td>
<td>02 July 2019</td>
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<tr>
<td>Agency Decision Milestone*</td>
<td>Aug 2019</td>
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<tr>
<td>Transmittal of Draft Report for Final Review*</td>
<td>Nov 2019</td>
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<tr>
<td>Public Review of Draft Report and EIS*</td>
<td>Jan 2020</td>
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<tr>
<td>Final Dredged Material Management Plan Approved*</td>
<td>Apr 2020</td>
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<td>Record of Decision (ROD) Signed*</td>
<td>TBD</td>
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* Estimated Dates
TENTATIVE IMPLEMENTATION SCHEDULE

- Approved DMMP in FY20:
- Preconstruction Engineering and Design (PED)
- Site Preparation
- Dredge, Dry, and Stockpile
- Construct Stage 1 Berms

- 2-Year Gap in Calumet River Dredging - Shoaling Occurs

Operation of Expanded Facility Begins in 2026
WE WANT YOUR INPUT!

View the report at: https://www.lrc.usace.army.mil/Missions/Civil-Works-Projects/Calumet-Harbor-and-River/

Provide feedback on the study:
Comment session (today)

Written comments (through June 16, 2019)

By mail to:
U.S. Army Corps of Engineers
231 S LaSalle St
Suite 1500
Chicago, IL 60604

Or by email to:
CELRC_Planning_Econ@usace.army.mil
BACKUP
<table>
<thead>
<tr>
<th>ENVIRONMENTAL ANALYSIS (EA)</th>
<th>ENVIRONMENTAL IMPACT STATEMENT (EIS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• No significant adverse impacts or controversy are anticipated</td>
<td>• If potential significant effects to the human environment or controversy are anticipated</td>
</tr>
<tr>
<td>• Evaluates potential impacts of selected plan only</td>
<td>• More detailed analysis of effects of multiple alternatives</td>
</tr>
<tr>
<td>• 30-day public review</td>
<td>• More process (Notice of Intent in Federal Register, Public Scoping &amp; Involvement)</td>
</tr>
<tr>
<td>• Completed with a Finding of No Significant Impacts (FONSI)</td>
<td>• Minimum 45-day Public Review Notice of Availability in Federal Register</td>
</tr>
<tr>
<td></td>
<td>• Completed with Record of Decision (ROD)</td>
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</table>
Attachment #13
June 14, 2019

9043.1
ER 19/0187

Col. Aaron W. Reisinger
District Engineer
U.S. Army Corps of Engineers
Chicago District
231 S. LaSalle Street, Suite 1500
Chicago, Illinois 60604

Attention: Mike Padilla

Dear Colonel Reisinger:

This responds to your request for comments on the Draft Chicago Area Waterway System (CAWS) Dredged Material Management Plan (DMMP) & Integrated Environmental Impact Statement (EIS) in Cook County, Illinois. This also serves as a follow-up letter to the U.S. Fish and Wildlife Service’s (Service) July 14, 2015, letter for the same project. The Department of the Interior (Department) has reviewed the information provided in your DMMP and EIS. With respect to those portions of the DMMP and EIS for which the Department’s Bureaus have jurisdiction or special expertise, we offer the following comments and recommendations, which should be addressed in the Final EIS.

**General Comments**

The DMPP, EIS, and supplemental information acknowledges that none of the dredged material is currently suitable for open water placement or in-water beneficial use. The Service’s 2015 letter emphasized that the 2015 National Environmental Policy Act (NEPA) document did not fully disclose potential impacts to aquatic resources found in the CAWS (e.g., aquatic invertebrates, fish, wetland dependent migratory birds) from displacing contaminated sediments. The Service identified that exposure to contaminated sediments in the CAWS water column could result in direct or indirect impacts to Service trust resources (i.e., interjurisdictional fish and migratory birds). For example, the suspension of contaminated sediments in the water
column could result in direct exposure to aquatic invertebrates and indirect impacts to predators in higher trophic levels (such as predatory fish or piscivorous birds). The Service recommended that exposure pathways and potential bioaccumulation of contaminants through the food chain should be discussed in the Final NEPA document.

The Service also recommended that for each dredging area there should be a discussion of which best management practices for limiting suspension of contaminated sediments in the water column will be used. The Service suggested some practices to consider to achieve the goal of limiting sediment suspension. Those practices included the use of silt curtains, gunderbooms, increased cycle time, elimination of multiple bites (from an environmental bucket), and elimination of hopper overflow. The Department recommends that the Final EIS fully disclose potential impacts to Service trust resources and aquatic resources found in the CAWS that could be affected from displacing contaminated sediments.

Specific Comments

The United States Geological Survey (USGS) is providing the following comments to inform readers of a potentially misleading citation of USGS science with an associated reference that is not publicly available.

Misleading Citation & Unavailable Reference

Section 2.11 Land Use, p. 49 intends to describe land use within the study area in the current time and historically. The second paragraph of the section introduces recent stormwater management actions correlated with streamgage records within the CAWS basin and surrounding watersheds. It asserts that stormwater detention impacts can be confirmed by analysis of data from streamgages. It also cites unpublished findings presented by Thomas Over of the USGS Illinois Water Science Center in 2012.

The USGS is requesting that the final two sentences of the second paragraph of Section 2.11 discussing USGS science be removed along with the reference on p. 145 to Over, Thomas, David Soong, and T-Y Su. Additionally, USGS suggests that the preceding sentence asserting the impacts of stormwater detention by analysis of streamgage data be removed as well, as it is unsupported by any documentation.

Thank you for the opportunity to provide comments. This letter provides comment under the authority of, and in accordance with, the provisions of the National Environmental Policy Act of 1969 (83 Stat. 852, as amended P.L. 91-190, 42 U.S.C. 4321 et seq.), and the Fish and Wildlife Coordination Act of 1956 (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The Department looks forward to continued coordination with the U.S. Army Corps of Engineers to ensure that project impacts to resources of concern to the Department are adequately addressed. For matters related to fish and wildlife resources and federally listed threatened and endangered species, please continue to coordinate with Mr. Shawn Cirton, U.S. Fish and Wildlife Service, 230 South Dearborn Street, Suite 2938, Chicago, Illinois 60604, phone (847) 366-2345. For matters relating to USGS, please contact J. Michael Norris, USGS Coordinator for
Environmental Assessment Reviews, at (603) 226-7847 or at mnorris@usgs.gov

We appreciate the opportunity to provide these comments.

Sincerely,

[Signature]

Lindy Nelson
Regional Environmental Officer
To Whom It May Concern:

The Metropolitan Water Reclamation District of Greater Chicago (“MWRD”) received correspondence dated April 30, 2019 from the United States Army Corps of Engineers (“USACE”) explaining that the Draft Dredged Material Management Plan (“DMMP”) was available for public review and comment beginning May 3, 2019.

The MWRD understands that the proposed plan is to build a replacement sediment facility on the same footprint as the existing Chicago Area Confined Disposal Facility (“CDF”). Two MWRD properties were previously identified as potential sites for a new sediment management facility; however, these properties are no longer under consideration.

While the MWRD has no direct responsibility for this project, we expect no negative impacts to the MWRD or its operations if the existing CDF is vertically expanded. The USACE indicates that there may be reduced dredging requirements due to a decrease in combined sewer overflows in the affected area, and the MWRD is interested to see if future data supports this reduction. We also ask that USACE consider using MWRD’s Exceptional Quality air-dried biosolids or biosolids compost wherever possible as part of the DMMP.

Should you have any questions, please contact me.

Sincerely,

Brian A. Perkovich

STM: EMA: nm
Cook County
Chicago
NW of 95th St. & Lake Michigan, SW of 100th St. & Burley Ave., SE of 106th St. & Torrence Ave. and Burley Ave.
COEC, FR-2018-28344
EIS for potential sediment storage sites - Dredged Material Management Plan, Chicago Area Waterway System

May 28, 2019

Alex Hoxsie
Department of the Army-Corps of Engineers
Chicago District
231 South LaSalle Street, Suite 1500
Chicago, IL 60604

Dear Mr. Hoxsie:

We have reviewed the documentation submitted for the referenced project(s) in accordance with 36 CFR Part 800.4. Based upon the information provided, no historic properties are affected. We, therefore, have no objection to the undertaking proceeding as planned.

Please retain this letter in your files as evidence of compliance with section 106 of the National Historic Preservation Act of 1966, as amended. This clearance remains in effect for two (2) years from date of issuance. It does not pertain to any discovery during construction, nor is it a clearance for purposes of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440).

If you are an applicant, please submit a copy of this letter to the state or federal agency from which you obtain any permit, license, grant, or other assistance. If further assistance is needed contact Jeff Kruchten, Chief Archaeologist at 217/785-1279 or Jeffery.kruchten@illinois.gov.

Sincerely,

[Signature]

Robert F. Appleman
Deputy State Historic Preservation Officer
Dear Mr. Hoxsie:

The U.S. Environmental Protection Agency has reviewed a Draft Environmental Impact Statement (DEIS) prepared by the U.S. Army Corps of Engineers (USACE) for the proposed Dredged Material Management Plan (DMMP) for the Chicago Area Waterway System (CAWS). The non-federal sponsors are the City of Chicago (City, working through the Chicago Department of Transportation) and the Chicago Park District (CPD). This letter provides EPA’s comments on the DEIS, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality’s NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

In 2014, USACE announced a plan for navigation channel maintenance dredging and disposal of dredged materials expected to be generated by the operation and maintenance of Federal navigation channels in the CAWS over a minimum 20-year period of analysis. There are six navigation projects in the CAWS. Among the CAWS channels, there are projected dredging needs only for Calumet Harbor and River and the Calumet-Sag Channel. The remaining channels do not have a projected dredging need in the next 20 to 25 years.

Maintenance dredging within the CAWS has the potential to remove contaminated sediments, which require disposal in a confined disposal facility (CDF) to isolate contamination. Contaminated sediment is currently placed into the existing CDF located on Lake Michigan near 95th Street. The facility, built in 1984, is a triangular-shaped area approximately 43 acres in size located in Calumet Harbor, south of the entrance channel to the Calumet River. It will soon be filled to capacity and will not be able to accept material past 2022 as currently operated. The Draft CAWS DMMP and integrated DEIS documents the analyses undertaken to identify and evaluate alternatives for dredged material management for the CAWS. Specifically, the DEIS
studies potential disposal alternatives (management measures) for handling the dredged material from the CAWS. These measures include options for altering dredging operations, beneficial use of uncontaminated dredged material, and safe handling of contaminated material. Vertical expansion of the existing CDF was also studied. None of the dredged material from the CAWS is currently suitable for open water placement or in-water beneficial use. The quality and composition of sediment from Calumet Harbor will allow for its beneficial use in upland, unconfined applications. However, due to contaminant levels, sediment from the Calumet River and the Cal-Sag Channel requires continued confined disposal.

Over the past several years, extensive efforts were made by USACE to identify potential sites for a new Dredged Material Disposal Facility (DMDF) that would meet multiple criteria such as technical requirements, federal policy, property availability, public and stakeholder interests, and non-federal sponsor and natural resource agency input. The final array of alternatives analyzed in the DEIS included the No Action alternative, construction of a new DMDF at one of four upland sites on the existing channel (Former KCBX Site, Former Wisconsin Steel Site, 116th and Burley, and the LTV Site), and vertical expansion of the existing Chicago Area CDF.

Based on a comparison of the risks associated with pursuing any of these alternatives, USACE's tentatively selected plan (TSP) is vertical expansion of the existing CDF. The TSP includes construction of a 530,000 cubic yard capacity DMDF on top of the existing Chicago Area CDF. Construction of a DMDF at this site would include berms constructed from the dredged material from Calumet Harbor. The existing CDF settling pond would be used to collect effluent, which would be directed to existing filter cells prior to being discharged to the Calumet River. This process is similar to how the existing CDF has been operated since it opened in the 1980s.

Of the anticipated 1,030,000 cubic yards of dredged material to be removed from the CAWS over the next 20 years, 500,000 (49%) of Calumet River Material and 30,000 (3%) of Cal-Sag Channel material will be placed into the DMDF. The remaining 500,000 cubic yards (48%) will be Calumet Harbor material to be beneficially-reused during DMDF construction and closure, as well as in other approved upland beneficial uses through an agreement with the non-federal sponsors. The development of an agreement between USACE and the non-federal sponsors to beneficially reuse the excess material dredged from Calumet Harbor not required for DMDF berm construction is ongoing. This agreement is vital to the success of the study and proposed project, as the TSP site is otherwise inadequately sized to facilitate storage of large quantities of beneficial use material.

EPA's comments on the DEIS are enclosed with this letter. Except for comments not relevant to the TSP, EPA reiterates the recommendations from our previous correspondence, including our December 18, 2014 letter to Charlene Carmack (Rock Island District) and our July 20, 2015 letter to Sue Davis (Chicago District). Some of our current comments repeat issues mentioned in those letters. We recommend that the Final EIS address these comments and our recommendations, which generally relate to sediment sampling and management, climate adaptation and resiliency, air quality impacts, and environmental justice.
Effective October 22, 2018, EPA no longer includes ratings in our EIS comment letters. Information about this change and EPA’s continued roles and responsibilities in the review of federal actions can be found on our website at https://www.epa.gov/nepa/environmental-impact-statement-rating-system-criteria.

We commend USACE for the efforts undertaken to expand public involvement in the NEPA analysis and during the EIS process, and we appreciate the opportunity to review and provide comments on this DEIS. We are available to discuss our comments with you in further detail if requested. When the Final EIS is released, please send one paper copy and/or one CD of the document to our office or notify us electronically of its release. If you have any questions about this letter, please contact the lead NEPA Reviewer, Liz Pelloso, PWS, at 312-886-7425 or via email at pelloso.elizabeth@epa.gov.

Sincerely,

Kenneth A. Westlake
Deputy Director, Office of Multimedia Programs
Office of the Regional Administrator

cc (via email):
Shawn Cirton, USFWS
Nathan Grider, IDNR
Darren Gove, IEPA
Darin LeCrone, IEPA
Alderman Susan Sadlowski Garza, 10th Ward
SEDIMENT SAMPLING / SEDIMENT MANAGEMENT
• The DEIS on page 31 notes that based on the levels of ammonia in the results from elutriate testing and the results from biological testing, open-water placement of Calumet Harbor sediments is not recommended at this time. However, the DEIS notes that concentrations are not high enough to rule out open-water placement as a "potentially acceptable alternative in the future" and states, "future evaluation, including sediment and elutriate chemical analysis and biological testing, should be conducted to re-evaluate open water placement and fully investigate this placement alternative." The DEIS is unclear if such "future evaluation" would be undertaken during the 20-year period of analysis of the DEIS.

Recommendations: In the Final EIS (FEIS), clarify if "future evaluations" are planned, and if so, when and for what purpose.

• Section 3.11.2 of the DEIS implies that future dredged materials would be staged at the existing CDF site for dewatering. The DEIS is unclear if dredged materials will all be staged for dewatering at the Chicago CDF or if some/any dredged materials will be transported directly to beneficial use locations.

Recommendation: In the FEIS, expand the narrative information on materials management at the CDF to describe how future dredged sediments will be managed (e.g., staging and separation) at the CDF. Include information on the proposed dewatering of future beneficial use materials, distribution of beneficial use materials, and transport of beneficial use materials from drying pads to offsite beneficial use locations.

ENVIRONMENTAL CONSEQUENCES / PROJECT IMPACTS
• Page 101 of the DEIS states that none of the action alternatives would have a significant adverse impact on existing recreational opportunities and that in the long term, recreation would be a compatible possible use of the expanded CDF post-closure. However, the DEIS does not discuss the environmental consequences of the temporal loss in future parkland. Specifically, the expansion of the existing CDF means it will be another ~40 years before residents will have access to lakefront parkland, assuming that the CDF is converted into a park for recreational use post-closure.

Recommendations: Provide information on the expected environmental consequences associated with the delay in conversion to parkland in the FEIS.
CLIMATE ADAPTATION / RESILIENCY

- The current CDF juts into and is bordered on two sides by Lake Michigan. The Great Lakes are at their highest levels in recorded history and many locations are experiencing more frequent and heavier precipitation events. Section 4.5 of the DEIS (p. 115) states, "...the proposed action is confined to a specific area and there are no aspects of the project that would affect climate. Additionally, changing climatic conditions in the future would not have a significant impact on a proposed DMDF on any of the alternative sites." However, the DEIS/Appendix H did not consider the vertically-expanded CDF's ability to withstand extreme water and wave events over the period of analysis (and beyond). Additionally, the DEIS/Appendix H did not discuss whether rising water levels in Lake Michigan have affected the existing CDF.

**Recommendations:** Add a discussion in the FEIS regarding if, and how, rising water levels in Lake Michigan have affected the existing CDF. Provide information on the steps USACE is taking to ensure that the existing CDF will not be adversely affected by rising lake levels in the future, and the steps USACE will undertake to protect the CDF (as expanded/proposed) from rising lake levels. Provide additional information regarding reasonably foreseeable effects that changes in the climate may have on the proposed project and the project area (for the TSP especially), including its long-term infrastructure. This could help inform the development of measures to improve the resilience of the proposed project. If projected changes could notably exacerbate the environmental impacts of the project, EPA recommends these impacts also be considered as part of the NEPA analysis. In the FEIS, EPA recommends that USACE further explain why "changing climatic conditions in the future would not have a significant impact" on construction of a new DMDF at any of the sites, including the TSP. The FEIS should clarify whether commitments have been made to ensure implementation of design alterations or other measures to provide resiliency. Considerations could include, but are not limited to:

- Commitments to specific best practices to minimize greenhouse gas emissions from construction and operations. Assess energy efficiency, renewable energy, electrification of equipment, and cleaner diesel strategies for inclusion in planning documents and construction contractor scopes of work. Consider that reducing diesel emissions have the added benefit of reducing black carbon emissions, which have climate-forcing effects orders of magnitude larger than carbon dioxide on a per-mass basis; and

- Based on the project team’s assessment of climate change impacts associated with the project (and consistent with federal policy), how resiliency and adaptation to changing climate conditions have been factored into project siting, design, and mitigation decisions.
SEDIMENT QUALITY AND TESTING

• The Executive Summary (on p.2, unnumbered), the DEIS states, "Due to elevated levels of contamination in material dredged from Calumet River and the Cal-Sag Channel, this material cannot be placed in open water or unconfined upland locations."

Recommendations: In the FEIS, clarify what "elevated levels of contamination" means (i.e., elevated compared to what?)

• Page 28 of the DEIS (Section 2.2.3 Sediment Quality) states, "Analysis of sediment quality within the study area was conducted as part of the GLMRIS Report Appendix B. Additional information on this topic can be found in Section B.1.2.3 of the Appendix B [of GLMRIS] and is incorporated here by reference." The GLMRIS Report (referenced in the DEIS as "USACE 2014") is not included in the DEIS list of references. Regardless, Section 2.2.3 does not provide enough information on what the GLMRIS Report's "analysis of sediment quality" concluded.

Recommendations: In the FEIS, expand Section 2.2.3 to provide additional narrative information and a meaningful summary of the GLMRIS Report's "analysis of sediment quality." Add the GLMRIS Report to the list of references in the FEIS.

• Historically, concentrations of PCBs in the water samples collected from the Calumet River have been below the detection limit, but the concentrations of PCBs measured in sediment samples from the Calumet River have varied from non-detectable to a maximum of 39 mg/kg in 1989, as shown in the Tier 1 Sediment Evaluation prepared November 2010 (p.29-30). Under the Toxics Substances Control Act (TSCA), the PCB regulatory threshold is 50 mg/kg.

Recommendations: EPA recommends that USACE undertake additional sampling for PCB levels in sediments to be placed in the CDF, both during and after the vertical expansion of the CDF, to ensure PCB levels continue to stay below this threshold.

AIR POLLUTANTS / AIR QUALITY IMPACTS

• Pages 28 of the DEIS (Section 2.2.3 Sediment Quality) states, "The list of contaminants of concern identified for Calumet Harbor and River sediment includes arsenic, barium, cadmium, chromium, copper, lead, manganese, mercury, nickel, zinc, ammonia nitrogen, oil and grease, phosphorus, cyanide, and polychlorinated biphenyls (PCBs). Although the list does not include semi-volatile organic compounds (SVOCs), analytical testing for these compounds was performed for a sediment sampling event in 2000 in Calumet Harbor."

Page 29 states, "A human health risk-based screening was conducted based on the analytical results of Calumet Harbor sediment samples collected in 2011 to determine whether the analytical by results [sic] from the sampling event were less than either the Illinois Environmental Protection Agency (IEPA) Tiered Approach to Corrective Action (TACO) or USEPA regional residential soil screening levels (see Appendix C)."
Section 2.2.3 establishes that Calumet River and Cal-Sag Channel sediments are highly contaminated. The process of dredging, transporting and placing sediments contaminated with these and other toxicants (e.g., pesticides/herbicides DDE, DDT, 2,4-D, as noted in Appendix C - p. 117/1251) in the Chicago Area CDF/DMDF and drying them there has the potential to transfer contaminants to air and expose nearby neighborhoods and residents. The DEIS did not appear to consider these potential residential exposures and the ramifications of exposure.

**Recommendations:** Include a discussion in the FEIS on the potential for transference of contaminants to air, including the potential for exposure to nearby neighborhoods and residents. If exposure potential exceeds regulatory thresholds, the FEIS should discuss and commit to appropriate mitigation measures to reduce exposures below regulatory thresholds.

- The contaminants of concern (COC) listed on p. 29 of the DEIS did not include semi-VOC (SVOC) compounds, though the DEIS states that analytical testing for these compounds was performed for a sediment sampling event in 2000 in Calumet Harbor. The results of the testing were not provided in the DEIS.

**Recommendations:** Include a discussion on the results of 2000 analytical testing for SVOCs in the FEIS. Provide clarification on whether SVOCs will or will not, and why or why not, be considered a COC after the vertical expansion of the existing CDF.

- The existing CDF is located within 0.5-1.0 mile of residential areas. The DEIS does not appear to have considered residential air concentrations of and human exposure to CDF/DMDF-emitted air pollutants over the duration of operations at the facility.

**Recommendations:** Include this analysis in the FEIS, and if relevant, discuss and commit to appropriate mitigation measures.

- Page 82 of the DEIS states that wet dredged materials are either dried and then moved into the facility, or are unloaded directly inside the facility and allowed to dry in place. The drying process takes approximately a year. No information was provided in the DEIS on how USACE is accounting for sediment emissions during dredging, barge placement, sediment drying, and transportation to the CDF/DMDF.

**Recommendations:** Provide clarification on how USACE is accounting for sediment emissions during this time of active transport and drying.

- Page 98 of the DEIS (Section 4.4 Air Quality) states, “The proposed emissions would be limited to mobile source (equipment and vehicle) emissions and general dust emissions, since the facility would not include any processes or operations that are stationary source emissions.” The DEIS did not provide data utilized to come to this conclusion.

**Recommendations:** Provide clarification on the proposed construction is expected to have a minimal impact on air quality in the study area without having completed data
gathering or analysis. Provide information on the data analysis used to support USACE's conclusion.

- Page 98 of the DEIS also states, "Because the CAWS DMMP construction is expected to have a minimal impact on air quality in the study area, it was determined to be unnecessary to conduct a detailed analysis using air quality models." Although construction of the DMMP expansion may not have a substantial effect on air quality, the DEIS was silent about the effects on air quality during dredging, moving, placement and drying of dredged sediments contaminated with compounds mentioned in 2.2.3 Sediment Quality (and potential others) others over the years in an expanded DMMP/CDF. As noted in comments above, the DEIS did not appear to consider these potential residential exposures and the ramifications of exposure.

**Recommendations:** include a discussion in the FEIS on the potential for transference of contaminants to air, including the potential for exposure to nearby neighborhoods and residents and if necessary, any relevant mitigation measures.

- As noted above, the DEIS predicts that construction and operation of the DMDF are predicted to have a minimal effect on air quality in the vicinity of the CDF. Particulate emissions from the dredged materials staging and CDF disposed sediments are expected to be a concern only under "certain weather conditions" and as long as proper controls for dust emissions reduction are in place.

**Recommendation:** In the FEIS, expand the above explanation to describe the weather conditions that could be problematic for particulate emissions. Describe in more detail the controls that could be put in place as regular or temporary mitigation methods for particulate and dust emission controls. This could include, but is not limited to, the following: 1) keeping the disposed sediments ponded as much as possible; 2) installing tree lines or wind-break fences to reduce the upgradient wind currents passing over the sediments; 3) seeding the disposed sediments to create a vegetation layer; or 4) a combination of those methods.

- The DEIS provides information about groundwater monitoring but provides no information on air monitors or proposed monitoring for airborne sediment or particulate matter (PM) emissions before, during and after project construction. Page 98 of the DEIS states that particulate emissions are not expected to be a concern "as long as the DMDF operation incorporates proper controls to reduce the potential dust emissions that may occur under certain weather conditions."

**Recommendations:** EPA recommends the installation and use of additional air monitors (for PM at a minimum) around the project site. This would allow USACE to confirm if the proposed control methods (wetting the sediment, silt fences, or vegetation) are adequate. The FEIS should discuss USACE's proposals for air monitoring before, during, and after project construction. Additional monitoring should be committed to in the NEPA decision document.
Page 98 of the DEIS states, "...the general conformity analysis is potentially applicable [to the proposed alternatives]" because the proposed emissions from the TSP would be limited to mobile source and general dust emissions. There was no rationale provided on why the TSP and other action alternatives would not include analysis of stationary source emissions. Given that the new vertical expansion will increase the facility height an additional 25 feet, it could potentially generate measurable windborne sediments on any windy day. It is not practical to assume that future dust emissions will not be an issue just because "dust from the current facility has not been an issue during the past 30 years of management." Additionally, the DEIS did not explain how USACE will estimate level of sediment emissions from the new vertical expansion and whether those emissions will still meet Illinois Environmental Protection Agency (IEPA) general conformity limits.

The DEIS does not state the height of the existing CDF, nor does it provide the final height of the CDF/DMMP after the proposed 25-foot vertical expansion. This information is important because it may affect how the sediment and dust emissions will transport and disperse during and after loading/placing into the facility (but before being covered/capped), especially during unusual weather events.

**Recommendations:** Include a rationale in the FEIS on why the TSP and other action alternatives would not require analysis of stationary source emissions, considering the TSP proposes a 25-foot vertical expansion. Provide an explanation on how USACE is estimating levels of sediment emissions from the TSP as proposed and whether those emissions will meet IEPA general conformity limits. Clarify in the FEIS the height of the existing CDF and the proposed final height (including the 25' expansion).

IEPA operates an air monitoring station at George Washington High School, located southwest of the project location. Reported pollutants include fine particulate matter (PM2.5); inhalable particulate matter (PM10); lead (Pb-NAAQS); and toxic metals as total suspended particulates (TSP). Page 31 of the DEIS states, "Sediment samples collected in 2009 were analyzed for various metals, SVOCs, pesticides, VOCs, and general chemistry... While the concentrations of all tested parameters exceeded the various criteria, the most prominent were SVOCs, ammonia, PCBs, and metals. These parameters are therefore expected to be the focus of future investigations." The DEIS did not mention any local air monitoring station nor did it analyze if the particulate emissions that are locally monitored have been affected by operation of the existing CDF or are expected to be affected by the future DMDF construction and operation as proposed in the TSP.

**Recommendations:** The FEIS should discuss current and proposed air monitoring efforts in the project vicinity, including any that are undertaken by USACE in addition to by others. Potential offsite impacts to air quality should be analyzed and discussed. The Final EIS should include locations of the existing air quality monitors at the Chicago Area CDF and discuss how USACE plans to provide information and monitoring data during construction, operation, closure, and post-closure of the proposed Vertical Expansion.
ENVIRONMENTAL JUSTICE

- The Environmental Consequences (Section 4.0) portion of the DEIS did not include any information or discussion on how the new vertical expansion of the existing CDF will affect the overall air quality in adjacent communities with identified environmental justice concerns. Section 4.9 of the DEIS states, "Construction of the facility may have minimal short-term impacts to residents but these impacts would be the same regardless of race or income." EPA does not agree with this statement, particularly because it is not relevant here; air quality effects will be predominantly borne by minority populations and/or low-income populations that surround the project location.

Specifically, disproportionately high and adverse impacts are typically determined based on the impacts in one or more resource topics analyzed in NEPA documents. Any identified impact to human health or the environment (e.g., air quality impacts, noise impacts, traffic/congestion increases, modification of land use) that potentially affects minority populations and low-income populations in the affected environment might result in disproportionately high and adverse impacts.

The Environmental Justice Interagency Working Group’s Promising Practices for EJ Methodologies in NEPA Reviews\(^1\) states, “Agencies’ approaches should not determine that a proposed action or alternative would not have a disproportionately high and adverse impact on minority populations and low-income populations solely because the potential impacts of the proposed action or alternative on the general population would be less than significant (as defined by NEPA). Agencies may wish to consider unique vulnerabilities, special exposure pathways, and cultural practices associated with minority populations and low-income populations in the affected environment.”

Agencies should also consider the degree to which any other extenuating factors\(^2\) amplify identified impacts. Factors that can potentially amplify an impact to minority populations and low-income populations in the affected environment related to this project include, but are not limited to:

- The presence of vulnerable populations (e.g., minority and low-income children, pregnant women, elderly, or groups with high asthma rates); and
- The condition of physical infrastructure (e.g., substandard housing conditions, old or no in-home HVAC/filtration roads, older windows, inability to make in-home changes due to rental vs. home-ownership)

**Recommendations:** The FEIS should include additional environmental justice analysis. Specifically, USACE should consider factors that can amplify identified impacts (e.g., the unique exposure pathways, prior exposures, social determinants of health) to ensure a comprehensive review of potential disproportionately high and adverse impacts to minority populations and low-income populations. EPA recommends that USACE reassess whether there are, in fact, any disproportionately high and adverse impacts.

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\(^1\) [https://www.epa.gov/environmentaljustice/ej-iwg-promising-practices-ej-methodologies-nepa-reviews](https://www.epa.gov/environmentaljustice/ej-iwg-promising-practices-ej-methodologies-nepa-reviews)

expected, and if those disproportionately high and adverse impacts are considered “significant” under NEPA through a review of context and intensity. Consistent with applicable requirements, USACE should state in the FEIS whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted. (Sec 40 CFR §1502.2(c)).

WATER QUALITY

- A new berm system and two sediment disposal cells will need to be constructed at the Chicago CDF to implement the TSP. The DMDF construction will include wick drains beneath the new berms and apparently expanded sediment cell water drainage leading to the south drainage pond. The explanation for management of DMDF water effluents in the DEIS was minimal.

**Recommendation:** In the FEIS, please expand on the description of effluent management from contaminated materials that will need to be managed for the life of the project. Provide an explanation on how effluent water is managed at the drainage pond to prevent direct releases to Lake Michigan. Provide more details on the operation of filter cells and what constituents are removed from the water stream. Explain why contaminant monitoring is not performed and/or required (i.e., to meet state water quality standards) on the effluent stream before discharge to the Calumet River.

PROJECT CORRESPONDENCE

- The DEIS did not state how USACE planned to respond to comments received during the DEIS comment period.

**Recommendation:** In the FEIS, create a new appendix to include all comments received during the DEIS comment period – including the transcript from the public hearing(s) and all comment letters received. For all agency letters received, include USACE’s responses to specific comments from each letter. EPA also recommends that the appendix include all correspondence sent to and received from the resource agencies regarding the DEIS.

DOCUMENT CLARIFICATION / CORRECTIONS

- Section 1.8 (p. 5) references Figure XX and Section XX.

**Recommendations:** In the FEIS, add specific figure and section numbers to which the document is referencing.

- Section 1.13.5 of the DEIS (Great Lakes and Mississippi River Interbasin Study) refers to the study more commonly known as GLMRIS; however, the acronym is not included in the Section title.

**Recommendations:** Include the acronym in the Section 1.13.5 title (i.e., “1.13.5 Great Lakes and Mississippi River Interbasin Study (GLMRIS)”].
• Page 46 of the DEIS references Table 15 (demographic data); however, Table 15 is missing. Page 46 also appears to be missing text as the preceding sentence ends abruptly, “The demographic data presented in [page break] Table 15...”

**Recommendations:** In the FEIS, correct these omissions and errors.

• Page 82 of the DEIS includes a discussion on the existing CDF, noting, “…the bottom of the existing CDF is the naturally occurring clay bottom “bed” material of Lake Michigan, rather than a constructed liner.” EPA is aware that there have been concerns from the public that the CDF was originally built without a liner and concerns about the effects of adding more dredged material to the CDF. In a phone conversation between EPA and USACE staff on 5/24/2019, EPA staff were informed that the CDF was originally built with a geotextile liner as well as a sand liner. Page 93 of the DEIS mentions an additional “sand blanket” placed at the facility and references a 1998 Supplemental EIS. Additionally, USACE staff noted that USACE’s Engineer Research and Development Center (ERDC) has published a technical paper on the liner of the CDF that documents that nothing is leaching out of the CDF into Lake Michigan. USACE also clarified that they monitor water quality annually.

