DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

August 16, 2017

Regional Planning and Environmental Center
Environmental Compliance Branch

David W. Galindo
Water Quality Division
Texas Commission on Environmental Quality
P.O. Box 13087, Mail Code 145
Austin, Texas 78711-3087

Dear Mr. Galindo,

Thank you for your letter dated May 8, 2017 providing comments on the Draft Integrated General Reevaluation Report/Environmental Assessment (DIGRR-EA) for the Freeport Harbor Channel Improvement Project. The U.S. Army Corps of Engineers, Galveston District (USACE) and Port Freeport are preparing a Final Integrated General Reevaluation Report and Environmental Assessment (FIGRR-EA) for this project. In preparing the FIGRR-EA, we would like to submit responses to your comments on the DIGRR-EA and request water quality certification for the recommended plan. The FIGRR-EA report presents the same plan that was coordinated with your agency in the DIGRR-EA.

TCEQ Comment #1 – If the aquatic resources cannot be avoided, appropriate and practicable steps should be taken to minimize potential adverse impacts (30 TAC §279.11(c)(2)). Please explain what practicable measures will be taken to minimize potential impacts to aquatic resources during the channel bottom dredging and open water dredge disposal, including pre- and post-dredging best management practices to maintain water quality before and after dredging activity.

USACE Response #1 - Several measures would be taken to minimize potential impacts to aquatic resources during dredging and dredged material disposal. New work construction material from the proposed GRR project features (channel widening, bend easing, and the turning notch) would be placed in the existing upland confined Placement Area (PA) 1. Impacts would be minimized by confining dredged material placement to the existing footprint of the confined PA, avoiding impacts to coastal natural resources. New work dredged material would be pumped from the dredges through a combination of fully submerged and floating hydraulic pipelines into the PA. This upland PA has containment levees to control fill movement. Best Management Practices (BMPs), such as temporary containment levees and spill boxes would be implemented where appropriate at the upland confined PA to control and reduce turbidity during dredging and discharges. Sediments in the dredged material would be allowed to decant before water is released into the adjacent waterway, reducing the amounts of suspended solids that could occur during construction. .Water clarity is expected to return to normal background levels shortly after dredging is completed. The upland confined PA was designed and is operated with the goal of achieving an effluent TSS concentration of a maximum of 300 mg/L.

The small amount of additional maintenance dredged material associated with the GRR features would be placed by hopper dredge into the unconfined Maintenance Offshore Dredged Material Disposal Site 1A (ODMDS) along with all other maintenance material generated by the previously coordinated deepening project. Construction of these features is expected to increase the amount of material placed in the ODMDS site by less than 1 percent. Placement, management and monitoring of the ODMDS would be in compliance with U.S. Environmental Protection Agency guidelines for ocean placement.

TCEQ Comment #2 – Mitigation of impacts is considered for "...all unavoidable adverse impacts that remain after all practicable avoidance and minimization has been completed..." (30 TAC §279.11(c)(3)). Project plans appear to show impacts to tidal fringe wetlands along the outside bend of the area to be excavated. These impacts are not accounted for in the description of impacts and no mitigation has been proposed for these impacts. Should mitigation be considered for tidal fringe wetlands, the TCEQ recommends the Corps incorporate measureable criteria, monitoring, and an adaptive management plan to ensure the long-term success of the mitigation.

USACE Response #2 - No tidal fringe wetlands would be impacted by the proposed project. The area in question is along an armored shoreline. Therefore no mitigation has been proposed for impacts to fringe wetlands.

TCEQ Comment #3 – The TCEQ recommends that the dredge material be used beneficially when possible. Please provide a list of alternatives for the bottom channel dredged material for beneficial uses or explain why open water disposal is the preferred option.

USACE Response #3 - Additional information about beneficial use of dredge material from construction has been added to the dredged material maintenance plan in the FIGRR-EA in Appendix K, as presented below.

In accordance with existing Federal policy and guidance, the potential for beneficial use (BU) of the limited quantity of new work material that would be generated by construction of the recommended plan was given additional consideration beyond the previous USACE (2012c) study. The BU analysis is focused on the limited amount of new work material from the recommended plan features (1.7 MCY of primarily soft sandy clay). Based on a review of aerial photography, alternatives for BU in the vicinity of the project area are very limited because of the dense industrial development in the area. The nearest potential marsh restoration area is a small degraded marsh area in the southern Oyster Creek watershed, adjacent to the Gulf Intracoastal Waterway (GIWW) and just east of the project area in Appendix K of the DIGRR-EA). The pumping distance to this area from the Bend Easing feature (Figure ES-5 in the DIGRR-EA) is about 3.1 miles. The Bend Easing is the project feature closest to the BU area and contains the largest amount of new work material. It is possible that approximately 8 acres of marsh could be constructed with the available material. The pumping distance from the Bend

