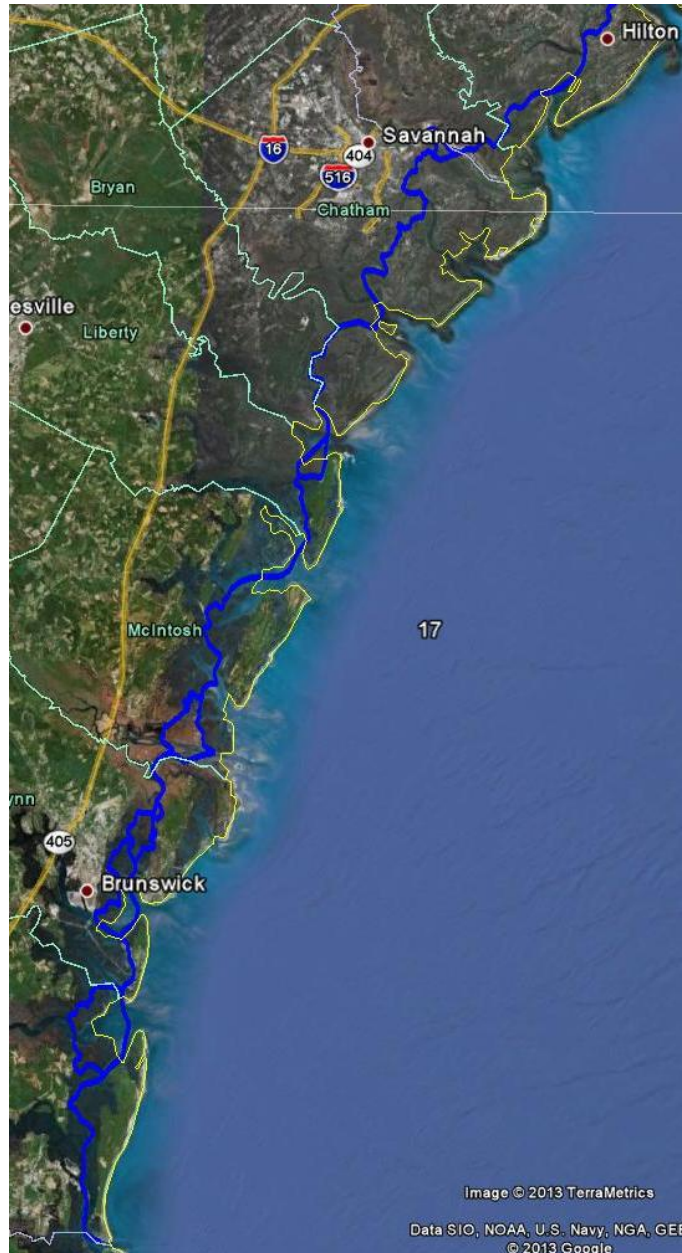

**Dredged Material Management Plan and
Environmental Assessment
Atlantic Intracoastal Waterway
Port Royal Sound, South Carolina to Cumberland Sound,
Georgia
November 2015**

**Appendix L: Public and
Agency Comments**



**US Army Corps of
Engineers®**
South Atlantic Division
Savannah District

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The United Keetoowah Band of Cherokee Indians in Oklahoma

From: [Seyle, Charles W SAS](#)
To: [CFSAS-PD, SAS](#)
Subject: FW: [EXTERNAL] Atlantic Intracoastal Waterway South Carolina - Georgia (UNCLASSIFIED)
Date: 28 March, 2014 08:25:53

Classification: UNCLASSIFIED
Caveats: NONE

-----Original Message-----

From: Lisa LaRue-Baker - UKB THPO
Sent: Thursday, March 27, 2014 4:56 PM
To: Seyle, Charles W SAS
Cc: verna; Ernestine Berry
Subject: [EXTERNAL] Atlantic Intracoastal Waterway South Carolina - Georgia

The United Keetoowah Band of Cherokee Indians in Oklahoma has reviewed your project under Section 106 of the NHPA, and at this time, have no comments or objections. However, should any human remains be inadvertently discovered, please cease all work and contact us immediately.

Thank you,

Lisa C. Baker
Acting THPO
United Keetoowah Band of Cherokee Indians in Oklahoma
PO Box 746
Tahlequah, OK 74465

c 918.822.1952
ukbthpo-larue@yahoo.com

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Please FOLLOW our historic preservation page and LIKE us on FACEBOOK
<<https://www.facebook.com/pages/United-Keetoowah-Band-of-Cherokee-Indians-in-Oklahoma-Historic-Preservation/199767846834850>>

Responses to Comments from United Band of Cherokee Indians in Oklahoma

Comment: The United Keetoowah Band of Cherokee Indians in Oklahoma has reviewed your project under Section 106 of the NHPA, and at this time, have no comments or objections. However, should any human remains be inadvertently discovered, please cease all work and contact us immediately.

Response: Comment noted. Should any remains be inadvertently discovered during construction activities, work will cease and the United Keetoowah Band of Cherokee will be notified.

United States National Oceanic and Atmospheric Administration (NOAA)– National Marine Fisheries Service (NMFS)

From: [Pace Wilber - NOAA Federal](#)
To: [Seyle, Charles W SAS](#)
Cc: [Bailey, William G SAS](#)
Subject: [EXTERNAL] AIWW Comment Period Extension for NMFS
Date: Wednesday, April 16, 2014 8:14:28 AM

Hi Win.

NMFS requests a 10-day extension of the comment period for the AIWW Environmental Assessment. Under this extension, NMFS would provide comments to CESAS by COB April 25, 2014. As you know, the Environmental Assessment examines the maintenance of a 161-mile waterway integral to coastal ecosystems, the regional economy, and interstate commerce. Much of the AIWW traverses Essential Fish Habitat and portions also traverse Habitat Areas of Particular Concern designated under the Magnuson-Stevens Fishery Conservation and Management Act. The additional review time is needed by NMFS to provide a focused review of the new disposal options proposed and to coordinate that review within NMFS.

Thank you for this consideration,
Pace

--

Pace Wilber, Ph.D.
HCD Atlantic Branch Supervisor
NOAA Fisheries Service
219 Ft Johnson Road
Charleston, SC 29412

Voice: 843-762-8601
FAX: 843-953-7205
Pace.Wilber@noaa.gov

Responses to Comment from NMFS

Comment: NMFS requests a 10-day extension of the comment period for the AIWW Environmental Assessment. Under this extension, NMFS would provide comments to CESAS by COB April 25, 2014.

Response: Extension was granted.

United States NOAA – NMFS



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701-5505
<http://sero.nmfs.noaa.gov>

April 30, 2014

F/SER47:JD/pw

(Sent via Electronic Mail)

Col. Thomas J. Tickner, Commander
Savannah District Corps of Engineers
100 W. Oglethorpe Avenue
Savannah, Georgia 31402-0889

Attention: Win Seyle

Dear Colonel Tickner:

NOAA's National Marine Fisheries Service (NMFS) reviewed the public notice, dated March 17, 2014, for the 20-year maintenance of the Atlantic Intracoastal Waterway (AIWW) from Port Royal Sound, South Carolina, to Cumberland Sound, Georgia. NMFS has also reviewed the draft Environmental Assessment (EA) and Dredged Material Management Plan (DMMP), each dated March 2014, for the AIWW maintenance; draft EA Appendix F is an essential fish habitat (EFH) assessment dated October 2013. For management purposes, the Savannah District divides the 161-mile AIWW into 36 reaches. Adjacent to these reaches are salt marsh tracts for which the Savannah District holds disposal easements. Prior use of these tracts for dredged material disposal resulted in wetland impacts exceeding those predicted by the District in its 1976 Environmental Impact Statement (EIS) and 1983 DMMP, and 13 of the 36 reaches currently lack sufficient sediment disposal capacity for the next 20 years. The draft EA and draft new DMMP update the EIS and older DMMP to address these issues. As compensatory mitigation for impacts to approximately 37.5 acres of salt marsh from implementing the new DMMP, the Savannah District proposes a one-time payment of \$375,000 (i.e., \$10,000 per acre) to a land trust or state natural resource agency for the purchase and/or preservation/restoration of salt marsh. The Savannah District believes implementation of the DMMP would not cause significant adverse impacts to EFH or federally managed fishery species. As the nation's federal trustee for conservation and management of marine, estuarine, and diadromous fishery resources, the following comments and recommendations are provided pursuant to the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Project Description

The AIWW is a sheltered waterway used by commercial and private shallow-draft vessels from New Jersey to Florida. The Savannah District's authorized maintenance project is the 161-mile channel between Port Royal Sound (AIWW mile 552) and Cumberland Sound (AIWW mile 713). Currently, the majority of the dredged material is deposited in undiked marsh areas adjacent to the AIWW, and this practice is not consistent with contemporary federal and state habitat protection programs. The annual shoaling rate is approximately 1.5 million cubic yards with the average annual maintenance dredging volume being roughly 1 million cubic yards. Section 2.1 of the EFH Assessment describes six general strategies considered for managing the AIWW, and Section 2.2 identifies the three strategies proposed for the DMMP:

- Use of existing diked disposal areas where available.
- Use of existing Ocean Dredged Material Disposal Sites (ODMDS) for Savannah Harbor and Brunswick Harbor and a new, yet-to-be-proposed ODMDS.



- Use of existing open-water disposal sites within State of Georgia waters.

Fifteen reaches at the northern and southern ends of the AIWW would use existing diked disposal areas, 17 reaches within the middle would use an ODMDS, and three reaches also within the middle (specifically Hells Gate, Altamaha Sound and Buttermilk Sound) would use a combination of open-water disposal sites and existing diked disposal sites. Reach 36, at the southernmost end of the Georgia portion of the AIWW, is managed by the U.S. Navy as part of Naval Base Kings Bay and is not part of the Savannah District's DMMP.

Dredge plants considered include mechanical (e.g. bucket), hydraulic cutterhead, and hopper dredges. Based on previous dredging records, 19 of the 35 reaches would need maintenance over the next 20 years. A description of reach length and location, anticipated dredging frequency and volume, sediment type, and disposal option is presented in Attachment 1. The existing navigation channel side slopes would not change with the maintenance dredging.

Essential Fish Habitat in the Project Area

Sections 4, 5, and 6 of the EFH Assessment describe EFH and Habitat Areas of Particular Concern (HAPC) along the subject portion of the AIWW, the federally managed fishery species and their prey within these areas, and use of EFH and HAPCs by those species. While these sections rely heavily upon dated literature (e.g., SAFMC 1998), rather than the 2009 *Fishery Ecosystem Plan of the South Atlantic Region*¹ prepared by the South Atlantic Fishery Management Council (SAFMC) and the most recent EFH source documents prepared for the Mid-Atlantic Fishery Management Council², the EFH and HAPC descriptions provided are sufficient for this EFH consultation.

In summary, SAFMC identifies the estuarine emergent vegetation, marsh edge, and intertidal mudflats along the AIWW as EFH for penaeid shrimp. Salt marshes and tidal creeks are also EFH for estuarine-dependent species of the snapper-grouper complex. Larvae and juveniles concentrate and feed extensively and shelter within these habitats. As a consequence, growth rates are high and predation rates are low, which makes these habitats effective nursery areas for shrimp. Coastal inlets also occur in the project area; these are designated a HAPC for penaeid shrimp. HAPCs are a subset of EFH that is either rare, particularly susceptible to human-induced degradation, especially important ecologically, or located in an environmentally stressed area. The Mid-Atlantic Fishery Management Council identified estuarine waters as EFH for bluefish and summer flounder, and NMFS identifies some coastal waters as EFH for sharks. The waters of the AIWW, the tidal creeks connected to it, and the surrounding coastal marsh also serve as nursery and forage habitat for other species, such as red drum (*Sciaenops ocellatus*), black drum (*Pogonias cromis*), Atlantic menhaden (*Brevoortia tyrannus*), and blue crab (*Callinectes sapidus*). Many of these species are prey for other fish managed under the Magnuson-Stevens Act, such as mackerels, snappers, groupers, billfish, and sharks. Red drum are important as a recreationally caught species, and estuarine wetlands within the project area provide habitat necessary for development and survival throughout all life stages of red drum.

Impacts to Essential Fish Habitat

Dredging: The EFH Assessment focuses on disposal of dredged material and has very little discussion of impacts from dredging. Exposure to high concentrations of suspended sediments may, depending on exposure duration, decrease larval feeding rate, damage the epidermis of larval fishes, and increase larval mortality (Wilber and Clarke 2001). Mechanical dredging yields higher concentrations of suspended sediments than hopper or pipeline dredges, and mechanical dredges can cause this impact throughout the water column. NMFS recommends the final DMMP include use of environmental windows to preclude

¹ Available at www.safmc.net.

² Available at www.nefsc.noaa.gov/nefsc/habitat/efh/.

dredging from times of the year and locations where impacts to larvae and young-of-year of state or federally managed fish, crabs, and shrimp would be greatest. Relevant literature on use of environmental windows by USACE offices to minimize impacts to fishes and shellfish includes Reine et al. (1998), National Research Council (2002), Suedel et al. (2008), and Evans et al. (2011). Collectively, these papers outline a process for optimizing use of environmental windows to protect organisms from dredging projects. Generally speaking, dredging should be done during winter months, especially in confined areas and near inlets. Dredging may also impact marsh edges, mud flats, and oyster reefs due to loss of surrounding soils. These impacts can occur as the sloped channel sides erode landward in response to ambient waves and currents and in response to the altered sediment transport processes. Loss of these shallow water areas is particularly important because these habitats include nursery and overwintering habitats for white shrimp and brown shrimp as well as state managed species, such as red drum.

Diked Disposal Areas: The draft EA and EFH Assessment differ in their discussion of unconfined marsh disposal. Both documents clearly indicate no open marsh disposal is proposed for the South Carolina portion of the AIWW. For Georgia, however, the draft EA indicates dredged material would be placed in existing and new DMCAs and in existing undiked salt marsh placement areas, while the EFH Assessment states (page 8) *“The long term, continued discharge of dredged material into undiked tidal wetlands is not a viable alternative in either state.”* The draft EA also states use of existing diked areas eliminate the need for undiked sediment disposal but then goes on to say construction of new, high ground, diked placement areas reduce the use of the undiked placement areas located in tidal marsh along the AIWW. The final EA and DMMP should not have these discrepancies. NMFS believes the Savannah District meant to indicate the disposal will occur in previously used undiked areas after these sites have been modified with Geotubes or similar structures to confine the dredged material to the areas previously impacted.

While it appears the Savannah District is considering use of Geotubes in previously undiked marsh disposal areas, a description of how the Geotubes would be deployed without further impacting marsh habitat is not provided. The draft DMMP (page 32) states only a portion of the marsh tracts would be enclosed. It is not clear how containing only a portion of the site would prevent material from flowing into nearby areas or if dredged material would initially only be placed inside the tubes. If material is only placed inside the Geotube, alternative placement locations (e.g., uplands) should be analyzed. The effectiveness of confining dredged material using Geotube should be discussed and include evaluations of Geotube performance during storms and over long time periods in harsh salt marsh environments. The USACE Galveston District has experience with the long-term durability of Geotubes in salt marshes and would be a good source of information.

The draft EA and EFH Assessment refer to a 2011 examination of the previously used, undiked disposal sites. NMFS requested a copy of the report on March 25, 2014. The final EA and EFH Assessment should summarize findings of that report and how the District determined the amount of compensatory mitigation needed. After reviewing the 2011 report, NMFS may provide additional comments on the extent of marsh impacts and the amount of compensatory mitigation needed.

ODMDS: Presumably, any new ODMDS would be within federal waters. NMFS recommends the ODMDS not include live/hardbottom habitat and have a sufficient buffer that material transported by waves and currents from the ODMDS during or after disposal not impact live/hardbottom habitat; such buffers are usually at least 500 meters, but depend on site-specific conditions. The U.S. Environmental Protection Agency Regional IV (EPA) and USACE district offices have successfully used underwater berms and precise management of disposal locations within an ODMDS to protect live/hardbottom areas. In the past, EPA and USACE district offices have coordinated reviews of new ODMDS designations and site management and monitoring plans with NMFS, and NMFS believes this coordination would be the

more appropriate venue for evaluating impacts to EFH from use of a new ODMDS under the AIWW DMMP.

Open-water Disposal: The proposed open-water disposal at Hells Gate, Altamaha Sound, and Buttermilk Sound concerns NMFS due to the likelihood high concentrations of suspended sediments will harm fish and shellfish and the propensity for dredged material to leave open-water disposal sites in a fluid mud layer potentially covering valuable habitat. For example, in the Fowl River project referenced below, dredged material migrated to 33 hectares outside the 96-hectare disposal area. Exact locations of the open-water disposal sites within each sound would have to be carefully chosen to avoid live/hardbottom habitat and be closely monitored to ensure no impacts to live/hardbottom habitat are occurring. As noted above, a buffer of at least 500 meters would likely be necessary. Site designation and monitoring would require detailed benthic habitat mapping of the proposed disposal areas as well as nearby areas that may be affected by sediment transported from the disposal areas. It also is important for disposed sediments to match ambient sediments in terms of grain size distribution, organic content, mineralogy, and other physical characteristics. NMFS recommends the Savannah District review reports and peer-reviewed papers prepared by the USACE Mobile District for the National Thin Layer Demonstration Project in Mississippi Sound for best management practices for minimizing impacts from open-water disposal. In addition to the 500-meter buffer referenced above, limiting the thickness of the dredged material layer to no more than 6 inches will hasten recovery by benthic organisms and use of a sediment profiling camera to map disposal footprints has proven to be far more accurate than precision bathymetry and side-scan sonar. For example, in a study of open-water disposal by the Mobile District at Fowl River, Alabama, precision bathymetry showed a disposal footprint of 82 hectares whereas sediment profiling imagery showed the footprint to be 129 hectares, nearly 60 percent larger³. NMFS also recommends the Savannah District review the permit the Charleston District recently issued to South Island Dredging Association (SAC-2012-00926-2IR) for unconfined open-water disposal in Port Royal Sound for its short-term and long-term monitoring plans.

