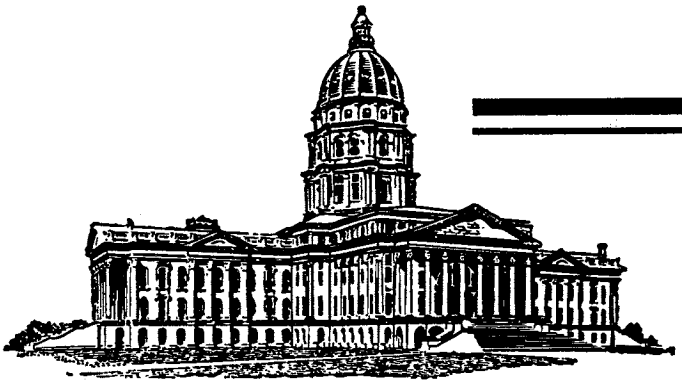

PERFORMANCE AUDIT REPORT

Reviewing U.S. Army Corps of Engineers Records Supporting the State's Share of Development Costs for El Dorado State Park

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
April 1996

96-50

Legislative Post Audit Committee

Legislative Division of Post Audit

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April 18, 1996

To: Members, Legislative Post Audit Committee

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This report contains the findings, conclusions, and recommendations from our completed performance audit, *Reviewing U.S. Army Corps of Engineers Records Supporting the State's Share of Development Costs for El Dorado State Park.*

The report includes a number of recommendations regarding the State's obligations for the development of El Dorado State Park.

We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton
Legislative Post Auditor

Reviewing U.S. Army Corps of Engineers Records Supporting the State's Share of Development Costs for El Dorado State Park

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Question: What is the State's Current Financial Obligation to the U.S. Army Corps of Engineers for Development Costs at El Dorado State Park?

The State has a current financial obligation to pay its share of the development costs incurred at El Dorado State Park. *In 1972, the Park and Resources Authority (a predecessor agency to the Department of Wildlife and Parks) signed a contract with the U.S. Army Corps of Engineers agreeing to pay 50% of the development costs for El Dorado State Park. Included in development costs were the costs of planning, buying land, and constructing facilities for the Park. The Corps agreed to give the State credit for the costs of any development done on the Park with State money.* ..... page 4

The State's share of development costs at El Dorado State Park have risen from an estimated $2.6 million to about $8.5 million, largely because of inflation and design changes or additions. *When the contract was signed, total development costs were estimated at $5.1 million; the State's share would have been $2.6 million. In 1975, the two parties agreed to a master plan for the Park's development. This plan, and later supplements, authorized many changes and additions to the Park, which caused the development costs to increase considerably. About half the cost increases were from design changes and additions, and about half were the result of inflation.* ..... page 5

From 1988 to 1992, the Department ignored the Corps' repeated requests to meet on and discuss its cost figures. *Actual development of the Park began in 1978. In June 1988, in accordance with provisions of the contract, the Corps notified the Department that it had awarded the final construction contract for the Park, and was finalizing its cost figures. The Corps asked the Department to submit estimates for costs the State had incurred in working on the Park. It also requested a meeting between the two parties to discuss the Park's development costs. The Department didn't respond to this request, nor to similar requests from the Corps in November 1989 and April 1991. This last request included a proposed payback schedule based on costs incurred by the Corps, with the first payment due in August 1992.* ..... page 7

The Corps contacted the Department in August 1992 to find out why no payment had been made. At that time, the Department finally provided its list of costs incurred during the Park's development. The Corps ultimately agreed to credit the State for about $750,000, which left the State with a balance due of $8.45 million.

The Corps of Engineers' financial records generally support the $8.5 million it claims the State owes, although it 's possible the State shouldn't pay the $214,000 cost of buying an area that may become a wildlife-management area. *We reviewed the Corps'* ..... page 10

supporting worksheets and accounting records, and found that these generally supported the Corps' cost figures. We found three relatively minor discrepancies, but their net effect actually would increase the Corps' final cost figures by about $16,000.

An area called Lost Lake originally was intended for recreational purposes, but final changes to the master plan show it will become a wildlife-management area, which would not be subject to cost-sharing. Later documents on file at the Corps show this land still is planned for future development as part of the Park. The status of this area needs to be resolved.

Although the Corps may not have some original documents to support development costs the State owes, the Department assigned a project manager to oversee development activities. This individual closely monitored the work as it progressed, and reviewed copies of some of the original documentation at the time.

The Department first requested appropriations to fund this repayment in its fiscal year 1995 budget request. *The Department requested funding to begin payments to the Corps in each of its C-level budget requests for fiscal years 1995, 1996, and 1997. However, in each request, the Department gave this item the lowest priority status. The Division of Budget didn't recommend funding these requests, and suggested that the Department seek funding from other sources.* ..... page 12

Conclusion ..... page 12

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Appendix A: Incremental Changes to the 1972 Estimate For Costs of El Dorado State Park ..... page 15

Appendix B: Agency Responses ..... page 17

This audit was conducted by Cindy Lash and Tracey Elmore. If you need any additional information about the audit's findings, please contact Cindy Lash at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call (913) 296-3792, or contact us via the Internet at: **LPA@PostAudit.ksleg.state.ks.us.**

Reviewing U.S. Army Corps of Engineers Records Supporting the State's Share of Development Costs for El Dorado State Park

In 1972, the Park and Resources Authority (one of the predecessor agencies to the Department of Wildlife and Parks) entered into an agreement with the Corps of Engineers to pay for half the development costs of a State Park at El Dorado Lake. Costs were to be repaid within a 50-year period. In April 1991, the Corps requested a first annual payment of $431,580 from the Department. Payments were to extend for 34 years, and would amount to a total of about $15 million, including interest. However, no payments have been made to date.

The Department of Wildlife and Parks asked for State General Fund moneys in its fiscal years 1995, 1996, and 1997 budget requests to begin annual payments to the Corps. Each year, the Division of the Budget has recommended not funding the request.

Recently, the Department raised questions about whether the Corps' cost figures are correct. In addition, the Corps has indicated that if the State does not begin making payments before August 1996, it will consider legal proceedings against the State to force payment.

Because of this situation, the House Appropriations Committee requested an audit of the Corps' records supporting the amount due from the State. In order to have this information in time for the 1996 Legislature to make funding decisions, the scope of the original audit request was reduced to meet the deadline. This audit addresses the following question:

What is the State's current financial obligation to the U.S. Army Corps of Engineers for development costs at El Dorado State Park?