**Recommendations:** Expand the narrative information provided on the CDF and its original construction, including how addition of more dredged material onto the original CDF base will affect the aquatic environment.

• Page 114 references compilation of “this EA,” not EIS.

**Recommendations:** Correct this error in the FEIS.

• The GLMRIS Report (referenced in the DEIS as “USACE 2014”) is not included in the list of document references.

**Recommendations:** Correct this omission in the FEIS.
August 1, 2019

U.S. Army Corps of Engineers
ATTN: Planning Branch
231 S. LaSalle Street, Suite 1500
Chicago, IL 60604

By E-Mail: CELRC_Planning_Econ@usace.army.mil

Re: Public Comment – Chicago Area Waterway System Dredged Material Management Plan, integrated Environmental Impact Statement

To Whom It May Concern:

Please be advised that I represent the Southeast Environmental Task Force (“SETF”), a not-for-profit organization based in southeast Chicago. SETF’s mission is to improve environmental quality in the Calumet region. SETF accomplishes this by providing public education and advocacy on environmental and health issues. SETF works to improve the quality of life for community members through preservation of natural areas, sustainable development, and environmentally responsible business practices. SETF’s members include residents who live, recreate and work in neighborhoods immediately adjacent to the Calumet waterways. Consequently, SETF has a strong public interest in the Dredged Material Management Plan that is now being developed by the U.S. Army Corps of Engineers (“Corps”).

SETF requested my assistance to address specific issues related to the Corps’ legal responsibilities. To this end, I previously submitted comments on behalf of SETF on February 5, 2019, March 5, 2018 and July 15, 2015. These earlier comments are attached and incorporated by reference. Other SETF members may be submitting written comments addressing other aspects of the Corps’ development of a Dredged Material Management Plan and its current evaluation of alternatives for dredged sediments. For some comments, I will be relying on written comments submitted by U.S. EPA to the Corps on or about July 22, 2019 (copy enclosed). I will identify but not repeat the EPA comments with which SETF concurs, adding only supporting information not currently in the record.

By way of summary, SETF’s comments are organized into two general categories. The first category of comments addresses the purpose and need, alternatives, affected environment and environmental consequences related to the management of dredged materials. The second category of comments addresses the proposal for vertical expansion at the location of the existing CDF, including several comments regarding apparent data gaps that should be addressed as part of a Final EIS.

1 http://setaskforce.org/

—Named one of Chicago’s Top Charities by Chicago magazine, Nov. 2015 —
SETF notes that the Corps must ensure the professional integrity, including scientific integrity, of its analyses, identifying methodologies used and the scientific and other sources relied upon for its conclusions. 40 C.F.R. §1502.24. In evaluating potential significant adverse effects, the agency must include this information unless the overall costs of obtaining it are “exorbitant”. 40 C.F.R. §1502.22 (a). If the Corps is relying on incomplete information, the Corps must be clear where information is incomplete, assess the relevance of the incomplete information, provide a summary of existing credible scientific evidence, and use theoretical approaches and research methods generally accepted in the scientific community. 40 C.F.R. §1502.22 (b). Pursuant to 40 C.F.R. §1502.14, the Corps must rigorously explore and objectively evaluate reasonable alternatives.

SETF Comments Regarding the Purpose and Need, Alternatives, Affected Environment and Environmental Consequences Related To Managing Dredged Materials

In earlier comments, SETF questioned whether the Corps possessed adequate information about contaminant levels in sediments to support its conclusion that confined disposal must be utilized. SETF based this question on the lack of contemporary sediment sampling data and, in turn, the lack of a credible predictive model describing how sediment contaminant trends would change during the decades-long period for constructing and operating a proposed CDF. Even in the absence of contemporary data, SETF asserted that there is evidence a new CDF is not needed. For example, the Corps acknowledges Calumet Harbor sediments are now suitable for beneficial reuse in upland settings. Historic data suggested Calumet River sediments are also becoming less contaminated over time. There are rational explanations for this improvement – the removal of legacy contaminants in previous dredging events, the virtual elimination of combined sewer overflows by virtue of the completion of the regional Tunnel and Reservoir Project and enhanced control/retirement of industrial facilities that directly discharge polluted effluent in the Calumet River.

SETF further asserted that the Corps’ claims about the volume of sediment that must be placed in a confined disposal facility were unsupported by credible evidence. SETF posited that the actual volume of dredged material that required placement in a CDF may be small now and even smaller or eliminated over time, thus opening up a range of reasonable non-CDF alternatives that alone or in combination would eliminate the need to construct a new CDF at all. SETF’s point of view, consistently asserted since 2015, has been that an EIS is required to fully evaluate sediment contamination now and into the future. This information is fundamental to identifying and evaluating reasonable management alternatives, including a “no CDF” alternative. Moreover, even if premature at this moment, the “no CDF” alternative may become viable in the future if sediment conditions continue to improve.

SETF’s believes the best alternative is this – the Corps should continuously sample and manage all dredged materials to avoid all unnecessary disposal, now and in the future. In the words of the Corps, “[N]o material suitable for beneficial upland use would be placed in the new facility.”2 With this context in mind, SETF makes the following comments.

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2 https://www.lrc.usace.army.mil/Missions/Civil-Works-Projects/Calumet-Harbor-and-River/; “The proposed plan includes a recommendation to build a replacement sediment facility to contain sediment dredged from the the Calumet River and Cal-Sag channel on the same footprint as the existing Chicago Area CDF. Calumet Harbor sediment, which is suitable for upland use as clean fill, would be used beneficially as construction material for the
Comment: All sediment conditions are improving and some dredged material is now suitable for upland beneficial reuse. However, the Corps has not identified at what levels dredged material becomes suitable for upland beneficial reuse, and the Corps has not identified the sampling protocol it will use to assess if material it will dredge from the Calumet River and Cal-Sag Channel meets these standards. The total volume of sediment from these waterways that can be beneficially reused now and, especially, in the future has not been assessed. This is critically important information because it could directly affect the size, location, lifespan, design characteristics and operations of a dredged material management plan or facility. Even today, the volume of sediments that justify land disposal may be limited to a few “hot spots” within shoaled areas of the waterway. Over the course of decades (the operating lifespan of a potential CDF), this volume could become much smaller or completely eliminated, as we now see in the Calumet Harbor.

Based on information that is now posted by the U.S. Army Corps of Engineers, the data regarding sediment contamination trends can be characterized as follows:

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<td>16-120</td>
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**Bolded** numbers are clean enough for beneficial uses.

There is a downward trend for every contaminant level, indicating that the sediment is becoming cleaner over time. Even though the lower numbers in these ranges do not differ significantly over time, the upper ranges are decreasing and the overall range is getting tighter. This indicates that

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3 The most recent data is available at: https://www.lrc.usace.army.mil/Portals/36/docs/projects/calumetharbor/20190517/1_What%20is%20in%20the%20Sediment.pdf

Earlier data is available at: https://www.lrc.usace.army.mil/Missions/Civil-Works-Projects/Calumet-Harbor-and-River/
the concentrations of contaminants in the sediments are decreasing and there are fewer “hot spots” in the Calumet River, following the positive trend observed in the Calumet Harbor.

The following table shows the mean value of samples taken from every dredging event that has occurred in the Calumet River and Harbor. This table is a comprehensive depiction of trends throughout the entire Calumet waterway system. The concentration for every contaminant is declining, an indication that the sediment is becoming cleaner over time.

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<td>Zinc</td>
<td>771</td>
<td>392.8</td>
</tr>
<tr>
<td>Total number of samples</td>
<td>100</td>
<td>22</td>
</tr>
</tbody>
</table>

These trends strongly suggest that the volume of material that must be land disposed is decreasing. It is irrational to construct a CDF without a highly detailed, comprehensive analysis of sediment quality throughout the entire area that is to be dredged. It is irrational to select the CDF alternative if predictive modelling suggests that in the future, the total volume of sediment justifying land disposal will become much smaller or will be eliminated. A large CDF is a 1970's solution to a problem that may no longer exist in any meaningful way when dredging recommences in the Calumet River, and which may disappear entirely after that, as it did in the Calumet Harbor. The Corps’ estimate of the volume of dredged material that must be land disposed is complete guesswork, and must not be accepted as “prima facie” true. In turn, the only rational way to identify and assess alternatives is to have high quality information about the true nature, extent and location of sediments that will require land disposal, now and in the future.

Comment: Even though there is a downward trend, it’s not possible to know with certainty what contaminant concentrations will be present at any specific location or depth when dredging actually occurs. Broad characterizations will not apply to specific loads of dredged material. This is especially true because the next dredging of the Calumet River may not occur for several years, long after existing sample results were compiled. For this reason, SETF is requesting the Corps to clarify what protocols it will use to sample dredged material from the Calumet River to ensure that material that can be beneficially used is not land disposed. SETF notes that the contaminant characteristics of surface materials may differ from deeper materials, even at the same location.
As an alternative to constructing a new CDF or expanding the existing CDF, SETF asserts the Corps must accurately characterize the total volume of sediment, at the time the material is dredged, that must be land disposed. From SETF’s perspective, the critical issue is not the total volume that will be dredged or the capacity of a CDF. Rather, the critical issue is the total volume of this dredged material that must be land disposed. SETF asserts that reasonable non-CDF alternatives will emerge from this analysis. SETF is asserting a triage approach for assessing the alternatives for dredged sediment. For example, very clean sediment can be disposed in open waters. Clean sediments – like those now found in the Calumet Harbor - can be beneficially reused without treatment. Other sediments with minimal contamination can be treated and, in whole or in part, beneficially reused. Because of observed, continuing improvements in sediment quality over time, this triage approach will dramatically reduce the volume of sediment that must be land disposed, potentially eliminating the need for a new CDF and also the vertical expansion of the existing CDF. In this triage approach, SETF acknowledges there may be contaminated sediments that must be placed in a controlled land disposal site; but this location may be much smaller than the planned CDF. One short-term advantage of the vertical expansion TSP is that it is inherently more flexible, and could be altered based on changes in future conditions, including early closure.

**SETF Comments Regarding Vertical Expansion at the Existing CDF Location**

**Comment:** The Corps must clarify how it will address existing legal requirements that apply to the closure of the existing CDF and the use of dredged material for vertical expansion.

The NPDES permit for the existing CDF includes this Special Condition:

> Special Condition 5. Upon completion, the site shall be covered with a five (5) foot thick clay and topsoil cap, graded to drain, and seeded and mulched to prevent erosion. Any alternative cover including use of dredged material will require modification of this permit and review of supporting documentation that such use will not cause water pollution or impact to health and environment.

This NPDES permit is effective until May 31, 2021. It appears that in order to execute the TSP, the Corps must seek a modification of its NPDES permit and to establish that the use of dredged material will not cause water pollution or impact to health and the environment. SETF requests clarification of the status of making these modifications and generating this documentation. SETF also asks the Corps to commit to public engagement as part of making this modification.

**Comment:** Surface water sampling data suggests that the existing dike wall is effective in controlling releases of pollutants from the CDF into adjacent surface waters. However, there are omissions in this data that the Corps should address as part of its Final EIS and before proceeding with vertical expansion. One critical omission - it does not appear that the Corps samples for mercury, lead and PCBs. Because of the risks associated with mercury, lead and PCBs, this data gap makes it difficult to evaluate the effectiveness of the controls that are and will be employed at the CDF. SETF requests Corps to address this data gap as part of the Final EIS.
The Corps monitors pollutant concentrations from three clusters immediately adjacent to the wall of the dike at the CDF. These concentrations are combined into a composite result. The sampled pollutants are:

- ammonia nitrogen
- total kjeldahl nitrogen
- phosphorous
- total dissolved solids
- total suspended solids
- chromium
- manganese
- zinc

The Corps compares the dike wall pollutant concentrations to pollutant concentrations in surface water it takes from other nearby locations. These locations include “background” locations in the Calumet River and offshore in Lake Michigan. These results are combined into a composite “background” number, which is then compared to the samples taken adjacent to the dike wall. Dike wall samples are also compared to Calumet River and CDF pond samples.

SETF reviewed the sampling data posted by the Corps, which spans a period from the mid-1980’s to 2016. This data appears to show that the samples taken at the dike wall are comparable with background surface water samples, suggesting the existing CDF is effective at controlling wastewater releases. However, the sampling data posted by the Corps does not include sampling data for PCBs, mercury and lead, which are persistent, bioaccumulative and toxic (“PBT”) pollutants. Because of their PBT characteristics, there is the highest priority to prevent PCBs, mercury and lead from being released into the surface waters and sediments of the Lake Michigan ecosystem. This apparent data gap is notable because sampling of dredged material that is directed to the CDF from both the Calumet River and Calumet Harbor consistently exhibits lead, mercury and PCB constituents (see Tables 1 and 2, above).

SETF believes the apparent lack of mercury, lead and PCB surface water sampling at and near the CDF is a significant data gap that should be addressed as part of the Final EIS. This is necessary to ensure the Final EIS addresses a potentially significant environmental consequence on an especially important affected environment, the Lake Michigan ecosystem. This analysis is also necessary to ensure the proposed vertical expansion will not perpetuate releases of these PBT substances, including the identification of any mitigation measures.

**Comment:** Surface water sampling data suggests that the existing dike wall is effective in controlling releases of pollutants from the CDF into adjacent surface waters. However, there are omissions in this data that the Corps should address as part of its Final EIS and before proceeding with vertical expansion. SETF is asking Corps to address pollutant concentrations in effluent at the point that filter cells discharge wastewater into the Calumet River. Based on existing information, it is difficult to evaluate whether the filter cells are effective to control pollutants now and, even more importantly, when a vertical expansion occurs.

Water from the CDF settling basins is pumped to two (2) 34 foot diameter dual media filter cells and is discharged to the Calumet River. A pump with a capacity of 500 gallons per minute must
be employed during mechanical dredging operations to carry wastewater to the filter cells in order to reduce the volume of liquids in direct proportion to the incoming sediment and wastewater volume during dredging and disposal events. During hydraulic dredging operations a pump with a capacity of 2,250 gallons per minute must be employed for the same purpose.

SETF requests Corps to compile and evaluate information about pollutant concentrations at the immediate point of discharge from the filter cells into the Calumet River. This analysis is necessary to ensure that existing pollution control infrastructure, which would continue to be used as part of the vertical expansion, will not perpetuate wastewater releases that are inconsistent with the recreational and aquatic life uses of the receiving waters.

Comment: SETF endorses U.S. EPA’s comments regarding the need to analyze the impacts of high lake levels on the integrity of the CDF. SETF would add this question – will elevated lake levels affect water levels in the Calumet River? If so, would elevated Calumet River water levels reduce the need for dredging by providing additional draft above shoaled sediment areas? In asking this question, SETF also notes that the Corps controls the O’Brien Lock and Dam, the engineering device that controls water levels in the Calumet waterways.

Comment: SETF endorses U.S. EPA’s comments regarding the need to analyze the environmental justice issues as part of the TSP. SETF adds the following information about the neighborhood immediately adjacent to the TSP. According to the demographic feature of U.S. EPA’s ECHO database, 105,391 people live within a 3-mile radius of the north entrance of the CDF, using the address of 9301 S. Kreiter, Chicago, IL 60617. There is population density of 7,440 people/square mile, and a total of 38,397 households. This area includes 28,334 children. This is an environmental justice area, with more than 90% of residents being either African-American (65%) or Hispanic (24%). The facility is immediately adjacent to Calumet Park, a Chicago Park District facility that includes a public beach, large outdoor recreation areas and a fieldhouse. Because this is an EJ community, the Corps should conduct a complete analysis to ensure its activities do not create a significant, adverse and disproportionate impact. These enhanced EJ protocols must align with Council on Environmental Quality guidelines: [https://www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf](https://www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf)

The existence of an environmental justice neighborhood surrounding the location of the TSP underscores the need for additional analysis as part of the Final EIS. Most importantly, as emphasized by U.S. EPA, in order to mitigate the impacts of air releases, the Corps should develop a comprehensive plan for managing airborne releases of particulate matter, tailored to a vertical expansion. This is an extremely windy lakefront location. The Corps will be processing significant quantities of Calumet Harbor sediments, and actively moving these sediments as part of reconfiguring the existing site and constructing the vertical expansion. Future disposal activities will not be at grade level, but rather, will involve placing material in large above-ground disposal areas. This material could become airborne while it is stockpiled, conveyed, placed and managed in the new above grade CDF. So-called “drying pan” operations could also become more intensive to process dredged material for beneficial reuse, creating another enhanced source of airborne material. A new site configuration requires a new, tailored and

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4 [https://www.chicagoparkdistrict.com/parks-facilities/calumet-park](https://www.chicagoparkdistrict.com/parks-facilities/calumet-park)
comprehensive plan to mitigate the risks of the release of airborne material into immediately adjacent residential neighborhoods and the adjoining public park and public beach.

It is also unacceptable for the Corps to discount the importance of air monitoring at the perimeter of the CDF. SETF encourages the Corps to consult with the Chicago Department of Public Health, which is now requiring multiple handlers of bulk materials and large recycling facilities to install perimeter PM-10 air monitors.5

CDPH appropriately requires facilities that manage materials in bulk to have the capacity to prevent, detect and respond to potential releases of windborne material. As asserted by CDPH, there are four categories of material and handling and storage activities that create airborne dust as part of the outdoor storage of materials - bulldozing and grading, material dropping operations, equipment operations on the surfaces of stockpiles and vehicle travel on paved roads.6 To this end, CDPH mandates the development and implementation of a proactive fugitive dust plan. Every fugitive dust plan must contain some required elements, but CDPH also expressly allows flexibility for businesses to develop plans that make the most sense based on their unique operations.7 However, the actual success of a fugitive dust plan is not left to guesswork. For CDPH, the most reliable means to demonstrate the success of a fugitive dust plan for operators, regulators and residents is through uniform, empirically verifiable PM monitoring. It is not an exaggeration to state that PM monitoring is the lynchpin of the CDPH protocol. As stated by CDPH:

The requirement for fugitive dust monitoring is a critical component of the regulations to ensure that the facility’s dust control measures are working. CDPH inspectors cannot observe facility operations on a daily basis. And facility workers who are occupied in doing their jobs may not always realize when there is a dust problem. Therefore, the PM monitors are important for alerting facility operators when there might be an issue with their dust control systems. They are also important to ensure compliance with the fugitive dust prohibition, as well as to give neighbors a level of comfort in knowing the air is being monitored.8

Another environmental justice issue arises from the immediate proximity of the CDF to a public beach and public park at Calumet Park. This proximity underscores the vital importance to address the pollutants that could be released into the air and surface water. Because the dredged materials that are being processed and disposed of have toxic constituents like mercury, lead and PCBs, this heightens the necessity of monitoring and controlling airborne releases. Because of the direct pathway to recreational swimmers, it is vital to assess and mitigate releases toxic water pollutant like mercury, lead and PCBs that are currently not included in the sampling.

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5 Dave Graham, Assistant Commissioner, Chicago Department of Public Health, Depaul Center, 333 S. State, Suite 200, Chicago, IL 60604, (312) 745-4034, dave.graham@cityofchicago.org
8 Id. at 23.
Thank you for your consideration of these comments. SETF acknowledges that the Corps has been responsive to SETF’s comments throughout this process. At SETF’s urging, the Corps agreed to conduct an EIS. The Corps’ TSP does not involve constructing a CDF in a new location. This is also consistent with SETF’s core position – “no new CDF in southeast Chicago”. More recently, the Corps publically made this commitment: “no material suitable for beneficial upland use would be placed in the new facility”. This management goal is also consistent with SETF’s position. SETF looks forward to continuing to work with the Corps as it completes its EIS and makes decisions about the future course of this federal activity. In this spirit, please contact me if you would like further information or to discuss this matter with SETF representatives.

Sincerely,

Keith Harley
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Chicago Legal Clinic, Inc.
211 W. Wacker, Suite 750
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What is lead?
Lead is a naturally occurring metal found in small amounts in the earth's crust. Lead can be found in all parts of our environment, including air, water and soil. Lead can exist in many different chemical forms.

Lead is used in the production of batteries, ammunition, and metal products (solder and pipes). Because of health concerns, use of lead in paints, ceramic products, caulk, and pipe solder has been dramatically reduced. The use of lead as an additive to automobile gasoline was banned in 1996 in the United States.

What happens to lead in the environment?
- Lead is an element and, therefore, it does not break down.
- When lead is released to the air, it may be transported long distances before it deposits onto the ground.
- Once deposited, lead often adheres to soil particles.
- Lead in soil can be transported into groundwater, but the amount of lead that moves into groundwater will depend on the chemical form of lead and soil type.

How can I be exposed to lead?
- Eating food or drinking water that contains lead. Water pipes in some older homes may contain lead solder which can leach into the water.
- Spending time in areas where lead-based paints have been used and are deteriorating. Deteriorating lead paint can form lead dust which can be ingested.
- Spending time in areas where the soil is contaminated with lead.
- Working in a job where lead is used or participating in certain hobbies in which lead is used, such as making stained glass.
- Using health-care products or folk remedies that contain lead.

How can lead affect my health?
The effects of lead are the same whether it enters the body through inhalation or ingestion. Lead can affect almost every organ and system in your body. The nervous system is the main target for lead toxicity in adults and children. Long-term exposure can result in decreased learning, memory, and attention and weakness in fingers, wrists, or ankles. Lead exposure can cause anemia and damage to kidneys. It can also cause increases in blood pressure, particularly in middle-aged and older individuals. Exposure to high lead levels can severely damage the brain and kidneys and can cause death. In pregnant women, exposure to high levels of lead may cause a miscarriage. High-level exposure in men can damage reproductive organs.
Lead

How can lead affect children?
Children are more vulnerable to lead poisoning than adults because their nervous system is still developing. Children can be exposed to lead in their environment and prior to birth from lead in their mother’s body. At lower levels of exposure, lead can decrease mental development, with effects on learning, intelligence and behavior. Physical growth may also be decreased. A child who swallows large amounts of lead may develop anemia, severe stomachache, muscle weakness, and brain damage. Exposure to lead during pregnancy can result in premature births. Some effects of lead may persist into adulthood.

Can lead cause cancer?
There have been several agencies and organizations both in the United States and internationally that have reviewed studies and made an assessment about whether lead can cause cancer.

• The Department of Health and Human Services (HHS) has determined that lead and lead compounds are reasonably anticipated to be human carcinogens
• The U.S. Environmental Protection Agency (EPA) has classified lead as a probable human carcinogen.
• The International Agency for Research on Cancer (IARC) has determined that inorganic lead is probably carcinogenic to humans, and that there is insufficient information to determine whether organic lead compounds will cause cancer in humans.

Can I get a medical test to check for lead?
A blood test is available to measure the amount of lead in your blood. Blood tests are commonly used to screen children for lead poisoning. Your doctor can draw blood samples and send them to appropriate laboratories for analysis.

How can I protect my family from lead exposure?
• Avoid exposure to sources of lead.
• Do not allow children to chew or mouth surfaces that may have been painted with lead-based paint.
• If your home contains lead-based paint or you live in an area contaminated with lead, wash children's hands and faces often to remove lead dusts and soil, and regularly clean the house of dust and tracked in soil.

Want more information?
Go to ATSDR’s Toxicological Profile for Lead
CDC Lead Poisoning Prevention Program https://www.cdc.gov/nceh/lead/default.htm
Environmental Protection Agency https://www.epa.gov/lead/protect-your-family-exposures-lead
Call CDC-INFO at 1-800-232-4636, or submit your question online at https://wwwn.cdc.gov/dcs/ContactUs/Form
If you have any more questions or concerns, you can also find & contact your ATSDR Regional Representative at http://www.atsdr.cdc.gov/DRO/dro_org.html
This fact sheet answers the most frequently asked health questions (FAQs) about mercury. For more information, call the CDC Information Center at 1-800-232-4636. This fact sheet is one in a series of summaries about hazardous substances and their health effects. It’s important you understand this information because this substance may harm you. The effects of exposure to any hazardous substance depend on the dose, the duration, how you are exposed, personal traits and habits, and whether other chemicals are present.

**HIGHLIGHTS:** Exposure to mercury occurs from breathing contaminated air, ingesting contaminated water and food, and having dental and medical treatments. Mercury, at high levels, may damage the brain, kidneys, and developing fetus. This chemical has been found in at least 714 of 1,467 National Priorities List (NPL) sites identified by the Environmental Protection Agency (EPA).

**What is mercury?**

Mercury is a naturally occurring metal which has several forms. The metallic mercury is a shiny, silver-white, odorless liquid. If heated, it is a colorless, odorless gas.

Mercury combines with other elements, such as chlorine, sulfur, or oxygen, to form inorganic mercury compounds or “salts,” which are usually white powders or crystals. Mercury also combines with carbon to make organic mercury compounds. The most common one, methylmercury, is produced mainly by microscopic organisms in the water and soil. More mercury in the environment can increase the amounts of methylmercury that these small organisms make.

Metallic mercury is used to produce chlorine gas and caustic soda, and is also used in thermometers, some dental fillings, and batteries. Mercury salts are sometimes used in skin lightening creams and as antiseptic creams and ointments.

**What happens to mercury when it enters the environment?**

- Inorganic mercury (metallic mercury and inorganic mercury compounds) enters the air from mining ore deposits, burning coal and waste, and from manufacturing plants.
- It enters the water or soil from natural deposits, disposal of wastes, and volcanic activity.
- Methylmercury may be formed in water and soil by small organisms called bacteria.
- Methylmercury builds up in the tissues of fish. Larger and older fish tend to have the highest levels of mercury.

**How might I be exposed to mercury?**

- Eating fish or shellfish contaminated with methylmercury.
- Breathing vapors in air from spills, incinerators, and industries that burn mercury-containing fossil fuels.
- Release of mercury from dental work and medical treatments.
- Breathing contaminated workplace air or skin contact during use in the workplace.
- Practicing rituals that include mercury.

**How can mercury affect my health?**

The nervous system is very sensitive to all forms of mercury. Methylmercury and metallic mercury vapors are more harmful than other forms, because more mercury in these forms reaches the brain. Exposure to high levels of metallic, inorganic, or organic mercury can permanently damage the brain, kidneys, and developing fetus. Effects on brain functioning may result in irritability, shyness, tremors, changes in vision or hearing, and memory problems.

Short-term exposure to high levels of metallic mercury vapors may cause effects including lung damage, nausea, vomiting, diarrhea, increases in blood pressure or heart rate, skin rashes, and eye irritation.
How likely is mercury to cause cancer?
There are inadequate human cancer data available for all forms of mercury. Mercuric chloride has caused increases in several types of tumors in rats and mice, and methylmercury has caused kidney tumors in male mice. The EPA has determined that mercuric chloride and methylmercury are possible human carcinogens.

How can mercury affect children?
Very young children are more sensitive to mercury than adults. Mercury in the mother’s body passes to the fetus and may accumulate there, possibly causing damage to the developing nervous system. It can also pass to a nursing infant through breast milk. However, the benefits of breast feeding may be greater than the possible adverse effects of mercury in breast milk.

Mercury’s harmful effects that may affect the fetus include brain damage, mental retardation, incoordination, blindness, seizures, and inability to speak. Children poisoned by mercury may develop problems of their nervous and digestive systems, and kidney damage.

How can families reduce the risk of exposure to mercury?
Carefully handle and dispose of products that contain mercury, such as thermometers or fluorescent light bulbs. Do not vacuum up spilled mercury, because it will vaporize and increase exposure. If a large amount of mercury has been spilled, contact your health department. Teach children not to play with shiny, silver liquids.

Properly dispose of older medicines that contain mercury. Keep all mercury-containing medicines away from children.

Pregnant women and children should keep away from rooms where liquid mercury has been used.

Learn about wildlife and fish advisories in your area from your public health or natural resources department.

Is there a medical test to determine whether I’ve been exposed to mercury?
Tests are available to measure mercury levels in the body. Blood or urine samples are used to test for exposure to metallic mercury and to inorganic forms of mercury. Mercury in whole blood or in scalp hair is measured to determine exposure to methylmercury.

Your doctor can take samples and send them to a testing laboratory.

Has the federal government made recommendations to protect human health?
The EPA has set a limit of 2 parts of mercury per billion parts of drinking water (2 ppb).

The Food and Drug Administration (FDA) has set a maximum permissible level of 1 part of methylmercury in a million parts of seafood (1 ppm).

The Occupational Safety and Health Administration (OSHA) has set limits of 0.1 milligram of organic mercury per cubic meter of workplace air (0.1 mg/m³) and 0.05 mg/m³ of metallic mercury vapor for 8-hour shifts and 40-hour work weeks.

References
This fact sheet answers the most frequently asked health questions (FAQs) about polychlorinated biphenyls. For more information, call the CDC Information Center at 1-800-232-4636. This fact sheet is one in a series of summaries about hazardous substances and their health effects. It’s important you understand this information because this substance may harm you. The effects of exposure to any hazardous substance depend on the dose, the duration, how you are exposed, personal traits and habits, and whether other chemicals are present.

**HIGHLIGHTS: Polychlorinated biphenyls (PCBs) are a mixture of individual chemicals which are no longer produced in the United States, but are still found in the environment. Health effects that have been associated with exposure to PCBs include acne-like skin conditions in adults and neurobehavioral and immunological changes in children. PCBs are known to cause cancer in animals. PCBs have been found in at least 500 of the 1,598 National Priorities List (NPL) sites identified by the Environmental Protection Agency (EPA).**

**What are polychlorinated biphenyls?**
Polychlorinated biphenyls are mixtures of up to 209 individual chlorinated compounds (known as congeners). There are no known natural sources of PCBs. PCBs are either oily liquids or solids that are colorless to light yellow. Some PCBs can exist as a vapor in air. PCBs have no known smell or taste. Many commercial PCB mixtures are known in the U.S. by the trade name Aroclor.

PCBs have been used as coolants and lubricants in transformers, capacitors, and other electrical equipment because they don’t burn easily and are good insulators. The manufacture of PCBs was stopped in the U.S. in 1977 because of evidence they build up in the environment and can cause harmful health effects. Products made before 1977 that may contain PCBs include old fluorescent lighting fixtures and electrical devices containing PCB capacitors, and old microscope and hydraulic oils.

**What happens to PCBs when they enter the environment?**
- PCBs entered the air, water, and soil during their manufacture, use, and disposal; from accidental spills and leaks during their transport; and from leaks or fires in products containing PCBs.
- PCBs can still be released to the environment from hazardous waste sites; illegal or improper disposal of industrial wastes and consumer products; leaks from old electrical transformers containing PCBs; and burning of some wastes in incinerators.
- PCBs do not readily break down in the environment and thus may remain there for very long periods of time. PCBs can travel long distances in the air and be deposited in areas far away from where they were released. In water, a small amount of PCBs may remain dissolved, but most stick to organic particles and bottom sediments. PCBs also bind strongly to soil.
- PCBs are taken up by small organisms and fish in water. They are also taken up by other animals that eat these aquatic animals as food. PCBs accumulate in fish and marine mammals, reaching levels that may be many thousands of times higher than in water.

**How might I be exposed to PCBs?**
- Using old fluorescent lighting fixtures and electrical devices and appliances, such as television sets and refrigerators, that were made 30 or more years ago. These items may leak small amounts of PCBs into the air when they get hot during operation, and could be a source of skin exposure.
- Eating contaminated food. The main dietary sources of PCBs are fish (especially sportfish caught in contaminated lakes or rivers), meat, and dairy products.
- Breathing air near hazardous waste sites and drinking contaminated well water.
- In the workplace during repair and maintenance of PCB transformers; accidents, fires or spills involving transformers, fluorescent lights, and other old electrical devices; and disposal of PCB materials.

**How can PCBs affect my health?**
The most commonly observed health effects in people exposed to large amounts of PCBs are skin conditions such as acne and rashes. Studies in exposed workers have shown changes in blood and urine that may indicate liver damage. PCB exposures in the general population are not likely to result in skin and liver effects. Most of the studies of health effects of PCBs in the general population examined children of mothers who were exposed to PCBs.

Animals that ate food containing large amounts of PCBs for short periods of time had mild liver damage and some died. Animals that ate smaller amounts of PCBs in food over
Polychlorinated Biphenyls

several weeks or months developed various kinds of health effects, including anemia; acne-like skin conditions; and liver, stomach, and thyroid gland injuries. Other effects of PCBs in animals include changes in the immune system, behavioral alterations, and impaired reproduction. PCBs are not known to cause birth defects.

