

Attachment 4B (1)

Explanatory Note for Army Corps of Engineers Report November 5, 2010

Enclosed is the U.S. Army Corps of Engineers Civil Works Program information for the Council on Environmental Quality 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 submission covers 801 ARRA projects, of which 60 are not subject to NEPA requirements. The remaining 741 ARRA projects are covered by 2096 NEPA actions. Only 50 NEPA actions remain pending.

USACE last submission reported on 804 projects. During this reporting period, USACE determined that several of projects were not ready to proceed to contract award (before September 30, 2010) and were removed from the tally of projects on page 1. As a result, the total number of ARRA projects/activities was reduced to 801.

The total of 60 projects that are not subject to NEPA is less than the 62 previously reported as the seven MR&T projects were previously reported in error (page 1 of Spreadsheet, row 1) and eight construction actions were deemed not to be subjected to NEPA (row 3). The ten ARRA projects under the program "Formerly Utilized Sites Remedial Action Program" are excluded under the Comprehensive Environmental Response, Compensation and Liability Act. NEPA is not required for the Planning Assistance to States Program or the Floodplain Management Services Program. The projects funded under the Investigations Appropriation provide informational services to local communities or a State with no requirement for further Corps involvement. Some projects under the Operation and Maintenance appropriations are for analysis only, and require no NEPA action.

ARRA projects vs. NEPA actions:

As previously reported, there are instances where multiple NEPA actions apply to a single Civil Works project or program. For example, a program could involve numerous sub-projects, or a project could involve numerous phases or sub-projects subject to NEPA.

Withdrawn Actions:

During this reporting period nine additional projects were withdrawn bringing the total number of withdrawn ARRA actions to 38.

Row 1 – SITKA, AK: ARRA funds were used only for analysis of potential alternatives. NEPA reporting is not applicable beyond the analysis.

Row 4 – ALASKA ENVIRONMENTAL INFRASTRUCTURE, ARRA project cancelled due to the lack of authority.

Row 20 - THE ARGOSY ROAD BRIDGE, RIVERSIDE, MO Project was withdrawn as it was determined the work exceeded the project authority and the sponsor lacked sufficient funds to cost share the project. Therefore the project was withdrawn.

Row 68 - LOWER COLUMBIA RIVER ECOSYSTEM RESTORATION, OR & WA: Unable to secure local sponsor funding

Row 101 - WILLAMETTE RIVER BANK PROTECTION, OR: No physical site work funded or planned. Future non-ARRA funding will be needed to develop and pursue any recommended actions.

Row 104 - DUWAMISH AND GREEN RIVER BASIN, WA: Actions changed from 7 to 2. One action was completed and five are not applicable because no final NEPA action is required. One EA/FONSI is complete however, final routing and approval are pending as changes to the authorized project now requires additional reevaluation. This project no longer meets the ARRA timelines and the remaining ARRA funds were moved to other ARRA projects.

Row 146 – DALLAS FLOODWAY, UPPER TRINITY RIVER BASIN, TX: This study was previously reported as pending because ARRA funds were used to fund the early EIS phases. However, the final EIS is now scheduled to be completed in FY 2013 with regular funds. The project is withdrawn

Row 251 - DES PLAINES RIVER, IL (PHASE II): The EA is being completed as part of the feasibility study, neither being funded under ARRA. ARRA funds are being used for Independent External Peer Review and Model Certification. The draft EA will be submitted to HQ with the draft Feasibility Report for an alternative formulation briefing in summer 2011. Other than the review and model certification no NEPA actions will be ARRA funded – therefore the project is withdrawn

Row 480 - JAMAICA BAY, NY: ARRA funds were used for a contract to complete the External Peer Review. That specific action did not require a NEPA assessment. However, the study itself will have a NEPA document, possibly an EA using regular funds. It is uncertain when the EA will be completed and released to public. Therefore if the investigation study requires NEPA actions they will be completed with regular funds.

Row 486 - THE LONG ISLAND SOUND, NY: Project was withdrawn at the request of the local sponsor who no longer wishes to pursue the project.

Row 519 - THE SOUTHEASTERN PENNSYLVANIA, PA (Cobbs Fish Passage) Project was withdrawn because ARRA funds will not be utilized in FY 2010. This project will be completed in FY 2011 with regular funds.

Row 521 - THE SOUTHEASTERN PENNSYLVANIA, PA (MILL CREEK) Project was withdrawn because ARRA funds will not be utilized.

