A Critique: Corps of Engineers’ Proposal for a Vertical Expansion of the Dredge Disposal Facility on the Lake Michigan Shore

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Background: The Current CDF

• ACOE used to dispose of dredge in “open water”- but then determined it to be too contaminated

• ACOE has been operating a “confined disposal facility” (CDF) on the shore of Lake Michigan at the mouth of the Calumet River since 1984

• Its purpose is to be a permanent disposal facility for dredge material from the ACOE’s dredging of the Chicago Area Waster System

• CDF was built on “public trust” Lake Michigan lakebed – the lakebed is its “liner”

• Chicago Park District and the International Port Authority are “non-federal partners” with post-closure management responsibilities for the CDF
Original CDF Design

• CDF was designed to accept dredge for 10 years (or until it reached capacity)
  • Rivers & Harbors Act authorized CDFs to be designed to operate for no more than 10 years
  • Illinois General Assembly approved construction of CDF per Rivers & Harbors Act
  • Illinois General Assembly granted the lakebed on which CDF sits to the Chicago Park District for the purpose of creating a park when the CDF closed
  • It now contains greater than 1 million tons of dredge material that is considered too contaminated for “open water” disposal
  • CDF is projected to reach capacity by 2022

• CDF was designed to be an “in water” disposal facility with Lake water flowing through it; Water levels within the CDF correlate with levels in the Lake
ACOE 2019 Proposal of a Vertical Extension of the Current CDF

- ACOE has been looking for a location for disposal of dredge after the current CDF reaches capacity for many years
- Proposed another site in 2015
  - Wide opposition to creating another “landfill” in Environmental Justice communities of the Southeast Side
- April 2019 ACOE proposed a “vertical extension” (VE) of the current CDF as its “tentatively selected option”
What is the VE Proposal?

- Place 1 million+ tons of additional dredge on top of the current structure
- Construct an adjacent dredge drying area
- Construct a drainage ditch and pond for stormwater runoff
- Dispose of runoff in Calumet Harbor
- Utilize “cleaner” dredge to create berms to contain the more contaminated dredge
- Operate vertical extension for another 20+ years after 2022
  - No treatment of dredge to reduce contaminants and quantity
  - No other beneficial reuse
Conceptual DMDF Design Step 3 – Once full, the facility would be capped with beneficial use material and turned over to the on-federal sponsor for operation and maintenance.
Draft Dredged Material Management Plan and Environmental Impact Statement

Preliminary plan view of the proposed DMDF under the Vertical Expansion Alternative.
Public Comments on DDMP/EIS

- Comment Period ended August 1 – Many comments opposed the VE
  - Neighborhood organizations
  - Citywide environmental, parks and open space organizations
- U.S.EPA also filed comments detailing defects in the EIS, including in the Environmental Justice review and in the environmental impacts review
- Friends of the Parks filed a 39-page comment opposing the VE and addressing the procedural, environmental, and legal defects in the DDMP/EIS
- FOTP also addressed the violation of the Public Trust and legitimate expectation of the community that the property would be developed as a park
Environmental Concerns

• **Air quality impacts** in the surrounding community and parks
• **Water quality impacts to** the Lake and beaches
• ACOE says the current CDF has **operated safely** for over 30 years, but:
  • ACOE does not collect the water quality data necessary to support that conclusion
  • Data shows that dredge in the CDF contains PCB’s, arsenic and other toxic contaminants at levels that would constitute a hazardous waste
• ACOE conclusions do not address the very stringent Lake Michigan Basin Water Quality Standards
Southside Habitat, Beaches and Parks

- DDMP fails to address the impacts on Southside Beaches and Parks
  - Calumet Park is directly south of the CDF location
  - Calumet Park Beach is directly downstream from CDF
  - Recreational boat harbor directly downstream from CDF
  - Steelworkers Park is directly North of the CDF location
  - Many other beaches and parks north of CDF

- Also fails to address environmental impacts on Lake Michigan shore habitat
  - Birds and aquatic communities
  - Endangered and Threatened Species

- DDMP simply says there will be no significant adverse impact – no analysis.
IMPACT OF CLIMATE CHANGE
RISING LAKE LEVELS

• ACOE fails to address the impacts of climate change on the CDF
  • Increased rainfall and storm intensity will increase contaminated run-off
  • Run-off from the current CDF into the Lake has been found to increase pollutants in the Lake water
  • Increased slope of CDF due to 25-foot hill will increase the volume and velocity of stormwater run-off
  • Erosion of the 6” of “clean cover” soil proposed to be placed over the site upon closure

• How much more expensive will post-closure care of this 25-foot vertical structure be in light of climate change?

• What is the potential for damage of this vertical lakeshore structure?
  • Is there a prospect of catastrophic failure of the structure leading to massive Lake contamination?
What about the Public Trust and the Promise that this will become a Park?

• Because the CDF is built on lakebed it is:
  • Owned by the State of Illinois – which granted title to the Park District for use as park land
  • Subject to the Federal Public Trust Doctrine which prohibits uses of the property that exclude public access and use

• Argument that:
  • the General Assembly never intended the permanent occupation of this portion of the lakebed
  • CDF use of this land has violated the Public Trust Doctrine from the beginning – but it is now becoming permanent
  • The vertical extension will make this land unusable as a park and will prevent the completion of the Last 4 Miles of public park
Next Steps

• ACOE must respond to comments
• But:
  • Will it simply respond to comments in a Final DDMP/EIS and move forward with this proposal?  
    OR
  • Will it go back to the drawing board and consider other options?

• Will the Park District and the City get involved?
Questions?

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