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LIEUTENANT GOVERNOR
STATE OF ILLINOIS

December 8, 2017

Colonel Craig S. Baumgartner, Commander
Rock Island District
U.S. Army Corps of Engineers
Clock Tower Building
P.O. Box 2004
Rock Island, IL 61204

Re: State of Illinois, Comments To:

U.S. Army Corps of Engineers GLMRIS-Brandon Road Draft Integrated Feasibility
Study and Environmental Impact Statement

Dear Colonel Baumgartner:

On behalf of the State of Illinois, I submit Illinois' comments on the GLMRIS – Brandon Road Draft Integrated Feasibility Study and Environmental Impact Statement (“Brandon Road Study”) and the Tentatively Selected Plan.

No state cares more about the health and vibrancy of our Great Lakes than the State of Illinois. That is why we have worked closely with regional stakeholders to keep the leading edge of Asian Carp migration the same place it has been since 1991 – nearly 50 miles from Lake Michigan near Dresden Island.

As the identified home of the proposed Brandon Road Project, Illinois has many concerns with the project's Tentatively Selected Plan - not the least of which is the lack of an adequate scientific justification for the project. Without a science-driven justification, it would be irresponsible for Illinois to support a plan that would cost Illinois taxpayers nearly \$100 million during the construction phase and potentially hundreds of millions of dollars in operations and maintenance costs in perpetuity. Furthermore, this plan, without effectively mitigating our concerns, will have numerous significant negative impacts on our state.

Among our concerns is the potential for irreparable economic harm to regional industries that depend on the \$28 billion of commodities transported along the Illinois River every year – specifically our manufacturing, chemical, construction, agricultural, energy, and transportation industries. The plan would also negatively impact the Des Plaines River ecosystem and disrupt native fish migration. Finally, the State of Illinois has very serious safety, operational and land-

based transportation concerns relating to this proposed plan.

Illinois' concerns are summarized in the following sections of this letter and in the accompanying comments submitted by the Illinois Department of Natural Resources, Office of Water Resources ("IDNR-OWR"), the Illinois Department of Natural Resources, Office of Resource Conservation ("IDNR-ORC"), the Illinois Department of Transportation ("IDOT"), the Illinois Environmental Protection Agency ("IEPA") and the Illinois Department of Commerce and Economic Opportunity ("IDCEO").

Introduction. Illinois pledges to continue our efforts to prevent Asian Carp migration further into Illinois' waters including Lake Michigan, as well as migration into the other Great Lakes or tributaries. As a state suffering from the presence of Asian Carp in its waterways, Illinois recognizes and appreciates concerns over the negative impacts of Asian Carp migration to the Great Lakes Basin and strongly encourages the non-structural efforts to push the Asian Carp frontline further away from the Great Lakes.

Therefore, Illinois provides these comments seeking an appropriate and balanced approach to the proposed Brandon Road Project. Specifically, Illinois supports the most efficient and effective means of achieving the desired benefits of the proposed Brandon Road Project, while minimizing, mitigating and remedying the negative impacts that would be caused by the proposed Tentatively Selected Plan.

Illinois has significant concerns over the justification of such negative impacts, as the scientific data of the last 26 years has consistently showed that Asian Carp migration up the Illinois Waterway has stopped approximately 5 miles downstream of Brandon Road Lock and Dam and that Asian Carp are not progressing toward Brandon Road or the Great Lakes. (*See*, IDNR-ORC Comments, Sec. II)

With respect to the Brandon Road Study and, particularly, the Tentatively Selected Plan, Illinois respectfully requests a reconsideration of the study and proposed project consistent with the following. Illinois initially notes concerns with the underlying analytical methodology of the Brandon Road Study. Should a Brandon Road Project be found to be justified, Illinois provides comments on a potential project using the current Tentatively Selected Plan as a baseline.

Study Methodological Concerns. Illinois has significant concerns with the underlying analytical methodology of the Brandon Study:

Risk Reduction Analysis. The Brandon Road Study justifies the proposed project based on an analysis of the risk reduction of Asian Carp establishment in the Great Lakes by the different project alternatives considered by the study. The study's risk reduction analysis uses "quantitative estimates of P(establishment) ... prepared to provide a means of differentiating between the relative effectiveness of the alternative plans" based on quantities elicited from 6 experts. (*See*, Brandon Road Study, Sec. 8 and Appendix C) However, Illinois has significant

concerns with the study's translation of the opinions from the experts to such "quantitative estimates." USACE recognizes this problem:¹