How likely are PCBs to cause cancer?
Few studies of workers indicate that PCBs were associated with certain kinds of cancer in humans, such as cancer of the liver and biliary tract. Rats that ate food containing high levels of PCBs for two years developed liver cancer. The Department of Health and Human Services (DHHS) has concluded that PCBs may reasonably be anticipated to be carcinogens. PCBs have been classified as probably carcinogenic, and carcinogenic to humans (group 1) by the Environmental Protection Agency (EPA) and International Agency for Research on Cancer (IARC), respectively.

How can PCBs affect children?
Women who were exposed to relatively high levels of PCBs in the workplace or ate large amounts of fish contaminated with PCBs had babies that weighed slightly less than babies from women who did not have these exposures. Babies born to women who ate PCB-contaminated fish also showed abnormal responses in tests of infant behavior. Some of these behaviors, such as problems with motor skills and a decrease in short-term memory, lasted for several years. Other studies suggest that the immune system was affected in children born to and nursed by mothers exposed to increased levels of PCBs. There are no reports of structural birth defects caused by exposure to PCBs or of health effects of PCBs in older children. The most likely way infants will be exposed to PCBs is from breast milk. Transplacental transfers of PCBs were also reported. In most cases, the benefits of breast-feeding outweigh any risks from exposure to PCBs in mother’s milk.

How can families reduce the risks of exposure to PCBs?
• You and your children may be exposed to PCBs by eating fish or wildlife caught from contaminated locations. Certain states, Native American tribes, and U.S. territories have issued advisories to warn people about PCB-contaminated fish and fish-eating wildlife. You can reduce your family’s exposure to PCBs by obeying these advisories.
• Children should be discouraged from playing with old appliances, electrical equipment, or transformers, since they may contain PCBs.

• Children should be discouraged from playing in the dirt near hazardous waste sites and in areas where there was a transformer fire. Children should also be discouraged from eating dirt and putting dirty hands, toys or other objects in their mouths, and should wash hands frequently.
• If you are exposed to PCBs in the workplace it is possible to carry them home on your clothes, body, or tools. If this is the case, you should shower and change clothing before leaving work, and your work clothes should be kept separate from other clothes and laundered separately.

Is there a medical test to show whether I’ve been exposed to PCBs?
Tests exist to measure levels of PCBs in your blood, body fat, and breast milk, but these are not routinely conducted. Most people normally have low levels of PCBs in their body because nearly everyone has been environmentally exposed to PCBs. The tests can show if your PCB levels are elevated, which would indicate past exposure to above-normal levels of PCBs, but cannot determine when or how long you were exposed or whether you will develop health effects.

Has the federal government made recommendations to protect human health?
The EPA has set a limit of 0.0005 milligrams of PCBs per liter of drinking water (0.0005 mg/L). Discharges, spills or accidental releases of 1 pound or more of PCBs into the environment must be reported to the EPA. The Food and Drug Administration (FDA) requires that infant foods, eggs, milk and other dairy products, fish and shellfish, poultry and red meat contain no more than 0.2-3 parts of PCBs per million parts (0.2-3 ppm) of food. Many states have established fish and wildlife consumption advisories for PCBs.

References

Where can I get more information?
For more information, contact the Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences, 1600 Clifton Road NE, Mailstop F-57, Atlanta, GA 30329-4027.
Phone: 1-800-232-4636.
ToxFAQs™ Internet address via WWW is http://www.atsdr.cdc.gov/toxfaqs/index.asp.
ATSDR can tell you where to find occupational and environmental health clinics. Their specialists can recognize, evaluate, and treat illnesses resulting from exposure to hazardous substances. You can also contact your community or state health or environmental quality department if you have any more questions or concerns.
February 5, 2019

Mr. Alex Hoxsie
U.S. Army Corps of Engineers
231 S. LaSalle Street
Suite 1500
Chicago, IL 60604

By E-Mail: alex.hoxsie@usace.army.mil

Re: Public Comment – Dredged Material Management Plan for the Chicago Area Waterway System – Vertical Expansion, Other Reasonable Potential Courses of Action and Adverse Impacts

Dear Mr. Hoxsie:

Please be advised that I represent the Southeast Environmental Task Force (“SETF”), a not-for-profit organization based in southeast Chicago. SETF’s mission is to improve environmental quality in the Calumet region. SETF accomplishes this by providing public education and advocacy on environmental and health issues. SETF works to improve the quality of life for community members through preservation of natural areas, sustainable development, and environmentally responsible business practices.¹ SETF’s members include residents who live, recreate and work in neighborhoods immediately adjacent to the Calumet waterways. Consequently, SETF has a strong public interest in the Dredged Material Management Plan that is now being developed by the U.S. Army Corps of Engineers (“Corps”).

SETF requested my assistance to address specific issues related to the Corps’ legal responsibilities. To this end, I previously submitted comments on behalf of SETF on March 5, 2018 and July 15, 2015. These earlier comments are attached and incorporated by reference. Other SETF members may be submitting written comments addressing other aspects of the Corps’ development of a Dredged Material Management Plan and its current evaluation of alternatives for dredged sediments.

SETF continues to oppose the development of a new Confined Disposal Facility (“CDF”) in Chicago. From SETF’s perspective, significant adverse impacts will result from developing a new CDF in Chicago. These adverse impacts apply to all the alternative locations for a new CDF. SETF’s position also informs its comments regarding adverse impacts and alternatives. In these comments, SETF will address four categories of adverse impacts. SETF will also put forward an alternative approach which it believes will eliminate the need for a new CDF and the vertical expansion of the existing CDF.

¹ http://setaskforce.org/

—Named one of Chicago’s Top Charities by Chicago magazine, Nov. 2015—
First, all the alternative locations for a new CDF are immediately adjacent to densely populated residential neighborhoods. These neighborhoods will be subject to air pollutant releases from the operations of a new CDF. These air releases will result from exposed pore water from saturated wet sediment during filling operations, rainfall events and when dredged material is reworked. A new CDF will be a new source of the same pollutants that are entrained in the dredged material. A new CDF will release these pollutants during the entire duration of its operations, for 25 years or more. For this reason, it is contrary to public health, safety and welfare to locate a new CDF in immediate proximity to densely populated neighborhoods. Also for this reason, SETF asserts that the total air impacts of a new CDF must be assessed. These environmental consequences must be evaluated in light of existing air quality conditions and the stationary and mobile sources that already affect air quality in the affected environments adjacent to any new CDF. It is also essential to evaluate the cumulative effects of these air impacts over the life of any new CDF, for example, the aggregate impact of air deposition of metals in soil in nearby residential properties.

Second, all the alternative locations for a new CDF will permanently foreclose the economic development of these large properties. All the alternative locations for a new CDF are in a Planned Manufacturing District, an area set aside by local Ordinance to attract new commercial and industrial enterprises that will generate positive economic development. Chicago Municipal Code 17-6-0401 et. seq. By contrast, a new CDF will permanently remove property from the tax base and will not generate tax revenue needed to support schools, parks, libraries and essential public services. By contrast to industrial and commercial future uses, a new CDF will generate few direct and indirect jobs. Jobs are needed to support families and neighborhoods. Dedicating land to a CDF forecloses other future uses that will contribute to tax base, jobs and economic development.

Contrary to the purposes of a planned manufacturing district and municipal land use priorities, a new CDF will contribute to the impoverishment of local communities and deprive residents of opportunities to benefit from good paying jobs in employment-rich, sustainable enterprises. Even worse, dedicating precious municipal land resources to a CDF will permanently remove this land from achieving its highest and best economic future because a CDF will require indefinite post-closure use restrictions. Notably, there is a landfill moratorium in the City of Chicago. For these reasons, SETF asserts it is necessary to assess the total direct and indirect economic impact of any new CDF by comparison to other alternative future uses, throughout the entire period of construction, operation, closure and post-closure. The need for this analysis is not based on mere speculation; the Corps’ original primary proposal would have placed a CDF on the former Republic Steel site which instead is being used for the massive, job-rich, tax generating North Point development project.

Third, all the alternative locations for a new CDF will involve significant costs and complications related to land acquisition, remediation, construction, operations and maintenance, closure and post-closure. From a cost-benefit perspective, the inherent costs to establish a new CDF should be avoided if there are any other less expensive alternatives that achieve the project’s purpose and need. Establishing a new CDF will also include uncontrolled, unpredictable risks; the requirements for land use approval, acquisition and remediation may be expensive, time consuming and/or obstructed through the political process. These factors may prove fatal to achieving the purpose and need of the project using a new CDF. SETF asserts the
alternatives should be evaluated on a cost-benefit basis and on the basis of their reasonable likelihood to achieve the project’s purpose and need.

Fourth, SETF notes that establishing a new CDF adjacent to the Calumet River could cause and contribute to the problem of contaminated sediments. The Calumet waterways are experiencing rapid, exponential water quality improvements to the benefit of recreational users, anglers and aquatic life. These water quality improvements are the result of the elimination of combined sewer overflows following the completion of the Calumet Tunnel and Reservoir Project (culminating with TARP’s interconnection with the Thornton Quarry reservoir). MWRDGC’s Calumet Wastewater Treatment Plant now disinfects its effluent, leading to dramatic reductions in the levels of bacteria and pathogens in Calumet waterways. Unlike earlier decades, there are very few significant, direct dischargers into the Calumet waterways. These dramatic improvements in water quality demonstrate that sediment quality will also continue to improve, calling into question the need for a new CDF.

Just as importantly, a new CDF would become a new, significant source of contaminated effluent into Calumet waterways. That is, a new CDF at any of the alternative locations will discharge its polluted effluent into the Calumet River, thus creating a new, significant source of water pollution and sediment contamination. SETF asserts that the Corps must assess the impact of CDF-related pollutant loading on water quality, sediment quality and on the human and aquatic users of the Calumet waterways over the lifespan of the CDF. Ironically, because of this pollutant loading, a new CDF would immediately become the greatest threat, in perpetuity, to the ecological quality of the Calumet waterways.

As an alternative to constructing a new CDF or expanding the existing CDF, SETF asserts the Corps must accurately characterize the total volume of sediment, now and in the future, that must be land disposed. From SETF’s perspective, the critical issue is not the total volume that will be dredged. Rather, the critical issue is the total volume of this dredged material that must be land disposed. SETF asserts that reasonable non-CDF alternatives will emerge from this analysis. SETF is asserting a triage approach for assessing the alternatives for dredged sediment. For example, very clean sediment can be disposed in open waters. Clean sediments - like those now found in the Calumet Harbor - can be beneficially reused without treatment. Other sediments with minimal contamination can be treated and, in whole or in part, beneficially reused. Because of observed, continuing improvements in sediment quality over time, this triage approach will dramatically reduce the volume of sediment that must be land disposed, potentially eliminating the need for a new CDF and also the vertical expansion of the existing CDF. In this triage approach, SETF acknowledges there may be contaminated sediments that must be placed in a controlled land disposal site; but this location must not be in the City of Chicago. If a much smaller facility is still required, a smaller facility could fit in locations that will new not require a CDF to be constructed or operated in the midst of densely populated neighborhoods in the City of Chicago.
Thank you for your consideration of these comments. Please contact me if you would like further information or to discuss this matter with SETF representatives.

Sincerely,

Keith Harley
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Chicago Legal Clinic, Inc.
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Chicago, IL 60606
(312) 726-2938
kharley@kentlaw.iit.edu
March 5, 2018

Mr. Alex Hoxsie
U.S. Army Corps of Engineers
231 S. LaSalle Street
Suite 1500
Chicago, IL 60604

By E-Mail: alex.hoxsie@usace.army.mil

Re: Public Comment – Dredged Material Management Plan for the Chicago Area Waterway System

Dear Mr. Hoxsie:

Please be advised that I represent the Southeast Environmental Task Force (“SETF”), a not-for-profit organization based in southeast Chicago. SETF’s mission is to improve environmental quality in the Calumet region. SETF accomplishes this by providing public education and advocacy on environmental and health issues. SETF works to improve the quality of life for community members through preservation of natural areas, sustainable development, and environmentally responsible business practices.\(^1\) SETF’s members include residents who live, recreate and work in neighborhoods immediately adjacent to the Calumet waterways. Consequently, SETF has a strong public interest in the Dredged Material Management Plan that is now being developed by the U.S. Army Corps of Engineers (“Corps”).

SETF requested my assistance to address specific issues related to the Corps’ legal responsibilities. Other SETF members may be submitting written comments addressing other aspects of the Corp’s development of a Dredged Material Management Plan.

Comment One: SETF Is Making A Proposal For An Alternative For Managing Dredged Material Which Should Be Evaluated As The Corps Fulfills Its NEPA Responsibilities

Pursuant to 40 C.F.R. §1502.14, SETF is requesting the Corps rigorously explore and objectively evaluate the following proposal for all or a portion of the dredged material that cannot be beneficially reused.

The Metropolitan Water Reclamation District of Greater Chicago (“MWRDGC”) is an Illinois unit of local government.\(^2\) MWRDGC’s operations include a wastewater treatment plant, sludge

\(^1\) [http://setaskforce.org/](http://setaskforce.org/)

\(^2\) 70 ILCS 2605/1 et seq.

—Named one of Chicago’s Top Charities by *Chicago* magazine, Nov. 2015—
drying beds and related property and infrastructure in the Calumet Region where the Corp anticipates dredging.\(^3\)

The MWRDGC is now implementing an innovative approach to address contaminated sediments in waterways in the Chicago region. This new approach is being employed to address contaminated sediments in the Collateral Channel, a 1600 ft. channel that is connected to Chicago Sanitary and Ship Canal. The Collateral Channel has not been used for commercial purposes for decades and the Channel has not been dredged during this period. Consequently, sediments have accumulated to just a few feet below the water surface. This sediment contains high levels of some categories of legacy pollutants, including organics and metals. In order to address the public health and environmental threats posed by these sediments, MWRDGC evaluated capping or dredging/off-site land disposal of contaminated sediments, which proved to be ineffective or costly strategies.

MWRDGC is now prepared to execute an entirely different strategy to address the Collateral Channel. Contaminated sediments, diluted with surface water, will be pumped directly to a nearby sewer interceptor through an existing sewer interceptor drop point. The sewer interceptor will transport the diluted sediments a mile to the MWRDGC’s Stickney wastewater treatment plant, where this inflow will be treated using the facility’s existing wastewater treatment infrastructure. The Stickney facility’s NPDES permit already contemplates that inflow will include a significant volume of solids and also mandates protocols related to toxic, “priority” pollutants. A recent MWRDGC pilot study concludes that accepting contaminated sediment inflow will have an indiscernible impact at or near the wastewater treatment plant. Indeed, the total inflow of all Collateral Channel diluted sediment will constitute roughly 1/700th of one day’s typical inflow to the Stickney facility. Several public and technical documents related to MWRDGC’s Collateral Channel project are contained in a .pdf file that is attached to these comments.

Under this approach, there is no need to dewater or land dispose of sediments. The transportation of diluted sediments is accomplished using MWRDGC’s existing sewer infrastructure. This strategy also capitalizes on treatment technologies that are already being employed at a permitted wastewater treatment plant to address the large volumes and diverse categories of pollutants generated in a complex, regional service area. The Collateral Channel pilot project was approved via permit by the U.S. Army Corps of Engineers, the Illinois Environmental Protection Agency, the Illinois Department of Natural Resources and the U.S. Coast Guard.

Like the Collateral Channel situation, the Calumet region includes a centralized wastewater treatment facility operated by MWRDGC. Sewer interceptors connect local waterways to the Calumet Water Reclamation Plant. These sewer interceptors are part of MWRDGC’s 500-mile gravity flow system that directly connects to its wastewater treatment plants, deeper below ground surface than municipal systems. The Calumet facility on average treats 354 million gallons/day of wastewater that originates from over one million people, as well as commercial,

industrial and non-point sources located in a 300 square mile region, including the entire southern portion of Chicago and 49 municipalities in southern Cook County. This service region encompasses the entire Calumet waterway system. The Calumet facility has a maximum treatment capacity of 430 million gallons/day. The facility removes 100 tons per day of solids from its wastewater inflow and operates large sludge drying facilities in which the sludge is processed into biosolids.

The Collateral Channel dredging will remove 1700 tons of sediments, which will be diluted with 5X water (one part sediment to five parts water). The total inflow to Stickney will be 75,000 gallons. By comparison, the Corps anticipates dredging 50,000 cubic yards of sediment on average per year from the Calumet waterways. One cubic yard of solid material equals 1.5 tons. Using a one part sediment to five parts water ratio, the total additional inflow to the Calumet Water Reclamation Plant would be 48,530,000 gallons of water. This total annual inflow is roughly equivalent to the Calumet facility’s one day maximum treatment capacity.

SETF formally requests the Corps rigorously explore and objectively evaluate this alternative for all or a portion of the dredged material that cannot be beneficially reused. The Corps must include reasonable alternatives even if they are not totally within its jurisdiction. 40 C.F.R. §1502.14(c). In fact, SETF’s alternative includes the participation of a local unit of government in a way that may be beneficial to the overall viability of the Corps’ activities and fulfilling the purpose and need for its proposal. SETF requests the Corps include this alternative in its evaluation of the Affected Environment and the Environmental Consequences, presenting the environmental impacts of this proposal and any alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options for the Corps and the public. 40 C.F.R. §1502.14. SETF requests that the Corps devote substantial treatment to this alternative to enable an evaluation of its comparative merits. 40 C.F.R. §1502.14(b).

Comment Two: Decisions About Management Alternatives For Dredged Material Should Be Based On Complete and High Quality Information About The Specific Location, Nature and Extent of Contaminants In Dredged Sediments Now and In The Future

SETF notes that the Corps must ensure the professional integrity, including scientific integrity, of its analyses, identifying methodologies used and the scientific and other sources relied upon for its conclusions. 40 C.F.R. §1502.24. In evaluating potential significant adverse effects, the agency must include this information unless the overall costs of obtaining it are “exorbitant”. 40 C.F.R. §1502.22(a). If the Corps is relying on incomplete information, the Corps must be clear where information is incomplete, assess the relevance of the incomplete information, provide a summary of existing credible scientific evidence, and use theoretical approaches and research methods generally accepted in the scientific community. 40 C.F.R. §1502.14.

A meaningful assessment of alternatives for dredged material cannot be made without a complete understanding of sediment conditions – including an analysis of the nature, extent and location of sediments with elevated contaminants - both now and during the anticipated duration of dredging activities in the future.

The Corps acknowledges that substantial amounts of the sediment it will dredge is now clean enough to be beneficially reused as clean fill. Beneficial reuse is now an alternative for
sediments dredged from the Calumet Harbor. Sediments from the Calumet Harbor previously were placed in a CDF due to their contaminant characteristics. The non-CDF, beneficial reuse management alternative for these sediments is the positive result of prior dredging episodes that over time removed sediments with legacy contaminants, the dramatic reduction of contaminant loading into the waterways (fewer, better controlled sources), natural attenuation and the elimination of combined sewer overflows/flow reversals due to systemic, regional improvements in wastewater infrastructure.

All of the factors reducing Calumet Harbor sediment contaminant characteristics are also relevant to sediment conditions in the Calumet River, Cal-Sag Channel and other interconnected waterways, now and in the future. The total volume of sediment from these waterways that can be beneficially reused now and, especially, in the future has not been assessed. This is critically important information because it could directly affect the size, location, lifespan, design characteristics and operations of a dredged material management plan or facility. Today, the volume of sediments that justify land disposal may be limited to a few “hot spots” or stretches of the waterway. Over the course of decades (the operating lifespan of a CDF), this volume could become much smaller or completely eliminated, as we now see in the Calumet Harbor.

It is irrational to construct a CDF without a highly detailed, specific analysis of sediment quality throughout the entire area that is to be dredged. It is a scientific error to conflate sediments in the Calumet River with sediments in the Little Calumet River with sediments in the Cal-Sag Channel. Mere interconnection does not establish that sediment conditions and management alternatives are the same. It is irrational to select the CDF alternative if predictive modelling suggests that in the future, the total volume of sediment justifying land disposal will become much smaller or will be eliminated. A large CDF is a 1970’s solution to a problem that may no longer exist in any meaningful way when dredging begins, and which may disappear entirely after that, as it did in the Calumet Harbor. The Corps’ 50,000 cubic yards annual estimate is complete guesswork, and must not be accepted as “prima facie” true. In turn, the only rational way to identify and assess alternatives is to have high quality information about the true nature, extent and location of sediments that will justify land disposal, if any, both now and in the future.

Comment Three: Any Environmental Review That Includes The Construction of a New CDF As An Alternative Triggers A Legal Responsibility to Conduct an Environmental Impact Statement

There is well-established Corps’ precedent for conducting an EIS as part of maintenance dredging projects that also include establishing a CDF. Simply, conducting an EIS for Corps’ actions that include maintenance dredging and CDF construction is the rule not the exception. A review of 38 new maintenance dredging/CDP construction projects in the Great Lakes region since NEPA’s passage clearly demonstrates that the use of an EIS is the standard practice for the Corps.4 This is an activity that normally requires an EIS. 40 C.F.R. §1507.3(1).

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All of these projects are analogous to the existing proposal in that they entail maintenance dredging and the establishment of a CDF with ancillary operations. A more careful review of these CDFs reveals that the Corps has concluded an EIS is necessary for both in-water and upland sites. The upland sites on this list include Clinton River, East Chicago, the Grand Haven sites, Green Bay-Bayport, the Holland Harbor sites, Inland Route, Keweenaw Waterway, Michigan City, the Monroe Harbor sites, Port Sanilac, Rouge River, Saginaw River, St. Clair River, St. Joseph Harbor, the Sebewaing Harbor sites and Toledo Harbor-Riverside Park. The Corps concluded an EIS was necessary for a maintenance dredging/CDF project for the Calumet region (the Calumet Harbor EIS), both as part of the original project and as part of changes in operation. This is precisely the same geographic context as the existing proposal. More recently and in an immediately adjacent area, the Corps concluded an EIS was necessary to perform

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The Corps has a forty-year precedent for undertaking Environmental Impact Statements for maintenance dredging/CDF construction projects, including a comparable project in the very location as the present process. For this reason, SETF asserts it would unreasonable, arbitrary and capricious, and against the weight of evidence for the Corps to seek to avoid conducting an EIS as part of the present process.

The Corps has consistently undertaken Environmental Impact Statements for maintenance dredging/CDF construction projects for one unavoidable reason – it is legally required. This activity does not fall under any Categorical Exclusion established by the Corps, nor is it the type of project identified by the Corps as requiring only an Environmental Assessment. Rather, this activity involves the construction of a major project. SETF asserts the Corps must undertake an EIS as part of the environmental review of any proposal that includes the construction of a new CDF as an alternative.

The relevant provision of NEPA provides that “all agencies of the Federal Government shall...include in every recommendation or report on...major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official.” 42 USC 4332(2)(C). This report, or EIS, considers the environmental impact of the proposed project. While an agency may prepare an Environmental Assessment to determine the significance of the environmental impact, a Finding of No Significant Impacts is only appropriate when the project’s effects are insignificant. 40 CFR 1501.1, 1501.4.

NEPA aims to establish procedural mechanisms that compel agencies including the Corps to take seriously the potential environmental consequences of a proposed action. Ocean Advocates v. U.S. Army Corps of Engineers, 402 F.3d 846 (9th Cir. 2004). The Corps cannot avoid preparing an EIS by making conclusory assertions that an activity will have on insignificant impacts on the environment. Id. The Corps can only avoid an EIS based on a convincing statement of reasons that an activity will have only an insignificant impact on the environment. Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1212 (9th Cir. 1998). An EIS must be prepared if substantial questions are raised as to whether a project may cause significant degradation of some human environmental factor. Idaho Sporting Cong. V. Thomas, 137 F.3d 1146,1149 (9th Cir. 1998). Notably, to trigger this requirement, public commentators need not show that significant effects will in fact occur. Id. at 1150. Raising substantial questions whether a project may have significant effects is sufficient. Id, and City of Waltham v. United States Postal Service, 11 F.3d 235, 240 (1st Cir. 1993).

The Council on Environmental Quality has adopted regulations governing implementation of NEPA. In determining whether a federal action requires an EIS because it significantly affects the quality of the human environment, an agency must consider the significance of its actions in light of their context and intensity. 40 CFR 1508.27. Context refers to the setting in which the
proposed action takes place. 40 CFR 1508.27(a). Intensity means the severity of the impact. 40 CFR 1508.27(b).

In considering the severity of the potential environmental impact, a reviewing agency may consider up to ten factors that help inform the significance of a project, such as the unique characteristics of the geographic area, including proximity to an ecologically sensitive area; whether the action bears relationship to some other actions with individually insignificant but cumulatively significant impacts; and, the level of uncertainty of the risk and to what degree it involves unique or unknown risks. 40 CFR 1508.27(b)(3),(5),(7),(10). Notably, the presence of any one of these factors is sufficient to require preparation of an EIS. National Parks & Conservation Association v. Babbit, 241 F.3d 722, 731 (9th Cir. 2001).

A 25-year Dredged Material Management Plan that could incorporate the construction of a new CDF on a riverfront property in Chicago is a major federal project that will significantly affect the environment. Failure to undertake an EIS would be contrary to Corps precedent. 40 C.F.R. §1507.3(1). It would also be contrary to the legal requirements which direct how the Corps must conduct its activities, and would be subject to legal challenge. There are multiple significant environmental impacts.

1. Permanent Alteration of Urban Quality and The Built Environment Including Foreclosing Alternative Reuse Options for Urban Land Resources: The primary management proposal – which includes the construction and operation of a confined disposal facility (CDF) - will create a large facility with an even longer lifespan. As proposed by the U.S. ACE, a CDF will be needed for the period subsequent to 2022 and will accept dredged material for 25 years thereafter. However, the U.S. ACE has not calculated the duration of the post-closure period during which the site will still be subject to ongoing security, maintenance and monitoring requirements. Because these post-closure requirements will continue indefinitely, the U.S. ACE is proposing to establish a “forever” facility as an inherent part of its proposal for managing dredged materials. Moreover, because this “forever” facility will be created as a direct, foreseeable consequence of federal activity, the U.S. ACE cannot avoid its present-day obligation to complete an EIS by invoking a transfer of the closed facility to a local non-federal sponsor. By virtue of federal activity, a significant area of land in Chicago will be permanently altered, foreclosing multiple future land use options and permanently altering potential uses of adjacent land. Because of the CDF alternative will permanently alter urban quality, the built environment and other potential reuse options for a large area of land, SETF asserts an EIS should be completed as part of any environmental review that includes a new CDF.

2. Impacts On Ecological and Recreational Resources: The proposed CDF will be located in the midst of multiple ecologically valuable resources, all in proximity to the locations of proposed CDF facilities. These areas are well known to the Corps, including areas that were delineated in studies such as the Lake Calumet Special Area Management Plan developed by the Corps’ Chicago District. These natural areas include:

* a cluster of wetlands called the Hyde Lake wetlands surround Indian Creek, a fish run that connects Wolf Lake to the Calumet River. (See: http://www.cityofchicago.org/dam/city/depts/zlup/Sustainable_Development/Publications/Chicago_Nature_and_Wildlife_Plan/Hyde_Lake_Marsh_and_Indian_Creek.pdf);
* another cluster of wetlands, the Indian Ridge Marsh complex, which serves as restored habitat for heron and egret populations and dozens of other bird species. (See: http://www.lrc.usace.army.mil/Missions/CivilWorksProjects/IndianRidgeMarsh.aspx);

* the 580-acre Wolf Lake Conservation area, maintained by the Illinois Department of Natural Resources. (See: http://www.dnr.illinois.gov/Parks/Pages/WilliamW.Powers.aspx);

* the Calumet River, a tributary of Lake Michigan, which hosts multiple boating facilities including the Cook County Forest Preserve District property at Beaubien Woods, which is used extensively by recreational watercraft and anglers and is an increasingly rich habitat for aquatic life and other wildlife;

* the ecologically valuable resources incorporated into the Calumet Open Space Plan (See: http://www.cityofchicago.org/content/dam/city/depts/zlup/Sustainable_Development/Publications/Calumet_Open_Space_Reserve/COSR_plan.pdf) and the Illinois-sponsored Millenium Reserve (See: http://www.millenniumreserve.org/Priorities/).

The Corps’ proposal must be viewed in light of its potential direct and indirect impacts on the preservation and enhancement of ecologically valuable areas in the Calumet region, including areas in close proximity to potential CDF sites. Moreover, the Corps must fully interact with multiple governmental entities and NGOs that are now working cooperatively on a comprehensive plan that could affect the Corps’ conclusions about alternatives, mitigation measures and future uses. See also: 33 U.S.C. 1268(11)(C). This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required as part of any environmental review that includes a new CDF.

3. Environmental Impacts on Nearby Residential Areas: There are multiple densely populated residential neighborhoods in proximity to the possible locations of a proposed CDF, including Hegewisch, South Deering, the East Side and Altgeld Gardens (which has been determined to be eligible for listing on the National Register of Historic Places). For purposes of the following demographic analysis, SETF compiled data for the area within a five mile radius centered on the LTV site, 11600 S. Burley, Chicago, IL 60617. This area encompasses all of the 10 sites presented at the February 20, 2018 Stakeholder Roundtable.

According to the demographic feature of U.S. EPA’s ECHO database, 280,711 people live within this 5-mile radius. There is population density of 4,811 people/square mile, and a total of 101,600 households. This area includes 75,392 children and the dozens of schools and municipal parks they utilize. This is an environmental justice area, with more than 90% of residents being either African-American (72%) or Hispanic (19%). As an environmental justice area, there should be an enhanced commitment by the Corps to provide a full and complete opportunity for public participation in the manner that can only be achieved through an EIS. Because this is an EJ community, the Corps should conduct a complete analysis to ensure its activities do not create a significant, adverse and disproportionate impact. These enhanced EJ protocols must align with Council on Environmental Quality guidelines: https://www.epa.gov/sites/production/files/2015-02/documents/efi_guidance_nepa_ceq1297.pdf
Residents who attended the informal Corps hearing in July, 2015 about its previous CDF proposal raised several issues about the impacts of a CDF. They indicated that a CDF was contrary to future uses that would enhance the quality of life for nearby neighborhoods. The use of the land for the disposal of contaminated materials is contrary to Chicago and Cook County legal prohibitions on new landfills because disposal areas are contrary to local land use, environmental and public health priorities. Residents expressed opposition because a CDF would displace more positive and beneficial uses of riverfront property. The local Alderwoman requested a complete analysis of the nature and extent of risks posed by the CDF. Residents expressed concerns about being exposed to releases of contaminants from exposed and dispersed materials in the decades-long period during which a facility would operate. This is especially important because a CDF would be a new source in an area already characterized by poor air quality.

The Corps’ proposal must be viewed in light of its potential cumulative direct and indirect impacts on the residential neighborhoods in the Calumet region. This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required as part of any environmental review that includes the construction of a new CDF.

Thank you for your consideration of these comments. Please contact me if you have any questions, responses or require additional information.

Sincerely,

Keith Harley

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July 15, 2015

U.S. Army Corps of Engineers
Chicago District
Attn: Planning Branch
231 S. LaSalle Street, Suite 1500
Chicago, IL 60601

By E-Mail: chicagodistrict.pao@usace.army.mil


To Whom It May Concern:

Please be advised that I represent the Southeast Environmental Task Force (SETF), a not-for-profit organization dedicated to environmental education, open space preservation and pollution prevention on the southeast side of Chicago, Illinois. SETF’s members include several individuals who live in neighborhoods immediately adjacent to the Calumet Area waterways and to the proposed location of a new confined disposal facility. Consequently, SETF has a strong public interest in the proposed dredged material management plan developed by the U.S. Army Corps of Engineers (Corps), especially the Corps’ proposal to place a new confined disposal facility on a 43-acre riverfront site in Chicago.

SETF requested my assistance to address legal issues related to the Corps’ legal responsibilities to complete an Environmental Impact Statement. Other SETF participants may be submitting written comments addressing other aspects of the Corps’ Dredged Material Management Plan.

