



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
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October 2, 2012

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability for the Final Supplemental Environmental Impact Statement for the Clear Creek General Reevaluation Study, Brazoria, Fort Bend, Galveston, and Harris Counties, Texas

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 General Reevaluation Report (FGRR), the Final Supplemental Environmental Impact Statement (FSEIS), and the Final General Conformity Determination (FGCD), and the public review period, for the Clear Creek General Reevaluation Study.

DATES: The USACE, Galveston District will provide the FGRR, FSEIS and the FGCD for review through November 13, 2012.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and the FSEIS can be answered by Ms. Andrea Catanzaro, (409) 766-6346. Questions about the FGRR can be answered by Ms. Sheridan Willey, (409) 766-3917. Written inquiries may be sent to the USACE, Galveston District, Attn: Andrea Catanzaro, P.O. Box 1229, Galveston, TX 77553-1229 or emailed to andrea.catanzaro@usace.army.mil.

SUPPLEMENTARY INFORMATION:

Authority: The lead agency for this proposed project is the USACE, under the authority of Section 203 of the Flood Control Act of 1968 (Public Law 90-483).

Background: The Clear Creek Flood Control Project was authorized by Congress in the Flood Control Act of 1968 (Public Law 90-483, Section 203). The authorized project extended 31 miles from Clear Lake to the Fort Bend County line. In 1982 the Phase I General Design Memorandum, including the final EIS, was signed by the Southwest Division Engineer, thus authorizing the detailed design. A formal agreement was signed in 1986 by the non-Federal sponsors (Harris County Flood Control District and Galveston County) and the USACE to construct the 14-mile reach of the project downstream of Dixie Farm Road. Only the Second Outlet Channel and Gate Structure were ever constructed. In 1997, the non-Federal sponsors requested that the USACE adopt changes to the plans based on concerns regarding the project design and environmental impacts. The changes requested by the non-Federal sponsors were beyond the discretionary authority of the USACE Division Commander to approve. As a result, in February 1999 the USACE decided that a general reevaluation study would be needed. In April 1999, the non-Federal sponsors agreed to accept the USACE recommendation to conduct the general reevaluation study. The general reevaluation study reconsiders the previously authorized project as well as non-Federal sponsor-proposed alternatives and other alternatives that are deemed reasonable. As of June 1999, Brazos County Drainage District 4 (BCDD4) joined the non-Federal sponsors in this effort.

The congressional authorization for this project only allows the consideration of reducing flood damage caused by rainfall runoff along the main channel of Clear Creek and does not include coastal flooding caused by tropical storm systems. This FSEIS was prepared as required by the National Environmental Policy Act (NEPA) to present an evaluation of potential impacts associated with the proposed project. The FSEIS and associated documentation is now available for public review.

Project Description: The proposed project includes both conveyance and in-line detention measures along the main stem of Clear Creek and conveyance along three of its tributaries (Mary's Creek, Mud Gully, and Turkey Creek). Excavated material from construction and maintenance activities would need to be placed in upland confined placement areas. As part of the environmentally sensitive design, the proposed project encompasses measures to avoid and minimize impacts to habitat including preserving and rehabilitating 122 acres of floodplain forest, and reestablishing 33 acres of floodplain forest. Compensation for unavoidable construction impacts would consist of rehabilitating an additional 31 acres of floodplain forest.

Availability of FSEIS: Pursuant to section 102(2)(c) of the NEPA of 1969, as amended and as implemented by the Council on Environmental Quality (40 CFR parts 1500-1508), a FSEIS for the proposed Clear Creek General Reevaluation Study has been filed with the Environmental Protection Agency (EPA) and is being made available to Federal, State, and local agencies, and all interested parties. The FSEIS can be viewed at:

<http://www.swg.usace.army.mil/BusinessWithUs/PlanningEnvironmentalBranch/DocumentsforPublicReview.aspx>.

Compact discs of the FSEIS can be requested from Ms. Andrea Catanzaro at the address above. In addition, copies of the FSEIS are available for viewing at the following libraries:

- Brazoria Library, 620 South Brooks, Brazoria, TX
- Friendswood Public Library, 416 South Friendswood Drive, Friendswood, TX
- Rosenberg Library, 2310 Sealy Street, Galveston, TX
- Clear Lake City-County Freeman Library, 16616 Diana Lane, Houston, TX
- City of League City, Helen Hall Library, 100 W. Walter Street, League City, TX
- Houston Public Library, 500 McKinney Street, Houston, TX
- Stimley-Blue Ridge Library, 7007 W. Fuqua Drive, Missouri City, TX
- Pearland Library, 3522 Liberty Drive, Pearland, TX
- Evelyn Meador Library, 2400 North Meyer Road, Seabrook, TX

Texas Council on Environmental Quality (TCEQ) Water Quality Certification: The USACE requested a §404(b)(1) State Water Quality certification from TCEQ for this action. A Clean Water Act §404(b)(1) evaluation of the proposed action, provided in the FSEIS (Appendix L), describes the effects of the proposed discharges. Short-term increases in turbidity may be caused during construction activities. Best management practices would be implemented to reduce and control turbidity during construction. Increased habitat diversity is anticipated from the restoration of creek sinuosity and vegetation along the low-flow channel of Clear Creek. TCEQ issued the Water Quality certification in a letter dated June 15, 2012 (Appendix L).

