



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
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DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability for the Final Environmental Impact Statement for the Freeport Harbor, Texas, Channel Improvement Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, Department of Defense; U.S. Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Galveston District announces the release of the final Feasibility Report (FR) and the final Environmental Impact Statement (EIS), the Final General Conformity Determination, and the public comment period for Port Freeport's proposed Freeport Harbor, Texas, Channel Improvement Project (FHCIP).

DATES: The USACE, Galveston District will be accepting written public comments on the final EIS through October 9, 2012. All comments must be postmarked by October 9, 2012.

ADDRESSES: You may send written comments to the USACE, Galveston District, Attn: Ms. Janelle Stokes, P.O. Box 1229, Galveston, TX 77553-1229 or email comments to janelle.s.stokes@usace.army.mil.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and the EIS can be answered by Ms. Janelle Stokes, (409) 766-3039 or Ms. Sharon Tirpak, (409) 766-3136.

SUPPLEMENTARY INFORMATION:

Authority: The lead agency for this proposed channel improvement action is the USACE. There are no cooperating agencies. The authority for this study of proposed channel improvements to the existing navigation project is contained in Section 216 of the 1970 Flood Control Act.

Background: The USACE has joined in an agreement with Port Freeport, the non-Federal sponsor of the existing project, to prepare a FR and an EIS for proposed improvements to Freeport Harbor. The FHCIP proposes to deepen and selectively widen the Freeport Harbor Channel and associated turning basins (except Brazos Harbor), up to and including the Stauffer Turning Basin to reduce existing operational constraints. USACE has reviewed previous USACE reports on the Freeport Harbor project and other pertinent reports to determine the feasibility of modifying the channels and turning basins which serve the city of Freeport, Texas. This EIS was prepared as required by the National Environmental Policy Act (NEPA) to present an evaluation of potential impacts associated with the proposed CIP. The EIS is now available for public review and comment.

Project Description: Port Freeport proposes to extend the Outer Bar Channel (Channel Extension) 1.3 miles further into the Gulf at a depth of -58 mean lower low water (MLLW) and a width of 600 feet, deepen the existing Outer Bar Channel to -58 MLLW and the Jetty Channel to -56 MLLW, deepen the

Lower Turning Basin and Main Channel through Station 132+66 (just upstream of the Brazosport Turning Basin) to -56 MLLW and widen the Brazosport Turning Basin to 1,200 feet, deepen the channel from Station 132+66 through the Upper Turning Basin to -51 MLLW, deepen and widen the Lower Stauffer Channel to -51 MLLW by 300 feet wide, and dredge the Upper Stauffer Channel to -26 MLLW deep by 200 feet wide in lieu of restoring its previously authorized dimensions of -31 MLLW by 200 feet. No modifications to the existing Freeport Jetties are contemplated in conjunction with this project. Construction of two new upland placement areas will result in unavoidable environmental impacts to 21 acres of low quality riparian forest and 39 acres of ephemeral wetlands. To mitigate for unavoidable environmental impacts, a compensatory mitigation plan has been developed that will create 12 acres of riparian forest and 3 acres of coastal wetlands.

Construction of the proposed improvements would generate approximately 14.4 million cubic yards (MCY) of new work dredged material. Maintenance of the deepened and widened channel would generate an estimated 175.9 MCY of maintenance dredged material over the 50-year evaluation period. New work material dredged from the Outer Bar and Jetty channels during construction would be placed in the existing New Work Ocean Dredged Material Disposal Site (New Work ODMDS), and the remainder of the new work material would be placed in existing upland, confined Placement Area (PA) 1 and proposed PAs 8 and 9. Material dredged from the Outer Bar and Jetty channels and the Lower Turning Basin during maintenance cycles would be placed in the existing Maintenance Material ODMDS (Maintenance ODMDS), and maintenance material from the remainder of the channel would be placed in PAs 1, 8, and 9.