Compensatory Mitigation

The Savannah District indicates 37.5 acres of tidal wetland impacts would result under the new DMMP and is proposing to fund a state resource agency or land trust \$375,000 (\$10,000/acre) as compensation. There is no discussion in the draft EA or EFH Assessment how the District determined the source and type of impact, the acreage impacted, and price per acre. There is also no discussion on how the salt marsh restoration would be accomplished, a schedule for accomplishing the work, or potential project locations. Further, the draft EA indicates the funds may be used for preservation. It is not clear how preservation will offset the proposed impacts. The District should identify where and for what impacts it is compensating and, should the District pursue an in-lieu fee type program, specify the District's commitments and those of any agency receiving funds. NMFS also notes all disposal of AIWW sediments in undiked areas since promulgation of EFH regulations (January 17, 2002) have not been evaluated under the Magnuson-Stevens Act and could require compensatory mitigation.

Conservation Recommendations

NMFS finds maintenance of the AIWW in the manner described in the draft DMMP would adversely impact EFH. Section 305(b)(4)(A) of the Magnuson-Stevens Act requires NMFS to provide EFH conservation recommendations when an activity is expected to adversely impact EFH. Based on this requirement, NMFS provides the following:

EFH Conservation Recommendations

- Open-water disposal shall not occur for maintenance of the AIWW until the Savannah District provides NMFS with best management practices that minimize impacts to live/hardbottom habitat

³ USACE Waterways Experiment Station, Environmental Effects of Dredging, Volume D-92-5

and benthic communities. These best management practices shall include use of environmental windows; pre- and post-disposal habitat mapping; forecasts of sediment transport; target thicknesses of dredged material layers; and physical and biological monitoring program to gauge whether actual results of open-water disposal are within the ranges forecasted by the final EA and DMMP.

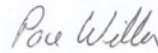
- Disposal of material into undiked tracts, regardless of use of Geotubes or similar structures, shall not occur until the Savannah District provides NMFS with best management practices that minimize the likelihood of impacts outside disposal areas from dredged material and from dike construction.
- The Savannah District shall provide NMFS with a compensatory mitigation plan that shows via a functional assessment all impacts to marsh habitat will be fully offset by the mitigation actions.

In accordance with Section 305(b)(4)(B) of the Magnuson-Stevens Act and its implementing regulations at 50 CFR 600.920(k), the Savannah District office is required to provide a written response to the EFH conservation recommendations within 30 days of receipt. The Savannah District's response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the proposed activity. If the Savannah District's response is inconsistent with the EFH conservation recommendations, the District must provide a substantive discussion justifying the reasons for not implementing the recommendations. If it is not possible to provide a substantive response within 30 days, the Savannah District should provide an interim response to NMFS, to be followed by the detailed response. The detailed response should be provided in a manner to ensure that it is received by NMFS at least ten days prior to final approval of the action.

Finally, in accordance with section 7 of the Endangered Species Act of 1973, as amended, it is the responsibility of the lead federal agency to review and identify any proposed activity that may affect endangered or threatened species and their habitat. Determinations involving species under NMFS jurisdiction should be reported to our Protected Resources Division at the letterhead address.

We appreciate the opportunity to provide these comments. Please direct related correspondence to the attention of Ms. Jaclyn Daly-Fuchs at our Charleston Area Office. She may be reached at (843) 762-8610 or by e-mail at Jaclyn.Daly@noaa.gov.

Sincerely,



/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc:

COE, Charles.W.Seyle@usace.army.mil
GADNR CRD, Karl.Burgess@gadnr.org
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F/SER47, Jaclyn.Daly@noaa.gov

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- Reine KJ, Dickerson DD, Clarke DG. 1998. *Environmental windows associated with dredging operations*. DOER Technical Notes Collection (TN DOER-E2), U.S. Army Engineer Research and Development Center, Vicksburg MS.
- Suedel BC, J Kim, DG Clarke, and I Linkov. 2008. A risk-informed decision framework for setting environmental windows for dredging projects. *Science of the Total Environment* 403:1-11
- Wilber, DH, and DG Clarke. 2001. Biological effects of suspended sediments: a review of suspended sediment impacts on fish and shellfish with relation to dredging activities in estuaries. *North American Journal of Fisheries Management* 21:855-875

Attachment 1: AIWW Reach Data

Dredging Reach	Operational Reach	AIWW Mileage	Dredging Interval (yrs)	Volume Per Event (CY)	Sediment Type	Disposal Option
Port Royal to Ramshorn Creek	SAV-1	552 - 568.5	No Previous Dredging Required			DMCA 14-B
Ramshorn Creek, SC	SAV-2	568.5 - 569.9	14	34,000	Sand	DMCA 14-B
New River	SAV-3	569.9 - 572.2	No Previous Dredging Required			DMCA 14-B
Walls Cut	SAV-4	572.2 - 572.6	19	22,000	Sand	DMCA 14-B
Fields Cut, SC	SAV-5	572.6 - 575.3	5	58,000	Fine silt	DMCA 14-B
Elba Cut - McQueens Cut	SAV-6	575.3 - 577.4	9	89,500	Fine silt	DMCA 14-B
St. Augustine Creek	SAV-7	577.4 - 578.2	2	119,000	Mud, Silt	DMCA 14-B
Wilmington River	SAV-8	578.2 - 585.5	4	46,000	Mud, Silt	DMCA 14-B
Skidaway River	SAV-9	585.5 - 591	No Previous Dredging Required			Tract 9-A
Skidaway Narrows	SAV-10	591 - 594	No Previous Dredging Required			Tract 9-A
Burnside River to Hells Gate	SAV-11	594 - 600.8	No Previous Dredging Required			Tract 9-A
Hells Gate	SAV-12	600.8 - 602.4	3	154,000	Sand, silt, Clay	Open Water (coarse); confined Placement in Tracts 15-A and 15-B (fines)
Hells Gate to Florida Passage	SAV-13	602.4 - 605.9	No Previous Dredging Required			Savannah ODMDS
Florida Passage	SAV-14	605.9 - 608.5	11	35,000	Mud, Silt	Proposed ODMDS @ Sapelo Sound
Bear River	SAV-15	608.5 - 617.5	15	39,500	Mud, Silt	Proposed ODMDS @ Sapelo Sound
St. Catharines Sound - N. Newport River	SAV-16	617.5 - 620.5	No Previous Dredging Required			Proposed ODMDS @ Sapelo Sound
North Newport River	SAV-17	620.5 - 623.9	No Previous Dredging Required			Proposed ODMDS @ Sapelo Sound
Johnson Creek	SAV-18	623.9 - 629.3	30	51,000	Silts, Clays	Proposed ODMDS @ Sapelo Sound
Sapelo Sound - Front River	SAV-19	629.3 - 639	No Previous Dredging Required			Proposed ODMDS @ Sapelo Sound
Front River	SAV-20	639 - 640	No Previous Dredging Required			Proposed ODMDS @ Sapelo Sound
Creighton Narrows	SAV-21	640 - 642.9	4	181,500	Silts, Clays	Proposed ODMDS @ Sapelo Sound
Old Teakettle Creek	SAV-22	642.9 - 648.2	No Previous Dredging Required			Proposed ODMDS @ Sapelo Sound

Dredging Reach	Operational Reach	AIWW Mileage	Dredging Interval (yrs)	Volume Per Event (CY)	Sediment Type	Disposal Option
Doboy Sound	SAV-23	648.2 - 649.5	No Previous Dredging Required			Proposed ODMDS @ Altamaha Sound
North River Crossing	SAV-24	649.5 - 651.4	4	64,000	Mud	Proposed ODMDS @ Altamaha Sound
Rockahndy River	SAV-25	651.4 - 652.7	5	58,500	Mud	Proposed ODMDS @ Altamaha Sound
South River	SAV-26	652.7 - 653.5	2	58,000	Mud, Silt	Proposed ODMDS @ Altamaha Sound
Little Mud River	SAV-27	653.5 - 656.4	2	260,500	Mud, Silt	Proposed ODMDS @ Altamaha Sound
Altamaha Sound	SAV-28	656.4 - 660.1	3	108,000	Sand, Silt	Proposed ODMDS @ Altamaha Sound
Buttermilk Sound	SAV-29	660.1 - 664.5	3	217,000	Sand, Silt	Open Water Sites 43 and 44 (coarse); confined Placement in Tract 42-B (fines)
Mackay River	SAV-30	664.5 - 674	No Previous Dredging Required			Andrews Island DMCA
Frederica River	SAV-31	674 - 677	No Previous Dredging Required			Andrews Island DMCA
St. Simon Sound	SAV-32	677 - 680.8	No Previous Dredging Required			Andrews Island DMCA
Jekyll Creek	SAV-33	680.9 - 685.9	2	461,500	Silts, Clays	Brunswick ODMDS
Jekyll Creek to Cumberland River	SAV-34	685.9 - 692	No Previous Dredging Required			Brunswick ODMDS
Cumberland River to Cumberland Sound	SAV-35	692 - 707	18	46,500	Sand, Silt	Diked Placement in Tract 1700-L (Crab Island)
Cumberland River to Cumberland Sound	SAV-36	707 - 713	Dredged by the Navy			

Responses to Comments from NMFS

Comment 1: NMFS recommends the final DMMP include use of environmental windows to preclude dredging from times of the year and locations where impacts to larvae and young-of-year of state or federally managed fish, crabs, and shrimp would be greatest.

Response: The District will restrict use of hopper dredges to December 15 – March 31 to protect sea turtles. No other time-of-year restrictions are proposed.

Comment 2: The draft EA and EFH Assessment differ in their discussion of unconfined marsh disposal. The final EA and DMMP should not have these discrepancies. NMFS believes the Savannah District meant to indicate the disposal will occur in previously used undiked areas after these sites have been modified with Geotubes or similar structures to confine the dredged material to the areas previously impacted.

Response: Concur. The EFH Assessment and EA were revised accordingly.

Comment 3: The draft EA and EFH Assessment refer to a 2011 examination of the previously used, undiked disposal sites. NMFS requested a copy of the report on March 25, 2014. The final EA and EFH Assessment should summarize findings of that report and how the District determined the amount of compensatory mitigation needed. After reviewing the 2011 report, NMFS may provide additional comments on the extent of marsh impacts and the amount of compensatory mitigation needed.

Response: The Tidewater 2011 report is summarized in the Section 404 (b)(1) Evaluation (referenced in the EFH Assessment). Mitigation determinations are discussed in Section 4.15.4 (Mitigation Plan) in the EA.

Comment 4: The proposed open-water disposal at Hells Gate, Altamaha Sound, and Buttermilk Sound concerns NMFS due to the likelihood high concentrations of suspended sediments will harm fish and shellfish and the propensity for dredged material to leave open-water disposal sites in a fluid mud layer potentially covering valuable habitat. NMFS recommends the Savannah District review reports and peer-reviewed papers prepared by the USACE Mobile District for the National Thin Layer Demonstration Project in Mississippi Sound for best management practices for minimizing impacts from open-water disposal. NMFS also recommends the Savannah District review the permit the Charleston District recently issued to South Island Dredging Association (SAC-2012-00926-2IR) for unconfined open-water disposal in Port Royal Sound for its short-term and long-term monitoring plans.

Response: Comment noted. The corps will review these practices before dredging occurs to make sure the best management practices are included in future contracts that include the

proposed open-water disposal. Only dredged material that is at least 80 percent sand would be placed in open-water sites.

Comment 5: The District should identify where and for what impacts it is compensating and, should the District pursue an in-lieu fee type program, specify the District's commitments and those of any agency receiving funds. NMFS also notes all disposal of AIWW sediments in undiked areas since promulgation of EFH regulations (January 17, 2002) have not been evaluated under the Magnuson-Stevens Act and could require compensatory mitigation.

Response: Mitigation for wetland impacts are described in Section 4.8.1.2 of the EA. Mitigation for past activities is not authorized through a DMMP but could be addressed under a different authority in a separate NEPA document.

Comment/Conservation Recommendation 1: Open-water disposal shall not occur for maintenance of the AIWW until the Savannah District provides NMFS with best management practices that minimize impacts to live/hardbottom habitat and benthic communities. These best management practices shall include use of environmental windows; pre- and post-disposal habitat mapping; forecasts of sediment transport; target thicknesses of dredged material layers; and physical and biological monitoring program to gauge whether actual results of open-water disposal are within the ranges forecasted by the final EA and DMMP.

Response: The District will coordinate open water disposal with the appropriate state and federal agencies prior to dredging. As part of this coordination, the District will conduct grain size surveys of the two reaches (Hells Gate and Buttermilk Sound) where open water disposal is the preferred placement method and will incorporate the best management practices to minimize impacts to live/hardbottom habitat and benthic communities. Only sediments that are at least 80 percent sand would be placed in open-water sites.

Comment/Conservation Recommendation 2: Disposal of material into undiked tracts, regardless of use of Geotubes or similar structures, shall not occur until the Savannah District provides NMFS with best management practices that minimize the likelihood of impacts outside disposal areas from dredged material and from dike construction.

Response: The District has identified alternate placement for dredged material (ODMDSs) should use of Geotubes to confine the dredged material to the previously-impacted portions of the disposal tract prove infeasible. Further the District will provide best management practices before placement occurs.

Comment/Conservation Recommendation 3: The Savannah District shall provide NMFS with a compensatory mitigation plan that shows via a functional assessment all impacts to marsh habitat will be fully offset by the mitigation actions.

Response: The District proposes to compensate for wetland impacts from the new DMMP by providing funds to a resource agency for preservation/restoration of saltmarsh. The original \$10,000 per acre figure was derived from tax valuations of saltmarsh. No restoration costs were included. Savannah District Regulatory Division was consulted in revisiting this initial proposal and a revised figure of \$70,000 per acre is used in the Final EA and DMMP as the mitigation cost. The District will coordinate the Final EA and its revised mitigation plan with NMFS.

United States Fish and Wildlife Service – Savannah National Wildlife Refuge

From: [Hayes, Chuck](#)
To: [Seyle, Charles W SAS](#)
Subject: [EXTERNAL] Request for extension for comments for the EA/FONSI DMMP for the AIWW
Date: Thursday, April 17, 2014 10:07:14 AM

Dear Charles:

The U.S. Fish and Wildlife Service, Savannah Coastal Refuges Complex, is requesting an extension to Friday, April 25 to provide comments on the Draft Environmental Assessment and Draft Finding of No Significant Impact for a Dredged Material Management Plan for the Savannah District portion of the Atlantic Intracoastal Waterway, South Carolina and Georgia.

If you have any questions, please feel free to give me a call. Thank you.

chuck

--

Chuck Hayes
U.S. Fish and Wildlife Service
694 Beech Hill Ln.
Hardeeville, SC 29927
843.784.9911 ext. 107 - Office
843.784.2465 - Fax
912.210.7366 - cell
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Responses to Comments from USFWS

Comment: The U.S. Fish and Wildlife Service, Savannah Coastal Refuges Complex, is requesting an extension to Friday, April 25 to provide comments on the Draft Environmental Assessment and Draft Finding of No Significant Impact for a Dredged Material Management Plan for the Savannah District portion of the Atlantic Intracoastal Waterway, South Carolina and Georgia.

Response: Extension granted. As of 6 June 2015, the Corps has not received comment from USFWS on the Draft DMMP/EA.

United States Environmental Protection Agency – Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

April 15, 2014

William G. Bailey
Chief, Planning Division
Savannah District, U.S. Army Corps of Engineers
100 W. Oglethorpe Avenue
Savannah, GA 31401-3640

SUBJECT: Draft Environmental Assessment for the Atlantic Intracoastal Waterway Dredged Material Management Plan, Port Royal, Sound South Carolina to Cumberland Sound, Georgia

Dear Mr. Bailey:

The U.S. Environmental Protection Agency (EPA) has reviewed the referenced Draft Environmental Assessment (EA) in accordance with its responsibilities under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The Savannah District of the U.S. Army Corps of Engineers (USACE) proposes changes to the Atlantic Intracoastal Waterway (AIWW) Dredged Material Management Plan (DMMP). The AIWW is a 739-mile inland waterway system between Norfolk, Virginia, and St. John's River, Florida, which enables continuous sheltered passage for waterborne vessels between these two destinations. The Savannah District maintains 161 miles (24 miles in South Carolina and 137 miles in Georgia) of the AIWW between miles 552 and 713 between Port Royal Sound, South Carolina on the north and Cumberland Sound, Georgia on the south. The DMMP ensures the Savannah District portion of the AIWW has sufficient dredged material disposal capacity for a minimum of 20 years as required by Corps policy (USACE Planning Guidance Notebook (ER1105-2-100)). The Corps proposed new DMMP outlines a 20-year maintenance plan that identifies dredged material disposal options and evaluates problems associated with the maintenance of the AIWW. The Savannah District portion of the AIWW consists of 36 operational reaches (i.e., SAV-1 to SAV-36). The Corps has determined that 13 out of 36 operational reaches within the Savannah District's portion of the AIWW lack sufficient 20-yr disposal area capacity. Dredging and sediment placement activities prior to 1976 were addressed in the 1976 AIWW EIS (USACE 1976).

All alternatives considered used various management measures in sediment material placement to include using upland sediment placement sites, confined marsh placement sites, open water placement, beneficial use of dredged material, agitation dredging and restoring the historic flows. Besides the No Action Alternative, the Corps identified four action alternatives (Alternatives 1-4). Alternative 1 includes a combination of management measures to include using four diked upland sites, using existing Ocean Dredged Material Disposal Sites (ODMDS)

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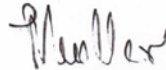
at Savannah Harbor and Brunswick Harbor, creating two new ODMDS at Sapelo Sound and Altamaha Sound, and using geo-tube confinement placement. Alternative 2 includes a combination of management measures to include using four diked upland sites, using the existing ODMDS at Brunswick Harbor, and creating a new ODMDS at Sapelo Sound and using geo-tube confinement placement. Alternative 3 includes a combination of management measures to include using four diked upland sites, using the existing ODMDS at Savannah Harbor, creating a new ODMDS at Altamaha Sound and using geo-tube confinement placement. Alternative 4 includes a combination of management measures to include using three diked upland sites and undiked sediment placement sites. The Corps has identified Alternative 1 as the preferred alternative.

On April 20, 2012, the Corps released a Notice of Intent (NOI) to conduct an Environmental Impact Statement (EIS) on this action. It appears a decision was made to switch to an Environmental Assessment (EA) but there is little discussion regarding the rationale for converting the EIS into an EA. EPA recommends that further explanation be provided regarding this decision. Our concerns should also be addressed in the final document (outlined in the detailed comments attachment) regarding water quality impacts (specifically dissolved oxygen), wetlands mitigation and the Marine Protection Research Sanctuaries Act (MPRSA) permitting process for the creation of new Ocean Dredged Material Disposal Sites (ODMDS).

