



People and Nature: Our Future is in the Balance

NATIONAL WILDLIFE FEDERATION

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January 31, 2000

Colonel David W. Krueger, District Engineer
U.S. Army Corps of Engineers
Memphis District
167 North Main Street, B-202
Memphis, TN 38103-1894

RE: Grand Prairie Area Demonstration Project, Final Environmental Impact Statement

Dear Colonel Krueger:

The National Wildlife Federation (NWF) appreciates the opportunity to comment on the Final Environmental Impact Statement (FEIS) for the Grand Prairie Area Demonstration Project (GPADP). NWF is the nation's largest non-profit conservation organization, with more than 4 million members and supporters, 46 state affiliate organizations and eight regional offices. NWF's Gulf States Natural Resource Center conducts advocacy and education programs in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, focused primarily on protection and conservation of wetlands and wildlife habitat. Among our members and supporters are many in Arkansas who live, work, and play in the White River Basin, and many more throughout the Mississippi flyway who value the wildlife that live and winter in the watershed.

NWF remains concerned that this very expensive project would do great damage to the unique natural resources of the area, dramatically changing the existing hydrology of the region and damaging important bottomland and riverine ecosystems.

As stated in the Corps' FEIS and in the project's Congressional authorization, the purpose of the project is the protection and preservation of the alluvial aquifer, which is currently being depleted by withdrawals that outpace the aquifer's rate of recharge. Despite the risk of substantial harm to the environment, the project however fails to meet this objective, as it still contains no requirement whatsoever for reduction of groundwater usage. This fact alone should be enough to result in a reassessment of this proposal to expend \$300 million of federal taxpayers' money on the project.

Beyond the substantive problems with this project, the Final EIS fails to adequately address a number of important natural resource issues and thus fails to provide the analysis required by the National Environmental Policy Act (NEPA).

We have related concerns that the sponsorship of the project fails to ensure accountability for

proper implementation of the project, even as envisioned in the flawed EIS, particularly due to the experimental nature of this demonstration project.

The remainder of this letter elaborates on these points.

The White River Basin

The lower Mississippi River basin supports some of the richest wildlife habitat and unique natural systems in North America. Millions of waterfowl migrate the Mississippi flyway, and the region's forested wetlands, rivers and streams are home to bald eagles and other endangered species and diverse aquatic life. The White River drainage is the most distinctive of any drainage in the Western Mississippi Basin, with 150 native species of fish, 11 of them endemic. Project studies and other research document that sixteen species that have received a state designation equivalent to "species of special concern" rely on the habitat of the White River drainage.

The Basin is home to one of the last large tracts of the Big Woods bottomland hardwood ecosystem, 80% of which has already been cleared, and most of the rest of which exists only as scattered remnants. In Arkansas, only 11 percent or about 550,000 acres of its original bottomland forests remain, mostly within publicly owned wildlife refuges and game management areas, many of which are downstream of this project.

The Project

In our comments on the Draft EIS, we expressed concern about the ecological and water quality impacts of converting existing and natural drainages and wetlands to conduits and reservoirs for the project. The FEIS circularly refers back to the study conclusions contained in the Draft EIS, and touts the expected benefits to fish from the presence of more water backed up into pools in the former streambeds turned irrigation ditches. Trading pool habitat for natural stream habitat does not void the impacts of the project. The FEIS does not address, for example, alteration of the hydrology over the project area's 362,662 acres – an area approximately 40 miles in length and 15 miles wide – and the resulting disruption of the stream ecosystems with which it is linked.

Of course, contaminants such as toxic metals, nutrients, and pesticides that could be washed down river to the White River National Wildlife Refuge would also contaminate the water in these irrigation ditches. This places into question the water quality and fish habitat value of the water in the ditches.

We are concerned that the proposed tailwater recovery systems may result in contaminants being concentrated in the on-farm reservoirs, resulting in the reservoirs' inability to support fish and the potential for dangerous spills from these reservoirs in heavy rain events. The FEIS' response to our concern regarding transportation of contaminants down river is to simply state in a conclusory manner that existing water quality should not be affected by the project. This is an inadequate and unacceptable response to a potentially serious environmental concern.

