

For St. Johns project

Corps of Engineers will need mitigation land, and easements

By Liz Anderson

Approximately 65 people filled the Circuit Courtroom in New Madrid Tuesday night for the Corps of Engineers landowners meeting on the St. Johns flood control project.

The purpose of the meeting was to tell local people of the status of the project and to let them know what legal "interests" would be required from them to get the project under construction next year.

The Corps has called for a "Milestone Ceremony" Friday to celebrate completing the requirements for compliance with the National Environmental Policy Act (NEPA) and looking forward to the continuation of construction on the flood control project. (See other story)

Larry Sharpe, project manager for St. Johns, said the Memphis District submitted their Record of Decision (ROD) to the Mississippi Valley Division for their review on August 8. It was approved by Division, and the ROD was signed by Brig. Gen. (P) Don T. Riley on August 25.

"That completed NEPA requirements and cleared the way to resume construction," Sharpe said.

The first two items of work proposed for the project are cleaning out the lower three miles of the St. Johns channel (setback levee ditch) on the St. Johns Bayou side of the setback levee, and beginning work on the closure of the 1,500-foot levee gap between the frontline and setback levees near New Madrid.

Sharpe stressed that it is very important for everyone to realize that as they proceed with work on the project, including the gap, cleaning out 23 miles of the ditch, and two pumping stations, they have to purchase mitigation land along with the construction work.

They also must provide all of the

mitigation lands before the gates can go into operation and the project will be functional.

Since the ROD was signed in August, they are finalizing construction plans on the levee closure, the first part where it will tie into the setback levee.

As soon as they get the construction plans complete, they will have identified what rights of way they need, and they will get that to the St. Johns Levee and Drainage District, so the district can get the necessary rights of way.

As they award a contract for an item, they will also acquire enough mitigation for each. At the end of the process, they will have acquired 8,375 acres of farmland to be reforested, 1,317 to cover the work proposed for the St. Johns Bayou portion of the project, and 7,058 for the floodway portion of the work.

Dave Reece, Chief of the Environmental Branch of the Memphis District Corps of Engineers, said mitigation is compensation for environmental impacts created by a water resource project.

In addition to the 8,375 acres of reforestation, the Corps will also acquire 765 acres of herbaceous land for shorebirds.

He also stressed that "concurrent implementation" (purchasing mitigation as portions of the construction project proceeds) is very important. In the past that did not always occur with water projects in other Corps Districts, and projects would be finished before mitigation began.

That will not happen with this project.

The channel enlargement work will only take place in the St. Johns Bayou Basin, Reece said. Each mile of channel work requires 65 acres of mitigation. The St. Johns Levee and Drainage District will have to pur-

chase 195 acres of agriculture land to be reforested to cover the first three miles of channel work.

He said there are also "other considerations" recommended in the Supplemental Environmental Impact Statement, including buffer strips along 64 miles of streams/channels in the floodway anywhere from 25 feet to 100 feet wide along the ditches.

Those are not required as mitigation for the project, but would be very beneficial environmentally, Reece said.

The Corps would need restrictive easements for the buffer strips.

They are also going to try to put together a wildlife corridor between Big Oak Tree State Park and the Ten Mile Pond Conservation Area.

This could be 300-foot wide on each side of the ditch, making a "substantial" wildlife corridor.

The Corps has also made a commitment to the Missouri Department of Natural Resources (DNR) to provide them with river water to seasonally flood Big Oak Tree State Park.

They will also need to get ponding easements for waterfowl in the lower floodway, and will need seasonal easements for that.

Members of the environmental evaluation team, from the EPA, Fish and Wildlife Service, DNR and Missouri Department of Conservation were also present at the meeting Tuesday.

Harris Vandergriff, Chief of the Real Estate Division of the Memphis District, described the legal "interests" that will be needed to complete the project.

They must acquire modified flowage easements over 44,000 acres of land to be able to operate the floodway, should the need for that ever occur. They can condemn to get

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those easements.

In general, they need those easements on land below 300 feet mean sea level. They were not required to have those before, because that land was under water from backwater flooding.

They need to purchase mitigation land from willing sellers, they need restrictive channel improvement easements for streambank buffer areas, for the wildlife corridors and to supply river water to Big Oak Tree State Park.

They need to purchase herbaceous lands for shore birds, a road easement, need seasonal flowage easements for waterfowl ponding from December through January on some of the land, and flowage easements for fish from March 1 to May 15 up to 284.4 elevation.

They also need monitoring well easements.

Vandergriff said the Corps acquires land under PL 91-646, which protects the landowner.

They hire qualified appraisers, look at comparable land sales, and allow the landowner to meet with the appraiser to look at the land.

If the Corps ever has to operate the floodway, and permanent damage occurs to your land, such as sanding or a blue hole, the landowner has the right to file separate damage claims under the Tucker Act. He said the

Corps would assist landowners with that, if desired.

He said they are looking at problems that may occur due to pre-existing easements through the CRP Wetland Program.

The St. John's Levee and Drainage District is responsible for acquiring the levee closure lands, he said.

The appraisal process will begin after that landowner's meeting. Each affected landowner will be contacted as the project progresses, and the project lands will be appraised by a qualified appraiser; the landowner will be given the opportunity to meet and be present during the property inspection. The appraiser will determine the fair market value, based on appropriate appraisal standards.

The appraisal report must be reviewed and approved by his staff. The government will make an offer to the landowner, based on the just compensation from the approved appraisal report, and the landowner agrees to sell.

In the case of the modified flowage easements, if the landowner refuses the offer, the government must acquire the easement by condemnation in Federal District Court.

Money is deposited with the court and can be withdrawn by the landowner as the title passes to the government. A trial date is set at a

later time.

If the judge eventually decides the offer was not enough, the government will pay the landowner the difference, plus interest on the additional money.

The project sponsor is the St. Johns Levee and Drainage District and they must get the necessary rights of way for the levee closure and the ditch cleanout work. Lynn Bock, attorney for the district, said that they will follow the same appraisal methods that govern the Corps' appraisal procedure.

If a landowner refuses their offer based on the appraisal, the district does have the right to condemn where the levee closure will be and for the necessary ditch work, but he added he does not think that will be necessary.

Anyone with questions after the process begins can contact Mr. Willie McClain at 1-800-317-4156, ext. 3603.

They asked anyone present who might be a potential willing seller of mitigation land to please fill out a form at the meeting.

The Corps would like the mitigation land to be in this area, but if not enough land can be purchased, they can look elsewhere. They are particularly interested in land near Big Oak Tree State Park, 10 Mile Pond Conservation Area and the Eagles Nest area in the floodway.