Concerning the creation of the two new ODMDS and using the existing Savannah Harbor ODMDS as outlined in the preferred alternative, EPA requests that the Corps contact EPA as soon as possible to initiate MPRSA 103 permitting discussions. Additionally, if material outside of the Savannah Harbor area is to be disposed in the Savannah ODMDS as proposed, then a rule change (by EPA) would be required in addition to modification of the SMMP (see attached detailed comments for more details).

We appreciate the opportunity to review the proposed action and will work with the Corps to help to resolve our issues. We request a conference call to discuss issues raised in this letter. Please contact Jamie Higgins at (404) 562-9681, to set up a conference call to discuss these issues further.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Environmental Accountability

**Atlantic Intracoastal Waterway
Dredge Material Management Plan and Environmental Assessment
U.S. EPA Detailed Comments**

Environmental Assessment (EA):

1. Conversion of EIS to an EA: The Corps issued a Notice of Intent (NOI) on April 20, 2012 (page 6-1) to conduct an EIS, but later decided to conduct an EA. The only discussion regarding the rationale for converting the EA into an EIS is found toward the end of the EA (page 6-1) with the statement, "...the Corps determined that its preferred plan (implementing the proposed new DMMP and mitigation plan) would not result in significant impacts to the natural or human environment, and therefore an Environmental Assessment (EA) is the appropriate NEPA document." EPA is concerned about the lack of explanation regarding conversion of the EIS to an EA in the Executive Summary or project Purpose and Need. Additionally, the Corps proposes conducting an EIS for two new ODMDS for the preferred alternative (page 2-31). EPA is concerned that once the DMMP FONSI has been signed, the decision has been made to create two new ODMDS without adequate detailed impact analysis. EPA is also concerned that the relationship between the DMMP EA and proposed EIS for the creation of these new ODMDS are not fully discussed within the EA. **RECOMMENDATION:** For NEPA transparency and disclosure, EPA recommends the Corps provide a detailed discussion as to why the Corps decided to no longer pursue an EIS and conduct an EA in the Executive Summary section and Purpose and Need section. Additionally, EPA recommends the Corps better describe the relationship of the DMMP's EA and the EIS for the creation of the two new ODMDS.

2. ODMDS: In Section 7.1.3.2, page 35 of the DMMP and Section 2.8.10, page 2-29 of the Draft EA, the Corps states that the time frame to complete the proposed ODMDS and related EIS process would be completed in 3 years. EPA thinks that this is a very ambitious schedule and recommends that the Corps coordinate with EPA to discuss these potential ODMDS sites. Coordination procedures for site designations are provided in the 2007 South Atlantic Division/EPA Region 4 Ocean Dumping Memorandum of Understanding (MOU). Additionally, in the Draft EA (Section 2.8.9, page 2-29), the Corps states that the SMMPs limit the ODMDSs to material from the Savannah Area and greater Brunswick Georgia vicinity. It is actually the regulation (40 CFR 228.15) that requires this limitation. Therefore, if material outside of the Savannah Harbor area is to be disposed in the Savannah ODMDS as proposed, then a rule change (by EPA) would be required in addition to modification of the SMMP and is estimated to take at least 6 months. **RECOMMENDATION:** EPA recommends that the Corps coordinate with EPA as soon as possible regarding actions associated with the creation of the new ODMDS and use of existing ODMDS.

3. Wetlands:

a. Mitigation Credits: EPA is concerned that the proposed \$10,000 per acre mitigation fee does not sufficiently reflect the market value of mitigation banks and is without commercial precedent. There are only a very few operating mitigation banks in Georgia able to sell freshwater tidal mitigation credits and there are no mitigation banks in Georgia with salt marsh

wetland credits for sale. Thus, supply and demand would suggest that such credits, if they did exist, would be far more expensive than \$10,000 per acre. Such sites are located far enough upstream on coastal rivers to be out of the influence of salt water during high tide, but they are none the less subject to daily variations in hydrology as a result of the tides. One such Georgia bank has existing freshwater forested tidal wetland credits that sold in 2012 for \$37,500 each (per credit, not per acre). This bank was originally approved in 2000, and generated approximately 396 mitigation credits on a 248-acre tract of land (1.6 credits per acre). Thus, on a per acre basis, that would be equivalent to \$59,879 per acre. EPA recognizes that because the value (i.e. price) of mitigation credits rises and falls based on market supply and demand, it may be unlikely that this \$37,500 per credit price has been sustained throughout the life of this bank. However, freshwater tidal wetland credits are expensive, and there are no salt marsh wetland credits that exist in Georgia. Additionally, EPA is not aware of any credits sold more recently than the summer 2012. EPA recognizes it is difficult to compare mitigation credit costs across Districts, because each Corps District and/or Interagency Review Team generally has its own guidance for mitigation credit accounting. However, if credits are converted to acres, the proposed cost for tidal saltwater mitigation credits across the Southeast ranges between \$50,000 and \$200,000 per acre with prices highest in North Carolina and Virginia.

RECOMMENDATION: EPA recommends the Corps re-consider their mitigation strategy to be more consistent with commercially based mitigation banking. EPA also recommends that the Corps re-evaluate the credit calculation scheme to align credit costs so as to be more reflective of market value.

b. Section 404 (b)(1) Analysis:

1. EPA has concerns regarding the Section 404(b)(1) analysis (Appendix E to the EA). The information documenting the condition of the wetlands/marshes at the various sites analyzed for this project lacks sufficient detail. For example, the Corps discusses minimizing impacts of the proposed action, but the Section 404(b)(1) analysis fails to adequately assess and document the current condition of the wetlands/marshes. **RECOMMENDATION:** EPA recommends the Corps provide a better wetlands assessment in the Section 404(b)(1) analysis and better describe minimization efforts based on the updated wetlands assessment.

2. The Corps refers to a "Maintenance Evaluation Study" that provided insight into the condition of wetlands/marshes in 1983 (over 30 years ago) and another in 2011 that utilized an Estuarine Wetland Rapid Assessment Procedure (E-WRAP). Additionally, the Corps does not provide appropriate citations of these documents nor did the Corps summarize the data contained therein. **RECOMMENDATION:** For NEPA disclosure, EPA recommends the Corps provide the appropriate citation and summarize the data in the Final EA.

3. Was the Section 404(b)(1) analysis coordinated with the Savannah District Corps' regulatory program to ensure consistency with the District's regulatory policies?

RECOMMENDATION: EPA recommends the Corps planning program coordinate the Section 404(b)(1) analysis and proposed mitigation with the regulatory program to ensure regional consistency.

4. Water Quality: In section 4.2.2 Water Column (page 4-2), the Corps discusses impacts to the water column and briefly discusses impacts to dissolved oxygen and states, "Adverse effects

resulting from dredging would potentially include alterations in current flow patterns, increased turbidity, and reductions in dissolved oxygen.” Additionally, the Corps discusses dissolved oxygen in section 4.4.1.3 Dissolved Oxygen Concentrations During Dredging and Placement Process (page 4-6) and briefly discusses monitoring requirements for dissolved oxygen, but does not provide any analysis to ensure that the dissolved oxygen standard will be met. EPA is concerned regarding the lack of analysis in determining impacts to dissolved oxygen and other water quality parameters. Has the Corps coordinated with the Georgia Environmental Protection Division (GAEPD) and the South Carolina Department of Health and Environmental Control (SCDHEC) to determine if the proposed project will meet water quality standards?

RECOMMENDATION: EPA recommends that the Corps better describe and analyze impacts for at least the preferred alternative (and preferably each alternative) and request that they coordinate with both GAEPD and SCDHEC to ensure the proposed project meets water quality standards.

5. Finding of No Significant Impact (FONSI):

a. The first paragraph of the FONSI states, “Creation of new Ocean Dredge Material Disposal Sites will require additional site investigations, preparation of environmental assessments...”. This statement contradicts the EA which states numerous times that a separate EIS must be conducted for the creation of the new ODMDS (i.e. page 2-29). The FONSI is the Corps’ decision document outlining environmental commitments and must accurately reflect the environmental commitments within the EA. **RECOMMENDATION:** EPA recommends the Corps change the language within the FONSI to accurately reflect the commitment to conduct an EIS as reflected within the EA.

b. There is currently no language within the EA that discusses the MPRSA 103 permit (ODMDS) process commitment. **RECOMMENDATION:** EPA recommends the Corps add language to the EA and FONSI that reflects the Corps commitment to work collaboratively with EPA regarding the MPRSA 103 permit review and concurrence of appropriate and required documentation as outlined in (40 CFR 227) and the 2007 South Atlantic Division/EPA Region 4 Ocean Dumping Memorandum of Understanding (MOU).

6. Alternative Impact Analysis:

a. As written, the EA only addresses impacts of the “preferred alternative” within Chapter 4 and lacks a comparative analysis of project impacts of each alternative. Within Chapter 2 (Alternatives Including the Proposed Action), the Corps minimally (one brief paragraph) describes impacts of each alternative. Most impacts identified are in relationship to cultural resources, but does not address impacts associated with water quality, wetlands, environmental justice, air quality, socioeconomic or wildlife. The Corps should identify each alternative’s environmental impacts as well as compare each alternatives impacts. This could also be displayed in a matrix so that the public can clearly discern and compare the impacts of each alternative. **RECOMMENDATION:** EPA recommends that the Corps comparatively describe each alternatives environmental impacts within the EA (perhaps within Chapter 2).

b. The description of each alternative (Chapter 2) is very vague and confusing. For example, the Corps discusses disposing of sediment in upland diked sites, but doesn't clearly explain if these sites are new or existing sites. Also, Alternative 1-2 has the use of geo-tubes confinement placement as a management measure, but doesn't provide a definition of geo-tube confinement placement within Chapter 2. **RECOMMENDATION:** EPA recommends that the Corps more fully explain the major components of each alternative within the Final EA.

c. In each alternative description (page 2-15-2-18) the Corps states, "The management measures used in this alternative were suggested by GA DNR and are considered environmentally acceptable." However, the Corps does not document GA DNR's finding of environmental acceptability within the EA. If there are correspondence or meeting notes describing the process of how GA DNR recommended these management measures, then this should be discussed in the EA or referred to within an appendix. Also, were other resource agencies such as the GA DNR-CRD, U.S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS) consulted regarding impacts to resources? If so, then there should be discussion regarding their thoughts regarding resource impacts and this should be reflected within the discussion of each alternative. **RECOMMENDATION:** EPA recommends that the Corps document the GA DNR's process of selecting management measures and their environmental acceptability within the EA. Additionally, EPA recommends that the Corps coordinate with other resource agencies (GCRD, USFWS, and NMFS) to solicit feedback regarding each alternatives and preferred alternative's resource impacts and document these impacts within the Final EA.

7. Preferred Alternative Analysis: The Corps briefly discusses the rationale for their selection of the preferred alternative in the "Preferred Alternative/Wight? Project Condition" section (page 2-32). The section does not clearly state which alternative is the "preferred alternative". EPA had to refer to the DMMP to determine which alternative the Corps identified as the "preferred alternative" (Alternative 1). Additionally, there is no discussion as to why the Corps chose Alternative 1 (Preferred Alternative) over any other alternative. On face value, it appears that Alternative 1 has more impacts than Alternative 2 because Alternative 2 would create only one ODMDS and expand only the existing Brunswick ODMDS while Alternative 1 would create two new ODMDS and use both the existing Savannah and Brunswick ODMDS. Perhaps, there are other environmental and economic factors that were considered in the preferred alternative selection, but the section as written does not sufficiently explain the Corps' rationale. **RECOMMENDATION:** EPA recommends that the Corps clearly discuss their rationale for selecting Alternative 1 over other alternatives as well as articulating the environmental (and other considerations) impacts of Alternative 1 compared to the other alternatives.

8. USFWS and NMFS Coordination: The Corps does not include the results from either the USFWS and/or NMFS Biological Opinion (BO) or Essential Fish Habitat (EFH) analysis or Fish and Wildlife Coordination Act Report (FWCAR). On page 4-15, the Corps states that they will add the USFWS and NMFS BO findings when available and on page 4-51 the Corps states they will "add synopsis of agency opinions from EFH, FWCAR when available". When does the Corps intend to include the BO, EFH, FWCAR and discussion of findings in the EA? If the Corps publishes these findings in the Final EA with the signed FONSI, EPA is concerned that the public will not get an opportunity to comment on these potential impacts to threatened and

endangered species (T&E species) and other fish and wildlife species. How will the Corps incorporate public feedback regarding T&E and other fish and wildlife species within the Final EA if the public has not seen the BO? **RECOMMENDATION:** For public disclosure and transparency, EPA recommends that the Corps discuss the results of the BO, EFH and FWCAR within the Final EA.

Responses to Comments from US EPA

Comment 1: For NEPA transparency and disclosure, EPA recommends the Corps provide a detailed discussion as to why the Corps decided to no longer pursue an EIS and conduct an EA in the Executive Summary section and Purpose and Need section.

Response: Concur. When initially scoping one of the alternatives that was not selected as the proposed action, the level of impacts to the environment would have been greater and could have required an EIS. As analysis of management measures and alternative plans progressed, the Corps concluded that the preferred alternative would not produce significant environmental impacts and therefore an EA and FONSI were appropriate.

Comment 2: Additionally, EPA recommends the Corps better describe the relationship of the DMMP's EA and the EIS for the creation of the two new ODMDS

Response: Concur. The DMMP and EA have been revised to explain that approval of the Selected Plan requires preparation of an EIS to evaluate and designate each of the two new ODMDS.

Comment 3: Additionally, in the Draft EA (Section 2.8.9, page 2-29), the Corps states that the SMMPs limit the ODMDSs to material from the Savannah Area and greater Brunswick Georgia vicinity. It is actually the regulation (40 CFR 228 .15) that requires this limitation. Therefore, if material outside of the Savannah Harbor area is to be disposed in the Savannah ODMDS as proposed, then a rule change (by EPA) would be required in addition to modification of the SMMP and is estimated to take at least 6 months.

Response: The DMMP and EA were changed to reflect the SMMP change at the Savannah ODMDS as well as the required rule change, since the SMMP and rule currently state Savannah Harbor. The Corps will coordinate further with EPA on this issue as it moves forward in implementing the selected alternative. This approach was discussed with EPA on 29 April 2014.

Comment 4: EPA recommends that the Corps coordinate with EPA as soon as possible regarding actions associated with the creation of the new ODMDS and use of existing ODMDS.

Response: The Corps coordinated with EPA on 29 April 2014 about the creation of the two new ODMDS. The EA has been revised to reflect the actions needed to evaluate and designate a new ODMDS.

Comment 5: EPA recommends the Corps re-consider their mitigation strategy to be more consistent with commercially based mitigation banking. EPA also recommends that the Corps

re-evaluate the credit calculation scheme to align credit costs so as to be more reflective of market value.

Response: The \$10,000 per acre figure was derived from tax valuations of saltmarsh. No restoration costs were included. Savannah District revised this initial cost and the Final EA and DMMP uses a figure of \$70,000 per acre as the appropriate mitigation cost.

Comment 6: EPA recommends the Corps provide a better wetlands assessment in the Section 404(b)(1) analysis and better describe minimization efforts based on the updated wetlands assessment.

Response: The District revised the Section 404 (b)(1) Evaluation and it now provides a better assessment of wetlands in the sediment disposal tracts (Section 4.0) and describes efforts to minimize impacts through implementing the new DMMP (Section 7.1.8).

Comment 7: For NEPA disclosure, EPA recommends the Corps provide the appropriate citation and summarize the data in the Final EA.

Response: As discussed above, the Section 404 (b)(1) Evaluation summarizes the results of the 2011 Tidewater Environmental wetland assessment and the report is cited in both the Section 404 (b) (1) Evaluation and the EA. Section 3.8.1 of the EA cites the 1983 Maintenance Evaluation study as the baseline for comparing the condition of the disposal tracts in 1983 and their condition in 2011 as documented in the Tidewater report. This comparison demonstrates the likely future without project condition of these tracts. The Corps will add a digital copy of the 1983 Maintenance Evaluation Study and the 2011 Tidewater report to the Final EA.

Comment 8: EPA recommends the Corps planning program coordinate the Section 404(b)(1) analysis and proposed mitigation with the regulatory program to ensure regional consistency.

Response: Formal coordination of Section 404 (b) (1) analyses and mitigation plans with the Corps Regulatory program is not part of the Corps civil works process because the programs operate under different regulations and policies. Planning Division prepared these documents to comply with the policies and procedures of the civil works program, which is appropriate for the AIWW Project. The Regulatory program is separate from the civil works program and has different requirements. Planning Division did consult with Regulatory Division in revising the mitigation plan that was in the Draft EA and included the revised plan in the Final EA.

Comment 9: EPA recommends that the Corps better describe and analyze impacts for at least the preferred alternative (and preferably each alternative) and request that they coordinate with both GA EPD and SC DHEC to ensure the proposed project meets water quality standards.

Response: The EA was revised to discuss impacts of the preferred alternative and other alternatives. Section 4.4.1 of the EA describes the expected impacts of dredging on water quality. The Corps would monitor D.O. levels in the effluent from its DMCAs. The Corps requested Section 401 Water Quality Certification from GA DNR-EPD and SC DHEC and would abide by terms and conditions of the new certifications, including adhering to the 2009 D.O. standard.

Comment 10: EPA recommends the Corps change the language within the FONSI to accurately reflect the commitment to conduct an EIS as reflected within the EA.

Response: Concur. The FONSI was revised as recommended.

Comment 11: EPA recommends the Corps add language to the EA and FONSI that reflects the Corps commitment to work collaboratively with EPA regarding the MPRSA 103 permit review and concurrence of appropriate and required documentation as outlined in (40 CFR 227) and the 2007 South Atlantic Division/EPA Region 4 Ocean Dumping Memorandum of Understanding (MOU).

Response: Concur. The Final EA and FONSI were revised as recommended.

Comment 12: EPA recommends that the Corps comparatively describe each alternatives environmental impacts within the EA (perhaps within Chapter 2).

Response: Concur, the recommended description was added to Chapter 2 of the Final EA.

Comment 13: EPA recommends that the Corps more fully explain the major components of each alternative within the Final EA.

Response: The Corps clarified the descriptions of use of upland diked disposal sites and use of Geotubes in the description of alternatives in Chapter 2 of the Final EA.

Comment 14: EPA recommends that the Corps document the GA DNR's process of selecting management measures and their environmental acceptability within the EA. Additionally, EPA recommends that the Corps coordinate with other resource agencies (GCRD, USFWS, and NMFS) to solicit feedback regarding each alternative and preferred alternative's resource impacts and document these impacts within the Final EA.