To answer this question, we reviewed all available correspondence between the Corps and the Department (or its predecessor agency) from 1971 to the present. We also reviewed the contract between the Corps and the Park Authority, as well as the master plan for the Park. In addition, we analyzed financial records available at the Corps' Tulsa office and at the Department of Wildlife and Parks, and interviewed officials from both agencies.

In conducting this audit work, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office.

We found that the State has a financial obligation to pay its share of the development costs incurred at El Dorado State Park, which appears to be about $8.5 million. The Corps' worksheets and accounting records generally support its final cost figures. Although original supporting documents such as contracts and invoices may no longer be available, the Department's staff actively monitored costs and construction during development and reviewed at least some of these supporting documents at the time. For several years, the Department was not responsive to the Corps' efforts to discuss final cost figures or to identify estimates of the State's offsetting costs.

Overview

In 1965, the U.S. Army Corps of Engineers submitted a report to Congress recommending construction of three reservoirs on the Walnut River basin in southeast Kansas to provide flood control, water supply, water quality control, and recreation. Ultimately, only one of those reservoirs was built, near the city of El Dorado.

El Dorado Lake was authorized under the federal Flood Control Act of 1965. Another Act passed that year, the federal Water Project Recreation Act, required that a non-federal public body pay at least one-half the costs of developing recreational facilities at federal reservoir projects, as well as all of the operations and maintenance costs. The Kansas State Park and Resources Authority signed a contract with the federal government, represented by the Corps of Engineers, in 1972 to share in the costs of the recreational development at El Dorado Lake. Construction of recreational facilities began in 1978 and was completed in 1989.

El Dorado State Park is the only State Park built under a payback arrangement. Most of the State Parks were built in the mid-1960s or early 1970's with State General Fund moneys appropriated each year and matched with federal funds. At the time El Dorado State Park was built, Corps of Engineers' policy was to pay for development costs up-front, and allow States to begin repayment after construction was complete. That policy was subsequently changed to require states to pay their share on an annual basis throughout the development period. Clinton State Park was built under this later arrangement.

El Dorado State Park Has the Highest Attendance Figures And Generates the Most Income of All the State Parks

The Park has many amenities—in 1983 the Director of the Park and Resources Authority noted that it "may well be the best State Park within the State system." The Park has four recreation areas and covers nearly 3,900 acres. One of the recreation areas is intended for day use only, and has boat ramps, picnic shelters, and toilets. The remaining areas have campsites (some with full hookups for RVs), shower and toilet buildings, playgrounds, and either boat ramps or a fish-cleaning station. The map on the next page shows the lake.

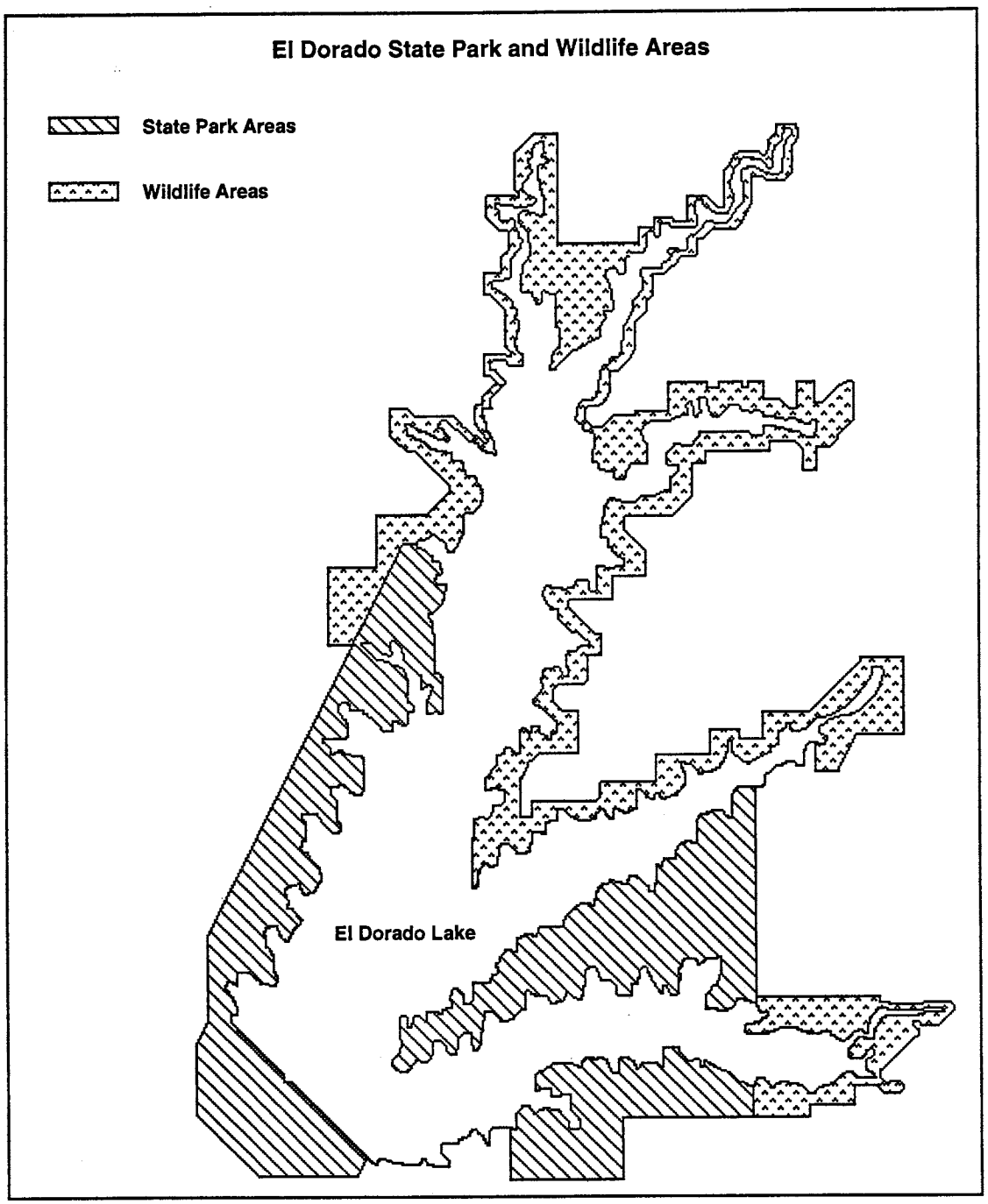
When the lake was approved in 1965, the total project was expected to cost $23.3 million. In 1972, when the State agreed to share in the costs of recreational development, the estimated cost of the recreation area alone was $5.1 million, of which the State's share was $2.6 million. Over the years, inflation and design changes drove up costs—the final cost of the recreation area was approximately $18.4 million and the cost of the total project was $103.9 million.

