

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Affected Public: Nonprofit organizations.

Total Respondents: 450,000 individual volunteers.

Frequency: Annual.

Average Time Per Response: 10 minutes.

Estimated Total Burden Hours: 75,000 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: July 21, 2009.

Rhonda Taylor,

Acting Director, Office of Corporate Relations.

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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 Matagorda Ship Channel Improvement Project, Calhoun County and Matagorda County, TX

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers, Galveston District, announces the release of the Final Environmental Impact Statement (FEIS) and the public comment period for the Calhoun Port Authority's (CPA) proposed Matagorda Ship Channel (MSC) Improvement Project.

DATES: The USACE Galveston District will be accepting written public comments on the FEIS through August 31, 2009. All comments must be postmarked by August 31, 2009.

ADDRESSES: You may send written comments to the U.S. Army Corps of Engineers, Galveston District, Attn: Denise Sloan (PE-RB), P.O. Box 1229, Galveston, TX 77553-1229.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and FEIS can be answered by Ms. Denise Sloan, (409) 766-3962.

SUPPLEMENTARY INFORMATION:

Authority: This Federal Action is in consideration of a Department of the Army (DA) permit application for work under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. 1344), and

Section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA) (33 U.S.C. 1413).

Background: In January 2006, the CPA submitted a DA permit application to widen and deepen the MSC and to dredge a new turning basin and marine slip. It was determined that an Environmental Impact Statement would be required for the proposed project. Since the April 25, 2006, Scoping Meeting, the consulting firm of PBS&J, under the direction of the Galveston District, U.S. Army Corps of Engineers (USACE), prepared a Draft and Final Environmental Impact Statement (DEIS and FEIS) for the proposed project. The DEIS was made available for a 45-day comment period on May 18, 2007, which was extended through September 4, 2007. A public hearing and workshop was held August 9, 2007, in Port Lavaca, Texas. Comments received during the comment period and at the public hearing have been considered in the evaluation of the proposed project and incorporated into the FEIS. The FEIS is now available for public review and comment.

Project Description: The CPA proposes to widen and deepen the approximately 26.6-mile-long MSC from the existing turning basin at the Port of Port Lavaca-Point Comfort (Channel Station 117+223), through Lavaca Bay and Matagorda Bay, and ending offshore in the Gulf of Mexico (Channel Station -23+000). A proposed new turning basin at the intersection of the MSC and the Alcoa Channel would have a 1,650-foot turning circle, and both the existing CPA berthing facilities, the existing and proposed turning basins, and a proposed new berthing area adjacent to the new turning basin would be dredged to a depth of -44 feet Mean Low Tide (MLT). The authorized channel dimensions of the MSC, from the Port of Port Lavaca-Point Comfort to the Matagorda Peninsula, are 200 feet wide (bottom width) by -36 feet MLT deep, and the CPA proposes to enlarge this reach to 400 feet wide by -44 feet MLT deep (plus 2 feet of advanced maintenance and 2 feet of overdepth). The existing authorized channel dimensions through the Matagorda Peninsula are 300 feet wide by -36 feet MLT deep, and in the Gulf of Mexico are 300 feet wide by -38 feet MLT deep, and the CPA proposes to enlarge these reaches to 600 feet wide by -46 feet MLT deep (plus 3 feet of advanced maintenance and 2 feet of overdepth). The CPA proposes to use both hydraulic and mechanical dredges, including hopper dredges, to perform new work and maintenance dredging of the

proposed project. Approximately 46.5 million cubic yards of new work dredged material would be generated from the proposed widening and deepening project. Maintenance dredging of the proposed channel would generate approximately 257.5 million cubic yards of dredged material during the 50-year planning period. Dredged material would be used to create or protect habitats, nourish beaches, and cap mercury-impacted sediments, and would be placed in confined dredged material placement areas (PAs) in bays and on land, in unconfined PAs in Matagorda Bay, and in unconfined ocean dredged material disposal sites (ODMDS) in the Gulf of Mexico. Additional dredging and placement of 400,000 cubic yards of dredged material would create a levee designed to protect habitat.

Water Quality Certification: Texas Commission on Environmental Quality (TCEQ) water quality certification is required. Concurrent with Corps processing of the permit application, the TCEQ is reviewing the application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards.

Section 103 of the Marine Protection, Research, and Sanctuaries Act (MPRSA): Section 103 of the MPRSA authorizes the USACE to permit the placement of dredged material within an ODMDS, subject to EPA concurrence and use of the EPA's dumping criteria. With concurrence from the EPA, the placement of approximately 12 million cubic yards of new work dredged material from construction of the proposed project into a new, one-time use ODMDS may be authorized by the USACE under Section 103 of MPRSA. Similarly, with EPA concurrence, the USACE may authorize continued use of the existing maintenance material ODMDS following construction of the proposed project under Section 103 of MPRSA. Information associated with the Section 103 authorizations is included in the FEIS (primarily in Appendix N).

