

REAL ESTATE APPENDIX

Manteo, Old House Channel, NC Section 204

**Beneficial Use of Dredged Material
For Oyster Reef Restoration Project**

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SECTION 1. THE REAL ESTATE REPORT

1.1 Statement of Purpose

This report is tentative in nature, focuses on the Tentatively Selected Plan, and is to be used for planning purposes only. There may be modifications to the plans that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or administrative and land cost. The Real Estate Appendix is intended to support the Detailed Project Report and Environmental Assessment for the Manteo, Old House Channel, NC Section 204 project. The author of this report is familiar with the Project area. The state of North Carolina Department of Natural Resources, Division of Water Resources, is the non-Federal sponsor for the project. Date of this report is February 2013.

1.2 Study Authority

The study authority is the Continuing Authorities Program (CAP) Section 204 of the Water Resources Development Act of 1992 (WRDA 1992) – Beneficial Uses of Dredged Material, as amended by Section 2037 of WRDA 2007.

1.3 Project Location

The project study area is the 17 square mile area identified in Figure 1.3-1. The location was chosen based on its vicinity to state oyster restoration efforts, and identified dredged material disposal needs from Old House Channel (Range 2). The center of the study area is approximately 4.5 miles southwest of Oregon Inlet. Range 2 of Old House Channel runs through the middle of this area. The larger surrounding project vicinity is Pamlico Sound, NC as shown at Figure 1.3-2. Pamlico Sound is part of an interconnected set of estuaries that make up Albemarle Pamlico National Estuary, the second largest sound in the United States and the largest sound on North Carolina's east coast. It is separated from the Atlantic Ocean by the narrow barrier islands of the Outer Banks and represents North Carolina's key resource base for commercial fishing, recreational fishing and tourism.

1.4 Project Description

Under the Tentatively-Selected Plan (TSP) three submerged oyster reefs would be constructed within close proximity of each other, approximately 1.7 miles from Old House Channel (Range 2). Stone sills made of NCDOT Class 2 armor stone (9"-23") would be constructed to create three 5.07 acre containment areas for dredged material. The three 5.07 acre containment areas would contain a total of approximately 135,000 cubic yards of dredged material. The three separate containment areas would be constructed in close proximity of each other with spacing of approximately 100 yards. Reefs would be constructed during a regularly scheduled maintenance dredging cycle for the navigation channels. Dredged material from maintenance dredging of the federal navigation channel would be pumped into the containment areas and would, most likely, utilize a hydraulic pipeline dredge. However, other dredges could be used. The dredged material would be covered with NCDOT Class A stone and oyster shell to provide habitat for establishment of oysters. Approximately 18 acres of new oyster reef habitat would be created, as well as enhanced service area associated with the reefs. All work to take place involving reef development and construction will be accomplished below mean high water (MHW). These areas are considered to be in state

waters and a permit will be required from the State of North Carolina Department of Administration State Property Office to allow for construction of the project in state waters.

