

**Before the U.S. Department of Defense
U.S. Army Corps of Engineers
WASHINGTON, D.C.**

NORTHWEST ENVIRONMENTAL)	Docket No. _____
ADVOCATES,)	March 15, 2006
)	
Complainant,)	Data Quality Act Challenge to
)	Final Supplemental Integrated Feasibility
v.)	Report and Environmental Impact
)	Statement for the Columbia River
U.S. ARMY CORPS OF ENGINEERS,)	Federal Navigation Channel
)	Improvement Project
Federal Agency.)	
_____)	

**COMPLAINT OF NORTHWEST ENVIRONMENTAL ADVOCATES
PURSUANT TO THE DATA QUALITY ACT OF 2000**

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Pursuant to Section (b)(2)(B) of the Data Quality Act (hereinafter “DQA”) of 2000, the U.S. Office of Management and Budget “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies,” (hereinafter “OMB Guidelines”), 67 Fed. Reg. 8452, Feb. 22, 2002, and Section 3.3.4 of Attachment 1 of the Deputy Secretary of Defense’s Memorandum dated February 10, 2003, “Ensuring the Quality of Information Disseminated to the Public by the Department of Defense” (hereinafter “DOD Memorandum”), Northwest Environmental Advocates (hereinafter “NWEA”) hereby challenges certain information, data, analyses, and conclusions drawn in the document entitled “Final Supplemental Integrated Feasibility Report and Environmental Impact Statement for the Columbia River Federal Navigation Channel Improvement Project” published on January 28, 2003 by the Portland District, U.S. Army Corps of Engineers, on the World Wide Web at <http://www.nwp.usace.army.mil/issues/crcip/cms/final.asp> and supplemented by the Columbia River Channel Improvement Project Addendum, November 2003, published at <http://www.nwp.usace.army.mil/issues/crcip/cms/docs/final/addendum.pdf> (hereinafter collectively “FSEIS” or “Channel Deepening Project”). NWEA requests correction to this publicly disseminated information because it is not accurate, clear, complete, or unbiased. *See* DOD Guidelines at § 3.3.4. NWEA requests that, until the Army Corps of Engineers (hereinafter “Corps”) complies with the provisions of the DQA, OMB Guidelines, and DOD Memorandum by completing an independent peer review of the information, data, analyses, and conclusions of the subject document, that the Department of Defense immediately disavow the analysis, withdraw the FSEIS, and to cease distributing or relying upon the published FSEIS.

I. **STANDING**

Northwest Environmental Advocates is a non-profit organization in Portland, Oregon that seeks to hold government agencies accountable for enforcing environmental laws, particularly with regard to water quality in the Pacific Northwest. NWEA has a long history of working to protect

the waters and habitat of the Lower Columbia and Willamette Rivers. NWEA has citizen members who live, work, and recreate in and around the Lower Columbia River, whose interests will be adversely affected by the illegal public dissemination of the information in the aforementioned document. NWEA also has raised concerns about the factual inaccuracies of portions of the illegally disseminated FSEIS, including aspects of the economic evaluation included therein, in its lawsuit against the Corps concerning whether this document violates the National Environmental Policy Act (NEPA).

In that lawsuit, NWEA has submitted a declaration from an economist, Ernie Niemi, of EcoNorthwest, that demonstrates the Corps' calculations and projections of economic benefit of the Channel Deepening project are grossly exaggerated. *See* Attachment A, Declaration of Ernie Niemi, November 19, 2004. Previously, NWEA sought the agreement of the Corps to re-evaluate its cost-benefit analysis due to significantly changed circumstances, which it declined to do. *See* Attachment B, Letter to Lieutenant Colonel Carl A. Strock et al. from Todd D. True, Earthjustice, August 23, 2004. Much earlier, NWEA attempted to persuade the Corps to address inadequacies of its economic analysis of the Channel Deepening project by demonstrating its failure to account for certain significant costs associated with the dredging. *See* Attachment C, Letter to Secretary Louis Caldera, March 8, 2000 from Nina Bell, NWEA. Subsequent to the filing of NWEA's lawsuit, and to the Corps' signing of the Record of Decision (ROD) based on the FSEIS, two events have further demonstrated that the Corps' evaluation of costs and benefits in the document are seriously and significantly flawed. These are discussed below. The unlawful public dissemination of the FSEIS, which is circulated internationally via the World Wide Web, and was not the subject of independent peer review, substantially and negatively affects the ability of any reputable economist hired by NWEA to address the alleged net economic benefits associated with the Channel Deepening project.

