

Attachment 3A

Explanatory Note for Department of Commerce (DOC) Report November 2, 2011

This note and the accompanying spreadsheet report the status and progress of National Environmental Policy Act (NEPA) compliance for the Department of Commerce on all projects and activities funded under Division A of the American Recovery and Reinvestment Act of 2009 (ARRA) through September 30th, 2011.

National Oceanic and Atmospheric Administration (NOAA)

(spreadsheet page 1, rows 1-2 and page 2, rows 1-29)

NOAA Operations, Research and Facilities (ORF)

(spreadsheet page 1, row 1 and page 2, rows 1-7)

NOAA ORF incorporates the NOAA Habitat Conservation Projects as well as the Vessel Maintenance and Repair projects.

NOTE: Spreadsheet page 2, row 6; “Habitat Restoration - Multi-phased EA” previously reported as a pending has been modified and due to the changed scope of the proposed action the EA is no longer needed. Restoration is still being conducted but it falls within the analysis previously evaluated by the Community-based Restoration Program’s Programmatic EA (spreadsheet page 2, row 1). This raises the total number of projects covered under the two Programmatic EAs to 65 rather than 64 as previously reported (spreadsheet page 2, row 1)

NOTE: Spreadsheet page 1, row 1; total obligations fluctuated due to a downward adjustment in unpaid travel expenses and a 1% discount applied to an invoice.

NOAA Habitat Restoration (spreadsheet page 2, rows 1-6)

There are 84 ARRA projects under this program:

- Sixty-five are habitat projects covered under two Programmatic EA documents (spreadsheet page 2, row 1);
- Fifteen habitat projects are covered under specific EAs (spreadsheet page 2, rows 2, and 3); and
- Three habitat projects are covered under individual EISs (spreadsheet page 2, rows 4-5)
- One project where NEPA is not applicable.

NEPA not Applicable (spreadsheet page 1, row 1)

One of the ARRA projects under NOAA ORF is currently noted as “NEPA Not Applicable” on spreadsheet page 1. This includes just a small portion of funds being used by NOAA Fisheries to carry out Endangered Species Act (ESA) Section 7 consultations: (1) for habitat restoration grants, and (2) on external Federal actions funded under ARRA (ESA consultations are requested by lead action agencies preparing NEPA documents for their proposed Federal actions).

Pending NEPA actions

Both of the two remaining NEPA actions (NOAA Operations, Research, and Facilities - Habitat Restoration) that are reported here as *pending* are in the final stages of document clearance. The “Habitat Restoration - Multi-phased” EIS (spreadsheet 2, Row 5) has been re-circulated for adoption by NOAA as required by the EPA, and NOAA is waiting on the mandatory 30 day wait period which closes on October 24, 2011 and anticipates signing the ROD then. The “Habitat Restoration - Phase 2 of 2” EA (spreadsheet 2, row 3) has been prepared and NOAA expects the final clearance to be completed no later than October 31, 2011. Both of these restoration projects have remained on schedule for implementation of their restoration activities.

Vessel Maintenance and Repair (spreadsheet page 2, row 7): The Vessel Maintenance and Repair program was covered under one programmatic categorical exclusion which was completed on October 13, 2009. This programmatic categorical exclusion covered numerous maintenance and repair activities on NOAA vessels.

NOAA Procurement, Acquisition and Construction (PAC) (spreadsheet page 1, row 2 and spreadsheet page 2, rows 8 -29)

The total number of projects under PAC remains at 22 projects on spreadsheet 1, row 2. All are completed.

NOTE: Spreadsheet page 1, row 2; Increase in total obligations due to Prompt Payment adjustments and an in-scope increase modification.

National Institute of Standards and Technology (NIST) (spreadsheet page 1, rows 3-5 and page 2, rows 30-41)

NIST has completed all NEPA actions under ARRA.

NIST Construction and Research Facilities (CRF) (spreadsheet page 1, row 3 and spreadsheet page 2, rows 30 – 39):

NOTE: Spreadsheet page 1, row 3; Decrease in total obligations due to a decrease in the SCMMR window replacement and wall insulation project.