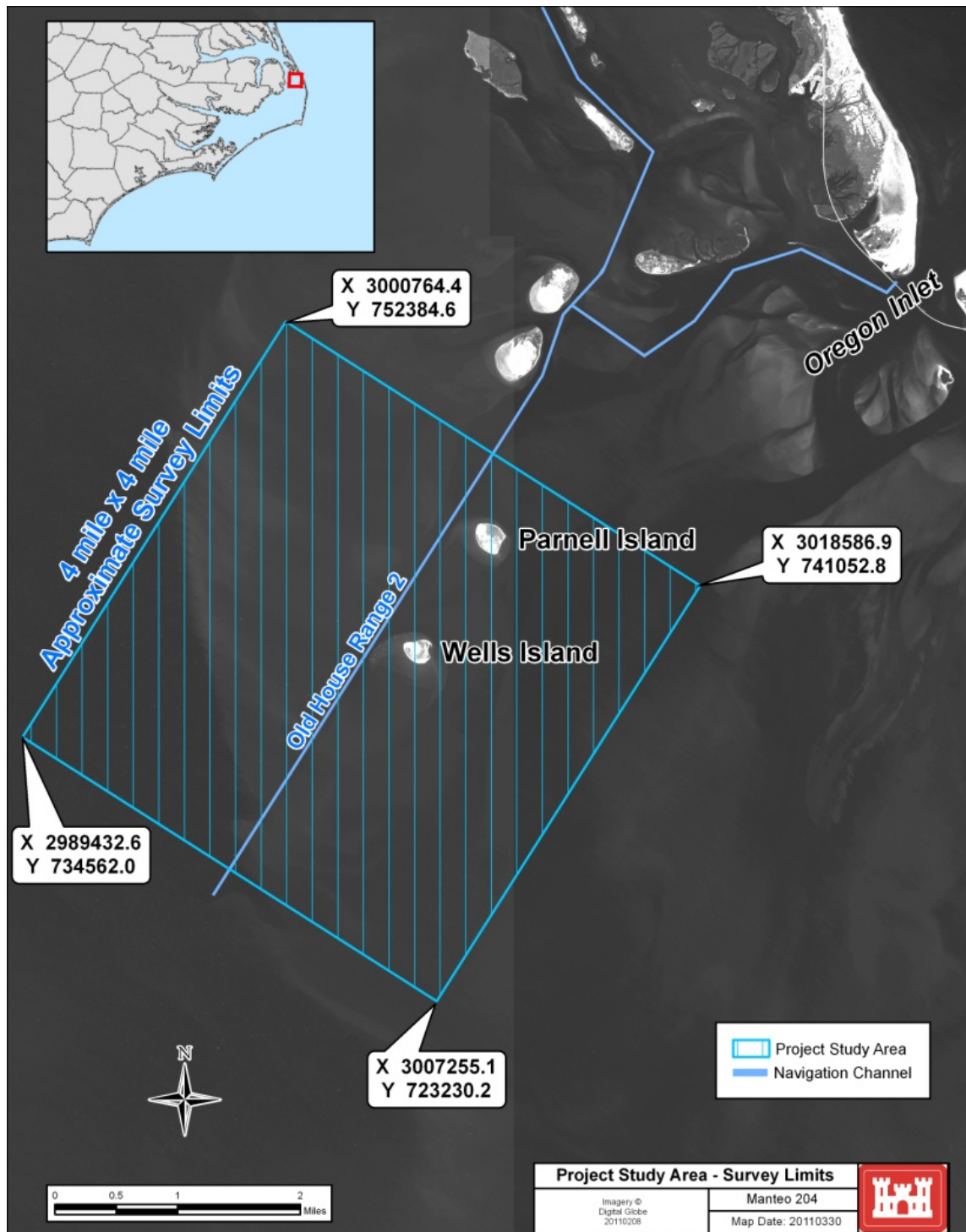


Figure 1.3-1 – Project Location

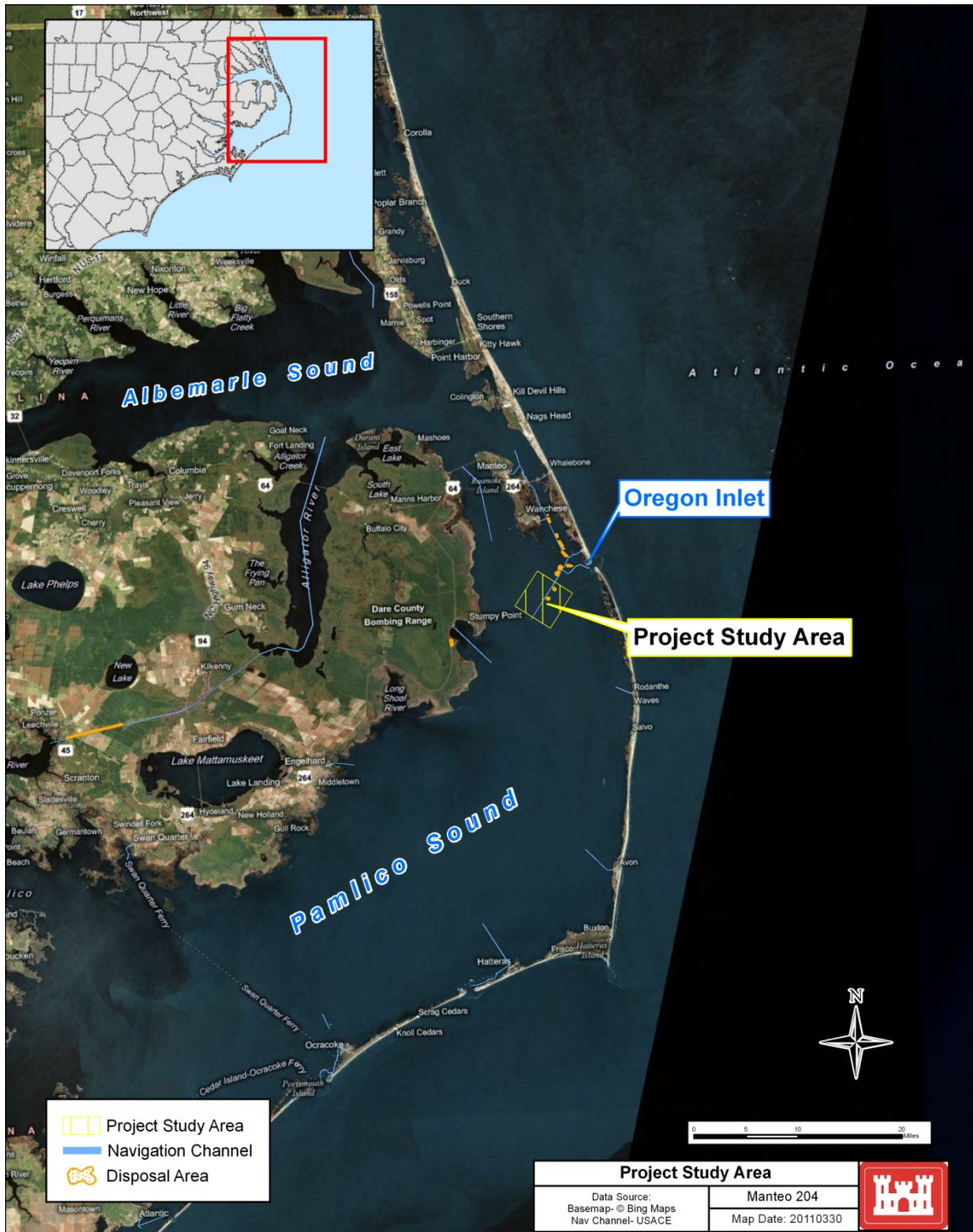


Figure 1.3-2 – Project Area in Relation to Pamlico Sound.

1.5 Real Estate Requirements

As this project will make beneficial use of dredged material, no borrow site is required. Work in state waters below mean high water will be by permit from the State. The only other real estate requirement identified is a staging area of approximately 0.5 of an acre that will be needed for an estimated period of 6-12 months. Two parcels as shown in Figures 1.5-1 and 1.5-2 are owned by the State of North Carolina and either of which could be used for a staging area. A Temporary Work Area Easement for the staging areas could be accomplished within 3-6 months.

1.6 Utility/Facility Relocation

There are no utility/facility relocations with this project

1.7 Existing Projects

Existing projects include the Manteo (Shallowbag) Bay Navigation Project, State of North Carolina's Oyster Sanctuary Program, and Festival Park, Roanoke Island, NC Aquatic Habitat Restoration and Protection Project. See section 3.2 Existing Projects of the DPR for more detail on these projects.

1.8 Environmental Impacts

The proposed project would offer environmental improvements by creating new oyster reefs. No significant adverse environmental impacts are expected.



Figure 1.5-1 –Potential Staging Area Dare County



Figure 1.5-2 –Potential Staging Area Hyde County

1.9 Project Sponsor Responsibilities and Capabilities

The State of North Carolina will be the non-Federal Project Sponsor (NFS). The NFS has the responsibility to acquire all real estate interests required for the Project. The NFS shall accomplish all alterations and relocations of facilities, structures and improvements determined by the government to be necessary for construction of the Project. The sponsor will have operation and maintenance responsibility for the project after construction is completed.