Water is the lifeblood of the area's riverine and bottomland ecosystems, and alterations in

hydrology have the potential to have devastating impacts on the aquatic resources in the basin. NWF is concerned about impacts of drawing water-dependent ecosystems down to levels at or close to required minimum flows for more of the year. Project studies indicate that water level reductions in the White River could impact littoral habitat and connectivity of oxbow lakes. The FEIS states that variability of the hydrograph makes it impossible to determine the effects on the connectivity of at least 4 of the area oxbow lakes, but contains inadequate information regarding likely impacts from the loss of connectivity of these oxbows.

The Corps relies heavily throughout the Reevaluation and EIS on claims of "substantial" project benefits to fisheries from the fish habitat to be created in irrigation ditches and reservoirs. The Corps' own analysis is that fauna of the White River existing tributaries are dominated by a limited range of species and similarity to the parent fauna of the White River is low, "thus mitigating loss in HU's [Habitat Units] in the White River using gains in HU's of the Grand Prairie should not be viewed as in-kind mitigation."

In outlining planned mitigation of project impacts and expectation of project benefits, the FEIS relies heavily on voluntary and inadequately defined mitigation and conservation measures, to be planned later and implemented on private lands. The Corps' response to our earlier comments regarding the lack of specific and enforceable mitigation and conservation measures does little more than merely restate the general description of planned mitigation and conservation measures. There is nothing on which to base a judgement of whether these measures are adequate or even beneficial. As stated in our earlier comments, we are concerned that the measures that are proposed may be unenforceable and thus ineffective. This is a serious failing in the project design and the FEIS.

The FEIS suffers from similar lack of definition in the plan for environmental monitoring. The Corps has provided the public with nothing on the basis of which to evaluate the adequacy of environmental monitoring to be done for this huge demonstration project in a project that is essentially experimental. Neither does the project or the FEIS include any procedures for modifying project activities in response to findings of harmful impacts as a result of any monitoring. The FEIS states, "It is important to note that the dynamic nature of the study area and necessity of long-range projections made quantitative assessment of project impacts difficult, often impossible." Given the admitted uncertainty of the project's impacts, effective monitoring and a clear procedure for responsive project modification is essential and must be included in the FEIS.

The FEIS' alternatives analysis provides very little information regarding the non-selected alternatives that were considered, and the information it does provide is inadequate for evaluating whether these alternatives were fully considered. In addition, we are aware of a widely publicized and credible alternative to this project proposed by International Paper—a major industrial user of the aquifer—and Grand Prairie farmers—the intended beneficiaries of the project—and presented to Corps officials. This alternative is not evaluated in the FEIS and is not even mentioned in the alternatives analysis.

While the Grand Prairie project raises serious environmental issues taken by itself, it threatens

even greater harms when viewed against the backdrop of other irrigation and navigation projects under implementation or consideration by the Corps and other project sponsors. The potential cumulative impact of these projects is substantial and could affect wildlife habitat and natural communities throughout eastern Arkansas. We are specifically concerned that taken together these projects will destroy diverse wetlands through the region, harm fish and wildlife populations, cause shifts in vegetative communities, reduce water quality, and threaten the health of the White River and Cache River National Wildlife Refuges.

The National Environmental Policy Act and regulations adopted by the Council on Environmental Quality recognize the federal government's duty to consider cumulative impacts of proposed actions. NEPA provides that the scope of actions to be considered in an environmental impact statement should include cumulative actions, "which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement" (Sec. 1508.25(a)(2)), and similar actions, "which when viewed with other *reasonably foreseeable or proposed* agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as *common* timing or *geography*. An agency may wish to analyze these actions in the same impact statement. *It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.*" (Sec. 1508.25(a)(3))

The FEIS includes a putative attempt to comply with the required cumulative impacts analysis for the GPADP and other proposed projects in the White River Basin. However, the section titled "Cumulative Impacts of Other Projects" fails to analyze the cumulative environmental impacts of the projects. It merely discusses 1) the expected impacts of some, but not all, of each of the individual projects; and 2) how these projects would affect the operation of the GPADP and other projects. In other words, the FEIS' cumulative impacts discussion does not address the cumulative impacts of the GPADP and other projects, but instead merely notes the coordination between these projects needed to obtain non-environmental goals. That does not satisfy the federal requirement for a cumulative impacts analysis.