The Contract Between Kansas and the Corps of Engineers Requires the State to Repay Its Share of Recreation Costs Within 50 Years of the Date of Initial Development, or by 2028

In response to questions from the Department in 1992, Corps officials indicated the Department could either make one lump-sum payment of its share of costs, or adhere to a yearly payment schedule determined by the Corps. When Department of-

ficials asked what would happen if the State simply did not repay its share of the costs, they were told the Corps would recommend the U.S. Department of Justice sue the State for enforcement of the contract.

Although the Corps sent the Department its first payment schedule in April 1991 (State costs were spread over a 36-year period at about 3.5% interest beginning in August 1992), no payments have yet been made. The Corps has begun assessing the State additional interest and penalty payments on the amount owed.



What is the State's Current Financial Obligation To the U.S. Army Corps of Engineers for Development Costs at El Dorado State Park?

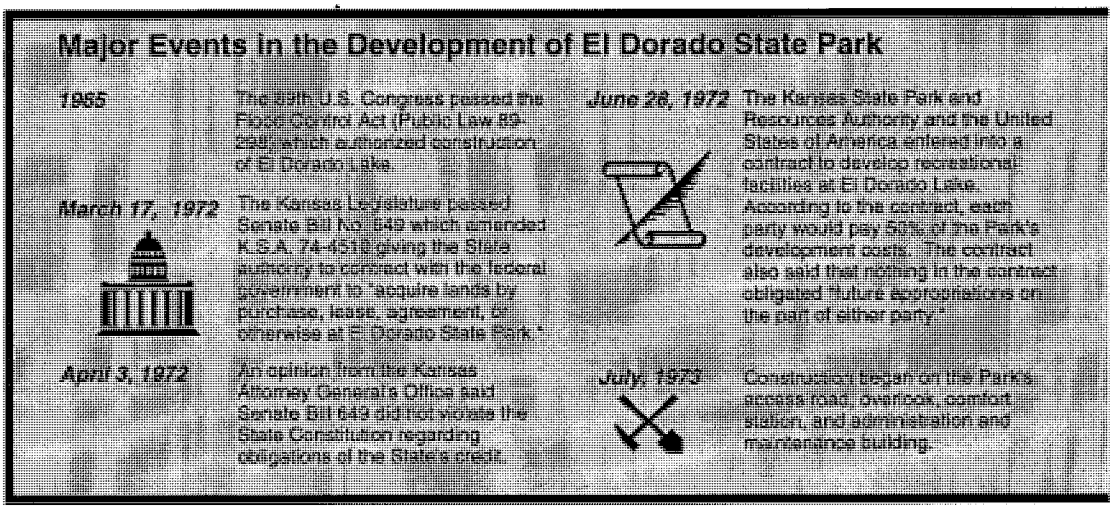
Based on a 1972 cost-sharing agreement between the Park and Resources Authority and the Corps of Engineers, the State has a financial obligation to pay its share of the development costs incurred at El Dorado State Park. The Corps claims the State's share is about $8.5 million. If the State repays that obligation in annual payments over the remaining contract period, as proposed by the Corps, that payback would total $15 million.

With a few exceptions, the Corps' worksheets and accounting records for the Park's development costs generally support its final cost figures. However, it appears the State may not need to pay its share of the $214,000 cost of buying an area that may not be developed as part of the Park. Although we couldn't review the Corps' original supporting documents, such as construction contracts, employee time sheets, and payment invoices, the Department had an employee assigned to oversee this project who monitored construction throughout the Park's development and who reviewed a final construction inventory provided by the Corps.

Finally, from 1988 to 1992 the Department of Wildlife and Parks generally ignored the Corps' letters and invitations to provide estimates of the State's offsetting costs, to review and discuss final cost figures, or to begin paying back the money owed. These and other findings are discussed in the following sections.

The State Has a Current Financial Obligation To Pay Its Share of the Development Costs Incurred At El Dorado State Park

In 1972, the State agreed in writing to pay 50% of the development costs for El Dorado State Park. That written agreement, signed by the Chairman of the Kansas Park and Resources Authority and the U.S. Army Corps of Engineers, included in those costs such things as planning, buying land, and constructing facilities for the Park. In general, the Corps agreed to pay the majority of the development costs, and the State would be given credit for the costs of any development it did on the Park.



Ten years after development started, the Corps would determine the total costs of developing the Park, calculate the State's share of that total, give the State credit for the moneys the State already had spent on development, and arrange for the State to repay the balance due. Development of the Park began in 1978.

At the time of the original agreement, a concern was raised that the terms of the agreement could be seen as obligating future appropriations of the Kansas Legislature. Then-current State law specifically prohibited the Park and Resources Authority from accepting property under conditions that would pledge the credit of the State.

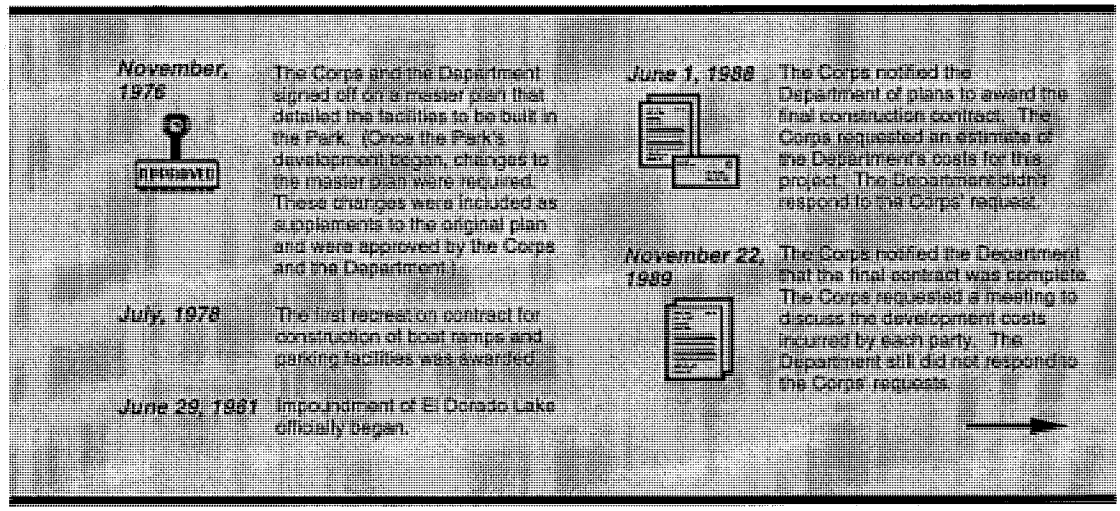
In response to this issue, the 1972 Legislature passed Senate Bill 649, which specifically exempted the El Dorado State Park agreement from the standard prohibition against obligating the State's future credit. In response to a legislative request at the time, the Attorney General said the exemption made by that legislation did not violate the State Constitution.