Title to any acquired real estate will be retained by the NFS and will not be conveyed to the United States Government. Prior to advertisement of any construction contract, the NFS shall furnish to the government an Authorization for Entry for Construction (Exhibit "A" to the Real Estate Appendix) to all lands, easements and rights-of-way, as necessary. The NFS will also furnish to the government evidence supporting their legal authority to grant rights-of-way to such lands. The NFS shall comply with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, approved 2 January 1971, and amended by Title IV of the Surface Transportation Uniform Relocation Assistance Act of 1987, Public Law 100-17, effective 2 April 1989, in acquiring real estate interests for the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act(s). An Assessment of the Non-Federal Sponsor's Capability to Acquire Real Estate is at Exhibit "B" to the Real Estate Appendix

The non-Federal sponsor is entitled to receive credit against its share of project costs for the value of lands it provides and the value of the relocations that are required for the project. Generally, for the purpose of determining the amount of credit to be afforded, the value of the LER is the fair market

value of the real property interest, plus certain incidental costs of acquiring those interests, that the non-federal sponsor provided for the project as required by the Government.

The NFS should not acquire lands required for the project prior to execution of the Project Partnership Agreement (PPA). Should the NFS proceed with acquisition of lands prior to execution of the PPA, it is at the risk of not receiving credit or reimbursement for any costs incurred in the connection with the acquisition process should the PPA not be signed. There is also risk in acquiring lands either not needed for the project or not acquired in compliance with requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989.

1.10 Government Owned Property

The State of North Carolina is owner of the land proposed for staging areas for the project. There is no Federally owned land within the areas proposed for construction of the project.

1.11 Historical Significance

Historical research has identified the loss of ninety vessels in the vicinity of Oregon Inlet. Despite the large number of sunken vessels in the vicinity, there are no known recorded archaeological sites within the proposed project area.

1.12 Mineral Rights

There are no known mineral activities within the scope of the proposed project.

1.13 Hazardous, Toxic, and Radioactive Waste (HTRW)

The project area under consideration is not located in an industrial site or dump. If hazardous and toxic wastes are identified in the area, response plans and remedial actions will be conducted as appropriate.

1.14 Navigation Servitude

Navigation Servitude is not applicable to this project.

1.15 Zoning Ordinances

Zoning ordinances are not of issue with this project. Application or enactment of zoning ordinances is not to be used in lieu of acquisition.

1.16 Induced Flooding

There will be no flooding induced by the construction or the operation and maintenance of the project.

1.17 Public Law 91-646, Relocation Assistance Benefits

There are no relocations of individuals, businesses or farms for this project.

1.18 Attitude of Property Owners

The project is fully supported. There are no known objections to the project from landowners within the project area.

1.19 Acquisition Schedule

The project sponsor is responsible for acquiring real estate interests required for the project. The State owns two parcels, either of which may be used for a staging area. It is projected that a Temporary Work Area Easement can be accomplished within 3-6 months, and can begin when final plans and specs have been completed and the PPA has been executed. The Project Sponsor, Project Manager and Real Estate Technical Manager will formulate the milestone schedule upon project approval to meet dates for advertisement and award of a construction contract.

1.20 Estates for Proposed Project

The standard temporary work area easement will be used for the staging areas.

The Temporary Work Area Easement

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____), for a period not to exceed _____, beginning with date possession of the land is granted to the Sponsor for use by the Sponsor, its representatives, agents, and contractors as a work area, including the right to move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of **the Manteo, Old House Channel, NC Section 204 Project**, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

1.21 Real Estate Estimate

The real estate requirements are minimal for this project. The appraisal of the TWA easement is considered uncomplicated and under \$25,000, therefore an Informal Value Estimate (IVE) was performed in May 2011 to determine land costs. The estimated real estate costs include the land cost for acquisition of land, relocation costs, and federal and non-federal administrative costs. Administrative costs are those costs incurred for verifying ownership of lands, certification of those lands required for project purposes, legal opinions, analysis or other requirements that may be necessary during Planning, Engineering and Design (PED). A 25% contingency is applied to the estimated total for these items. Table 1.21-1 is a summary of the real estate cost by measure.

