

CESWG-PE-RE
Application: SWG-2012-00631

MEMORANDUM FOR THE RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above – Numbered Permit Application

This document constitutes the Environmental Assessment, Section 404(b)(1) Guidelines Evaluation (attached), Public Interest Review, and Statement of Findings for the subject application.

1. Applicant.

Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.191764 North; Longitude: -94.95857 West

2. Corps Authority. The U.S. Army Corps of Engineers, Galveston District (Corps) will evaluate the proposed activity under Section 404 of the Clean Water Act (33 U.S.C. §1344).

3. Project and Site Description. The applicant proposes to discharge approximately 3,900 cubic yards of fill material into 2.67 acres of wetlands for the construction of multi-use campsites, park offices, parking facilities, restroom, picnic shelters, and dune walkovers associated with the redevelopment of the campground facilities. The proposed project site is a 191-acre tract located inside the Galveston Island State Park property at 14901 Farm-to-Market (FM) Road 3005, in Galveston, Galveston County, Texas. The USGS Quad reference map is: Lake Como, Texas.

Avoidance and Minimization Information. The project site, commonly called "West Beach" is a 191-acre tract within the Galveston Island State Park property. Out of the 191 acres, there are 54 wetlands, totaling 25 acres that are non-tidal, palustrine emergent (PEM) wetlands and dune swale wetlands; the remaining 166 acres are uplands. The applicant's original project plans included avoiding 19.21 acres of PEM wetlands, and impacting 5.79 acres of non-tidal PEM wetlands. The applicant further minimized impacts to waters of the United States by compressing and redesigning the proposed project around sensitive features and elevating some of the proposed facilities. The current project plans include avoiding 22.33 acres of non-tidal PEM wetlands and permanently impacting 2.67 acres of non-tidal PEM wetlands. In addition, the project will result in secondary impacts to 0.41-acre of PEM wetlands due to the construction of walkover areas and elevated facilities. The entire development was set back from the beach and dunes to avoid impacting any sea turtles and piping plover habitat. An analysis of alternatives was performed that examined a no build alternative, an offsite alternative, and three onsite alternatives. The three onsite analyses include

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“West Prairie”, “West Beach” and, “East Beach”, all within the Galveston Island State Park property. West Prairie was removed from consideration early in the review process due safety concerns for beach access and beachside camping. Wetland areas exist on the West Prairie site; however, a delineation was not conducted in this area. The East Beach alternative was not considered practicable because it did not meet the project objectives of minimizing environmental impacts and promoting healthy and contiguous habitats. In addition, approximately 7.84 acres of wetlands would be impacted if the project were to be designed in the East Beach Location. The applicant also stated that this area was better suited for their proposed mitigation.

Compensatory Mitigation. The applicant’s mitigation plan to offset the 2.67 acres of permanent impacts and 0.41-acre of secondary impacts include establishing or “creating” 9.98 acres of freshwater PEM and rehabilitating or “enhancing” 2.90 acres of freshwater PEM wetlands. The establishment and rehabilitation of wetlands will be on-site and in-kind. The established wetlands will be created by lowering the surface of these upland swales below the seasonal high water table. The 2.90 acres of wetland rehabilitation will be accomplished by plugging seven sections of the roadside drainage ditches. Approximately 0.20-acre of the drainage ditch in this area will be plugged in order to stop artificial drainage of the area.

4. Purpose and Need.

Applicant’s Stated Purpose and Need:

The purpose of the proposed project is to rebuild and improve the day-use and overnight camping facilities that were destroyed by Hurricane Ike in 2008.

Basic Project Purpose and Water Dependency Determination:

The overall project purpose is to rebuild and improve the campground facilities to allow for continued use and beach access. The project is not water-dependent because the redevelopment could be located outside of special aquatic sites.

Overall Project Purpose:

The basic purpose is to continue to provide safe public access to the beach for purposes of recreation, education, and interpretation of the Gulf beach environment.

5. Existing Conditions. The 191-acre project tract is located within the Galveston State Park property at 14901 FM Road 3005, in Galveston, Galveston County, Texas. The project contains remnant dune swale wetlands and is bordered along the south by the Gulf of Mexico and its associated beaches. The project area is bordered by the north by FM Road 3005. The project boundary consists of remnant camping facilities, including a road, parking areas that were partially destroyed during Hurricane Ike in 2008. Most of the undeveloped areas within the project boundary are characterized by coastal prairies, marshlands and coastal dune swales. The county soils survey depicts

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the area as Mustang soils. These soils are deep, very poorly drained, very slow permeable soils formed in sandy sediments on barrier flats subject to occasional flooding due to high storm surge and are ponded after every rainfall. This general area has a bay to beach barrier island profile.