Moreover, the FEIS' treatment of impacts of the other current and proposed projects is conclusory and incomplete. For example, the Corps bases its conclusions regarding the other proposed irrigation projects from the Eastern Arkansas Regional Comprehensive Study (EARCS) merely upon the findings of the Grand Prairie studies, and fails to perform either individual or cumulative analyses. The Corps in the FEIS seems to indicate that since these other irrigation projects are not authorized or funded, they are not required to be included in the cumulative impacts analysis. The Corps cannot have its cake and eat it too; it cannot claim on the one hand that these other irrigation projects are not authorized or funded and thus do not require cumulative treatment in the GPADP EIS, and then simultaneously claim that sufficient information is available to determine that the impacts from these projects will be negligible.

As for the expected "quantitative reevaluation of cumulative impacts" associated with the proposed White River Navigation Project and GPADP, upon which the Corps relies in answer to the need for a cumulative impacts analysis, the reevaluation and Environmental Impact Statement

for the Navigation Project are on a timeline that is behind the Grand Prairie's, and if the Grand Prairie project continues forward, they may well not be completed by the time a ROD is issued for the Grand Prairie project. The cumulative impacts analysis must be performed before a decision is issued for the project so that impacts of, and project alternatives to, this project can be evaluated in the context of other proposed projects on the White River. Such an after-the-fact analysis is worthless and completely irrelevant to the decisionmaking process for this project, and cannot serve to satisfy the requirements of NEPA for this project.

Even if an environmental impacts analysis were performed in the context of the navigation project and GPADP in time to be considered in the decision on the GPADP, such an analysis would still be flawed for NEPA purposes, for reasons stated above, if it only contained an analysis of these two projects.

Ultimately, the GPADP, the other four irrigation projects contemplated in the East Arkansas Region Comprehensive Study -- three of which would withdraw water from the White River or major tributaries -- and the proposed White River Navigation Project will cause cumulative impacts as defined by CEQ regulations. The Corps cannot in this FEIS ignore the potential impacts of these reasonably foreseeable additional projects in the basin; it violates NEPA requirements to do so. A cumulative environmental impact analysis must be conducted for the affected region which fully evaluates the ecological, hydrological, water quality and other impacts of all proposed projects.

NWF joins the USFWS and major state and national conservation organizations in calling for a comprehensive study of all current and proposed projects in the White River basin to be completed before any projects with potential to affect the basin go forward. We are currently aware of several state and federal activities or projects that are ongoing or proposed in the White River basin in Arkansas that have the potential, individually and cumulatively, to threaten some of the most important bottomland hardwood and other wetlands in the southeastern United States. These projects include the GPADP and four additional irrigation projects under study as part of the Eastern Arkansas Region Comprehensive Study (EARCS), ongoing navigation dredging and a proposed navigation improvement project on the White River, proposals to reallocate water storage in the reservoirs in the upper White River, and White River bridge crossings. The study should be conducted jointly by the Corps and partner natural resource agencies including USFWS, EPA, Arkansas Game & Fish Commission, and USGS, and interested conservation organizations. NWF offers any assistance we can provide in planning and supporting appropriations to fund the study.

Sponsorship

NWF has serious concerns regarding the capability of the named sponsors to serve as local sponsor of this project. The process at this point somewhat resembles a shell game, where the actual sponsor of the project changes from time to time, with the White River Irrigation District (WRID) being named in the FEIS as the local sponsor but the Corps currently dealing with the Arkansas Soil and Water Conservation Commission (ASWCC) as if it will be the sponsor. We will not reiterate here all of the points voiced in our letter of August 19, 1999 to Colonel

Krueger, which is attached. We do request that it be included in the official record with these comments. Colonel Krueger's reply of September 13, 1999, was wholly nonresponsive to the specific points raised in our letter regarding the ASWCC's proposed sponsorship of this project. The FEIS should respond directly to these concerns.

The Corps' assessment of the ASWCC's ability to meet financial obligations as the local sponsor is fatally flawed. That assessment operates on the assumption that the bond program, for which legislative appropriations and Governor approval are needed, "will probably be the primary funding source." The assessment goes on to state that the ASWCC "has more than ample capability to issue and service \$111 million of general obligation bonds." That is incorrect.