Response: In a letter to Congressman Jack Kingston and others dated August 21, 2007 (included in Appendix A of the EA), GA DNR-CRD discussed a number of dredged material placement methods and their pros and cons, including environmental acceptability. The DMMP and EA include a similar discussion of methods considered and either rejected or carried forth for full analysis.

The Corps' Biological Assessment of Threatened and Endangered Species were part of the Draft EA, which was reviewed by the USFWS, NMFS, and the other natural resource regulatory agencies. The Corps's Essential Fish Habitat Assessment was also part of the Draft EA. Through coordination of the Draft EA, the Corps requested water quality certification for the proposed action from GA DNR-EPD and SC DHEC. Similarly, the Corps requested concurrence in its determination of CZM consistency from both GA DNR-CRD and SC DHEC. In addition, these agencies reviewed the Fish and Wildlife Coordination Act Report contained in the EA.

Comment 15: EPA recommends that the Corps clearly discuss their rationale for selecting Alternative 1 over other alternatives as well as articulating the environmental (and other considerations) impacts of Alternative 1 compared to the other alternatives.

Response: Concur, the Corps added language from the DMMP regarding selection of the preferred alternative.

Comment 16: For public disclosure and transparency, EPA recommends that the Corps discuss the results of the BO, EFH and FWCAR within the Final EA.

Response: The Corps has not received any comments on the BATES or Draft FWCAR. It has received a response from NMFS regarding EFH (included in this comment/response document).

South Carolina Department of Natural Resources

South Carolina Department of
Natural Resources

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Alvin A. Taylor
Director
Robert D. Perry
Director, Office of
Environmental Programs

April 16, 2014

Mr. Charles W. Seyle
U.S. Army Corps of Engineers
Savannah District
ATTN: PD, PO Box 889
Savannah, GA 31402

RE: Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for a 20-Year Dredged Material Management Plan (DMMP) for the Atlantic Intracoastal Waterway from Port Royal Sound, South Carolina, to the Georgia-Florida Stateline

Dear Mr. Seyle:

The South Carolina Department of Natural Resources (SCDNR) has reviewed the Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for a 20-Year Dredged Material Management Plan (DMMP) for the Atlantic Intracoastal Waterway (AIWW) from Port Royal Sound, South Carolina, to the Georgia-Florida border. This 161-mile section of the AIWW is comprised of a 24-mile section in the State of South Carolina, with the remaining 137 miles located in the State of Georgia.

The Draft EA evaluates the anticipated 20-year maintenance dredging needs for this portion of the AIWW and alternative disposal options. In the proposed DMMP, the maintenance material would be placed in existing upland dredged material containment areas in South Carolina and Georgia; previously used open water placement areas in Ossabaw and Buttermilk Sounds, Georgia; or in existing and new Ocean Dredged Material Disposal Sites located off the Georgia coast. This comment letter addresses only the 24-mile section of the AIWW in the State of South Carolina.

Historically, dredging of the AIWW relied heavily on the unconfined placement of sediments in saltmarsh tracts located adjacent to the reaches being dredged. As noted

Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for a 20-Year Dredged Material Management Plan (DMMP) for the Atlantic Intracoastal Waterway from Port Royal Sound, South Carolina, to the Georgia-Florida Stateline

in the Draft EA, unconfined saltmarsh placement is no longer permitted in South Carolina. For the reaches in South Carolina, the DMMP would not include any unconfined saltmarsh placement or open water placement of dredged material, except in an approved ODMDS or for re-nourishing "seriously eroded beaches." Where appropriate, other beneficial uses of dredged material might be considered, with approval by the State. The Corps' preferred alternative for the disposal of maintenance material from the South Carolina portion of the AIWW is to place it in an existing diked dredged material containment area (DMCA) on the South Carolina side of the Savannah River (DMCA 14-B). The SCDNR concurs with this proposal.

As a possible cost-saving measure, it is suggested in the Draft EA that the Corps could release its easements on several formerly used unconfined saltmarsh disposal areas along the AIWW that are no longer needed. These easements total 2,372 acres, with 1,774-acres located in Georgia and the other 598 acres (comprising three separate disposal tracts) located in South Carolina. The SCDNR would support the Corps' releasing its disposal easements on the three formerly used disposal tracts in South Carolina, thus making these sites available for future marsh restoration projects.

Since it appears that the proposed action would not result in any significant adverse impacts to natural resources in South Carolina, SCDNR concurs with the Finding of No Significant Impact for the South Carolina portion of the DMMP only. These comments are not meant to imply that the proposed action would not adversely affect natural resources in Georgia, however.

The SCDNR appreciates the opportunity to comment on the Draft EA for this project. If you have any questions regarding these comments, please contact me by phone (843-953-9305) or by e-mail (wendtp@dnr.sc.gov).

Sincerely,

Priscilla H. Wendt

Priscilla H. Wendt
Office of Environmental Programs/ MRD

Cc: SCDHEC/ EQC
SCDHEC/ OCRM
NOAA/NMFS
USFWS
USEPA

Responses to Comments from SC DNR

Comment 1: The Corps' preferred alternative for the disposal of maintenance materials from the South Carolina portion of the AIWW is to place it in an existing diked dredged material containment area (DMCA) on the South Carolina side of the Savannah River (DMCA 14-B). The SC DNR concurs with this proposal.

Response: The Corps is pleased that SC DNR concurs in the proposed action.

Comment 2: The SC DNR would support the Corps' releasing its disposal easements on the three formerly used disposal tracts in South Carolina, thus making these sites available for future marsh restoration projects.

Response: The Corps is pleased that SC DNR supports in the proposed action.

Comment 3: Since it appears that the proposed action would not result in any significant adverse impacts to natural resources in South Carolina, SC DNR concurs with the Finding of No Significant Impact for the South Carolina portion of the DMMP only. These comments are not meant to imply that the proposed action would not adversely affect natural resources in Georgia, however.

Response: The Corps is pleased that SC DNR concurs in the proposed action

South Carolina – Department of Health and Environmental Control (SC DHEC)



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

State Certification & Construction In Navigable Waters

Applicant: Savannah Corps Dredge-Corps of Engineers P/N: 2014-01-AIWW

This letter acknowledges receipt of your application/joint Public Notice for 401 Water Quality Certification. Pursuant to R.101.C., Water Quality Certification, the SC Department of Health and Environmental Control (Department) will not consider your application complete for processing until you publish notice of the application in a newspaper and submit the required fee. Please be advised that other information may be required in order for the Department to determine if the application is deemed complete for processing. Details of the fee and public notice requirements follow:

1. **Public Notice:** Pursuant to R. 61-101, Water Quality Certification and the Coastal Zone Management Program (48-29-10 et. seq) and R. 19-450 Permits for Construction In Navigable Waters, a notice in the newspaper must contain information explaining the location, nature and extent of the proposed activity. The notice must indicate a fifteen (15) day comment period and be published in a newspaper of local or general circulation in the county where the activity is proposed to take place for one day. **You must provide the Department with an affidavit of publication from the newspaper within fifteen (15) days of publication. You must publish the following notice and submit an affidavit of publication before the Department can continue processing your application.**

PUBLIC NOTICE P/N: 2014-01-AIWW

(Applicant) has applied to the South Carolina Department of Health and Environmental Control for a State Certification and Construction In Navigable Waters Permit to *(Brief description of work)* for *(Public/Private)* use in *(Name and Location of Waterbody)*.

Comments will be received by the South Carolina Department of Health and Environmental Control at 2600 Bull Street, Columbia SC 29201, Attn: Don Padgett, Division of Water Quality until *(Insert Date - 15 days from date of this notice)*.

2. **Fee:** Pursuant to R. 61-30, Environmental Protection Fees the is authorized to collect application fees for State Certification and Construction in Navigable Waters Permits. The following fee is now due to the Department:

Savannah Corps Dredge-Corps of Engineers
Joint Public Notice Number: 2014-01-AIWW
Issue Date: May 2, 2014
Total Due: **There is no fee for this application**

- The Department has 180 days to complete action on an application for 401 Water Quality Certification or the assessed fee must be returned. The 180 days includes only those days in which the application is actively being reviewed by the Department; the clock stops

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

2600 Bull Street • Columbia, SC 29201 • Phone: (803) 898-3432 • www.scdhec.gov

when information is requested and the Department is waiting on a response.
Accordingly, the 180 day clock will not start until we have received an affidavit of publication and the appropriate fee.

- If you have questions regarding this 401 Water Quality Certification public notice requirement, please contact the Project Manager, <techreview>, at <techphone> or other available 401 Water Quality Certification staff at 803-898-4300.

State Certification & Construction In Navigable Waters Permit Application Fee

Savannah Corps Dredge-Corps of Engineers
Joint Public Notice Number: 2014-01-AIWW
Issue Date: May 2, 2014
Total Due: **There is no fee for this application**

Please return this page with your check (made payable to SC Department of Health and Environmental Control) and your affidavit of publication to:

SC Department of Health and Environmental Control
Bureau of Water
Attn: Don Padgett, Project Manager
2600 Bull Street
Columbia, SC 29201

Responses to Comments from SC DHEC

Comment: Letter acknowledging receipt of the District's request for water quality certification

Response: The Corps believes that the actions proposed in the Selected Plan are in compliance with the water quality standards. However, the Corps will wait for this certification before implementing any new dredging activity proposed in this plan.

SC DHEC – Ocean & Coastal Resource Management, Coastal Zone Consistency



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

May 17, 2014

Mr. William G. Bailey
Chief, Planning Division
U. S. Army Corps of Engineers, Savannah District
100 W. Oglethorpe Avenue
Savannah, GA. 31401-3640

Mr. Charles Hightower
SCDHEC Bureau of Water
2600 Bull Street
Columbia, S. C. 29201

Re: Draft EA and FONSI, DMMP – Savannah District AIWW, Beaufort and Jasper Counties, S. C.

Dear Mr. Bailey and Mr. Hightower:

This is in response to the March 17, 2014, request for Federal Consistency certification for the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) for a Dredged Material Management Plan (DMMP) for the Savannah District portion of the Atlantic Intracoastal Waterway (AIWW) in Beaufort and Jasper Counties, S. C. The purpose of the plan outlines a 20 year maintenance plan that identifies dredged material disposal options and a dredge depth of 12 feet for the 5 reaches in S. C. for the AIWW from Port Royal Sound to Cumberland Sound in Georgia.

For the purposes of this review, South Carolina's Coastal Zone Consistency jurisdiction is limited to the AIWW between Port Royal Sound and the Savannah River, excluding the Savannah River which was recently evaluated as part of the Savannah Harbor Expansion Program (SHEP) review.

After a review of the Wildlife and Fisheries Management, Dredging, and Activities in Areas of Special Resource Significance policies contained within South Carolina's Coastal Zone Management Program (CZMP), Coastal Zone Consistency staff (CZC) staff has determined the plan is consistent to the maximum extent practicable as required by 15 CFR § 930, Subpart C. The Agency reserves the right for additional review, as appropriate, on the final MMP plan to any modifications made in response to public and agency input.

Please do not hesitate to contact me at 843-953-0205 or joynercm@dhec.sc.gov should you have any questions.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
2600 Bull Street • Columbia, SC 29201 • Phone: (803) 898-3432 • www.scdhec.gov

Sincerely,



Curtis M. Joyner
Manager, Coastal Zone Consistency Section
DHEC OCRM
1362 McMillan Avenue, Suite 400
Charleston, S. C. 29405
843-953-0205, joynercm@dhec.sc.gov

Cc: Rheta DiNovo, DHEC OCRM
Blair Williams DHEC OCRM
Randy Lowell, SRMC

Responses to Comments from SC DHEC-OCRM

Comment: After a review of the Wildlife and Fisheries Management, Dredging, and Activities in Areas of Special Resources Significance policies contained within South Carolina's Coastal Zone Management Program (CZMP), Coastal Zone Consistency staff (CZC) staff has determined the plan is consistent to the maximum extent practicable as required by 15 CFR 930, Subpart C. The Agency reserves the right for additional review, as appropriate, on the Final MMP plan to any modifications made in response to public and agency input.

Response: The Corps is pleased that SC DHEC concurs that the proposed action is consistent with the SC Coastal Management Program to the maximum extent practicable.

South Carolina Savannah River Maritime Commission (SRMC)

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW
930 RICHLAND STREET
P.O. BOX 8416
COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL**
TRACEY C. GREEN
BENJAMIN P. MUSTIAN**
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT CARROLL
CHAD N. JOHNSTON
JOHN W. ROBERTS
ANDREW J. D'ANTONI

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

November 26, 2014

*ALSO ADMITTED IN TX
**ALSO ADMITTED IN THE DISTRICT OF COLUMBIA

VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Mr. William Bailey
U.S. Army Corps of Engineers
P.O. Box 889
Savannah, GA 31402-0889

Re: Decision of the Savannah River Maritime Commission as to the Atlantic
Intracoastal Waterway Project

Dear Mr. Bailey:

On behalf of the Savannah River Maritime Commission, enclosed please find the Savannah River Maritime Commission's decision on the Atlantic Intracoastal Waterway Project dated November 19, 2014.

Very truly yours,

WILLOUGHBY & HOEFER, P.A.



Randolph R. Lowell

cc: Parkin Hunter, Esquire
David E. Wilson, P.E.
Mr. Robert D. Perry
Benjamin Clark, Esquire

Savannah River Maritime Commission

In Re: Application of the U.S. Army Corps)
of Engineers, Savannah District, for)
Certification and Permitting of a Dredged)
Material Management Plan for the Savannah)
District Portion of the Atlantic Intracoastal)
Waterway, South Carolina and Georgia.)
_____)

Notice of Proposed Decision

The U.S. Army Corps of Engineers, Savannah District (Corps) proposes to undertake a civil works project to dredge a portion of the Atlantic Intracoastal Waterway (AIWW) from Port Royal Sound, South Carolina, to Cumberland Sound, Georgia (AIWW Project). Specifically, the Corps seeks to continue maintenance dredging of this 161-mile section of the AIWW, which traverses the Savannah River, in order to maintain authorized navigation depths. The Corps also proposes to implement a new 20-year Dredged Material Management Plan (DMMP) and place dredged sediments in (a) existing upland dredged material containment areas in South Carolina and Georgia; (b) previously used open water placement areas and existing sediment placement tracts in Ossabaw and Buttermilk Sounds, Georgia; or (c) existing and new Ocean Dredged Material Disposal Sites (ODMDS) located off the Georgia coast. As part of the DMMP, the Corps will dispose of dredged material in Dredged Material Containment Area (DMCA) 14-B, which also will accept disposal of dredged material resulting from the Corps' civil works project to deepen the federal navigation channel in the Savannah Harbor and up the Savannah River, colloquially known as the Savannah Harbor Expansion Project (SHEP).

This matter is before the Savannah River Maritime Commission (Commission) pursuant to its statutory authority under S.C. Code Ann. § 54-6-10, which established the Commission to represent the State of South Carolina "in all matters pertaining to the navigability, depth, dredging,

wastewater and sludge disposal, and related collateral issues in regard to the use of the Savannah River as a waterway for ocean-going container or commerce vessels.”

The Corps has applied for authorization from the State of South Carolina to proceed with the AIWW Project. This notice of proposed decision constitutes the Commission’s decision related to the Corps’ request for South Carolina’s authorization related to the AIWW project, which shall become final and binding in 15 days unless challenged at the South Carolina Administrative Law Court by the Corps or an affected person.

Project Description

The AIWW is a 739-mile inland waterway system between Norfolk, Virginia, and St. John’s River, Florida, which enables continuous sheltered passage for waterborne vessels between these two destinations. The Corps maintains a 161-mile section of the AIWW located in South Carolina and Georgia, which traverses the Savannah River. The purpose of the AIWW Project is to maintain authorized navigation depths in the AIWW of 12’ at mean low water (MLW) in order to continue providing a continuous sheltered route for shallow-draft vessels along the Atlantic coast. In order to accomplish this purpose, the Corps proposes to use hydraulic cutterheads to perform maintenance dredging on the AIWW, including a 24-mile stretch of the AIWW located between mile 552 in Port Royal Sound, South Carolina, to mile 575.3 on the South Carolina-Georgia border (AIWW South Carolina Section). The AIWW Project also seeks to implement a new 20-year DMMP for the dredged sediments for the purpose of ensuring that the Savannah District portion of the AIWW has sufficient dredged material disposal capacity for a minimum of 20 years. The Corps’ preferred alternative for the disposal of maintenance material from the AIWW South Carolina Section is to place it in an existing diked DMCA on the South Carolina side of the Savannah River, DMCA 14-B, which is part of the SHEP. Effluent from DMCA 14-B would be discharged into the Savannah River.

Jurisdiction

A public notice was issued for the AIWW Project on March 17, 2014. The AIWW Project involves the dredging, filling, and construction or alteration activity in, on, and over a navigable water and the bed under navigable waters and also lands or waters subject to a public navigational servitude under Article 14, Section 4 of the South Carolina Constitution and S.C. Code Ann. § 49-1-10 (including submerged lands under the navigable waters of the State) and is an activity significantly affecting the flow of any navigable water. As a result, the AIWW Project potentially will adversely impact the water quality and environment of South Carolina,¹ and requires a Section 401 of the Clean Water certification from the State of South Carolina (the 401 Certification) under 33 U.S.C.A. § 1341, S.C. Code Ann. Regs. 61-101, which is the responsibility of the South Carolina Department of Health and Environmental Control (DHEC). The AIWW dredging also must satisfy the Navigable Waters Permit criteria under S.C. Code Ann. Regs. 19-450.² Because the AIWW Project's adverse impacts occur in the coastal zone, the AIWW Project also requires a Coastal Zone Consistency Determination for the South Carolina Coastal Zone Management Program. All of these requirements under the 401 Certification, Navigable Waters Permit, and CZCD are premised and founded upon protecting the environment of the State of South Carolina and implementing reasonable terms and conditions to protect water quality, natural resources, fish and wildlife, and limit pollution to acceptable levels. Pursuant to S.C. Code Ann. § 54-6-10, the Commission serves as the "construction in navigable waters permitting staff" referenced in S.C. Code Ann. Regs. 19-450.3.G. Accordingly, the Commission issues this decision pursuant to its authority under S.C. Code Ann. § 54-6-10.