6. Scope of Analysis.

a. NEPA. The determination of what is the appropriate Scope of Analysis governing the Corps' permit review and decision is guided by the Corps' National Environmental Policy Act (NEPA) regulations for the regulatory program: 33 CFR Part 325, Appendix B. The Scope of Analysis should be limited to the specific activity requiring a Department of the Army (DA) permit and any additional portions of the entire project over which there is sufficient Federal control and responsibility to warrant NEPA review. Appendix B states that factors to consider in determining whether sufficient "control and responsibility" exist include: 1) whether or not the regulated activity comprises "merely a link" in a corridor type project; 2) whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity; 3) the extent to which the entire project will be within Corps jurisdiction; and 4) the extent of cumulative Federal control and responsibility. Generally, the Corps' area of responsibility includes all waters of the U.S. as well as any additional areas of non-jurisdictional waters or uplands where the district determines there is adequate Federal control and responsibility to justify including those areas within the Corps' NEPA scope of analysis. This normally includes upland areas in the immediate vicinity of the waters of the U.S. where the regulated activity occurs (Standard Operating Procedures for the U.S. Army Corps of Engineers Regulatory Program – July 2009).

(1) Factors.

(i) With regard to the first factor that must be considered in the determination of sufficient Federal control and responsibility, the regulated activities associated with the redevelopment of the campground facilities does not comprise a link in a corridor type of project. Therefore, this project does not meet this factor.

(ii) With regard to the second factor, the design of upland portions of the redevelopment of the campground facilities occurring in the immediate vicinity of the regulated activities does affect the location and configuration of the regulated activities. Approximately 54 wetlands adjacent to the Gulf of Mexico are located throughout the 183-acre project tract. The placement of the multi-use campsites, restrooms, fee station, security office, picnic shelters, parking facilities, connecting drives, and dune walkovers were designed around the wetlands to reduce impacts to these aquatic resources. In addition, the facilities have been designed with a set back from the Gulf

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coastline in order to provide some protection from future weather events, beach erosion, and subsidence. Therefore, this project does meet this factor.

(iii) With regard to the third factor, the extent to which the entire project will be within Corps jurisdiction, the 191-acre tract contains 54 wetlands (totaling 25 acres), subject to Section 404 of the Clean Water Act located throughout the tract. Due to the location of the wetlands, the project was designed to reduce the impacts to the aquatic resources. As such, more of the upland areas and walkovers were incorporated into the project design. While impacts to upland areas within the project boundaries will be considered under our Scope of Analysis, upland areas are not jurisdictional under the authorities of Section 404 of the Clean Water Act. Development frequently occurs within the uplands with no Department of the Army (DA) authorization necessary. Although there are areas within the footprint of the project wherein the Corps has jurisdiction, the entire project is within the Corps' jurisdiction; thus this project does meet the third factor.

(iv) With regard to the fourth factor that must be considered in the determination of sufficient Federal control and responsibility, during our consideration of the extent of cumulative Federal control and responsibility for this project, we appropriately relied on and fully considered, information and reports from Federal agencies pursuant to their responsibilities under the Fish and Wildlife Coordination Act, the Endangered Species Act (ESA), and Essential Fish Habitat (EFH) regulations (National Marine Fisheries Service – NMFS). ESA threatened or endangered species consultation with the FWS was not required for this permit action. The Fish and Wildlife Service did not provide comments. Our staff archeologist determined that a historic properties investigation has been conducted within the permit area and found that no sites determined eligible for or listed on the National Register of Historic Places are within the permit area or affected area. No further coordination was required pursuant to our responsibilities under 33 CFR Part 325, Appendix C. Therefore, the project does not meet this factor.

(2) Determined Scope. In conclusion, based on our examination of NEPA (33 CFR Part 325, Appendix B) and applicable program guidance (e.g. CEQ's Considering Cumulative Effects Under the National Environmental Policy Act and the Standard Operating Procedures for the U.S. Army Corps of Engineers Regulatory Program – July 2009), we have determined that the appropriate scope for this project is over the entire 191-acre tract.

This project does not meet factors one or factor four. However, it does meet factors two and three, in that there are aspects of the proposed upland development in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activities. Therefore, sufficient Federal control and responsibility does

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exist to warrant expanding our review to areas outside our jurisdiction, inclusive of those areas adjacent to project features that require DA permit authorization. Due to the location of the regulated waters within the 191-acre tract, the associated developed upland areas are included in our Scope of Analysis even though the upland areas are not jurisdictional under the authorities of Section 404 of the Clean Water Act.

b. National Historic Properties Act (NHPA) "Permit Area". The determination of what is the appropriate Scope of Analysis governing the Corps' permit review and decision is guided by the Corps' NHPA regulations for the regulatory program: 33 CFR Part 325, Appendix C.