ASWCC is limited to drawing upon funds from no more than \$100,000,000 in bonds for the purposes of this project. Ark. Code Ann. § 15-22-605. Although combined and discussed as the "Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bond Program" in both the ASWCC's letter suggesting a willingness to serve as local sponsor and in the Corps' assessment of financial ability, ASWCC's authority to issue bonds is actually based on two separate grants of authority. Bonds for the purposes served by this project are authorized pursuant to the Arkansas Water Resources Development Act of 1981. Bonds for Waste Disposal and Pollution Abatement purposes, which are not relevant here, are authorized pursuant to the Arkansas Waste Disposal and Pollution Abatement Facilities Financing Act of 1987. As noted above, the total principal amount of bonds for the State Water Resources Development General Obligation Bonds program, which are the bonds authorized for the purposes relevant here, may not exceed \$100,000,000. Furthermore, the issuance of those bonds is limited to no more than \$15,000,000 during any fiscal biennium, unless a separate law authorizes a greater amount. Ark. Code Ann. § 15-22-606. The required total commitments and the required biennial commitments both exceed the authorized amounts. As a result, the Corps' assessment of ASWCC's financial ability is flawed because it does not address or acknowledge these provisions.

In addition, the Corps' assessment contains inconsistent assumptions regarding the Commission's plan for operation and maintenance. In assessing the likelihood that the Irrigation District will be able to sell all of the available water, the Corps cites "the lack of alternatives when groundwater is depleted" as a basis for determining that full sales will occur. If groundwater is depleted, the project's purposes have not been met. It is less than appropriate for the Corps' assessment to be based on the assumption that the project will fail to meet its stated purposes. Furthermore, that same assessment relies upon the expected relatively low cost to farmers of water as compared to groundwater pumping as a further basis for assuming that all water will be sold. However, the analysis fails to acknowledge the additional assumption in the assessment that "the individual landowners will probably be required to repay the approximately \$28 million in on-farm feature costs." This assumption is relied upon in assessing the ASWCC's ability to meet its obligations for construction costs. The effect of these additional costs on the individual farmer's ability to pay and to purchase water also must be assessed.

Conclusion

The Grand Prairie Area Demonstration Project is a poorly planned, ambitious experiment that

will burden federal and state taxpayers with at least \$300 million in costs while threatening an investment in the fish and wildlife resources of a federal National Wildlife Refuge paid for by federal taxpayers. The project will provide only temporary relief to about 1100 farmers, less than half of which are willing to support the project, while failing to accomplish the Congressionally-authorized purpose of conserving groundwater.

NWF opposes construction of the GPADP until the above concerns are addressed in a manner that ensures the protection of the unique natural resources of the area and the most effective expenditure of federal and state taxpayer dollars to solve the problem.

Thank you for your consideration of these comments. Please keep my office on your mailing list for all materials and information related to these and any other water resource development projects in eastern Arkansas.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Rieff". The signature is stylized with a large, sweeping initial "S" and "R".

Susan Rieff
Vice President, Southwest Region
National Wildlife Federation



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August 19, 1999

Colonel David W. Krueger
District Engineer
Memphis District Corps of Engineers
167 North Main Street, B-202
Memphis, TN 38102-1894

Re: Grand Prairie Irrigation Project

Dear Colonel Kreuger:

The National Wildlife Federation (NWF) has serious concerns about the Grand Prairie Irrigation Project's potential impacts on the lower White River basin, and particularly on the White and Cache River National Wildlife Refuges. As expressed in NWF's September, 1998 letter to the Corps of Engineers, specific issues of concern include impacts of converting existing natural drainages and wetland areas to conduits and reservoirs, of contaminants from irrigation return flows, and of water withdrawals from the White River on fishery resources and particularly mussel beds. NWF is also troubled by the project's lack of specific and enforceable mitigation measures and water conservation measures, particularly the absence of any groundwater pumping limits or controls.

Recently we were surprised to learn that, according to a letter from J. Randy Young, the Arkansas Soil and Water Conservation Commission (ASWCC) has volunteered to assume the role of local sponsor for this \$300 million project. This latest development appears to be a response to increasing resistance to the project by the local project "beneficiaries."

