

Attachment 5B(1)

Explanatory Note for Army Corps of Engineers Report May 3, 2010

Enclosed is the U.S. Army Corps of Engineers Civil Works Program information for the Council on Environmental Quality (CEQ) report to Congress, as outlined by section 1609 of the American Recovery and Reinvestment Act (ARRA). Also enclosed are examples of benefits resulting from National Environmental Policy Act (NEPA) actions.

This submittal covers 830 ARRA projects of which 62 are NEPA not applicable. The remaining 768 ARRA projects are covered by 2109 NEPA actions. The 62 ARRA projects that are not subject to NEPA are the same as previously reported. NEPA is not applicable to these projects for two reasons. First, the 10 ARRA projects under Formerly Utilized Sites Remedial Action Program are excluded because they are covered under the Comprehensive Environmental Response, Compensation, and Liability Act. Second, NEPA is not required for 37 ARRA projects under Investigation because they are part of the Planning Assistance to States Program or the Floodplain Management Services Program. Both of these programs provide informational services to local communities or a State with no requirement for further Corps involvement. The remaining 15 projects have been determined to be studies and projects that would only require environmental coordination by Army Corps and not result in decisions on projects or activities that require a NEPA analysis and documentation.

ARRA projects vs. NEPA actions:

As previously reported there are cases where multiple NEPA actions apply to a single Civil Works project or activity. For example, a program could involve numerous sub-projects that can be independently looked at under NEPA. In addition, there are programmatic NEPA documents on some projects involving multiple separable elements or projects, each requiring a NEPA analysis and documentation.

Withdrawn Actions:

There were six additional withdrawn projects during this reporting cycle. They include the following:

- One investigation, South Shore of Staten Island, NY (row 470) was withdrawn because of a slippage in preparation of the feasibility report.
- Four operation projects, including three Albeni Fall projects (see rows 103 and 106) and the Lake Washington Canal project (row 115), and one Construction project, Southeastern Pennsylvania (Mill Creek) (row 510), were all withdrawn because they will not be funded by ARRA funds.

Previously reported withdrawn project include:

- The Argosy Road Bridge, Riverside, MO (row 19) was withdrawn from ARRA funding as it was determined that the existing L-385 CG project caused this problem and, therefore, the existing L-385 CG project will correct it.
- The Walla Walla River Section 1135, OR project (row 119) was withdrawn as the District decided to fund through the Continuing Authorities Program (CAP) rather than ARRA funds.
- The Long Island Sound, NY (row 475) project was withdrawn because the local sponsor requested this project not be pursued.
- The Dry Creek (Warm Springs) Lake & Channel, CA (row 758) Project has complex issues and has been put on hold. This project is not expected to be completed with ARRA funds.
- The following projects were withdrawn because they will not be funded under ARRA.
 - Sitka Harbor (row 1)
 - Alaska Environmental (row 4)
 - Cherry Creek (row 51)
 - 4 projects on the Howard Hanson Dam (row 112)
 - Carpinteria Shoreline Study (row 678)
 - Matilija Dam, CA (row 681)
 - 2 projects on the Coyote Valley Dam (row 756) and
 - Three Regulatory projects (rows 879, 881, and 882)

Pending Actions:

The number of pending actions from our December 2009 report was reduced from 131 as of December 31, 2009 to 102 as of March 31, 2010. All of the 102 pending actions are carried over from the last quarter's report because the ARRA work is continuing and pending actions are for projects with issues such as scope changes, site selection delays, extensive coordination with other agencies, and sponsor delays that will take multiple reporting cycles to complete. In our first submission of funded projects in June 2009, we marked all funded projects as pending even if the ARRA project had not started and that led to these actions being pending on multiple reports. These remaining 102 pending actions are all expected to be completed as expeditiously as possible. Reasons for pending actions are listed below:

The Dallas Floodway, Upper Trinity River Basin, TX, study, row 141 is very complex and extensive. The ARRA funds were used to fund phases of the EIS. However, the final EIS is not expected to be completed until the summer of 2013.

Other reasons for pending actions include delays due to scope changes (rows - 90, 548, 694, 700, 708, 712) ongoing consultation (rows- 504, 508, 650, 693, 695 (4 EAs), 701, 707, 724 (2 EAs), 777, 778, 779, 780, 834, 857, 859, 866, and 876), waiting for final design (rows - 98, 100, 101 (7 EAs), 616, 759, and 809 (2 EAs)), sponsor preparing documentation (row 127 – 2 EAs), schedule slippage (rows 713, 721, 743 (3 EAs), 745, 752, and 844), waiting for Fish and Wildlife

Coordination Act Report to complete (row 474), permit application submitted (rows 476 and 477), and new requirements (row 716) and multiyear projects (rows 810 and 811).