(1) Tests. Activities outside waters of the United States are included because of all of the following tests are satisfied: Such activity would not occur but for the authorization of the work or structures within the waters of the United States; such activity is integrally related to the work or structures to be authorized within waters of the United States (or, conversely, the work or structures to be authorized must be essential to the completeness of the overall project or program); and such activity is directly associated (first order impact) with the work or structures to be authorized.

(2) Determined Scope. We have determined that the appropriate scope for this project is over the entire property.

This project does not meet factors one and four. However, it does meet factors two and three, in that there are aspects of the proposed upland development in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activities. Therefore, sufficient Federal control and responsibility does exist to warrant expanding our review to areas outside our jurisdiction, inclusive of those areas adjacent to project features that require DA permit authorization. Due to the location of the regulated waters within the 191 acre tract, the associated developed upland areas are included in our Scope of Analysis even though the upland areas are not jurisdictional under the authorities of Section 404 of the Clean Water Act.

c. Endangered Species Act (ESA) "Action Area." The determination of what is the appropriate Scope of Analysis governing the Corps' permit review and decision is guided by the Endangered Species Act of 1973.

(1) Action area means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.

(2) Determined Scope. We have determined that the appropriate ESA action area for this project is over the entire property.

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This project does not meet factors one and four. However, it does meet factors two and three, in that there are aspects of the proposed upland development in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activities. Therefore, sufficient Federal control and responsibility does exist to warrant expanding our review to areas outside our jurisdiction, inclusive of those areas adjacent to project features that require DA permit authorization. Due to the location of the regulated waters within the 191 acre tract, the associated developed upland areas are included in our Scope of Analysis even though the upland areas are not jurisdictional under the authorities of Section 404 of the Clean Water Act.

7. Environmental Assessment.

a. Alternatives. A key provision of the 404(b)(1) guidelines is the “practicable alternative test” which requires that “no discharge of fill material shall be permitted if there is a practicable alternative to the proposed fill which would have a less adverse impact on the aquatic ecosystem.” This is especially true when the proposed project is not water dependent. The applicant must demonstrate that there are no less damaging sites available and that all onsite impacts to waters of the United States have been avoided to the maximum practicable extent possible.

For an alternative to be considered “practicable”, it must be available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose. The applicant considered the following criteria to determine the preferred alternative: 1) provide public access for recreation and enjoyment of Galveston Island State park, 2) protect facilities from weather, beach erosion, and subsidence, 3) provide sufficient facilities to meet the public demand, 4) rebuild facilities with safe public access to the beach, 5) preserve and enhance contiguous natural environment and habitat. Six alternatives were considered based on the above criteria.

(1) No Action Alternative. This alternative involves permit denial. Under this scenario, the proposed project would not be constructed and there would be no impact to waters of the U.S. This is not a practicable alternative because it does not meet the overall purpose of the project. Leaving the project area in its current state reduces beach access, reduces use of a third of the original capacity, and does not respond to public demand for day and overnight use. Omitting access and activities in this area does not respond to the Texas Parks and Wildlife Department mission of conservation and recreation on the beach; in addition, leaving beach facilities in their original footprint, at risk to weather, erosion, sea level rise, and subsidence, would be inconsistent with the project’s need and purpose. Therefore, this alternative is not the least environmentally damaging practicable alternative.

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(2) Offsite Alternatives. Under the offsite alternative, the beachside camping would be relocated to an entirely different site. The lack of available sites along the Texas coastline, the absence of resources for new site development, and the potential disconnect with the existing Galveston Island State Park make this option both infeasible and inconsistent with the goals of Texas Parks and Wildlife Department and Galveston Island State Park. Therefore, this alternative is not the least environmentally damaging practicable alternative.

(3) Onsite Alternative 1. Onsite alternative 1, commonly referred to as “West Prairie”, is located north of FM Road 3005, in the southwestern portion of Galveston Island State Park property. While setting the proposed beach development further from the coastline may better protect these facilities from weather, wind, flooding and beach erosion, it would remove the opportunity for immediate and safe beach access. The public input process as well as historic use of the campsite facilities shows a high demand for beachside camping. Instead of being connected to the beach through a system of dune walkovers, visitors would have to cross FM Road 3005 and travel further to access these resources. Due to location of the West Prairie site, the goal for safety would not be achieved. In addition, this site contains sensitive coastal prairie features and would potentially result in greater impact to environmental and cultural resources. This alternative is not considered practicable because it does not meet the project objectives of environmental and cultural resource protection, provision of beach access, and promotion of public safety. Therefore, this alternative is not the least environmentally damaging practicable alternative.