Row 690 & 693 - CARPINTERIA SHORELINE STUDY, CA & MATILJA DAM, CA (Meiner's Oaks & Live Oak Levees): These are completed investigation studies that do not have associated NEPA actions

Row 705 – SANTA ANA RIVER MAINSTEM, CA (Reach 9 improvements 2a): This project is not funded by ARRA and is therefore withdrawn.

Row 706 - LOS ANGELES COUNTY DRAINAGE AREA, CA (Vegetation Removal): This project was cancelled and all ARRA funds reprogrammed to other ARRA work

Row 725 - SAN JOAQUIN RIVER BASIN WEST STANISLAUS, ORESTIMBA, CA: ARRA Unable to complete EA due to the sponsor's inability to cost share on the project.

Row 728 - GUADALUPE RIVER, CA: ARRA funds withdrawn due to unresolved issues with the Regional Water Quality Control Boards.

Row 768, COYOTE VALLEY DAM, LAKE MENDOCINO, CA: No NEPA type action required as a change in scope for one project made an EA unnecessary and the other project is on hold until further notice. When reactivated, USACE will use regular not ARRA funds.

Row 770 - THE DRY CREEK (WARM SPRINGS) LAKE & CHANNEL, CA Project is not expected to be performed with ARRA funds, as complex issues caused a slippage in the schedule.

Row 776 - SAN FRANCISCO HARBOR AND BAY, CA (DRIFT REMOVAL): This project, previously reported, is not active and no NEPA actions are underway. This project is also listed below under reporting error heading.

Row 826 - APALACHICOLA, CHATTAHOOCHEE AND FLINT RIVERS, GA, AL & FL (LN2 project 10973): The project/activity and ARRA funding is for preparation of an EIS to support an update of a Water Control Manual, that is multiyear in progress task. ROD is scheduled for January 2012. Project withdrawn as the remaining NEPA actions will be funded with O&M funds

Rows 890, 892 and 893 - The three Regulatory projects are withdrawn, as they are no longer being pursued.

The following projects are withdrawn because ARRA funds were not provided:

Row 52, CHERRY CREEK LAKE, CO

Rows 107 and 110 - ALBENI FALLS DAM, ID

Row 116 - HOWARD HANSON DAM, WA

Row 119 - LAKE WASHINGTON SHIP CANAL, WA

Pending Actions:

During the reporting period, 17 NEPA actions were completed and nine additional withdrawn reducing the number of pending actions from 76 as of June 3, 2010, to 50 as of September 30, 2010. Pending actions include 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 USACE's first submission of funded projects in June 2009, all funded projects were marked as pending even if the ARRA project had not started. Because of this decision, these actions are identified as pending on multiple reports. These remaining 50 pending actions are progressing to completion.

Rows 72 - COLUMBIA RIVER TREATY FISHING ACCESS SITES, OR & WA: One action is completed (row 71) and the second is pending. Delays resulted from slow property acquisition. Draft EA is out for review, final EA and FONSI scheduled for completion in mid November 2010.

Row 103 - PUGET SOUND AND ADJACENT WATERS RESTORATION, WA: The final NEPA document is ready for routing and approval, pending resolution of comments on the decision document. The timing of getting the NEPA document for final approval is dependent on routing timing and resolution of comments.

Row 131 - RURAL IDAHO, ID, Greenleaf: EA being prepared by sponsor. Project undergoing major design/concept changes by sponsor. Expect NEPA completion in August 2010. The Buhl EA is complete and listed in row 132.

Row 268 - ECORSE CREEK, MI: As per a contract, the local sponsor is preparing the NEPA documentation that will be reviewed by the District. The sponsor decided to contract the work. The contract was awarded June 1st and should be done by the next report.

Rows 304, 309, 404, 411, 417 and 419 - R D BAILEY LAKE, WV (Master Plan Update), YATESVILLE LAKE, KY (Master Plan Update), ALUM CREEK LAKE, OH (Master Plan Update), DELAWARE LAKE, OH (Master Plan Update), FISHTRAP LAKE, KY (Master Plan Update) & GRAYSON LAKE, KY (Master Plan Update): the EAs are being completed as the Master Plan is being completed. The current scheduled date for completion is for all actions is 20 February 2011.

Row 393, 394, 395, and 396 - CENTRAL WEST VIRGINIA, WV: The POCA draft EA is still under review. EAs for MASON, PUTNAM and ROSEDALE are being prepared by the sponsors' contractors. NEPA is scheduled to be complete in January 2011.