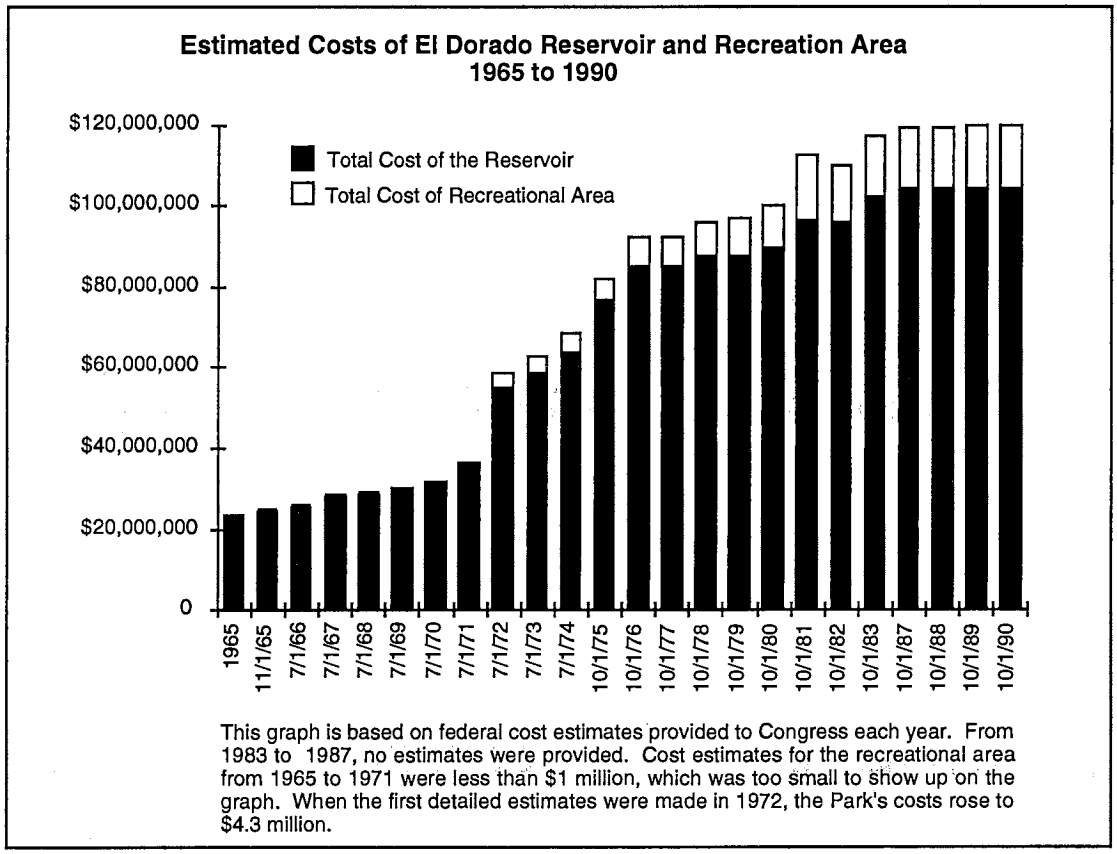
Language also was added to the agreement specifying that it didn't obligate future appropriations of either the federal or State governments. This language is consistent with any long-term contract signed by a State agency—such as multi-year highway construction contracts, multi-year audit contracts, and multi-year lease agreements. While those contracts don't obligate future appropriations (no session of the legislature can require future legislatures to make specific appropriations), they certainly create a financial obligation for the State. If they didn't, vendors would be reluctant to sign any multi-year contracts with State agencies.

Given the above, it seems clear that the State has a financial obligation to pay its share of the development costs incurred at El Dorado State Park.

The State's Share of the Development Costs at El Dorado State Park Have Risen From an Estimated $2.6 Million to About $8.5 Million, Largely Because of Inflation and Design Changes or Additions

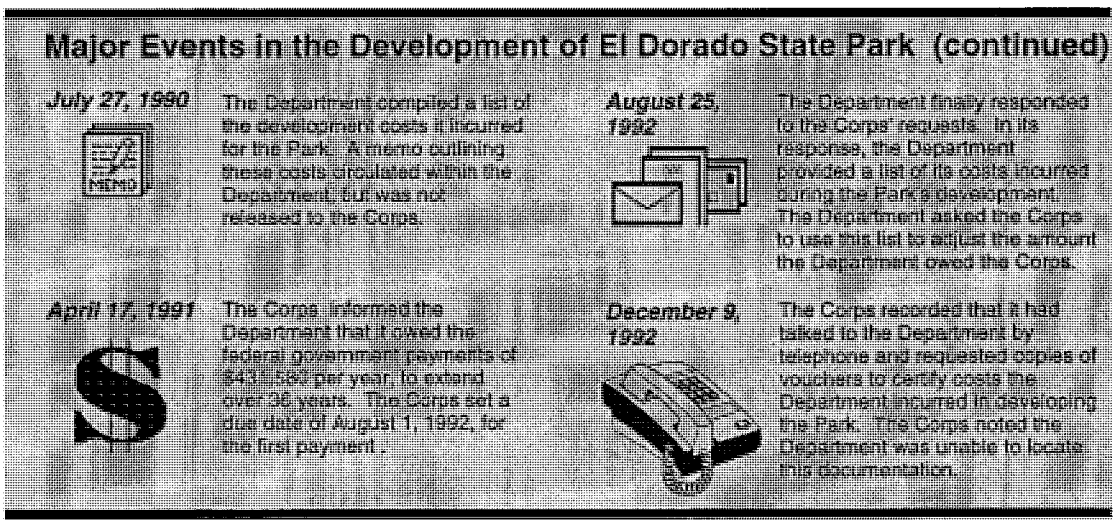
The cost estimate for El Dorado Lake approved by Congress in 1965 was $23.3 million. Later that year, the first annual cost estimate prepared by the Corps for Congress showed an increase to $24.6 million because of inflation, and estimated the





cost of recreation facilities at $589,000. When the Park and Resources Authority signed a contract with the Corps to share in the costs of developing a State Park at the lake, the cost of the recreation facility was estimated at $5.1 million, of which the State's share was $2.6 million. This was the first time detailed plans for the Park were discussed, which drove the costs up considerably.