(4) Onsite Alternative 2. Onsite alternative 2, commonly referred to as “East Beach”, is located south of FM Road 3005, adjacent to a public beach access and the Gulf of Mexico, in the southeastern portion of Galveston Island State Park property. Redeveloping the campground facilities in this location would meet 4 out of 5 of the established project objectives; preserve and enhance contiguous natural environment and habitat goal was not met. During early coordination with agencies regarding this project, the East Beach site was discussed. The applicant met with FWS and discussed that this site would not be the best location for the project. It was also discussed that this location provides the best opportunity for preservation of a large area of contiguous natural environment and habitat. This site contains the most pristine wetland, which would be impacted by developing the facilities at this location. Approximately 7.84 acres of wetlands would be impacted if the project were to be designed in the East Beach Location. Programmatically, Texas Parks and Wildlife is concerned with the conflict of placing the facilities directly adjacent to the public beach access point just outside of the project boundary. Concerns raised included the intrusion of non-paying visitors and the potential of stray vehicles causing dangerous conditions for beach campers. This alternative is not considered practicable as it does not meet the project objective listed above. Furthermore, this alternative introduces safety concerns for

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overnight campers and has been met with opposition by adjacent residence. Therefore, this alternative is not the least environmentally damaging practicable alternative.

(5) Onsite Alternative 3. Onsite alternative 3, commonly referred to as “West Beach Master Plan Concept”, is located south of FM Road 3005, adjacent to the Gulf of Mexico, in the southwestern portion of Galveston Island State Park property. This plan met all of the project goals; however the original design would result in 5.79 acres of permanent wetland impacts. This design was further compressed and redesigned and the revised design is discussed in Onsite Alternative 4. Therefore, this alternative is not the least environmentally damaging practicable alternative.

(6) Onsite Alternative 4 (Applicant’s Preferred Alternative). Onsite alternative 4, commonly referred to as “West Beach Adjusted Plan”, is located south of FM Road 3005, adjacent to the Gulf of Mexico, in the southwestern portion of Galveston Island State Park property. This project alternative was redesigned to reduce the impacts of the original concepts referred to as “West Beach Master Plan Concept”. This adjusted plan reduced the permanent wetland impacts from 5.79 acres to 2.67 acres. This alternative meets all of the criteria. Therefore, is the least environmentally damaging practicable alternative.

b. Environmental Setting. The project area is located in remnant dune swale wetlands adjacent to the Gulf of Mexico, at 14901 FM Road 3005, in Galveston, Galveston County, Texas. The project area is bordered along the south by the beaches associated with the Gulf of Mexico. To the north of the project is FM Road 3005. The project site consists of remnant camping facilities, including a road, and parking areas that were partially destroyed during Hurricane Ike in 2008. Most of the undeveloped areas within the project boundary are characterized by coastal prairies, marshlands and coastal dune swales. The county soils survey depicts the area as Mustang soils, which are deep, very poorly drained, very slow permeable soils formed in sandy sediments on barrier flats subject to occasional flooding due to high storm surge and are ponded after every rainfall. This general area has a bay to beach barrier island profile.

c. Environmental Impacts. The possible consequences of this proposed work were studied for environmental concerns, social well-being, and the public interest, in accordance with regulations published in 33 C.F.R. 320-332. All factors, which may be relevant to the proposal, must be considered. The following factors were determined to be particularly relevant to this application and were evaluated appropriately, as they relate to the least environmentally damaging practicable alternative described in the alternative analysis section.

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(1) Historic and Cultural Resources. The National Register of Historic Places has been consulted and no properties are listed in the permit area. In addition, the permit area has been investigated for Historic Properties as documented in the report titled "Archeology Survey of 50 acres at Galveston Island State Park, Galveston County, Texas", dated October 2012, and prepared by Prewitt and Associates, Inc. No Historic Properties within the permit area were identified as a result of the investigation.

(2) Water Quality. Storm water runoff from construction sites will result in a moderate adverse impact to surface water quality. Implementation of mitigation measures, including development of a comprehensive storm water pollution prevention plan, which should reduce the intensity of the construction-related impacts to negligible.

(3) Endangered Species. While Eskimo curlew, sea turtles and the Atwater's greater prairie chicken are known to exist within Galveston County, the proposed work within the project area will have No Affect on the species listed or their habitat.

(4) Fish and Wildlife Values. During construction activities, there would be short-term adverse impacts to wildlife species in the project vicinity associated with increased noise, land clearing activities, and the presence of construction equipment. Sufficient habitat is present near the project area for wildlife to relocate during construction activities.

The applicant's mitigation plan to offset the 2.67 acres of direct impacts and 0.41 acre of secondary impacts, include creating 7.07 acres of freshwater PEM, restoring 2.91 acres of freshwater PEM, and enhancing 2.90 acres of freshwater PEM wetlands. An additional 0.20 acre of freshwater PEM wetlands will be permanently impacted by plugging existing drainage ditches.

(5) Essential Fish Habitat (EFH). No known impacts will occur to essential fish habitat as listed under the Magnuson-Stevens Fishery Conservation and Management Act.