Row 400 and 401 - SOUTHERN WV ENVIRONMENTAL INFRASTRUCTURE PROGRAM, WV RESTORATION, WV: The COWEN draft EA is currently under review and NEPA is scheduled for completion in November 2010.. The MERCER draft EA is being prepared by the sponsor's contractor and NEPA is scheduled for completion in December 2010.

Row 481 - SOUTH SHORE OF STATEN ISLAND, NY: This study was previously reported as withdrawn however, the sponsor has now provided sufficient funding and the study is changed to pending. The contract was awarded 24 September 2010.

Row 613 - MISSISSIPPI ENVIRONMENTAL INFRASTRUCTURE, MS PROGRAM: Three additional ARRA Section 592 projects of the nine-reported last quarter making six complete and listed in row 612. An additional three FONSI were added and there are now six more to complete, scheduled for March 2011

Row 628 - CEDAR RIVER CHECK AREA, IA,: The 30-day review for the feasibility study and integrated EA (public review draft) began in August 2010. The FONSI should be signed in October 2010. Even though the project sponsor requested additional alternatives for the Corps to analyze since our last ARRA NEPA report was submitted, the October 2010 completion date is not changed

Row 662 – FARGO, ND - MOORHEAD, MN METRO STUDY (RRN BASIN AUTH): The schedule is extended for completion of the Fargo-Moorhead Metro study to allow for additional analysis of alternatives and impacts. In light of downstream impacts of a diversion being greater than first anticipated, it was determined that a supplemental draft environmental impact statement will be necessary. A new schedule to complete the study anticipates publishing a supplemental draft EIS for public review next spring 2011. The Draft EIS has been distributed for public review. Notice of Availability was published in the Federal Register on 11 June 2010 comment period was closed 9 August 2010

Row 707 - LOS ANGELES COUNTY DRAINAGE AREA, CA (4 Master Plans): Extensive coordination with the sponsor and other agencies is ongoing. Completion date of contracts mid-November to reach 100% preliminary status. Both the Master Plans and draft EAS will undergo required reviews and public review. Signiture of FONSI expected in Spring 2011.

Row 720 - CAMBRIA SEAWATER DESALINATION, CA: EIS delays result from persistent push back from California Coastal Commission and other state agencies relative to the Coastal Consistency Determination and clearances required for geotechnical borings. Contract to be awarded in late September 2010

Row 724 - WHITLOW RANCH DAM, AZ: Extensive coordination with other agencies is required and coordination and review are ongoing. Contract completion date is mid November for 100% preliminary status. After all required reviews the FONSI is expected to be signed in Spring 2011

Row 736 - FARMINGTON RECHARGE (SEC 502): Scheduled for completion in December 2010. One new line item for programmatic EIS pending date three years out. Contract awarded in August 2010. More information next quarter.

Row 755 - NEW MEXICO ENVIRONMENTAL INFRASTRUCTURE PROGRAM: Still pending due to a Real Estate issue involving the scope of work proposed on Forest Service property. Real Estate issue resolved on Questa 595. Preparing for 30-day public comment period on Draft Environmental Assessment

Row 764 - PAJARO RIVER, CA: Remains pending due to the sponsors request for evaluation of four added alternatives. Expected completion date is December 2011.

Row 788 - JACKSONVILLE HARBOR, FL: The study is estimated for completion in December 2010. Fiscal Year 2010 activities include economic analysis, NEPA work, engineering modeling and plan formulation.

Row 789 - MILE POINT, FL: A revised draft report is expected to be completed in October 2010. FY10 activities include updated economic analysis and revisions as needed by other offices to complete the draft report.

Row 790 - PORT EVERGLADES HARBOR, FL: The draft report and EIS completion are estimated for March 2011. Fiscal Year 2010 activities include updated economics analysis, plan formulation, preliminary draft NEPA action and plan selection.

Row 791 - ST JOHNS COUNTY, FL: Hurricane and storm damage reduction delayed the draft report that is now estimated for completion in late 2012. Fiscal Year 2010 activities included completion of the feasibility study, and scoping meeting documents including problem statements, existing conditions and future without project conditions.

Row 821 - ALABAMA RIVER LAKES, AL: The project/activity and ARRA funding is for preparation of an EIS supporting update of a Water Control Manual, which is multiyear task now in progress. The ROD is scheduled for January 2012.