By way of summary of my comments, SETF asserts this is a major federal project that will have a significant effect on the environment. For this reason, SETF asserts the Corps must complete an Environmental Impact Statement if it decides to continue with this federal activity.
Comment One: There is well-established Corps’ precedent for conducting an EIS as part of maintenance dredging projects that also include establishing a CDF. Simply, conducting an EIS for Corps’ actions that include maintenance dredging and CDF construction is the rule not the exception. A review of 38 new maintenance dredging/CDF construction projects in the Great Lakes region since NEPA’s passage clearly demonstrates that the use of an EIS is the standard practice for the Corps.¹

<table>
<thead>
<tr>
<th>Name of CDF</th>
<th>EIS Completed?</th>
<th>Year EIS Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bolles Harbor</td>
<td>Yes</td>
<td>1975</td>
</tr>
<tr>
<td>Buffalo Harbor Dike 4</td>
<td>Yes</td>
<td>1973</td>
</tr>
<tr>
<td>Buffalo Harbor – Small Boat</td>
<td>Yes</td>
<td>1972</td>
</tr>
<tr>
<td>Buffalo Harbor – Times Beach</td>
<td>Yes</td>
<td>1973</td>
</tr>
<tr>
<td>Calumet Harbor</td>
<td>Yes</td>
<td>1982 updated 1997</td>
</tr>
<tr>
<td>Cleveland Harbor Dike 10B</td>
<td>Yes</td>
<td>1994</td>
</tr>
<tr>
<td>Cleveland Harbor Dike 12</td>
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<td>1973</td>
</tr>
<tr>
<td>Cleveland Harbor Dike 14</td>
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<td>1976</td>
</tr>
<tr>
<td>Clinton River</td>
<td>Yes</td>
<td>1976</td>
</tr>
<tr>
<td>Clinton River Fisheries Site</td>
<td>Yes</td>
<td>1976</td>
</tr>
<tr>
<td>Detroit River– Pointe Mouillee</td>
<td>Yes</td>
<td>1977</td>
</tr>
<tr>
<td>Duluth-Superior Harbor</td>
<td>Yes</td>
<td>1977</td>
</tr>
<tr>
<td>East Chicago-IN Harbor/Canal</td>
<td>Yes</td>
<td>1999</td>
</tr>
<tr>
<td>Erie Harbor</td>
<td>Yes</td>
<td>1975</td>
</tr>
<tr>
<td>Grand Haven Harbor</td>
<td>Yes</td>
<td>1975</td>
</tr>
<tr>
<td>Green Bay Harbor - Renard</td>
<td>Yes</td>
<td>1977</td>
</tr>
<tr>
<td>Holland Harbor -Riverview</td>
<td>Yes</td>
<td>1975</td>
</tr>
<tr>
<td>Holland Harbor - Windmill</td>
<td>Yes</td>
<td>1975</td>
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<tr>
<td>Huron Harbor</td>
<td>Yes</td>
<td>1973</td>
</tr>
<tr>
<td>Inland Route</td>
<td>Yes</td>
<td>1990</td>
</tr>
<tr>
<td>Kenosha Harbor</td>
<td>Yes</td>
<td>1974</td>
</tr>
<tr>
<td>Kewauke Harbor</td>
<td>Yes</td>
<td>1974</td>
</tr>
<tr>
<td>Keweenaw Waterway</td>
<td>Yes</td>
<td>1986</td>
</tr>
<tr>
<td>Lorain Harbor</td>
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</tr>
<tr>
<td>Manitowoc Harbor</td>
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<td>1974</td>
</tr>
<tr>
<td>Michigan City Harbor</td>
<td>Yes</td>
<td>1978</td>
</tr>
<tr>
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<td>1972</td>
</tr>
<tr>
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</tr>
<tr>
<td>Monroe Harbor – Sterling Park</td>
<td>Yes</td>
<td>1982</td>
</tr>
<tr>
<td>Port Sanilac</td>
<td>Yes</td>
<td>1978</td>
</tr>
<tr>
<td>Rouge River</td>
<td>Yes</td>
<td>1976</td>
</tr>
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<td>Saginaw Bay</td>
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</tr>
<tr>
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<td>1975</td>
</tr>
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<td>St. Clair River</td>
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</tr>
<tr>
<td>St. Joseph Harbor</td>
<td>Yes</td>
<td>1977 updated 1984</td>
</tr>
<tr>
<td>Sebewaing Harbor</td>
<td>Yes</td>
<td>1978</td>
</tr>
<tr>
<td>Toledo Harbor- Site 3</td>
<td>Yes</td>
<td>1974 updated 1989</td>
</tr>
</tbody>
</table>

All of these projects are analogous to the existing proposal in that they entail maintenance dredging and the establishment of a CDF with ancillary operations. A more careful review of these CDF’s reveals that the Corps has concluded an EIS is necessary for both

in-water and upland sites. The upland sites on this list include Clinton River, East Chicago, the Grand Haven sites, Green Bay-Bayport, the Holland Harbor sites, Inland Route, Keweenaw Waterway, Michigan City, the Monroe Harbor sites, Port Sanilac, Rouge River, Saginaw River, St. Clair River, St. Joseph Harbor, the Sebewaing Harbor sites and Toledo Harbor-Riverside Park. The Corps concluded an EIS was necessary for a maintenance dredging/CDF project for the Calumet region (the Calumet Harbor EIS), both as part of the original project and as part of changes in operation.\(^2\) This is precisely the same geographic context as the existing proposal. More recently and in an immediately adjacent area, the Corps concluded an EIS was necessary to perform maintenance dredging of the Indiana Harbor and Canal and the construction of a new upland CDF site in East Chicago, IN.\(^3\)

The Corps has a forty-year precedent for undertaking Environmental Impact Statements for maintenance dredging/CDF construction projects, including a comparable project in the very location as the present proposal. For this reason, SETF asserts it would unreasonable, arbitrary and capricious, and against the weight of evidence for the Corps to seek to avoid conducting an EIS as part of the present proposal.

Comment Two: The Corps has consistently undertaken Environmental Impact Statements for maintenance dredging/CDF construction projects for one unavoidable reason—it is legally required. This activity does not fall under any Categorical Exclusion established by the Corps, nor is it the type of project identified by the Corps as requiring only an Environmental Assessment. Rather, this activity involves the construction of a major project. SETF asserts the Corps must undertake an EIS for the present maintenance dredging/CDF construction proposal in order to fulfill clear legal mandates.

The relevant provision of NEPA provides that “all agencies of the Federal Government shall...include in every recommendation or report on...major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official.” 42 USC 4332(2)(C). This report, or EIS, considers the environmental impact of the proposed project. While an agency may prepare an Environmental Assessment to determine the significance of the environmental impact, a Finding of No Significant Impacts is only appropriate when the project’s effects are insignificant. 40 CFR 1501.1, 1501.4.

NEPA aims to establish procedural mechanisms that compel agencies including the Corps to take seriously the potential environmental consequences of a proposed action. Ocean Advocates v. U.S. Army Corps of Engineers, 402 F.3d 846 (9th Cir. 2004). The Corps cannot avoid preparing an EIS by making conclusory assertions that an activity will have on insignificant impacts on the environment. Id. The Corps can only avoid an


EIS based on a convincing statement of reasons that an activity will have only an insignificant impact on the environment. Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1212 (9th Cir. 1998). An EIS must be prepared if substantial questions are raised as to whether a project may cause significant degradation of some human environmental factor. Idaho Sporting Cong. v. Thomas, 137 F.3d 1146, 1149 (9th Cir. 1998). Notably, to trigger this requirement, public commentators need not show that significant effects will in fact occur. Id. at 1150. Raising substantial questions whether a project may have significant effects is sufficient. Id., and City of Waltham v. United States Postal Service, 11 F.3d 235, 240 (1st Cir. 1993).

The Council on Environmental Quality has adopted regulations governing implementation of NEPA. In determining whether a federal action requires an EIS because it significantly affects the quality of the human environment, an agency must consider the significance of its actions in light of their context and intensity. 40 CFR 1508.27. Context refers to the setting in which the proposed action takes place. 40 CFR 1508.27(a). Intensity means the severity of the impact. 40 CFR 1508.27(b). As noted above, there are 38 examples of maintenance dredging/CDF construction projects—including a project in the same location as the present proposal—in which the Corps has concluded an EIS is required.

In considering the severity of the potential environmental impact, a reviewing agency may consider up to ten factors that help inform the significance of a project, such as the unique characteristics of the geographic area, including proximity to an ecologically sensitive area; whether the action bears relationship to some other actions with individually insignificant but cumulatively significant impacts; and, the level of uncertainty of the risk and to what degree it involves unique or unknown risks. 40 CFR 1508.27(b)(3),(5),(7),(10). Notably, the presence of any one of these factors is sufficient to require preparation of an EIS. National Parks & Conservation Association v. Babbit, 241 F.3d 722, 731 (9th Cir. 2001).

A 25-year Dredged Material Management Plan that incorporates the construction of a new CDF on a 43-acre riverfront property in Chicago is a major federal project that will significantly affect the environment. Failure to undertake an EIS would be contrary to Corps precedent. It would also be contrary to the legal requirements which direct how the Corps must conduct its activities, and would be subject to legal challenge.

Comment Three: When viewed in light of Corps precedent and its legal responsibilities, it is clear the Corps must undertake an EIS as part its proposed activity in the present case. SETF asserts the following five factors are among the reasons that dictate that an EIS must be completed.

Duration: The federal activity is a dredged material management plan with an estimated duration of 25 years. The primary proposal—which includes the construction and operation of a confined disposal facility (CDF) for these dredged materials at 122nd Street and Carondolet Avenue—will create a 43-acre facility with an even longer lifespan. As proposed by the U.S. ACE, Phase I of site construction will begin in 2017 and CDF
closure will occur in 2043. However, the U.S. ACE has not calculated the duration of the post-closure period during which the site will still be subject to ongoing security, maintenance and monitoring requirements. Because these post-closure requirements will continue indefinitely, the U.S. ACE is proposing to establish a “forever” facility as an inherent part of its proposal for managing dredged materials. Moreover, because this “forever” facility will be created as a direct, foreseeable consequence of federal activity, the U.S. ACE cannot avoid its present-day obligation to complete an EIS by invoking the anticipated 2043 transfer of the closed facility to a local non-federal sponsor. See also: 33 U.S.C. 1268(11)(C). By virtue of federal activity, 43 acres of land in Chicago will be permanently altered. Because of the significance and duration of the proposed project, SETF asserts an EIS should be completed.

Land Use: The proposed confined disposal facility will be constructed and operate on a 43-acre riverfront site located within the municipal boundaries of the City of Chicago. The site is a former industrial property that is improved with a turning basin on the Calumet River, a rail line along the eastern perimeter of the property and public road access to the south. The land is part of an industrial corridor that includes dozens of active facilities. Nearby facilities include the Ford Motor Torrence Avenue Assembly Plant and its more recently constructed supplier park, which was built on former industrial property immediately adjacent to the proposed CDF. Consequently, SETF questions the credibility of U.S. ACE assumptions that there are no other reuse options for the location of its proposed CDF.

The U.S. ACE federal activity will indefinitely foreclose alternative uses of this land. In addition it will permanently alter the future potential uses of adjacent land. Because of the location of the site near waterways and other ecologically valuable areas, industrial properties and residential neighborhoods, it will permanently affect regional land use. SETF asserts these major, significant impacts on this complex urban environment context justify an EIS.

Ecological and Recreational Resources: The proposed CDF will be located in the midst of multiple ecologically valuable resources, all within one mile of proposed facility. These areas are well known to the Corps, including areas that were delineated in studies such as the Lake Calumet Special Area Management Plan developed by the Corps’ Chicago District.

To the south, a cluster of wetlands called the Hyde Lake wetlands surround Indian Creek, a fish run that connects Wolf Lake to the Calumet River. (See: http://www.cityofchicago.org/dam/city/depts/zlup/Sustainable_Development/Publications/Chicago_Nature_and_Wildlife_Plan/Hyde_Lake_Marsh_and_Indian_Creek.pdf)

To the west, there is another cluster of wetlands, the Indian Ridge Marsh complex, which serves as restored habitat for heron and egret populations and dozens of other bird species. (See: http://www.lrc.usace.army.mil/Missions/CivilWorksProjects/IndianRidgeMarsh.aspx)
To the east is the 580-acre Wolf Lake Conservation area, maintained by the Illinois Department of Natural Resources. (See: http://www.dnr.illinois.gov/Parks/Pages/WilliamWPowers.aspx)

The Calumet River forms the western perimeter of the proposed CDF. The Calumet River is a tributary of Lake Michigan, and is used extensively by recreational watercraft. It is also an increasingly rich habitat for aquatic life and other wildlife.

These natural resources do not exist in isolation, but instead, are part of a network of interconnected ecological resources in the greater Calumet region. Two recent efforts to characterize and create a unified regional approach to these ecologically valuable resources are the Chicago-sponsored Calumet Open Space Plan (See: http://www.cityofchicago.org/content/dam/city/depts/zlup/Sustainable_Development/Publications/Calumet_Open_Space_Reserve/COSR_plan.pdf) and the Illinois-sponsored Millennium Reserve (See: http://www.millenniumreserve.org/Priorities/), which is also part of President Obama’s Great Outdoors Initiative.

The Corps’ proposal must be viewed in light of its potential direct and indirect impacts on the preservation and enhancement of ecologically valuable areas in the Calumet region, including areas in close proximity to its preferred CDF site. Moreover, the Corps must fully interact with multiple governmental entities and NGOs that are now working cooperatively on a comprehensive plan that could affect the Corps’ conclusions about alternatives, mitigation measures and future uses. This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required.

Environmental Impacts on Nearby Residential Areas: There are two densely populated residential neighborhoods in proximity to the proposed CDF, Hegewisch and the East Side.

According to the demographic feature of U.S. EPA’s ECHO database, 56,319 people live within a 3-mile radius of the intersection of 122nd Street and Carondolet Avenue. There is population density of 2,298 people/square mile, and a total of 19,588 households. This is an environmental justice area, with more than 60% of residents being either African-American (21.27%) or Hispanic (49.6%). As an environmental justice area, there should be an enhanced commitment by the Corps to provide a full and complete opportunity for public participation in the manner that can only be achieved through an EIS. Because this is an EJ community, the Corps should conduct a complete analysis to ensure its activities do not create a significant, adverse and disproportionate impact.

Residents who attended the informal Corps hearing on its proposal raised several issues about the impacts of the CDF. They indicated that the CDF proposal was contrary to future uses that would enhance the quality of life for nearby neighborhoods. The use of the land for the disposal of contaminated materials is contrary to Chicago and Cook County legal prohibitions on new landfills because disposal areas are contrary to local land use, environmental and public health priorities. Residents expressed opposition because the CDF would displace more positive and beneficial uses of the 43-acre...
riverfront property. The local Alderwoman requested a complete analysis of the nature and extent of risks posed by the CDF. Residents expressed concerns about being exposed to releases of contaminants from exposed and dispersed materials in the decades-long period during which the facility is proposed to operate. This is especially important because the CDF would be a new source in area already characterized by poor air quality.

The Corps’ proposal must be viewed in light of its potential cumulative direct and indirect impacts on the residential neighborhoods in the Calumet region, including areas in close proximity to its preferred CDF site. This complete analysis has not and cannot be undertaken in an Environmental Assessment alone. For this reason, SETF asserts an EIS is required.

Impacts on Water Quality, Sediment Quality and The Diversity, Productivity and Stability of Aquatic Organisms In The Area of the Site:

The Environmental Assessment honestly acknowledges that neither the Corps nor its local sponsor currently own or control the site of the proposed CDF. One consequence of this is also reflected in the EA—without have access to the site, the Corps’ ability to characterize existing environmental conditions at this former industrial property is limited. The Corps characterizes this as “risk and uncertainty”. Although the Corps has reviewed environmental data derived from Illinois EPA files, there are significant gaps in this data. For example, it’s been 10-year since the Illinois EPA review of a remedial action on the site. The Illinois EPA-approved remediation was “focused”, meaning contingent on future uses, institutional controls and engineered barriers that may not address the CDF now contemplated by the Corps. The Illinois EPA has expressed questions about the adequacy of some aspects of the subsurface investigation. The site is one portion of a larger industrial property, and may be impacted by releases of contaminants from other portions of this larger property.

Perhaps the most significant omission in existing data relates to groundwater, both in terms of hydrogeology and contaminant conditions. For purposes of the Illinois Site Remediation Program, groundwater can be legally excluded from site remediation activities, typically because there is a legal restriction on the use of groundwater as a potable resource. Consequently, there is little data about existing groundwater conditions at the proposed CDF site and therefore, no basis to project the consequences of depositing a large mass of sediment on the hydrogeology and contaminant releases on and in the area of the site.

Because of its federal mandate, the Corps—unlike a typical site developer in Illinois—cannot avoid a full and complete analysis of existing groundwater conditions on and near the site of its proposed CDF. It also cannot avoid a full and complete analysis of the impacts of its future use of the site as a CDF on site hydrogeology and contaminant releases. This legal responsibility attaches to this project because of the riverfront location of the proposed CDF. There is a potential for contaminated groundwater—which has not been characterized or remediated—to be released now and in the future from this site into the immediately adjacent Calumet River. Unlike a typical private site developer, the Corps must characterize the impacts on water quality, sediment quality and

\[4\text{ 33 U.S.C. 1268(11)(B)}\]
the diversity, productivity and stability of aquatic organisms in the area of the site. The Corps has not and currently cannot fulfill this mandate to assess the impacts of releases of contaminants in groundwater from its proposed CDF location into the Calumet River. This legally mandated analysis is not incorporated into the existing Environmental Assessment, and of itself justifies an Environmental Impact Statement. An agency must prepare an EIS if environmental impacts are uncertain. National Parks & Conservation Association v. Babbit, 241 F.3d 722, 731 (9th Cir. 2001) “[p]reparation of an EIS is mandated where uncertainty may be resolved by further collection of data.”

Comment Four: SETF asserts that only an EIS will provide a full and complete opportunity for public engagement on this controversial proposal. It is also the only way to ensure consultation and/or concurrence with the complete range of federal, state and local units of government that have relevant jurisdiction and expertise in relationship to different aspects of this complex urban environment.

The Corps' public outreach activities in this matter have been completely disjointed and ineffective. For example, it appears there was a six-year gap between the initial solicitation of comments from some relevant parties and a public meeting. Upon information and belief, the Corps originally solicited public comments in letters sent on or about March 13, 2009. The January 6, 2010 response of the City of Chicago is particularly noteworthy, so it is attached to these comments and labeled as SETF Attachment One. The City's five-year old response is entirely consistent with many of the comments in this letter and comments expressed during the recent public meeting. Through its Department of Environment, the City expressed the following concerns about the Corps' activities:

1. The City’s DOE has concerns regarding the construction and siting of a new confined disposal facility and “...looks to discuss other options including the reuse of sediments to allow for reclamation of the existing CDF”.

2. Any new CDF will require engineering and site planning to protect groundwater and surface water conditions.

3. The City’s DOE “strongly recommends early outreach and coordination with the community as part of any planning process.”

4. The City’s DOE recommends the Corps engage in a multi-agency initiative to assess the reuse options for sediments, including the Metropolitan Water Reclamation District, the Illinois EPA and the Illinois Department of Natural Resources.

5. Consistent with the Calumet Open Space Plan, the City’s DOE discourages the use of open spaces in the Calumet region based on concerns for the protection of human health and the environment, surface water management and site planning to maintain the natural setting and ecological objectives.

By contrast to the City’s 2010 recommendations, the Corps’ present proposal is a public outreach shambles. This was a consistent theme in comments made by the small group of public participants in the recent public meeting. Participants, including the Ward
Alderwoman, questioned why the Corps waited so long to conduct public outreach, failed
to proactively engage affected stakeholders, failed to provide meaningful answers to
basic questions regarding risk assessment and the development of its proposal, and
offered only a truncated public comment period with very little notice.

Fortunately, the Corps may still remedy the shortcomings of its public process by
conducting an Environmental Impact Statement. An EIS provides a carefully structured
process to ensure a full and complete opportunity for stakeholder involvement, including
notice, scoping, consultation, the development of a draft EIS, public hearing(s), a written
comment period, and a response to significant public comments. For a major federal
project significantly affecting the environment — for example, a proposed dredged
material management plan that incorporates the construction of a new CDF —
stakeholders can contribute actively to critical elements of the EIS, including: 1.
alternatives for achieving the purpose and need consistent with 40 CFR 1502.14; 2. an
understanding of the affected environment for both the primary proposal and the
alternatives consistent with 40 CFR 1502.15; 3. an understanding of the environmental
consequences of the primary proposal and the alternatives consistent with 1502.16; and,
4. potential mitigation and minimization measures and the identification of context
sensitive solutions consistent with 40 CFR 1502.16 and 1508.20. None of this has
occurred in the Corps’ existing piecemeal, ad hoc, fits-and-starts approach.

Thank you for your consideration of these comments. Please do not hesitate to contact me
if you have any questions.

Sincerely,

/Keith Harley

Keith Harley
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(312) 726-2938

Enc
August 1, 2019

Mr. Michael C. Padilla, PMP
U.S. Army Corps of Engineers, Chicago District
231 S. LaSalle Street, Suite 1500
Chicago, IL 60604-1437

Re: Friends of the Parks Comments on the Draft Chicago Area Waterway Systems (CAWS) Dredged Material Management Plan (DMMP) and Integrated Environmental Impact Statement (EIS), April 2019

Dear Mr. Padilla:

Friends of the Parks (“FOTP”) appreciates this opportunity to submit these comments on the U.S. Army Corp of Engineers’ (“ACOE”) April 2019 Draft Dredged Material Management Plan and Integrated Environmental Impact Statement (“DMMP/EIS”) for the Chicago Area Waterway System in the Calumet region.

As a city-wide parks advocacy organization, Friends of the Parks’ mission is to inspire, equip, and mobilize a diverse Chicago to ensure an equitable park system for a healthy Chicago. We are disappointed that the ACOE’s Tentatively Selected Plan (“TSP”) relies upon constructing and operating a Vertical Expansion of the current Confined Disposal Facility (CDF) on a Chicago Park District (“CPD”) site and the Public Trust shore. We oppose this plan for a number of General Reasons, as well as a number of Specific Flaws and Deficiencies we find in the ACOE’s DMMP/EIS analysis, which we outline below.

Furthermore, we join with local residents and other environmental advocates in opposing the siting of a CDF in the 10th Ward of the City which is already environmentally overburdened. Indeed, we find that in selecting the “TSP” the ACOE will further degrade air quality in the 10th Ward in close proximity to residences as well as parks, beaches and other recreational and cultural resources. This proposal will result in the release of airborne sediment and volatilized PCBs into the local environment, as well as adversely impact and endanger Lake Michigan water quality for both recreational users and the entire Chicago region that relies on drinking water provided by Lake Michigan. We urge the ACOE to pursue other options, including treatment in lieu of disposal and sediment reduction. If the ACOE nonetheless decides to pursue the Vertical Expansion option despite the many problems with this site and this proposal, we believe it must
go back and provide a revised Draft DMMP/EIS for public review and comments which responds to the many flaws and deficiencies noted herein prior to proceeding to a Final DMMP/EIS.

I. GENERAL COMMENTS

A. THE TENTATIVELY SELECTED PLAN REQUIRES BROADER PUBLIC REVIEW BY LOCAL AND REGIONAL GOVERNMENTS

Lake Michigan and its shore comprise the premier natural resource in the City of Chicago and this Region. Since 2009, Friends of the Parks has advocated for uninterrupted public access to the lakefront and completion of the lakefront park system through the Last Four Miles initiative. Through the Last Four Miles Initiative we are working to ensure continuous, public access along the last four miles of Chicago’s 30-mile lakefront, including two miles on the southeast portion of the city’s lakefront which includes the CDF site. Launched in 2009 in conjunction with Chicago’s 100-year celebration of the Burnham Plan, the “Last Four Miles” vision lays important groundwork for next steps in comprehensive, community-inclusive planning.

These long-standing city-wide plans would be waylaid, if not terminated, should the Corps decide to effectively create a permanent landfill within the last two miles on the Lake Michigan shore. The existing CDF should never have been allowed to be placed in the waters of Lake Michigan. Its creation took public lakebed for private purposes and was only allowed on the condition that this property been returned to the public for park land in what was thought to be just 10 years. Should this tentatively selected plan move forward, another entire generation of people would been denied access to this lakefront and the green space owed to them.

Such a decision should not be taken outside a broad, comprehensive neighborhood, City and regional planning process focused on the development and preservation of this portion of the Lake Michigan lakefront in the interest of the people – not just the interest of the handful of corporations that benefit from a publicly subsidized dredge disposal facility. In addition, to the adverse impacts the vertical expansion will have on an already heavily burdened community, the Vertical Expansion proposal will have a negative effect on proposals for redevelopment of the USX property immediately adjacent to the proposed site. The City has been trying for more than a decade to partner with private developers to redevelop the former U.S. Steel South Works site, the largest piece of undeveloped lakeshore property in the city. Recently the USX site has been raised as a potential site for two new developments, including a potential Chicago casino as well as a site for a hotel, housing, film studio, and concert venue. If the current CDF is expanded it could detract potential developers from the USX property, thus negatively impacting the South Chicago community and the entire Southside. These potential impacts must be considered in a far broader planning process than is provided by the ACOE in this proceeding.

Further, the process provided by the ACOE has been rushed and insufficient. Friends of the Parks has serious concerns over the transparency and thoroughness of the process employed by ACOE in arriving at the tentatively selected plan. ACOE discusses beginning a process to look for a new site in 2010 – but an expansion of the existing CDF on park property was ruled
out early on. In 2015, after ACOE had arrived at a different tentatively selected plan, the identified Non-Federal Sponsor fell through and ACOE began to look at alternative locations that still did not include expansion of the existing CDF. In 2018 the ACOE took comments on alternate sites identified in 2015, but an expansion of the existing CDF was not included in those alternates.

Vertical Expansion of the existing facility was only publicly raised as possible option among others in the December 28, 2018 Federal Register announcing that the ACOE would undertake an Environmental Impact Study. The Vertical Expansion was not revealed to be the ACOE’s tentatively selected plan until the draft DMMP/EIS was released for public comment in April 2019. Two public hearings were rushed through before interested parties had had an opportunity to review the lengthy DMMP/EIS. As FOTP began its review, it realized that ACOE had provided no environmental data supporting its conclusion that the existing CDF had operated safely. FOTP quickly filed a Freedom of Information Act (“FOIA”) Request ACOE and request for extension of time to comment on the DMMP/EIS. Almost a month later ACOE provided thousands of pages of data and reports that had not been included with the DMMP/EIS or otherwise publicly posted information. Subsequently, much of this information was posted on the ACOE webpage. The comment period was extended by 45 days; however no additional hearings have been held. After 9 years of reviewing other sites and other issues, this rushed process has not allowed interested parties, including community groups, parks, open space and environmental advocates, public officials, and the new City of Chicago administration, to fully review and evaluate the significant issues posed by the ACOE’s new Vertical Expansion proposal.

B. ACOE’S “LEAST COST” ANALYSIS RELIES ON FOISTING COSTS AND LIABILITIES ON SOUTHSIDE NEIGHBORHOODS, THE CHICAGO PARK DISTRICT, AND CHICAGO TAXPAYERS

No quantification of the “cost” of permanently occupying this former Lake Michigan lakebed is included in the ACOE’s analysis. Indeed, one of the reasons the ACOE finds the Vertical Expansion of the existing CDF to be the “least cost” option is because it considers taking this public land to be “free.” The DMMP/EIS cost analysis also fails to quantify and include the post-closure costs and liabilities this decision will impose on the City of Chicago, its Park District and its taxpayers. The ACOE’s “least cost” analysis is seriously flawed for failure quantify and include these costs.

In addition to the costs for Operation, Maintenance, Repair, Replacement, and Rehabilitation (“OMRR&R”) being newly foisted on the Chicago Park District, Chicago taxpayers will also be left with the long-term liability for this site that the ACOE itself seeks to avoid. The risks and liability that already exist for the 1984 CDF structure are increased by ACOE’s proposed decision to place up to another 1 million tons of dredge industrial waste on top of the existing CDF. This new facility will sit on top of a “floating” foundation which itself

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1 The DMMP/EIS states that the Chicago Park District will be responsible for post-closure OMRR&R for the TSP. This is new. Under the 1982 Access Agreement, the post-closure OMRR &R responsibility and costs were to be borne by the International Port District, not the Chicago Park District.)
holds a million tons of concentrated, wet, highly contaminated dredged material. Moreover, the City and CPD will be left with liability for this precarious structure in the face of unprecedented Lake levels, increasing storm surge, and the well-documented risk of destruction of lakefront structures all along the Lake Michigan shore. Further, ACOE is proposing to build this without applying the safeguards of a double liner and leachate collection system that would be required for any other industrial waste landfill.

Have the City of Chicago and Chicago Park District actually agreed to take on these costs and liabilities? The DMMP/EIS states that the CPD has agreed to the TSP, but no evidence of the agreement is provided in the DMMP/EIS and, in response to a Friends of the Parks’ Freedom of Information Act request, the CPD provided no evidence of any written correspondence or agreement between the ACOE and the CPD on the TSP or extending the 1982 Access Agreement beyond its current terms. Indeed, the new Mayor and her Administration, the Chicago City Council, the Park District Superintendent, or the Park District Board would all certainly need to review any such proposal before agreeing to take on these costs and liabilities. Rather than the useful park land the City bargained for in 1982, the City of Chicago and Chicago Park District will be left with the bill for managing in perpetuity a towering hazardous waste landfill. The ACOE is proposing to saddle City taxpayers with an albatross that they will be paying for generations to come while never regaining the public trust land intended for park land. Are the City of Chicago, CPD and taxpayers aware of the cost and liabilities they are expected to assume as a result of this ACOE decision?

C. ENVIRONMENTAL JUSTICE IMPACTS

As the ACOE is aware, environmental activists, local residents, and others have serious concerns over their environmentally overburdened community which has for too long borne the brunt of industrial contamination and would continue to do so under this proposal. We fully support local advocates’ concerns about having another CDF to store dredged material in the over-burdened 10th Ward. Indeed, the existing CDF is in the 10th Ward and is a part of that existing burden. Prolonging the life of that facility, doubling the volume of dredge it will contain, and increasing its dredge processing activities at this location will only further burden this community. This location is not only our region’s water supply, it is the 10th Ward’s lakefront and social and recreational resource. As will be discussed further below, Calumet Park Beach is directly downstream from this site. Calumet Park where low-income children and families meet and play sits directly south of the existing CDF and proposed Vertical Expansion site. The DMMP/EIS fails to specifically identify the adverse impacts which would be borne by these children and families.

The DMMP/EIS acknowledges that the entire study area and all of the alternative sites reviewed by the ACOE fall within low-income, minority communities covered under of the Executive Order on Environmental Justice. However, the Environmental Justice Appendix K entirely fails to address the community in which ACOE’s Vertical Expansion TSP is actually

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2 See attached link to a Chicago Magazine July 22, 2019 article on the recent destruction of ACOE constructed concrete barriers at Juneway Beach on Chicago’s northside.
located—South Chicago. Indeed, the existing CDF lies on the eastern edge of South Chicago, yet South Chicago is left completely out of the environmental justice analysis. The southern portion of South Chicago also lies along the Calumet River and thus is within the study area. As a point of reference, South Chicago is the least affluent of all communities along the southeast side. South Chicago has a total population of 28,095 people (the most populated of all community areas in the region) which is 74% African American and 22% Latino with a median household income of $28,504. Continuing to place the CDF in that region will disproportionately impact the poorest, most densely populated community area in the region.

ACOE’s failure to understand that its proposed TSP is located in South Chicago suggests that the entire EJ analysis provided with this DMMP/EIS has not been taken seriously, but may have simply been “recycled” from ACOE’s prior reports, focused on a different TSP site. This is unacceptable and a serious flaw in the DMMP/EIS. Moreover, Environmental Justice isn’t just a “hoop” for ACOE to jump through before doing whatever it proposed to do prior to analyzing Environmental Justice impacts. As the ACOE states, “Executive Order 12898 of 1994 directs federal agencies to identify and address any disproportionately high adverse human health or environmental effects of federal actions to minority and/or low-income populations, which the DoD implemented through the Department of Defense’s Strategy on Environmental Justice of 1995.” DMMP/EIS, Appendix K. [emphasis added]

ACOE states: “It is imperative that the DMMP adequately documents that vulnerable populations do not bear the brunt of any significant adverse impacts associated with implementation of the TSP. This is accomplished through documentation of vulnerable populations in the study area, potential adverse impacts to the human and natural environment, and why these communities would not be disproportionately burdened by the proposed action.” (DMMP/EIS p. 138) We respectfully disagree with this formulation of the ACOE’s duty under Executive Order 12898. “Addressing” Environmental Justice disproportionate impacts does not mean simply identifying vulnerable populations and explaining a predetermined decision to them. It also doesn’t mean making general statements about how the proposed activity will be strictly controlled. It means ensuring that ACOE decisions avoid creating additional adverse impacts on those populations. In this case, that means not building a new dredge facility at a location that will increase air pollution in those communities or that will release toxic contaminants into the Lake Michigan waters bordering the parks and beaches that serve those communities. Because the DMMP/EIS ignores and denies any environmental impacts will occur, it never factored these impacts into its Environmental Justice analysis or its selection of the South Chicago location for its TSP.