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, Clear Creek General Reevaluation Plan Alternative, Brazoria, Fort Bend, Galveston, and Harris Counties, Texas" (Appendix H of the FSEIS). This document was noticed for public comment and was submitted by the USACE to the TCEQ and EPA concurrently with the Draft SEIS. 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 Recommended Plan are conformant with the SIP for the Houston-Galveston-Brazoria ozone nonattainment area. General Conformity concurrence was provided by TCEQ on February 7, 2012 (Appendix H). As the project moves forward, the USACE will update the EPA and TCEQ to ensure that project emissions are consistent with the most currently approved SIP emissions budgets, taking into account any potential changes to the project schedule and future SIP revisions.

National Register of Historic Places (NRHP): Compliance with the National Historic Preservation Act (NHPA) of 1966, as amended, requires identification of all NRHP-listed or NRHP-eligible properties in the project area and development of mitigation measures for those adversely affected in coordination with the Texas State Historic Preservation Officer and the Advisory Council on Historic Preservation. A thorough file review did not identify any existing NRHP-listed or NRHP-eligible sites or State Archeological Landmarks within the project footprint. Historical research and investigations performed for this study did not identify any NRHP-listed or NRHP-eligible sites within the project footprint. A Memorandum of Agreement (MOA) (Appendix F-1) among the USACE, the State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) is in place to ensure compliance with Section 106 of the National Historic Preservation Act. In addition, a new Programmatic Agreement is currently being coordinated with the SHPO, the ACHP, and the Project Sponsors. This Programmatic Agreement is being prepared to include the Project Sponsors and to guide implementation of the proposed Clear Creek Project. Work performed under either the existing MOA or the new Programmatic Agreement will include, but is not limited to, additional testing of one previously recorded site and additional survey of two previously recorded sites when access is obtained; identification and investigation of unrecorded and, as of yet, unidentified sites; and the investigation of unanticipated cultural resources encountered during the course of work. Any impacts to NRHP-eligible properties would be mitigated under the conditions set forth in the new Programmatic Agreement. Compliance with the MOA places the project in compliance with Section 106.

Threatened and Endangered Species: Interagency consultation procedures under Section 7 of the Endangered Species Act have been undertaken. A draft Biological Assessment (BA) was prepared describing the study area, federally listed threatened and endangered species of potential occurrence in the study area as provided by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS), and potential impacts on these listed species (Appendix E of the FSEIS). In the Coordination Act Report submitted by USFWS (Appendix D-6), the USACE determination of no effect to federally protected species was acknowledged and not disputed. Thus, USACE is in compliance with the Endangered Species Act for species under jurisdiction of USFWS.

Tribal Coordination: 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

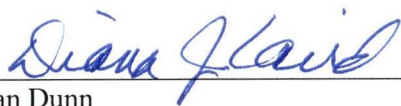
early in the study to identify their interests and concerns. No Tribes have requested to become consulting parties, and no impacts to Tribal land or traditional cultural properties have been identified.

Essential Fish Habitat (EFH): Consultation for EFH of the Magnuson-Stevens Fishery Conservation and Management Act was initiated with the Draft SEIS (Appendix D-4). The proposed action would have no permanent impacts to EFH. To date, NMFS has not responded.

Coastal Zone Consistency: Texas Coastal Zone consistency certification is required. The USACE has determined that the project is consistent with the Texas Coastal Management Program's goals and policies and will be conducted in a manner consistent with the Program. Additional information can be found in Appendix K of the FSEIS. The FSEIS and Texas Coastal Consistency Determination were submitted to the General Land Office for review with the Draft SEIS. TCEQ determined that the proposed action is consistent with applicable Coastal Zone Management goal and policies and issued the Water Quality certification in a letter dated June 15, 2012 (Appendix K).

Public Interest Review: The Draft Supplemental Environmental Impact Statement (DSEIS) was released on December 16, 2011; USACE responses to comments on the DSEIS are provided in Appendix A of the FSEIS. The FSEIS 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 implement the Recommended Plan 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 proposal, must be balanced against reasonably foreseeable detriments associated with the proposal. All factors which may be relevant to the proposed project will be considered and used in the preparation of the final Record of Decision. These include, but are not limited to: air quality, economics, general environmental concerns, endangered species, historic resources, protected species, recreation, water and sediment quality, energy needs, safety, hazardous materials, and, in general, the welfare of the people.

2 October 2012
Date



Dolan Dunn
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