"P(establishment) estimates from the experts ranged from almost impossible to almost certain. Inputs from three experts led to very low-probability estimates, one led to a high-probability estimate, and the remaining two fell between these two extremes, albeit closer to the low end than the high end of the scale. The range in values indicates a great degree of uncertainty among the experts regarding the quantities used to estimate the P(establishment) of Asian carp due to transit through the CAWS aquatic pathway. The experts' opinions, however, agreed on rank order of the alternative plan based on effectiveness, meaning the individual P(establishment) estimates for each expert ranked the alternative plans in the same order of effectiveness. This order of effectiveness is also reflected in the ranking of the composite expert (Figure 8-1)." (Brandon Road Study, Sec. 8.1.1, p. 352)

However, the USACE still used these "quantitative estimates" as the basis for the Brandon Road Study and its conclusions. Such use suggests far more certainty regarding project effectiveness and potentially far more project impact than is justified by actual data. This approach essentially highlights opinion and minimizes the data or lack thereof.

Economic Impacts Analysis. The Brandon Road Study provides an economic analysis of the negative economic impacts that are expected from the proposed TSP. However, Illinois has significant concerns that the economic analysis is insufficient and potentially undervalues such potential negative economic impacts by failing to fully account for same. (*See*, IDCEO Comments) Such concern is based on the study's own acknowledgement: "It is from this basis that economic impacts are estimated. While this is not a comprehensive regional economic impact evaluation, the RED analysis was completed to display how the Chicago CSA region could sustain economic impacts due to implementation of a GLMRIS-BR alternative plan." (Brandon Road Study, Appendix D, p. D-37) (emphasis added). Furthermore, on November 6, 2017, USACE Colonel Craig Baumgartner and District Deputy for Programs and Project Management Dennis Hamilton testified before a joint meeting of the Illinois, Mississippi, Ohio and Wabash River Coordinating Councils that the economic analysis included in the Brandon Road Study did not measure the many indirect economic costs that are imminent as a result of a structural alternative at Brandon Road.

Cost Benefit Analysis. The Brandon Road Study appears to suggest a cost benefit analysis to justify the proposed TSP. However, based on the foregoing methodological concerns regarding risk reduction (potentially overestimating benefits) and economic impacts (potentially

¹ *See also*, "Although each state had some issues with the structure of the Expert Elicitation model, each state voted to use the relative ranking of efficacy of the alternatives as was laid out in the Expert Elicitation model." (Brandon Road Study, Appendix A, p. A-8)

underestimating negative impacts), Illinois has significant concerns with the study's overall analysis justifying the TSP.

Federal Project of Regional Significance The proposed Brandon Road Project's purpose is the prevention of Asian Carp migration into the Great Lakes. This project has long been proposed as a federal project of regional significance, that requires host state support as a non-federal sponsor. As a federal project, the Brandon Road Project should be fully federally funded. Full federal funding is consistent with all previous USACE projects for Asian Carp prevention located in the State of Illinois (the GLMRIS Study, the 4 USACE electric barriers constructed and operating upstream in the Chicago Sanitary and Ship Canal near Romeoville, Illinois, and the Brandon Road Study itself). Further, full federal funding should be provided for (1) project construction costs, (2) operation, maintenance, repair, rehabilitation and replacement costs, and (3) costs of minimizing, mitigating and remedying the project's negative impacts to the State of Illinois. (*See*, IDNR-OWR Comments, Sec. 4)

State of Illinois Regulatory Jurisdiction. The proposed Brandon Road Project is in the jurisdiction of the State of Illinois. As such, the Brandon Road Project is subject to the public waters regulatory authority of the State of Illinois. However, USACE has taken no action to communicate or coordinate with the State of Illinois on regulatory issues. Further, while the Brandon Road Study addresses compliance with numerous federal regulations, it neither recognizes nor addresses compliance with State of Illinois' public waters regulations. (*See*, IDNR-OWR Comments, Sec. 1)

State of Illinois Non-Federal Sponsor. The proposed Brandon Road Project location in the State of Illinois also results in the current situation where the State of Illinois is the only appropriate entity available to serve as the project's non-federal sponsor. However, USACE has taken no action to communicate or coordinate with the State of Illinois on Illinois' concerns with the Brandon Road Project. Instead, USACE has specifically attempted to treat the State of Illinois the same as other interested entities and organizations even though such other interested entities and organizations are not within the jurisdiction of the proposed Brandon Road Project and would not experience the majority of negative impacts. (*See*, IDNR-OWR Comments, Sec. 2)

USACE / State of Illinois Coordination. The foregoing lack of communication and coordination by USACE with the State of Illinois in the Brandon Road Project development process has resulted in a Study that does not adequately address Illinois' communicated concerns and a Tentatively Selected Plan that Illinois only supports in part as currently proposed. To remedy this situation, Illinois provides the following proposed modifications to the Tentatively Selected Plan based on Illinois' concerns thus far unaddressed in the project development process. Illinois requests improved communication and coordination between USACE and the State of Illinois in the Brandon Road Project development process going forward. (*See*, IDNR-OWR Comments, Sec. 3; IDNR-ORC Comments, Sec. I)