¹ Dredging constitutes a discharge under the Clean Water Act triggering DHEC's and the Commission's respective jurisdiction. See S.D. Warren Co. v. Maine Bd. of Env'tl. Protection, 547 U.S. 370, 376 (2006); AES Sparrow Point LNG v. Wilson, 589 F.3d 721, 731 (4th Cir. 2009) (dredging constitutes pollutant discharge through lowering of dissolved oxygen levels); Alabama

Discussion of Findings and Conclusions

In considering and examining the Corps' application and request for authorization, the Commission reviewed documents of the Corps, including its application and other documents submitted to DHEC, and the Draft Environmental Assessment and Finding of No Significant Impact prepared by the Corps. The Commission also reviewed DHEC's file and staff analysis of the AIWW Project and South Carolina Department of Natural Resources' staff analysis of the AIWW Project. See S.C. Code Ann. § 54-6-10(D).

By statute, the Commission is charged with evaluating the navigability, depth, dredging, wastewater and sludge disposal, and collateral issues related to the use of the Savannah River as a waterway for ocean-going container or commerce vessels. S.C. Code Ann. § 54-6-10(A). Additionally, as the permitting staff for a navigable waters permit, the Commission is responsible for assessing the total impact of the projected activity on the navigable waters and lands subject to the jurisdiction of this regulation, including the impact on the economy, environment, and natural resources of the State. The Commission is concerned with the utilization and protection of important State resources and balancing the extent and permanence of reasonably foreseeable benefits and detriments of the projected activity, including its impact on conservation, economics, aesthetics, general environmental concerns, cultural values, fish and wildlife, navigation, erosion and accretion, recreation, water quality, water supply, and conservation. The Commission also is tasked

Rivers Alliance v. Federal Energy Regulatory Comm'n, 325 F.3d 290, 293 (D.C. Cir. 2003) (consideration of discharges into navigable waters an appropriate component of state law considerations under 33 U.S.C.A. § 1341(d)).

² A 401 Certification may be issued by DHEC for the maintenance dredging and related disposal of the 24-mile section of the AIWW located in South Carolina to be performed as part of the AIWW Project. However, this authorization and permit from the Commission addresses the entire project of maintenance dredging for the AIWW and the DMMP, including the disposal of dredged material in DMCA 14-B.

with determining whether the projected activity is consistent with the needs and welfare of the public. In particular, the Commission must consider the extent to which, among other things:

- the activity requires construction in, on, or over a navigable waterway, and the economic benefits to the State and public from construction in such location;
- the activity would impact fish and wildlife, water quality, and other natural resource values or could affect the habitats of rare and endangered species of wildlife and irreplaceable historic and archaeological sites associated with public lands and waters;
- the economic benefits to the State and public from the authorized use of lands and waters meets or exceeds the benefits from preservation of the area in its unaltered state;
- there is any adverse environmental impact which cannot be avoided by reasonable safeguards;
- all feasible alternatives are taken to avoid adverse environmental impact resulting from the project; and,
- the long-range, cumulative effects of the project, including the cumulative effects of similar projects, may affect navigable waters.

S.C. Code Ann. Regs. 19-450.9.A. Thus, the Commission is charged with the duty of evaluating environmental impacts and balancing those impacts with benefits to the State, and undertaking an analysis of appropriate pollution control requirements under the rubric established by statute and regulation. See S.C. Code Ann. § 54-6-10; S.C. Code Ann. Regs. 19-450. The terms and conditions herein are premised and founded upon protecting the environment of the State of South Carolina and imposing reasonable terms and conditions to protect water quality, natural resources, fish and wildlife species, populations, and habitats, and limit pollution to acceptable levels.

Terms and Conditions

Based on the information presently available and analysis undertaken by the Commission, the Commission authorizes the AIWW Project and concurs in issuance of the 401 Certification by DHEC for the AIWW Project subject to the following terms and conditions to protect the environment and natural resources of the State of South Carolina and provide reasonable assurance that the AIWW Project will not cause a violation of water quality standards or other environmental standards:

- a) The authorization for activities or structures granted herein shall constitute a revocable license to use the lands and waters within the jurisdiction of the State. This authorization is issued for a period of twenty (20) years. This authorization may be renewed provided that there have been no material adverse change in circumstances.
- b) This authorization shall not convey nor be interpreted as conveying expressly or implicitly, any property interest in the land or water in which the permitted activity is located. This authorization shall not be construed or interpreted as alienating public property for private use, nor does it authorize the Corps to alienate, diminish, infringe upon, or otherwise restrict the property rights of other persons or the public.
- c) The grant, denial, modification, suspension, or revocation of this authorization shall not be the basis for any claim for damages against the State of South Carolina. In no way shall the State be liable for any damage as a result of the authorized works.
- d) The authorized activities shall not block or obstruct navigation or the flow of any waters unless specifically authorized herein, and no activity should prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.
- e) All necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands during construction.

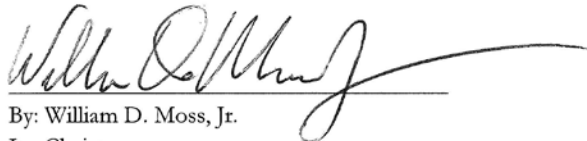
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- f) Spoil materials must be properly contained and managed to prevent the discharge of silt-laden water into adjacent waters.
 - g) Once the portion of the AIWW Project related to the AIWW South Carolina Section is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
 - h) The dredged areas of the AIWW South Carolina Section must be sloped such that the rear is no deeper than the front and the front is no deeper than any adjacent waterbody to maintain water circulation.
 - i) The dredge material from the AIWW South Carolina Section may be placed into DMCA 14-B. DMCA 14-B must be managed in accordance with Compromise and Settlement Agreement (Settlement Agreement) executed by the Corps, the Commission, and other parties of record as a resolution of the disputes raised in *Savannah Riverkeeper v. U.S. Army Corps of Eng'rs*, C/A No. 9:12-cv-00610-RMG (D.S.C. 2012). Specifically, this authorization is contingent upon the Corps' compliance with the Settlement Agreement. No actions authorized herein may modify or contravene the Settlement Agreement, and all authorized actions must be implemented in a manner consistent with the Settlement Agreement.
 - j) For any dredging activities in South Carolina waters, the Corps shall allow the Commission or its authorized agents or representatives to monitor dredging by placing observers on dredging vessels.
 - k) The AIWW Project must comply with any 401 Water Quality Certifications issued by DHEC and those terms and conditions are incorporated into this authorization by reference.
 - l) This authorization may not be assigned in whole or in part without the prior written permission of the Commission and the written agreement of the transferee to abide by all the terms and conditions herein.

- m) These terms and conditions may be modified, amended, or revised by further action of the Commission in its sole discretion after review of a request for such action and the evaluation of appropriate supporting documentation provided by the applicant or *sua sponte* on the Commission's own initiative based on a change of circumstances or conditions.
- n) If any term, condition, or provision of this decision is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of the decision.
- o) These terms and conditions are enforceable in the Court of Common Pleas, Jasper County, State of South Carolina, or the Beaufort Division, United States District Court, District of South Carolina.

Conclusion

IT IS THEREFORE DETERMINED that the AIWW Project may proceed only on the terms and conditions as set forth above.

ISSUED ON BEHALF OF THE COMMISSION:



By: William D. Moss, Jr.

Its: Chairperson

This 1st day of November, 2014.
Charleston, South Carolina

Responses to Comments from Savannah River Maritime Commission

Comment 1: The authorization for activities or structures granted herein shall constitute a revocable license to use the lands and waters within the jurisdiction of the State. This authorization is issued for a period of twenty (20) years. This authorization may be renewed provided that there have been no material adverse change in circumstances.

Response: Comment noted.

Comment 2: This authorization shall not convey nor be interpreted as conveying expressly or implicitly, any property interest in the land or water in which the permitted activity is located. This authorization shall not be construed or interpreted as alienating public property for private use, nor does it authorize the Corps to alienate, diminish, infringe upon, or otherwise restrict the property rights of other persons or the public.

Response: Comment noted.

Comment 3: The grant, denial, modification, suspension, or revocation of this authorization shall not be the basis for any claim for damages against the State of South Carolina. In no way shall the State be liable for any damage as a result of the authorized works.

Response: Comment noted.

Comment 4: The authorized activities shall not block or obstruct navigation or the flow of any waters unless specifically authorized herein, and no activity should prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.

Response: The selected plan is to maintain the waterway so that it does not obstruct or block navigation by insufficient depth. During dredging operations a portion of the channel may be temporarily blocked, but those would be of short duration and the channel could be made available if a significant need arises.

Comment 5: All necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands during construction.

Response: There is no anticipated construction under the No Action Plan or the With Project Condition so all above concerns would be addressed by the Section 404 (b) (1) Evaluation (Appendix E).

Comment 6: Spoil materials must be properly contained and managed to prevent the discharge of silt-laden water into adjacent waters.

Response: The sediments placed from the South Carolina Reaches of the AIWW will be placed in the confined dredged material containment area 14B along the Savannah River. Area 14B will be managed in such a way as to prevent the discharge of silts into adjacent waters.

Comment 7: Once the portion of the AIWW Project related to the AIWW South Carolina Section is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.

Response: The requested style of dredging is the same manner in which the Savannah District typically dredges the AIWW.

Comment 8: The dredged areas of the AIWW South Carolina Section must be sloped such that the rear is no deeper than the front and the front is no deeper than any adjacent waterbody to maintain water circulation.

Response: The channel will be maintained according to the approved federal channel dimensions. These channels include side slopes from the existing MLLW elevation at the time of dredging down to the authorized depth for the entire length of the channel.

Comment 9: The dredge material from the AIWW South Carolina Section may be placed into DMCA 14- B. DMCA 14-B must be managed in accordance with Compromise and Settlement Agreement (Settlement Agreement) executed by the Corps, the Commission, and other parties of record as a resolution of the disputes raised in *Savannah Riverkeeper v. U.S. Army Corps of Eng'rs, C/ A No. 9:12-cv-00610-RMG* (D.S.C. 2012). Specifically, this authorization is contingent upon the Corps' compliance with the Settlement Agreement. No actions authorized herein may modify or contravene the Settlement Agreement, and all authorized actions must be implemented in a manner consistent with the Settlement Agreement.

Response: It is not practicable for the Corps to place AIWW project sediments and Savannah Harbor projects sediment simultaneously. Therefore, the AIWW will comply with its environmental requirements separable from the Savannah Harbor projects.

Comment 10: For any dredging activities in South Carolina waters, the Corps shall allow the Commission or its authorized agents or representatives to monitor dredging by placing observers on dredging vessels.

Response: The Corps accepts this condition; however if desired coordination with the Savannah District.

Comment 11: The AIWW Project must comply with any 401 Water Quality Certifications issued by DHEC and those terms and conditions are incorporated into this authorization by reference.

Response: Comment noted.

Comment 12: This authorization may not be assigned in whole or in part without the prior written permission of the Commission and the written agreement of the transferee to abide by all the terms and conditions herein.

Response: Comment noted.

Comment 13: These terms and conditions may be modified, amended, or revised by further action of the Commission in its sole discretion after review of a request for such action and the evaluation of appropriate supporting documentation provided by the applicant or *sua sponte* on the Commission's own initiative based on a change of circumstances or conditions.

Response: Under Section 401 of the Clean Water Act, the State has an initial period in which to review Section 401 Water Quality Certification applications. In the event that no decision is made by the reviewing agency within a reasonable time (not to exceed one year), then the certification requirements of Section 401 shall be waived. After a Section 401 Clean Water Certification is granted by the requisite state agency, such certification shall remain in force and effect unless permitted activity will violate applicable effluent limitations or other limitations or other water quality requirements set forth in the Section 401 Water Quality Certification.

Comment 14: If any term, condition, or provision of this decision is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of the decision.

Response: Comment noted.

Comment 15: These terms and conditions are enforceable in the Court of Common Pleas, Jasper County, State of South Carolina, or the Beaufort Division, United States District Court, District of South Carolina.

Response: The conditions of the Section 401 Water Quality Certification will be enforced in the State Court and/or division of the United States District Court which has jurisdiction over the terms thereof.

Comment 16: IT IS THEREFORE DETERMINED that the AIWW Project may proceed only on the terms and conditions as set forth above.

Response: See previous comment responses for the individual terms and conditions.

Georgia Department of Natural Resources

Environmental Protection Division • Watershed Protection Branch
2 Martin Luther King Jr. Drive • Suite 1152 East • Atlanta • Georgia 30334
(404) 463-1511; Fax (404) 656-2453
Judson H. Turner, Director

SENT VIA ELECTRONIC MAIL

April 16, 2014

U.S. Army Corps of Engineers
Savannah District
Planning Division
Attn: Mr. Charles (Win) Seyle
100 W. Oglethorpe Avenue
Savannah, Georgia 31401-3640

Subject: Atlantic Intracoastal Waterway (AIWW)
Dredged Material Management Plan (DMMP)

Dear Mr. Seyle:

The Georgia Environmental Protection Division (EPD) received your letter of March 17, 2014, requesting our comments on the above-reference project. We are currently reviewing all available materials relating to the above-referenced project, including the draft Dredged Material Management Plan (DMMP), the draft Environmental Assessment (EA), and the draft Finding of No Significant Impact (FONSI) for the Corps' maintenance of the Savannah District's portion of the Atlantic Intracoastal Waterway (AIWW). These materials are extensive, and will inform our consideration and issuance of a CWA § 401 water quality certification for these activities. The 401 water quality certification will apply to both the maintenance dredging and dredged material management activities in the Savannah District's portion of the AIWW (137 miles located within the State of Georgia). As EPD has done in prior 401 water quality certifications issued to the Savannah District for dredging operations in Georgia, we will be incorporating conditions protective of our state water quality standards. Such conditions may include restrictions relating to our water quality criteria (e.g., dissolved oxygen), dredging windows or restrictions to protect sensitive estuarine/marine species, water quality monitoring requirements for discharges from dredge material containment areas (DMCAs), and provisions for periodic project reviews.

Alternative 1, the preferred alternative identified in the draft EA, includes placement of dredged materials in four existing confined upland DMCAs, open water placement, and the use of two existing and two new Ocean Dredged Material Disposal Sites (ODMDS). Open water placement would incorporate sediment grain size restrictions on the materials to be placed in open water sites, and geo-tube confined placement in impacted portions of previously used saltmarsh disposal sites. The use of new ODMDS will require separate environmental clearances that can only be obtained after further investigation.

The Georgia Department of Natural Resources, Coastal Resources Division (CRD) has expressed concerns about unconfined saltmarsh disposal of dredged materials, and EPD echoes those concerns. EPD will coordinate with CRD and your office, as appropriate, regarding the measures

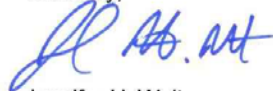
being taken to address these concerns, including the incorporation of geo-tubes or other containment methods at previously used unconfined saltmarsh disposal sites.

Page 2 of the draft DMMP states that CRD has "indicated its intention to revoke the Section 401 water quality certification" for this project. This statement is incorrect, and should be revised based on further input from CRD. It seems likely that the appropriate reference in this sentence is to the Federal Consistency Determination that is issued by CRD.

As part of our 401 water quality certification evaluation, EPD will continue to review the mitigation plan for this project. As noted in the draft EA, there are no approved tidal wetland mitigation banks within the Savannah District that could provide credits for impacts from the AIWW project, and an in-lieu fee program is currently unavailable. While the draft EA considers saltmarsh preservation, there appears to be no consideration of saltmarsh restoration. EPD requests that additional mitigation options be researched in the final EA that include saltmarsh restoration opportunities. CRD provided recommendations regarding such opportunities in their August 21, 2007 letter (included in Appendix A of the draft EA).

Thank you for the opportunity to provide these comments. If you have any questions or concerns, please contact Mr. Bradley Smith at (912) 262-3196, or me at (404) 651-8463.

Sincerely,



Jennifer H. Welte
Wetlands Unit Manager

cc: Mr. Bradley Smith, EPD
Mr. Jeff Larson, EPD
Ms. Liz Booth, EPD
Ms. Kelie Moore, GaDNR-CRD
Mr. Karl Burgess, GaDNR-CRD
Mr. Eric Somerville, USEPA
Mr. Strant Colwell, USFWS

Responses to Comments from GA DNR-EPD

Comment 1: EPD will coordinate with CRD and your office, as appropriate regarding the measures being taken to address these concerns, including the incorporation of geo-tubes or other containment methods at previously used unconfined saltmarsh disposal sites.

Response: Comment noted.

Comment 2: Page 2 of the draft DMMP states that CRD has "indicated its intention to revoke the Section 401 water quality certification" for this project. This statement is incorrect, and should be revised based on further input from CRD. It seems likely that the appropriate reference in this sentence is to the Federal Consistency Determination that is issued by CRD.

Response: The District revised the statement as recommended, stating that the Coastal Zone Consistency Determination would be revoked.

Comment 3: As part of our 401 water quality certification evaluation, EPD will continue to review the mitigation plan for this project. As noted in the draft EA, there are no approved tidal wetland mitigation banks within the Savannah District that could provide credits for impacts from the AIWW project, and an in-lieu-fee program is currently unavailable. While the draft EA considers saltmarsh preservation, there appears to be no consideration of Saltmarsh restoration. EPD requests that additional mitigation options be researched in the final EA that include saltmarsh restoration opportunities. CRD provided recommendations regarding such opportunities in their August 21, 2007 letter (included in Appendix A of the draft EA).

Response: The \$10,000 per acre figure was derived from tax valuations of saltmarsh. No restoration costs were included. Savannah District revised this figure to \$70,000 per acre in the Final EA and DMMP.

The Corps believes that the actions proposed in the Selected Plan are in compliance with the water quality standards. However, the Corps will wait for this certification before implementing any dredging activity proposed in the plan that differs actions that EPS has previously-approved for the AIWW Project.

Georgia Department of Natural Resources (GA DNR) – Coastal Resources Division



MARK WILLIAMS
COMMISSIONER

A.G. 'SPUD' WOODWARD
DIRECTOR

April 16, 2014

Mr. Charles (Win) Seyle
USACE SAS Planning Division
100 West Oglethorpe Avenue
Savannah, Georgia 31401-3640

RE: AIWW DEA, DFONSI & CZM for DMMP: Port Royal Sound, SC to Cumberland Sound, GA

Dear Mr. Seyle:

Staff of the Georgia Coastal Management Program is reviewing your March 17, 2014 Notice of Availability (NOA) of a Draft Environmental Assessment (DEA) and Draft Finding of No Significant Impact (DFONSI) for a Dredged Material Management Plan (DMMP) for the Savannah District portion of the Atlantic Intracoastal Waterway (AIWW) from Port Royal Sound, South Carolina to Cumberland Sound, Georgia. We are also reviewing your March 17, 2014 Coastal Zone Management (CZM) consistency determination in conjunction with the referenced DEA and historic related documents.

