

A-4: Coastal Barrier Resources Act

Compliance Documentation



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, FORT WORTH DISTRICT
P. O. BOX 17300
FORT WORTH, TEXAS 76102

CESWF-PEC

16 Jan 2019

MEMORANDUM FOR RECORD

SUBJECT: Jefferson County Shoreline and Ecosystem Restoration Feasibility Study:
Draft Integrated Feasibility Report and Environmental Assessment, Jefferson County,
Texas – Coastal Barrier Resources Act Compliance

1. PURPOSE: The purpose of this memo is to document compliance of the U.S. Army Corps of Engineers, Galveston District (USACE) ecosystem restoration feasibility study with the Coastal Barrier Resources Act (CBRA) (16 USC 3501 *et seq.*).
2. BACKGROUND: The stated purpose of CBRA is to "minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with the coastal barriers..... by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers....". 16 U.S.C. § 3501(b). CBRA applies to areas that are in the John H. Chafee Coastal Barrier Resource System (CBRS), which is a defined set of geographic units along the Atlantic, Gulf of Mexico, Great Lakes, U.S. Virgin Islands, and Puerto Rico. The CBRS includes two types of units, System Units and Otherwise Protected Areas (OPAs). CBRA prohibits new federal projects that encourage development or modifications to coastal barrier units unless the project qualifies for a specific exception under 16 USC §3505.
 - a. The CBRA contains two categories of exceptions to the general prohibition found in 16 U.S.C. §3504. The first category allows federal expenditures if the requirements of the specific exception are met (16 U.S.C. §3505(a)(1-5). The §3505(a)(1-5) exceptions refer to Federal involvement in projects related to energy resources, existing Federal navigation channels, existing public roads and transportation, national security, and Coast Guard facilities. The second category of exceptions allow federal expenditures if they meet the requirements of the specific exception and also meet the three purposes of CBRA as stated herein (16 U.S.C. §3505 (a)(6)(A-G). The §3505(a)(6)(A-G) exceptions include projects to benefit fish and wildlife habitats, air, and water navigation projects under the Land And Water Conservation Fund Act of 1965 and the Coastal Zone Management Act of 1972. Scientific research, emergency actions under Federal major disaster assistance programs (42 U.S.C.S. §5170, and 42 U.S.C.S §5192), road maintenance, and nonstructural projects for shoreline stabilization are also considered to be a §3505(a)(6)(A-G) exception.
 - b. Amendments to CBRA in 1992 created Otherwise Protected Areas (OPAs), which are areas such as parks, sanctuaries and preserves that are not typically threatened with

