



**National Trust *for*
Historic Preservation**
Save the past. Enrich the future.

July 7, 2017

U.S. Army Corps of Engineers, Portland District
Attn: CENWP-PM-E/Kelly Janes
P.O. Box 2946
Portland, OR 97208-2946

By email to: willamettefallslocks@usace.army.mil

RE: Comments on the Willamette Falls Locks Section 216 Preliminary
Draft Disposition Study with Integrated Environmental Assessment
CENWP-PM-E-17-01

The National Trust for Historic Preservation is pleased to offer comments on the Preliminary Draft Disposition Study with Integrated Environmental Assessment for the Willamette Falls Navigation Canal and Locks (the Study). The National Trust applauds the selection of a Study alternative (Alternative 3) that seeks the transfer of the facility to a new owner other than the U.S. Army Corps of Engineers. However, we do not support the transfer of the Locks in a non-operational state. Instead, we believe it is imperative for the Army Corps to transfer the Locks in working condition, not only to comply with the Corps' legal responsibilities for the stewardship and maintenance of its historic properties, but also to set a positive precedent for the appropriate disposal of other historic assets owned by the Army Corps and other federal agencies.

Interests of the National Trust

The National Trust is a private, non-profit corporation that helps people protect, enhance, and enjoy the places that matter to them. Chartered by Congress in 1949, the National Trust protects and defends America's historic resources, furthers the historic preservation policy of the United States, and facilitates public participation in the preservation of our nation's diverse heritage. *See* 54 U.S.C. § 312102(a). With more than one million members and supporters around the country, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government. In addition, the National Trust has been designated by Congress as a member of the Advisory Council on Historic Preservation, which is responsible for working with federal agencies to implement compliance with Section 106 of the National Historic Preservation Act. *Id.* §§ 304101(8), 304108(a).

In 2012, the National Trust named the Willamette Falls Locks as one of our first National Treasures, a portfolio of irreplaceable, threatened places of national significance where we have made a long-term, deep organizational investment. We took this action in recognition of the historical significance of the Locks and in response to the Army Corps' closure of the Locks to

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vessel traffic in December 2011 and placement of the Locks in non-operational caretaker status. Our objective, which is shared by a broad and diverse coalition of public and private stakeholders, has been to support a plan for the repair, reopening, potential transfer, and sustainable operation of the Locks.

The National Trust fully supports the Willamette Falls Locks Working Group and its collaborative efforts to identify a transferee, to define the process for assuming responsibility and taking over operations of the Locks, and to establish funding mechanisms for on-going operations, maintenance, and future capital needs, all of which are essential to the Army Corps' successful divestiture of the facility.

A National Treasure for All Americans

The Willamette Falls Locks is a nationally significant industrial heritage site, the oldest and most intact bypass canal and leaf-gate locks in the nation. In the mid-19th century the Willamette Falls area became the epicenter of government, industry, transportation, innovation, and commerce in the Pacific Northwest. The Locks played a pivotal role in the transformation of Oregon's pioneer society into the modern state we know today.

Section 4 of the Flood Control Act of December 22, 1944, formally recognized the Locks' value as a historical and recreational asset, and authorized the Army Corps to provide the public with a public park and recreational facilities at the Locks, opportunities to visit the Locks and the historic information center, and to safely use the recreational features on the premises. The Locks were placed on the National Register of Historic Places in 1974, and in 1991 they were designated as a State Historic Civil Engineering Landmark by the American Society of Civil Engineers, in recognition of their status as Oregon's first water resources development project.

National Trust Comments on the Study

This Study is part of the formal Army Corps process to explore transferring the facility to a non-Army Corps owner and operator and, in the event a transfer is not possible, to begin the permanent deauthorization, decommissioning and closure process. Permanent closure would result in the loss of an invaluable historic, economic, cultural, and recreational asset that is unique in the nation, and is an outcome that the National Trust believes would represent a failure of federal stewardship that must be avoided.

Following are more detailed comments regarding areas of special concern.

• Follow Guidance of Section 1165 of the Water Infrastructure Improvements for the Nation Act (WIIN) Act of 2016

As the Army Corps looks to establish a national policy for the disposal of assets, particularly assets that are historically significant, full consideration must be given to the guidance provided by Congress in the Water Infrastructure Improvements for the Nation Act (WIIN) Act of 2016, Pub. L. No. 114-322. The WIIN Act, which overwhelmingly passed both chambers of Congress in December of 2016, specifies in part that the Secretary of the Army must consider the historic

significance of the asset that is subject to a disposition study: “in carrying out a disposition study for a project of the Corps of Engineers ... the Secretary shall consider the extent to which the property concerned has economic, cultural, historic, or recreational significance or impacts at the national, State, or local level.” WIIN Act, § 1165. Among the factors that need to be considered in the potential disposition of the Locks are their importance to the current and future success of industrial heritage redevelopment sites both above and below the falls.