There are 137 miles of AIWW within the State of Georgia that were constructed in 1940-1941. Georgia provided 68 easements on 13,434 acres of, primarily, undiked saltmarsh for dredge material disposal. In 1976 an Environmental Impact Statement (EIS) identified 36 unconfined saltmarsh sites that would be used over the next 20 years. In 1983 a wetland assessment (referred to as the 1983 DMMP) found that over 2,000 acres of saltmarsh had been impacted historically. Another wetland assessment was conducted in 2011 and found that an additional 192.4 acres of saltmarsh had been lost between 1983 and 2011, for a total of 2,225 acres that has been adversely impacted.

Review of the proposed DEA and DMMP is the first opportunity that Georgia's Coastal Management Program, established in 1997, has had to determine if the proposed action is consistent with our enforceable policies. Recently this Program has initiated steps to gather information from neighboring States to facilitate a thorough review of current and historic AIWW disposal practices and alternative solutions to in-marsh and in-water disposal of fine grained material to maintain the AIWW.

The Program requests an extension until late summer or early fall to enable this Program to more fully understand the disposal alternatives proposed and the implications of their use for Georgia coastal marshlands and the AIWW. Federal regulations allow an extension of time to review federal consistency determinations from 60 days of receipt (May 16th) to 75 days of

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AIWW DMMP Time Extension
April 16, 2014
Page 2

receipt (May 31st) or a longer period depending on the magnitude and complexity of the project [15 CFR 930.41(b) & (c)].

We anticipate that there will be substantial exchange of information during this period with the Corps and other natural resource agencies. We intend to submit our preliminary comments and/or questions to you on or before May 16th to initiate discussions.

We appreciate your willingness to work with the State to modify how the Corps' maintains the AIWW in the Savannah District to reduce potential environmental impacts and look forward to finding workable solutions. Please feel free to contact Kelie Moore or me for additional information.

Sincerely,



Brad Gane
Ecological Services Section Chief

BG/km

cc: Jennifer Welte, GaDNR/EPD
Eric Somerville, EPA
Jaclyn Daly, NMFS
Strant Caldwell, USFWS

Responses to Comments from GA DNR-CRD

Comment: The Program requests an extension until late summer or early fall to enable this Program to more fully understand the disposal alternatives proposed and the implications of their use for Georgia coastal marshlands and the AIWW. Federal regulations allow an extension of time to review federal consistency determinations from 60 days of receipt (May 16th) to 75 days of receipt (May 31) or a longer period depending on the magnitude and complexity of the project [15 CFR 930.41(b) & (c)].

Response: Extension granted.

GA DNR – Coastal Resources Division



MARK WILLIAMS
COMMISSIONER

A.G. 'SPUD' WOODWARD
DIRECTOR

May 14, 2014

Mr. Bill Bailey
USACE SAS Planning Division
100 West Oglethorpe Avenue
Savannah, Georgia 31401-3640

RE: AIWW DEA, DFONSI & CZM for DDMMP: Port Royal Sound, SC to Cumberland Sound, GA

Dear Mr. Bailey:

The Georgia Department of Natural Resources has completed its review of the above referenced documents. We applaud the Corps for putting together the Atlantic Intracoastal Waterway (AIWW) draft environmental assessment (DEA) and draft dredge material management plan (DDMMP) as a large step towards identifying long-term, environmentally sustainable dredge material placement practices for the AIWW and DNR looks forward to working with Corps personnel and other resource agencies in developing a final plan. The State of Georgia has been concerned for many years by the environmental impacts caused by unconfined placement of fine-grained sediments on saltmarsh and in open water. We are delighted that the Corps is taking a monumental step by declaring that these dredge material disposal practices are no longer environmentally acceptable.

The Savannah District section of the Atlantic Intracoastal Waterway (AIWW) was last dredged in 2009 using disposal practices that included unconfined marsh sites and open water sites. The next dredging event is scheduled for 2016. The draft environmental assessment (DEA) and dredged material management plan (DMMP) lay out alternative solutions, some of which can be found to be environmentally acceptable. Staff has read through the 2014 DEA, 2014 DMMP, 2011 wetland assessment, 1996 AIWW Disposal Areas for Dredge Materials (GDOT), 1983 wetlands assessment and 1976 EIS. The following addresses only those portions of the project within Georgia. We would like to offer the following comments and clarification requests.

A. Mitigation for Future Impacts:

1. The 2014 documents state that there are currently no saltmarsh mitigation banks from which credits could be purchased to compensate for future impacts. Could the Salt Creek mitigation banking instrument be modified so that it could be used for this Federal public works project?
2. Although there are not currently any saltmarsh mitigation banks approved to offset impacts from a federal projects in Georgia, the DMMP is a 20-year document so it would be prudent to state that bank credits should be purchased if available.
3. The 2014 documents state that there is not currently an In-Lieu-Fee (ILF) mitigation program in Georgia, but the Georgia Land Trust state-wide program was approved in 2013. The Corps could work with the ILF Sponsors to get Advance Credit Sales on the coast.
4. No rationale is given for how the proposed \$10,000 per acre for saltmarsh mitigation was derived (environmental assessment section 4.8.1.2). The ILF compensation planning framework procedures

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in the 2008 Rule provide a valid methodology for deriving a cost-per-acre that may be more accurate and should be used.

B. Dredge Materials Outside of Easement Boundaries:

The 1983 wetland assessment found that approximately 140 acres dredge spoil material had been placed or had flowed outside of the easement boundaries on 20 sites (page I-14 to I-16, table 2). The solution (in 1983) was to mark dredge outfall placement sites to avoid additional impacts in the future (page I-9). The 2011 wetland assessment does not quantify either how much additional material had been placed/flowed outside of the easement boundaries between 1983 and 2011 or how much total material was outside of the easements.

1. **Sites Proposed for Future Use Under TSP (Tentatively Selected Plan, Alternative 1):** Restoration of previously-impacted areas outside of the easement boundaries must be conducted. Geo-tube confining structures are proposed for Alternative 1 and Alternative 2. The DEA and DMMP must address removal of spoil material back into the easement boundary.
 - a. 15A: Spoil is outside the easement boundary on both the north and south end, but more extensively on the north end. Impacted areas are bare sand without trees. The 2011 assessment captured some, although not all, of the impacted areas. Impacts appear greater in 2011 than in 1983.
 - b. 15B: There were no impacts outside the boundaries in 1983 and there appears to be several acres of bare, sandy material outside in 2011.
 - c. 42B: The impact area appears to be about the same size in 1983 as it was in 2011. The area is bare sand.
2. **Sites Proposed for Future Use Under Other Alternatives:** Restoration of previously-impacted areas outside the easement boundaries must be conducted. Perimeter dikes are proposed for Alternative 3. The DEA and DMMP must address removal of spoil material back into easement boundary. Easements should be released to State of Georgia unless Alternative 3 is selected or a claim of private ownership has been verified/validated.
 - a. 3A: portions of a partial dike are outside the easement area but not included in the 2011 assessment. The 29-acre freshwater wetland is a nearly-pure stand of Chinese Tallow. This freshwater wetland should be targeted as high-priority for restoration.
 - b. 25E: Areas outside easement are mainly sandy.
 - c. 30A: Areas outside easement are mainly sandy.
 - d. 32A: The easement boundaries are different between 1983 and 2011 making it difficult to determine how much, if any, spoil is outside the easement area
 - e. 52A: Areas outside easement are mainly sandy.
3. **Sites Proposed for Easement Release to State Of Georgia:** Restoration of previously-impacted areas outside of the easement boundaries must be conducted. The DEA and DMMP must address removal of spoil material back into easement boundary prior to easement release.
 - a. 12A: The easement boundaries are differently shaped in 1983 and 2011 making it difficult to determine how much, if any, spoil is outside the easement area. Spoil on the south side is sandy.
4. **Sites Not Proposed for Future Use or Easement Release to State of Georgia:** Restoration of previously-impacted areas outside of the easement boundaries must be conducted. The DEA and DMMP must address removal of spoil material back into easement boundary. Easements should be released to State of Georgia unless a claim of private ownership has been verified/validated.
 - a. 2B: Easement boundaries are differently shaped in 1983 and 2011 making it difficult to determine how much, if any, spoil is outside the easement area. The majority of the site is tidal wetland.

- b. 7A: Impacted areas outside boundaries increased between 1983 and 2011.
- c. 42A: Not included in the 1983 or 2011 assessment, so unable to determine if there is spoil material outside of the boundaries. Additional investigation needed to determine if spoil is outside of easement.

C. Releasing Easements on Spoil Sites Not Used for Future Without Project (FWOP) or Tentatively Selected Plan (TSP):

1. The documents propose releasing dredge spoil easement on 25 sites in Georgia (main report p. 49) that do not have any spoil materials outside their easement boundary.
 - a. Do not recommend releasing easement on Tract 11K to a private party unless/until the private party claim has been verified/validated by the Georgia Attorney General's office.
 - b. Do not recommend releasing easement on Tract 14B as it is proposed for use in FWOP and all Alternatives as a DMCA.
 - c. Release of the other 23 easements to the State of Georgia is agreeable.
2. The documents do not address what will be done with 8 spoil sites that are proposed for future use with some Alternatives, but not FWOP or TSP. Easements should be released to State of Georgia unless an Alternative is selected that proposes future use of the site or a claim of private ownership has been verified/validated: 16A, 17A, 19A, 24A, 25C, 29B, 34A, and 36A.
3. The documents do not address what will be done with 13 spoil sites upon which there are disposal easements but which are not planned for future use. Easements should be released to State of Georgia unless a claim of private ownership has been verified/validated: 5B, 12A, 20A, 25A, 28A, 29C, 29D, 42C, 46A, 48A, Tract 1 and Tract 3.

D. Future Use of Disposal Sites:

1. Two new ocean dredge material disposal sites (ODMDS) are proposed that would be equidistant along the coast (main report p. 35). Would it be more cost effective to build these closer to the reaches that would be using the sites?
2. When was Andrews Island DCMA used for Jekyll Creek material (main report p. 36, section 7.1.4)?
3. The documents state that Andrews Island DCMA cannot be used for Jekyll Creek material based on a verbal discussion with the non-federal sponsor (main report section 7.1.4). What would be needed to get permission to use this DCMA for Jekyll Creek material?
4. The City of Brunswick and/or Glynn County remove sediments from Andrews Island for use in road beds, etc. Is this removal factored into the storage capacity life of the site? Who, if anyone, keeps records on how much material is removed? Could the life of the site be extended if more of the material was used? Is there some way to determine if there is demand for this material by other counties/cities or private commercial ventures?
5. If easements were released on some of the disposal sites so that a 3rd party could restore the site, could this material be placed into an ODMDS or DMCA?
6. Will open water placement on the north side of Commodore Island (Dump Area 28) cease with the Future Without Project (FWOP) or Alternative 1?

E. Long-Term Solutions and Additional Studies:

1. The document states that using the Brunswick ODMDS for Jekyll Creek is an interim solution, and the long term solution calls for a shoaling study (environmental assessment p. 2-36 section 2.10.10 and main report p. 37).
 - a. What is needed for such a study (cost & time)?
 - b. How could that be funded (e.g. §1135 project)?

2. Alternatives 1-3 involving placement of geo-tubes show that there will be additional marsh impacts.
 - a. Where exactly on the impacted sites would the geo-tubes be placed (e.g. at the edge of the low marsh-high marsh boundary or at the wetland-upland boundary)?
 - b. If the current proposal is to place geo-tubes at the high-low marsh boundary, could they be moved to the upland boundary and still have enough 20-year capacity? (this may have to be recalculated)
3. A shoaling study has been recommended for Hells Gate (SAV12)(1983 wetland assessment p. I-52 for Tract 19a). Consideration should be given to completing such a study in order to find a long-term solution for the reach instead of containing future spoils with geo-tubes in combination with open water placement as is proposed for Alternative 1 since the volume is 154,000 cubic yards every 3 years.
4. Hydraulic studies have been recommended for Broughton Island, Buttermilk Sound/Altamaha River at Steamboat cut (1983 wetland assessment p. I-127 for Tract 42B). Much of the maintenance dredging is the result of removing the last meander of the Altamaha River by making Steamboat Cut. Consideration should be given to restore a small loop in place of the cut, consistent with the recommendations of the 1983 joint COE/DNR study.
5. Hydraulic studies have been recommended for Buttermilk Sound to restore its former course (1983 wetland assessment p. I-130 for Dump Area 43). Consideration should be given to undertaking such a study instead of continuing with open water placement as proposed in Alternative 1.

F. Miscellaneous:

1. The documents state that 24 out of the 36 operational reaches have been surveyed for cultural resources (environmental assessment page 4-20). Please provide a list of the reaches that have been surveyed.
2. The document states that dredges will implement vessel speed restrictions whenever practicable (environmental assessment section 4.15.3). Will this be a voluntary measure or something required in the dredging contract? Would speed restrictions be required while dredges are transiting to ODMDSs?
3. What is the status of Tract 42A as far as easement and useage? It was not included in the 1983 or 2011 wetland assessments, but has 9.0 acres (0.75 of which is forested) outside of the easement area.
4. Open water placement at Dump Area 42 was set up as or converted to an experimental marsh creation site (1983 wetland assessment p. I-125). Was it successful? Have any other open water placement areas produced uplands or marsh (environmental assessment p. 2-2 and 2-37)?
5. The documents state that open water dump sites have actual easements (main report p. 67), but the 1996 AIWW Disposal Areas for Dredge Materials do not list easements for any of the open water placement areas. Could you provide us with copies of these easements?
6. The environmental assessment states that 192.4 acres of estuarine emergent wetlands were impacted between 1983 and 2011 on page 3-35 and that 189 acres were impacted on page 2-9. Why are these figures different?
7. The documents state that the cost to develop the Tentatively Selected Plan (TSP) and studies must be cost shared at the current PCA rate (main report p. 58). What is that ratio?
8. Does the §103 evaluation (chemical testing of sediments) for ODMDS placement need to be done every 3 years (environmental assessment page 2-30) or every 6 years (main report p. 35-36)?
9. How soon could the Brunswick ODMDS approval be modified to allow Jekyll Creek material to be placed there for Alternative 1? Would this cost be approximately \$500,000? What is the non-federal cost-share ratio for this?

AIWW DEA & DMMP
May 14, 2014
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10. Alternative 3 mitigation cost is estimated at \$11,740,000 (main report p. 53). Should it be \$12,120,000 that would include 38 acres saltmarsh impacts from geo-tubes and 1174 acres saltmarsh impacts from dike construction?
11. The upland acreage calculation for Site 32A appears to be understated in the 2011 wetland assessment.
12. Section 12.9 of the main report states that mitigation for Alternative 1 (TSP) would be \$713,000 for 71.3 acres of marsh, which is the same mitigation as for Alternative 2. Should this be \$375,000 for 37.5 acres of saltmarsh?
13. Pages 3-45 to 3-53 of the DEA appear to be duplicates.

We look forward to assisting the Corps over the following months in moving these documents forward from their draft forms to final products that lay out an environmentally sustainable plan for maintaining the Georgia section of the AIWW. Concurrence or objection to your federal consistency determination under the Coastal Zone Management Act is premature at this time due to the complexity of the issues involved and the likelihood that the final documents will be substantially different from the draft documents. We would like to review other comments submitted by the public and other resource agencies as part of our review of this proposed project. Please feel free to contact Kelie Moore or me if you have questions or would like to discuss the content of this letter.

Sincerely,



Brad Gane
Ecological Services Section Chief

BG/km

electronic cc: Eric Somerville, EPA
Strant Colwell, FWS
Jaclyn Daly, NMFS
Jennifer Welte, GaDNR/EPD

Responses to Comments from GA DNR-CRD

Comment 1: The 2014 documents state that there are currently no saltmarsh mitigation banks from which credits could be purchased to compensate for future impacts. Could the Salt Creek mitigation banking instrument be modified so that it could be used for this Federal public works project?

Response: Salt Creek Mitigation Bank is restricted to use by Chatham County for mitigating municipal and/or county projects. Its service area is Chatham County. The bank is expected to generate 422.5 credits. Implementing the proposed DMMP indicates a need for 341 credits when using Savannah District's Regulatory SOP. That amount represents 81 percent of the Salt Creek bank's available credits. Given that the purpose of the bank is to mitigate for Chatham County projects, it is unlikely that the County would agree to deplete its credits to this extent for a Federal project, particularly one that extends well outside the Chatham County.

Comment 2: Although there are not currently any saltmarsh mitigation banks approved to offset impacts from a federal projects in Georgia, the DMMP is a 20-year document so it would be prudent to state that bank credits should be purchased if available.

Response: Concur. The Corps has added the suggested language to the mitigation section in the EA and DMMP.

Comment 3: The 2014 documents state that there is not currently an In-Lieu-Fee (ILF) mitigation program in Georgia, but the Georgia Land Trust state-wide program was approved in 2013. The Corps could work with the ILF Sponsors to get Advance Credit Sales on the coast.

Response: The Georgia Land Trust currently has no approved areas on the coast and therefore could not be used for this mitigation.

Comment 4: No rationale is given for how the proposed \$10,000 per acre for saltmarsh mitigation was derived (environmental assessment section 4.8.1.2). The ILF compensation planning framework procedures in the 2008 Rule provide a valid methodology for deriving a cost-per-acre that may be more accurate and should be used.

Response: The \$10,000 per acre figure was derived from tax valuations of saltmarsh. No restoration costs were included. Savannah District revised that figure and the Final EA and DMMP use \$70,000 per acre as the mitigation cost based on the typical cost to purchase land and establish mitigation credits in a mitigation bank.

Comment 5: The 2011 wetland assessment does not quantify either how much additional material had been placed/flowed outside of the easement boundaries between 1983 and 2011 or how much total material was outside of the easements.

Response: The EA was revised to document the extent of those impacts. However, the Corps cannot take any action under the DMMP authority to address those impacts.

Comment 6: Restoration of previously-impacted areas outside of the easement boundaries must be conducted. The DEA and DMMP must address removal of spoil material back into easement boundary. Easements should be released to State of Georgia unless Alternative 3 is selected or a claim of private ownership has been verified/validated.