By volunteering as local sponsor, ASWCC risks creating an apparent and serious conflict of interest. Rather than acting as the impartial reviewer of competing applications for financial assistance, as required by its rules, ASWCC would become a competitor with the other applicants for financial assistance. In addition, if ASWCC acts as the local sponsor, ASWCC would be putting itself in the untenable position of regulating the sale of surplus water as the means of meeting ASWCC's own financial obligations.

Corps regulations establish clear requirements for local sponsorship of federal water development projects. The July 27, 1999 letter from J. Randy Young, Executive Director of the Commission,

to the Corps of Engineers does not come close to demonstrating compliance with the requirements of applicable COE regulations. Certainly, ASWCC has not demonstrated that it has the "full authority and capability to perform the terms of its agreement and to pay damages, if necessary" as required by ER 1165-2-131. 6. h (1). For example, ASWCC indicates its intent to rely upon the White River Regional Irrigation Water District for operation and maintenance obligations. Pursuant to ER 1165-2-131. 6. h. (2), a signed subagreement between the entities will be needed. In addition to a signed agreement, the District will have to demonstrate that it has the ability to collect adequate revenue to defray those costs and to undertake the operation and maintenance commitments. Similarly, ASWCC must demonstrate its authority to ensure that the District meets those obligations. A strong demonstration of that authority by both the District and the Commission is particularly critical for this project because of the claimed reliance on various on-farm measures to mitigate adverse environmental impacts and to achieve water conservation goals that are critical to the project.

In that letter, Mr. Young references three potential sources of funding for the project. However, even a cursory review of the regulations governing the use of those funding sources reveals major obstacles that appear to preclude ASWCC from making any meaningful commitment to act as the non-federal sponsor of the Project. First, the Commission's rules, which are applicable to funding commitments under all of the funding sources referenced in the letter, require a formal application process initiated by a third-party. Title V, Subtitle II, Section 502.1. The rules also establish clear public participation opportunities that must precede any decision on a loan application. A final decision may be made only by the full commission and only after compliance with those procedural requirements. Thus, even if authority were otherwise validly delegated, any decision must be made in compliance with those public participation opportunities.

A review of the Commission's rules applicable to the specific funding sources listed also raises significant questions about their use in the manner contemplated by the letter. For example, those rules only provide for use of the Water Development Fund Program for projects that are included in the Arkansas Water Plan and for which specific findings are made that it will provide benefits to the state as a whole. Title V, Subtitle IX, Section 509.1. Furthermore, it appears that even if this project did otherwise qualify for funding under this Program, a loan would be the only authorized funding mechanism. *Id.* at Section 509.2. However, a loan would not be feasible because there is no qualified loan recipient or adequate mechanism to provide for repayment of the loan.

Those rules limit loans or grants from the Water Resources Cost Share Revolving Fund Program to no more than 25% of the total project cost. Title V, Subtitle XII, Section 512.3. Because the non-federal share of the project cost is 35%, this Program cannot be used to provide the full funding amount. Furthermore, adherence to the intent of this limitation--the language refers to any loan or grant not just to loans or grants under that Program--would prevent the Program from being used to provide even a portion of the funding for a project with a total non-federal

Colonel Krueger
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participation requirement of greater than 25%. Those rules also establish specific time periods for submission of such applications.

As a result, ASWCC simply is not in a position to make the commitments set out in the July 27, 1999 letter. Indeed, Mr. Young acknowledges as much in the attached articles, in which he indicates that the commission has no intention of sponsoring or financing the project. The letter appears to be little more than a cynical pretense to keep federal funds flowing for an expensive and ill-conceived project that is not supported by a majority of farmers in the area, its supposed beneficiaries.

Simply put, the July 27, 1999 letter from Mr. Young raises more issues than it resolves about the funding for state-matching obligations for this project. That letter, particularly in light of Mr. Young's statements, cannot be relied upon as an adequate basis for the Corps of Engineers to move forward on any aspect of the Grand Prairie project. Mr. Jim Brodon, project manager for the Corps, apparently acknowledged as much; in recent news articles (attached), he referred to the letter as a "letter of intent... That is not the PCA agreement. It's not legally binding; they are not committed to financing until the PCA has been signed."

Despite this, Mr. Brodon added (according to the same news story) that the letter was needed to complete processing of the General Reevaluation Report and Environmental Impact Report and to execute federal funding for the project.

