



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CECW-P

AUG 22 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Interim Guidance on the Conduct of Disposition Studies

1. The Fiscal Year 2016 Consolidated Appropriations bill provides funding for five studies necessary to deauthorize and dispose of U.S. Army Corps of Engineers projects. The studies therein are referred to as Disposition Studies. The purpose of this guidance is to establish a process for executing Disposition Studies initiated in FY 2016 and inform future program-wide guidance. Disposition Studies will be 100% federally funded and will not require a new start budget decision.
2. Disposition Studies are cooperative efforts with shared information needs for the deauthorization and disposal recommendations. While project delivery teams (PDTs) include multiple disciplines, the Real Estate, Operations, and Planning staffs must work closely together to make efficient and effective use of available and developed data and information. The disposition study recommendations include consideration of multiple criteria.
3. Disposition Studies must utilize risk-informed planning in order to scale the effort of work to support each decision point. PDTs must take special care when identifying and evaluating viable alternatives.
4. The enclosures include the process and procedures for use in the conduct of the deauthorization portion of the studies. Real Estate will issue additional guidance on the Real Estate requirements to support deauthorization and subsequent disposal, including identification of the appropriate authority and process for disposal of the project.
5. The point of contact for the attached guidance is Ms. Maria Wegner, Senior Policy Advisory, Planning and Policy Division, who can be reached at 202-761-5541.

A handwritten signature in blue ink, appearing to read "J. Dalton", is located below the list of enclosures.

JAMES C. DALTON, P.E.
Director of Civil Works

3 Encls

1. Disposition Study Guidance
2. Disposition Study Timeline
3. Content of the Disposition Report

DISTRIBUTION:
(see next page)

CECW-P

SUBJECT: Interim Guidance on the Conduct of Disposition Studies

DISTRIBUTION:

COMMANDERS,

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PACIFIC OCEAN DIVISION, CEPD

SOUTH ATLANTIC DIVISION, CESAD

SOUTH PACIFIC DIVISION, CESP

SOUTHWESTERN DIVISION, CESWD

1. References:

- a) ER 1105-2-100, Planning Guidance Notebook (2001)
- b) ER 1105-2-101, Risk Analysis for Flood Damage Reduction Studies (2006)
- c) ER 1165-2-119 Modifications to Completed Projects (1982)
- d) EC 11-2-XXX, Annual Civil Works Program Development Policy Guidance
- e) Planning Bulletin 2016-02, Civil Works Review
- f) ER 1110-2-1156 Safety of Dams—Policies and Procedures
- g) ER 1165-2-26 Implementation of Executive Order 11988 on Flood Plain Management (1984)
- h) ER 200-2-2 Procedures for Implementing NEPA (1988)
- i) Director of Civil Works Memorandum, SUBJECT: Corps of Engineers Civil Works Cost Definitions and Applicability, August 25, 2011
- j) Planning Bulletin 2013-03-Reissue, SMART Planning Milestones
- k) ER 405-1-12 Real Estate Handbook

2. Definitions.

- a) Disposal. Any authorized method of permanently divesting the Department of Army of control of and responsibility for real estate.
- b) Disposition Study. A specific type of study conducted under the authority of Section 216 of the Flood Control Act of 1970 (Review of Completed Projects) with the intent to determine whether a water resources development project operated and maintained by the Corps of Engineers should be deauthorized, and if the associated real property and Government-owned improvements should undergo disposal. Property or improvements required for a project to function as authorized and constructed cannot be determined to be in excess and disposed of until Congress deauthorizes the project. The study's focus is on whether federal interest exists to retain the project for its authorized purpose(s), based on an evaluation and comparison of the benefits, costs, and impacts (positive and negative) of continued operation, maintenance, repair, replacement, and rehabilitation, or the lack thereof, on the one hand and of deauthorization and disposal of the associated real property and Government-owned improvements on the other. Disposition studies will be 100% federally funded and will not require a "new start" budget decision.

