

Finding of No Significant Impact for the Lincoln Park West Wetland Restoration Project

National Marine Fisheries Service, NOAA Restoration Center

The National Oceanic and Atmospheric Administration (NOAA) is the lead Federal agency responsible for ensuring that federal actions related to the proposed Lincoln Park West Wetland Restoration Project (Project) comply with the requirements of the National Environmental Policy Act (NEPA). As such, NOAA has prepared this Finding of No Significant Impact (FONSI) for the attached Lincoln Park West Wetland Restoration Plan and Environmental Assessment (RP/EA). This RP/EA was developed in cooperation with the New Jersey Department of Environmental Protection (NJDEP), the State of New Jersey, the State of New York, and the U.S. Department of the Interior/U.S. Fish and Wildlife Service (USFWS) as cooperating natural resource trustees (Trustees). The NOAA's proposed action is funding of the Project via a NOAA Award (# NA09NMF4630311) in the amount of \$10,600,000 and an allocation of about \$2.4 million of natural resources damage settlement funds from the Exxon Bayway and B.T. Nautilus oil spills.

A draft of this document was available for public review and comment for 15 days starting October 12th 2009. A notice announcing the availability of the Draft RP/EA, and the period for public review, was published in two daily newspapers with large circulation in Hudson County - the Jersey Journal and the Star Ledger. The notice referred to the Jersey City Main Library as the location to review the hard copy of the RP/EA and the Project Plans and Specifications. The notice invited the public to comment on the alternatives proposed by the Trustees and to provide other restoration alternatives for consideration. The Public comment period ended October 27, 2009. NOAA received no comments from the public on the Draft RP/EA.

The NOAA proposed action is the funding of components of the Lincoln Park West Wetland Restoration Project, via American Recovery and Reinvestment Act (ARRA) in the amount of \$10.6 million, plus approximately \$2.4 million of natural resources damage settlement funds from the Exxon Bayway and B.T. Nautilus oil spills. The Final RP/EA identified the Lincoln Park West Wetland Restoration Project Alternative 2.5 (Alternative 2.5) as the preferred alternative, with alternative 2.5.1 (Alternative 2.5 with a Pond Option) as the preferred alternative to be implemented if sufficient funding is available to perform the work described. Note that the addition of funds is not necessarily under the control of NOAA, and could come from other partners or funding sources. Therefore, this analysis considers the significance of impacts associated with NOAA issuing the grant and approving the use of Exxon Bayway and B.T. Nautilus natural resource damage settlement funds for implementation of the Project either in accordance with alternative 2.5 or alternative 2.5.1.

NOAA Administrative Order 216-6 (May 20, 1999) (NAO 216-6) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. '1508.27 state that the significance of

an action should be analyzed both in terms of “context” and “intensity.” Each criterion listed below is relevant to making a finding of no significant impact and was considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ’s context and intensity criteria.

1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson- Stevens Act (MSA) and identified in Federal Management Plans (FMPs)?

Response: The proposed actions will cause no damage to the ocean and coastal habitats and/or essential fish habitat as defined under the MSA and identified in Federal Management Plans (FMPs). The NOAA Fisheries’ Habitat Conservation Division (HCD) is charged with review of federal projects pursuant to the MSA. The preferred alternative will either create new EFH or enhance existing EFH. The Project will re-vegetate the site using locally appropriate native plant communities identified as components of essential fish habitat. Temporary impacts will be avoided or minimized to the fullest extent practical. NOAA has voluntarily adopted seasonal restrictions on activities within the creeks as a requirement for construction. In response to the EFH consultation, HCD reviewed the proposed action’s potential impacts to EFH, and concluded that designated EFH exists in the Project area, but based on the nature of the proposed action any negative impacts are likely to be temporary and minor, and the action would result in an overall benefit to EFH. HCD stated in its June 16, 2009 letter that no further consultation is needed.

2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: The Project will have a beneficial impact on ecosystem function and a minor impact on species biodiversity. The Project will alter the physical structure of the marsh in order to return lost function and biological productivity. Two key elements will return the necessary structure to support ecosystem function. The first is the re-introduction of tidal geometry and the second is the reintroduction of vertical structure (plants) within that new geometry. This alteration of shape, size and physical relationship of the marsh to the constructed tidal creek network will result in an increase of primary and secondary productivity along well established trajectories known to this habitat type.

The native emergent vegetation will provide the basic vertical structure for a host of biological functions including fish and marine invertebrate nursery, shelter and foraging. Small estuarine fish are expected to be among the first to re-colonize the marsh surface. Mummichog and Striped-killifish are chief among the small estuarine fish that will increase production. The increase in the small estuarine fish will directly benefit the productivity of the ecosystem and also provide additional foraging opportunities for juvenile bluefish. Increased fisheries and

benthic productivity will positively effect avian foraging among long absent avian guilds such as long-legged wading birds.

Because the existing tidal gut, fringe low marsh and degraded Phragmites-dominated wetland has always supported some basic estuarine function, species richness (the total of species present) will not change greatly. Very few of the planned species are today completely absent. The relative abundance of all of these species will beneficially change – reflecting our decision to alter the habitat to favor tidal emergent grasses and rushes. Species abundance among native resident finfish and macro-invertebrates is expected to increase dramatically.

3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: The Project will not have a substantial adverse impact on public health or safety. The Project will, however, compensate the public for environmental damage resulting from the Exxon Bayway oil spill (January 2, 1990) and the B.T. Nautilus oil spill (June 7, 1990). The Project will restore injured natural resources proximal and similar to the resources that were injured by the oil spills.