In 1975, the two parties agreed to a master plan for the Park's development. This was a very detailed document, which specified what was to be included in each



area of the Park (for example, the number and location of boat ramps, picnic shelters, and shower facilities), and represented another significant cost increase. From 1975 to 1986, 10 supplements were added to the Master Plan to cover several smaller changes--such as adding fencing, roads, and maintenance buildings--and to cover the second major phase for developing the Park's recreational facilities. (This second phase was anticipated in the original contract.) Appendix A details these changes, which appear to reasonably explain most cost increases in the Park.

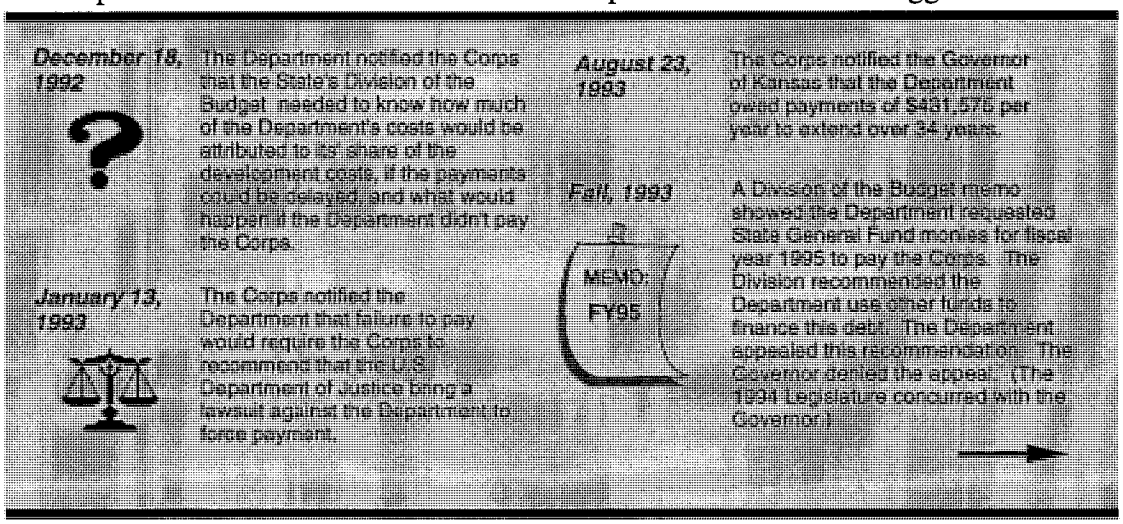
We also reviewed the cost estimates the Corps prepared for Congress each year, as shown in the graph on the preceding page. These estimates showed the reported cost increases resulting from inflation and from such things as design changes and differences between estimated and actual contract payments. According to these documents, about half the cost increase was caused by inflation, and half by design changes and other factors. The Corps' final estimate of the State's share of development costs is about $8.5 million.

The Park and Resources Authority, and later the Department, had a staff member assigned to oversee the development of El Dorado State Park. This individual told us that, during the project, he helped compile the project's Master Plan, visited the site monthly to be sure construction followed the plan and supplements to the plan, and attending regular meetings with construction contractors, which included reviews of some contracts and invoices.

From 1988 to 1992, the Department Ignored the Corps' Repeated Requests To Meet on and Discuss Its Cost Figures

The cost-sharing agreement between the State and the Corps of Engineers called for the Corps to begin finalizing cost figures 10 years after beginning actual development of El Dorado State Park, which took place in 1978.

In June 1988, the Corps notified the Department of Wildlife and Parks that it had awarded the final construction contract and was beginning to finalize cost figures for the Park. That letter provided estimates of the Corps' development costs totalling $18.5 million (which included $2.6 million in interest during construction) and asked the Department to submit its estimated development costs. It also suggested that the



two parties meet to discuss the costs incurred. The Department didn't respond to that letter.

In November 1989, the Corps notified the Department that the final construction contract had been completed, and suggested a meeting to review development costs incurred by both agencies. The Department has no record of a response to the Corps. However, a former staff member, the project manager for the Park, stated that at this time he requested—and the Corps sent him—an itemized list of all the improvements made by the Corps and the associated costs.

In April 1991, the Corps again wrote the Department, attempting to obtain the Department's cost figures. This letter also included a proposed payback schedule with the first payment of $431,578 due by August 1992, and with equal annual amounts to be paid by the Department during the following 36 years. The Department didn't respond.

In mid-August 1992, Corps officials telephoned the Department asking why it hadn't made the first payment. A newly appointed Secretary had been on the job only a few days, and knew nothing about the repayment requirement. At his direction, more than four years after the first request, the Department provided its development cost figures to the Corps of Engineers. Those figures totaled $903,367, and included more than $600,000 for construction of roads by the Kansas Department of Transportation, as well as building materials and equipment. Department officials told us that the Department actually incurred greater costs—including labor costs for employees assigned to the project—but that the documentation to support those charges was lost during the 1987 merger of the Park Authority and the Fish and Game Commission.

In August 1993, the Corps sent a letter to the Governor disallowing about $154,000 in "work-in-kind" credits the Department had submitted. More than 90 percent of the disallowed costs were for items constructed with federal funds; federal funds can't be used to meet the State's cost-sharing obligation.

In its letter, the Corps offered to reconsider any disallowed costs if the State could provide more detailed documentation. We found no indication the Department responded to that letter.

Major Events in the Development of El Dorado State Park (continued)

December 20, 1993

The Department and the Corps met to discuss options regarding the Department's obligations. The two parties agreed to resolve the issues with the payment schedule. The Corps agreed not to require a payment for fiscal year 1995.