Enclosure 1

3. Additional Opportunities. If opportunities exist to modify a project to serve its authorized or a new water resources development purpose, such as ecosystem restoration, investigation of such opportunities will need to occur under the appropriate authority in a feasibility or major rehabilitation study. Studies of such opportunities are subject to available funding through the budgeting process and will not be conducted using disposition study funding.
4. Purpose. The purpose of this guidance is to establish a process for executing disposition studies initiated in FY16 and inform future program-wide guidance. The study will follow the six-step planning process. The study effort is scalable. The vertical team will use common sense and sound judgment in the application of these procedures, and exceptions to the process in this guidance must be coordinated with the vertical team to include Operations, Real Estate, Planning, etc.
5. Cooperative Efforts. Disposition studies are cooperative efforts with shared information needs for making 'deauthorization' and 'disposal' recommendations. While study teams include multiple disciplines, the Real Estate, Operations, and Planning staffs must work closely together to make efficient and effective use of the available and developed data and information. The disposition study recommendations include consideration of multiple criteria, including real estate recommendations.
6. Real Estate. As part of the disposition study, Real Estate will prepare a preliminary opinion regarding the marketability of the project, in total or as separate segments to other federal agencies, state and local authorities, or private entities. Real Estate work, integral to the disposition study, is funded with disposition study funds. Upon determination that no federal interest in continued operation exists, Real Estate will develop a recommendation for the disposal of the project post-deauthorization taking into account known stakeholder interests, local opportunities, and the capability of potential end users. The recommendation will outline the terms and conditions of any proposed transactions, the costs and time likely required to implement the recommendation, and an analysis of the pros and cons (including costs vs. benefits) of the disposal plan commensurate with the level of detail of the overall disposition study. Additional guidance on the real estate requirements to support deauthorization and subsequent disposal will be provided under separate cover.
7. The milestone process for disposition studies includes three milestones: a Decision Meeting, a Tentatively Selected Plan/Draft Report Milestone, and a Final Report.
 - a) Decision Meeting. The district will hold a vertical team decision meeting as soon as possible after, but in all cases within 60 days of the initial receipt of funding or issuance of this guidance, whichever is later. The Chief, Planning and Policy Division is the decision maker. The Chief, Real Estate Division will also inform the decision process. The purpose of the Decision Meeting is to establish that Federal interest in the project no longer exists, the project remains a candidate for a disposition study; document and gain vertical concurrence on the scope proceeding to the Tentatively Selected Plan

- b) Milestone, if needed; and document the decisions made in the meeting. The level of detail, criteria, and questions noted in Paragraph 8.a of this document guides the outcome of the Decision Meeting. The expectation is that work in support of and participation in the Decision Meeting cost no more than \$50,000. The Decision Meeting will result in an appropriately scaled vertically-aligned path forward for the study, which will fall under one of two tiers as outlined in the following sub-paragraphs.
 - i) Proceed with a Disposition Study. The District Planning office will be the lead for the disposition study with direct support from a multi-disciplinary team, including the Operations and Real Estate offices. If it is determined at the Decision Meeting that the study will continue, the study team will produce a disposition report (see Enclosure 3).
 - ii) Terminate Disposition Study. Termination of the Disposition Study may occur when the need for Major Rehabilitation is substantiated; modifications to existing project purposes are recommended; and/or when No Action is recommended. The disposition study will conclude with a memorandum from the District Commander stating the reason(s) and identification of the appropriate path forward for future studies. Any remaining disposition study funds must be returned immediately and additional work will follow normal budgetary procedures.
 - (1) Transition to a Feasibility Study. If it is determined that opportunities exist to modify a project to serve a different water resources development purpose, investigation of such opportunities may occur if funded in a new start and a feasibility study is cost-shared with a non-Federal sponsor.
- c) Tentatively Selected Plan (TSP)/Draft Disposition Study Report Milestone. The TSP milestone is satisfied when the Chief of Planning and Policy, Headquarters agrees that the recommendation is sufficient to release the draft report for any required concurrent public, technical, policy, and legal reviews, including those required by reference 1.h). Reference 1.j) further outlines the requirements of the TSP Milestone. For disposition studies, scale and scope will be commensurate with the project specifics (see Paragraph 8.b).
- d) Final Report. The Division Engineer's submittal of the final report to Headquarters initiates a series of Washington-level actions that ideally will culminate in the deauthorization and disposal of the project. The disposition study ends when the Division Commander transmits the final report to Headquarters, USACE for review and processing. Headquarters, USACE and the ASA(CW)'s office will identify the appropriate means to notify Congress and the Administration of the recommendation following their respective reviews. It is not expected that a Civil Works Review Board is required to support deauthorization and disposal recommendations. The processes and requirements for transmittal are described in Reference 1.a and 1.j. Required final report submittals must include:
 - Division Engineer's Transmittal Letter;