Response: The EA was revised to document the extent of those impacts. However, no action can be taken under the DMMP authority to address those impacts. The Corps would release a disposal easement after the ownership of the tract has been verified. Releasing more easements than those set forth in this document would require further analysis to verify there is no other need for these sites for the AIWW Project.

Comment 7: Two new ocean dredged material disposal sites (ODMDS) are proposed that would be equidistant along the coast (main report p. 35). Would it be more cost effective to build these closer to the reaches that would be using the sites?

Response: These sites will be designated and their location finalized in a future study. The designation study will seek to minimize the costs for sediment placement as part of the evaluation.

Comment 8: When was Andrews Island DCMA used for Jekyll Creek material (main report p. 36, section 7.1.4)?

Response: Sediments from Jekyll Creek have not been placed in the Andrews Island DMCA. The idea was proposed in FY2009 as an ARRA project but the proposal was not funded. GADOT was not in favor of the proposal due to the loss of sediment storage capacity for the Brunswick Harbor Navigation Project.

Comment 9: The documents state that Andrews Island DCMA cannot be used for Jekyll Creek material based on a verbal discussion with the non-federal sponsor (main report section 7.1.4). What would be needed to get permission to use this DCMA for Jekyll Creek material?

Response: A substantial increase in commercial traffic would be needed before the non-Federal sponsor would allow sediments from Jekyll Creek to be placed in the Andrews Island DMCA. Commercial traffic is defined by the Corps as tug and barge traffic that moves cargo.

Comment 10: The City of Brunswick and/or Glynn County remove sediments from Andrews Island for use in road beds, etc. Is this removal factored into the storage capacity life of the site? Who if anyone keeps records on how much material is removed? Could the life of the site be extended if more of the material was used? Is there some way to determine if there is demand for this material by other counties/cities or private commercial ventures?

Response: The Corps is not aware of any party maintaining records of the volume or timing of sediments removed from the Andrews Island DMCA. If a record of material removal is being maintained, it may be by Glynn County. Removal of material by third parties is not factored into the storage capacity for Andrews Island, but sediment removal for any purpose would extend the useful life of the containment area.

Comment 11: If easements were released on some of the disposal sites so that a 3rd party could restore the site, could this material be placed into an ODMDS or DMCA?

Response: With the correct permits, approvals and studies, the ODMDS and DMCA could be used as a placement site for third party restoration activities.

Comment 12: Will open water placement on the north side of Commodore Island (Dump Area 28) cease with the Future Without Project (FWOP) or Alternative 1?

Response: The open water placement site north side of Commodore Island (Dump Area 28) would no longer be used in both the Future-Without Project and Alternative 1 (Selected Plan).

Comment 13: The document states that using the Brunswick ODMDS for Jekyll Creek is an interim solution, and the long term solution calls for a shoaling study (environmental assessment p. 2-36 section 2.10.10 and main report p. 37). A. What is needed for such a study (cost & time)? B. How could that be funded (e.g. 1135 project)?

Response: The referenced portion of the document has been corrected. The Brunswick ODMDS is a long term solution. The ODMDS may in the future need to be expanded if it is used for sediments from both the Harbor and the AIWW, but that need is anticipated to be outside the 20-year horizon of this plan.

Comment 14: Where exactly on the impacted sites would the geo-tubes be placed (e.g. at the edge of the low marsh-highmarsh boundary or at the wetland-upland boundary)? If the current proposal is to place geo-tubes at the high-low marsh boundary, could they be moved to the upland boundary and still have enough 20-year capacity?

Response: The geo-tubes would be placed on the low marsh-high marsh line created by past dredged material placement activities. This could not be moved to the upland boundary and still provide the required 20-year sediment storage capacity.

Comment 15: A shoaling study has been recommended for Hells Gate (SAV12) (1983 wetland assessment p. I-52 for Tract 19a). Consideration should be given to completing such a study in order to find a long-term solution for the reach instead of containing future spoils with geo-tubes in combination with open water placement as is proposed for Alternative 1 since the volume is 154,000 cubic yards every 3 years.

Response: The Corps does not have sufficient funds to perform such a study at this time. The study could be pursued under a different Corps authority if a non-federal sponsor is interested in sharing the costs of such a study.

Comment 16: Hydraulic studies have been recommended for Broughton Island, Buttermilk Sound/Altamaha River at Steamboat cut (1983 wetland assessment p. I-127 for Tract 42B). Much of the maintenance dredging is the result of removing the last meander of the Altamaha River by making Steamboat Cut. Consideration should be given to restore a small loop in place of the cut, consistent with the recommendations of the 1983 joint COE/DNR study.

Response: The study could be pursued under a different Corps authority if a non-federal sponsor is interested in undertaking the study and sharing the costs associated with it.

Comment 17: Hydraulic studies have been recommended for Buttermilk Sound to restore its former course (1983 wetland assessment p I-130 for Dump Area 43). Consideration should be given to undertaking such a study instead of continuing with open water placement as proposed in Alternative 1.

Response: The study could be pursued under a different Corps authority given a non-federal sponsor is interested in undertaking the study and sharing the costs associated with it.

Comment 18: The documents state that 24 out of 36 operational reaches have been surveyed for cultural resources (environmental assessment page 4-20). Please provide a list of the reaches that have been surveyed.

Response: The document provides a list of the 12 reaches that have been surveyed (page 4-19: Section 4.10.2.2.1); 24 of 36 reaches have not been surveyed at this time.

Comment 19: The document states that dredges will implement vessel speed restrictions whenever practicable (environmental assessment section 4.15.3). Will this be a voluntary measure or something required in the dredging contract? Would speed restrictions be required while dredges are transiting to ODMDSs?

Response: Mandatory speed restrictions would apply to all vessels performing work on the AIWW, including those transiting to ODMDSs.

Comment 20: What is the status of 42A as far as easement and useage? It was not included in the 1983 or 2011 wetland assessment, but has 9.0 acres (0.75 of which is forested) outside of the easement area.

Response: The Corps' records show no impacts for Tract 42A; however, the Corps' records for Tract 42B match the description given, in the above comment, for 42A, both in 1983 and 2011.

Comment 21: Open water placement at Dump Area 42 was set up as or converted to an experimental marsh creation site (1983 wetland assessment p I-125). Was it successful? Have any open water placement areas produced uplands or marsh (environmental assessment p. 2-2 and 2-37)?

Response: Savannah District does not have information on the fate of the project at Dump Area 42. None of the other open water sites have produced uplands or marsh.

Comment 22: The documents state that open water dump sites have actual easements (main report p. 67), but the 1996 AIWW Disposal Areas for Dredged Materials do not list easements for any of the open water placement areas. Could you provide us with copies of these easements?

Response: The open water sites do not have easements; however, they were approved by the State for material placement purposes with the 1983 Atlantic Intracoastal Waterway Maintenance Program Evaluation Study. The report has been corrected to not imply or state that open water sites have easements.

Comment 23: The environmental assessment states that 192.4 acres of estuarine emergent wetlands were impacted between 1983 and 2011 on page 3-35 and that 189 acres were impacted on page 2-9. Why are these figures different?

Response: The 189-acre figure was in error; 192.4-acre is the correct figure.

Comment 24: The documents state that the cost to develop the Tentatively Selected Plan (TSP) and studies must be cost shared at the current PCA rate (main report p. 58). What is that ratio?

Response: The cost sharing in the current PCA for maintaining the AIWW is 100% Federal and 0% non-Federal. The non-Federal sponsor is responsible for providing any needed lands, easements, rights-of-way, or disposal areas.

Comment 25: Does the 103 evaluation (chemical testing of sediments) for ODMDS placement need to be done every 3 years (environmental assessment page 2-30) or every 6 years (main report p. 35-36)?

Response: The sediment testing occurs every 6 years and is only valid for 6 years. However, the Section 103 concurrence is reevaluated every 3 years. The reports have been revised in the respective sections to clarify this process.

Comment 26: How soon could the Brunswick ODMDS approval be modified to allow Jekyll Creek material to be placed there for Alternative 1? Would this cost be approximately \$500,000? What is the non-federal cost-share ration for this?

Response: The process required to allow sediment from Jekyll Creek to be placed in the Brunswick ODMDS will likely require two years. Sediment testing would be performed in the first year at an estimated cost of \$500,000. The second year would be for preparation of a Section 103 Evaluation and coordination of that document with EPA for their approval. All project costs would be 100% Federal.

Comment 27: Alternative 3 mitigation cost is estimated at \$11,740,000 (main report p. 53). Should it be \$12,120,000 that would include 38 acres saltmarsh impacts from geo-tubes and 1174 acres saltmarsh impacts from dike construction?

Response: Alternative 3 would produce 33.82 acres of impacts from Geotube use, which is included in the total of 1,174 acres of impacts.

Comment 28: The upland acreage calculation for Site 32A appears to be understated in the 2011 wetland assessment.

Response: Savannah District believes the upland acreage calculated by Tidewater Associates is accurate.

Comment 29: Section 12.9 of the main report states that mitigation for Alternative 1 (TSP) would be \$713,000 for 71.3 acres of marsh, which is the same mitigation as for Alternative 2. Should this be \$375,000 for 37.5 acres of saltmarsh?

Response: The dollar figure and has been corrected throughout the document.

Comment 30: Pages 3-45 to 3-53 of the DEA appear to be duplicates.

Response: The error was corrected in the Final EA.

Georgia Department of Transportation – Division of Intermodal

From: [Seyle, Charles W SAS](#)
To: [Jester, Thomas S SAS](#)
Subject: FW: CorpsDEISReview Request 03.17.14 (UNCLASSIFIED)
Date: 19 April, 2014 08:46:43
Attachments: CorpsDEISReview Request 03 17 14.pdf

Classification: UNCLASSIFIED
Caveats: NONE

For the file.

-----Original Message-----

From: Jackson, Claude [<mailto:clajackson@dot.ga.gov>]
Sent: Friday, April 18, 2014 3:19 PM
To: Seyle, Charles W SAS; CESAS-PD, SAS
Cc: Comer, Carol; Cobb, Nancy C.
Subject: [EXTERNAL] CorpsDEISReview Request 03.17.14

Good Afternoon Mr. Seyle,

We have completed our review of the Draft Dredged Material Management Plan (DMMP) And Draft Environmental Assessment (EA) as requested in the attached letter. We have no comments at this time. We appreciate this opportunity and we look forward to working with you on this project. Have a nice weekend.

Sincerely,
C. R. Jackson

Claude R. Jackson, P.E.
Aviation Project Manager / Interim Waterways Program Manager
Georgia Department of Transportation - Division of Intermodal
17213 US Hwy 301 N Statesboro, GA 30458
Ph: (404) 673-9119 Fax: (912) 681-0278
Email: clajackson@dot.ga.gov

Georgia DOT commits \$7 million per year to an Off-System Safety Improvement Program designed to reduce fatalities and serious injuries on rural roads owned and maintained by local governments throughout Georgia. Thus far in FY2014, GDOT has administered approximately \$6.5 million of federal funds for local assistance in 78 counties. Visit us at <http://www.dot.ga.gov> (Local Government link) or follow us on <http://www.facebook.com/GeorgiaDOT> and <http://twitter.com/gadepoftrans>.

Classification: UNCLASSIFIED
Caveats: NONE

Responses to Comments from GADOT

Comment: We have completed our review of the Draft Dredged Material Management Plan (DMMP) and Draft Environmental Assessment (EA) as requested in the attached letter. We have no comments at this time. We appreciate this opportunity and we look forward to working with you on this project.

Response: Comment noted.

Jekyll Island Authority



4/16/2014

Mr. Charles Seyle
Planning Division, Savannah District, USACE

Dear Mr. Seyle,

I received your letter of March 17, 2014 and have reviewed the Draft Dredged Material Management Plan and the Draft Environmental Assessment for maintenance of the Atlantic Intracoastal Waterway (AIWW) with respect to Jekyll Creek. Thank you for the opportunity to comment on these important plans in support of maintenance dredging of the AIWW.

We approve of the plan recommendations for the management of dredged material from Jekyll Creek - disposal at an existing approved offshore disposal site - because we believe this alternative will minimize impacts, both ecological and aesthetic to Jekyll Island. Furthermore, we encourage that should dredging take place, it should account for access to the navigational channel for Jekyll Harbor Marina and Jekyll Wharf.

We support maintenance dredging of the AIWW for the anticipated benefits to the economy of Jekyll Island. Furthermore, the Jekyll Island Authority strives to balance economic sustainability with environmental sustainability. Therefore, we strongly encourage that all best practices be implemented to limit disturbance to adjacent habitat during dredging operations. The intertidal mud flats and oyster reefs that flank the navigational channel of Jekyll Creek are extremely valuable habitats for birds, fish, turtles, and marine mammals. These natural resources are utilized and enjoyed by our visitors and are therefore economically valuable in their own right.

Wildlife species with state or federally listed status are among those recognized in the Jekyll Island Conservation Plan as "Priority Wildlife Species". The listed species that are known-to or likely-to utilize submerged or intertidal habitat in Jekyll Creek include Loggerhead Sea Turtle, Piping Plover, Wilson's Plover, Green Sea Turtle, American Oyster Catcher, Bald Eagle, Kemp's Ridley Sea Turtle, Diamondback Terrapin, Black Skimmer, Least Tern, Gull-Billed Tern, And Manatee.

Thank you for your time and consideration of these comments.

Best Regards,

Ben Carswell
Director of Conservation, Jekyll Island Authority

Responses to Comments from Jekyll Island Authority

Comment: We approve of the plan recommendations for the management of dredged material from Jekyll Creek - disposal at an existing approved offshore disposal site - because we believe this alternative will minimize impacts, both ecological and aesthetic to Jekyll Island. Furthermore, we encourage that should dredging take place, it should account for access to the navigational channel for Jekyll Harbor Marina and Jekyll Wharf.

Response: The Corps is pleased that the Jekyll Island Authority supports the Selected Plan.

Matt Peevy – Public

From: [Matt Peevy](#)
To: [CESAS-PD, SAS](#)
Subject: [EXTERNAL] AIWW Public Notice
Date: 16 April, 2014 14:45:46

Hello,

I have a question about the AIWW Public Notice. A notice was published to the USACE website in March about the dredging of the AIWW but the notice has not been visible on the website for a few weeks. Was the notice taken down? Below is a link to the USACE public notices.

<http://www.sas.usace.army.mil/Missions/Regulatory/PublicNotices/tabid/10302/Year/2014/Default.aspx>

Thanks

Matt Peevy
(404) 376-4698
Mitigation Management <<http://www.mitigationcredits.com/>>

Responses to Comments from Matt Peevy

Comment: I have a question about the AIWW Public Notice. A notice was published to the USACE website in March about the dredging of the AIWW but the notice has not been visible on the website for a few weeks. Was the notice taken down? Below is a link to the USACE public notices.

Response: The Corps provided the link below to the commenter to be able to access the public notice and other documents.

<http://www.sas.usace.army.mil/About/DivisionsandOffices/PlanningDivision/PlansandReports.aspx>

William Smallwood – Public

From: wsmallwood@flintusa.net
To: [CESAS-PD_SAS](#)
Subject: [EXTERNAL] Public Comments on managing dredged material from the Atlantic Intracoastal Waterway (AIWW) in portions of South Carolina and Georgia.
Date: 15 April, 2014 14:29:28
Attachments: [Peoria Coastal Presentation.pdf](#)
[Ft Pierce Coastal Presentation.pdf](#)
[Lake Manitoba - Twin lakes PP.pdf](#)

ATTN: Charles Seyle – PD
USACE Savannah District
100 W Oglethorpe Ave
Savannah, GA 31401

RE: Managing Dredged Material Utilizing Geotextile Tubes

Dear Sir:

There are several different methods in which geotextile tubes can be utilized in the management of dredge material, they are as follows:

- 1- Creation of containment dikes within dredged material easements.
- 2- Marsh Creation.
- 3- Artificial Island Creation.

I have attached several of our projects that might be of interest and would welcome discussions. Additionally, since our manufacturing division is located an hour west of you in Metter, GA, we would welcome the opportunity to conduct a general presentation and participate in an open discussion.

Sincerely,

William Smallwood, MSc - Civil Eng
VP Flint Industries

Responses to Comments from William Smallwood

Comment: There are several different methods in which geotextile tubes can be used in the management of dredged material, they are as follows:

- 1- Creation of containment dikes within dredged material easements.
- 2- Marsh Creation.
- 3- Artificial Island Creation.

Response: The Corps has sediment disposal easements that allow the creation of containment areas. It would have to investigate and obtain additional approvals to use geotextile tubes for marsh creation and island creation. As a result, the Corps only considered using geotextile tubes to create containment dikes.

Trey Evans, Mitigation Management – Public

April 15, 2014

U.S. Army Corps of Engineers
Savannah District, Planning Division
ATTN: Mr. Charles (Win) Seyle (PD)
100 West Oglethorpe Avenue
Savannah, Georgia 31401-3640

Subject: Atlantic Intracoastal Waterway (AIWW)

Mr. Seyle:

We are pleased to provide these comments regarding the AIWW as described in the March 17th, 2014 public notice.

Our comments are with regard to the proposed compensatory mitigation plan for this project. According to the Draft Environmental Assessment dated March 2014, the USACE plans to mitigation for 31.5 acres of saltmarsh impact by providing \$10,000 per acre of impact to an unidentified land trust or state agency for the purpose of purchasing saltmarsh for preservation and/or restoration.

We would like to note that this cost estimate is substantially less than In-Lieu-Fee requirements in other southeastern districts (which averages approximately \$177,000 per acre of impact). Based on this significant discrepancy, we cannot see how the USACE mitigation plan could possibly achieve a no net loss of tidal wetlands in Georgia.

Thank you for you consideration of these comments.

Sincerely,

Trey Evans
Mitigation Management
5665 New Northside Drive, St 260
Atlanta, GA 30328

Responses to Comments from Trey Evans

Comment: We would like to note that this cost estimate is substantially less than In-Lieu-Fee requirements in other southeastern districts (which averages approximately \$177,000 per acre of impact). Based on this significant discrepancy, we cannot see how the USACE mitigation plan could possibly achieve a no net loss of tidal wetlands in Georgia.

Response: The \$10,000 per acre figure was derived from tax valuations of saltmarsh. No restoration costs were included. Savannah District revised this figure and the Final EA and DMMP use \$70,000 per acre as the mitigation cost.