In its July 22, 2019 comments on the DMMP/EIS, U.S. Environmental Protection Agency found that ACOE has not adequately considered the effect the Vertical Expansion option will have on Environmental Justice communities:

“No information or discussion on how the new vertical expansion of
the existing CDF will affect the overall air quality in adjacent communities with identified environmental justice concerns. Section 4.9 of the DEIS states, "Construction of the facility may have minimal short-term impacts to residents but these impacts would be the same regardless of race or income." EPA does not agree with this statement, particularly because it is not relevant here; air quality effects will be predominantly borne by minority populations and/or low-income populations that surround the project location.

“Specifically, disproportionately high and adverse impacts are typically determined based on the impacts in one or more resource topics analyzed in NEPA documents. Any identified impact to human health or the environment (e.g., air quality impacts, noise impacts, traffic/congestion increases, modification of land use) that potentially affects minority populations and low-income populations in the affected environment might result in disproportionately high and adverse impacts.” (USEPA, July 22, 2019 Comments)

Friends of the Parks agrees that vertically expanding the CDF in its current location would disproportionately impact poor minority residents the most. ACOE’s failure to substantively address the air quality impacts of its TSP on low income, minority communities violate the intent of Executive Order 12898.

The Army Corps has stated that it is compelled by statute to pursue the “least cost alternative.” We believe that a community that has been as environmentally overburdened as the southeast side of Chicago deserves the best alternative and we call on the ACOE, local elected officials, and the non-federal sponsor to pursue other options including treatment in lieu of disposal rather than vertical Expansion of the existing facility. **A concern for environmental justice demands that we expect more.** FOTP agrees with the U.S. EPA’s comment that the ACOE must go back and seriously review the air pollution and water pollution impacts of its selection of the Vertical Expansion on the South Chicago neighborhood and the other surrounding Environmental Justice communities. This review must include input from these communities. Given the large Latino population in these communities, it must also include a Spanish translation of notices and ACOE documents and the provision of a Spanish translator at public hearings.

**D. THE TSP VIOLATES THE PUBLIC TRUST DOCTRINE**

The DMMP/EIS reneges on the ACOE’s 1982 promise to the people of the State of Illinois and Chicago’s Southside communities to return this public trust land to the public. Under the Public Trust Doctrine, the ACOE cannot create a *de facto* permanent waste disposal site on Chicago’s lakefront.
The Public Trust Doctrine was established over 100 years ago in the landmark case *Illinois Central Railroad Co. v. Illinois*, 146 U.S. 387 (1892) which focused on the construction of a railroad on the very Chicago Lake Michigan shore at issue here. The United States Supreme Court in *Illinois Central* held that neither the State of Illinois nor the City of Chicago could transfer the public’s inalienable rights in the public trust lakebed to a private party – even though the railroad to be constructed arguably had social benefits for the City and the Region. Since that time, there have been a number of Illinois and federal cases making it clear that private industrial operations do not fall within the scope of uses permitted on the public trust shore. A waste disposal facility, designed to benefit private owner/operators of industrial facilities along the CAWS, also certainly does not fall within the scope of public uses for which the shore is held in trust. Further, allowing 60 years and possibly indefinite occupation of the public trust shore by such a disposal facility to the exclusion of the public certainly cannot be considered a minor or temporary imposition on the public trust.

There can be no question that the CDF is public trust land and that its use and the public's right to use it are governed by the now well-developed legal concepts of the Public Trust Doctrine discussed above. It was built on the Lake Michigan lakebed. In fact all the parties to the intergovernmental agreement allowing the ACOE access for the construction and operation of the CDF implicitly and explicitly acknowledged the application of the Public Trust Doctrine to this property by requiring state legislation as a pre-condition to proceeding with the implementation process – though even that legislation did not transfer title to the State’s public trust property to federal government and could not extinguish the inalienable public trust. Recognizing that this was public land, Illinois EPA, in issuing the CDF’s initial 5-year permit on June 15, 1982, required both state and local implementing legislation. The intergovernmental agreement (“IGA”) regarding the CDF between the United States of America (ACOE), the Illinois International Port District and CPD was entered into July 13, 1982, two weeks after the approval of the enabling legislation. The State implementing legislation came into effect on June 29, 1982 (An Act in relation to the transfer of state and private lands to public recreational entities," Public Act 82-770, June 29, 1982.). (The Chicago Park District and the Port District also passed enabling acts or resolutions.). The intent of the ACOE at the time was summarized in an unpublished report prepared by the Illinois Department of Transportation Division of Water Resources dated December 10, 1984: "After an extensive environmental assessment, the Corps concluded that a lakefront site was the most environmentally and economically acceptable, and would provide for a major addition to Calumet Park operated by the park district, when the site was filled." (Neil R. Fulton and Daniel A. Injerd, *Lake Michigan and the Public Trust*, p.25 (hereinafter Injerd) (emphasis added).

Under *People ex rel. Scott v. Chicago Park District*, 66 Ill. 2d 65 (1976), one of several seminal cases developing the public trust doctrine following *Illinois Central Railroad Co.*, the broad conception of the public interest in public trust land was expanded "to extend to the impact on surrounding recreational areas and the environmental quality of the Lake in general." *Injerd*

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3 “The Chicago Area CDF was built out into Lake Michigan at the mouth of the Calumet River in 1984, with the Illinois International Port District (IIPD) Iroquois Landing site as its western boundary and the Illinois-Indiana state boundary as its eastern boundary.” DMMP/EIS Executive Summary, p. 2.

4 "Prior to construction or operation of this facility, legislation must be approved to allow the use of this area as a dredged material confined disposal facility." (1982 IEPA Div. of Water Permit, Sec. 8).
Injerd recognized that “filling in of submerged lands with polluted dredged material may not seem to be in the public interest”, but found justification for the initial CDF on the ground that this project would “produce a number of public benefits”, including “providing 45 acres of new parkland. " Injerd, pp.25-26 (emphasis added). The park was initially intended by the legislation to come into existence after 10 years of operation of the CDF. We are now 37 years later, and the legislative promise is still unfulfilled. Surely the public trust doctrine requires a good faith execution by the various parties to the agreements surrounding and creating the CDF to timely implement their initial promises in exchange for creating the contaminated land fill and carrying out a use which was not in the public interest. The current proposal could keep the CDF from ever becoming the promised park. The CDF authorized by the legislature has been full for some time although its use has been extended by unapproved additions of walls and without the required legislative authority for several years. It is troubling that the Water Resources Division of the Illinois Department of Natural Resources which has oversight of the CDF as its legislatively designated trustee (615 ILCS 55) has not ordered a halt to this iterative violation of the IAG. It is equally troubling that the Chicago Park District as owner of this "parkland" has not also stepped in to halt further efforts to extend the life of the CDF. Under 615 ILCS 5/26 the Attorney General of the State of Illinois or the Cook County State’s Attorney have the power to bring suit to require that these unkept commitments be carried out.

In its multiple renewals of the water permit for the operation of the CDF, the Illinois EPA, has consistently reiterated that the parties to the CDF are required to implement the promise to make it functioning parkland at the end of the permitting period. The numerous extensions and modifications of the IEPA permits for the CDF are clearly in violation of the public trust doctrine as applicable to the CDF. The ongoing private use of CPD designated park land for industrial waste dredged from the CAWS for the benefit of adjacent industrial owners and operators flies in the face of the public trust doctrine requirements. The initial enabling legislation, the IGA, and IEPA permit conditions constitute a contract under the public trust which the parties are long overdue in implementing. In fact, applying due process requirements to the various promises made regarding the limited life of the CDF now mandates that the CDF be made into functioning parkland without further delay. It is a public outrage for the Army Corps to propose another 25+ year violation of their contractual commitments. Nothing can justify this cavalier and egregious breach of the public trust. The stated rationale for creating the CDF was its conversion to parkland within 10 years. That promise has now been ignored for 27 years. There can be no doubt that the legislative intent was that this CDF become public park, if not within 10 years, certainly within a discrete, narrow time frame.

E. OPERATION OF THE CDF ON PUBLIC TRUST LAND WAS LIMITED TO 10 YEARS

There is also a serious question as to whether the State of Illinois’ legislative authorization for the existing CDF limited of the ACOE’s use of the State’s public trust land as a dredge
depository to 10 years. Sec. 123 of the Rivers and Harbors Act expressly limits the use of CDF facilities to 10 years:

“(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate and maintain, contained spoil disposal facilities (confined disposal facilities) of sufficient capacity for a period not to exceed ten years to meet the requirements of this section.” 33 USC 1293a

When the ACOE sought to extend its authority to allow it to operate a CDF for greater than 10 years, a United States General Accounting Office report to the House of Representative in August, 1986, concluded “we are not persuaded by the Department’s position that the Corps has authority to use the unfilled confined disposal facilities in question,…” Water Resources Legislation Needed to Extend the Life of Confined Disposal Facilities, GAO/RCED-86-145; p.4.

While the 10-year limitation on the ACOE’s authority was subsequently modified in another Act⁵, the State of Illinois relied on the 10-year limitation in Section 123 of the Rivers and Harbors Act in its concomitant 1982 State legislation, Public Act 82-770, which transferred the Lake Michigan public trust lakebed to the CPD. That legislation said it was “intended for the improvement of certain harbor and park facilities, in order to further the public interest and benefit navigation, including the construction, use and maintenance upon such land of a contained spoil disposal facility as contemplated by Section 123 of Public Law 91-611.” (emphasis added) At that time, 1982, Section 123 contemplated a limited 10-year life for a CDF – as shown by the above IGA report. Thus, it appears the Illinois General Assembly intended and assumed this property would be developed as a park when those 10 years had elapsed. The existing CDF has already been in construction, operation and maintenance for 27 years beyond its statutorily authorized life without being turned over to the CPD as contemplated by the Illinois legislation. Therefore, it must be closed and capped at this point.

**F. A NEW NON-FEDERAL SPONSOR AGREEMENT WOULD BE REQUIRED FOR THE VERTICAL EXPANSION**

Unlike the State legislation, the CPD 1982 Resolution underlying that IGA provided the ACOE with access to the site for 10 years or until the CDF is “filled”. The ACOE has now announced that the CPD will be at full capacity in 2022 and will no longer be able to accept dredge material. (Exec Sum p. 2) Therefore, at that point, CPD’s access agreement absolutely ends. Thus, this plan cannot proceed without reaching a new agreement with the CPD. The Executive Summary states that the DMMP/EIS and the selection of the TSP was “developed in partnership with the City and CPD.” (Exec Summary p. 1) However, ACOE has provided no evidence that the CPD has been involved in this process or that ACOE has obtained a new access agreement with the CPD. Notably, FOTP’s recent separate FOIA Requests to both the ACOE and the CPD have yielded no documents indicating that the CPD has been involved in the

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⁵ See Section 24(a) of the Water Resources Development Act of 1988.
development of the DMMP/EIS, has concurred in the TSP for the Vertical Expansion, or has agreed to the ACOE’s reneging on its contractual commitment to return this 47 acres of lakefront to the CPD for use as park land. Thus, it is premature for ACOE to be proposing this alternative.

II. QUESTIONS ABOUT THE PROPOSED DESIGN AND OPERATION OF THE TENTATIVELY SELECTED PLAN

The DMMP/EIS describes the TSP as follows:

“The vertically expanded facility will occupy the same footprint as the existing CDF. It will include separate drying pads for contaminated and beneficial use material (to prevent mixing) and a new dock to facilitate the unloading of dredged material. The confined disposal area within this site will be consist of perimeter berms that are composed of beneficial use material inside of which contaminated dredged material will be placed. Prior to construction of the perimeter berms and wick drains will be installed and preloading/consolidation of the existing sediment in the facility will be carried out. During dredging operations, effluent from the wet dredged material will evaporate or drain into the dewatering pond at the south end of the site where it will be pumped to a filter cell for treatment and ultimately discharged to the Calumet River.” DMMP/EIS, p. 129.

The elements of the TSP, as described above, raise questions that are not clearly answered in the DMMP/EIS:

1. The proposal is to place both Harbor Dredge and River Dredge in this Vertical Expansion, using dried, less contaminated Harbor Dredge to create berms to contain the more contaminated River dredge material. Contrary ACOE’s statements that only the 500,000 of River Dredge will be disposed of in the Vertical Expansion, this structure will actually also be the depository of a massive amount of the Harbor Dredge, if not all of it.

   • How much of the Harbor Dredge will be disposed of/beneficially reused at this location, rather than beneficially reused at another non-CDF location? Where will that other Harbor Dredge be stored and dried?

   • As noted in the USEPA comments, the development of an agreement between ACOE and the Non-Federal Sponsor(s) to beneficially reuse the excess material dredged from Calumet Harbor that is not required for DMDF berm construction has not been finalized and is a pre-requisite to the success of the study and proposed project, as the TSP site is otherwise inadequately sized to facilitate storage of large quantities of Harbor Dredge material.
2. The proposal is to place the entire Vertical Expansion on the footprint of the current CDF. Thus, the existing “in water” CDF will be the foundation for this massive new structure.

• What is the weight that the existing CDF will be bearing on per square foot basis?

• Where is any discussion of the ability of the existing 1984 structure to support this weight?

3. The proposal includes an air-drying operation for the less contaminated Harbor Dredge that will take place on Harbor and Lake facing pads at the CDF site (Figure 17) and will apparently entail this dredged material being exposed to the elements for over a year for each dredging event. This operation raises many questions.

• How many acres of the property will be used for this drying operation?

• How will these Harbor and Lake facing “drying pads” be protected from the high wind, rain, waves and storm surge that currently occur on the Lake Michigan shore and are predicted to be more violent in coming years?

• Won’t this operation generate hazardous particulate (dust) emissions?

• What type and quantity of emissions will be generated by this drying operation?
• Will this include toxic emissions?

• Will this drying operation be regulated as a “stationary source” subject to Illinois EPA and Clean Air Act permitting? Notably, the DMMP/EIS does not account for emissions from this operation and states that operation of the TSP entails no “stationary source” emissions.

4. The proposal also assumes that “during dredging operations” the liquid in the highly contaminated dredge will evaporate.

• What type and quantity of emissions will be generated by these dredging operations?

• Will this include volatile organic emissions? Toxic emissions?
• Will these dredging operations be regulated as a “stationary source” subject to Illinois EPA and Clean Air Act permitting? Again, the DMMP/EIS does not account for these emissions and states that operation of the TSP entails no “stationary source” emissions.
5. The proposal states that effluent that doesn’t evaporate will be drained to a “dewatering pond,” run through a filter, and discharged to the Calumet River.

• Isn’t this discharge drained to actually to the Harbor?

• What contaminants are present in the “dewatering pond” effluent and at what level?

• What standards are applied to ensure the discharge will not degrade the River or Harbor?

• Is filtration alone considered treatment for those contaminants?

• How often will this discharge be monitored?

• Why shouldn’t this effluent be discharged to the MWRD sewer systems as was assumed for each of the other disposal options reviewed in the DMMP/EIS?

6. No explanation is provided as to the purpose of the “wick drains” or how they are anticipated to function.

• Why hasn’t the ACOE proposed to install a double liner and a leachate collection system for the new Vertical Expansion as would be required for any landfill accepting this highly contaminated waste stream?

7. No explanation is provided for what is meant by: “preloading/consolidation of the existing sediment in the facility will be carried out.”

• Please explain the purpose of this operation and what is meant by “preloading/consolidation”, how this activity will be carried out, and what the impact of this operation will be on the existing CDF structure and the sediment within it?

• Is there a risk that operation will increase pressure on the existing CDF structure, cause a rupture, or otherwise result in increased releases from the existing CDF to the Harbor and Lake?

• Is this an attempt to dewater the existing sediment in the existing CDF to provide greater stability for the new structure?

• Please provide examples and data from any other CDF in which ACOE has performed this operation.

III. FLAWS AND DEFICIENCIES IN THE DMMP/EIS
A. THE DMMP/EIS RELIES ON UNDOCUMENTED CONCLUSIONS RATHER THAN OBJECTIVE ANALYSIS

The occupation of the Public Trust lakefront by a towering industrial waste landfill would never be allowed anywhere else in this City. But that is precisely what the ACOE is proposing to construct on Chicago’s south Lake Michigan lakefront. As is discussed in greater detail below, instead of providing a transparent, objective review of the impacts of its proposal on the south lakefront, the DMMP/EIS repeatedly substitutes a conclusion that the southside of Chicago is already so contaminated that any additional pollution or loss of public land caused by its selected lakefront disposal option will not significantly adversely impact the community or the environment. This reflects a prejudicial characterization of existing conditions on Chicago’s south lakefront and cavalier minimization of the impact of this new 25-foot high industrial waste landfill on lakefront park land.

The DMMP/EIS “no significant adverse impact” conclusions are thinly supported at best, and in some instances entirely unsupported. Indeed, portions of this study appear to have been lifted from the ACOE’s 2015 Environmental Impact Study which focused on a different site. On several points it fails to address the communities, parks and beaches in closest proximity to the 2019 TSP site. For example, the DMMP/EIS entirely fails to consider the closest environmental justice community --South Chicago. The DMMP/EIS also fails to mention Steelworkers Park, directly north of the TSP site and Calumet Park Beach directly south and downstream of the TSP site. Even where it recognizes a major and historic park, Calumet Park, directly south of the site of the TSP, the DMMP/EIS provides no discussion or analysis of the impacts on users of that park – which offers youth baseball leagues, children’s summer camps, day-care, and an the historic field house with a boat harbor and park programs for all ages.

Similarly, the DMMP/EIS relies on the undocumented conclusion that the CDF operated “safely” for the past 30+ years to further conclude that the Vertical Expansion and use of that CDF for another 20+ years will have “no significant adverse environmental impact” on the community or the environment. But ACOE fails to discuss the fact that the existing CDF sits “in water,” that its water levels rise and fall with that of the Lake, and that it is undoubtedly in hydraulic connection with the Lake. It also provides no facts or analysis supporting its conclusion that the proposed towering waste disposal facility and associated waste management operations at this lakefront location are at no risk due to changing climatic conditions, despite well-documented increases in storm surge and the highest Lake Michigan water levels in recorded history.

Most strikingly, the DMMP/EIS fails to include Lake Michigan in its discussion of “natural resources” potentially at risk from this proposal. It concludes that the entire region is already a low-quality aquatic and wildlife habitat despite evidence of endangered species and large and diverse bird and fish populations. The DMMP/EIS never mentions Lake Michigan’s invaluable role as the drinking water supply, open space, and recreational jewel of Chicago.
B. THE SELECTION OF THE VERTICAL EXPANSION IS INCONSISTENT WITH THE FEDERAL STANDARD FOR DREDGE DISPOSAL

The Federal Standard for the selection of a ACOE dredge material disposal plan is “the disposal alternative that represents the least-cost alternative that is consistent with engineering practices and meets environmental standards established by the CWA Section 404(b)(1).” 33 CFR 335.7 The DMMP/EIS states that its selected Vertical Expansion alternative meets this three-pronged standard. (Exec. Sum p. 2) FOTP respectfully disagrees. As is discussed below, the DMMP/EIS’ cost analysis is flawed, the expansion will be built on an unstable “in water” base and at a high risk location, and the plan does not support the conclusion that the current or expanded CDF at this location meets or will meet all environmental standards.

1. THE TSP IS NOT THE LEAST COST ALTERNATIVE

Contrary to the ACOE’s calculations, the Vertical Expansion is not the “least cost” option. ACOE has left out, mischaracterized, and inequitably applied significant costs, such that its cost analysis is a dangerous skewing of costs in favor of some options and against others.

a. ACOE Fails to Attribute Any Cost to the Taking the Public Trust Shore

The cost analysis provided by ACOE improperly ignores the value of lakefront land on which the Vertical Expansion will be located. ACOE does not own this land—it belongs to the public. Yet, ACOE’s attributes no cost to the taking of this public land. In fact, taking public property, especially hugely valuable Great Lakes frontage, has an enormous cost to the public in perpetuity. This land is actually priceless and should not be bartered away for any price. If it could be valued, a fair analysis would place a value of mitigating the permanent loss of this lakebed/lakefront acreage at the price of replacement lakefront acreage in the City of Chicago.

b. ACOE Fails to Attribute Any Costs to Post-Closure Care

ACOE’s cost analysis fails to include the cost of post-closure care for any of the alternatives because ACOE will turn the site over to the Non-Federal Sponsor following closure. Depending on the location of the site, these costs may be higher or lower. In particular, management of the Vertical Expansion site will require monitoring to ensure against releases to Lake Michigan in perpetuity because of its location. Failure to include these costs skews the cost/benefit analyses toward the selection of a riskier site. But even more importantly, failure to include the cost of post-closure management skews the analysis against treatment of the sediment which would reduce the long-term hazard and the costs of managing that hazards.

c. ACOE Fails to Include the Cost of Rigorous Monitoring of the Water Quality Impacts and for Fence-Line Monitoring for Air Emissions From the Vertical Expansion and the Existing CDF

The ACOE fails to include the cost of monitoring for releases to the Lake. Because the Vertical Expansion site will contain highly toxic wastes and it is located on the Lake Michigan in
close proximity to recreational beaches and harbors and sits on a 1984 foundation that was built “in water”, it must be rigorously monitored in perpetuity to ensure against releases of contaminants to the Lake. This monitoring must include regular monitoring of the nearby Lake and Harbor water quality for compliance with the stringent Illinois Pollution Control Board Lake Michigan Basis standards. It should also include regular monitoring of the sediment and effluent contaminant levels both inside the Vertical Expansion and inside the CDF. It should include monitoring of the effluent prior to any discharge. None of these costs were recognized or included in the ACOE’s determination of the least cost option.

d. ACOE Fails to Include the Cost of Fence-line Emission Monitoring and Emission Controls

Given the location of the Vertical Expansion TSP, there is a substantial risk of windblown dust and other air pollutants from ACOE’s construction of a 25-ft mountain of dried dredge material and its proposed dredge drying and management impacting the surrounding parks and residential communities. Imagine picnicking, playing soccer, exercising, or your children in the playground in Calumet Park downwind from these operations. The costs of fence-line air pollution monitoring as well as controlling air emissions must be included in this cost attributable to this option.

e. ACOE Fails to Include the Increased Cost of Stormwater Management with the Vertical Expansion Alternative

ACOE has allocated no costs to the stormwater management challenges that must be addressed due to the location and design of each site. As discussed above, stormwater management will be particularly difficult for the Vertical Expansion site. Because of its location on Lake Michigan and its close proximity to beaches and recreational harbors, it is imperative that contaminated run-off not be discharged to the Lake and consistent stormwater management must be assumed to be required in perpetuity.

f. ACOE Fails to Include the Cost of Fortifying the Vertical Expansion and Existing CDF Against Rising Lake Waters, Storm Surge and Erosion.

Stormwater management will be useless if the Vertical Expansion site is inundated by rising Lake Michigan waters and storm surge. Yet the ACOE has ignored these threats at this location and allocated no costs for fortifying this structure against these predicted events.

g. ACOE Fails to Attribute Any Cost to the Significant Adverse Impact on Parks as a Cultural or Other Social Resource

As discussed earlier, the Vertical Expansion will entail years of a massive, dirty construction project and years of dewatering and drying 500,000 tons of toxic dredge material. Air pollution from these activities will adversely affect the residential communities in close proximity to the site as well as the use of the neighboring parks, including historic Calumet Park and its many park activities and users. No price is put on these social costs – for any of these
alternatives. Failure to recognize and quantify these costs skews the cost/benefit analysis in favor of site options which impose greater social impacts.

h. ACOE Fails to Attribute Any Cost to Significant Adverse Impacts to the Lake, Its Shore, and Wildlife Habitat

As discussed earlier, ACOE assumes there are no wildlife that will be adversely impacted by the Vertical Expansion and that Lake Michigan itself is not a natural resource. As a result, the DMMP/EIS fails to include those impacts on the cost side of the ledger.

i. ACOE Fails to Attribute Any Costs to Dredge Effluent Disposal

As discussed above, the ACOE cost/benefit analysis fails to include the cost of sewer disposal of the dredge effluent that will be generated in the operation of the Vertical Expansion, although it has included those costs for the other alternatives. Why isn’t sewer disposal being required for all of the alternatives? Discharge of toxic effluent to the Harbor with mere filtration as treatment has not been demonstrated to comply with applicable water quality standards and should not be relied upon as a safe practice. Even if it had been demonstrated, the dredge effluent should be of the same quality no matter which site is selected and its treatment and disposal should be the same. Therefore, sewer disposal costs should be allocated to each alternative.

j. ACOE Fails to Attribute Any Cost to the Installation of a Double-Liner and Leachate Collection System

Given the level of contamination in the dredged materials, they should be handled and disposed of with the same safeguards that would be applied to any other industrial waste, including true containment in a facility with a double liner and leachate collection system. The costs for these systems should be included for each of the alternative options. Failure to include these costs skews the outcome of the ACOE’s cost/benefit analysis against the source reduction and treatment options, as well as against management of these wastes in landfill that is actually designed to prevent releases into the environment.

2. THE TENTATIVELY SELECTED PLAN DOES NOT REFLECT SOUND ENGINEERING PRACTICES

Friends of the Parks has long questioned the ongoing risk to the Lake, the shore, our region’s water supply, and surrounding parks and beaches due to the existing CDF being located where it is. The Vertical Expansion TSP relies on the existing 1984 CDF structure which was constructed as an “in water” containment for 10 years of dredged material to provide a foundation for a towering and immensely heavy addition. FOTP has serious concerns about this proposal. What assurance can the Corps give the public that placing another million tons of dredge on top of the 1984 CDF will not result in an increase of releases of contaminants to the environment or even a catastrophic rupture or collapse of that structure? The DMMP/EIS provides little discussion of the engineering assumptions that the ACOE is relying upon.
What we do know is that the ACOE has monitored water levels in the CDF and found that they go up and down with the Lake water levels. This indicates that this new addition will essentially be built on a floating foundation. Further, as the dredge in the existing CDF consolidates, won’t this foundation sink? Given the location of this structure on Lake Michigan and in the vicinity of parks and beaches, constructing a towering addition on this unstable foundation suggests a grave risk.

The proposed Vertical Expansion will apparently rely on a liner constructed of dried Harbor Dredge to isolate the new dredge from the old CDF dredge, but the DMMP/EIS provides little discussion of that liner. What is the risk if that liner fails? What is clear is that ACOE is not proposing a double liner with a leachate collection system. Thus, liquids from newly placed dredge material will be collecting in the new structure. The new structure will contain “wick drains”, but not a leachate collection and monitoring system. Given the hazardous materials that will be permanently deposited at this environmentally sensitive location, this failure to take the utmost precaution in building this new structure and using state-of-the-art technologies to ensure against releases to the environment is reckless. Double liners and leachate collection and monitoring systems have been required for hazardous waste landfills for decades. They are generally installed to ensure against leakage impacting groundwater. Here the concern is even greater – leaking affecting a surface water used as a public water supply and recreational resource. The cost of a double liner and leachate monitoring and collection system should be built into the cost analysis for the Vertical Expansion.

The DMMP/EIS also provides little discussion of stormwater management for this proposed new structure. The proposal for the Vertical Expansion relies upon existing drains at the perimeter of the CDF on the Lake and Harbor sides to transport stormwater to a storm water pond on the site. What is the likelihood of this drainage system and the pond being overwhelmed with the greater volume and velocity of stormwater that will be created by the new surface area and steep slope of this new “compact” 25-foot structure? Historic surface monitoring reports refer to instances in which stormwater runoff from the existing CDF has overwhelmed the drainage system and caused contamination of the adjacent surface water. This prospect will be even greater with the Vertical Expansion.

The DMMP/EIS also doesn’t discuss how the Vertical Expansion will be engineered to withstand the rising Lake waters and increased storm surge and storm intensity predicted to be caused by climate change in the future. The ACOE simply denies that climate change will have any impact on any of the proposed alternatives. This is irresponsible, especially when the TSP would be located directly on the shore of one of the Great Lakes and the ACOE is well-aware of the damage that rising waters and severe weather is already having on structures on the Lake Michigan shore in the Chicago and Northwest Indiana area. This structure would be even more vulnerable than most given that it is proposed to be built on a foundation that is hydrologically connected to the Lake and contains water that fluctuates with Lake levels. USEPA makes this same point in its July 22, 2019 Comments on the DMMP/EIS. If the ACOE continues to pursue the Vertical Expansion alternative, it must go back to the drawing board and engineer this structure to withstand the predicted impacts of climate change on this new structure that will be sitting and must incorporate the costs of doing so into its cost analysis for this alternative.

3. THE TSP DOES NOT MEET APPLICABLE ENVIRONMENTAL STANDARDS
Clean Water Act Section 404(b)(1) provides that dredge disposal sites are to be selected consistent with guidelines developed by USEPA. Those Guidelines require compliance with all other applicable state and federal standards as well as the requirements of NEPA. Further, Section 230.10 (b) of the Guidelines specifically restrict the discharge of dredged material if it “Causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard” or if it results in the likelihood of the destruction or modification of critical habitat under the Endangered Species Act. Section 230.10(d) provides “… no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.”

a. ACOE’s Claims That Environmental Standards Have Been Met and the CDF Has Not Adversely Impacted the Environment Have No Factual Basis

ACOE claims “The Chicago Area CDF has been in safe operation for more than 30 years and it has provided a cost-effective means for managing contaminated dredged material from the Calumet Harbor and River and Chicago Harbor.” (Exec Sum 5) But the ACOE provided no data to support this contention in the DMMP/EIS and only after FOTP made a FOIA Request was any environmental data made available to the public. This failure to provide data is surprising given that back in 2015 USEPA expressly advised ACOE that environmental data should be included in an Appendix to an EIS. Further, the fact that it took ACOE almost a month to compile the environmental data FOTP requested indicates that such data was likely was not reviewed by ACOE before it made its selection of the Vertical Expansion as its proposed TSP and before ACOE concluded that the CDF had operated safely for over 30 years. Moreover, the data that ACOE ultimately provided to FOTP does not support the conclusion that the Chicago CDF has successfully “contained” contaminants in the dredge material effluent or that the placement of another 1 MM tons of material on top of that 1984 structure will not cause even greater releases of toxic contaminants from that structure into Lake Michigan.

b. The CDF Has Never Actually Contained the Contaminants in the Sediment

ACOE admits that the dredge material is too contaminated “to be placed in open water or unconfined upland locations.” DMMP/EIS, Exec. Sum., p. 2. Only materials that are unsuitable for open-water or beneficial reuse are managed in CDFs. The dredge material here is unsuitable “for open water placement or in-water beneficial reuse” due to its high contaminant levels. Exec. Sum., p. 3. Sediment quality is not suitable for open-water placement “based on most recent testing.” Exec. Sum., p 6. Indeed, the list of contaminants in the dredged material identified for Calumet Harbor and River sediment includes a number of highly toxic and hazardous constituents, including “arsenic, barium, cadmium, chromium, copper, lead, manganese, mercury, nickel, zinc, ammonia nitrogen, oil and grease, phosphorus, cyanide, and PCBs.” DMMP/EIS, p. 29.6

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6 The Harbor sediment was apparently also tested for Semi-Volatile Organics (“SVOCs”) in 2000 (Id.); however, that data is not provided or discussed in the DMMP/EIS. Nor is any SVOC data provided for the River sediment.
It follows that the CDF option must actually “contain” the contaminants in the dredged material. Surely, if these dredged materials are unsuitable for “open lake” disposal miles out in deep water, they are also unsuitable for “in water” management in a structure that is located in shallow water that is in constant interaction with the Lake water and is upstream from parks and beaches.

Indeed, the DMMP/EIS acknowledges that the existing CDF has never actually contained the dredged sediment. Rather, it was designed to allow contact with the waters of Lake Michigan.

“The existing Chicago Area CDF is slightly different because it was, at the time of its original construction, an in-water facility. First, the bottom of the existing CDF is the naturally occurring clay bottom “bed” material of Lake Michigan, rather than a constructed liner. Also, because the facility was built in the waters of Lake Michigan, the sediment was placed into water and remained under water until the facility became full enough to reach the surface. It did not start to “air dry” until the facility was nearly filled with sediment.” DMMP/EIS at p. 82. [emphasis added]

The fact that the water levels inside the CDF fluctuate with the water levels in the Lake demonstrates that the CDF is hydraulically connected to the Lake. This hydraulic connection can be seen from the water level measurements inside and outside the CDF taken in 1986 after the “sand blanket” had been put in place and at least several times thereafter. The ACOE does not deny that the CDF is an “in water” facility and that it is hydraulically connected to the waters of the Lake. But, ACOE maintains that by keeping the water levels in the CDF below the water levels outside the CDF, it can create a pressure differential that prevents the effluent from leaving the CDF. Whether or not this pressure differential could theoretically prevent contaminated water from mixing with Lake water, it is indisputable that when water levels in the CDF go up and down with Lake levels, as demonstrated in 1986, the waters are mixing and contaminated water is being released from the CDF to the Lake.