- Final report with EIS or EA and appendices;
- Draft ROD or draft FONSI;
- Report mailing list;
- Risk Register and Decision Management Plan;
- Project Study Issue Checklist;
- Documentation and certification of peer review; and
- District Legal Sufficiency Review.

8. Disposition Study Procedures. The disposition study utilizes risk-informed planning in order to scale the effort of work to support each decision point. The project delivery team (PDT) should anticipate three iterations of the planning process, with the focus of each subsequent iteration on reducing uncertainty and increasing the level of detail for those factors most critical to decision-making. The focus of each iteration follows, but the details necessary or number of iterations may vary based on the site-specific context of each disposition study. The period of analysis for the disposition study is 50 years.

- a) The objective of the first iteration is a demonstration of a federal interest, or lack thereof, in continuing to retain the project for its currently authorized purposes based upon existing and anticipated future conditions. The first iteration of the planning process for a disposition study utilizes risk-informed planning to scale the effort of work in support of the Decision Meeting Milestone. The first iteration occurs prior to the Decision Meeting Milestone, is expected to take no more than 60 days, and will utilize existing information with high uncertainty expected. Teams are encouraged to hold this milestone as soon as the information is available to do so.
- i) Work begins with an explanation of how the project became a candidate for a disposition study, including the project's performance history and a summary of the trends that indicate the extent, or limit of, the national economic development benefits. Additionally, in consideration of the questions in paragraph 8.a) iv), the study includes a forecasted future condition to determine if the expected future condition demonstrates a need for the project or if the project could be modified to meet future needs other than the one(s) for which the project was authorized. During the first iteration, the PDT also initiates coordination with relevant resource agencies.
- ii) Real Estate will provide input to the first iteration based upon real estate analysis completed to date. Operations will also provide input based on their functional role, including operating history, ongoing and needed operations, maintenance activities and costs, and project condition information.
- iii) The following categories of alternatives must receive consideration; however, additional alternatives may be identified based on site-specific conditions:
 - (1) No Action. The No Action alternative includes the existing and future without-project operations, maintenance, repair, rehabilitation, and

replacement of the existing project, including consideration of its current status and any changes in the status over the period of analysis; and

- (2) Deauthorize the project and dispose of the associated real property and improvements in accordance with the appropriately identified authority unless a specific disposal authority is granted based on site-specific conditions, including removal of the project improvements. This alternative includes a consideration of potential future uses of the real property and improvements, considering the process and priorities outlined in the identified authority or authorities, including actions needed to prepare the land and improvements associated with a project for disposal;

iv) The focused questions to be addressed to inform the Decision Meeting are:

- (1) Does the project currently meet its authorized purposes? Why or why not?
- (2) Is there reason to believe that the future condition or needs will be different from those present under the current condition? How so?
- (3) Are there opportunities to modify the project to serve a water resources development purpose other than the one for which it was originally authorized?
- (4) Does the project pose a risk to public safety? What is the project's Dam Safety Action Classification (DSAC), if applicable? Describe the risk, including key risk drivers and uncertainties.
- (5) Are there environmental concerns or other controversies surrounding the project that will influence the scope and outcome of the study?
- (6) Are the real property and improvements associated with the project suitable for public uses other than water resources development? Do the real property and improvements have commercial value?
- (7) Are alterations to improvements likely to be necessary in order to safely dispose of the project?
- (8) What is the annual holding cost and anticipated transaction cost, including any rehabilitation required?
- (9) What other special considerations or potential liabilities exist due to retaining ownership of the project?
- (10) What is the level of Congressional Interest in the project and disposition study, if any?
- (11) What uncertainties need reduction in order to make a recommendation?