Table 1.21-1.
Real Estate Estimate

a. Lands		
Staging Area 1.0ac		5,500
2 TWA Easements		
b. Improvements		0
(Residential)		0
(Commercial)		0
c. Mineral Rights		0
d. Damages		0
e. P.L. 91-646 Relocation costs		0
f. Acquisition Cost - Admin (1 ownership)		25,000
Federal	5,000	
Non-federal	20,000	
	25,000	
1 Permit	5,000	5,000
Sub-Total		35,500
Contingencies (25%)		8,875
TOTAL		44,375
ROUNDED		44,500

1.22 Chart of Accounts

The cost estimate for all Federal and non-Federal real estate activities necessary for implementation of the project after completion of the feasibility study for land acquisition, construction, LERRD, and other items are coded as delineated in the Cost Work Breakdown Structure (CWBS). This real estate cost estimate is then incorporated into the Total Current Working Estimate utilizing the Microcomputer Aided Cost Engineering System (MCACES).

Table 1.22-1.
Chart of Accounts

		Federal	Non-Federal	Total
01B	LANDS AND DAMAGES			
01B40	Acq/Review of PS	5,000		5,000
01B20	Acquisition by PS		20,000	20,000
01BX	Contingencies (25%)	1,250	5,000	6,250
	Subtotal	6,250	25,000	31,250
01G	Temporary Permits/Lic/ROEs			
01G10	By Govt			
01G20	By PS		5,000	5,000
01G30	By Govt on Behalf of PS			
01GX	Contingencies (25%)		1,250	1,250
	Subtotal		6,250	6,250
01H	AUDIT			
01H10	Real Estate Audit			
01HX	Contingencies (25%)			
	Subtotal			
01R	REAL ESTATE LAND PAYMENTS			
01R1B	Land Payments by PS		5,500	5,500
01R2B	PL91-646 Relocation Pymt by PS			
01R2D	Review of PS			
01RX	Contingencies (25%)		1,375	1,375
	Subtotal		6,875	6,875
	TOTALS	6,250	38,125	44,375
	ROUNDED TO			\$44,500

Exhibits

Exhibit A - Authorization For Entry For Construction

Exhibit B – Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

I _____, _____ for the
(Name of accountable official) (Title)

(Sponsor Name) _____, do hereby certify that the _____ (Sponsor Name) has acquired the real property interest required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands to support construction for (Project Name, Specifically identified project features, etc.). Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon _____
(identify tracts)

to construct (Project Name, Specifically identified project features, etc.) as set forth in the plans and specifications held in the U. S. Army Corps of Engineers' (district, city, state)

WITNESS my signature as _____ for the
(Title)

(Sponsor Name) this ____ day of _____, 20____.

BY: _____
(Name)

(Title)

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, _____, _____ for the
(Name) (Title of legal officer)

(Sponsor Name), certify that _____ has
(Name of accountable official)

authority to grant Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as _____ for the
(Title)

(Sponsor Name), this _____ day of _____, 20____.

BY: _____
(Name)

(Title)

Exhibit A

**Assessment of Non-Federal Sponsor's
Real Estate Acquisition Capability
Manteo Section 204**

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **YES**
- b. Does the sponsor have the power to eminent domain for this project? **YES**
- c. Does the sponsor have "quick-take" authority for this project? **YES**
- d. Are any of the land/interests in the land required for this project located outside the sponsor's political boundary? **NO**
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **NO**

II. Human Resource Requirements:

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

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? **YES**
- b. Has the sponsor approved the project/real estate schedule/milestones? **NO** – Project Milestone will be developed during PED; will be joint effort between RE, PM and NFS

**Exhibit B
1st page**

IV. Overall Assessment:

- a. Has the sponsor performed satisfactory on other USACE projects?
YES
- b. With regard to the project, the sponsor is anticipated to be: **Highly capable**

V. Coordination:

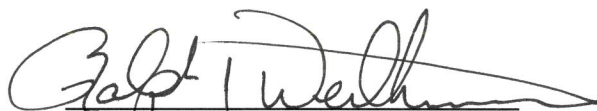
- a. Has this assessment been coordinated with the sponsor? **YES**
- b. Does the sponsor concur with this assessment? **YES**

Prepared by:



Realty Specialist

Reviewed and approved by:



Ralph J. Werthmann
Chief, Real Estate Division

Exhibit B
2nd page