

July 24, 2006

Mr. Jeff Benedict
U.S. Army Corps of Engineers
William S. Morehead Building
1000 Liberty Ave.
Pittsburgh, PA 15222-0059

Re: Ohio River Mainstem System Study Comments

Dear Mr. Benedict:

The undersigned submit these comments regarding the Ohio River Mainstem System Study (ORMSS).

We are very pleased that after more than five years of advocacy by Ohio River Foundation, and other organizations, the Corps has agreed that adequate capacity exists in the current Ohio River navigation system to handle all delays and traffic growth they forecast through 2070. This decision is the first time the Corps has changed its opinion regarding the need for expansion of the auxiliary (back-up) locks. In addition to saving billions in taxpayer funds, approximately 10 acres of river habitat are spared from destruction. We commend the Corps for this decision and we believe it to be a step in the right direction.

In prior reports, the Corps had been suggesting that lengthening Ohio River back-up locks was needed to address traffic delays and growth traffic projections. In this report the Corps now agrees that operation and maintenance and non-structural measures can be employed to handle these issues and any new construction benefits would not outweigh the \$2 billion taxpayer expense.

However, while we commend the Corps for changing its opinion on the need for expanding the auxiliary locks, we are disappointed that that In Section 7, Study recommendations, there is no mention of mitigation or for any actions to be taken at the locks and dams to improve the ecology of the river, even though it identifies specific measures that could and should be taken. As detailed in section 8.5.2, legal authority exists for the Corps to institute mitigation measures now; notwithstanding that they should have been implemented at the time of construction at existing facilities – where no mitigation has yet occurred.

These are measures that will mitigate impacts at the locks and dams now and do not require funding under the authorized Ohio River Ecosystem Restoration Program. For example, a fish passage study has already been done on the Ohio River (p.5-15), so no more study is necessary. Mitigation measures should now be recommended and taken.

Importantly, it is not the intent or design of the Ohio River Ecosystem Restoration Program to fund mitigation projects or measures. For the Corps to suggest otherwise would be an abrogation of its legal responsibility to mitigate for impacts caused by any of its projects or operations.

By its failure to recommend what mitigation actions should be taken, the Corps fails to understand that in an attempt to avoid its legal responsibilities it will be undermining the

efforts of thousands of Ohio River valley citizens. Ohio River communities that are trying to promote themselves as business, recreation, and tourist attractions, but unless the ecology of the river improves, they will be at a competitive disadvantage to other community in the United States. Those communities have made the conscious decision that there are tangible and intangible benefits to having healthy rivers.

As to other items in ORMSS, we have the following observations and requests:

Table 2 (page ES-9). Please itemize the benefits listed. Also, what do the costs shown in the table represent? Do Corps employee salaries comprise any of the costs? Also, how much of the savings is federal taxpayer subsidies (for Corps salaries, etc.)

Table 4 (page ES-12). Please provide the benefit and cost itemization. Please also incorporate into your reply to this specific request answers to the above questions regarding Table 2 as they apply to Table 4.

According to Assumption #4, page 6-45, projects are modeled as operating at full capacity. Are benefits modeled or actual? If benefits are modeled, are they such when operating at full capacity? Why is it appropriate to use full capacity models for benefits when, as shown in fig. 6-2, locks are operating at far less than capacity?

In Section 7, and other places are mentioned the following terms. Please define and explain as requested: What are "Reasonable and Prudent Measures"? What is the Ohio River Basin Comprehensive Study? Why is the Corps the best choice to do it?

Data provided in section 4 pertains to tows. What percentage of tows transiting Ohio River locks were empty of cargo? In fig. 4-2, what percentage or number of tows were empty? What year does fig. 4-2 represent?

Cost efficiencies of rail have increased in recent years. What are all the detailed numerical cost advantages of river vs. other transport modes?

Many generating plants have rail options for delivery, not only barge. If barge transport is such a cost advantage, why do they have this option? It is my information that plants are adding rail capability, not barge capability. Can you explain the reason for this decision?

Interestingly, as mentioned in Ohio River Foundation's study *River at Risk – An Economic Analysis of Expanding Ohio River Locks*, and confirmed by Table 4-11, there has been basically no growth in traffic from 1994-2004. Why does the Corps only forecast growth (fig. 4, p.ES-7)? Is there no scenario under which growth would continue to be low or negligible? Could not the same conditions continue that caused the lack of growth from 1994-2004?

On page ES-17, it states, "The CEA indicated that future navigation investments would not adversely impact long-term resource sustainability. However, mussels and riparian/floodplain resources are not expected to become fully sustainable in the future due to continued degradation from previous actions combined with the future actions identified." This statement is contradictory, where navigation investments are claimed not to have adverse impacts, but then claim that they are responsible for failure of these species to achieve sustainability.

In section 5-32-35 (or anywhere else in ORMSS) there is no discussion of flooding impacts from increasing river level from 18 inches to 13-35 feet pool levels. What, if any, impacts are so resulting from the higher pool levels created by the current lock and dam system? Have there been any studies to support your answer to this question? Please provide the citations to any such studies.

We disagree with your statement in 9.2.3.3 regarding congestion fees, that they “do not address the maintenance and structural investment needs of the mainstem.” Part of the justification for lock extensions at EDM, and other non-structural measures, is to reduce delays experienced due to congestion. If congestion fees have the effect of reducing some of the delays then would it not also have an impact on the need for certain navigation investments?

Does any modeling used by Corps in ORMSS, when comparing benefits or efficiencies of barge to rail, take into consideration additional rail access of utilities or environmental or economic costs of operating the barge system, now and in the future? If so, please describe. If not, why not?

Nationally, the Corps has identified that its Principles & Guidelines Manual (P&G), last updated in 1983, limits its ability to more completely adopt practices that incorporate current methods of economic and environmental analysis and stewardship. We are disappointed that in ORMSS the Corps does not identify this constraint and call for updating the P&G to current economic and environmental standards.

Since enactment of the Clean Water Act 35 years ago, the overall health of the Ohio River has improved; however, the Corps continued reluctance to take action to mitigate for negative impacts from its operations continues to endanger further recovery and continues to suppress the local economies of many Ohio River communities, boat and recreation revenue, citizen quality of life, and the health of aquatic species.

In conclusion, if the public is to believe that the Corps is, in fact, committed to being a responsible steward of the Ohio River, and mitigate for negative environmental impacts from its operations, it must demonstrate that intent by not delaying any further mitigation measures. To do otherwise is an abrogation of the public trust.

We look forward to following and participating in any further discussions regarding this matter. The protection and improvement of the condition of the Ohio River and its watershed are of paramount importance to Ohio River Foundation. This same focus and determination needs to be shared by the Corps. The health and vitality of the river and the communities that line its banks depend on it.

Respectfully submitted,
Richard Cogen
Executive Director
Ohio River Foundation