Modified Tentatively Selected Plan. Subject to further analysis and review, the State of Illinois proposes the following initial modifications to the Brandon Road Study and Tentatively Selected Plan to achieve the project's desired benefits and to address the negative impacts and concerns raised in the Illinois comments:

- The State of Illinois supports the non-structural component of the TSP with the following modification:
 - Include increased non-structural actions to support commercial fishing in the lower Illinois Waterway and to pursue a commercially viable Asian Carp processing industry.
- The State of Illinois opposes the structural component of the TSP without the following modifications:
 - Remove electric barrier component.
 - Include construction of a modern 1,200 ft. lock.
 - Include construction of WRDA 2007 authorized (but not appropriated) 1,200 ft. locks at LaGrange and Peoria.
 - Full federal funding for both construction and ongoing operations & maintenance.
 - Include mitigation for environmental impacts to Des Plaines River.

The Asian Carp invasion did not begin in Illinois but has brought great harm to the State of Illinois. The State of Illinois and our residents should not be further harmed by being forced to support a project, financially or otherwise, that will damage our state's economy and ecology, while disrupting transportation and causing significant safety concerns.

Science-Based Determination. The proposed Modified Tentatively Selected Plan is consistent with a science-based determination of appropriate measures for addressing the threat of Asian Carp in the Illinois Waterway. Based on intensive scientific monitoring, the current observed status of Asian Carp is that (1) Brandon Road Lock and Dam is not being challenged by Asian Carp population expansion towards the Great Lakes Basin at this time, (2) the detectable Asian Carp population front is near River Mile 280, approximately 5 miles downstream from Brandon Road Lock and Dam and 47 miles from Lake Michigan, and (3) the Asian Carp population front near River Mile 280 has remained stationary for 26 years (since the first Asian Carp was collected in the Dresden Island Pool, Lower Kankakee River, in 1991). (*See*, IDNR-ORC Comments, Sec. II)

Therefore, unless the status of the population front changes, no structural component of the Tentatively Selected Plan will affect Asian Carp in the Illinois Waterway. Rather, only the non-structural component activities will affect Asian Carp in the Illinois Waterway. The foregoing scientifically determined status of Asian Carp, consistent with the proposed Modified Tentatively

Selected Plan, suggests the promotion of effective non-structural component activities. (*See*, IDNR-ORC Comments, Sec. II)

Promote Effective and Efficient Non-Structural Activities. The Modified Tentatively Selected Plan proposes to promote the known effective non-structural component of the project. The current Tentatively Selected Plan includes current levels of Illinois' non-structural activities. This is appropriate as non-structural activities are the most-effective and least-cost confirmed means of reducing the risk of Asian Carp migration to the Great Lakes Basin. The Modified Tentatively Selected Plan proposes to increase the scope of non-structural actions to allow IDNR-ORC to pursue additional activities of commercial fishing in the lower Illinois Waterway and pursuing a commercially viable Asian Carp processing industry. As discussed above, current circumstances suggest that only such non-structural activities will actually affect the Asian Carp situation in the Illinois Waterway. Additionally, such activity may also translate to combatting the Asian Carp situation elsewhere in Illinois and in other states in the Mississippi River Basin. Illinois' position on the Asian Carp issue is that responding to the Asian Carp currently in the Mississippi River Basin is just as important as preventing Asian Carp from the Great Lakes Basin. (*See*, IDNR-ORC Comments, Sec. III)

Equitable Resolution. The proposed Modified Tentatively Selected Plan provides an equitable resolution to the acknowledged negative impacts that would be caused by the structural component of the project to the State of Illinois and to interstate commercial navigation and related industries. The project's negative impacts include significant broad-based economic impacts, safety, operational and economic impacts to commercial and recreational navigation, impacts to land-based transportation infrastructure and natural resource impacts to the Des Plaines River. (*See*, IDOT Comments, Secs. II, IV and V; IDNR-ORC Comments, Sec. IV; IDNR-OWR Comments, Secs. 6 and 7; IDCEO Comments, Sec. II) Plainly stated – under the current circumstances, the proposed Tentatively Selected Plan that expects the State of Illinois to bear the entirety of such negative impacts is unfair and unacceptable. However, Illinois is willing to work with USACE to appropriately address these negative impacts. The proposed Modified Tentatively Selected Plan addresses the negative impacts as follows:

Minimize Negative Impacts. The proposed Modified Tentatively Selected Plan minimizes negative impacts by removing the Tentatively Selected Plan electric barrier component. This modification would significantly reduce negative safety, operational and economic impacts to commercial and recreational navigation. (*See*, IDNR-OWR Comments, Sec. 6, IDOT Comments, Sec. II)