Row 845 - JIM WOODRUFF LOCK AND DAM, LAKE SEMINOLE, FL, AL & GA (LN2 project 11009): Extensive coordination is required with other permitting and regulatory agencies. Required field hydro-geophysical studies are underway, the scope of effort has been reduced, and completion of the NEPA work is anticipated within 12 months.

Row 851 – TENNESSEE – TOMBIGBEE WATERWAY, AL & MS (LN2 project 11042): Environmental review/Documentation awaiting detailed project description/design -- scope changes. NEPA compliance satisfied for ongoing engineering studies (CE), with possible EA, WQC, etc. needed for remedial actions to remove sediment accumulations or construct sedimentation reduction structures. NEPA documentation, if required, anticipated within 6 months.

Row 855 - WALTER F GEORGE LOCK AND DAM, AL & GA: Completion of the EA/FONSI is anticipated in nine months as the scope of the Shoreline Management Plan (SMP) updates are identified / analyzed. The NEPA contract was awarded in March 2010. Scoping meetings were conducted 22 June 2010.

Row 868 - BOGUE BANKS, NC: NEPA is included in a feasibility study report that when approved will be released to the public. The feasibility study and NEPA actions are progressing with completion scheduled for September 2012.

Row 870 - STANLY COUNTY WASTEWATER INFRASTRUCTURE, NC: NEPA is part of a report that will be released to the public in February 2011

Row 877 - JOHN H KERR LAKE, VA & NC: There are two NEPA actions pending. An EA is part of report that will be released to the public . The Master Plan update with EA is progressing with completion scheduled for December 2012. The shoreline stabilization EA is progressing with completion scheduled for December 2010.

Row 887 - W KERR SCOTT DAM AND RESERVOIR, NC: NEPA is part of a report that will be released to the public. The Master Plan update is progressing with completion scheduled for December 2012.

Reporting Errors:

Row 768 - SAN FRANCISCO HARBOR AND BAY, CA (DRIFT REMOVAL): Reporting error - No project or NEPA action are pending.

Special Notes

There are several projects where the NEPA actions were completed many years ago. All these projects are either operation and maintenance repair or dredging work that received funding to analyze the necessity and environmentally soundness of the work. However, these projects did not receive funds to perform the work until ARRA funds were provided. Under today's conditions, the work is still viable and the environmental situation has not changed. Therefore, the NEPA actions undertaken previously are still valid. These are the instructions provided to the districts after having gone through several iterations.

Examples of NEPA Benefits:

Project: *200-Acre Bolivar Beneficial Use Marsh* - Houston-Galveston Navigation Channels (HGNC) Project, TX - Army Corps of Engineers, Galveston District – 1995 Supplemental Environmental Impact Statement and 1998 Environmental Assessment:

The NEPA process, through an Interagency Coordination Team, resulted in the formation of a Beneficial Use Group (BUG), which formulated a plan to eliminate open bay placement of dredged material and to use dredged material to create environmental features that provide a net benefit to the Galveston Bay ecosystem.

Historically, Galveston District was placing deep-draft channel construction and maintenance material into unconfined, open bay placement areas in Galveston Bay, which resulted in adverse impacts to bay bottom habitat now designated as essential fish habitat. Further, the loss of intertidal marsh has been identified as one of the critical problems of the Galveston Bay estuary by the Galveston Bay National Estuary Program. As a result of the NEPA process, the BUG came up with a plan to create intertidal marsh and restore and create colonial water bird nesting islands with HGNC new work and maintenance material.

This project will result in a net benefit to the Galveston Bay ecosystem by creating 200 acres of intertidal marsh, providing benefits to important recreationally and commercially valuable fish species, and restoring a nesting island that provides 8 acres of nesting habitat for colonial water birds.

Project: *88-acre Mitigation Marsh* - Houston-Galveston Navigation Channels (HGNC) Project, TX - Army Corps of Engineers, Galveston District - 1995 Supplemental Environmental Impact Statement, 1998 Environmental Assessment, and 2010 Environmental Assessment:

As noted in the example above, the formation of a Beneficial Use Group (BUG) during the Galveston Bay NEPA process led to a plan to eliminate open bay placement of dredged material and to use dredged material to create environmental features that provide a net benefit to the Galveston Bay ecosystem. As a result of the NEPA process, the BUG came up with a plan to create intertidal marsh and restore and create colonial water bird nesting islands with HGNC new work and maintenance material. This project will result in a net benefit to the Galveston Bay ecosystem by creating 88 acres of intertidal marsh for mitigation of impacts from expansion of PA14/15, that will provide benefits to important recreationally and commercially valuable fish species.