There are a total of 23 ARRA projects under CRF which are covered under 18 CEs, two EAs, and one EIS and two withdrawn projects.

Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Kauai, HI (spreadsheet page 2, row 34): This project has been deleted from the list of NIST ARRA funded projects.

Design and Construct New Time Code Radio Broadcast Stations: Low Frequency Station in Eastern US (spreadsheet page 2, row 35): The Redstone, Alabama site location became unavailable when other Federal tenants raised concerns about potential electromagnetic interference from the proposed NIST station. Regretfully, NIST has withdrawn this project from its ARRA Construction Program and has deferred it to a later date - if a viable site can be identified and secured.

NIST Construction Grants for Research Facilities (spreadsheet page 2, rows 37-39): The NEPA documentation has been completed for all 16 Construction Grants.

NIST Scientific and Technical Research and Services (STRS) (spreadsheet page 1, row 4 and spreadsheet 2, row 40)

One CE has been completed for this project on 9/30/2009.

NOTE: Spreadsheet page 1, row 4; Increase in total obligations due to upward adjustments for NextGen Metal Formability Test Facility and installation modifications for 600 MHz NMR Spectrometer; ARRA-related billing of services performed in 2010; modifications to the UV stepper lithography system; and downward adjustments on equipment orders.

NIST Health Information Technology (spreadsheet page 1, row 5 and spreadsheet page 2, row 41)

One CE has been completed for this project on 9/30/2009.

National Telecommunications and Information Administration (NTIA)

(spreadsheet page 1, rows 6-7 and page 2, rows 42-50)

Digital to Analog Converter Box Program (spreadsheet page 1, row 6 and page 2, row 42)

One EA was completed for this project on 8/20/2009.

NOTE: Total obligations (spreadsheet page 1, row 6) fluctuated due corrections in bankcard transactions.

Broadband Technology Opportunities Program (BTOP) (spreadsheet page 1, row 7 and page 2, rows 43- 50):

The number of ARRA projects awarded under the BTOP program has remained at 233. As previously reported, three projects have been withdrawn: Wisconsin Department of Administration (an EA), Education Networks of America (a CE), and the City of Tallahassee (a CE).

NOTE: Total obligations (spreadsheet page 1, row 7) fluctuated due to de-obligation of three projects (funds returned to Treasury); correction on previous year bankcard transactions; and an adjustment to comp time earned in previous year and taken in current year.

The breakdown of those 233 BTOP projects is as follows:

BTOP Construction and Deployment of Broadband Infrastructure- completed (spreadsheet page 2, row 43): 7 EAs that were previously reported as pending have been completed. The completion of these 7 EAs brings the total number of EAs completed to 90 when added to the 83 EAs that had been completed as of July 31, 2011.

BTOP Construction and Deployment of Broadband Infrastructure (spreadsheet page 2, row 44): As was previously reported in the 9th report, the total number of CEs decreased from 22 to 21 due to the Education Networks of America decision to withdraw the award after first accepting it.

BTOP Construction and Deployment of Broadband Infrastructure (spreadsheet page 2, row 45) As noted above, the Education Networks of America decision to withdraw the award after first accepting it. This resulted in the project being withdrawn.

BTOP Construction and Deployment of Broadband Infrastructure- Pending (spreadsheet page 2, row 46): There are a total of 10 pending EAs, down from 17 last reporting period. This reflects the 7 EAs that have been completed this reporting period.

BTOP Construction and Deployment of Broadband Infrastructure- Withdrawn (spreadsheet page 2, row 47): One EA was withdrawn due to the Wisconsin Department of Administration's decision to withdraw from the award after first accepting it.

BTOP Non-construction Broadband Projects (spreadsheet page 2, row 48): One project was categorized as "non-construction" because it was in a category of projects that generally do not involve construction and were mostly able to be categorically excluded (spreadsheet page 2, row 49). However, because one specific project proposed to build a new Public Computer Center on Tribal lands, The grantee was required to prepare an EA. The EA was completed April 2011.