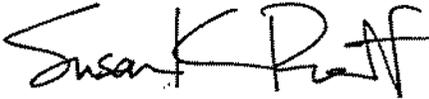
NWF requests that, before moving forward on any aspect of the project, the Corps require ASWCC to document, in writing, how it proposes to address the deficiencies in its offer for local sponsorship and to explain the full extent and legal basis of its financial commitment to this project. NWF requests the opportunity to respond to any such documentation. NWF also requests an explanation of how the Corps interprets the ASWCC letter, and whether the Corps intends to take any action or make any decision related to the General Evaluation Report and/or the Environmental Impact Report for the Grand Prairie project based solely on the letter.

NWF strongly supports the proposal made by the Environmental Protection Agency and U.S. Fish and Wildlife Service that this and other projects in the White River basin should be postponed until a comprehensive evaluation can be conducted to determine the cumulative impacts of all proposed water development projects on the White River watershed. Such a study is clearly warranted by the size, scope, and location of the Grand Prairie and other proposed projects. NWF requests that the Corps not move forward on this project until a comprehensive cumulative impact study of the basin, as requested by the Environmental Protection Agency and the Fish and Wildlife Service, has been completed.

Colonel Krueger
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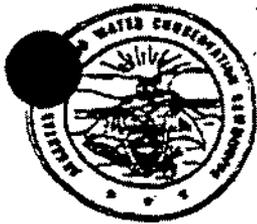
Thank you for your consideration of these comments. NWF would appreciate a written response to our specific requests.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan K. Rieff". The signature is fluid and cursive, with the first name "Susan" written in a larger, more prominent script than the last name "Rieff".

Susan K. Rieff
Senior Director, Gulf States NRC

Enclosures



Arkansas Soil and Water Conservation Commission

J. Randy Young, P.E.
Executive Director

101 EAST CAPITOL
SUITE 350
LITTLE ROCK, ARKANSAS 72201

PHONE 501-682-1811
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July 27, 1999

Colonel Daniel W. Krueger
District Engineer
U.S. Army Engineer District, Memphis
167 North Main Street, B-202
Memphis, TN 38102-1894

Dear Colonel Krueger:

The Arkansas Soil and Water Conservation Commission (the "Commission") will act as the non-Federal sponsor of the Grand Prairie Area Demonstration Project (the "Project") and is capable of meeting the cost sharing obligations required under the terms of the draft Project Cooperation Agreement (the "PCA"). The Commission also possesses sufficient authority and legal capability to perform all of the terms of the PCA.

With regard to our statement of Financial Capability, the Commission will provide the \$111 million of non-Federal construction funding. The sources of the funds will include any or all of the following: (1) the Arkansas Water Development Fund, (2) the Arkansas Water Resources Cost Share Revolving Fund, and (3) proceeds from the sale of the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds. The funds available will be more than sufficient to fund our obligations presented in Table 1 (provided by the Memphis District Corps of Engineers). It should be noted that the Arkansas Constitution prohibits the commitment of funds that have not been appropriated by the Arkansas General Assembly and may impair the Commission's ability to provide funding beyond FY2001.

Fiscal Year	Import System			On-Farm Features	
	Cash	LSRD	Total	Features	Total
2000	11,278	4,158	15,416	3,932	19,348
2001	5,765	14,376	20,141	2,345	22,486
2002	20,939	5,984	26,923	9,042	35,965
2003	12,130	2	12,132	7,140	19,272
2004	6,961	0	6,961	4,221	11,182
2005	1,747	0	1,747	1,000	2,747
Total	58,820	24,500	83,320	27,680	111,000

The Commission understands its obligation to operate and maintain this project after its completion. The Commission anticipates contracting operation and maintenance to the White River Regional Irrigation Water District (the "District"). Revenues to meet this obligation will come from fees assessed the project's beneficiaries, including without limitation proceeds from the sale of the approximately 350,000 acre-feet of irrigation water provided annually and levy of assessed benefits within the project improvement area(s) created by the District. An estimate of the project's operation, maintenance, and replacement costs has been furnished by the Memphis District (Table 2). It is understood that these costs are based on October 1996 price levels and that they will escalate over the life of the project due to inflation. The annual operation and maintenance costs will be covered by the above annual revenues and a reserve fund will be established to provide for periodic maintenance and replacements.