Mitigate Negative Impacts. The proposed Modified Tentatively Selected Plan provides on-site mitigation through the construction of a modern 1,200 ft. lock in place of the Tentatively Selected Plan engineered channel. A modern 1,200 ft. lock would provide benefits to navigation efficiencies to partially mitigate the anticipated decreases in navigation efficiency that will be caused by the project. This modification would partially mitigate negative

economic impacts to commercial navigation, broad-based economic impacts, and impacts to land-based transportation infrastructure. (*See*, IDNR-OWR Comments, Sec. 7; IDOT Comments, Secs. IV and V)

Additionally, the proposed Modified Tentatively Selected Plan provides on-site mitigation by funding natural resource activities such as fish and mussel propagation, habitat improvement and resource monitoring. This modification would mitigate negative natural resource impacts to the Des Plaines River that will be caused by the project. (*See*, IDNR-ORC Comments, Sec. IV)

Remedy Negative Impacts. The proposed Modified Tentatively Selected Plan provides off-site remedy through the construction of WRDA 2007 authorized (but not appropriated) 1,200 ft. locks at LaGrange and Peoria in the lower Illinois Waterway. The current LaGrange and Peoria locks are 600 ft. locks in significant disrepair. Replacing LaGrange and Peoria locks with 1,200 ft. modern locks would benefit Illinois Waterway system navigation efficiency to partially remedy the anticipated decreases in navigation efficiency that will be caused by the project at Brandon Road. This modification would remedy negative economic impacts to commercial navigation, broad-based economic impacts, and impacts to land-based transportation infrastructure. (*See*, IDNR-OWR Comments, Sec. 7)

Fiscally Responsible. The proposed Modified Tentatively Selected Plan is a fiscally responsible approach to the Brandon Road Project. The proposed funding increases for non-structural activities focus on the most cost-effective measures for Asian Carp control. (*See*, IDNR-ORC Comments, Secs. II and III) Removal of the electric barrier component significantly reduces project construction costs and annual operation and maintenance costs. (*See*, IDNR-OWR Comments, Sec. 6) Constructing a new 1,200 ft. lock in place of an engineered channel saves the cost of the engineered channel and realizes the economic efficiencies of addressing the 84-year-old Brandon Road Lock during the major construction of the Brandon Road Project. (*See*, IDOT Comments, Sec. III) Finally, replacing LaGrange and Peoria locks with 1,200 ft. modern locks is also a fiscally responsible approach to remedying the negative impacts that will be caused by the Brandon Road Project. Rather than proposing new projects or spending to address the negative impacts at Brandon Road, this remedy incorporates existing federal projects that have already been approved by Congress and are only awaiting funding authorization. (*See*, IDNR-OWR Comments, Sec. 7)

Robust Effectiveness. The proposed Modified Tentatively Selected Plan is more effective than the Tentatively Selected Plan because it proposes several non-structural activities that will significantly increase the effectiveness of the Tentatively Selected Plan. (*See*, IDNR-ORC Comments, Sec. III) The Modified Tentatively Selected Plan also retains all components of the Tentatively Selected Plan, except the electric barrier component that is redundant to the USACE electric barrier system currently operated 10.3 miles upstream. (*See*, IDNR-OWR Comments, Sec. 6) The Modified Tentatively Selected Plan would also be supported by the Asian Carp

Regional Coordinating Committee Monitoring and Response Plan which sets forth a Contingency Plan that includes, if necessary, the use of piscicide at appropriate locations subject to IDNR-ORC review and approval. (The Illinois Environmental Protection Agency has already provided their approval for such IDNR-ORC piscicide use. (*See*, IEPA Comments)

Conclusion. Based on the foregoing, the State of Illinois respectfully requests that USACE revisit the Brandon Road Study and Tentatively Selected Plan, communicate and coordinate with the State of Illinois on our regulatory and policy issues, and modify the Tentatively Selected Plan toward an appropriate and balanced approach to the proposed Brandon Road Project, specifically promoting the most efficient and effective means of achieving the desired benefits while minimizing, mitigating and remedying the negative impacts that would be caused by the proposed Tentatively Selected Plan.

Thank you for the opportunity to provide Illinois' comments. The State of Illinois looks forward to communicating with the United States Army Corps of Engineers on the proposed Tentatively Selected Plan and appropriate modifications. For any questions or discussion regarding the State of Illinois' comments, please do not hesitate to contact my Chief of Staff, Brian Colgan, at (312) 814-5240.

Very truly yours,



Evelyn Sanguinetti
Lieutenant Governor

Cc: Colonel Aaron W. Reisinger, Commander Chicago District
IDNR-OWR, IDNR-ORC, IDOT, IEPA, IDCEO