Availability of EIS: Pursuant to section 102(2)(c) of the NEPA of 1969, as amended and as implemented by the Council on Environmental Quality (CEQ) (40 CFR parts 1500-1508) a final EIS for the proposed FHCIP has been filed with the EPA and is being made available to Federal, State, and local agencies, and all interested parties. The final EIS can be viewed at <http://www.swg.usace.army.mil/BusinessWithUs/PlanningEnvironmentalBranch/DocumentsforPublicReview.aspx>. Compact discs of the final EIS can be obtained by contacting Ms. Janelle Stokes. In addition, copies of the final EIS are available for viewing at the following libraries:

- Brazoria County Library System, 451 N. Velasco, Angleton, TX 77515
- Brazoria Library, 620 South Brooks, Brazoria, TX 77422
- Clute Branch Library, 215 N. Shanks St., Clute, TX 77531
- Freeport Library, 410 Brazosport Blvd, Freeport, TX 77541
- Lake Jackson Library, 250 Circle Way, Lake Jackson, TX 77566
- Alvin Branch Library, 105 South Gordon, Alvin, TX 77511
- Danbury Branch Library, 1702 North Main, Danbury, TX 77531
- Manuel Branch Library, 20514B Hwy 6, Manuel, TX 77578
- Sweeney Branch Library, 205 W. Ashley Wilson Rd., Sweeney, TX 77480
- West Columbia Branch Library, 518 East Brazos, West Columbia, TX 77486

Water Quality Certification: The USACE requested a §401 State Water Quality certification from Texas for this action. A Clean Water Act §404(b)(1) evaluation of the proposed action, provided in the EIS (Appendix G), describes the effects of the proposed discharges. Short-term increases in turbidity may be caused by the unconfined flow of dredged material during construction. Proposed channel improvements may decrease the number of vessel trips, thus decreasing the probability of a spill. Appendix G contains the §401(b)(1) evaluation needed for State Water Quality certification. All relevant sediment and water quality data for both new-work and maintenance material were reviewed by the Texas

Commission on Environmental Quality (TCEQ), which found no cause for concern over water or sediment quality in any channel reach. TCEQ, in letter dated March 28, 2011, issued the Water Quality certification for the FHCIP (Appendix G).

Final General Conformity: As required by the Clean Air Act, the EPA has promulgated rules to ensure that Federal actions conform to the appropriate State Implementation Plan (SIP). The General Conformity Rule (40 CFR Part 51, Subpart W) applies to Federal actions within maintenance or nonattainment areas. Pursuant to Section 176 of the Clean Air Act Amendments of 1990, the USACE has prepared a document entitled, "Final General Conformity Determination, Freeport Harbor Channel Improvement Project" (Appendix C). This document was noticed for public comment and was submitted by the USACE to the TCEQ and EPA concurrently with the Draft EIS. As part of the General Conformity process, the USACE made this document available to the public for review and comment for a period of 30 days. During this time, the USACE consulted with the TCEQ and the EPA seeking concurrence that emissions from the proposed action are conformant with the Texas SIP for the Houston-Galveston-Brazosport ozone non-attainment area. General Conformity concurrence was provided by TCEQ on March 1, 2011 (Appendix C).

Section 102 of the Marine Protection Research, and Sanctuaries Act (MPRSA): Section 102 of the MPRSA requires a determination that dredged material placement in the ocean would not reasonably degrade or endanger human health, welfare, or amenities or the marine environment, ecological systems, or economic potential (shellfish beds, fisheries, or recreational areas). Maintenance and new work dredged material proposed for placement at existing ODMDSSs, designated by the EPA under MPRSA, is subject to evaluation using the ocean dumping environmental criteria. The locations of the ODMDSSs are described in Appendix B of the EIS. The conclusion of the ODMDSS Site Analysis (Appendix B) was that the Preferred ODMDSSs met all of the five general and 11 specific criteria listed in 40 CFR 228.5 and 228.6 and are, therefore, acceptable under the MPRSA. All material transported for ocean disposal would be evaluated pursuant to EPA Ocean Dumping Regulations and Criteria (MPRSA Section 102). Use of the ODMDSSs would be in accordance with an approved Site Monitoring and Management Plan (SMMP, Appendix B), which was executed in May 2011, respectively.