II. FACTS

In January, 2003, the Portland District of the U.S. Army Corps of Engineers published the Final Supplemental Integrated Feasibility Report and Environmental Impact Statement for the Columbia River Federal Navigation Channel Improvement Project on the following website: <http://www.nwp.usace.army.mil/issues/crcip/cms/final.asp>. In November 2003, the Corps supplemented this FSEIS with the Columbia River Channel Improvement Project Addendum, November 2003, at <http://www.nwp.usace.army.mil/issues/crcip/cms/docs/final/addendum.pdf>. In this FSEIS, the Corps bases its cost estimate of \$151 million for the Channel Deepening project, \$95 million of which is to be federal, on a two-year construction period. In response to a comment regarding this time frame, the Corps has explained that "from a least cost perspective, minimizing the construction costs reduces the overall cost of the project." Draft EIS, Volume II, August 1999, Corps' Response to Comments from the Oregon Department of Land Conservation and Development, under cover letter dated February 3, 1999. There is, in fact, no basis for the Corps to assert or assume that the Channel Deepening project will be constructed within this two-year period for two fundamental reasons. First, the Corps has not yet received and is not likely in the future to receive the full allocations from Congress that are necessary for the agency

to complete construction of the project within the two-year time frame upon which all the estimated and predicted costs are based. According to published news reports, in order to maintain its two-year time frame upon which all of its cost estimates are based, the Corps required \$15 million for FY 2005, \$40 million for FY 2006, and \$40 million for FY 2007. However, the Corps only received \$9 million, rather than \$15 million, for FY 2005, and only \$15 million, rather than \$40, for FY 2006. Likewise, the President's FY 2007 budget released this month includes only \$15 million. Therefore, there is no basis for believing that the optimistic schedule of appropriations upon which the Corps has based its entire cost projections is accurate, clear, complete, or unbiased. Likewise, there is no reason for believing that the resultant cost projections in the FSEIS themselves are accurate, clear, complete, or unbiased.

Second, the Corps has been forced to radically scale back its initial contract for the Channel Deepening project because it grossly underestimated the costs of the project. The Corps had combined portions of the Channel Deepening Project with operation and maintenance dredging of the Columbia River Navigation Channel and the Mouth of the Columbia River for a solicitation issued on February 10, 2005. The lowest total bid received by the Corps in response to this February solicitation, and opened on April 12, was 69 percent higher than the government estimate. *See* Attachment D, Abstract of Offers-Construction, Solicitation W912N-05-B-0002. For this reason, the Corps published a second solicitation on April 22, 2005, which reduced the Channel Deepening Project from 25 to 13 miles. *See* Attachment E, Abstract of Offers-Construction, Solicitation W9127N-05-B-0010. Even so, the lowest bidder for the three dredging projects was 17.95 percent over the government estimate.

Moreover, between the February 10 and April 22 solicitations, the Corps adjusted the government estimates for 7 of 13 line items upwards, making the final bids even higher as compared to the original government estimates for the February solicitation. For example, line item No. 2 for the April solicitation has a unit price of \$3.95 for each cubic yard of material as compared to line item No. 2 of the February solicitation with a unit price of \$3.42 per cubic yard. The difference between these two line items is that in the April solicitation less material will be dredged and the material is closer to the disposal site. This change in unit cost represents a 15 percent increase in the government estimate over a 10 week period for the most substantial part of the Channel Deepening Project included in the current contract. Of equal relevance is the Corps' withdrawal of a portion of the project that the bids demonstrated to be substantially more expensive than the Corps estimated. Line item No. 11 of the February solicitation is for removal of "consolidated material" between river miles 104 and 105. The government estimated cost for this action was \$4.32 per cubic yard. The bids on this came in at unit prices of \$17.15 and \$11.50, or 397 percent and 266 percent higher respectively than the government estimate. The Corps' response was to remove this action from the solicitation and postpone it. Postponing the work is not likely to reduce its costs. Nonetheless, these bids suggest that dredging the consolidated material will be significantly more costly than estimated by the Corps in its FSEIS.

Additional bases for this complaint are set out in Attachments A, B, and C which detail certain inadequacies in the Corps' evaluation of both costs and benefits associated with the Channel

Deepening Project. These are incorporated by reference in this complaint and, in the interest of brevity, are not set out in detail herein.