(6) Wetlands/Special Aquatic Sites. The applicant's mitigation plan to offset the 2.67 acres of direct impacts and 0.41 acre of secondary impacts, include creating 7.07 acres of freshwater PEM, restoring 2.91 acres of freshwater PEM and enhancing 2.90 acres of freshwater PEM wetlands. An additional 0.20 acre of freshwater PEM wetlands will be permanently impacted by plugging existing drainage ditches. The proposed mitigation plan will offset the loss of functions and values of the proposed project impacts.

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(7) Shoreline Erosion and Accretion. The project is designed with elevated structures and transitional elements to respond to a changing coastal morphology, in response to subsidence, sea-level rise, and beach migration anticipated at the Gulf beach over the coming decades.

(8) Recreation. The recreational value of the area will be enhanced as a result of the proposed project.

(9) Aesthetics. During the construction activity, there would be a generation of noise. However, it is expected that the activities would be performed during daylight hours, be temporary, and be within normal ranges for construction equipment.

(10) Land Use. There are no known land use classifications or coastal zone management plans that would adversely affect the project. The land use in the project area is partially developed with recreational facilities. The project would be constructed on land currently owned by the applicant.

(11) Navigation. Navigation in the Gulf of Mexico would not be adversely affected by this project.

(12) Federal Projects. The project will not adversely impact any Federal Project.

(13) Conservation. The project would result in a loss of 2.67 acres of freshwater PEM wetlands and dune swale wetlands for the construction of multi-use campsites, park offices, parking facilities, restroom, picnic shelters, and dune walkovers. However, the proposed mitigation would result in the enhancement, creation and restoration of 12.88 acres of freshwater PEM wetlands and dune swale wetlands.

(14) Floodplain Values. The entire project boundary, totaling 191 acres, is located within the floodplain of the Gulf of Mexico/Galveston Bay. The 12.88 acres of mitigation may increase the floodplain storage for the project area. In addition, the project is designed with elevated structures and transitional elements to respond to a changing coastal morphology, in response to subsidence, sea-level rise, and beach migration anticipated at the Gulf beach over the coming decades.

(15) Safety. The applicant has considered safety in its design, construction and operation of the project. Providing safe beach access was established as a project goal in considering alternative analysis of the project.

(16) Floodplain Hazards. The existing campground facilities and proposed project area are within the 100 floodplain. Executive Order 11988, Floodplain Management, requires that Federal agencies avoid activities that directly or indirectly

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result in the development of a floodplain area. The entire project site is designated by the Federal Emergency Management Agency (FEMA) (Galveston County, Panel 485490043F (Effective date 6 December 2002) as Zone AE. The project has been designed with walkovers and elevated structures to reduce the amount of development within the floodplain. The applicant 12.88-acre mitigation is compensation for the lost floodplain values. Therefore, the fill authorized by this permit would not conflict with the intent of Executive Order 11988.

(17) Economics. This project will positively impact the economics of the State of Texas. The Galveston Island State Park redevelopment will create 112 multiuse recreational vehicle camping sites, 35 tent camping platforms, 59 picnic shelters, and 4 pavilions for public recreational use.

(18) Air Pollution. The subject project is of a small size, with minimal equipment used for construction. Therefore, it clearly does not exceed the de minimis level for any criteria pollutant.

(19) Other Federal, State, or Local Requirements. All required Federal, State, and/or local authorization or certifications necessary to complete processing of this application have been obtained except for water quality certification and coastal zone consistency certification.

The applicant has stated that the proposed activity complies with Texas' approved Coastal Management Program (CMP), and will be conducted in a manner consistent with such program. The Texas Coastal Coordination Council (CCC) submitted a letter, dated 3 December 2013, stating that it has been determined that there are no significant unresolved consistency issues with respect to the project. Therefore, the project is consistent with the CMP goals and policies.

The project is considered a Tier I project. The applicant has agreed to use the Best Management Practices (BMP's) for Tier I projects. Based on the applicant's signed statement that the applicable BMP's will be used, no further review is required by Texas Commission on Environmental Quality (TCEQ). Therefore, we presume a waiver of the 401 certification pursuant to 33 CFR 325.2(b).

(20) Other Factors Considered. The following factors were considered during the evaluation process but were determined to not be particularly relevant to this application: energy needs, water supply and conservation, food and fiber production, and mineral needs.

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d. Cumulative & Secondary Impacts. An assessment of cumulative impacts takes into consideration the consequences that past, present, and reasonably-foreseeable future projects had, have, or will have on an ecosystem. Every permit application must be considered on its own merits. Its impacts on the environment must be assessed in light of historical permitting activity, along with anticipated future activities in the area. Although a particular project may constitute a minor impact in itself, the cumulative impacts that result from a large number of such projects could cause a significant impairment of water resources, and interfere with the productivity and water quality of existing aquatic ecosystems.