June 13 to 16, 1994

The Department sent an auditor to Tulsa to audit the Corps' records. The auditor's report noted the financial information the Corps had submitted to the Department appeared reasonable.

Fall, 1994

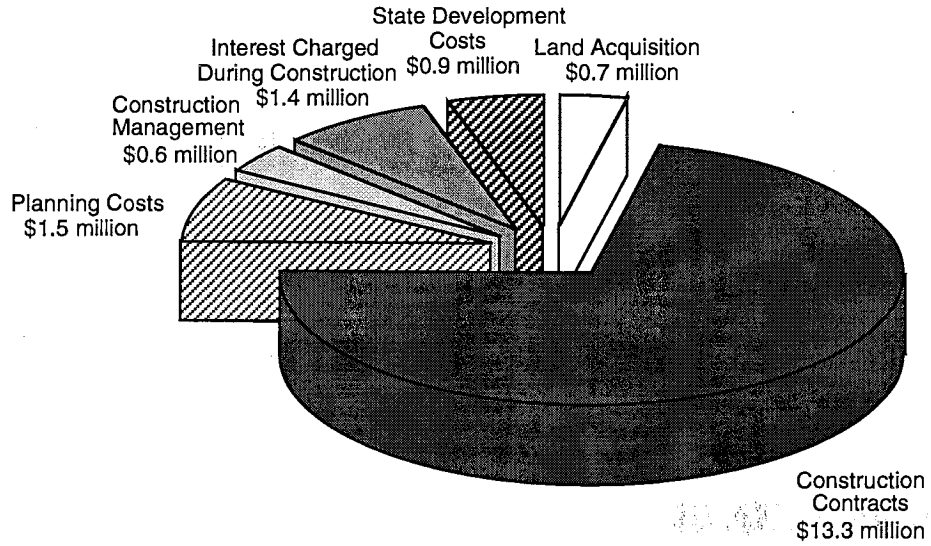
A Division of the Budget memo showed the Department requested State General Fund monies for fiscal year 1996 to pay the Corps. The Division denied the Department's request again. The Department appealed the recommendation. The Governor's Office denied the appeal. (The 1995 Legislature concurred with the Governor.)

November 8, 1994

The Department offered the Corps a lump sum payment of $2.5 million to settle its obligation. If the Corps agreed, this amount would be paid on July 1, 1995.

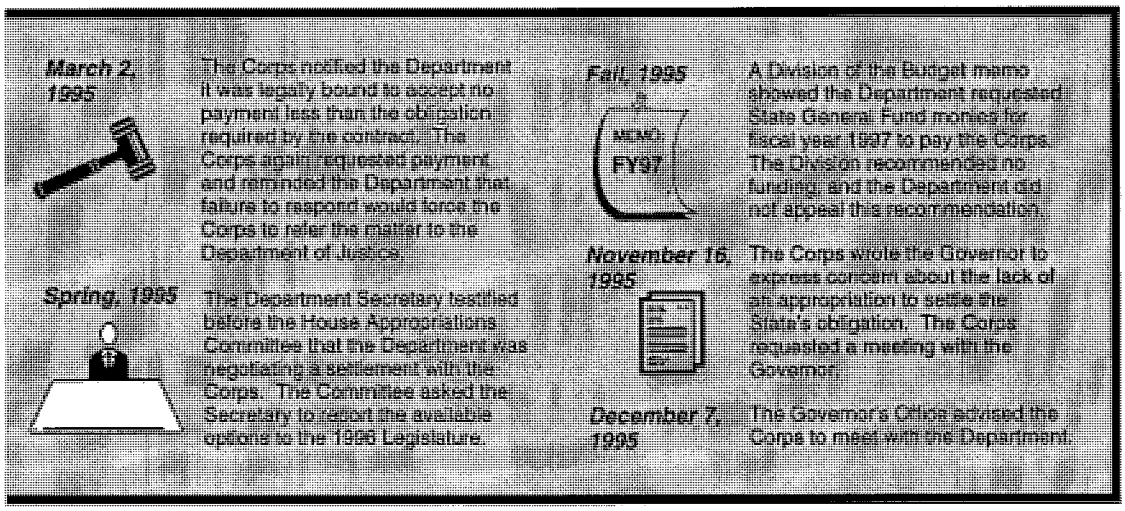
The Corps of Engineers has arrived at total development costs of about $18.4 million. Individual cost categories and amounts that make up that total are shown in the pie chart below.

Total Cost Figures for the Development of El Dorado State Park



As the graph shows, construction contracts accounted for just over 72% of the total costs in the Park's development. In comparison, the other costs were minor. Planning costs and interest charged during construction made up most of the remaining costs with about 8% each

According to the Corps' figures, the State's share (50%) of that total cost was $9.2 million. As specified in the cost-sharing agreement, the Corps gave the State credit of about $750,000 for the development costs the Department paid with State dollars, leaving a balance due of $8.45 million.



The Corps of Engineers' Financial Records Generally Support The $8.5 Million It Claims the State Owes, Although It Is Possible The State Shouldn't Pay the $214,000 Cost of Buying an Area That May Become a Wildlife Management Area

A major impetus for this audit was the Department of Wildlife and Park's concern that the amount the Corps of Engineers says the State owes for the development of El Dorado State Park may not be supportable. The Department had sent its internal auditor to the Corps' office in Tulsa in June 1994 to review the Corps' records relating to the State's share under the contract.

The internal auditor noted that the Corps' accounting records were sufficient to support most of the major costs, but when he asked for copies of contracts supporting the accounting records, he was informed they had been destroyed. This caused Department officials to question whether the accounting records could be relied on.

To test the cost figures developed by the Corps of Engineers, we reviewed the Corps' supporting worksheets and accounting records. We found that those worksheets and records generally supported the cost figures developed by the Corps. The specific discrepancies we found are as follows:

- Construction contract costs included an amount for "other" that didn't match up with any individual construction contracts listed in the worksheets or the engineer's contract log. The amount in the "other" category—$30,869—is questionable at this time.

- Planning costs specifically identified in the accounting records were $4,481 less than the total included in the Corps' final cost figures. Apparently, the final cost figure shown for planning costs is overstated by that difference.