III. LEGAL STANDARD

The United States Congress recognized a need to improve the quality of information disseminated to the public by the Federal Government. Section 515 of the FY 2001 Treasury and General Government Appropriations Act (Pub. L. 106-554, section 515, codified at 44 U.S.C. § 3516) and commonly referred to as the Data Quality Act, directed OMB to establish government wide standards in the form of guidelines designed to maximize the "quality," "objectivity," "utility," and "integrity" of information that federal agencies disseminate to the public. The Act also required agencies to develop their own conforming data quality guidelines, based upon the OMB model. *Id.* § 3516(b)(2)(A).

Federal agencies subject to the Paperwork Reduction Act, at 44 U.S.C. Chapter 35, were directed by OMB to: 1) issue their own guidelines ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency; and to 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency. Specifically, the OMB Guidelines at § III.2 state that “[a]s a matter of good and effective agency information resources management, agencies shall develop a process for reviewing the quality (including the objectivity, utility, and integrity) of information before it is disseminated” whereas the Guidelines at § III.4 state that “[t]he agency’s predissemination review, under paragraph III.2, shall apply to information that the agency first disseminates on or after October 1, 2002.” *See* Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication, 67 Fed.Reg. 8452 (Feb. 22, 2002).

The U.S. Army Corps of Engineers has not publish its guidelines for implementing the OMB’s rules as required by October 1, 2002 in the OMB Guidelines. However, on March 26, 2003, the Deputy Secretary of Defense promulgated a Policy Memorandum entitled “Ensuring Quality of Information Disseminated to the Public by the Department of Defense” in order to comply with the OMB DQA requirement. The DOD Memorandum states, “Components [such as the Army Corps of Engineers] should not disseminate substantive information that does not meet a basic level of quality. An additional level of quality is warranted in those situations involving influential scientific, financial, or statistical analytical results that are ‘capable of being substantially reproduced.’” *See* DOD Memorandum at § 3.1.1.2. As with the OMB Guidelines, to be consistent with the Act, component information releases are to be marked by utility, objectivity and integrity. *See* DOD Memorandum at § 3.2.2. Finally, scientific material not subject to independent peer review is not presumptively objective. *See* DOD Memorandum at § 3.2.3.

The DOD Memorandum explains that the concept of objectivity focuses on whether the disseminated information is being presented in an accurate, clear, complete, and unbiased manner and as a matter of substance, is accurate, reliable and unbiased. DOD Memorandum at § 3.2.2.

The DOD Memorandum states that the concept of utility refers to the usefulness of the information to intended users, including the public. When the Corps reviews its information for dissemination, it must consider the usefulness of the information for its “reasonable and expected application.” DOD Memorandum at § 3.2.2.

The OMB issued a Final Information Quality Bulletin for Peer Review on December 15, 2004, (hereinafter “OMB Bulletin”) that provides insight into what constitutes acceptable peer review. The selection of participants in a peer review is based on expertise, with due consideration of independence and conflict of interest. OMB Bulletin at 3. The purpose of a peer review is, for example, to filter out biases and identify oversights, omissions, and inconsistencies. *Id.* Peer review also may encourage authors to more fully acknowledge limitations and uncertainties. *Id.* OMB encourages agencies to “to ensure that their peer review practices are characterized by both scientific integrity and process integrity” by providing for, among other considerations, expertise and balance of the panel members, transparency and openness, avoidance of real or perceived conflicts of interest, and a workable process for public comment. *Id.* at 12.

Finally, the DOD Guidelines state that where dissemination of financial information DOD deems to be “influential,” the agency requires “a higher quality standard than that of peer review.” DOD Guidelines at § 3.2.3.1. This higher quality standards requires the information to be “capable of being substantially reproduced in accordance with commonly accepted scientific, financial, or statistical standards.” *Id.*