Cultural Resources: This project would not impact properties listed on the National Register of Historic Places (NRHP) or State Archeological Landmarks; however, it may potentially adversely impact terrestrial historic properties eligible for listing in the NRHP. This EIS has been coordinated with the Texas State Historic Preservation Officer. A Historic Properties Programmatic Agreement (Appendix E) has been executed among the Texas SHPO, Port Freeport, and the USACE to address subsequent investigations and manage data recovery or avoidance measures as necessary.

Tribal Consultation: Tribal consultation, as required by E.O. 13175 and the National Historic Preservation Act, has been conducted. Tribes with historical or cultural ties to the region were contacted early in the study to identify their interests and concerns. No Tribes have requested to become consulting parties, and no impacts to Tribal land or traditional cultural properties have been identified.

Threatened and Endangered Species: The project is likely to adversely affect but is not likely to jeopardize the following species: green, hawksbill, Kemp's ridley, and loggerhead sea turtles. The project may affect but is not likely to adversely affect leatherback sea turtles. Impacts to wintering piping plovers and piping plover critical habitat in the vicinity of the project area are not anticipated. A Biological Assessment (BA) was prepared and coordinated with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). No objection to the USACE determination of no effect to

protected species was received from USFWS. Section 7 consultation with NMFS was required because of likely adverse effects to sea turtles. NMFS is reviewing the BA and preparing a Biological Opinion outlining measures to be taken to avoid and minimize potential sea turtle takes, particularly during hopper dredging activities.

Essential Fish Habitat (EFH): Consultation for EFH of the Magnuson-Stevens Fishery Conservation and Management Act was initiated in 2004 with the public scoping meeting and by letter in 2010. The proposed action would have minor and temporary detrimental impacts on EFH. Potential impacts to EFH are discussed in Section 4.12.2 of the EIS.

Coastal Zone Consistency: USACE has evaluated the proposed action for consistency with the Texas coastal management program, and concluded that it is fully consistent to the maximum extent practicable with the enforceable policies of the state program. By letter dated December 15, 2010, USACE requested review of the Consistency Determination, but to date has received no response. Additional information regarding the USACE Coastal Zone Consistency Evaluation can be found in Appendix J of the EIS.

Public Interest Review Factors: The EIS will be reviewed in accordance with CEQ NEPA regulations (40 CFR Part 1500-1508), and USACE's regulation ER 200-2-2 (Environmental Quality: Policy and Procedures for Implementing NEPA, 33 CFR 230), and other pertinent laws, regulations and executive orders. The decision whether to recommend construction of this project to Congress will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposed project, must be balanced against reasonably foreseeable detriments associated with the proposed project. All factors which may be relevant to the proposed project will be considered. These include, but are not limited to: dredged material management, air quality, shoreline erosion, economics, general environmental concerns, historic resources, protected species, navigation, water and sediment quality, energy needs, safety, hazardous materials, and in general, the welfare of the people.

Solicitation of Comments: USACE responses to comments submitted regarding the Draft EIS, released on December 24, 2009, are provided in Appendix A of the EIS. The USACE is soliciting comments from Federal, State, and local agencies and officials, Indian tribes, and the public in order to consider and evaluate the impacts of this proposed activity. Comments will be considered in the evaluation of impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments will be used in preparation of the Record of Decision. Comments are also used to determine the overall public interest of the proposed activity.

28 AUGUST 2012
Date



Christopher W. Sallese
Colonel, U.S. Army Corps of Engineers
District Engineer