BTOP Non-construction Broadband Projects (spreadsheet page 2, row 49): The total number of CEs decreased in this quarter by 1. The City of Tallahassee withdrew their award after first accepting it. This makes the total number of non-construction CEs 107.

BTOP Non-construction Broadband Projects (spreadsheet page 2, row 50): As mentioned above the City of Tallahassee withdrew the award after first accepting it. This project is now withdrawn.

BTOP Broadband Mapping Grants (spreadsheet page 2, row 51): One Categorical Exclusion was used for all potential NTIA "State Broadband Mapping Grants." The projects only involve data development for program planning purposes, do not adversely impact the environment, and do not have any extraordinary circumstances. Therefore a categorical exclusion was deemed the appropriate level of NEPA analysis. All 56 grants have been issued under this one categorical exclusion for broadband mapping.

Economic Development Administration (EDA) (spreadsheet page 1, rows 8-9 and spreadsheet page 2 rows 52- 54):

Economic Development Assistance Program (EDAP)

EDA has completed a total of 69 NEPA actions for ARRA projects, including 63 EAs and 6 CEs.

EDA has obligated all of its ARRA funds, and completed the NEPA actions for all of those awards.

Note: Spreadsheet page 1, row 8; Minor fluctuations in total obligations due to de-obligations for projects.

Census Bureau (spreadsheet page 1, row 10 and spreadsheet page 2, row 55):

NOTE: Obligations (spreadsheet page 1, row 10) fluctuated due to de-obligation of services; document correction that was not completed within the same reporting period; and a rate adjustment for vendor (funds were returned to the Treasury).

2010 Census and Programs

The one CE for this program involves salaries and related information collection activities and has been completed. (CE completed on 11/30/2009, spreadsheet page 2, line 54.) The total obligations amount to \$999,997,458.

Please note that all reported “Date NEPA Done” projects reflect actual dates that the CE memos were signed and EA FONSI’s “concurred” with by the NOAA NEPA Coordinator, or in the case of EDA or NTIA, when the FONSI’s are signed by their respective NEPA Official.

Pending Action Explanatory Statements:

There are 12 pending NEPA actions as of September 30th, 2011. These are as follows:

NOAA: 2 pending projects:

1. Phase 2 of 2, EA (spreadsheet 2, row 3): Great Works Dam Removal, Penobscot River, ME

- **Project Description:** This award will remove the Great Works Dam, thereby enhancing fish passage for endangered Atlantic Salmon on the Penobscot River.
- **Reason for delay:** All documents have been submitted and are currently under review by NOAA.
- **Actions to date:** Awaiting final review and signature only.
- **Anticipated completion date:** October 31, 2011. Funds will remain available to the recipients through the time needed to complete NEPA review, and to complete awarded projects. All ARRA funds have been obligated. Award conditions were used to prevent expenditure of funds prior to NEPA completion. NOAA is aware of the sunset in section 1552 (5 years), and plans to act in accordance with the recent OMB memo requesting funds be expended prior to 9/30/2013, unless a waiver is requested.

2. Habitat Restoration Multi-phased, EIS (spreadsheet 2, row 5): S. San Francisco

- **Project description -** This overall award will be completing large scale tidal marsh restoration activities in the southern part of San Francisco Bay.
- **Reasons for pending status –** All documents have been completed and are in final stages of clearance. Awaiting end of mandatory 30-day wait period which closes on October 24, 2011.
- **Progress –** All documents have been submitted for final clearance.
- **Estimated completion date –** October 24, 2011.

NTIA: 10 pending EA's in NTIA's Broadband Technology Opportunities Program

- **Project Description:** The BTOP program issued grants to expand broadband capability into unused and underserved areas throughout the US. Grants were made in every state and three territories, most were hundreds of miles long (or contained multiple tower sites) and were often located in more than one state.
- These actions have been pending since the 7th ARRA report.