- (12) Are there issues of interest for the vertical team to monitor and review, which would help to inform the deauthorization and disposal process?
- v) The results of this iteration include: problems and opportunity statements; planning objectives and constraints; narrative descriptions of the existing and future without project conditions; a list of the most significant uncertainties in the study; an initial array of alternatives; a qualitative evaluation and comparison of alternatives; and an assessment of the likelihood of disposal success.
 - b) The second iteration of the planning process should take no more than 3 additional months; will focus on decreasing uncertainty by refining information and data necessary to inform decision-making; and culminates in the TSP/Draft Report Milestone. This iteration allows time to gather information held by others, the utilization of risk-informed methodologies, an improved understanding of the period of analysis, further refinement of the alternatives and their evaluation and comparison, and completion of required documentation.
 - i) The focused questions addressed in this iteration are similar to the first iteration, but the information must be presented in more detail where more detail was required by the scope identified as a result of iteration one.
 - (1) Does the project currently meet its authorized purposes? Why or why not?
 - (2) Is there reason to believe that the future condition or needs will be different from those present under the current condition? How so?
 - (3) After considering the data and additional information, were the alternatives reviewed and considered in order to inform the TSP?
 - (4) What are the key changes to the economic, environment, and social effects as a result of the TSP? How do these compare to those of other alternatives?
 - (5) Does the project pose a risk to public safety? What is the project's DSAC? Describe the risk, including key risk drivers and how the risk would be expected to change as a result of the TSP.
 - (6) Are there environmental concerns or other controversies surrounding the project that will influence the outcome of the study?
 - (7) Is there a stakeholder interested in taking ownership of the project? Does the stakeholder have the financial and legal capacity to assume ownership of the project?
 - (8) What is the level of Congressional Interest in the project and disposition study, if any?

- (9) What is the TSP and why?
 - (a) What is the annual holding cost and anticipated transaction costs, including any rehabilitation required?
 - (b) What other special considerations or potential liabilities exists due to retaining ownership of the project?
 - (c) What uncertainties remain in support of this decision and its outcomes, and how will USACE manage the risk and uncertainty moving forward?
- (10) Are there issues of interest for the vertical team to incorporate in to the deauthorization and disposal process?
- c) The third iteration of the planning process consists of refinement of a TSP/Draft Report, including any additional work necessary to support the TSP, required reviews, and a Final Report. This iteration should to take no more than six months and focuses on meeting the requirements to support a recommendation for deauthorization to Congress.

9. Study Considerations.

- a) Study Continuation. PDTs must take special care when identifying viable alternatives. If disposal is unlikely, the disposition study must stop work. The study can then transition to a more traditional feasibility study if authorization, sponsorship and new start funding permit. Initial plan formulation will consider which divestiture option best serves the interest of the public, including consideration of the No Action alternative.
- b) Evaluation Procedures and Methodologies. The disposition study will use the four Principles and Guidelines accounts: National Economic Development (NED), Regional Economic Development (RED), Other Social Effects (OSE), and Environmental Quality (EQ)) to document the positive and negative benefits, costs, and impacts of alternatives at a scale appropriate to support a deauthorization recommendation.
- i) Economic Evaluation. An economic analysis will support the deauthorization decision for disposition studies and documentation of the impacts of alternatives, including disposition, to the extent the impacts are known and able to be quantified and monetized. The analysis must consider both benefits and costs that result from the alternatives. In general, economic benefits and costs will be calculated using established methodologies and procedures as defined in the Planning Guidance Notebook ER 1105-2-100. To the extent practicable, the economic analysis will evaluate alternative plans based on quantitative metrics, but qualitative presentation is acceptable where warranted. Benefits and costs will be based on current price levels and shown as annualized values discounted over the period of analysis using the current fiscal year (FY) federal discount rate.