The work will not have a substantial adverse effect on public health and safety by way of changes to air and water quality.

The Project will not have a substantially adverse effect on the cleanliness of human food resources. Because of the restrictions already in place regarding the consumption of food resources (NJDEP Advisories), there is already minimal direct contact with these exposure pathways. Although some subsistence level fishing does persist in these waterways, the food products derived from these activities cannot be said to be substantially changed by the proposed action. The action will however provide a clean suitable substrate for the presence of wildlife in place of one which is affected by a suite of contaminants documented in the RP/EA.

No substantial adverse impacts to human health and safety are likely to occur from exposure to sediment, dust, or debris.

4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: The Project will not significantly adversely affect any federally-listed species according to the findings of Section 7 Endangered Species Act consultations with the USFWS and NOAA. Adverse effects for non-listed wildlife species are expected to be only temporary, and limited to the construction and recovery phase (estimated at 3-5 years for most species). The temporary effects are not anticipated to be significantly adverse, and would be offset by the

permanent beneficial effects that would result from implementing the proposed Project.

5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: There are no significant adverse social or economic impacts interrelated with natural or physical environmental effects brought by the proposed action. Socially beneficial effects would be derived from the proposed restoration of the natural environment combined with construction of a pedestrian/bike trail. Restoration of the tidal wetlands and the posting of trail head and interpretive signs will beneficially improve opportunities for passive recreation, in the form of bird watching and nature walks, and enhance the recreational experiences of visitors.

6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: Restoring the natural resources injured by of the oil spills will have a beneficial ecological impact and, based on input from the Trustees during the damage assessment and restoration planning process, will not be substantially controversial. Public notice was made on Oct 12, 2009 in the Jersey Journal, Hudson County's leading daily newspaper and in the Star Ledger, North Jersey's leading daily paper. The public comment period was 15 days and it ended on October 27, 2009. NOAA received no comments from the public on the Draft RP/EA.

All disturbances resulting from construction (noise, air, street traffic) will be limited to daylight hours and only during a limited (eight month) construction period. Noise and dust will be limited by disturbance control practices built into the performance of the contract. In addition, the Project will be implemented in compliance with all permits required by the local, state and federal regulatory agencies.

Positive effects will be generated by pleasant and enhanced viewsheds, enhanced educational opportunities, the aesthetic appeal of environmental repair and a thriving environmental and civic minded community.

7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: The Project can be reasonably expected to have no substantial negative impact on historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas. There are no unique or rare resources of any type that will be affected. The site is currently a degraded County landfill and does not present a unique or rare condition for the

geographic area. Prime farmlands, parkland and wild and scenic rivers do not exist on site or in the limited area of the Project's impact.

There are no previously recorded archeological sites, listed or potentially eligible national historic sites, or other significant cultural resources located in the area of potential effect of the Project. The Trustees believe the Project will have no significant adverse effect on any of these resources.

8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: The proposed action is unlikely to have uncertain effects or involve unique or unknown risks to the human environment. Old fill areas in the Hackensack Meadowlands are ubiquitous, and extensive work has been performed by others including the Project's partners in restoring such sites. Soil testing conducted at the Project site determined that landfill sediments could present a moderate risk to the human environment, but a closure plan for the landfill facility was developed and has been approved, and the practices for closure and construction would be in accordance with existing state regulations.

9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: The proposed action is not related to other actions with individually insignificant, but cumulatively significant adverse impacts. The proposed action is related to another action with a beneficial impact.

Hudson County Parks recently undertook the shoreline stabilization and revegetation of the adjacent Middle Lake. The enhanced shoreline experience, with greater vegetative cover, increased wildlife abundance, and an overall improved aesthetic for passive recreational use, is likely to attract human visitors.

10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: There are no previously recorded archeological sites, listed or potentially eligible national historic sites, or other significant cultural resources located in the area of potential effect for the Project. NOAA and the other natural resource trustees believe the Project will have no significant adverse effect on any of these resources found outside the disturbance limit line.

11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response:

No, the action will not result in the introduction or spread of non-indigenous species. One of the Project's intended results is to reduce invasive species such as Phragmites.

12) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: No, the proposed action will not establish a precedent for future actions with significant effects.

13) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

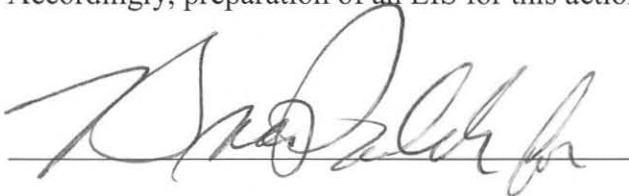
Response: The Project has been planned to be in compliance with all applicable environmental protection laws, and no violations are likely or expected. In addition, the Project will be implemented in compliance with all permits required by the local, state, and federal regulatory agencies.

14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: The proposed action will not result in a substantial cumulative adverse effect on target species and non-target species. The long-term and permanent beneficial cumulative affects from implementing the proposed habitat restoration will outweigh the temporary adverse effects from construction-related inconveniences to target and non-target species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for The Lincoln Park West Wetland Restoration Project and its design plans & specifications, it is hereby determined that implementing the preferred alternative for the Lincoln Park West Wetland Restoration Project will not significantly impact the quality of the human environment, as described above and in the RP/EA. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



Patricia A. Montanio
Director, Office of Habitat Conservation

11/13/09
Date