The DMMP/EIS never discusses whether or not there haven’t been releases from the existing CDF to Lake Michigan. Something that is an obvious concern given the location of the CDF “in water” and its known hydraulic connection to the surrounding waters. Indeed, the DMMP/EIS provided no environmental data and the ACOE only subsequently provided its historic monitoring data in response to a FOIA Request filed by FOTP. Even that data, does not include water quality monitoring data for the most toxic contaminants of concern in the River and Harbor sediments placed in the CDF.

These deficiencies in monitoring data make it impossible for the ACOE to have reached a fact-based conclusion that the CDF has operated “safely” for over 30 years, as it contends. Indeed, the opposite conclusion is required from the facts that the sediments placed in the CDF

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7 See 1988 Study, Figure 2 – “Chart of CDF Water Level vs Lake Michigan Water Level Following Sand-Blanket Construction” and Figure, 4. 1997 Water Quality Monitoring Report for Routine Monitoring Events at the Chicago Area Confined Disposal Facility.”
are highly contaminated and unsuitable for open lake disposal and that the CDF is hydraulically connected to the surrounding Lake waters.

c. The DMMP/EIS Fails to Consider Applicable Environmental Standards

The DMMP/EIS fails to identify the environmental standards that are applicable to the CDF and that ACOE reviewed in order to reach its conclusions that the existing CDF and the Expansion of that facility will meet all applicable environmental requirements and will not cause a “significant adverse impact.” The DMMP/EIS references only two standards: 1) the federal Toxic Substances Control Act’s PCB standard; and 2) the Illinois and federal risk-based standards for clean-up of contaminated properties. But neither of these is relevant to the operation of the “in water” CDF and expansion thereof or to the air drying and dewatering operations proposed in the CDF. Rather the key questions are whether the CDF has met air and water quality standards.

Incredibly, the DMMP/EIS fails to reference the applicable water quality standards, and, in particular, fails to reference the applicable Illinois Pollution Control Board (“Board”) water quality standards specifically adopted for the Lake Michigan Basin and Calumet Harbor. 35 Ill. Adm. Code 302.501 et seq. Rather, for PCBs, the ACOE suggests we should take comfort from the fact that “none of the past sediment samples have exceeded the 50 mg/kg PCB regulatory threshold under TSCA,” although PCB’s in the River sediment were found up to 39 mg/kg in 1989. DMMP/EIS at 29-30. In contrast, U.S. Environmental Protection Agency (“USEPA”) considers PCBs a probable human carcinogen and prohibits industrial discharges under the Clean Water Act Effluent Guidelines. EPA has set the enforceable Maximum Contaminant Limit for PCBs in public water systems at 0.0005ppm. However, EPA’s goal for drinking water's maximum contaminant level is zero. Indeed, there are many who would say there is no safe level of PCBs in the environment given its carcinogenicity and its potential to bioaccumulate in humans and wildlife. Due to PCBs high bioaccumulation factor, the Board has established a Human Health WQS for PCBs in the Lake Michigan Basis of 26 × 10⁻¹² kg / m³.

The TSCA and Risk-Based Clean-Up standards referenced in the DMMP/EIS are certainly not the applicable water quality standards that the ACOE should be reviewing to determine whether the CDF is adversely affecting the environment. Rather, due to the location of the CDF and its hydraulic connection to Lake Michigan, the Board’s Lake Michigan Basin water quality standards in 35 Ill. Adm. Code 302.501 et seq. are the correct WQS to apply to the impact of releases from the CDF to water.⁸

The monitoring reports made available in response to FOTP’s FOIA Request show that ACOE monitors water quality near the Lake Michigan face of the CDF but ceased monitoring the surrounding Lake or Harbor waters for PCBs, mercury, arsenic, cyanide, lead and other metals in 1997. This is a concern. For example, PCBs and Mercury, both constituents of concern

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⁸ Although the CDF may also be hydraulically connected to water in Calumet Harbor, the Board’s Lake Michigan Basin standards are the more stringent and thus should be the applicable standard for releases from the CDF.
that continue to be identified in the dredge sediment, are both known to dramatically bioaccumulate. The Board has established specific standards for “bioaccumulative chemicals of concern” which it defines as follows:

“Bioaccumulative chemical of concern” or “BCC” is any chemical that has the potential to cause adverse effects and that, upon entering the surface waters, by itself or as its toxic transformation product, accumulates in aquatic organisms by a human health bioaccumulation factor greater than 1,000, after considering metabolism and other physiochemical properties that might enhance or inhibit bioaccumulation, in accordance with the methodology in Section 302.570.” 35 Ill. Admin. Code. 302.501

For these BCC, the Board has established “acute aquatic life standards (AS) [which] must not be exceeded at any time in any waters of the Lake Michigan Basin and chronic aquatic life standards (CS), human health standards (HHS), and wildlife standards (WS) [which] must not be exceeded in any waters of the Lake Michigan Basin by the arithmetic average of at least four consecutive samples collected over a period of at least four days subject to the limitations of Sections 302.520 and 302.530.” 35 Ill. Admin. Code 504(e). (emphasis added)

Section 302.504(e) of the Board rules provides the applicable standards for BCCs in the Lake Michigan Basin, including PCBs and Mercury, as follows (emphasis added):

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Unit</th>
<th>AS</th>
<th>CS</th>
<th>HHS</th>
<th>WS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mercury (total)</td>
<td>ng/L</td>
<td>1,700</td>
<td>910</td>
<td>3.1</td>
<td>1.3</td>
</tr>
<tr>
<td>Chlordane</td>
<td>ng/L</td>
<td>NA</td>
<td>NA</td>
<td>0.25</td>
<td>NA</td>
</tr>
<tr>
<td>DDT and metabolites</td>
<td>pg/L</td>
<td>NA</td>
<td>NA</td>
<td>150</td>
<td>11.0</td>
</tr>
<tr>
<td>Dieldrin</td>
<td>ng/L</td>
<td>240</td>
<td>56</td>
<td>0.0065</td>
<td>NA</td>
</tr>
<tr>
<td>Hexachlorobenzene</td>
<td>ng/L</td>
<td>NA</td>
<td>NA</td>
<td>0.45</td>
<td>NA</td>
</tr>
<tr>
<td>Lindane</td>
<td>µg/L</td>
<td>0.95</td>
<td>NA</td>
<td>0.5</td>
<td>NA</td>
</tr>
<tr>
<td>PCBs (class)</td>
<td>pg/L</td>
<td>NA</td>
<td>NA</td>
<td>26</td>
<td>120</td>
</tr>
<tr>
<td>2,3,7,8-TCDD</td>
<td>fg/L</td>
<td>NA</td>
<td>NA</td>
<td>8.6</td>
<td>3.1</td>
</tr>
<tr>
<td>Toxaphene</td>
<td>pg/L</td>
<td>NA</td>
<td>NA</td>
<td>68</td>
<td>NA</td>
</tr>
</tbody>
</table>

where:

\[
\text{mg/L} = \text{milligrams per liter (10}^{-3}\text{ grams per liter)}
\]
\[
\mu g/L = \text{micrograms per liter (10}^{-6}\text{ grams per liter)}
\]
\[
\text{ng/L} = \text{nanograms per liter (10}^{-9}\text{ grams per liter)}
\]
The IPCB has also established specific Lake Michigan Basin standards for other pollutants, which include Arsenic, Barium, Lead, Manganese, and Phosphorous -- all contaminants of concern identified in the sediment and referenced in the DMMP/EIS.

“In addition to the standards specified in subsections (a) and (b) of this Section, the following standards must not be exceeded at any time in the Open Waters of Lake Michigan as defined in Section 302.501.

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Unit/L</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic (total)</td>
<td>µg/L</td>
<td>50.0</td>
</tr>
<tr>
<td>Boron (total)</td>
<td>mg/L</td>
<td>1.0</td>
</tr>
<tr>
<td>Barium (total)</td>
<td>mg/L</td>
<td>1.0</td>
</tr>
<tr>
<td>Chloride (total)</td>
<td>mg/L</td>
<td>12.0</td>
</tr>
<tr>
<td>Fluoride (total)</td>
<td>mg/L</td>
<td>1.4</td>
</tr>
<tr>
<td>Iron (dissolved)</td>
<td>mg/L</td>
<td>0.30</td>
</tr>
<tr>
<td>Lead (total)</td>
<td>µg/L</td>
<td>50.0</td>
</tr>
<tr>
<td>Manganese (total)</td>
<td>mg/L</td>
<td>0.15</td>
</tr>
<tr>
<td>Nitrate-Nitrogen</td>
<td>mg/L</td>
<td>10.0</td>
</tr>
<tr>
<td>Phosphorus</td>
<td>µg/L</td>
<td>7.0</td>
</tr>
<tr>
<td>Selenium (total)</td>
<td>µg/L</td>
<td>10.0</td>
</tr>
<tr>
<td>Sulfate</td>
<td>mg/L</td>
<td>24.0</td>
</tr>
<tr>
<td>Total Dissolved Solids</td>
<td>mg/L</td>
<td>180.0</td>
</tr>
<tr>
<td>Oil (hexane solubles or equivalent)</td>
<td>mg/L</td>
<td>0.10</td>
</tr>
<tr>
<td>Phenols</td>
<td>µg/L</td>
<td>1.0</td>
</tr>
</tbody>
</table>

The Board has also established Human Health Standards that must not be exceeded in the Open Waters of Lake Michigan for other highly toxic contaminants that the DMMP/EIS does not reference, but some of which may exist in the dredge sediment as indicated by the fact that 2006 boring samples showed staining, hydrocarbon odors, and sheens:

… d) In addition to the standards specified in subsections (a), (b) and (c) of this Section, the following human health standards (HHS) must not be exceeded in the Open Waters of Lake Michigan as defined in Section 302.501 by the arithmetic average of at least four consecutive samples collected over a period of at least four days. The samples used to

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9 “Open Waters of Lake Michigan” means all of the waters within Lake Michigan in Illinois jurisdiction lakeward from a line drawn across the mouth of tributaries to Lake Michigan, but not including waters enclosed by constructed breakwaters. 35 Ill. Adm. Code 302.501

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demonstrate compliance with the HHS must be collected in a manner which assures an average representation of the sampling period.

Benzene µg/L 12.0
Chlorobenzene µg/L 470.0
2,4-Dimethylphenol µg/L 450.0
2,4-Dinitrophenol µg/L 55.0
Hexachloroethane (total) µg/L 5.30
Lindane µg/L 0.47
Methylene chloride µg/L 47.0
Trichloroethylene µg/L 29.0

These Board Standards for the Lake Michigan Basin are the WQS standards which the ACOE should be using to determine whether the water within the CDF and its Vertical Expansion which is being released to the Lake meets environmental standards and whether these releases have or will have an adverse impact on Lake Michigan water quality.

Data provided by the Army Corps of Engineers fails to examine the effectiveness of filtration as a treatment option. Further, it fails to demonstrate that releases have not occurred from the CDF. Specifically, ACOE has sampled the Harbor and River water quality and found it to be highly impaired, but has failed to differentiate whether the sources of contamination present in water, sediment, and groundwater outside the containment is caused entirely from historical uses of the river and harbor, or if contaminants in the dredge spoils deposited in the containment have been released from the CDF. Further, ACOE has failed to monitor the impact of many toxic constituents of the sediment in the CDF on water quality in the Lake. It is not sufficient to say that the Harbor and Lake are already impaired water bodies. The Clean Water Act prohibits the further impairment of these waters. By failing to undertake a monitoring regime designed to determine if toxic contaminants are being released to Lake Michigan, as required by Congress in 1988, ACOE has failed to provide evidence that would support its conclusion that the CDF has operated “safely” and has also failed to protect the Lake, its habitat, the water supply the City relies upon, and the Environmental Justice communities that use the neighboring beaches and harbors.

Values of metals, including chromium, manganese, zine, lead and arsenic, as well as PCBs and phosphorous, in the dredged material and the Harbor River are consistently sufficiently high that concerns should be raised about the concentration of these materials in a CDF that was actually built in the water and its hydrologically connected to the waters of the Lake. Before the ACOE proceeds with its selection of the Vertical Expansion of this CDF, it must provide a data-based analysis of the public health impact of managing this contaminated material on the lake front and in close proximity to public beaches and harbors.

The impacts on wildlife from the concentration of these contaminants in an “in water” CDF on the Lake Michigan shore must also be considered. According to the ACOE and USEPA study titled “Great Lakes Confined Disposal Facilities,” April 2003, https://www.lrd.usace.army.mil/Portals/73/docs/Navigation/GL-CDF/GL_CDF.pdf, the bioaccumulation of PCBs in wildlife in dredged material CDFs is an issue which has received a fair amount of laboratory and field study.

Extensive monitoring studies have shown that some, but not all contaminants in dredged material will bioaccumulate in fish and wildlife within CDFs. In general, uptake of metals is not a significant issue and vegetation has not shown much potential for bioaccumulation. PCBs and other hydrophobic organic contaminants will accumulate in the tissues of fish inside CDF ponds, and may be a significant source of contamination to animals that feed on them (Marquenie et al 1987; Dorkin et al 1988; Marquenie et al 1990; Stafford et al 1991). Id. at p. 38.

This ACOE/USEPA study references a study at the Chicago Area CDF (Dorkin et al 1988) which measured PCB concentrations in the tissues of fish, crayfish and periphyton collected within the CDF. The concentrations of PCBs in wildlife collected from within the CDF were higher than those collected in the adjacent harbor, and the levels found were very consistent with those projected using a theoretical approach (equilibrium partitioning). Id. at p. 30.

Also, according to ACOE/USEPA Study, at p. 29, the types of plants and animals inhabiting CDFs and the bioaccumulation of dredged material contaminants has been extensively studied at the Times Beach CDF in Buffalo, New York. This facility was constructed in 1976, but was only partially filled, in part, because of concerns raised by the local Audubon chapter about the high-quality habitat that it supported. This CDF was used as a laboratory for long-term studies of bioaccumulation by aquatic and terrestrial plants and animals and possible effects on organisms including growth, reproduction, vitality and carcinogenicity. (Marquenie et al 1987; Marquenie et al 1990; Stafford et al 1991). The following impacts on plants and wildlife were noted:

• The uptake of organic pollutants was insignificant.
• Levels of cadmium, chromium, iron and possibly arsenic were higher than normally found in wetland plant communities of the Great Lakes.
• Earthworms incubated in CDF sediments were found to have increased levels of heavy metals, PCBs, and PAHs.
• Fish samples collected from the open water at the CDF did not accumulate elevated levels of heavy metals, but they did have elevated levels of PCBs and PAHs.
• In addition, there were significant numbers of tumors found on the fish, especially carp, which were in contact with the contaminated sediments.

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d. The DMMP/EIS's Air Pollution Analysis is Deficient

The air quality monitoring the ACOE discusses the regional air monitor at George Washington High School, more than 3 miles from the current CDF site. But it fails to address the potential for local quality impacts within the parks and residential communities surrounding the proposed TSP site. Mobile sources, trucks and heavy equipment used in the construction of the new facility, as well as in the dredge management operations at the facility is of concern. However, there are also stationary source concerns that ACOE fails to consider. As noted above, the ACOE is proposing a new dredge drying operation that should be permitted as a stationary source. The DMMP/EIS fails to discuss the possible impact on the existing CDF or the proposed Vertical Expansion on air quality throughout the area or locally and has skirted stationary source air pollution permitting.

Among other air pollutants, volatilized PCBs could be an issue for the CDF and its expansion and drying operations. As noted in the ACOE/USEPA Study, “Great Lakes Confined Disposal Facilities”, April 2003:

Volatilization studies examine the loss of contaminants from the surface of the CDF directly into the air. This is especially relevant where the dredged material contains high levels of volatile contaminants (e.g., polynuclear aromatic hydrocarbons or polychlorinated biphenyls) which could create localized air quality problems near the CDF or could contribute to overall contaminant loadings to the region. Volatilization can occur from either exposed or submerged sediments. Modeling studies Great Lakes Confined Disposal Facilities: April 2003 28 Figure 36: Wildlife at Saginaw Bay CDF (Thibodeaux 1989) have indicated that the losses from sediments directly exposed to air are greater than from those that are submerged.” Id. pp.27-28

In fact, the ACOE/USEPA 2003 CDF Study at p.28 references a study of the volatilization rates from the Chicago Area CDF at Calumet Harbor, which used equilibrium partitioning theory and field sampling (Semmler and Holson 1994). The study showed that volatile flux of PCB from sediment to water to air may be a significant loss pathway. It also conceptualized CDF management strategies to minimize loss of volatile contaminants, including wind barriers and maintenance of high organic carbon content in the surficial sediment layer. Semmler, J. and T. Holson. 1994. “PCB Volatilization from a Confined Disposal Facility,” report prepared for master’s thesis, Illinois Institute of Technology, Chicago, IL.

The Occupational Safety and Health Administration (OSHA)'s permissible exposure limit (PEL) for airborne PCBs is a time-weighted average (TWA) concentration of 1.0 milligrams per cubic meter (mg/m$^3$). The National Institute of Safety and Health’s air workplace standard for PCB 10-hour exposure is an order of magnitude lower -- 1.0 µg/m$^3$. Both standards encompass all physical forms of these compounds: Aerosols, Vapor, Mist, Sprays, and PCB-laden dust particles. OSHA also recognizes that PCBs can be absorbed through the skin; therefore, suggests both dermal and inhalation exposure routes should be evaluated by an industrial hygienist.
The ACOE/USEPA 2003 CDF Study demonstrates that ACOE is clearly aware of the potential for localized and regional air pollution impacts emanating from dredge evaporation, drying, and windblown dust at the CDF. Yet, the DMMP/EIS provides no substantial analysis or discussion of these risks to neighboring communities, parks, the Lake, and beaches. Instead, ACOE hastily concludes the TSP will have no significant adverse air impacts. It also provides no discussion of monitoring or site and materials management to reduce these risks. Further, by proposing a final cover for the CDF of only 6 inches of clean fill on top of harbor dredged material, the ACOE will be leaving the Non-Federal Partner with a mountain of dredge material that will quickly be exposed by the elements and blown into the surrounding communities and parks, as well as neighboring Lake Michigan and nearby beaches. Substantial risk of windblown dust and other air pollutants from ACOE’s construction of a 25-ft mountain of dried dredge material and its proposed dredge drying and management impacting the surrounding parks and residential communities. Imagine picnicking, playing soccer, exercising, or your children in the playground in Calumet Park downwind from these operations.

The final DMMP/EIS must provide an analysis of air emissions emanating from all CDF operations during its active life, and steps that will be taken to monitor and control those emissions throughout the life of the CDF. In its July 22, 2019 Comments, USEPA recommends that ACOE provide fence-line air quality monitoring for this proposed TSP. We agree. Further, ACOE must incorporate measures to control air emissions from these operations. The costs for this monitoring system and air emission controls must be included in the costs attributable to the Vertical Expansion TSP.

C. THE ENVIRONMENTAL IMPACT STUDY FAILS TO MEET NEPA STANDARDS

The Environmental Impact Study site selection screening and evaluation of adverse impacts presented in the DMMP/EIS is also flawed and deficient – both procedurally and substantively.

1. THE DMMP/EIS SITE SCREENING PROCESS WAS DEFICIENT

ACOE’s claims that the DMMP/EIS “builds upon the analysis that was competed for the Draft Chicago Waterways, Dredged Material Management Plan and integrated EA (Draft CAWS DMMP) released for public comment in June 2015.” (Exec. Summary, p. 1). This is untrue and disingenuous. In fact, the 2015 draft DMMP and draft EIS did not include the option of a Vertical Expansion of the existing CDF. (DMMP/EIS, p. 138) ACOE publicly admitted that it only landed on that option in November 2018 and proposed it shortly thereafter in January 2019 (ACOE Public Meeting 4/13/19). ACOE cannot claim it provided extensive public input on its TSP when it selected an option that until January 2019 it had assured the public was not a possibility. A “scoping” process eliminates alternatives – it does not conclude with the selection of a new and different alternative outside the original scope of review. Similarly, ACOE cannot rely on “resource agencies” concurrence in a previously selected TSP as concurrence in this newly identified option.
The two public hearings held in rapid succession after the issuance of the DMMP/EIS and before members of the public had environmental and engineering data which ACOE claims to have relied upon, were hasty and insufficient. They did not provide the public, interested community groups, and local government officials – especially the new Mayor and her administration – with enough notice and opportunity to review and vet the environmental and cost impacts associated with this new proposal. Also, to our knowledge, ACOE did not provide or publish notice of its new proposal and the issuance of the Draft DMMP/EIS in Spanish or provide a translation of the Draft DMMP/EIS in Spanish as required based on the high proportion of Spanish-speaking residents in the neighboring Environmental Justice communities.

Given these procedural deficiencies, coupled with the many substantive deficiencies in the DMMP/EIS, the ACOE cannot proceed to a Final DMMP/EIS on the proposed TSP as a next step, but rather must go back and provide a revised Draft DMMP/EIS for public review and comments that responds to the many flaws and deficiencies noted herein. The public notice and revised DMMP/EIS should be translated into Spanish. Public hearings must be held on that revised Draft DMMP/EIS and the ACOE should provide a Spanish translator for those hearings.

2. SITE SELECTION SCOPING CRITERIA

Section 3.10.5 of the DMMP/EIS discusses a number of site screening criteria it used when it developed the final study alternatives, which included adding the Vertical Expansion to the list of alternatives. FOTP believes at least three criteria are clearly not met in the case of the Vertical Expansion alternative.

a. Avoidance of High-Quality Habitat

The DMMP/EIS states that one of the ACOE’s criteria for site selection is the “Avoidance of High Quality Habitat” must be met for all federal environmental standards including those established by Section 404 of the Clean Water Act. (DMMP/EIS, p. 85). Based on this criteria, the Vertical Expansion should not have been included in the final alternatives because of its location in and adjacent to Lake Michigan and its associated high quality habitat, including endangered species.

b. Avoidance of Contaminated Sites

Screening for site selection should also avoid contaminated sites (DMMP/EIS, p.85) The existing CDF is a contaminated site. Indeed, it is filled with highly contaminated dredge materials and effluent therefrom. Further, it is a high risk contaminated site because the existing CDF is a 1984 structure, never designed to hold or act as the foundation for another 1 million tons of dredge material, and which is hydrologically connected to a highly valuable natural resource. The failure of the CDF – especially with Lake Michigan waters at their highest levels in recorded history and increasing storm surge predicted by FEMA -- could have catastrophic consequences for the water supply serving millions of people and a huge
recreational and habitat resource. The DMMP/EIS rejects other upland sites based on much less contamination or risk.

c. Environmental Conditions

The CMMP/EIS (p. 86) discusses this screening criteria as one that concerns the prospect of litigation or requirements for remediation that could delay the project, rather than a real concern about risks to the environment. But the risk of contamination of Lake Michigan from the existing and expanded CDF is more than a concern about liability or delay. Further, even as a matter of liability risk, the possibility of worsening releases from or a rupture of the existing and expanded CDF – even if considered unlikely – presents a huge liability for the ACOE and/or the CPD or another Non-Federal Sponsor. Indeed, in a worse case, this liability could include contamination prohibiting use of Chicago’s southside beaches and harbors, contaminating Chicago’s water supply, and/or destroying Lake Michigan wildlife habitat. (See USEPA July 22, 2019 Comments.)

d. Cultural Resources

Another screening criteria is listed as “Cultural Resources: No Historic Landmarks. – Impacts to significant cultural resources, particularly those identified on the National Register of Historic Places (NRHP), existing parks, etc. should be avoided.” (DMMP/EIS, p. 86) The Vertical Expansion will be located between two parks, Steelworkers Park and Calumet Park. Further, the EIS recognizes that historic Calumet Park, the park that will be most directly impacted by the Vertical Expansion, is on the National Register of Historic Places and its field house is on the list of Chicago City Landmarks. The existing CDF is not only a source of contamination of those parks, it is an intimidating, eye-sore for those using the parks – a military style chain-link fenced, and camera-monitored fortress. It will become even more polluting and intimidating if the proposed Vertical Expansion is allowed to go forward. Clearly, the Vertical Expansion options should have been eliminated from consideration based on this criteria.

3. ENVIRONMENTAL CONSEQUENCES

a. Water Resources & Water Quality

ACOE claims that all alternatives other than “no action” provide the environmental benefit of cleaning up legacy contaminants in the River and Harbor. (DMMP/EIS, p. 97) This doesn’t take into account the impact of concentrating those legacy contaminants in one place. In the case of the Vertical Expansion alternative, this concentration of legacy pollutants is being placed on the shore of Lake Michigan at the same location where these sediments have for the last 35 years been allowed to interact with Lake Michigan water and have contributed to contamination of this precious resource. The proposed extension will concentrate another 1 million tons of those legacy pollutants in a 25 foot tower resting precariously on a 1984 structure never intended for this purpose and located on the edge of Lake Michigan. Further, toxic run-off and effluent from these legacy pollutants is being and is proposed to continue to be discharged back into the Harbor – with only filtration as treatment.
ACOE fails to recognize to mention these significant environmental consequences in its discussion of Water Resource and Water Quality.

b. Sediment Quality

The DMMP/EIS (p. 96) again makes the claim that “confining” the highly contaminated sediment will be a public benefit. But, as to the Vertical Expansion alternative, the ACOE fails to state that the sediments in the existing CDF are NOT CONFINED! The existing CDF that will be the foundation of the Vertical Expansion was designed as an “in water” structure that would allow the dredged material to be hydraulically connected to the waters of Lake Michigan. This type of structure should never have been used for highly toxic dredge materials involved here. The impact of placing the weight of another 1 million tons of this material on top of this 1984 structure, 500,000 of which is highly contaminated wet dredge material, is unknown, but clearly this foundation and this location coupled with the quality of the sediments involved presents the risk of additional contamination of the Lake and Harbor.

Further, the DMMP/EIS fails to state that the highly toxic quality of this sediment yields a highly toxic effluent that must be managed. In the case of the other alternatives, that effluent will be sent to the Metropolitan Water Reclamation District via sewer. But, in the case of the Vertical Expansion, the ACOE plans to simply discharge it to the Harbor. Neither the DMMP/EIS nor the environmental data and reports provided to FOTP in Response to its FOIA Request include data on the quality of that discharged effluent in the past. But what we know is that the only treatment it is receiving is filtration – a process that is designed to remove particles, but not dissolved contaminants. Given the highly contaminated nature of this sediment, filtration alone is insufficient and the Vertical Expansion alternative should include the installation of a sewer connection and discharge to the MWRD.

Contrary to ACOE’s suggestion that containing these highly contaminated sediments in a CDF is a solution, these highly contaminated sediments will continue to present a risk and have to be managed in perpetuity – especially under the Vertical Expansion alternative. These costs are not mentioned in the EIS or in this section on environmental consequences. Only treatment of these sediments to reduce toxicity will eliminate the risk rather than just pass it on to the Non-Federal Sponsor.

c. Topography and Geology

The DMMP/EIS (p. 96) fails to discuss the fact that the construction of a 25 foot, steeply sloped hill on the Vertical Expansion site is a major and adverse change to the CPD park land. This will make the site almost entirely unusable as a park and difficult to manage. Further, the steep slope required for the “compact” CDF Vertical Expansion will increase the quantity and velocity of the stormwater run-off, making stormwater management difficult and intensive. This responsibility will extend beyond the active life of the TSP and become a substantial cost for the CPD or any other Non-Federal Sponsor of the Vertical Expansion.
d. **Hydrology & Hydraulics**

The DMMP/EIS (p.97) states, “None of the proposed action alternatives would have a significant impact on hydrology and hydraulics within the study area.”

The DMMP/EIS recognizes changes in runoff patterns will occur, but assumes these changes will not have a significant adverse impact while providing no evidence or analysis. In fact, creating a 25 foot hill on previously flat land on the shore of a Great Lake – or anywhere -- will dramatically change the volume and velocity of run-off from that property. In the case of the Vertical Expansion, this dramatic change in topography will create particularly difficult stormwater management challenge for the ACOE and the CPD and any other non-federal partner in perpetuity in order to prevent run-off from flowing into Lake Michigan.

e. **Air Quality**

The discussion of environmental consequences in Section 4.4. Air Quality (p.97-98) focuses solely on temporary emissions from mobile sources associated with construction and dredge placement activities -- and assumes these will be minimal. We respectfully disagree that construction of a 25 foot hill out of dredge material is a non-significant activity or that it will have insignificant air quality impacts that are limited to mobile sources. Further, this massive and dirty construction activity will be taking place between two parks – one of which honors former steelworkers and is frequented by senior citizens, another which is home to summer camps, youth baseball and soccer leagues, a daycare center, a picnic grove, tennis courts, basketball courts, gymnastics, classes and activities of every sort, and which host community events, such as Movies in the Park, Shakespeare in the Park, concerts and charity races.

This section also fails to recognize that the air-drying operation and other on-site dredge management activities proposed for all of the alternatives have the potential to generate substantial on-going emissions, including toxic emissions. See our discussion of air emissions in above.

A CDF is a stationary source of continuing emissions which should be permitted as such by Illinois EPA. Further, because all of the proposed alternatives, including the Vertical Expansion TSP, are all located in an Environmental Justice area, greater discussion and analysis of these air pollution impacts is required in an EIS.

f. **Climate Change**

The DMMP/EIS (p.98-99) makes a blanket, unsupported statement that “changing climate conditions in the future would not have a significant impact on a proposed DMDF on any of the alternative sites.” But this entirely fails to consider the impacts on the Vertical Expansion alternative from increased precipitation, rising Lake Michigan waters, and increased storm intensity and storm surge predicted by the Federal Emergency Management Agency (“FEMA”) on the Lake Michigan shore. While FEMA and Coastal Agencies are warning residents against building too close to the shores of the Great Lakes, ACOE is proposing to construct a precarious
addition to a structure holding millions of tons of toxic waste on the shore of Lake Michigan. See USEPA, July 22, 2019 Comments.

g. Riverine Habitat, Aquatic Communities, And Non-Aquatic Communities

The DMMP/EIS (p. 99) makes quick work of these three categories of environmental consequences based on the assumption that the areas in which five alternative sites, including the Vertical Expansion, are located are already degraded environments. This lack of analysis of the incremental impacts of the proposed massive, dirty projects on these habitats is unacceptable in an Environmental Impact Statement and must revisited. As the ACOE is well-aware the City of Chicago, state, county and federal agencies, Southside community organizations, and multiple non-profit planning and environmental organizations have been actively engaged in projects to recover the natural environment from these areas of historic industrial degradation. Indeed, expansions of landfills have been banned in Chicago precisely because of the adverse impacts experienced in the overly burdened communities in this very region. The fact that these areas are in close proximity to Environmental Justice Communities requires that any polluting activity that seeks to locate in these areas must not further degrade the environment. The ACOE’s facile blanket dismissal of the impacts of this highly dirty and massive project on wildlife habitat of all forms in this region will not withstand judicial scrutiny.

Further, the list of fish within a 2-mile radius of Calumet Harbor is quite extensive. (DMMP/EIS, p. 41) Reptiles and Amphibians in the area include the mudpuppy salamander, bull frog, snapping turtle; painted turtle, red-eared slider, and northern water snake.(p. ___) The DMMP/EIS itself states; “The study area offers refuge habitat for a variety of resident and migratory birds. The harbored lacustrine zone provides safe resting and foraging habitat...study area is within the Great Lakes route of the Mississippi Flyway, a globally significant route for hundreds of bird species and in particular, migratory song birds...163 species were identified to utilize the nearby Grand Calumet River watershed.” (DMMP/EIS, p. 42) Federally-listed endangered wildlife identified in the DDMP/EIS itself include: Indiana Bat, Karner Blue Butterfly; northern long-eared bat; ruff red knot; Pitchers thistle; Mead’s milkweed, as well as the State-Listed Endangered Osprey (p. 83) and the State-Listed Threatened Mudpuppy salamander.

h. Endangered Species

The DMMP/EIS is similarly dismissive of the impacts the proposed project will have on Endangered Species. “Because the alternative sites are located in disturbed urban environments, no significant impacts to any state-listed endangered or threatened species are expected to result from the DMDF development and use.” (p. 100)

This an unacceptable, unsupported conclusion. Federally-listed endangered wildlife identified in the DDMP/EIS itself include: Indiana Bat, Karner Blue Butterfly; northern long-eared bat; ruff red knot; Pitchers thistle; Mead’s milkweed, as well as the State-Listed Endangered Osprey (p. 83) and the State-Listed Threatened Mudpuppy salamander.
Further, in 2015, Illinois Department of Natural Resources listed wildlife of greatest conservation need in the Coastal Zone which includes the Study Area. That list includes:

Bird (1 total): piping plover
Fish (28 total):

- lake sturgeon
- longnose sucker
- lake whitefish
- slimy sculpin
- northern pike
- Iowa darter
- banded billfish
- silver lamprey
- deepwater sculpin
- blackchin shiner
- yellow perch
- round whitefish
- lake trout

- central mudminnow
- brown bullhead
- bloater
- lake chub
- muskellunge
- least darter
- starhead minnow
- burbot
- ghost shiner
- blackness shiner
- trout perch
- ninepin stickleback
- brook trout

Crustacean (1 total): great lakes amphipod

Section 230.75(c) of the USEPA Guidelines under CWA Section 404(b)(1) provides that minimization of adverse effects on populations of plants and animals can be achieved by avoiding sites having unique habitat or other value, including habitat of threatened or endangered species. ACOE must perform a serious analysis of this massive, dirty project on those species. Further, for the Vertical Expansion alternative, ACOE must specifically consider species that frequent or live within the waters and shore of Lake Michigan.

i. CULTURAL RESOURCES

Again, the ACOE concludes that no cultural resources would be adversely impacted by the development of the DMDF according to any of the action alternatives. (It finds “no historic properties” exist “since...all of the proposed dredged material placement site locations had been recently and extensively disturbed by modern industrial, paving, and remediation activities.” DMMP/EIS, p. 100. Tellingly, this finding is limited to “historic properties within the proposed dredged material placement or access.” Id. Apparently, ACOE is using the term “cultural resources” here as limited to archaeological artifacts. To the extent that it refers to “cultural resources” which includes historic buildings, parks, beaches, and other cultural amenities beyond ancient artifacts, this finding is obviously unacceptable and must be reviewed. See our comments above regarding the EIS Screening Criteria for “Cultural Resources.”

j. RECREATION
Remarkably, but perhaps not surprisingly given its overall approach here, the DMMP/EIS (p. 101) also makes short shrift of the environmental impact of this massive, dirty project on recreation, saying “No current parkland or existing recreational facilities will be impacts by any of the action alternatives. “

In addition to the risks posed to the waters of Lake Michigan and of the adverse impacts of long-term exposure of local residents to air-borne and water-borne contaminants, the ACOE’s plan and EIS must consider the existing and potential health impacts on recreational users of Lake Michigan and the nearby parks.