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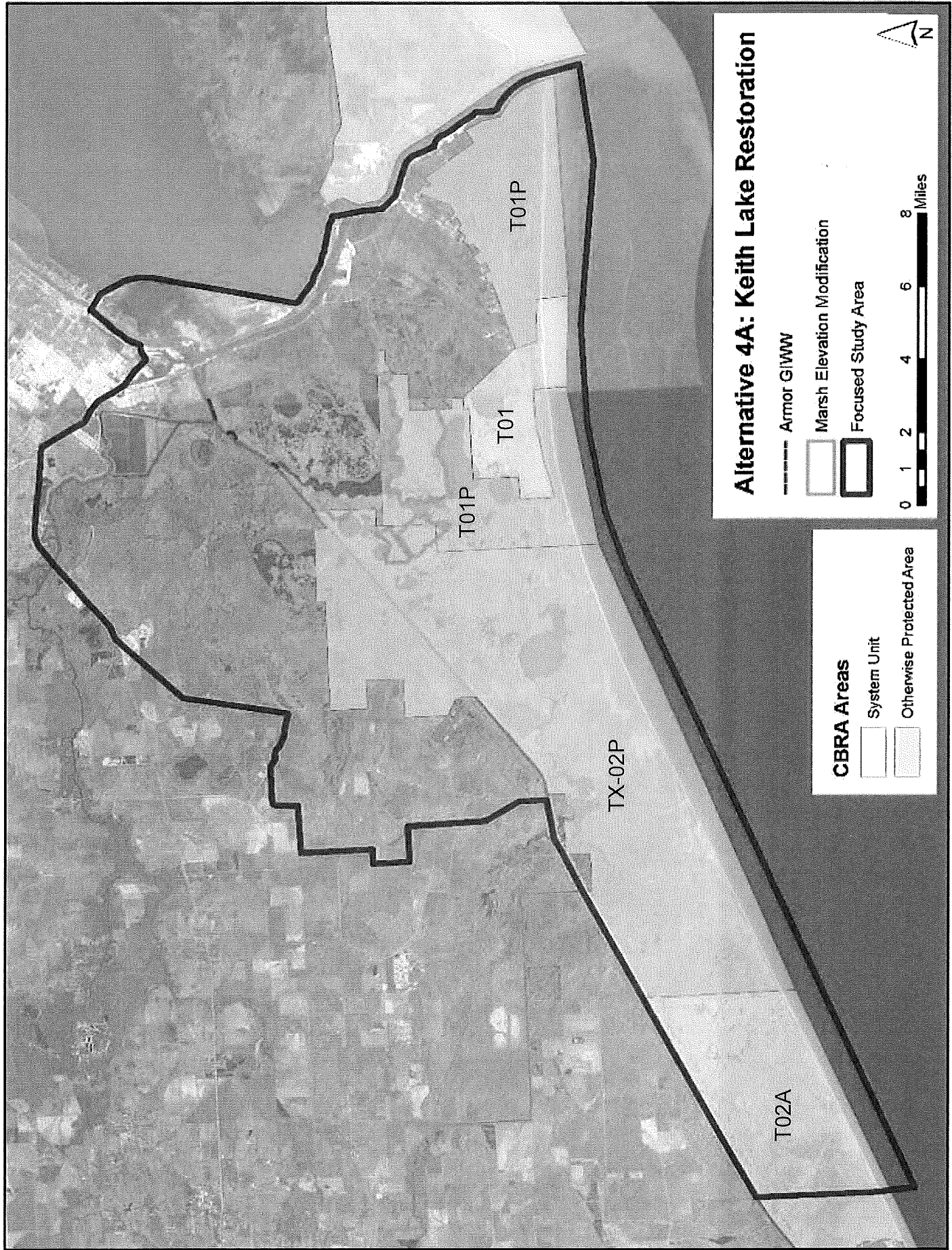
development that may still receive federal assistance. Alternative 4Abu, the recommended plan of the Jefferson County Shoreline and Ecosystem Restoration Feasibility Study, proposes marsh nourishment projects in two OPA's (Enclosure).

3. COMPLIANCE GUIDANCE: Federal agencies are required to consult with the United States Fish and Wildlife Service (USFWS) on planned expenditures for an action under CBRA (16 U.S.C.A. § 3505(a)). The responsible federal agency is to consult with USFWS on the work to be performed in a system unit and to advise on whether any of the Act's exceptions apply. Since Alternative 4Abu does not involve any work within any CBRA System Unit, no consultation is required with the USFWS.
4. USFWS INVOLVEMENT: USFWS has been advised of the project and the avoidance of impacts within system units near the project area. USFWS has been a part of the core Environmental Team from the study start, which has included involvement in a number of meetings in which CBRA was discussed. Additionally, informal inquiry type information was obtained from USFWS regarding their position on the study, how it would impact CBRA designations, and the need for consultation. Lastly, the draft report was provided to USFWS for review during the public comment period, at which time they made no comment.
5. DETERMINATION: Pursuant to the CBRA, USACE has reviewed the recommended plan features in relation to the CBRS designations for the project area. It has been determined that no work would be conducted within any designated system units, but marsh measures would occur within OPAs (TX-02P and T01P) (See enclosed map). Proposed work with the OPAs would not implicate the prohibitions on federal flood insurance. Therefore, USACE has determined that the recommended plan is compliant with CBRA and no consultation is necessary.

Encls



AMANDA M. MCGUIRE, Acting Chief
Environmental Compliance Branch
Regional Planning & Environmental Center



Alternative 4A: Keith Lake Restoration

- Armor G/IWW
- Marsh Elevation Modification
- Focused Study Area

- #### CBRA Areas
- System Unit
 - Otherwise Protected Area