National Register of Historic Places: The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic resources and the effects of the proposed project upon these properties: Remote sensing surveys have been completed for the majority of the project footprint in Matagorda Bay, Lavaca Bay,

and the Gulf of Mexico. Remote sensing surveys will be conducted for the following potentially affected areas that have not already been surveyed: The proposed new-work ODMDS, three beach nourishment sites, the remainder of two areas for proposed oyster bed creation, and the in-bay upland site. Additional close-order surveys will be conducted on 11 features within 164 feet of the proposed channel alignment. The close-order surveys will help identify features that need further investigation to determine significance. Close-order surveys will also be conducted on two features identified within, or within 164 feet of, a proposed in-bay PA that cannot be avoided. Archival research and terrestrial surveys will be conducted at the upland PA and along the three beach nourishment areas. In addition, limited terrestrial shoreline surveys will be conducted where one proposed PA would tie into the bluff. A Scope of Work for additional surveys of impact areas, testing potentially eligible sites, and managing data recovery or avoidance measures as necessary was submitted to the Texas Historical Commission (THC) on June 12, 2009, and concurrence was provided on June 24, 2009. Should the decision be made to issue a permit for the proposed MSCIP, it would be conditioned to require completion of historical and archaeological surveys to meet National Historical Preservation Act Section 106 requirements. If the permit is granted, the CPA will obtain clearance from the THC and the USACE prior to performing construction activities in these areas.

Threatened and Endangered Species: Indications are that the proposed project may affect a few Federally listed endangered or threatened species. The project is likely to adversely affect but is not likely to jeopardize the continued existence of loggerhead, Kemp's ridley, hawksbill, leatherback, and green sea turtles. The project is unlikely to destroy or adversely modify critical habitat for any listed species. A Biological Assessment (BA) was prepared and was presented to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) in the DEIS. The NMFS has reviewed the BA and has prepared a Biological Opinion outlining the measures to be taken to avoid and minimize potential sea turtle takes, particularly during hopper dredging activities. The USFWS provided concurrence with the determinations made in the BA for all species under their jurisdiction, including nesting sea turtles (Appendix P of the FEIS).

Essential Fish Habitat (EFH): Consultation for EFH of the Magnuson-Stevens Fishery Conservation and Management Act was initiated in April 2006 via the workshop prior to the public scoping meeting. Letters were also sent to the NMFS in May 2006. Our initial determination is the proposed action would have negative impacts on EFH and Federally managed fisheries in the Gulf of Mexico. However, these unavoidable impacts to EFH and Federally managed fisheries would be compensated through the protection and creation of marshes and seagrass beds, increasing the amount of nursery areas, protective habitat, and food sources within the Matagorda Bay estuary. The NMFS and the Gulf of Mexico Fisheries Management Council reviewed the EFH Assessment, following additional correspondence and revision to the EFH Assessment, and concurred with the findings that the proposed project may impact EFH and that no further consultation is required (Appendix H of the FEIS).

Other Agency Authorizations: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said Program. Coordination with the General Land Office Coastal Protection Division regarding consistency with the goals and policies of the Coastal Management Program is ongoing.

Availability of Final Environmental Impact Statement (FEIS): Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended and as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508) a FEIS for the proposed Matagorda Ship Channel Improvement Project has been filed with the EPA and is being made available to Federal, State, and local agencies, and all interested parties. The FEIS can be viewed at <http://www.swg.usace.army.mil/reg/pn.asp>. Copies of the FEIS are available by contacting Ms. Denise Sloan. In addition, copies of the FEIS are available for viewing at the following libraries:

- Calhoun County Public Library, 200 West Mahan Street, Port Lavaca, TX 77979.
- Calhoun County Public Library, Port O'Connor Branch, Highway 185 and Sixth Street, Port O'Connor, TX 77982.
- Calhoun County Public Library, Point Comfort Branch, One Lamar Street, Point Comfort, TX 77978.

- Calhoun County Public Library, Seadrift Branch, 103 West Dallas Avenue, Seadrift, TX 77983.
- Victoria Public Library, 302 North Main Street, Victoria, TX 77901.
- Jackson County Memorial Library, 411 North Wells Street, Room 121, Edna, TX 77957.
- Palacios Library, 326 Main Street, Palacios, TX 77465.
- Matagorda County Library, Bay City Branch, 1100 7th Street, Bay City, TX 77414.

Public Interest Review Factors: The permit application will be reviewed in accordance with 33 CFR 320–332, the Regulatory Program of the U.S. Army Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit 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 proposal 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, recreation, water and sediment quality, energy needs, safety, hazardous materials, and in general, the welfare of the people.

Solicitation of Comments: The USACE will accept comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE to determine whether to issue, condition, or deny a permit for this proposal. To make this decision, 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 pursuant to NEPA. Comments are also used to determine the overall public interest of the proposed activity.

Brenda S. Bowen,
Army Federal Register Liaison Officer.
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