Section 1165(B) of the WIIN Act further calls on the Secretary of the Army to complete the assessment of all Army Corps properties and to develop an inventory of properties within one year that are no longer needed to complete the mission of the Corps. This assessment will undoubtedly identify other Army Corps properties that are historically significant. In its pursuit of a new national policy for disposal of assets, the Corps is required by Congress to consider the historic significance of its properties and their overall condition. The ability to efficiently dispose of properties that are no longer needed for the Corps’ mission will be made easier by placing appropriate emphasis on the proper stewardship of our nation’s nationally recognized historic assets.

- **Incorporate a Cost-Sharing Repair Scenario**

The Preliminary Draft of the Study fails to evaluate an alternative that would repair the facility to a state of good working condition consistent with the objective of the Willamette Falls Locks Working Group to facilitate a transfer of the facility to a non-Army Corps entity. The National Trust recognizes that the full repair of the Locks may be cost-prohibitive for the Corps to take on alone, and that such an alternative should include funding on a cost-sharing basis contingent upon an agreement between the Army Corps and an identified transferee. Such a cost-sharing scenario is justifiable through Section 1165 of the WIIN Act, and could relieve much of the financial burden on the Army Corps.

The Preliminary Draft of the Study also fails to include a cost-share alternative that would return the facility to good operating condition for navigation purposes, even though considerable interest has been expressed by potential partners in evaluating such an alternative, and the Section 106 Memorandum of Agreement (Stip. III.B.) specifically requires the Corps to study a 50/50 cost-share approach. In fact, the facility was originally purchased by the Army Corps in 1913 on a cost-sharing basis, with funding from both the State of Oregon and the federal government. A cost-sharing alternative would enable the Corps to address all liabilities before transferring the facility to a new owner, and is consistent with Army Corps’ goal to “render the facility sufficiently safe to market for disposal.”

- **Analyze True Costs Associated with Permanent Closure**

The NEPA Environmental Assessment (EA) level of analysis is sufficient if the Army Corps pursues Alternative 3, which would transfer the Locks to a non-Army Corps agency in order to return them to an operational status. However, if the Corps were to pursue Alternative 7, an EA would be insufficient. A plan to permanently close the Locks would require a full NEPA Environmental Impact Statement (EIS), and would likely result in much more protracted Clean Water Act Section

401 and 404 permitting and NHPA Section 106 consultation. The Study should account for the time and cost of this level of environmental review in the event that the Army Corps chooses to pursue Alternative 7, and the added project development and permitting costs associated with this review should be accounted for in the overall cost of Alternative 7.

- **Comply With All Stipulations of the Legally Binding Section 106 Memorandum of Agreement (MOA)**

The National Trust was a participant in the National Historic Preservation Act Section 106 consultation process and is a Concurring Party to the resulting Memorandum of Agreement (MOA). The MOA is a legally binding and enforceable document, which established stipulations to which the Army Corps has committed. The Disposition Study should include an itemized description of the items called for in the Section 106 MOA and the manner in which they have been addressed, or the expectation on when and how they will be addressed. For example, the Army Corps is required to pursue a 50/50 cost share study with the Working Group (Stip. III.B.), and is required to maintain the Locks commensurate with the Corps' stewardship obligations under Section 110 of the NHPA, 54 U.S.C. § 306102(b)(2), in order "to preserve and protect significant character defining features of the property" (Stip. IV.). In addition, the Army Corps must pay the expenses associated with decontamination, as required by law and stipulated in the binding MOA signed by the Corps. The Corps should complete the required assessment and commit to clean up the property.

- **Provide More Time for Regional Due Diligence**

Local efforts are underway by the Willamette Falls Locks Working Group to assess the state and local economic potential of the Locks, and to procure professional engineering services to support the necessary due diligence required for any potential transfer. We ask that the Army Corps' Final Disposition Study not be completed until after at least December 2017, allowing for information from these other local and regional analyses to be included in the Corps' alternatives analysis, as required by Section 1165 of the WIIN Act. This will also allow the Working Group time to identify and evaluate potential transferees.

Conclusion

The Army Corps should pursue an alternative to facilitate transfer of the Locks in a state of good working condition. This alternative should include consideration of a cost-sharing agreement between the Corps and an identified transferee, which presents the highest likelihood of achieving a successful transfer of the Locks and would relieve much of the cost burden from the Army Corps. Furthermore, the transfer plan must address safety concerns, and not place the burden of addressing these safety repairs on the transferee. In the interest of public safety, the Corps should implement the needed safety repairs identified in the 2011 Facility Evaluation Report prior to transfer.

A reopened Willamette Falls Locks would benefit all Oregonians, supporting heritage-based tourism of the newly formed Willamette Falls Heritage Area. Repairing the Locks will set an example for the sustainable operation of historic navigation facilities and help reestablish

navigation up and down the Willamette River, fulfilling the river's designation as a National Water Trail and an American Heritage River, and will support commerce, recreation, historic and cultural interpretation, tourism, and traditional Native American uses.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Veerkamp', with a stylized, flowing script.

Anthony Veerkamp
Director of Policy, Preservation Green Lab

cc: Chris Daniel, Tom McCulloch, and Reid Nelson, Advisory Council on Historic Preservation
Gail Celmer, Acting Deputy Federal Preservation Officer, U.S. Army Corps of Engineers
Jessica Gabriel, Oregon State Historic Preservation Office