

## RECORD OF DECISION

### NEW YORK AND NEW JERSEY HARBOR NAVIGATION PROJECT (50')

I have reviewed the Feasibility Report and the Final Environmental Impact Statement (FEIS) for the New York and New Jersey Harbor Navigation Study, as well as correspondence received in response to coordination and public review of these documents. I find the project to be economically justified, in compliance with environmental statutes, and in the public interest. Thus, I approve the plan for construction.

The project was authorized for construction by Section 101(a)(2) of the Water Resources Development Act (WRDA) of 2000. The Feasibility Report and FEIS investigated both structural and nonstructural solutions to the problem of inadequate channel depth, and found that the recommended plan is environmentally acceptable and economically justified. This plan is the National Economic Development (NED) Plan and consists of deepening selected NY-NJ Harbor channels, which will provide containership access to the current and proposed container terminals. The following channels are recommended for deepening:

<b>Channel</b>	<b>Excavated Depth</b>	<b>Maintained Depth</b>	<b>Excavated Length</b>
Ambrose Channel	53 ft	53 ft	63,600 ft
Anchorage Channel	50 ft	50 ft	19,000 ft
Kill Van Kull	50 ft	50 ft	31,800 ft
Newark Bay	50 ft	50 ft	14,000 ft
Elizabeth Channel	50 ft	50 ft	8,800 ft
South Elizabeth Channel	50 ft	50 ft	2,700 ft
Arthur Kill (to Howland Hook)	50 ft	50 ft	14,400 ft
Port Jersey Channel	52 ft	50 ft	10,000 ft
Bay Ridge Channel	50 ft	50 ft	18,000 ft

In addition to a "no action" alternative, various alternatives are identified and assessed in Corps of Engineers reports (including the EIS). Nonstructural alternatives evaluated include use of shallow draft vessels, high water (high tide) transit, alternate cargo delivery sites, or alternative means of cargo delivery. None of the non-structural alternatives were found to accommodate the area's growing maritime traffic or to provide net benefits commensurate with those provided by the structural alternatives. Structural alternatives that were evaluated included the construction of a canal across Bayonne peninsula connecting Upper Bay with Newark Bay, an offshore island port, and the deepening of navigation channels, anchorages, and berthing areas. The various alternatives are described in the approved Feasibility Report and FEIS on the Study. The plan that has the greatest net benefits over costs without unacceptable environmental and social impacts was selected and recommended. The FEIS

identified the recommended plan, which is the NED plan, as the environmentally preferable alternative.

The DEIS was circulated for public review *for 45 days* in September 1999. Three Public Hearing Sessions were conducted during November 1999. All comments submitted were responded to in the FEIS dated December 1999. Additional comment letters were received on the FEIS, four of which identified unresolved resource agency concerns. The majority of the comments pertained to the economic evaluations performed to justify the project. Environmental concerns regarding air quality analyses identified by EPA were evaluated and commitments were made by USACE in the final Conditional Statement of Conformity (CSOC) to pursue additional studies during the Preconstruction, Engineering and Design (PED) phase of the project, to ensure implementation of technically feasible and cost-effective measures to reduce emissions and otherwise comply with appropriate air quality standards and affected State Implementation Plans (SIP's). Other environmental concerns pertained to mitigation requirements for project-related impacts to aquatic habitat and possible acceleration of the projected construction schedule. USACE reiterated its commitment to provide compensatory mitigation for all significant project-related impacts and to develop detailed mitigation plans during PED as well as undertake additional environmental studies, if necessary, for any significant changes to the projected construction schedule. All comments received formal responses on file with EPA Region 2, as part of the completion process for NEPA compliance. The results of all supplemental environmental studies will be appropriately coordinated with interested agencies and concerned public, pursuant to the National Environmental Policy Act.

All practicable means to avoid and/or minimize adverse environmental impacts are included in plan formulation and have been incorporated into the recommended plan. Mitigation for the recommended plan (described in the FEIS) addresses both ecological and cultural resources impacts and consists of compensatory littoral zone restoration and creation, as well as and intertidal wetlands restoration that may require monitoring to assess the success of the mitigation effort. Mitigation for impacts to significant cultural resources may include, but not be limited to, recordation of historic shipwrecks, analysis of borings for paleo-environmental data and the development of a GIS database.

Air quality analyses are ongoing to determine project-designated compliance with the Federal General Conformity regulation for severe ozone nonattainment areas and carbon monoxide nonattainment and maintenance areas (40 CFR 93.153), in the designated New York and New Jersey project areas. Preliminary evaluations suggest that emission thresholds will be exceeded by the recommended plan. The list of options to bring the plan into conformance with the NO<sub>x</sub> and CO standards prioritizes the utilization of emission reduction technologies, as practicable, with purchasing of available credits, project-generated emission accommodation in the states SIP's and operational modifications considered on an as needed basis. The approach of focusing on actual emission control, augmented by other measures as needed to achieve conformity, is outlined in the final CSOC, which was distributed for public review in local area newspapers during March 2002. USACE has established an air quality technical committee to evaluate and recommend measures to effectively and efficiently achieve conformity, and to establish a schedule and milestones for achieving that goal. If it is

ultimately determined that elements of the project cannot be constructed in compliance with the General Conformity Rule of the Clean Air Act, then the construction of those elements would not occur.

I have reviewed and evaluated documents concerning the proposed action; views of other interested agencies; and the various practicable means to avoid or minimize environmental harm from the construction of this project. Based on these considerations, I conclude that all practical means to avoid, or minimize adverse environmental effects have been incorporated into the recommended plan. The public interest will best be served by implementing the improvements evaluated in the Final Feasibility Report and FEIS, and as further developed and approved during PED.



ROBERT H. GRIFFIN  
Major General, USA  
Director of Civil Works

19 JUN 02

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Date