IV. ARGUMENT

One “reasonable and expected application” of the information disseminated in the FSEIS is for use by the public to decide if the proposed Channel Deepening Project will produce a net benefit for federal taxpayers. In the absence of accurate, clear, complete or unbiased information, this review cannot be had. Moreover, members of Congress are expected to rely upon the conclusions of the Corps’ analysis to decide whether this is a project worthy of funding through the appropriations process. Finally, the Corps itself is required to use the information in evaluating whether the project meets the fiscal requirements of the Water Resources Development Act (WRDA) of 1996. *See* 33 C.F.R. § 2280 (“Maximum cost of projects. In order to insure against cost overruns, each total cost set forth with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act [enacted Nov. 17, 1986], including the Water Resources Development Act of 1988, or in an amendment made by this Act or any later law with respect to such a project shall be the maximum cost of that project, except that such maximum amount (1) may be increased by the Secretary for

modifications which do not materially alter the scope or functions of the project as authorized, but not by more than 20 percent of the total cost stated for the project in this Act, in any later law, or in an amendment made by this Act or any later law . . .”). *See also*, Planning Guidance Notebook, April 22, 2000, ER1105-2-100 at 4-5(b) (“ Authorized Maximum Cost of Projects. Section 902 of the WRDA of 1986, as amended, legislates a maximum total project cost. Projects to which this limitation applies and for which increases in costs exceed the limitations established by Section 902, as amended, will require further authorization by Congress raising the maximum cost established for the project. No funds may be obligated or expended nor any credit afforded that would result in the maximum cost being exceeded, unless the House and Senate committees on Appropriations have been notified that Section 106 of the Energy and Water Development Appropriations Act of 1997 will be utilized. The maximum project cost allowed by Section 902 includes the authorized cost (adjusted for inflation), the current cost of any studies, modifications, and actions authorized by the WRDA of 1986 or any later law, and 20 percent of the authorized cost (without adjustment for inflation).”). If the costs are significantly understated and the benefits are overstated, the net project benefits projected in the FSEIS will lead to faulty conclusions concerning the Channel Deepening Project’s efficacy.

A further audience that can be reasonably expected to rely upon the information in the FSEIS are the legislatures of the States of Oregon and Washington which must pay a share of the cost of the Channel Deepening Project. The Corps itself intends to rely upon the projected net benefits in deciding whether the project should be constructed and to apply the legal restrictions on maximum total projects costs detailed above.

The economic analysis, both costs and benefits, upon which the information disseminated in the FSEIS is based fails to ensure and maximize the quality, objectivity, utility, and integrity of information disseminated by the agency as mandated by the DQA, its implementing regulations and relevant guidance. The cost estimates are based on a wholly unrealistic “optimistic” scenario that construction will be completed within two years, contrary to every indication of how long construction will actually take. When the Corps was presented with a public comment to the effect that it would be “extremely unlikely, based on realistic historical patterns (and the \$50 billion backlog of authorized Corps projects), that this project would receive full federal appropriation for construction over a two-year period,” the agency responded that it need not consider the effect of its overly optimistic time line on its cost estimates:

Conjecture regarding congressional priorities is outside the scope of the principles and guidelines that govern water resource development analyses. Congress has asked the Corps to provide an analysis that displays the benefits of a project compared to the costs required to achieve those benefits. The principles and guidelines that govern the work performed by the Corps establish a way to evenly compare the benefits and costs of all Corps projects across the nation. When the Corps completes the record of decision, the President will decide whether or not to include the funding for the project in his budget, which is submitted to the Congress. It would not be appropriate for the Corps to presuppose what the

President or the Congress will do with funding future appropriations. Congress will make funding decisions according to various national priorities; the Corps does not speculate on congressional funding decisions, and Corps policy prevents such speculation from being implemented in the cost estimating process.

FSEIS Volume 4, Stakeholder Comment SS-8, at Stakeholders/Special Interests-5, <http://www.nwp.usace.army.mil/issues/crcip/cms/docs/final/vol4/stake.pdf>. While the Corps is correct that it cannot and should not presuppose the future actions of the President or Congress, it remains responsible for the quality of the information it disseminates. In choosing to use a wholly unrealistic completion time frame, and choosing to not provide alternative time frames that would present a range of more realistic cost estimates, the Corps violated the DQA by presenting unrealistically low cost estimates that can never be achieved. These low cost estimates, in turn, affected the net benefits projected for the Channel Deepening Project.