Cumulative impacts can result from many different activities, including the addition of materials to the environment from multiple sources, repeated removal of materials or organisms from the environment, and repeated environmental changes over large areas and long periods. More complicated cumulative effects occur when stresses of different types combine to produce a single effect or suite of effects. Large, contiguous habitats can be fragmented, making it difficult for organisms to locate and maintain populations between disjunctive habitat fragments. Cumulative impacts may also occur, when the timings of perturbations are so close in space that their effects overlap.

Impacts resulting from the proposed project will be felt in the West Galveston Bay watershed (Hydrologic Unit Code (HUC) 12040204). Approximately 71% of the watershed is upland, 7% of the watershed is wetland, 18% is open bay water, and 5% is other waters (ponds, riverine areas and estuarine deep waters). Impacts resulting from the proposed project will be felt in a relatively small area, within Galveston Island. The project site is bordered on the east and west by residential development. To the south of the project is the Gulf of Mexico and its associated beaches and dunes. To the north of the project is a country road and undeveloped land that extends to Galveston Bay. Wetlands and drainage ditches are interspersed throughout the project site. The proposed redevelopment project will impact approximately 2.67 acres of jurisdictional wetlands, and an additional 0.2 acre of impact into existing ditches for part of the proposed mitigation. The proposed project is of different land use when compared to other projects constructed in the watershed since 2008. The proposed project is a redevelopment of a previously existing campground facility that was partially destroyed post landfall of Hurricane Ike in 2008. Key issues of concern in this watershed are loss of coastal prairie uplands, adverse impacts to wetlands, and water quality and flood-related hazards associated with coastal flooding and hurricane damage.

The impacts that are expected in that area from the proposed project include discharge of fill material into 2.67 acres of PEM/dune swale wetlands associated with the construction of the project. Avoidance and minimization methods proposed for this project include reducing project footprint, creating walkovers, and elevated facilities to further avoid wetlands. Compensatory mitigation is proposed to offset impacts to

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jurisdictional areas. The applicant's mitigation plan to offset the 2.67 acres of permanent impacts and 0.41 acre of secondary impacts include creating 7.07 acres of freshwater PEM, restoring 2.91 acres of freshwater PEM, and enhancing 2.90 acres of freshwater PEM wetlands. The creation and restoration of wetlands will be on-site and in-kind. Compensatory mitigation requirements include monitoring for success criteria and temporal off-sets for functional losses that occur as a result of this project. Mitigation and monitoring requirements will result in a no net loss of aquatic resources within this watershed.

Other past actions that have had impacts to West Galveston Bay watershed include residential development along the west end of Galveston Island and replacement of infrastructure lost, or damaged, by Hurricane Ike. Past actions over the past 10 years that have had impacts in the West Galveston Bay Watershed include the issuance of 1,382 permits, including 788 nationwide permits. The impacts from these actions are resulted in the loss of approximately 772.2 acres of impact to waters of the U.S. Compensation for these permitted losses resulted in the creation of 1,313.05 acres of wetlands and the purchase of 70.27 credits from mitigation banks.

Present actions occurring within this watershed include residential and commercial development. Some of these activities have resulted in wetland losses and historical losses of coastal prairie upland and degradation of coastal prairie uplands to disturbed upland areas. The impacts from these present and future actions on the watershed's aquatic resources, if constructed/completed, include upland habitat losses and disturbance and development pressure on aquatic areas requiring Corps permits.

Reasonably-foreseeable future actions that could affect these conditions and aquatic resources include maintaining existing infrastructure, such as roadways and ditches, human activity in the area, beach nourishment and upkeep and some additional residential development. Proposed (future) actions within this watershed include likely post-Hurricane Ike development and restoration; especially behind the Galveston Seawall. The overall impact that can be expected, if these impacts are allowed to accumulate, is regulated by programs designed to avoid, minimize, and compensate for unavoidable impacts to the aquatic environment.

When considering the overall impacts that will result from this project, in relation to the overall impacts from similar past, present, and reasonably foreseeable future projects, their cumulative impacts are not considered to be significantly adverse. Associated compensatory mitigation requirements for projects requiring a DA permit will help offset such losses. It is likely we will receive similar projects in the future, which will go through a comparable review process. Overall, the project will result in minimal environmental impacts and minimal impacts on fish and wildlife values.

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8. General Evaluation Criteria Under the Public Interest Review.

a. The relative extent of the public and private need for the proposed work. Public benefits include employment opportunities and a potential increase in the local tax base. In addition, the project will provide 112 multiuse recreational vehicle camping sites, 35 tent camping platforms, 59 picnic shelters and 4 pavilions for public recreational use.

b. The practicability of using reasonable alternative locations and/or methods to accomplish the objective of the proposed structure or work. There are no unresolved conflicts regarding resource use.

c. The extent and permanence of the beneficial and/or detrimental effects, which the proposed work is likely to have on the public and private uses which the area is suited. Detrimental impacts are expected to be minimal although they would be permanent in the construction area. Periodic upkeep of the project tract is anticipated. The beneficial effects associated with the utilization of the property would be permanent.