- Reasons for Delay: Each of the remaining 10 projects has multiple federal and/or tribal lands that are crossed. Of those 10, one has California Environmental Quality Act (CEQA) clearance to obtain; one is engaged in a formal Section 7 consultation; one is engaged in a formal Section 7 consultation and also has CEQA clearance to obtain; two had major route revisions after the grant was awarded; one project had issues at the state level due to a change in Administration; one project had scope changes post award and is in discussions with the Federal Communications Commission regarding towers; and three have completed all activities and NTIA is awaiting the arrival of their final EA.
- Progress: With the exception of the one project that had state-level issues, all of the projects have submitted draft EAs and all have received comments back on the draft and are preparing their Final EAs and/or awaiting conclusion of final consultation requirements. In all cases, the Federal Program Officer and the Federal Environmental Reviewer have weekly (or more often) meetings/telecoms with the grantees and are in regular contact with the relevant resource agencies. The biggest hurdle we have found is coordination with multiple resource agencies that each have unique requirements, sometimes even within the same state.
- Estimated Completion: It is anticipated that three projects will complete their NEPA actions in October, one in November, one in December, and five will complete their NEPA actions after January 2012. There are several unknown factors associated with both their consultations and ability to obtain permits/permission to utilize Federal lands.
- Three have outstanding Section 106 consultations, two have not yet completed their Section 7 informal consultations; two have outstanding Section 7 Formal Consultations; and one has not completed either Section 106 or Section 7 Consultation. Two projects anticipated to be completed in October have completed all consultation.
- BTOP funds will remain available to the recipients through the time needed to complete NEPA review, and for the grantee to complete their awarded projects. All ARRA funds have been obligated. Award conditions were used to prevent expenditure of funds prior to NEPA completion. NTIA expects all funds to be expended by September 30, 2013 and is diligently tracking grantee progress to ensure this occurs.

Benefits of the NEPA process on ARRA projects:

NOAA Operations, Research and Facilities

Benefits provided as a result of NEPA compliance for these actions include effective standard and special award conditions placed on the use of ARRA funds, which will ensure adequate protection for federally administered areas of coastal or marine habitat, and/or biological resources such as anadromous fisheries, federally listed endangered or threatened species, and marine mammals, and also adequate protection for NHPA-listed (or eligible for listing) historic structures and cultural resources.

NIST Construction and Research Facilities

NIST Construction Activities in Gaithersburg – Programmatic Environmental Assessment:

The programmatic environmental assessment process allowed NIST to evaluate the environmental effects of several projects at the same time. By analyzing all ARRA projects and a few additional non-ARRA projects at once, a holistic approach to the campus was taken and environmental impact boundaries were outlined in the Finding of No Significant Impact for all present and future projects. Projects must fall within the boundaries or they will require additional environmental analysis.

NTIA/BTOP

Broadband Infrastructure Fiber Optic Cable Project– Environmental Assessment: The NEPA process was the key procedural step in indentifying and protecting critical habitat and protected lands in the State of Washington, while still allowing the grantee to use ARRA funds to add fiber backbone capacity to existing networks and specifically target and develop broadband infrastructure in areas that were underserved due to economic infeasibility.

The NoaNet was developed to serve the State of Washington by allowing the state to upgrade and expand broadband infrastructure to combat the social and economic issues facing local and rural communities and to enhance broadband connectivity to six Indian tribes in the state. Specifically, this \$54.4 million project funded by the NTIA Broadband Technology Opportunities Program will increase high-speed internet connectivity in 25 of Washington’s 39 counties over 285 community anchor facilities, such as schools, libraries, hospitals, etc, and public safety agencies allowing for end-point users to have access to vital healthcare, educational, and emergency services. Since Washington is a land with many historical sites, protected tribal lands and sensitive ecological habitats, the prospect of ground disturbing activities in any of these areas has the potential to significantly impact the environment. As a result of the NEPA review process, NTIA environmental reviewers where able to identify a potential project activity, the installation of submarine cable across an environmentally rich lake, which could have had a devastating effect on wildlife in the region. However, the grantee and NTIA worked closely with the U.S. Fish and Wildlife Service and other state and federal agencies to develop an alternative route to ensure that sensitive areas and habitats would not be disturbed as a result of this broadband infrastructure project.

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