Likewise, as discussed more fully in Attachment A, the FSEIS benefit estimates are similarly based on scenarios that fail to take risks and uncertainty into account and which subsequent developments have proven were serious flaws in the Corps' projections of benefits. The projected benefits fail to properly evaluate the risks associated with the projected shipping levels. Subsequent to the Corps' completion of the FSEIS, two thirds of the container shipping business from the Port of Portland was lost, a fact NWEA conveyed to the Corps in the fall of 2004, when requesting a reevaluation of the Channel Deepening Project's costs and benefits because the FSEIS had considered only a 14 percent possible loss. As detailed in the attachment, the loss of this container shipping results in a benefits to costs ratio that is less than one dollar for every federal dollar spent, specifically, a net loss of three cents for every dollar spent.

In addition, as set forth in Attachment A, the Corps failed to take into consideration the erosion and deterioration of the jetties at the mouth of the Columbia River, an essential part of the navigation channel, a problem the Corps' own engineers have concluded would cost from \$140 to \$250 million just to rehabilitate 20 percent of their length. Although the jetties are necessary to keep the shipping channel open, this staggering cost has not been factored into the economic analysis of the channel deepening project. As explained in Attachment A, accounting for even a fraction of those costs would significantly lower the economic benefits the Corps hopes to generate from this project. Further, the Corps omitted consideration of a soybean shipping facility located at the Port of Grays Harbor that began operation in 2004.

Attachments B and C contain information concerning the changed circumstances at the Port of Portland as well as the fact that the Corps failed to take into consideration the costs associated with its underestimates of dredging volumes and impacts of the Channel Deepening Project on commercial fish and shell fishing. Taken individually, and as a whole, the omission from the Corps' economic evaluation results in project estimates that are grossly inaccurate, incomplete, and biased.

In addition, the FSEIS is unclear, contrary to DQA requirements. In November 2003 the Corps issued an Addendum to its FSEIS in which it announced major changes in the disposal location for the Channel Deepening Project. Columbia River Channel Improvement Project Addendum, November 2003, published at <http://www.nwp.usace.army.mil/issues/crcip/cms/docs/final/addendum.pdf>. The decisions shifts a significant amount of disposal from nearby in-river sites to a Deepwater disposal site, several miles off the coast. Nowhere in the document does the Corps actually state how much dredged spoils will be taken to the Deepwater site, instead merely noting that the ocean disposal site will be used for “[c]onstruction and additional O&M after the estuarine sites are used to capacity.” *Id.* at 7 (Table 2). Likewise, the Corps does not calculate the likely additional costs associated with hauling dredged spoils to the new Deepwater Site which, because of its distance from the point of dredging, will be more expensive than disposal within the Columbia River Estuary, as originally planned in the FSEIS. *See, e.g., id.* (“Ocean disposal site use: None during construction if the Lois Island ecosystem restoration feature is fully implemented; none anticipated during the first 20 years of maintenance if Miller-Pillar and existing disposal sites in the estuary are used.”). The Corps’ failure to clearly state how much dredged material will be disposed of in the Deepwater site and the costs associated with that significant change in the project render the FSEIS unclear, biased, incomplete, and inaccurate contrary to DQA requirements.

The Corps’ use of a so-called peer review panel for its economic analysis does not, by itself, render its economic analysis presumptively objective. First, DOD Guidelines state that financial information deemed “influential,” requires “a higher quality standard than that of peer review.” DOD Guidelines at § 3.2.3.1. This higher quality standards requires the information to be “capable of being substantially reproduced in accordance with commonly accepted scientific, financial, or statistical standards.” *Id.* The “peer review panel,” convened by the Corps, cannot by itself satisfy this requirement. As demonstrated in Attachment A, the errors in the Corps’ analysis render it incapable of reproduction through such commonly accepted financial and accounting principles. Indeed, application of these principles, and the Corps’ own guidance, to the analysis, yields a markedly different result – a negative cost-benefit ratio for the project. *Id.*

Second, DOD Guidelines hold that where “general scientific and research information, technical information that has been subjected to formal, independent, external peer review” has been disseminated, it is considered “presumptively objective.” Guidelines at § 3.2.3. Here, the Corps submitted its cost estimates to a review panel composed of three current and former Corps employees. The cost panel consisted of three members. Mr. Gregory Hartman, of Dalton, Olmsted and Fuglevand, Inc., Silverdale, Washington, is a former Corps employee who also teaches an annual Dredging Fundamentals Course and Corps Dredging Contract Administrators Course for Corps employees. Nancy Case O’Bourke likewise is a former Corps employee, who worked with Mr. Hartman in his former firm, Hartman Consulting Inc. While it is impossible to assess from the biographical information provided by the Corps, it appears there likely is a connection between the contractual employment of Mr. Hartman and Ms. Case O’Bourke and the Army Corps. *See* <http://www.nwp.usace.army.mil/issues/crcip/cms/docs/seis/case.pdf>; <http://www.nwp.usace.army.mil/issues/crcip/cms/docs/seis/hartman.pdf>. Last, Benjamin