9. Coordination and Resolution of Comments.

a. Corps Internal Review Concerns. The proposed action was coordinated with Corps offices by Internal Review notice, dated 3 April 2013. The Real Estate (RE) Division responded to the notice stating there were no Corps RE tracts nor placement areas within the request. Our Staff Archeologist responded stating that a historic properties investigation was conducted over the proposed permit area. No sites were determined eligible for or listed on the National Register of Historic Places within the proposed permit area or affected area. No response was received from any other office.

b. Public Notice Coordination. The formal evaluation process began with publication of a 30-day public notice on 22 May 2013. The comment period for the public notice closed, on 24 June 2013. Copies of the public notice were forwarded to concerned Federal, State, and local agencies, organized groups, individuals and navigation districts. These entities included but are not limited to the following:

U.S. Fish and Wildlife Service (FWS)
National Marine Fisheries Service (NMFS)
Environmental Protection Agency (EPA)
U.S. Coast Guard (USCG)
Texas Commission on Environmental Quality (TCEQ)
Texas Parks and Wildlife Department (TPWD)
Texas Historical Commission (THC)
Texas Coastal Coordination Council (CCC)

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General Land Office (GLO)
National Ocean Survey, Atlantic Marine Center (NOS)
Galveston Bay Foundation (GBF)
Railroad Commission of Texas (RRC)
American Waterways Operators (AWO)
Adjacent Property Owners

c. Response to the Public Notice.

(1) Federal Agencies.

The NMFS responded by electronic mail, dated 30 May 2013, stating that they have reviewed the Department of Army permits application. The resources affected are not ones for which NMFS is responsible. Therefore, NMFS has no comment regarding the issuance of the permit.

No FWS comments were received.

No response was received from the EPA.

(2) Federally Recognized Native American Tribes and Affiliated Groups.

No response was received from any federally recognized Native American Tribes and/or affiliated groups.

(3) State and Local Agencies. Our Staff Archeologist stated the Texas Parks and Wildlife Department conducted a historic properties investigation of the proposed permit area. The results of the investigation are summarized in the technical report titled, *Archeological Survey of 50 acres at Galveston Islands State Park, Galveston County, Texas*, by Prewitt and Associates, Inc. and dated October 2012. No sites determined eligible for or listed on the National Register of Historic Places are within the proposed permit or affected area. The results of the investigation were coordinated with the Texas State Historic Preservation Officer, on 28 November 2012. Concurrence from the Texas State Historic Preservation Office was received on, 19 January 2012.

The applicant has stated that the proposed activity complies with Texas' approved Coastal Management Program (CMP) and will be conducted in a manner consistent with such program. The Texas CCC/GLO responded by letter, dated 3 December 2013, stating that it has been determined that there are no significant unresolved consistency issues with respect to the project; therefore, the project is consistent with the CMP goals and policies.

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(4) Individual and Organized Groups. Mr. Brant Mannchen, provided personal comments in a letter, dated 30 May 2013, requesting the Corps prepare an environmental assessment (EA) or an environmental impact statement (EIS). He stated concerns regarding development within the floodplain, alternative analysis, compensatory mitigation plan, and public interest review factors. In addition, he quoted information on Council on Environmental Quality (CEQ) documentation regarding NEPA regulations and cumulative impacts of proposals.

d. Applicant's Response to Comments. The comment letters received during the public notice comment period were forwarded to the applicant by letter, dated 1 July 2013. The applicant responded to the comments by letter, dated 1 August 2013. In response to Mr. Brant Mannchen's comments, dated 20 May 2013, the applicant stated they: will provide information to support an environmental assessment; they have designed the proposed project is in compliance with FEMA floodplain regulations and the project has been designed to maintain the natural hydrology of the site to the maximum extent practical; they will provided the Corps with the full alternative analysis will provided the Corps with a revised Mitigation Plan; and they have supplied information concerning the public interest review factors.

e. Corps's Consideration of Substantive Comments. The applicant responded to the Corps comments by providing additional information regarding the avoidance and minimization including pre-application and Joint Evaluation Meeting minutes, information on multi-agency field days, and a copy of the Master Plan created in 2012. The applicant also clarified the secondary wetland impacts, stating that the project included three types of secondary impacts including temporarily impacted, shaded by boardwalks, or the remaining areas of a wetland that had was to be partially impacted by the project. In addition, an updated mitigation plan that has the 12 required components, as described in 33 CFR 332, was provided. The Corps believes the applicant has adequately addressed all concerns raised during the public notice.