In other sections of the DMMP/EIS, ACOE mentions the proximity of parks to the proposed Vertical Expansion site. As mentioned above parks are located on both sides of the existing CDF site. But, nowhere does ACOE provide an analysis of the environmental impacts of this project on these parks or the other multiple parks, beaches, harbors, and recreational resources and their users. This is a glaring deficiency in this study which must be revisited and revised. (See EPA Comments)

The following is readily available information on the recreational resources on the lakefront in the vicinity of ACOE’s Vertical Expansion that may be impacted by ACOE’s selection of that site for further dredge disposal.

<table>
<thead>
<tr>
<th>LAKEFRONT FROM 67TH TO 103RD (APPROXIMATELY 4.5 MILES)</th>
<th>Community Area 43 - South Shore</th>
<th>Community Area 46 - South Chicago</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source: Maps and information from Chicago Park District 2017 Master Plan (Last update 7.29.2019)</td>
<td>Community Area 43 - South Shore</td>
<td>Community Area 46 - South Chicago</td>
</tr>
<tr>
<td>3 Wards (5, 7 &amp; 8) 67th street is northern boundary 79th street is southern boundary</td>
<td>Population in 2010, 49,767 40% youth (&lt;20) and seniors (&gt;64) Contains 11 parks - 3 on Lake Michigan -South Shore Cultural Center (2.4 miles from CDF), Arthur Ashe Beach Park (2 miles from CDF), and Rainbow Beach Park (1.4 miles from CDF) 3 beaches, 1 nature/bird sanctuary, 1 community garden</td>
<td>Population in 2010, 31,198 44% youth and seniors Contains 8 parks- 2 on Lake Michigan -</td>
</tr>
<tr>
<td>In 43 South Shore, SSCC beach is CPD, Nature Sanctuary is 6 acres of dune, wetland, woodland, prairie, savanna, shrubland Ashe beach is CPD, community garden is ornamental Rainbow beach (north of Filtration Plant) is CPD, there are also 10 acres of dune habitat</td>
<td>In 46 South Chicago, Another piece of Rainbow beach, also</td>
<td></td>
</tr>
</tbody>
</table>
North Bank Calumet River is southern boundary

Park 566 which is undeveloped (.5 mile from CDF), and Steelworkers Park (Across River From CDF)

1 beach, 2 boat launches

Park 566, is south of Filtration Plant

Community Area 52 - East Side
1 Ward (10)
South Bank Calumet River is 112th is Northern boundary
116th, 117th Streets are southern boundary

Population in 2010, 23,042
43% youth and seniors

Contains 6 parks- 1 on Lake Michigan - Calumet Park (Adjacent To CDF)
3 beaches
Calumet Yacht Club & Marina

Water purification plant is 1.6 miles from CDF

In 52 East Side, Calumet has 2 separate beaches; Yacht Club beach has a street/pier separating it from Calumet's

4. EVALUATION OF ALTERNATIVE PLANS

a. Natural Resources

Again, in Section 4.20 Evaluation of Alternative Plans, the DMMP/EIS finds no significant impacts of this massive, dirty project on any of the alternative sites. As to Natural Resources, the DMP/EIS concludes “There are no high quality natural resources at any of the sites included in the final array of alternatives. Stunningly, ACOE apparently doesn’t consider Lake Michigan to be a natural recourse!

With no evidence or data presented on the quality of the CDF discharge, the ACOE concludes that the discharge of stormwater and process water from the sediment dewatering operation and pumped from the CDF itself after filtration on site would not present a different impact than discharging to MWRD. But filtration alone does not treat the water for anything other than large particles. It is not equivalent to the three-stage water treatment that occurs at the MWRD. This statement requires evidence that the effluent quality meets the applicable water standards. None has been provided.

None of the other alternative would discharge stormwater effluent to the River or harbor. If this effluent meets water quality standards, why isn’t the ACOE discharging to the River from those alternative sites? The fact that ACOE is not including the costs of hooking up to the sewer system and discharging to the MWRD artificially reduces the cost of the Vertical Expansion alternative and results in an a cost-benefit comparison that is not apples-to-apples.

b. Cultural Resources
Again, now discussing the different impacts of the alternative plans, the DMMP/EIS (p. 117) dismisses the impact of the Vertical Expansion on “Cultural Resources.” This time the ACOE focuses solely on the site of the Vertical Expansion, ignoring all of the impacts of that site selection on the surrounding residences, communities, parks, beaches, and Lake Michigan which were discussed earlier. Here the ACOE admits that the Vertical Expansion will delay development of open space or parkland. But doesn’t find that to be a significant adverse impact. We disagree.

Delaying the long planned and anticipated return of this property to public use is an enormous loss for the surrounding Southside communities and the City of Chicago as a whole. This public trust land has already been occupied to the exclusion of the public for too long. Whole generations of Chicagoans have been denied the benefit of this public land as children and will now be denied access to his lakefront and park land for the rest of their lives. Further, the construction of the Vertical Expansion will render this 47 acres of lakefront unusable as a park permanently.

This taking of public land and reneging on the ACOE’s contract with the Illinois General Assembly and the CPD is a high cost option and has a significant adverse impact for individual residents and the entire community and City. The ACOE’s failure to assign a high cost to this taking of public land in its cost/benefit analysis is another example of its misstatement of the costs of the Vertical Expansion option.

c. Socioeconomic Resources

The DMMP/EIS concludes that the Vertical Expansion option won’t have a negative socioeconomic impact as might occur at the other alternative sites where the site could displace future industrial development and the employment and revenue that could generate. and that it will eventually be a park or open space. (p. 117) Apparently, displacing the public’s use and access to the premier natural resource in the City and State has no comparable economic or social value in the view of the ACOE. According to the ACOE, because the Vertical Expansion site would ultimately be returned to the CPD, there would be no “permanent negative impact on socioeconomic resources.” These are fallacious arguments. The construction of the Vertical Expansion will not only unreasonably and illegal deny the public its bargained for access to this lakefront public trust property, it will permanently destroy its use as a public park. This is a highly significant adverse impact and should be so recognized by the ACOE.

5. EVALUATION OF THE TENTATIVELY SELECTED PLAN – TRADE-OFF ANALYSIS

Section 6 of the DMMP/EIS begins with a “Trade-Off Analysis” (pp. 124-128) that encapsulates the mistaken and improper characterizations of the Vertical Expansion option that the ACOE makes throughout this study. In this analysis, ACOE essentially weighs the likelihood of the risks and the magnitude of the harms associated with the other 4 upland sites and compares that to the same for the Vertical Expansion alternative. But the characterization of the risks and harms associated with the Vertical Expansion are understated throughout this analysis, revealing once again the lack of objectivity that ACOE has shown throughout this study.

   a. Real Estate
In Section 6.1.2, the DMMP/EIS analyzes the “Key Uncertainties of Selecting the Vertical Expansion Alternative” as to Real Estate, as follows:

“The existing CDF property is owned by the Chicago Park District (CPD). Currently, CPD may not have plans or funding identified for park development and O&M at the existing CDF for post-closure. Further, there are limited options for post-closure public access to the site regardless of plans and funding, making use of the site for public recreation problematic. Through preliminary coordination, CPD has indicated that they would be supportive of vertical expansion of the CDF. Based on their own limitations for short term site use, CPD is willing to consider deferring their use of the site in support of the proposed DMDF. For the vertical expansion alternative, CPD would then need to sign on as a project co-sponsor for the providence of real estate for the twenty year project life. Therefore, this alternative has a low likelihood of causing delays in real estate acquisition that would affect implementation and channel maintenance dredging. The likelihood of a delay in acquisition under the Vertical Expansion alternative is ‘Low’ and the consequence is ‘HIGH’, making the associated risk rating ‘MEDIUM’.” (DMMP/EIS, p. 126)

The ACOE ranks the likelihood of an difficulty obtaining the real estate from the CPD to be “low”. This is based on assumption that there will be no delay in acquiring the Public Trust property and that the CPD and City will ultimately agree to fund and take responsibility for the OMRR&R, and assume liability associated with the vertical expansion. But, the DMMP/EIS provides no evidence of CPD’s or City’s agreement to this plan or to the City taking on these costs and liabilities. Also, the preliminary comments show there is public opposition to this proposal. Finally, because the Vertical Expansion will deprive the public of its use of the Public Trust land for an additional 25-40 years, this real estate is not legally available for this use.

b. **Hazardous, Toxic, and Radioactive Waste**

“The risk of contamination issues associated with the Vertical Expansion alternative is the lowest of all study alternatives. This is due to the fact that vertical expansion occupies the same footprint as the existing Chicago Area CDF. Prior to construction of the existing facility, the site was occupied by the near-shore waters of Lake Michigan. The current facility was completed in 1984, it has operated safely ever since. The likelihood of a remedial action being required is ‘LOW’ based on the industrial history of the site, and the consequence is ‘HIGH’. Therefore, the associated risk rating of potential HTRW issues at the site is ‘MEDIUM’.” (DMMP/EIS p. 126)
This conclusion is unsupported by the facts. As discussed in our comments herein, the Vertical Expansion, which will concentrate yet more hazardous and toxic dredge at this precarious location, presents a high likelihood of causing and worsening contaminant releases to Lake Michigan from both the new and the existing CDF. Further, this is a location with a park, beach and harbor directly downstream and a number other parks and beaches in close proximity. In fact, this option presents a prospect of catastrophic failure of the entire CDF and irreparable damage to the Lake Michigan shore as a result of “floating” another 1 million tons of highly contaminated dredge material on top of an unstable 1984 “in water” structure that was never intended for this purpose.

c. Social Considerations

“Vertical Expansion may be the most favorable site for the local community to support. First, this alternative would not require the construction of an entirely new disposal facility in the 10th Ward. Secondly, due to its isolation, the existing CDF has operated successfully here for over 30 years without conflict with the surrounding communities. There are legitimate concerns that the selection of vertical expansion would further delay turning this land into parkland. Despite the delay, this parcel will eventually become parkland in perpetuity following cessation of the DMDF operation. The likelihood that the proposed facility would negatively impact future development in the study area is ‘LOW’ and the consequence rating is ‘MEDIUM’. Therefore, the associated long-term risk related to social/socioeconomic considerations is ‘LOW’.” (DMMP/EIS, p. 127)

This conclusion is based on the faulty assumptions that the CDF has operated safely in the past and that this location is isolated and the massive, dirty construction of the Vertical Expansion will not impact nearby residents, the Lake, and the uses of parks, beaches and harbors. As discussed in the Cost/Benefit section below, this analysis also fails to place a value on the loss of public trust property and the anticipated park use for anticipated 25-40 year duration of this proposal and likely in perpetuity due to the steep hill that the Vertical Expansion would create.

6. CONSIDERATION OF OTHER ALTERNATIVES: TREATMENT AND SEDIMENT REDUCTION

a. Private Landfill Disposal

ACOE eliminated Private Management in a Landfill upfront saying “Due to the increased cost of pursuing private management at the scale of this study and the lack of assured capacity, It was not retained for inclusion in the study alternatives.” (Exec. Sum p. 4) But ACOE’s analysis
of the costs associated with this option have not been made public and subject to the same scrutiny as have the other options. Given the mis-assignment of costs and failure to assign costs to various options, especially the Vertical Expansion option, which have been identified by FOTP, this conclusion regarding the cost of private landfill disposal should be reconsidered.

Among other things, a private landfill builds into its costs the cost of safe management of toxic industrial wastes, including double liners, leachate collections systems, and groundwater monitoring. This reduces risks and liabilities. Modern landfill systems can actually reduce contaminants in the waste overtime and thus reduce post-closure care. Because landfills are not sited on surface waters, they don’t require monitoring of surface waters in perpetuity. They don’t require the Corps to acquire real estate or construct and operate the disposal unit. Nor do they require a Non-Federal public entity to maintain the disposal unit. These costs are all built into the tipping fees. If all costs are properly allocated to the Corps other options, the costs associated with the private landfill options it rejected may actually be lower.

b. Treatment

ACOE also eliminated the option of treating the highly contaminated dredge to reduce its toxicity and allow it to beneficially re-used. ACOE summarily found, “Preliminary costs estimates for these technologies were compared to estimated CDF costs and it was determined these measures would be significantly more costly to implement.” (Exec. Sum. 4) Again, none of the ACOE’s cost assumptions for this option were made available for public scrutiny.

A number of interested parties, including Southeast Environmental Task Force, Alliance for the Great Lakes, Southside Coalition to Ban Petcoke, Sierra Club of Illinois and Friends of the Parks have called for sediment treatment to minimize the amount of highly contaminated dredged material that must be permanently managed in a CDF. Even if not all of the dredged material qualified for treatment, treating the portions that do qualify might open up smaller alternative locations for a confined disposal facility outside of the 10th ward which has been over-burdened with landfills and industrial pollution.

In fact, substantial cost savings may be had by treating the dredge material rather than having to manage its toxic contaminants in a CDF in perpetuity. The ACOE should revisit its assumptions regarding treatment and do a proper apples-to-apples cost comparison of all of the costs attributable to each option before concluding that treatment is prohibitively expensive. This analysis must consider all costs – including both short and long term costs and the costs borne by both ACOE and the Non-Federal Sponsor.

c. Sediment Reduction

The DMMP/EIS also fails to review options for reducing dredged material volumes and contaminant concentrations, including (1) the performance of a study to identify the sources contributing to sediment loading throughout the Calumet River basin; and (2) a quantification of the reductions in load and contaminant concentrations that can be achieved by the ACOE.
working with other agencies (federal, state, local) to develop an enforceable sediment reduction plan, with a focus on achieving reductions in load that are the greatest sources of contaminated sediment that in the short-term can reduce loading and in the long-term will obviate the need for containment of untreated hazardous dredged material.

We urge the Army Corps of Engineers to cap the current CDF and reuse the space as it was originally intended, as park land. ACOE must consider all the costs with respect to Vertical Expansion identified herein. With these costs included and considering the cost savings that can be achieved through treatment, we believe the ACOE will have a clearer assessment of available alternatives, including treatment in lieu of disposal. If the ACOE decides to pursue the Vertical Expansion, it must go back and provide a revised Draft DMMP/EIS for public review and comments that responds to the many flaws and deficiencies noted herein prior to proceeding to a Final DMMP/EIS.

Please contact Sandra Del Toro, Deputy Director, at (312) 857-2757, ext. 1 or deltoros@fotp.org with any further questions.

Respectfully Submitted,

[Signature]

Juanita Irizarry
Executive Director
Friends of the Parks

Cc: Sandra Del Toro
    Patricia Sharkey
August 1, 2019

U.S. Army Corps of Engineers
ATTN: Planning Branch
231 S. LaSalle St., Suite 1500
Chicago, IL 60604

Comments submitted by email to CELRC_Planning_Econ@usace.army.mil

RE: Public comment on draft Chicago Area Waterway System Dredged Material Management Plan, integrated Environmental Impact Statement

Dear U.S. Army Corps Officials,

These comments are submitted on behalf of the Sierra Club, Illinois Chapter, a non-profit organization representing over 30,000 members in Illinois including nearly 10,000 members in Chicago alone, in regards to the draft Chicago Area Waterway System Dredged Material Management Plan, integrated Environmental Impact Statement (DEIS). These comments supplement the comments being filed by the Friends of the Parks which are incorporated by reference.

These comments are also being submitted to the Illinois Environmental Protection Agency for use in its consideration of this proposal under Section 401 of the Clean Water Act and other relevant statutes.

The DEIS is not adequate under the National Environmental Policy Act (NEPA) and the project cannot properly be undertaken under the Clean Water Act because alternatives have not been properly considered and the full cumulative impacts on local communities and the environment have not been given proper weight. The Corps must consider less environmentally damaging alternatives. Simmons v. U.S. Army Corps of Engineers, 120 F.3d 664 (7th Cir. 1997); Van Abbema v. Fornell, 807 F.2d 633, 638 (7th Cir. 1986). The Clean Water Act, 33 U.S.C. §1231 et seq., requires that federal agencies carefully consider the direct, indirect and cumulative effects of federal actions. Fox Bay Partners v. U.S. Army Corps of Eng’rs, 831 F.Supp 605, 608-09 ((N.D. Ill. 1993). Similarly, NEPA requires federal agencies to take a “hard look” at the environmental impacts of proposed agency actions. See Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989); 42 U.S.C. § 4331 et. seq. To take a “hard look” under NEPA, agencies must consider the relevant factors and the important aspects of their actions. See Friends of the Boundary Waters Wilderness v. Dombeck, 164 F.3d 1115, 1128 (8th Cir. 1999).
Further, it appears that the proposal would negatively impact people living in nearby communities and is not economically justified and, thus, is not in the public interest and cannot be permitted under the Clean Water Act. See, 33 U.S.C. § 1344(c), 40 CFR §230.10(c)(4) and 33 U.S.C. §320.4.

I. Alternatives have not been properly considered.

A. The alternative of reducing the amount of sediment entering the waterways must be fully evaluated.

The issue of reducing the amount of sediment entering the waterways must be addressed, rather than narrowly focusing on removing sediment once it is already in the waterway. The DEIS actually makes clear that this alternative shows promise but then inexplicably fails to consider it. In particular, the DEIS states:

While dredging needs would not be completely eliminated, reducing dredging requirements could provide cost savings and extend the life of sediment management alternatives. Best management practices that address sediment sources can improve the financial and environmental sustainability of the navigation projects and may provide significant benefits. However, these opportunities may also require significant detailed analyses to determine their effectiveness. The USACE Chicago District has been working with the Engineer Research and Development Center (ERDC) in Vicksburg, MS to investigate potential principal sources of sediment and associated contamination deposited in the Calumet River (Perkey, Chappell, and Seiter 2017). Based on the results of their preliminary investigation, it appears the sediment sources are primarily stormwater and combined overflow sewer outfalls, channel outlets (particularly the channel outlet known as Pullman Creek), non-point sources and overland flow.

Why, then, does the Corps not go on to consider whether the need for this project could be completely or substantially obviated by fully addressing the CSOs and non-point pollution that is the ultimate source of the problem? Certainly, it has not been carefully considered whether full compliance by the Metropolitan Water Reclamation District, the City of Chicago and other municipalities in the area with the requirements regarding CSOs and MS4s would substantially reduce the need for continuing to add to the confined disposal facility. Reducing pollution before it reaches the CAWS and Calumet Harbor could be a superior approach as an environmental matter and could save significant financial resources. It would also help to protect the densely populated residential neighborhoods that are immediately adjacent to all of the alternative locations considered by the Corps for a new CDF.
It is unclear from the DEIS whether the Corps has even carefully considered whether the portion of the Tunnel and Reservoir Project (TARP) that has already been completed will obviate a substantial portion of the need for the project. Using loading data from prior decades regarding sediment loading without adjusting for the work that has been done to control pollution is inappropriate. This failure to study what has already occurred detracts both from the necessary consideration of alternatives of the project by potentially distorting the costs of the no action alternative, and distorts the consideration of costs/benefits and the public interest required by the Corps regulations established under the Clean Water Act.

The Army Corps Research and Development Center in Vicksburg, MS issued a report in 2017 on an assessment of sediment source locations that necessitate the removal of 25,000 cubic yards of hazardous material each year. The sources assessed included Pullman Creek, Indian Creek, Lake Calumet, Calumet Harbor within the breakwater, and the adjoining land uses along the river itself. The study concluded that the primary source of the polluted sediment comes from the “anthropogenic activities along the river,” meaning the uncapped river corridor brownfields which infiltrate stormwater into the river, or run off surface water, and/or allow wind-blown polluted surface soils and bulk material storage into the river.

Where appropriate and supported by the surrounding community, brownfields in the Calumet region should be capped and seeded to pasture grass or prairie to infiltrate rainwater and remove polluted sediment to prevent it from entering the river. One capped acre of brownfield would remove approximately ten cubic yards of polluted sediment (on average) from entering the river each year.

The city, state, and federal agencies must work together to find a solution that would minimize or eliminate the source of 25,000 cubic yards of polluted sediment entering the river. It is far beyond time for these agencies to create a plan to minimize or eliminate sediment and secure funding to implement the plan with community input.

The Army Corps should identify the “hot spots” in the river corridor that are generating polluted sediment loads, develop a plan that would rate every acre in terms of its role in sediment loading to the river, and then start capping and solving the sediment problem in systematic order based on reducing the loads in the shortest time frame.

Admittedly, it will take time to address the sources of polluted sediment, but the current CDF has capacity for several years and the new CDF is not proposed to be completed until 2026. By 2026, the need for the project could be largely or fully eliminated through pursuit of alternatives.

B. Alternative forms of transportation are not considered.
The DEIS mentions only in passing that there are forms of transportation in addition to shallow and deep draft shipping. There is no clear consideration of how much of the traffic for which dredging may be needed could be replaced economically by alternative means of transportation. This constitutes both a failure to consider alternatives and a fundamental mistake in the cost/benefit analysis and public interest review.

C. The alternative of dewatering and delivering the material to a nearby landfill should be fully evaluated.

The alternative of landfilling the material was rejected as not viable for “this scale of study.” (DEIS p. 74) However, the scale of the problem has not been properly considered because the current and future loadings given improved wastewater treatment and capping of eroding areas have not been studied. Even if the alternative of landfilling the material is inadequate by itself, the Corps must consider combinations of approaches that will address the purpose and need. Simmons, 120 F.3d at 669. This could include approaches that address varying qualities of sediment and handling them differently—for example, finding alternatives to land disposal for sediments of sufficient quality.

II. Cumulative impacts from this proposed project and other pollution sources and waste supplies in the area must be assessed.

A. The Sierra Club agrees with comments submitted by the US EPA regarding air quality and environmental justice.

The impact on overall air quality in communities surrounding the CDF must be evaluated, and the disproportionate levels of air pollution already experienced by the predominantly minority populations and/or low-income populations around the project location must be considered. The Corps should also consider unique vulnerabilities, special exposure pathways, prior exposures, social determinants of health and cultural practices associated with minority populations and low income populations in the affected environment, and the degree to which any other extenuating factors amplify identified impacts such as the presence of vulnerable populations (pregnant women, elderly, groups with high asthma rates or other health concerns) and the condition of physical infrastructure (e.g., substandard housing conditions, old or no in-home HV AC/filtration roads, older windows, inability to make in-home changes due to rental vs. home-ownership).

This additional environmental justice analysis is needed to ensure a comprehensive review of potential disproportionately high and adverse impacts to minority populations and low-income populations. The Corps should reassess whether there are, in fact, any disproportionately high
and adverse impacts expected, and if those disproportionately high and adverse impacts are considered "significant" under NEPA through a review of context and intensity. Consistent with applicable requirements, the Corps should state in the FEIS whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted. (See 40 CFR §1502.2(c)).

B. Water quality impacts must be addressed in much greater detail.

The DEIS makes clear that the sediments that are to be placed into the confined disposal facility may be highly polluted. It does not consider, however, the levels of pollutants likely to reach Lake Michigan or their potential impacts.

It is assumed, without proof, that nothing can travel from the CDF. The once a calendar year monitoring that has been done, however, indicates that as to a number of pollutants, pollution levels are higher in the immediate vicinity of the existing CDF than background levels and much higher than applicable water quality standards (e.g phosphorus, WQS = .007 mg/L). See e.g. Routine Monitoring for the Year 2016. On its face this would indicate that the CDF is leaking.

The Corps reports offer various untested theories as to why pollution levels might be expected to be higher near the CDF than background levels, but it is clear that what is needed is greater monitoring, not speculations as to why the monitoring reports do not mean what they seem to mean. Indeed, if the current calendar year monitoring program that calls for comparing near CDF pollutant levels for certain pollutants with background levels is not adequate to detect problems, expansion of the CDF should not be considered seriously until a more adequate monitoring system is devised, that improved system is put into effect for the amount of time needed to draw valid conclusions, and it is scientifically determined that the CDF is as secure as the Corps assumes.

While it is not proposed to bring much material from the Cal-Sag Channel, the extent to which phosphorus may enter Lake Michigan by being hauled from the Cal-Sag to the lake should be better studied. The Cal-Sag Channel sediment must contain high levels of phosphorus from the Metropolitan Water Reclamation District Calumet STP, the Thorn Creek Sanitary District and other sources. Taking this sediment—probably now in large part biologically unavailable to algae and cyanobacteria from the bottom of a water body thought to be relatively insensitive to phosphorus pollution—and placing it into a facility on Lake Michigan is clearly not something that should be done without thorough study. Such a movement of phosphorus could potentially cause further violations of applicable Lake Michigan water quality standards.

Even if it is correct that the CDF will never allow pollution from the CDF into the lake, the act of stirring up the sediment in the Cal-Sag may cause the sediment that is not taken into the CDF to
become biologically available to nuisance algae. It cannot, then, be assumed that water quality in the Cal-Sag will benefit from expansion of the CDF. This is also true for the Calumet River and Calumet Harbor to an undetermined extent.

III. Numerous flaws in the analysis potentially affect proper application of the cost/benefit analysis and the public interest test.

The DEIS recognizes that future tonnage may well be overestimated (DEIS pp. 53-5), but that does not fully recognize the tenuous basis for many of the numbers relied on in the DEIS to justify the project. 2017 is used as a base for traffic estimates although that number is higher than both the three-year average and 2010. Coal traffic is assumed by the DEIS to continue at its current level for the whole period, although the traffic has fallen considerably since 2000 and coal-generated electricity is acknowledged to be in steep decline, simply because coal traffic has not yet fallen to “zero.” (Appendix B table 22)

Costs of the preferred alternative also appear to be estimated poorly. No cost is attributed to using the public land on which the CDF will sit and any consideration of increased closure costs seems to be absent. The failure to value the land that was promised to the public underscores the environmental justice and public trust issues raised by the proposed project.

In conclusion, we stress that the DEIS is not adequate under NEPA and the project cannot be permitted under the Clean Water Act because alternatives have not been properly considered and the full direct, indirect and cumulative impacts on local communities and the environment have not been thoroughly evaluated and given proper weight. The Corps must consider less environmentally damaging alternatives – specifically, alternative approaches to dealing with the sediment, not alternative locations that raise the same concerns as the proposal to expand the current CDF.

Thank you for your consideration of these comments.

Sincerely,

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cc: IEPA, Bureau of Water Facility Evaluation Unit, % Darin.LeCrone@illinois.gov
August 1, 2019

Mr. Alex Hoxsie  
U.S. Army Corp of Engineers  
231 S. LaSalle Street, Suite 1500  
Chicago, IL 60604

Sent Via E-Mail: alex.hoxsie@usace.army.mil  
and  
CELRC_Planning_Econ@usace.army.mil

Re: Public Comment - for the draft Chicago Area Waterway System (CAWS) Dredged Material Management Plan (DMMP), and integrated Environmental Impact Statement.

To Whom It May Concern:

Thank you for the opportunity to comment on the draft Chicago Area Waterway System (CAWS) Dredged Material Management Plan (DMMP) and integrated Environmental Impact Statement.

The Alliance for the Great Lakes are commenting based on the principle that sediment beds in Great Lakes navigable waterways are an important public and ecological natural resource that impacts our economy, environment, and public health and safety, and that sediment management practices should reflect this importance. When developing sediment management practices, U.S. Army Corps of Engineers (ACE) must address causal factors rather than only the ultimate accumulation of sediment in navigation channels. In addition, ACE must partner with agencies and stakeholders who are key to reducing the volume of sediment entering the waterways through land based conservation practices as well as new technology and beneficial use of sediment.

After reviewing the comments of the Southeast Environmental Task Force and the EPA we would like to emphasize the following points that are made in their comment letters:

COMMENTS

Comment: Alliance of the Great Lakes endorses SETF’s assertion that sediment conditions are improving and some dredged material is now suitable for upland beneficial reuse. However, the Corps has not identified at what levels dredged material becomes suitable for upland beneficial reuse, and the Corps has not identified the sampling protocol it will use to assess if material it will dredge from the Calumet...
River and Cal-Sag Channel meets these standards. The total volume of sediment from these waterways that can be beneficially reused now and, especially, in the future has not been assessed. This is critically important information because it could directly affect the size, location, lifespan, design characteristics and operations of a dredged material management plan or facility. Even today, the volume of sediments that justify land disposal may be limited to a few “hot spots” within shoaled areas of the waterway. Over the course of decades (the operating lifespan of a potential CDF), this volume could become much smaller or completely eliminated, as we now see in the Calumet Harbor.

Comment: Alliance for the Great Lakes endorses SETF’s and U.S. EPA’s comments regarding the need to analyze the impacts of high lake levels on the integrity of the CDF. Alliance for the Great Lakes would also endorse SETF’s question – will elevated lake levels affect water levels in the Calumet River? If so, would elevated Calumet River water levels reduce the need for dredging by providing additional draft above shoaled sediment areas?

Comment: Alliance for the Great Lakes endorses SETF’s and U.S. EPA’s comments regarding the need to analyze the environmental justice issues as part of the TSP. SETF added the following information about the neighborhood immediately adjacent to the TSP that the Alliance for the Great Lakes also sees as important information that should be considered.

According to the demographic feature of U.S. EPA’s ECHO database, 105,391 people live within a 3-mile radius of the north entrance of the CDF, using the address of 9301 S. Kreiter, Chicago, IL 60617. There is population density of 7,440 people/square mile, and a total of 38,397 households. This area includes 28,334 children. This is an environmental justice area, with more than 90% of residents being either African-American (65%) or Hispanic (24%). The facility is immediately adjacent to Calumet Park, a Chicago Park District facility that includes a public beach, large outdoor recreation areas and a fieldhouse. Because this is an EJ community, the Corps should conduct a complete analysis to ensure its activities do not create a significant, adverse and disproportionate impact. These enhanced EJ protocols must align with Council on Environmental Quality guidelines: https://www.epa.gov/sites/production/files/2015-02/documents/eq_guidance_nepa_ceq1297.pdf

The existence of an environmental justice neighborhood surrounding the location of the TSP underscores the need for additional analysis as part of the Final EIS. Most importantly, as emphasized by U.S. EPA, in order to mitigate the impacts of air releases, the Corps should develop a comprehensive plan for managing airborne releases of particulate matter, tailored to a vertical expansion. This is an extremely windy lakefront location. The Corps will be processing significant quantities of Calumet Harbor sediments, and actively moving these sediments as part of reconfiguring the existing site and constructing the vertical expansion. Future disposal activities will not be at grade level, but rather, will involve placing material in large above-ground disposal areas. This material could become airborne while it is stockpiled, conveyed, placed and managed in the new above grade CDF. So-called “drying pan” operations could also become more intensive to process dredged material for beneficial reuse, creating another enhanced source of airborne material. A new site configuration requires a new, tailored and comprehensive plan to mitigate the risks of the release of airborne material into immediately adjacent residential neighborhoods and the adjoining public park and public beach.
It is also unacceptable for the Corps to discount the importance of air monitoring at the perimeter of the CDF. Alliance for the Great Lakes encourages the Corps to consult with the Chicago Department of Public Health, which is now requiring multiple handlers of bulk materials and large recycling facilities to install perimeter PM-10 air monitors.