Salamone, is a current Corps employee from the New Orleans, Louisiana Corps office. This panel cannot have been considered to have been capable of providing peer review in a formal, independent, or external sense if for no other reason than one of the three members is a current employee of the Corps and one works under contract to the Corps on an annual basis. The long-time affiliation with the Corps of the two remaining members, and their likely continuing relationship to the Corps, calls into serious question the independence of the panel.

This panel was asked by NWEA to consider whether the Corps had grossly underestimated the volume of dredged spoils but in the course of the few days in which it conducted its review, the panel did not have the time or expertise to do so. Columbia River Channel Improvement Project Technical Review of the Benefit and Cost Analysis in the Draft Supplemental Integrated Feasibility Report and Final Environmental Impact Statement Dated July 2002, at 15, 23. <http://www.nwp.usace.army.mil/issues/crcip/cms/docs/TechReviewReportFinal.pdf>. A gross underestimate of sediment volume would have a significant impact on the costs associated with the project. The basis for NWEA's concerns is set out in Attachment C, which includes a scientific report concerning the Corps' predictions of sediment volume to be dredged over the next 50 years.

Moreover, any presumption that information submitted to peer review is objective is rebuttable "based on a persuasive showing by a complainant in a particular instance." DOD Guidelines at § 3.2.3. The persuasive showing in this instance is the mere fact that the panel failed to consider that the costs for this project might rise in the extremely likely event that the construction was not fully funded to meet the two-year time line. In addition, the fact that the Corps' estimates, which the panel criticized as being too high, but nevertheless approved, turned out to have been gross underestimates when compared to the actual bids demonstrates that the Corps' cost panel failed to adequately and objectively evaluate the Corps' cost projections. The panel simply failed to consider the risks and uncertainties that have already caused significant cost increases in the project and are likely to cause further increases.

The Corps' failure to consider appropriate risks and uncertainties, errors in calculating likely costs and likely benefits, and other oversights, as detailed in Attachments A, B, and C and above, all constitute the Corps' disseminating information in direct violation of the DQA, the OMB guidelines, and the DOD Memorandum.

V. REQUESTED ACTION

There is a high probability that the U.S. Army Corps of Engineers has released the information in the FSEIS in order to achieve some prejudicial result in its component processes. Accordingly, the U.S. Department of Defense must take affirmative steps to remove this disseminated information from public circulation and disavow its content until such time that a formal independent peer review is complete and its results are addressed. NWEA requests the DOD to direct that, until such time that the Corps complies with the provisions of the DQA, the OMB Guidelines, and the DOD Memorandum, the agency immediately disavow and withdraw from distribution the previously published FSEIS. NWEA further requests that the Corps be directed to not disseminate any further substantive information regarding the economic costs and benefits of the Channel Deepening project until such time as it has obtained an independent review.

VI. CONCLUSION

The lack of appropriations sufficient to maintain a two-year construction period, the Corps' seriously flawed cost estimates for certain phases of the project, and the flawed projections of both costs and benefits in the FSEIS demonstrate that the Corps' predictions of dredging and disposal costs in the FSEIS fail to meet the required quality of information disseminated to the public by federal agencies.

Each attachment to this complaint is incorporated by reference as to the breadth of the request for review and remedy requested. In the interest of brevity, we have not repeated in this complaint every detail that is set out in those attachments. As the DOD Guidelines state, a decision whether to reject the claim or correct the information should be made within 60 working days of receipt of the request. We look forward to hearing from you within that period of time.

Respectfully submitted,

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Attachment A - Declaration of Ernie Niemi, November 19, 2004.

Attachment B - Letter to Lieutenant Colonel Carl A. Strock et al. from Todd D. True, Earthjustice, August 23, 2004.

Attachment C - Letter to Secretary Louis Caldera from Nina Bell, NWEA, March 8, 2000.

Attachment D - Abstract of Offers-Construction, Solicitation W912N-05-B-0002.

Attachment E - Abstract of Offers-Construction, Solicitation W9127N-05-B-0010.