10. Compensation and Other Mitigation Actions.

a. Compensatory Mitigation.

(1) Is compensatory mitigation required? yes no

(2) Is the impact in the service area of an approved mitigation bank?
 yes no

(i) Does the mitigation bank have appropriate number and resource type of credits available? yes no

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- (3) Is the impact in the service area of an approved in-lieu fee program?
 yes no

(i) Does the in-lieu fee program have appropriate number and resource type of credits available? yes no

- (4) Check the selected compensatory mitigation option(s):

- mitigation bank credits
- in-lieu fee program credits
- permittee-responsible mitigation under a watershed approach
- permittee-responsible mitigation, on-site and in-kind
- permittee-responsible mitigation, off-site and out-of-kind

(5) If a selected compensatory mitigation option deviates from the order of the options presented in §332.3(b)(2)-(6), explain why the selected compensatory mitigation option is environmentally preferable. Address the criteria provided in §332.3(a)(1) (i.e., the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project): Following the hierarchy of compensatory mitigation options the applicant researched if an approved mitigation bank was available and discovered that there are no mitigation banks that have service areas or available credits that cover the project area. The applicant is also aware the Galveston District does not have an active in-lieu program available as a mitigation option. The applicant then developed a permittee responsible mitigation plan to create, enhance, and restore wetlands within the watershed.

- (6) Other Mitigation Actions. N/A

11. Determinations.

a. Public Hearing. No request to hold a public hearing for the proposed project was received during the public interest review. The applicant stated that during the preapplication stage, three public meetings for the proposed project were held, giving the public time and opportunity to comment.

b. Section 176(c) of the Clean Air Act General Conformity Rule Review. The proposed project has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined the activities proposed under this permit will not exceed *de minimis* levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR PART 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for this individual permit.

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c. Relevant Presidential Executive Orders.

(1) EO 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians. This is applicable because coordination with the appropriate Indian Tribes was initiated via the public notice dated 26 March 2013. No response was received.

(2) EO 11988, Floodplain Management. This is applicable because the project will be constructed within the floodplain of Galveston Bay/Gulf of Mexico. Although, 2.67 acres of land will be removed from the floodplain the project has been designed with elevated structures and incorporates a mitigation plan to maintain the natural hydrology of the site to the maximum extent practical.

(3) EO 12898, Environmental Justice. This is not applicable because there is no adverse human health or environmental effects from this project upon minority and low-income populations of the United States.

(4) EO 13112, Invasive Species. This is applicable because there are invasive species present within the project area. The construction methods for this proposed project will not introduce any new or additional invasive species within the project area. In addition, the mitigation plan contains invasive species eradication and monitoring.

(5) EO 13212 and 13302, Energy Supply and Availability. This is not applicable because the project is not an Energy Supply or Availability project.

d. The following Special Conditions will be Added to the Authorization.

1. The permittee must notify the Corps of Engineers Galveston District (Corps), Chief, Compliance Section, Galveston Regulatory Branch, in writing, at the start of construction within the jurisdictional area.
2. All construction of mitigation, including planting, must be complete within 18 months after start of construction within jurisdictional areas. Monitoring and maintenance will proceed according to the mitigation plan.
3. The mitigation success criteria, as indicated in the mitigation plan included in Attachment A must be achieved for the mitigation requirement to be considered complete.

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4. Should mitigation be determined to be unsuccessful by Corps personnel at the end of the monitoring period, the permittee will be required to take necessary corrective measures, as approved by the Corps. Once the corrective measures are completed, the permittee will notify the Corps and a determination will be made regarding success of the mitigation.

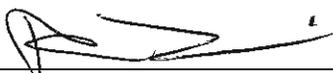
e. Findings of No Significant Impact. There have been no significant environmental effects identified resulting from the proposed work. The impact of this proposed activity on aspects affecting the quality of the human environment has been evaluated and it is determined that this action does not require an Environmental Impact Statement.

f. Compliance with 404(b)(1) guidelines. We have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application, as well as the stated views of other interested Federal and non-Federal agencies and the concerned public, relative to the proposed work in navigable waters of the United States. This evaluation is in accordance with the guidelines contained in 40 C.F.R. 230 pursuant to Section 404(b)(1) of the Clean Water Act. We have determined that the proposed discharge complies does comply with the 404(b)(1) guidelines.

g. Public Interest. We find that issuance of a Department of the Army permit is not contrary to the public interest.

FOR THE COMMANDER:

PREPARED BY:



Andria Davis
Regulatory Project Manager

Date: 12-6-13

REVIEWED/APPROVED BY:



Kristi N. McMillan
Leader, Central Evaluation Unit
Regulatory Branch, Galveston District

Date: 6 Dec 13