CDPH appropriately requires facilities that manage materials in bulk to have the capacity to prevent, detect and respond to potential releases of windborne material. As asserted by CDPH, there are four categories of material and handling and storage activities that create airborne dust as part of the outdoor storage of materials - bulldozing and grading, material dropping operations, equipment operations on the surfaces of stockpiles and vehicle travel on paved roads. To this end, CDPH mandates the development and implementation of a proactive fugitive dust plan. Every fugitive dust plan must contain some required elements, but CDPH also expressly allows flexibility for businesses to develop plans that make the most sense based on their unique operations. However, the actual success of a fugitive dust plan is not left to guesswork. For CDPH, the most reliable means to demonstrate the success of a fugitive dust plan for operators, regulators and residents is through uniform, empirically verifiable PM monitoring. It is not an exaggeration to state that PM monitoring is the lynchpin of the CDPH protocol. As stated by CDPH:

The requirement for fugitive dust monitoring is a critical component of the regulations to ensure that the facility’s dust control measures are working. CDPH inspectors cannot observe facility operations on a daily basis. And facility workers who are occupied in doing their jobs may not always realize when there is a dust problem. Therefore, the PM monitors are important for alerting facility operators when there might be an issue with their dust control systems. They are also important to ensure compliance with the fugitive dust prohibition, as well as to give neighbors a level of comfort in knowing the air is being monitored.

Another environmental justice issue arises from the immediate proximity of the CDF to a public beach and public park at Calumet Park. This proximity underscores the vital importance to address the pollutants that could be released into the air and surface water. Because the dredged materials that are being processed and disposed of have toxic constituents like mercury, lead and PCBs, this heightens the necessity of monitoring and controlling airborne releases. Because of the direct pathway to recreational swimmers, it is vital to assess and mitigate releases toxic water pollutant like mercury, lead and PCBs that are currently not included in the sampling.

Thank you for consideration of our comments. Please contact us with any questions or notifications by emailing obautista@greatlakes.org

Sincerely,
/s/Olga Bautista
Community Planning Manager, Alliance for the Great Lakes
August 1, 2019

US Army Corps of Engineers  
Email: CELRC_Planning_Econ@usace.army.mil


To whom it may concern: United States Army Corp of Engineers

On behalf of the Alliance of the SouthEast (ASE), we are submitted comments regarding the proposed expansion of the Confined Disposal Facility and the Calumet Harbor & River Chicago Area Waterway System/Dredged Material Management Plan and Integrated Environmental Impact Statement.

We recognize that the U.S. Army Corps of Engineers (USACE) has chosen NOT to build a NEW CDF facility on Chicago’s southeast side, in the 10th Ward. This was a result of local residents mobilizing and submitting 8500+ comments in opposition to ANY new Confined Disposal Facility on Chicago’s southeast side, which is already heavily environmentally overburdened. As a result, Illinois State Senator Durbin ordered an environmental review. Residents were very clear that we do not want any more toxic dredgings, especially so close to residential space. We refer the USACE to the comments and signatures submitted in opposition previously, as to why we do not want any more toxic dredgings.

Here are some of our major concerns regarding the proposed expansion:

- **USACE did not include any information on the effects on air quality, which will disproportionately affect minority & low-income communities with vulnerable populations** (including children, pregnant women, elderly, groups with high asthma and cancer rates). The area also has older housing, which does not filter air well (there are older windows and many are not able to afford in-home upgrades to improve inside air quality).
- **Location of toxic dredgings near Chicago’s source for drinking water.**

**Recommendations**

**USACE should:**

- **Address the disproportionately high & adverse impacts to minority, low-income, & vulnerable populations, & perform additional environmental justice analysis** to ensure review of these impacts to minority, low-income, and vulnerable populations. Populations are already environmentally overburdened, exposed to other contaminants, and have high cancer and asthma rates.
  - Please see attached map: “Cumulative Burden of Environmental Exposures & Population Vulnerability.”
  - References on Environmental Burden on Chicago’s southeast side:
  - **Asthma rates for nearby, impacted community areas:** Chicago’s asthma rate for 2017 was 9.1. Comparatively, South Chicago has an asthma rate of 14.4. South Deering has an asthma rate of 20.7. Hegewisch and East Side data were not available. Source: Chicago Health Data. “Asthma: Adults who
have been diagnosed with asthma.” Chicago Health Atlas. Website accessed: 08/01/19. https://www.chicagohealthatlas.org/indicators/asthma

  o **Cancer death rates for nearby, impacted community areas:** Chicago’s cancer death rate for 2017 was 179.2. Comparatively, South Chicago has a cancer death rate of 229.0. South Deering has a cancer death rate of 220.5. East Side and Hegewisch had cancer death rates of 189.0 and 197.9 respectively. Source: Chicago Health Data. “Cancer deaths: People who died due to cancer.” Chicago Health Atlas. Website accessed: 08/01/19. https://www.chicagohealthatlas.org/indicators/cancer-deaths

- **Consider the potential exposure of air-borne toxic material and impact on residents and commit to regular monitoring,** since USACE proposes to air dry highly contaminated material from the Calumet River and Cal-Sag Channel.

- **Commit to appropriate mitigation measures to reduce exposures** below regulatory thresholds.

- **Include South Chicago in the Environmental Impact Statement,** as residents are near to the site, and are in the area immediately affected (within 1 mile radius of the site). South Chicago is closer than some of the other community areas already listed in the EIP. As noted in the aforementioned comments, South Chicago is an environmentally overburdened community area.

- **Pro-actively protect our drinking water.** Given the closeness to Chicago’s source of drinking water, provide explanation on how contaminants and toxic material are managed, to prevent contaminated water from the drainage pond from entering Lake Michigan. The original liner had holes that were covered with a "sand blanket." Best practices recommend 2 liners, surrounded by clay.

- **Provide information on how the addition of more toxic dredged material will affect the aquatic environment,** especially since the original liner had holes that were covered with a "sand blanket." Again, best practices recommend 2 liners, surrounded by clay.

- **Describe your long-term plan after 20 years, when the expanded CDF is filled.**

- **Provide the cost analysis of 20-year site compared to alternatives,** like treatment and sediment reduction. In the presentation, it was mentioned that a cost-analysis was done. However, the details of the cost-benefit analysis and what options were considered were not given.

- **Consider alternatives** that do not adversely affect already overburdened communities, and that doesn't impact recreational amenities and natural resources. Make public the alternatives considered and the detailed analysis.

- **Create a new appendix with all the comments and correspondence received** during the comment period.

- **Not consider residential areas for future sites.**
The Alliance of the SouthEast (ASE) is a multicultural, interfaith, and intergenerational alliance consisting of churches, schools, businesses, and community organizations that prioritize grassroots participation to address the challenges facing the neighborhoods of southeast Chicago. ASE’s mission is to build the capacity of leaders, organizers, and associations in order to carry out community and social change.

We urge you to consider the recommendations above. If you have any questions, please contact met at 773-221-8908 or amalia@asechicago.org. Thank you for your consideration.

Sincerely,

Amalia NietoGomez
Executive Director

Attachments:

- Chicago Map of “Asthma: Adults who have been diagnosed with asthma” 2015-2017, by community area. Chicago Health Atlas. Website accessed: 08/01/19.
The NRDC's Industrial Corridors and Cumulative Impacts Map for Chicago shows which of the city's neighborhoods are most at risk from pollution. (Photo: Natural Resources Defense Council)

Source: Yeo, Sophie. "A Clever New Map Shows which Chicago Neighborhoods are most at risk from Pollution.” Pacific Standard. (Jan. 15, 2019) Website accessed: 07/30/19

https://psmag.com/environment/which-chicago-neighborhoods-are-most-at-risk-from-pollution
Asthma

ADULTS WHO HAVE BEEN DIAGNOSED WITH ASTHMA, 2015-2017

Source: Chicago Health Data. “Asthma: Adults who have been diagnosed with asthma.” Chicago Health Atlas. Website accessed: 08/01/19. https://www.chicagohealthatlas.org/indicators/asthma
Sent via email to CELRC_Planning_Econ@usace.army.mil.

August 1, 2019

U.S. Army Corps of Engineers
Chicago District, Planning Branch
Attn: Alex Hoxsie
231 North LaSalle Street, Suite 1500
Chicago, Illinois 60604

RE: Chicago Area Waterway Systems Draft Integrated Environmental Impact Statement and Dredged Material Management Plan (CEQ #20190081)

Dear Mr. Hoxie:

Openlands appreciates the opportunity to comment on the Draft Integrated Environmental Impact Statement (DEIS) and Dredged Material Management Plan (DMMP) for the Chicago Area Waterways (CAWS), which was released in April 2019. Openlands has several concerns regarding the alternatives analysis and proposed plan for a vertical expansion of the existing Chicago Area Combined Disposal Facility (CDF) to store sediment dredged from the Calumet River: (1) the analysis falls short of what is required by the National environmental Policy Act; (2) expanding the CDF raises serious water pollution and environmental justice issues; and (3) another reasonable alternative exists that was not adequately explored, which would eliminate both the need to expand the CDF and, over time, a significant source of the dredged material.

Openlands is a non-profit organization, whose mission is to protect the natural and open spaces of northeastern Illinois and the surrounding region to ensure cleaner air and water, protect natural habitats and wildlife, and help balance and enrich our lives. Openlands was one of many organizations that participated in the water quality standards proceedings before the Illinois Pollution Control Board to better protect the insurgence of people recreating on and in the CAWS and Lower Des Plaines River, as well as aquatic life that depends upon the integrity of these waters. In addition to its involvement in stormwater management programs, such as Space to Grow, a strong number of its 9,000 supporters hike, bike, watch
wildlife, canoe, kayak, and otherwise recreate on and along areas of the CAWS, including areas of the Chicago River system that are subject to this DEIS.

The DEIS and DMMP evaluate alternatives to dispose of dredged materials generated in the operation and maintenance of the CAWS, which is made up of six federal navigation projects: Calumet Harbor and River; the Calumet-Saganashkee (Cal-Sag) Channel; Chicago Harbor; Chicago River; the South Branch of the Chicago River; and the Chicago Sanitary and Ship Canal. Specifically, the drafts evaluate potential locations along to Calumet Harbor and Calumet River to confine 20 years’ worth of dredged material.

Currently, contaminated sediment dredged within the CAWS is disposed in a CDF in Calumet Harbor, located on Lake Michigan near 95th Street. The 43-acre facility is anticipated to be filled to capacity by 2022. Finding that the contaminated sediment is not suited for open water placement or in-water beneficial use, the USACE’s Tentatively Selected Plan (TSP) is to vertically expand the existing CDF facility. A DMDF with a 530,000 cubic yard capacity would be built on top of the CDF.

I. The DEIS Did Not Adequately Consider Reasonable Alternatives as Required under NEPA.

The DEIS and DMMP should be revised to include a complete identification of all reasonable alternatives for managing sediment dredged from the Calumet River. The USACE must “rigorously explore and objectively evaluate all reasonable alternatives” for achieving the purpose and goals of the project. 40 C.F.R 1502.14(a). This requirement is the heart of NEPA and extends to “all alternatives that appear reasonable and appropriate for study,” DuBois v. U.S. Dep’t of Agriculture, 102 F.3d 1273, 1286 (1st Cir. 1996). “The existence of a viable but unexamined alternative renders an environmental impact statement inadequate.” Simmons, 120 F.3d at 670; Alaska Wilderness Recreation & Tourism v. Morrison, 67 F.3d 723, 729 (9th Cir. 1995).

The CDF facility was not compared to reasonable alternatives in evaluating the best option to manage dredged sediment from the CAWS. In developing the TSP, the DMMP / EIS provided that “when all sites are environmentally compliant and technically feasible, then the selected alternative is the least costly option.” It is a primary error in the DMMP/EIS to take this statement as correct.
Four alternative sites were assessed in the EIS and DMMP: LTV, Wisconsin Steel, KCBK, and 116th and Burley. As shown below, all four sites are 100% industrial, uncapped brownfields with long histories of unregulated deposition of polluted waste products.¹

<table>
<thead>
<tr>
<th>Site</th>
<th>Deposition Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>KCBX</td>
<td>Deposition of dredging spoils before 1953</td>
</tr>
<tr>
<td>LTV</td>
<td>Deposition of “steel industry waste” and “ash &amp; cinders” before 1953</td>
</tr>
<tr>
<td>116th/Burley</td>
<td>Deposition of “steel industry waste” and “dredging spoils” before 1953</td>
</tr>
<tr>
<td>Wisconsin Steel</td>
<td>Dep. of “steel industry waste“, “ash and cinders“, “dredging spoils” 1902-1927</td>
</tr>
</tbody>
</table>

None of these alternative sites should have been compared and contrasted with the existing CDF within the given context in the studies because of their known on-site pollutants. Since each of them adjoins the Calumet River, they are probable sources of windblown, non-point stormwater, and infiltrated stormwater sources of polluted sedimentation in the Calumet River. Since these sites did not meet the criteria of “environmentally compliant”, and the existing CDF if properly contained and capped might be considered “environmentally compliant”, the only viable site for a facility truly assessed in the study was the existing CDF. It is not the most or least costly, but the only site.

The analysis of the CDF also fails to consider the Landfill Moratorium of the City of Chicago. In June 2005 the Chicago City Council imposed a ban on new landfills in the city for a 20-year period. Residents of the southeast side of Chicago had tried for years to see this ban imposed. The DMMP/EIS does not acknowledge this legal moratorium, which precludes locating the CDF facility within City limits.

II. Source Reduction and Out-of-City Landfilling is a Reasonable Alternative to the CDF Facility.

With the moratorium in place, the USACE should have taken a harder look at alternatives to disposal facilities. Fortunately, one exists: Combine actions to reduce sediment at its source with transporting dredged material to a landfill outside of the City. Ultimately, reductions in sediment will make it less expensive to dewater and transport, since much of the load will be alleviated. This alternative will also ultimately prevent contaminants on neighboring industrial sites from polluting the water, improving the quality and availability of the CAWS.

A. Source Reduction Is Critical to Resolve Rather Than Perpetuate Pollution

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The DEIS did not consider Source Reduction as part or all of an alternative, and instead focused solely on removing annual sediment loads. This is akin to choosing to capture 25,000 cubic yards of leaking oil each year from a broken oil pipeline instead of fixing the pipe.

The ERDC office of the USACE found in a 2017 study sediment in the Calumet River were likely from “anthropogenic activities along this stretch of the river.” The principal sources would be a combination of surface stormwater runoff, wind-blown material, infiltrated stormwater into adjoining brownfields causing groundwater flow transferring pollutants to the river, and stormwater or combined-sewer outfalls. The ERDC report established effectively little impact from Lake Calumet, Pullman Creek, Indian Creek or backwash from Calumet Harbor. Lake Calumet itself provides a large sink for sediments that have filled the northwest corner of the lake and continue to fill the lake’s center channel, since it was dredged 20+ years ago. The “anthropogenic activities” are located on approximately 2,500 acres of industrial properties and abandoned uncapped brownfields along the Calumet River corridor.

With the upcoming focus on studying water quality parameters in the CAWS, the USACE could have proposed a requirement that overlaps with that effort to identify the primary source types and locations of pollutants entering the Calumet River. After two years of study, the USACE could develop an intergovernmental strategy to begin source reduction of pollutants by year three with a goal of achieving a sediment load removal of 5,000 cubic yards per year by 2030. Individual regulatory agencies such as the City of Chicago, IEPA, IDNR, and USEPA could target and resolve obvious sources of pollutants immediately.

1. **Windblown and Stormwater runoff of on-site pollutants.** The City of Chicago has recently responded to outside, unroofed, manganese storage, but still has not effectively required covers on other stored material, nor has required periodic street-sweeping of surface pollutants at active industrial sites.

2. **Storm sewers (SS) and combined sanitary sewers (CSS).** The City of Chicago should monitor all nine SS and CSS outfalls to determine the 2-3 most egregious discharges of pollution into the river and begin design work to install traps and filters that would eliminate or greatly minimize heavy metal and other pollutants of concern. GLRI funding should be sourced for these retrofits.

3. **Pollutant transfer from adjoining uncapped brownfields driven into the Calumet River by infiltrated stormwater.** The most difficult situation to assess and allocate responsibility towards, but total suspended solids (TSS) monitors and chemical monitors should be installed along both riverbanks to determine the most egregious sources. Property owners responsible for these primary sources should be considered Principal Responsible parties by the USEPA and given a limited period of time to fully cap their landholdings substantially at their
expense or have enforcement action taken. Great Lakes Restoration Initiative funding should be sought to assist in financing the capping. Multiple best management practices could be identified and instituted in short time frames, while a thorough, comprehensive two-year study of the adjoining brownfields is undertaken to determine the most egregious sources of pollution.

A Source Reduction strategy should be an integral component of the TSP regardless of what dredging and storage alternative is assessed. If the Army Corps and associated responsible public agencies had designed and implemented a source reduction initiative in the 1990’s, in the early years of the existing CDF, the surrounding community and neighborhoods would not be facing a proposal to extend filling for an additional 20 years. Given the environmental justice issues inherent in this project area, and associated air and water pollution impacts, any consideration to accommodate, or even estimate, the storage demand for an additional 20 years should not occur in a vacuum without an aggressive source reduction component.

B. **Landfilling with Source Reductions is a Reasonable Alternative to Expanding the CDF**

Landfilling dredged sediment from the Calumet River (25,000 cubic yards per year) was not seriously studied in the June 2015 DEIS or DMMP, nor is it fairly assessed in the current DEIS or DMMP, as a management measure for three reasons: “Cost, Scale, and No guarantee of capacity.” All three reasons are insufficient grounds for denial, and a landfill alternative should be reassessed for the following reasons:

1. **Cost.** The CDF Vertical Expansion Alternative could be construed as the “most expensive” since it the only alternative considered that could even arguably be “environmentally compliant.” (We have concerns that even this alternative should not be viewed as compliant, given natural resource and community impacts.) The cost analysis should also include the reasonable alternative of disposing sediment in out-of-city landfills in the northeastern Illinois and northwestern Indiana region, as well as source reductions well beyond the 20-year horizon.

Subsidies could be identified to make the cost of transporting dredged Calumet River sediment comparable to the development of vertical expansion at the existing CDF site. The Calumet Tax Increment Financing District (TIF) could be a source of this funding, as the goals of a TIF District is to enhance the local community, encourage reinvestment, and develop a sustainable employment base. The TSP instead proposes continuing 25 years of landfilling at the current CDF site. As expressed in our discussion of environmental justice issues, this will perpetuate the perception of the Calumet area as a dumping ground, an image the community has combatted for decades to overcome. Another source of funding could be the institution of a special service area tax on the industrial properties in the Calumet River corridor to subsidize removal of the sediments which emanate from these sites.
2. **Scale.** The amount of annual transport and disposal of dredged sediment in an out-of-city landfill is minimal compared to the amount of surrounding truck traffic and landfill capacity in the surrounding metropolitan region. If dredging generated 25,000 cubic yards of sediment per year, it would likely take four to five 30-cubic-yard trucks per day for 200 days to transport the dredged material to a certified landfill. This is a small number of trucks considering the thousands of trucks that pass through daily in area IDOT ADT truck movement counts. For instance:

<table>
<thead>
<tr>
<th>Location</th>
<th>Trucks/Day (Year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bishop Ford Expressway &amp; 107th</td>
<td>10,800 (2018)</td>
</tr>
<tr>
<td>95th Street &amp; Calumet River</td>
<td>470 (2017)</td>
</tr>
<tr>
<td>Indianapolis Boulevard &amp; 102nd</td>
<td>840 (2017)</td>
</tr>
<tr>
<td>Skyway &amp; 102nd</td>
<td>4550 (2013)</td>
</tr>
</tbody>
</table>

3. **No Guarantee of Capacity.** The Chicago Metro region has landfills which in 2017 had 85 million cu.yds. of capacity remaining. The annual fill rate is 7.7 million cu.yds./year. The landfill industry continues to open new facilities as existing landfills begin to reach capacity. New or expanded landfills have continued to open over the last 40 years. With the waste generation of a metropolitan region there will continue to be expanded landfill capacity.

III. **The Draft EIS and DMMP Fail to Account for the Full Pollution and Environmental Justice Impacts of the CDF Extension Alternative**

The USACE is required to take a “hard look” at the environmental consequences of all reasonable alternatives. *Baltimore Gas & Elec. Co. v. Natural Resources Defense Council*, 462 U.S. 87, 97 (1983); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989). The discussion of environmental impacts is designed to provide a “scientific and analytical basis” for comparing the various alternatives for achieving the agency’s goals. 40 C.F.R. 1502.16; *DuBois v. U.S. Dep’t of Agriculture*, 102 F.3d 1273, 1286 (1st Cir. 1996). A proper analysis of the alternatives can be carried out only if the agency provides a complete and accurate description of the environmental consequences of all reasonable alternatives.

The DEIS and DMMP do not evaluate or account for the full brunt of impacts to natural resources and environmental justice communities. For instance, the DEIS lists a litany of contaminants of concern that were identified in the Calumet Harbor and River sediment, such as arsenic, barium, cadmium, chromium, copper, lead, manganese, mercury, cyanide, etc. See 2019 DEIS, p. 28. While acknowledging that semi-volatile organic compounds were tested, the DEIS is silent on the results of relevant analytical testing.

Despite establishing that sediment from the area is highly contaminated, the DEIS does not assess how dewatering, transportation and disposal of sediment, as well as continued CDF operations, could expose the surrounding community to harmful acute or chronic levels of air
pollution. This is despite the studied effects of contaminants such as manganese in the area, and known residential areas within a half mile to a mile of the CDF. The Final EIS should provide a comprehensive analysis and supporting data on exposure and risk, with proposed adequate mitigation measures to meet regulatory air emissions requirements.

In addition, the DEIS did not adequately address environmental justice in minority and low-income populations in the project area, in accordance with Executive Order 12898. That order requires that agencies “identify … and address … as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. The USACE here did not state whether the affected communities meet the definition of an environmental justice population based on income because it compared the 22 percent of individuals in the area living under the poverty level to the general population of Chicago. The City of Chicago averages indicate that about 20 percent of individuals live below the poverty line. The USACE therefore concluded that the low-income population of the study area is not “meaningfully greater than the percentage in the general population.”

This conclusion is flawed in that the poverty data in the DEIS draws from averages across Chicago neighborhoods where communities at both ends of the scale skew the overall average of the general population. It is illogical that nearly a quarter of the residents in the study area living below the poverty line, most of whom are children, would not be considered significant. Furthermore, the 22 percent of individuals in these communities living in poverty rises to the level at which the U.S. Census Bureau defines a locale as a “poverty area.” The USACE should recognize and adequately account for the adverse impacts this project would have on a poverty-stricken area.

Additionally, despite finding that the study area has a combined minority population of more than 83 percent and therefore clearly meets the definition of a minority community, the USACE found that the proposed action presents no potential for disproportionately high adverse impacts on human health and environment. Administrative agencies possess considerable discretion in how they conduct environmental justice analyses. As long as the analytical methodology is reasonable and adequately explained, the agency’s selection is owed deference.² “An agency is not required to select the course of action that best serves environmental justice, only to take a ‘hard look’ at environmental justice issues.”³ The USACE, however, improperly focused its analysis on whether any impacts from the proposed construction would be consistent across races and income levels, stating that short term impacts to residents “would be the same regardless of race or income.” The analysis should have instead looked at whether such adverse impacts would disproportionately affect low-income and minority communities as a result of the

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facility’s location and operation in communities that are predominantly made up of minority individuals and low-income households.

We concur with the U.S. EPA that the USACE failed to include in the DEIS a proper discussion of the adverse impacts to human health and environment that would result from the proposed action, such as degraded air and water quality, particularly for those populations that are most vulnerable to these negative effects. Given the high percentage of minority and low-income individuals in the surrounding communities, disproportionately high adverse impacts on air quality to these populations should have been considered. The FEIS should include a full environmental justice analysis of the proposed action, fully addressing whether disproportionately high adverse impacts to minority and low-income populations exist, whether those adverse impacts are significant and further analyzing environmental health risks, exposure pathways and social context in determining whether health and environmental harms can be avoided.

Thank you again for the opportunity to provide comments on this important issue. We look forward to your review and further discussion.

Sincerely,

Stacy Meyers
Senior Counsel
Openlands
To the Army Corps of Engineers:

I appreciate the extension of the period of public comment on this project. However, I remain deeply concerned that current plans (including plan revisions) are in favor of building a new facility on the existing facility footprint. The communities around the current facility were promised that it would close, and the area would be cleaned and transformed into accessible public parkland. This is a commitment that needs to be kept.

I realize that finding alternative sites for dredged material will be difficult; no community wants this stuff in its backyard. But that is no reason to continue to place it in the neighborhood that has been having to deal with it all these years. As a Chicago resident who appreciates and utilizes the Chicago area parks and waterways, I do not want my enjoyment to be founded on the burden of poorer and minority communities.

Most sincerely,
Norma Moruzzi
831 W Ainslie St.
Chicago, IL 60640
With respect to the above facility, I would like to make the following requests of the ACOE:

* That the Army Corps of Engineers immediately make public on their website the environmental data, including any Lake Michigan water quality or sediment sampling and analysis and dredged material sampling and analysis, supporting the ACOE's determination that the current Confined Disposal Facility (CDF) has operated "safely" since 1984.
* That the ACOE extend the public comment period by an additional 45 days after the information above is published to allow for the public to meaningfully review the data and comment on the EIS.
* That they post clear information on their website of where at to whom to send public comments by the new deadline.

David Ginsburg, MD, FACP  
55 W Delaware, #820  
Chicago, IL, 60610  
847 370 4467  
dsginsburg@icloud.com
Mr. Padilla,

I am a member of Friends of the Parks, and have learned from FOP that the Army Corps of Engineers has not made public

critical environmental data, including any Lake Michigan water quality or sediment sampling and analysis and dredged material sampling and analysis, supporting the ACOE’s determination that the current Confined Disposal Facility has operated "safely" since 1984. This is despite the fact that FOE was told by ACOE representatives at public meetings that that information would be provided on-line. Consequently, the public has been denied an opportunity to meaningfully review and comment on the DMMP EIS published on May 3, 2019. Moreover, there is no clear information provided on the project website of the new deadline for comments or where people can submit their comments.

I think you can understand why I find this to be a shocking situation. Accordingly, I insist

* That the Army Corps of Engineers immediately make public on its website the environmental data, including any Lake Michigan water quality or sediment sampling and analysis and dredged material sampling and analysis, supporting the ACOE's determination that the current Confined Disposal Facility (CDF) has operated "safely" since 1984.
* That the ACOE extend the public comment period by an additional 45 days after the information above is published to allow for the public to meaningfully review the data and comment on the EIS.
* That the ACOE post clear information on its website of where at to whom to send public comments by the new deadline.

Robert Michaelson
Ph.D. (Chemistry)
Evanston, IL
* That the Army Corps of Engineers immediately make public on their website the environmental data, including any Lake Michigan water quality or sediment sampling and analysis and dredged material sampling and analysis, supporting the ACOE’s determination that the current Confined Disposal Facility (CDF) has operated "safely" since 1984.
* That the ACOE extend the public comment period by an additional 45 days after the information above is published to allow for the public to meaningfully review the data and comment on the EIS.
* That they post clear information on their website of where at to whom to send public comments by the new deadline.
*
Hello Mr. Padilla and ACOE:

I am writing to request that you take the following three actions in relation to the Calumet CDF:

* Immediately make public on your website the environmental data, including any Lake Michigan water quality or sediment sampling and analysis and dredged material sampling and analysis, supporting the ACOE’s determination that the current Confined Disposal Facility (CDF) has operated "safely" since 1984.

* Extend the public comment period by an additional 45 days after the information above is published to allow for the public to meaningfully review the data and comment on the EIS.

* Post clear information on your website regarding where and to whom to send public comments by the new deadline.

Thank you for your work, your transparency, and your dedicated concern for the long-term health and welfare of all U.S. citizens and the planet.

Sincerely,

John O'Neal
The effects of this project reach out to endless generations and are not easily or affordably reversed later. There is always time to determine the right thing and the best way to go about it. We do not feel that is currently the case here and implore you to consider the needs of the community:

* That the Army Corps of Engineers immediately make public on their website the environmental data, including any Lake Michigan water quality or sediment sampling and analysis and dredged material sampling and analysis, supporting the ACOE's determination that the current Confined Disposal Facility (CDF) has operated "safely" since 1984.

* That the ACOE extend the public comment period by an additional 45 days after the information above is published to allow for the public to meaningfully review the data and comment on the EIS.

* That they post clear information on their website of where at to whom to send public comments by the new deadline.

Thank you with all due respect.

Best regards
Michael Paoli
Chicago, IL 60626
I'm very concerned about continued landfill use at Calumet site.
Mike Roche
From: Richard Ward
To: Michael Padilla, CIV CELRC CELRD (US)
Subject: [Non-DoD Source] Questions on the CALUMET COMBINED DISPOSAL FACILITY
Date: Thursday, June 6, 2019 7:08:32 PM

Army Corps of Engineers' Michael Padilla (Project Manager), please publish the following information and data on the project website (Reference noted below):

* That the Army Corps of Engineers immediately make public on their website the environmental data, including any Lake Michigan water quality or sediment sampling and analysis and dredged material sampling and analysis, supporting the ACOE's determination that the current Confined Disposal Facility (CDF) has operated “safely” since 1984.
* That the ACOE extend the public comment period by an additional 45 days after the information above is published to allow for the public to meaningfully review the data and comment on the EIS.
* That ACOE post clear information on their website of where and to whom to send public comments by the new deadline.

The current Environmental Impact Statement should be updated and the changes (additions) should be highlighted in larger bold font, so that the public can more easily find and understand the ACOE's documented reasoning for supporting this project. Please consider each of these three requested issues as separate questions that must be answered individually according to the regulations adopted after the National Environmental Policy Act was adopted by Congress in 1969.

Reference: The current Draft Environmental Impact Statement (EIS) can be found on the project website: Blockedhttps://www.lrc.usace.army.mil/Missions/Civil-Works-Projects/Calumet-Harbor-and-River/ <Blockedhttp://r20.rs6.net/tn.jsp?f=001oAlGGJms-PuVEztQ4G2GGqnwoqaFxY_DVZx3O7L8f6sQy3LArLaA5Yo5lO5h5yv33c5c一件e7Xwam5XxGyXxG5Lr5Q8x5j5Q85g43479Q9857%8fZ5v3f5=6>

We remember the cost-benefit analysis errors of the ACOE and USEPA that ignored the necessary $7 Billion cost of separating the combined water collection system when approving the $3 Billion cost of the Deep Tunnel in the 1970s. The stated objective was to eliminate basement, viaduct, and street flooding, and without separating the then-existing combined sewer system, that objective has proved elusive for several decades. Furthermore, a sample survey just west of Lake Tech revealed the public had protected themselves with thousands of Sindel back-up valves (manufactured in Milwaukee) in their basement drains.

Sincerely,

Richard Ward

Richard F. Ward
155 N. Harbor Dr. #5101
Chicago, IL 60601
Phone: 312-938-0884
Jason,

We have provided comments for the Chicago Area Waterway System (CAWS) Dredged Material Management Plan (DMMP) and Integrated Environmental Impact Statement (EIS) or Integrated Environmental Assessment (EA) since 2015, most recently in the form of a Fish and Wildlife Coordination Act Report dated November 4, 2019.

Regarding comments on potential impacts to Federally listed species, we provided comments to the Corps early in the review process (2014) indicating that we did not have concerns about listed species in the project area (as indicated on page 88 of the attached DMMP_Appendix A1 - Coordination Appendix Attachments_1-5).

Based on the information provided, we agree with your "no effect" determinations for the listed species in Cook County, Illinois. Please contact me if you have any further questions.

Sincerely,

Shawn Cirton
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Chicago Illinois Field Office
230 South Dearborn Street, Suite 2938
Chicago, IL 60604
(847)366-2345
Shawn,


After consulting the list of Threatened and Endangered species for Cook County IL (Blockedhttps://www.fws.gov/midwest/endangered/lists/illinois-cty.html), we determined that no threatened or endangered species or their habitat are likely to be found within the project area. The project area is a heavily degraded, highly modified parcel of industrial land and is worked extensively to help meet dredging needs for the Calumet Harbor and River. Due to a lack of any listed species, we have determined that there will be no effect to listed species. We are requesting concurrence with this determination under Section 7 of the Endangered Species Act.

Thank you, please let me know if you have any questions.

Jason Zylka
Ecologist
US Army Corps of Engineers, Chicago District
231 S. LaSalle Street, Suite 1500
Chicago, IL 60604-1437
jason.zylka@usace.army.mil

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