All remaining pending actions are in development (rows 17, 67, 70 (2 EAs), 221, 246, 259, 264, 268, 299, 304, 305, 307, 343, 387 (5 EAs), 389, 390 (5 EAs), 393, 400, 406, 408, 469, 598, 601 (10 EAs), 755, and 765).

Level of NEPA Not Determined:

No data is provided in row 840 – Tennessee – Tombigbee Waterway AL & MS (LN2 project 11041) because the project is awaiting detailed project description/design to determine the proper environmental documentation. NEPA documentation, if required, is anticipated to be completed within 12 months.

Reporting Errors:

In the last reporting period the Mississippi Infrastructure project (row 601, formally row 602 and 603) reported 9 EAs. These 9 projects were not funded by ARRA funds and should not have been reported.

Examples Of NEPA Benefits:

EXAMPLE #1: Winter Harbor Federal Navigation Project - Environmental Assessment (row 503)

The Norfolk District, U.S. Army Corps of Engineers conducts maintenance dredging at the Winter Harbor Federal navigation project, located in Mathews County, Virginia. The outer channel sediments are classified as ~99% clean sand and are deposited along approximately 4,500 feet of eroding beach shoreline just north of the channel entrance. The shoreline area consists of a narrow berm section fronting a moderately-vegetated dune structure, with a steep foreshore slope. The shoreline is inhabited by the Federally endangered Northeastern beach tiger beetle.

The NEPA process alerted the District of the potential impacts of dredged material placement operations on this species of tiger beetle. The District requested initiation of an Endangered Species Act (ESA) Section 7 Consultation, and the U.S. Fish & Wildlife Service issued a Biological Opinion in 1999, amended in 2001, to provide conservation recommendations, an incidental take statement, and terms & conditions to insure the protection of the species.

Both the project and tiger beetle population benefited from the project. The District is able to complete necessary maintenance dredging and creates additional habitat for the tiger beetles. The last maintenance event occurred in 2002, and monitoring of tiger beetles post-placement operations depicted increases in the tiger beetle population. A study was published which concluded that few or no impacts occurred to the tiger beetle population, and the project likely benefited the species.

In line with the mitigation measures developed during the NEPA and EA processes, the ARRA funded maintenance event at Winter Harbor commenced in December 2009, after the time-of-year restriction period opened. This serves to protect adult tiger beetles utilizing the area in the fall.

EXAMPLE #2: Lorain Harbor, OH ARRA Maintenance Dredging - Environmental Assessment (row 243)

The NEPA process allowed a reiteration and reconsideration of dredged material management alternatives and provided opportunity for public interest review. Analysis conducted in conjunction with the NEPA action verified that a greater volume of dredged material was suitable for unconfined open-lake placement thereby obviating the need to provide additional confined disposal capacity than was previously planned through the Lorain Harbor dredged material management plan.

EXAMPLE #3: Tres Rios Restoration Project EIS (row 685)

The Tres Rios project connects Rio Salado and Rio Oeste environmental projects in Phoenix and continues the restoration of the Salt River west to Agua Fria River. Tres Rios provides a net environmental benefit by maintaining the effluent thereby enhancing the riparian area. In addition to protecting 600 structures from flooding this project maintains habitat for many species of birds, reptiles and mammals to live, nest and raise young. The NEPA process alerted the agency of the potential impact of placing dredged material in sensitive areas that would impact wildlife.

EXAMPLE #4: Poplar Island Environmental Restoration Project EIS (row 410)

In 1996, the Poplar Island Environmental Restoration Project was originally scoped for 1,140 acres of restored island habitat in the eastern Chesapeake Bay. The original project included 570 acres of wetlands and 570 acres of uplands. Based partly on the success of the restoration efforts and partly on the need for additional placement sites for dredged material, the project was expanded to provide additional, rare, mid-bay island habitat.

In 2005, the Supplemental Environmental Impact Statement identified alternatives for expanding the project beyond the footprint originally scoped in the mid-1990s. As a result of the NEPA process, additional opportunities for ecosystem restoration were explored and quantified, and the project was expanded to include about 600 additional acres of wildlife habitat and sheltered, open-water embayment habitat. The NEPA process also identified unique natural and cultural resources in the project area, including natural oyster bars; submerged aquatic vegetation and essential fish habitat; rare mid-bay nesting and foraging habitat for local and migratory bird species; and cultural and historic resources such as prehistoric shell middens and shipwrecks in the area.

As a result of the agency negotiations during the NEPA process, the design of the expanded restoration project included 50 percent uplands and 50 percent wetlands. The NEPA process helped to identify and mitigate impacts to nearshore aquatic habitats and fisheries resources by reducing the depth and amount of borrow areas, limiting impacts to water clarity resulting from the placement of fill material, and minimizing air quality and noise impacts during construction.

ARRA funding supported the ongoing construction of the Poplar Island expansion. As one of the few island restoration projects undertaken by USACE, Poplar Island continues to provide unique educational, research, and outreach opportunities, including volunteer opportunities and tours of the island by school groups and the public.

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