Table 2 Operation, Maintenance, and Replacement Costs Grand Prairie Area Demonstration Project (October 1996 Price Levels, \$000)		
Item	Cost	Frequency
Annual Expenditures		
Large Pumping Station	2,886	
Small Pump Stations	313	
Structures	175	
Channels	102	
On-Farm	724	
Total		
Periodic Maintenance and Replacement		
Large Pumping Station		
Roof	270	Every 20 Years
Motor Control Centers	211	Every 35 Years
Electric Motor Stator	301	Every 35 Years
Pump impellers	226	Every 40 Years
Channels	40	Every 20 Years

The Commission is keenly aware of the critical ground water problems in the State's Grand Prairie region. This Project will make significant strides in resolving the problem. If you have any questions regarding the above, please contact Earl Smith, Mark Bennett or me.

Sincerely,

ARKANSAS SOIL & WATER
CONSERVATION COMMISSION

Randy Young, P.E.
Executive Director/
Ex-Officio Secretary

JRY:AMB:slc

cc: Governor Mike Huckabee
Members of the ASWCC
White River RIWD

Water Letter Story 8/11

8/11/99 1:48 PM

by JN

A recent letter obtained by the Stuttgart Daily Leader has set off a tidal wave of controversy that originates with the White River Regional Irrigation Water Distribution District and involves the Arkansas Soil and Water Conservation Commission and the U.S. Army Corp of Engineers.

The letter, dated July 27, from J. Randy Young, executive director of the Arkansas Soil and Water Conservation Commission, assures the Corp of Engineers that the ASWCC will become the new non-federal sponsor of the Grand Prairie Area Demonstration Project and has pledged \$111 million towards the construction of the project. It further states that the ASWCC "anticipates" hiring the WRRIWDD to operate and maintain the project after its completion.

This "letter of intent," which shows a carbon copy designation to Gov. Mike Huckabee, makes it possible for the ASWCC to sign a Project Cooperation Agreement with the Corp of Engineers to start construction on the project if they so desire.

When contacted, Young said the ASWCC doesn't have any intention of sponsoring or financing the project and the letter, written at the request of the WRRIWDD, was simply a way to ensure the water district doesn't miss out on \$8 million of federal funding because they do not have the required 51 percent of land-owners or assessed valuations to set up the improvement project area.

"It is our concern that this money might be redirected to another project. We're interested in moving the project forward. By sending this letter of intent, it will enable them (WRRIWDD) to retain funding for the project in Arkansas," Young said. "We'll be negotiating the terms of the agreement on behalf of the water district. What I'm hopeful of is the district will be formed by the time the agreement is ready to be signed."

He added that recent progress reports provided by WRRIWDD indicated this was possible. Gene Sullivan, executive director of the WRRIWDD, said the district now has 37 percent of the assessed valuations and 28 percent of the landowners. He added that he fully expects to obtain the required majority in the very near future.

"The district will be formed in two to three months so that we won't actually ever sign the agreement," Young said. "We're not obligated to anything financially under that letter. The worst case scenario is if we sign the agreement, we're not going to commit beyond one year. If the district isn't formed by a set time, we'll ask that the agreement be voided."

Sullivan called the ASWCC a "partner" in the project.

"They're going to be a sponsor along with us. We're in the process of obtaining necessary majority signatures where we can assume total responsibility. We can't do that right now so they're stepping in to move the project forward," Sullivan said.

When asked if the Corp of Engineers was aware that the letter of intent was

Water Letter Story 8/11

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just a temporary stall tactic to secure federal funding, Young refused to comment. However, Mark Bennett, attorney for ASWCC, said he suspected the Corp knows the specifics of the plan.

"I don't know that for a fact. You'll have to ask the Corp. We did meet with representatives of the Corp and discussed the project. It has always been our intention for the water district to sponsor the plan," Bennet said.

When contacted, Jim Brodon, project manager with the Corp of Engineers, said he could not speculate on the expected actions of the ASWCC.

"The letter says what it says. It's a letter of intent to finance the project and act as local sponsor," Brodon said. "That is not the PCA agreement. It's not legally binding; they are not committed to financing until the PCA has been signed."