Willoughby & Hoefler P.A. – Public

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY
JOHN M.S. HOEFER
RANDOLPH R. LOWELL**
TRACEY C. GREEN
BENJAMIN P. MUSTIAN**
ELIZABETH ZECK*
ELIZABETHANN LOADHOLT CARROLL
CHAD N. JOHNSTON
JOHN W. ROBERTS
ANDREW J. D'ANTONI

AREA CODE 803
TELEPHONE 252-3300
TELECOPIER 256-8062

April 24, 2014

*ALSO ADMITTED IN TX
**ALSO ADMITTED IN THE DISTRICT OF COLUMBIA

VIA E-MAIL

Mr. William Bailey
Savannah District
US Army Corps of Engineers
100 W. Oglethorpe Ave.
Savannah, GA 31401

Re: SRMC permit for the DMMP

Dear Mr. Bailey:

Please be advised that the Savannah River Maritime Commission (Commission) is in receipt of the United States Army Corps of Engineers' (Corps) application for the natural resource agencies of the State of South Carolina to issue their respective licenses for the Dredged Material Management Plan of the Atlantic Intracoastal Waterway (DMMP) publicly noticed on March 17, 2014. As you know, the Commission has jurisdiction and authority over dredging and dredged material deposition, and therefore has jurisdiction and authority over the DMMP. To that end, the Commission is working with the S.C. Department of Health and Environmental Control (DHEC) and the S.C. Department of Natural Resources (DNR) to evaluate the proposed activity and, if appropriate, issue a permit for the activity.

In the interests of moving the project forward, the Commission commits to take action on the license application on the same timeframe for which DHEC has to take action on the requisite Section 401 Water Quality Certification (401 Certification). Therefore, the Commission will act on or before March 17, 2015, which represents the one year for which DHEC has to take action.

If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,

WILLOUGHBY & HOEFER, P.A.



Randolph R. Lowell

cc: The Honorable Alan Wilson
W. Dean Moss, Jr.

Responses to Comments from Willoughby & Hoefler P.A

Comment: In the interests of moving the project forward, the Commission commits to take action on the license application on the same timeframe for which DHEC has to take action on the requisite Section 401 Water Quality Certification (401 Certification). Therefore, the Commission will act on or before March 17, 2015, which represents the one year for which DHEC has to take action.

Response: The Corps believes that the actions proposed in the Selected Plan comply with the SC water quality standards. The Commission provided its final decision dated November 19, 2014. We have included that decision as a separate comment.

Anthony Bryant – Public

From: [Anthony Bryant](#)
To: [CESAS-PD_SAS](#); [Anthony Bryant](#); [mail@gapress.org](#); [cdreher@scpress.org](#)
Subject: [EXTERNAL] Re: AIWW Dredged Material Management Plan Joint Public Notice (UNCLASSIFIED)
Date: 17 March, 2014 16:37:14

I submit this public comment attached since August 2008 upon filing within Region Four regarding the National Interest as it relates to past permits and empirical evidence as result of the unintended consequences absent of historical precedent regarding the intentions of the Freedman's Bureau regarding the promises made to former slaves and land use patterns as a result of permission granted by this entity has totally disregarded those intentions regarding economic development which State Agencies upon the adverse possession of rights and privileges based upon the 1876 Compromise that removed all federal appropriations and additional authorization by Congress . The factors of market forces are not apart of the process with Heirs Property being totally undermined by State Courts when one Heir can sue and force sale of family assets led to the imbalance of the sea Islands in addition to federal facilities since my company Port City Services LLC and my agent attached was both criminally discovered upon as a result of being born and reared within the crime control model since 1986 within Region Four and components attached to a letter from the United States Justice Department with Region Four which my Bank of America Credit Card transactions was within Chatham County and the City of Savannah and my agent and brother is a graduate of the University of South Carolina located in Colleton County and the City of Walterboro and graduated from Armstrong State Atlantic University in Savannah Georgia with a ticket in 1988 off of I95 and I26 were I attended Morgan State University located in Baltimore County within the City of Baltimore was criminally discovered as a former member of Charleston County BZA I from 1999 to 2006 appointed by now US Senator Tim Scott attached is my land use responsibilities under Homeland Security regarding Federal Facilities with identity theft my public comments and complaints regarding land use permits by federal and state agencies can be subject to criminal inquiry to distract from the real issues regarding the National Interest is that interest reserved for favorable public officials , legislators , their staff , grassroots or direct lobbyist in addition interest and going concerns . I submit past comments to the United States Department of Commerce and request to US Army Corp of Engineers Charleston Division and the Boeing Expansion was interfered with via a warrant to 2123 Courtland Avenue Charleston South Carolina 29403 for the record check out Google the address mentioned on a Global Mapquest is a abandon building and I deemed in error by federal , state , local and county entities as living in a stolen car under a federal highways in error despite all I submit my complaints and the address in hope of receiving verification of the comments submitted .

Respectfully Submitted

Anthony G Bryant
2123 Courtland Avenue
Charleston South Carolina 29403
843-722-7432 Home

Bryant Group Inc
PO Box 20573
Charleston South Carolina 29413
843-619-7091 Office

Volume 79 No 10 Wed January 15, 2014 Justice Department
<https://docs.google.com/document/d/1PBGJtc2mL0kBrCFRRiQ9htRwmPc7ctJmccFEvJIBSdg/edit?usp=drive_web>

OMB 1103-0016 January 15, 2014 Justice Department
<https://docs.google.com/document/d/1xR3XI6nNPIXKlFCXWdMrCOIwYXRsapwkkFUzOaFAuxc/edit?usp=drive_web>

Feb 15, 2014 OMB 1103 -0098/ OMB 1103-0016 Department of Justice
<https://docs.google.com/document/d/1jFeXdVvNWJhYt4Wqz1MqLf1q99UzeA4hVqc2rdkxhA/edit?usp=drive_web>

OMB 1103- 0098 DOJ OMB 1103-0098
<https://docs.google.com/document/d/1npkuw9C_runJWbcTakbzynQVdZcD47f-CGShGD5hoLE/edit?usp=drive_web>

OMB Public Comment Department of Justice Feb 14, 2014
<https://docs.google.com/document/d/1Rq8UN4fqInbscrLxf98LdsxsA6TJO5pbneScx7piVa4/edit?usp=drive_web>

Jusitce Brandeis OMB Jusice Dept Feb 14 2014
<https://docs.google.com/document/d/1zbKOWKvgkixazpUVJQd_Q3Euz9GJ_lj39z1ZjoVnBzk/edit?usp=drive_web>

History Sedition Act OMB 1103-0098 and OMB 1103-0016
<https://docs.google.com/document/d/1lpt_MQqidYT1shwkvWqyWAul7eVi52wSVPbsVp7Jr5Y/edit?usp=drive_web>

On Mon, Mar 17, 2014 at 8:42 AM, CESAS-PD, SAS <CESAS-PD.SAS@usace.army.mil> wrote:

Classification: UNCLASSIFIED
Caveats: NONE

The Attached Joint Public Notice announces the availability of the Draft Dredged Material Management Plan (DMMP) and Draft Environmental Assessment (EA) concerning maintenance of the US Army Corps of Engineers, Savannah District portion of the Atlantic Intracoastal Waterway (AIWW). Dredging of the AIWW would occur in accordance with the Dredged DMMP subject to availability of funding for the project. Copies of the Draft DMMP, Draft EA and can be downloaded from the District website at www.sas.usace.army.mil by clicking on the Plans and Reports button under Frequently Accessed Links. Copies may also be obtained through email request to the following address: CESAS-PD@usace.army.mil, or by contacting Mr. Charles (Win) Seyle at (912) 652-6017
<tel:%28912%29%20652-6017> .

US Army Corps of Engineers
Savannah District, Planning Division

Classification: UNCLASSIFIED
Caveats: NONE

Responses to Comments from Anthony Bryant

Mr. Bryant submitted several emails in response to the District's request for comments on the AIWW Draft DMMP and EA. The following attachments were included in those emails. All emails had the same text.

- Scan 0007:** Social Security Administration letter about card application.
- Scan 0008:** US DOJ letter indicating who was assigned the complaint.
- Scan 0009:** US DOJ letter about FOIA request.
- Scan 0010:** SC Dept. of Labor letter about Real Estate Commission appearance.
- Scan 0011:** SC Supreme Court letter responding to request for legal assistance
- Scan 0012:** US DOT letter notifying commenter that the complaint is not related to US DOT jurisdiction.
- Scan0013:** US DOI letter notifying commenter that they do not have jurisdiction in the subject matter.
- Scan 0014:** SC Department of Revenue notifying commenter of data breach.
- Scan 0015:** SC Law Enforcement Letter acknowledging receipt of documents.
- Scan 0016:** State Farm letter about request.
- Scan 0017:** US Dept. of the Treasury letter to notify that they do not have jurisdiction in the subject matter.
- Scan 0020-0021:** US Dept of Housing and Urban Development about complaint.
- Scan 0022:** SC DHEC letter concerning a granted permit.
- Scan 0023:** US DOJ letter about complaint.
- Scan 0024:** Ticket from SC Highway Patrol.
- Scan 0027-0028:** IRS letter about taxes.
- Scan 0029:** Arrest warrant.
- Scan 0030:** US DOJ letter indicating why the complaint was closed.
- Scan 0031:** US DOJ letter indicating receipt of letters and enclosures.
- Scan 0032:** Charleston School District foia request response.
- Scan 0036:** US DOJ letter responding to correspondence about local government activity.
- Scan 0039:** University of South Carolina letter about a breach in data security and possible identity theft.
- Scan 0040:** ROTC at Morgan State University letter about the participation of this man in 1987.
- Scan 0041:** News article for Benefits sought for East Side in arena.
- Scan 0042:** News article.
- Scan 0044:** News article about "Clark fought for all", Risk of Appeasement, Paying the Price, and Council members playing race card on county attorney's pay issue.
- Scan 0045:** Medical University of SC letter about policies.
- Scan 0047:** Court document.
- Scan 0050:** SC Dept. of Revenue letter about filing.
- Scan 0052:** EIN cover sheet.
- Scan0055:** Email about pending letter
- Scan 0056-0057:** Realtors letter about license.
- Scan 0058:** SC DOT letter notifying of change of business status.

Scan 0059: News article about commenter.

Scan 0062: SC office of the Governor letter thanking for correspondence.

Scan 0067: US Immigration Services letter notifying that this is outside their jurisdiction.

Scan 0072: Charleston County letter about identity left that occurred to commenter.

Scan 0074: FedEx Airbill to IRS

Scan 0078-0079: US EPA letter notifying that complaint needs to meet stated requirements to be filed.

Scan 0081-0083: SC Dept of Commerce letter about comments.

Scan 0084: SC Senate letter concerning FOIA request.

Scan 0085: A privacy act notice.

Scan 0086: News article about bishop meeting with legislators.

Scan 0091-0092: Article 13 of Federal Defense Facilities Utilization Integrity Protection.

Scan 0098: Senator Tim Scott letter concerning issues that occurred with various federal agencies.

Scan 0099-0100: US Small Business Administration letter to Senator Scott concerning commenter's actions after Scan 0098.

Scan 0101: SC Ports Authority letter response to FOIA request.

Scan 0104: NAFS Inc. letter about a settlement agreement.

Scan 0116-0117: US DOJ letter closing the FOIA case.

Scan 0131: SC Public Service Commission about public hearing.

Scan 0135: Receipt from SC DHEC.

Scan 0150-0151: Joint Delegation Meeting Agenda.

Scan 0156: US Dept. of Health letter about FOIA request.

Scan 0158-0159: Executive order 2003-02 from the SC Office of the Governor.

Scan 0165: US DOJ letter concerning FOIA request.

Scan 0166: SC Budget and Control Board letter about inactive membership.

Scan 0173: Agenda for 9 May 2013 meeting of SC Department of Insurance.

Scan 0177-0180: Article about Charleston County Incinerator.

Scan 0181: Article about USC student hacking system.

Scan 0182: News article about war on terror.

Scan 0183: Commenter's letter about comments made on other project.

Scan 0192-0193: City Council Minutes from June 18, 2013 page 7 and 8.

Scan 0194: Envelope for letter from US DOJ.

Scan 0196-0197: US DOJ letter closing the FOIA case.

Scan 0206: Receipt for vehicle taxes.

Scan 0236: Receipt for vehicle taxes.

Scan 0240: Envelope from the Social Security Administration.

Scan 0288-0289: US DOJ final action on request.

Scan 0290: Form to nominate a local government for the Federal Empowerment Zone.

Scan 0291: US EPA letter stating actions taken concerning complaint.

Scan 0294: State of Maryland letter about past taxes.

Scan 0311: SC Education Oversight Committee letter about authority clarification.

Scan 0314-0316: US EPA Regulation on Investigatory Uses of Personal Information.

Scan 0323 - 0324: US Dept. of Education letter acknowledging receipt of correspondence.

Scan 0325: US Dept. of Education letter sending request to Charleston.

Scan 0350-0354: Email from SC Department of Commerce concerning comments made on development.

Scan 0355: Envelop for letter from US DOJ.

Scan 0356: Envelop for letter from US DOJ.

Scan 0358-0359: US DOJ final action on request.

Scan 0361: US DOJ letter informing about the appeal.

Scan 0367: US DOJ letter informing about the appeal.

Scan 0368: US DOJ letter informing about the appeal.

Scan 0369: US DOJ letter informing about the appeal.

Scan 0371: News cartoon.

Scan 0378-3081: Department of the Treasury 31 CFR Part 1 section from Federal Register Vol. 65 No. 127

Scan 0383: Certificate that commenter is a Notary Public.

Scan 0404: USPS letter about PO Box service.

Scan 0405: Lawyer from attorney.

Scan 0407-0409: Letter from SC Department of Social Services.

Scan 0412-0414: US EPA letter about his complaint reviewed for appropriate action and referred to Region 4.

Scan 0419: Public Service Commission of South Carolina letter notifying of correct person to contact concerning request.

Scan 0441: News article about drug dealer.

Scan 0446: SC Dept. of Education letter about FOIA request.

Scan 0452-0455: SC Dept. of Commerce letter requesting clarification on request as well as the results of his comments on permitting actions.

Scan 0459-0460: Charleston County Committee Meeting Agenda.

Scan 0492: News article about fraud conspiracy.

Scan 0493: News article on staged shooting incident.

Scan 0494: US DOJ letter about closing concern.

Scan 0495: US DOJ letter notifying commenter's concern is outside fo jurisdiction.

Scan 0503-0504: US DOJ letter request for more information on previous request.

Scan 0517: News article about mug shots bill.

Scan 0519: Drivers License

Scan 0539: US EPA letter acknowledging receipt of complaint.

Scan 0540: US EPA letter request for clarification of complaint.

Scan 0542-0543: US EPA letter notifying the DOJ complaint was forwarded to US EPA.

Scan 0551: Envelope from US Department of the Treasury.

Scan 0561: US DOJ letter providing information about appeal.

Scan 0573-0574: US DOJ letter notifying commenter of appeal status.

Scan 0579: Berkeley County Legal Department letter about FOIA request.

Scan 0577-0578: Charleston County Attorneys' Office letter responding to FOIA request.

Scan 0544-0545: US EPA letter requesting clarification of complaint.

Scan 0617: Business Cards

Scan 0632: SC DMV letter about tag fees.

Scan 0637-0639: Bills from Knology.

Scan 0647: State Farm Letter about refund.

Scan 0651: New article about lobbyists.

Scan 0659: Envelope from IRS and scan of proposed Boeing Expansion.
Scan 0664-0665: Commenter's resume.
Scan 0668: Information update from the EPA Inspector General.
Scan 0670: IRS form letter.
Scan 0671: IRS form 8821
Scan 0672: Auto Insurance bill.
Scan 0673-0674: US EPA letter request for clarification.
Scan 0681: SC DMV letter about insurance.
Scan 0694-0695: Joint Public Notice from Charleston Division, Corps of Engineers concerning Boeing Company permit.
Scan 0708: News article about Kiawah Partners looking to sell Doonbeg.
Scan 0720: Envelope from US EPA
Scan 0751: Envelop from US House of Representatives.
Scan 0816: US Dept. of the Treasury letter about complaint against a bank.
Scan 0820: News article on autopsy.
Scan 0821: News article a solicitor.
Scan 0831: Court record.
Scan 0833: Court record.
Scan 0841: News article about Harrel's lawyers.
Scan 0858: News article clip about security breach at Columbia.
Scan 0860: Envelope from IRS.

Comment: I submit this public comment attached since August 2008 upon filing within Region Four regarding the National Interest as it relates to past permits and empirical evidence as result of the unintended consequences absent of historical precedent regarding the intentions of the Freedman's Bureau regarding the promises made to former slaves and land use patterns as a result of permission granted by this entity has totally disregarded those intentions regarding economic development which State Agencies upon the adverse possession of rights and privileges based upon the 1876 Compromise that removed all federal appropriations and additional authorization by Congress . The factors of market forces are not a part of the process with Heirs Property being totally undermined by State Courts when one Heir can sue and force sale of family assets led to the imbalance of the sea Islands in addition to federal facilities since my company Port City Services LLC and my agent attached was both criminally discovered upon as a result of being born and reared within the crime control model since 1986 within Region Four and components attached to a letter from the United States Justice Department with Region Four which my Bank of America Credit Card transactions was within Chatham County and the City of Savannah and my agent and brother is a graduate of the University of South Carolina located in Colleton County and the City of Walterboro and graduated from Armstrong State Atlantic University in Savannah Georgia with a ticket in 1988 off of I-95 and I-26 were I attended Morgan State University located in Baltimore County within the City of Baltimore was criminally discovered as a former member of Charleston County BZA I from 1999 to 2006 appointed by now U.S. Senator Tim Scott attached is my land use responsibilities under Homeland Security regarding Federal Facilities with identity theft my public comments and complaints regarding land use permits by federal and state agencies can be subject to criminal inquiry to distract from the real issues regarding the National Interest is that interest reserved for favorable public officials, legislators, their staff, grassroots or direct lobbyist in addition interest

and going concerns. I submit past comments to the United States Department of Commerce and request to U.S. Army Corps of Engineers Charleston Division and the Boeing Expansion was interfered with via a warrant to 2123 Courtland Avenue, Charleston, South Carolina 29403 for the record check out Google the address mentioned on a Global Mapquest is a abandon building and I deemed in error by federal, state, local and county entities as living in a stolen car under a federal highways in error despite all I submit my complaints and the address in hope of receiving verification of the comments submitted.

Response: These comments are outside of the authority of the U.S. Army Corps of Engineers and do not appear to bear directly or indirectly on the proposed new Dredged Material Management Plan for the AIWW or its Environmental Assessment.