- ii) Safety Evaluation. A dam safety analysis must be on the critical path for all decisions regarding USACE dams, including deauthorization and divestiture. All decision documents must describe the safety evaluation of the project in its current state and any reasonably anticipated changes to the risks posed by the project over the period of analysis.
- (1) For projects that include a dam as defined in reference 1.f), the decision-making process and decision document must include the DSAC and basis thereof. The PDT will use the four accounts to document changes in life-safety, economic, and environmental impacts; however, the Safety Evaluation section of a decision document (see Enclosure 3) must include a summary of the risk information to support the current DSAC and any changes estimated in evaluating alternatives. The criteria for use of “insignificant or no consequences” is provided in reference 1.f). The USACE Dam Safety Officer must concur with changes in the assessed risks.
- (2) The disposition study must adhere to all relevant portions of reference 1.f). Prior to disposal and throughout the disposition study, the stakeholders and potential end users must be made aware, in writing, of the current DSAC, that the classification represents the current risk posed by the project, that dam safety risks are dynamic, that future performance could require additional investment, and that the dam will remain under the state’s dam safety program and those requirements must be met. Additionally, the stakeholders and potential end users must be made aware of the dam’s design, expected function of the project elements, requirements of operation, and all state and federal requirements for operation of the project once the project is disposed. USACE must also present the anticipated operations, maintenance, repair, rehabilitation, and replacement (OMRR&R) costs and schedule to the stakeholders and potential end users.
- (3) For dams meeting the criteria in Appendix H of reference 1.f), review of the memorandum documenting the status as “exempt” is required, and any changes in criteria status documented by updated memorandum.
- iii) Environmental Compliance. Compliance with all applicable federal, state, and local environmental protection statutes and regulations is required. The NEPA requires federal agencies, including USACE, to comply with a process that includes the inventory and assessment of the environmental resources within the study area. NEPA also requires the evaluation and comparison of alternatives to determine the effects of proposed actions to those ecological, social, cultural, economic, and aesthetic resources identified and investigated. Involvement by resource agencies with jurisdictional responsibilities for, or special knowledge of, significant resources and the public during the study process is also required. USACE guidance for implementation of NEPA is provided in reference 1.h). See reference 1.a) for additional environmental compliance requirements. The disposition study will use an integrated study report and NEPA document for the decision document.

- iv) Executive Order 11988. Deauthorization and disposal area federal actions, as defined by Executive Order 11988. The decision document will incorporate the eight-step process identified in reference 1.g. into the USACE decision-making process for disposition studies at an appropriate scale to inform the potential deauthorization and disposition process.

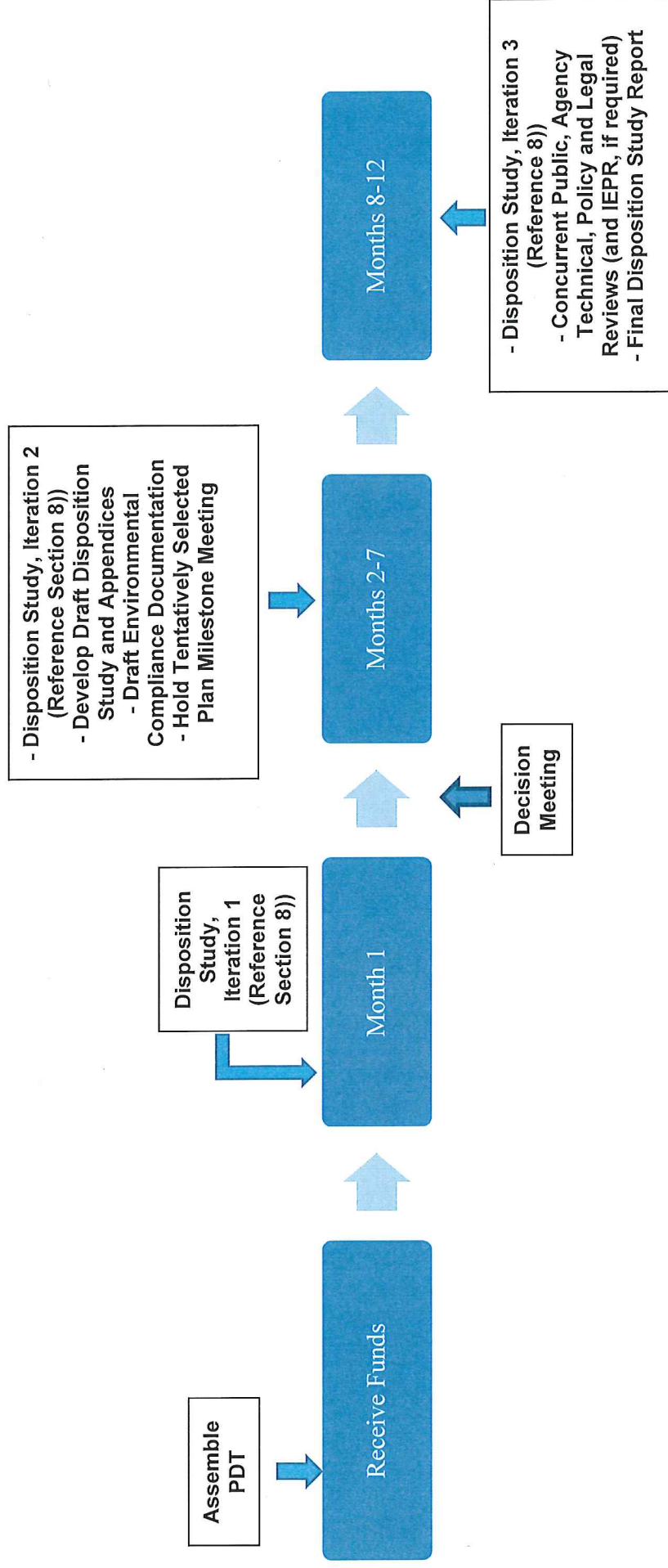
10. Report Content. The principles of planning outlined in ER 1105-2-100 will be followed, and use of an integrated NEPA document and study report is required. The focus of the report is to document the decision made and provide a compelling case for the recommendation, including identifying the benefits, costs, and impacts of deauthorization. Enclosure has an example outline and additional guidance for a disposition study report.