- Construction management costs included in the final cost figures actually were $51,582 less than the Corps' worksheets show they should have been. Most of the difference apparently was caused by a clerical error in recording the amounts from one sheet to another. The rest was caused by using an incorrect percentage to allocate the total to individual construction phases.

The net effect of these three discrepancies is that the Corps' final cost figures actually are about $16,000 less than they should be. (These items also would increase the amount of interest charged during construction, but the amount of that increase would not be large compared to the total cost—probably about $1,500. We didn't have the information needed to determine that amount.)

The status of the Lost Lake area will need to be formally determined before we can say whether its acquisition cost should be included as a shared cost. The cost of acquiring land includes $213,989 for an area known as Lost Lake. This land originally was planned for development as part of El Dorado State Park, but it hasn't been developed to date.

The final supplement to the master plan indicates the Corps of Engineers and the State proposed to reallocate this area from recreation to a wildlife management area, which would not be subject to cost-sharing. However, later documents on file

at the Corps show this land is still planned for future development as part of the Park. The Department and the Corps will need to resolve this issue.

Although the Corps may not have some original documents to support the development costs due from the State, the Department provided ongoing oversight of the costs incurred during the project. In testing the accuracy of the Corps' worksheets and accounting records, we normally would have reviewed a sample of original supporting documents, such as construction contracts, employee time sheets, and payment invoices. However, earlier correspondence from the Corps to the Department of Wildlife and Parks indicated that such documents apparently had been destroyed.

When we asked Corps officials about these documents, they told us such documents would not be on file at the Corps' office in Tulsa because they related to financial transactions that took place as many as 20 years ago. However, they said some documents still might be on file at the Corps' record retention center in Fort Worth. According to Corps officials, the Fort Worth retention center normally destroys records after 10 years, but it's possible some of the El Dorado contracts may have been retained.

Because of the relatively short timeframe for this audit, we didn't pursue these records further. However, it's our understanding that the Department staff provided ongoing oversight and review of the project and of many of the Corps' supporting records. Our understanding is based on the following:

- the Park and Resources Authority assigned its own project manager to oversee development of the El Dorado State Park. As noted earlier, that employee told us he reviewed and approved the project's Master Plan, any changes to that Plan, and all related construction contracts.

- the project manager told us he visited the site to review work in progress at least monthly, and reviewed some construction contract invoices.

Delaying Repayment to the Corps Wouldn't Necessarily Be in the State's Best Interest

The federal law covering the El Dorado State Park cost-sharing agreement between the State and the Corps of Engineers gives the State up to 50 years after initial development to pay its share of the costs. Because development started in 1978, the State has until the year 2028 to complete repayment. The Corps of Engineers wants the State to repay in annual installments, but some Department of Wildlife and Parks officials have argued the State can wait until 2028 and make one single payment.

We think federal law is unclear on whether the Corps can require the State to make annual payments. However, according to the Corps' staff attorney, federal regulations in effect at the time allow the Corps to specify a repayment schedule. Because we weren't able to find those regulations in the time allotted for this audit, we don't know if that's true. Nevertheless, it seems best for the State to make annual payments for the following reasons:

- First, the amount the State owes is accumulating interest charges at a rate of about 3.5% a year. While this rate is not very high, it still can result in significant interest charges when applied to the total amount due of $8.5 million. If the State makes annual payments, it will end up paying a total of about $15 million during the next 32 years. If the State actually waited until the end of that period to make a single payment, that payment would be more than $25 million.

- Second, it is likely to be easier to fund annual payments of about $475,000 than to find funding for a single payment of more than $25 million.

- the project manager told us the Department had asked for and received copies of certain of the Corps' cost records toward the end of the project and that he had reviewed them. Department officials weren't able to locate these records.

Also as noted earlier, the Corps of Engineers invited the Department in 1988 and again in 1989 to review and discuss the Corps' project costs as they were being finalized. The Department never responded to this invitation.

The Department First Requested Appropriations to Fund This Repayment in Its Fiscal Year 1995 Budget Request

The Department requested funding for an initial annual payment to the Corps of Engineers of between $450,000 and $475,000 in its budget requests for fiscal years 1995, 1996, and 1997. The Division of the Budget directed State agencies to place funding for new projects in the C-level budget. In all three years, the Department gave repayment to the Corps the lowest priority of all requested funding items.

Each year, the Division of the Budget recommended no funding for the State Park. In two years, the Division noted a concern with the requested source of funding—the General Fund. Given the State's recent financial situation, the Division has tried to conserve General Fund moneys as much as possible. It suggested that the Department request authorization to spend some of its own fee moneys, or request an appropriation of Economic Development Initiative Fund moneys. The Department hasn't done so.

Conclusion

Cost figures developed by the Corps were reasonable and logical compared with project cost estimates reviewed and approved by the State, and generally were internally consistent with other Corps records. Based on our review, it appears the Department of Wildlife and Parks owes the U.S. Army Corps of Engineers about $8.5 million for the State's share of development costs at El Dorado State Park. In annual installments over the time allowed, total payments will add to about $15 million, including interest. Although some cost issues still need to be resolved--such as the intended use of the Lost Lake area--resolution of these issues would not need to delay the process of repayment.

Recommendations

1. To ensure that the State does not incur unnecessary costs, the Department of Wildlife and Parks should do the following:

   a. work with the Corps of Engineers, the Governor's Office, and the Kansas Legislature to agree to a schedule of repayments for the State's share of development costs at El

Dorado State Park, based on current cost figures. Currently, the State is being charged interest and penalties for failure to make timely payment on its obligation.

b. clarify with the Corps of Engineers whether the Lost Lake area will be designated as a wildlife management area, which would reduce the total development costs, and thus the State's share of those costs during the remaining payment period.

c. consider requesting and reviewing such records as may be available from the Corp's records retention center in Fort Worth. If original documents are available, and if the Department's testwork of those records should identify any documents that aren't consistent with the Corps' accounting records, the Department should work with the Corps to either increase or decrease the amount owed by the State during the remaining payback period, accordingly.

2. The 1996 Kansas Legislature should consider authorizing the Department of Wildlife and Parks to make the first annual payment due the Corps of Engineers. (In light of past concerns about the Department's improper use of restricted moneys, all parties should be aware that use of wildlife moneys is not appropriate for this purpose.)