Easing feature to PA 1 is about 2.3 miles. The PAs or BU areas selected in the Dredged Material Management Plan are those which provide the needed capacity at the lowest cost per cubic yard. Based solely on pumping distance, the least-cost disposal option would be PA 1, since the closest potential BU site is about 30 percent farther than PA 1. The proposed project placement area selection is based on the lowest cost, environmentally acceptable alternative. However, the BU plan could be recommended if the non-federal sponsor or other interested entity were willing to fund the difference in placement and construction costs over the least-cost placement plan. At this time, no cost-share sponsor has been identified for this BU feature.

The U.S. Army Corps of Engineers is hereby requesting a §401 State Water Quality certification from the State of Texas for this action. The §404(b) (1) Evaluation, which will be included as Appendix H of the FIGRR-EA, is provided for your review. It concludes that proposed placement of fill material in conjunction with the recommended plan will comply with Section 404(b) (1) Guidelines. If you have any questions regarding the project, please contact me at the letterhead address or contact my staff, Ms. Janelle Stokes, by telephone at 409-766-3039 or at janelle.s.stokes@usace.army.mil.

Sincerely,

Douglas C. Sims, RPA
Chief, Environmental Compliance Branch
Regional Planning and Environmental Center

Enclosure

CF with encl:
Nick Laskowski, CESWG-PM-J

EVALUATION OF SECTION 404(b)(1) GUIDELINES (SHORT FORM)

PROPOSED PROJECT: Freeport Harbor Channel Improvement Project Final Integrated Feasibility Report and Environmental Assessment

	Yes	No*
1. Review of Compliance (230.10(a)-(d))		
A review of the proposed project indicates that:		
a. The placement represents the least environmentally damaging practicable alternative and, if in a special aquatic site, the activity associated with the placement must have direct access or proximity to, or be located in the aquatic ecosystem, to fulfill its basic purpose (if no, see section 2 and information gathered for EA alternative).	X	
b. The activity does not appear to:		
1) Violate applicable state water quality standards or effluent standards prohibited under Section 307 of the Clean Water Act;	X	
2) Jeopardize the existence of Federally-listed endangered or threatened species or their habitat; and	X	
3) Violate requirements of any Federally-designated marine sanctuary (if no, see section 2b and check responses from resource and water quality certifying agencies).	X	
c. The activity will not cause or contribute to significant degradation of waters of the U.S. including adverse effects on human health, life stages of organisms dependent on the aquatic ecosystem, ecosystem diversity, productivity and stability, and recreational, aesthetic, an economic values (if no, see values, Section 2)	X	
d. Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem (if no, see Section 5)	X	

	Not Applicable	Not Significant	Significant*
2. Technical Evaluation Factors (Subparts C-F) (where a 'Significant' category is checked, add explanation below.)			
a. Physical and Chemical Characteristics of the Aquatic Ecosystem (Subpart C)			
1) Substrate impacts		X	
2) Suspended particulates/turbidity impacts		X	
3) Water column impacts		X	
4) Alteration of current patterns and water circulation		X	
5) Alteration of normal water fluctuation/hydroperiod		X	
6) Alteration of salinity gradients		X	
b. Biological Characteristics of the Aquatic Ecosystem (Subpart D)			
1) Effect on threatened/endangered species and their habitat		X	
2) Effect on the aquatic food web		X	
3) Effect on other wildlife (mammals, birds, reptiles and amphibians)		X	

	Not Applicable	Not Significant	Significant*
2. Technical Evaluation Factors (Subparts C-F) (where a 'Significant' category is checked, add explanation below.)			
c. Special Aquatic Sites (Subpart E)			
1) Sanctuaries and refuges	X		
2) Wetlands	X		
3) Mud flats	X		
4) Vegetated shallows	X		
5) Coral reefs	X		
6) Riffle and pool complexes	X		
d. Human Use Characteristics (Subpart F)			
1) Effects on municipal and private water supplies	X		
2) Recreational and Commercial fisheries impacts		X	
3) Effects on water-related recreation		X	
4) Aesthetic impacts		X	
5) Effects on parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves	X		