Brodon added that the letter was needed to complete processing of the General Reevaluation Report and Environmental Impact Report and to execute federal funding. He also said the report process, required before the signing of the PCA agreement, could take up to five months to complete.

When asked if the WRRIWDD could sign the PCA at that time if they had received the required elements to establish the improvement project area, Brodon said the Corp would allow it.

"The project is ready to go, but there is nothing that forces anyone to sign the PCA," Brodon said.

The ASWCC letter also states that funding sources for the \$111 million will come from any of three options: the Arkansas Water Development Fund, the Arkansas Water Resources Cost Share Revolving Fund or proceeds from the sale of the Arkansas Water, Waste Disposal and Pollution Abatement Facilities General Obligation Bonds.

Young also wrote, "It should be noted that the Arkansas Constitution prohibits the commitment of funds that have not been appropriated by the Arkansas General Assembly and may impair the Commissions ability to provide funding beyond FY2001."

When questioned about the legality of using existing funds for the water district before the legislature meets, Young said he is authorized to expend money if it relates to a "water development project." Records indicate that the ASWCC has invested approximately \$787,500 since 1995 in the form of grants and deferred loans to the water district.

Young also states in the letter that the operation and maintenance expenses for the project will be funded by "fees assessed the project's beneficiaries, including without limitation proceeds from the sale of approximately 380,000 acre-feet of irrigation water provided annually and levy of assessed benefits within the project improvement area(s) created by the District."

Jerry Lee Bogard, local businessman and farmer and leader of a group of nearly 300 Arkansas County farmers against the proposed WRRIWDD, said the letter was a slap in the face after presenting a comprehensive water conservation

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compromise to district board members Monday.

"I think it's a real sad day for Arkansas County farmers and for the Grand Prairie area as a whole," Bogard said. "The letter clearly states that the ASWCC will act — not maybe, not contingent upon, not subject to — but will act as the non-federal sponsor of the Grand Prairie Area Demonstration Project. All this during a time when we were led to believe that the ASWCC is an unbiased, state regulatory body that has water conservation interest first. I don't read that in this letter."

The alternative proposal made by Bogard and International Paper would reduce the mill's dependence on the Sparta aquifer by up to 90 percent by pulling surface water from the Arkansas River.

"I'm genuinely sorry for the people who wasted their time Monday listening to those of us who made a presentation to conserve water. Clearly it was not the water district board's intent to seriously consider any proposal," Bogard said. "All that tells me is that the water district has blinders on. They're not interested in a compromise. They're only interested in ramming this thing down our throats like they've done all along."

Bogard said his interpretation of the letter is that the ASWCC now has the authority to construct the project without consent from landowners.

"Clearly when you read this letter, you can see that the willful intent of the ASWCC is to circumvent the privilege and right that we have all enjoyed which is the right to vote to determine whether or not we will participate in a project that affects our livelihoods and the well-being of our families," he said.

Bennett denied the interpretation but when questioned further admitted it could be a possibility.

"We could. But I would be very surprised if we did. My department is not like that," Bennett said. "Whoever does the project is going to have to have signed water contracts from the users before the project can begin."

Sullivan said that whether the water district or the ASWCC signs the PCA, the district will assume all the responsibilities and the majority approval would still be obtained by the district. When questioned about the ASWCC's authority to begin construction on the project if they sign the PCA, Sullivan said that was not the intention of the water district but he could not speak for ASWCC.

"I can't speak for them at all. Our plans are to move ahead with the project. You'll just have to talk to them about what their plans are," he said. "It's the intent of everybody involved in this thing to get the project built and get the job done. Everything is above board."

Bogard said the letter has put an end to his group's cooperation with the district.

"Everything I've promised Mr. (Tommy) Hillman and the White River Regional Irrigation Water Distribution District is off. We will attack their position now with as much vigor as we can muster. We certainly intend to carry this fight forward from Arkansas County to Prairie, Lonoke and Monroe counties as soon as

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possible," Bogard said. "I don't know how Randy Young or Tommy Hillman and the water district board can look their friends and neighbors in the face when they've promised people all along a process. Now they clearly intend to circumvent that process that we were all granted by the constitution of the United States. I'd love to hear them explain it."