APPENDIX A

Incremental Changes to the 1972 Estimate for Costs of El Dorado State Park

Incremental Changes to the 1972 Estimate for Costs of El Dorado State Park

Item	Year	Description	Added Amount	Running Total for State Park
Contract	1972	Stage I Facilities		$4,300,000
Master Plan	1976	Expansion of Stage I facilities based on detailed plan that specified roads, buildings, boat ramps, picnic tables, etc. to be included in the park	$3,745,000	$8,045,000
Supplement No. 3	1980	Added two buildings to the park at the State's specific request	$288,000	$8,333,000
Supplement No. 4	1980	Added fencing at the State's specific request	$23,000	$8,356,000
Supplement No. 5 (a)	1980	Added excavation, breakwaters, topsoil	$470,000	$8,826,000
Supplement No. 7	1983	Stage II. Added docks, camping and picnicking areas, bathhouses, playgrounds, roads. (b)	$4,845,600	$13,671,600
Supplement No. 9	1985	Added quarry road at the State's specific request	$323,000	$13,994,600
State Development Expenses (c)			$289,828	$14,284,428
Total Estimated Costs				**$14,284,428**
Corps' Final Cost Determination (d)				$18,398,639
Difference Between Estimates and Corps' Final Costs				$4,114,211
Minus Interest During Construction (e)				($1,449,242)
Net Difference Not Explained by Estimates				$2,664,969
Percent Difference				18.7%

(a) no authorization letter from State Park and Resources Authority, but work appeared to be for recreational purposes, and it appeared the Authority was informed

(b) in the 1972 contract, Stage II costs were estimated at $800,000; by the time the 1976 Master Plan was issued the estimate for these facilities had risen to $1.8 million

(c) total amount was $889,828; however, $600,000 for roads appeared already to be included in the estimate from 1976; it was excluded here to avoid duplication

(d) the State's share--$8.5 million--equals half the total cost, minus credit for work performed by the State

(e) payment of interest during construction was agreed to in the 1972 contract, but was not included in the estimates

This table outlines the increases in the costs for El Dorado State Park from 1975 until the park's completion. The estimate provided to the U.S. Congress in 1975 was based on a rough outline of the park facilities to be built. In 1976, the master plan was completed, which specified the exact facilities to be built. From 1980 to 1985, changes were made to the master plan which added to the park's total estimated costs.

All cost estimates were based on current dollars for the year the changes were approved. However, some construction contracts were not let until up to ten years after the construction was approved, which meant costs were higher than estimated because of inflation, not because of changes in the facility. When the Corps determined the park's final costs, the total was almost $2.7 million more than the total estimated costs. Inflation is likely to have accounted for most of this difference.

APPENDIX B

Agency Responses

On March 22 we provided copies of the draft audit report to the U.S. Army Corps of Engineers, and the Kansas Department of Wildlife and Parks. Those responses are included as this appendix.

STATE OF KANSAS

DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953

April 15, 1996

Barbara J. Hinton
Legislative Division of Post Audit
800 Southwest Jackson Street, Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

Thank you for the opportunity to comment on the revised draft audit report entitled "Reviewing U.S. Army Corps of Engineers Records Supporting the State's Share of Development Costs for El Dorado State Park". I would also like to thank you and your staff for meeting with me to discuss my concerns and questions with the first draft. I found that meeting to be very helpful in understanding the issues associated with this topic. This letter is intended as my response to the audit findings.

The audit has reinforced the existence of the state's financial obligation for costs associated with the Corps development of recreational facilities at El Dorado State Park. The relative amount of this obligation is apparent from corroborative evidence that your staff compiled and analyzed. Although the audit is not as definitive or rigorous as those that the department has been involved with in the past, I concur that there is sufficient basis to support the legislature appropriating funds to begin repayment of an amount to be finalized by a settlement or repayment agreement with the Corps.

My opinion regarding the definitive nature of the audit is based on the reported information collected during a relatively short time period. Recommendation 1.c. and information presented on page 11 reinforce this opinion. As I indicated in our conversation, I also have some concern that the audit does not address legal issues that may be critical to reaching a final settlement figure. In addition, the audit does not address the interest or penalties associated with the repayment. I do understand that the scope of the audit may not have included these issues, but I believe they should be identified for the legislature to consider.

Notwithstanding these concerns, the Department concurs with recommendation # 1 presented in the report. I am uncomfortable with expending department staff time to review records from the Corps' retention center because of the apparent incompleteness of these records. We concur with recommendation # 2 regarding appropriation of FY97 funds to initiate repayment with the proviso that the actual repayment follow a negotiated settlement between the State of Kansas and the Corps. It is assumed that this initial payment occur this calendar year to avoid potential litigation with the Corps.

The audit conducted by your staff has provided detail that helps assess the state's obligation to the

Corps. In addition, it has answered many of my questions with respect to the escalation in costs over and above the original estimate. Although we may never know the entire explanation for the development and associated expenses that took place at El Dorado State Park, the audit does provide a basis for negotiations to finally resolve an issue that has been long ignored. Finally, I would like to commend you and your staff, Randy Tangier, Cindy Lash, and Tracy Olman for conducting the audit in a friendly and professional manner

Sincerely,

Steve Williams

Steve Williams
Secretary

cc: Governor Bill Graves
Senator Lana Oleen, Legislative Post Audit Committee
Division of Budget

DEPARTMENT OF THE ARMY
TULSA DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 61
TULSA, OKLAHOMA 74121-0061

REPLY TO
ATTENTION OF:

March 28, 1996

Internal Review and
Audit Compliance Office

Barbara Hinton
Legislative Division of Post Audit
Mercantile Bank Tower
800 Southwest Jackson Street, Suite 1200
Topeka, Kansas 66612-2212

Dear Ms. Hinton:

Thank you for the opportunity to comment on your draft report on the audit of development costs of El Dorado State Park. We have reviewed the draft report and provide the following comments.

The Tulsa District, U.S. Army Corps of Engineers fully concurs with recommendation 1a of the draft report. We will work with the Department of Wildlife and Parks on a payment schedule for the State's share of the development costs at El Dorado State Park. In regard to recommendation 1b, we concur and are willing to discuss the issues associated with the Lost Lake area.

We fully concur with recommendation 2 of the draft report. Receipt of the first payment from the Department of Wildlife and Parks will facilitate our ability to work with them on recommendation 1a.

We appreciate the professionalism of your audit team that visited the District Office. If you have any questions, call Mr. Vernon E. George at 918-669-7355.

Sincerely,

Timothy L. Sanford
Colonel, U.S. Army
District Engineer