	Yes
3. Evaluation of Dredged or Fill Material (Subpart G)	
a. The following information has been considered in evaluating the biological availability of possible contaminants in dredged or fill material (check only those appropriate)	
1) Physical characteristics	X
2) Hydrography in relation to known or anticipated sources of contaminants	X
3) Results from previous testing of the material or similar material in the vicinity of the project	X
4) Known, significant sources of persistent pesticides from land runoff or percolation	
5) Spill records for petroleum products or designated (Section 311 of Clean Water Act) hazardous substances	X
6) Other public records of significant introduction of contaminants from industries, municipalities or other sources	X
7) Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	

List appropriate references:

USACE, 2012a; "Freeport Harbor Channel Improvement Project Feasibility Report", Volume I; Galveston TX

USACE, 2012b; "Freeport Harbor Channel Improvement Project Feasibility Report", Volume II; Galveston TX

USACE, 2012c; "Final Environmental Impact Statement, Freeport Harbor Channel Improvement Project, Brazoria County, TX", Volume I; Galveston TX

	Yes	No
b. An evaluation of the appropriate information in 3a above indicates that there is reason to believe the proposed dredged or fill material is not a carrier of contaminants, or that levels of contaminants are substantively similar at extraction and placement sites and not likely to degrade the placement sites, or the material meets the testing exclusion criteria.	X	

	Yes
4. Placement Site Delineation (230.11(f))	
a. The following factors as appropriate, have been considered in evaluating the placement site:	
1) Depth of water at placement site	X
2) Current velocity, direction, and variability at placement site	X
3) Degree of turbulence	X
4) Water column stratification	X
5) Discharge vessel speed and direction	X
6) Rate of discharge	X
7) Fill material characteristics (constituents, amount, and type of material, settling velocities)	X
8) Number of discharges per unit of time	X
9) Other factors affecting rates and patterns of mixing (specify)	

List appropriate references:

	Yes	No
b. An evaluation of the appropriate factors in 4a above indicates that the placement site and/or size of mixing zone are acceptable.	X	

	Yes	No
5. Actions to Minimize Adverse Effects (Subpart H)		
All appropriate and practicable steps have been taken, through application of recommendations of 230.70-230.77 to ensure minimal adverse effects of the proposed discharge.	X	

List actions taken:

1) Impacts to the physical substrate from discharge of dredged material were minimized by confining them to an existing ODMDS and an existing upland confined PA.

	Yes	No*
6. Factual Determination (230.11)		
A review of appropriate information as identified in items 2-5 above indicates that there is minimal potential for short- or long-term environmental effects of the proposed discharge as related to:		
a. Physical substrate at the placement site (review Sections 2a. 3, 4, and 5 above)	X	
b. Water circulation, fluctuation and salinity (review Sections 2a. 3, 4, and 5)	X	
c. Suspended particulates/turbidity (review Sections 2a. 3, 4, and 5)	X	
d. Contaminant availability (review Sections 2a. 3, and 4)	X	
e. Aquatic ecosystem structure and function (review Sections 2b and c, 3, and 5)	X	
f. Placement site (review Sections 2, 4, and 5)	X	
g. Cumulative impacts on the aquatic ecosystem	X	
h. Secondary impacts on the aquatic ecosystem	X	

7. Evaluation Responsibility	
a. This evaluation was prepared by:	**Janelle Stokes**
Position:	**Regional Technical Specialist, Unit A, CESWF-PEC-CC**

8. Findings	Yes
a. The proposed placement site for discharge of or fill material complies with the Section 404(b)(1) Guidelines.	X
b. The proposed placement site for discharge of dredged or fill material complies with the Section 404(b)(1) Guidelines with the inclusion of the following conditions:	

List of conditions:

c. The proposed placement site for discharge of dredged or fill material does not comply with the Section 404(b)(1) Guidelines for the following reason(s):	
1) There is a less damaging practicable alternative	
2) The proposed discharge will result in significant degradation of the aquatic ecosystem	
3) The proposed discharge does not include all practicable and appropriate measures to minimize potential harm to the aquatic ecosystem	

8/16/17 Date	DOUGLAS C. SIMS Chief, Coastal Branch, CESWF-PEC-C

NOTES:

* A negative, significant, or unknown response indicates that the permit application may not be in compliance with the Section 404(b)(1) Guidelines.

Negative responses to three or more of the compliance criteria at the preliminary stage indicate that the proposed projects may not be evaluated using this "short form" procedure. Care should be used in assessing pertinent portions of the technical information of items 2a-e before completing the final review of compliance.

Negative response to one of the compliance criteria at the final stage indicates that the proposed project does not comply with the Guidelines. If the economics of navigation and anchorage of Section 404(b)(2) are to be evaluated in the decision-making process, the "short form" evaluation process is inappropriate.