Project: *DES MOINES AND RACCOON RIVERS, IA* – Over the years, frequent flooding impacted large numbers of Des Moines, Iowa residential, commercial, and industrial properties. During the Great Flood of 1993, Polk County suffered more than \$152,000,000 in flood damages, mostly in the Des Moines metropolitan area. In cooperation with Des Moines, The Rock Island District (District) conducted a flood reduction feasibility study with an integrated environmental assessment. The project's study team evaluated many alternatives involving levee operation and maintenance, improvements, and new alignments that would reduce operation and maintenance costs and improve safety during flood events.

Due to the importance and value to the City of Des Moines, the District expedited their report preparation with emphasis on adaptive management. The NEPA process established mitigation requirements and agency coordination pivot points based on the desired final plans. The close project coordination between the District and City of Des Moines resulted with the feasibility report/EA including wetland mitigation based on a series of levee alignment scenarios within the preferred alternative. All the scenarios resulted in no significant impacts. In addition, the agency coordination with the US Fish and Wildlife Service during NEPA process allowed the District to finalize their endangered species consultation after the FONSI was signed. This was based upon trust between the agencies and ascertaining the exact project boundaries during the project's plans and specs stage.

Using an adaptive management approach within the NEPA process allowed the District to expedite this flood reduction project, while ensuring no significant impacts to any resources.

Project: Iowa River, Iowa City, JOHNSON CO., IA - This project is for emergency streambank and erosion protection for a major city thoroughfare in Iowa City, along the Iowa River. The recommended plan involved placing riprap along the eroding bank line adjacent to Dubuque Street. The original plan and environmental assessment included bank protection encroaching approximately 15 feet into the river. During the NEPA process the Rock Island District (District) coordinated the project with the Iowa Department of Natural Resources (IDNR). The IDNR indicated there was a possibility the project may impact two state threatened mussel species, Pistolgrip (*Tritogonia verrucosa*) and Yellow Sandshell (*Lampsilis teres*). The IDNR requested the District to conduct a mussel survey prior to issuance of an Iowa Sovereign Lands Construction Permit.

The District completed the mussel survey, which found 11 native mussel species, including the state endangered Pistolgrip. Based on the mussel survey findings. The District and IDNR working together relocated all the recovered mussels to a nearby mussel sanctuary. The District also reduced the project footprint in the river to ensure avoidance of mussel impacts.

The NEPA process lead to discovery of a previously unknown mussel resource that was protected while still completing the emergency streambank protection project. The NEPA process lead to excellent coordination and cooperation between the District and IDNR, which will also foster trust in future river projects.

Project: Maintenance Dredging Arthur Kill Reach of the New York and New Jersey Channels, Federal Navigation Project. Environmental Assessment and FONSI 24 Sep 2008

The activity consists of maintenance dredging the most critical shoals in the Arthur Kill Reach (from Outerbridge Crossing to Goethals Bridge – approximately 9.5 miles). The dredged material was not suitable for ocean placement and was placed at a suitable contractor-furnished, state-permitted upland disposal site(s) to be approved by the Government.

An Environmental Assessment supplements in 1973 EIS and the 2003, 2005, 2007 EAs indicated that maintenance dredging of the Arthur Kill Reach with the placement of the dredged material

at an upland beneficial use site/NBCDF has no significant adverse environmental impacts on water quality, marine resources, wildlife, recreation, aesthetics and flood protection. The FY2009 proposed maintenance activity is consistent with the action described in the previous Environmental Assessments.

The following restrictions were implemented for the 2009 maintenance dredging of the Arthur Kill Reach of the New York and New Jersey Channels.

- No dredging from February 1 to May 31 – to avoid disturbance during winter flounder spawning and nursery periods.
- If nesting activity by herons or egrets is confirmed prior to the start of dredging activities on Pralls Island, no dredging is to occur within 1,000 feet of Pralls Island from 1 April – 31 July.
- No dredging activity is to occur within 1,000 feet of Island of Meadow from 1 April – 31 July, for avian protection.
- No dredging activity is to occur under or within ¼ mile of the Outerbridge from 1 March – 31 July, for the protection of Peregrine Falcons.
- Dredging shall be accomplished using a closed environmental bucket. It shall be lifted slowly through the water column, at a rate of 2 feet per second or less.
- Barge overflow is not allowed.

Implementation of the above restrictions resulted in the protection of fishery resources, water quality and nesting activity of herons/egrets and Peregrine Falcons.

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