11. Review.

- a) Review of the disposition study will follow the feasibility study review process as outlined in references 1.a) and 1.e). The scale and scope of the review will be commensurate with the complexity of the study.
- b) Planning model approval and certification is not required for disposition studies; however, the decision document must include documentation of any planning models used. The appropriate National Planning Center of Expertise will be consulted regarding the selection of existing models and/or the development of new models. The district quality control (DQC) review, Agency Technical Review (ATR), and if required, Independent External Peer Review (IEPR) must include a review of the planning models. Quality models and application of appropriate models is indispensable to quality decision-making.

12. Direct questions regarding the implementation of this guidance to HQUSACE through the appropriate RIT. The HQUSACE point of contact is Sue Hughes (202-761-4121).

Disposition Study Timeline



Enclosure 2

Content of the Disposition Report

In general, the disposition report will follow the outline below. Add additional information where needed, and focus on describing what the data means within the context of the decision. The scale and scope of the information in the report should be commensurate with the complexity of the disposition study and decision relevant information. Give attention to the uncertainties associated with the decision-relevant information. Use photos, graphics, maps, and other digital tools to support the text. Utilize technical appendices and project files for supporting data and documentation, as needed.

- A. Purpose of the Study
- B. Project Authorization and History (include all applicable authorizations)
- C. Study Area Detailed Project Description
- D. Historic and Existing Conditions (Detailed Project Descriptions)
 - a. History of Performance (as compared to authorized purpose)
 - b. Operation and Maintenance History (including life cycle costs post construction)
 - c. Existing Safety Evaluation
 - d. Summary of Asset Holding (e.g. Real Estate)
- E. Description of Federal Interest in Disposition
 - a. Screening and Selection Criteria
 - b. Eligibility for disposition
- F. Plan Formulation and Evaluation
 - a. Problems and Opportunities
 - b. Future without Project Condition
 - c. Alternatives Description
 - d. Evaluation of Benefits and Costs(monetary and non-monetary) of Alternatives (NED/RED/OSE/EQ)
 - e. Safety Evaluation for Alternatives
 - f. Comparison of Alternatives
- G. Recommended Plan
 - a. Description of Plan
 - b. Environmental Effects
 - c. Economic Effects
 - d. Other Social Effects
 - e. Safety Effects
 - f. Cultural Resources
- H. Environmental Compliance and Mitigation Requirements (delete if none)
- I. Description of Interested Party
 - a. Description of the entity
 - b. Capability of entity to assume ownership
- J. Requirements for Implementation of Recommendation
 - a. Cost and schedule

Enclosure 3

K. Appendices

- a. Real Estate (additional guidance forthcoming)
- b. Other Appendices, as needed