# HUDSON RIVER HABITAT RESTORATION

## ECOSYSTEM RESTORATION
## DRAFT INTEGRATED FEASIBILITY REPORT AND ENVIRONMENTAL ASSESSMENT

# Appendix J:
# Draft Finding of No Significant Impact

**U.S. ARMY CORPS OF ENGINEERS**
**NEW YORK DISTRICT**
**June 2019**

**FINDING OF NO SIGNIFICANT IMPACT**

**Hudson River Habitat Restoration Ecosystem Restoration Feasibility Study**
**Hudson River, New York**

The U.S. Army Corps of Engineers, New York District (Corps) has conducted an environmental analysis in accordance with the National Environmental Policy Act of 1969, as amended. The final Integrated Feasibility Report and Environmental Assessment (IFR/EA) dated **TBD**, for the Hudson River Habitat Restoration Ecosystem Restoration Feasibility Study addresses restoring a mosaic of interconnected, large river habitats, and restoring lost connectivity between the Hudson River and neighboring ecosystems opportunities and feasibility in the Hudson River, New York. The final recommendation is contained in the report of the Chief of Engineers, dated **TBD**.

The Final IFR/EA, incorporated herein by reference, evaluated various alternatives that would restore a mosaic of interconnected, large river habitats, and restoring lost connectivity between the Hudson River and neighboring ecosystems in the study area. The recommended plan is the National Ecosystem Restoration (NER) Plan and includes:

- Restoring and creating 148 acres of wetlands in the Hudson River corridor, restoring 38 acres of side channels, and reconnecting 17 miles of river habitat at 5 different sites**.**
    - Binnen Kill
        - North Alternative 4
            - Wetland restoration (43.8 acres)
            - Forested wetland creation (15.5 acres)
            - Emergent wetland creation (4.3 acres)
            - Emergent wetland restoration & channel creation (41.9 acres)
        - South Alternative 2
            - Side channel and tidal wetland corridor creation (27 acres)
            - Tidal wetland restoration (21.3 acres)
    - Schodack Island
        - North Alternative 2
            - Side channel and tidal wetland corridor (9.1 acres)
            - Tidal wetland restoration (19.8 acres)
    - Henry Hudson Park Alternative 1
        - Tidal wetland creation (3.6 acres)
        - Replacement of the eroding hardened shoreline with a vegetated rip/rap living shoreline
    - Rondout Creek Alternative 2
        - Eddyville Dam removal (9 miles of upstream habitat)
    - Moodna Creek (Collectively, 7.8 miles of upstream habitat)
        - AOP 1 Alternative 1
            - Utility pipe removal
        - AOP 2 Alternative 1
            - Firth Cliff Dam removal
        - AOP 3 Alternative 2
            - Orr's Mill Dam partial removal

In addition to a "no action" plan, 23 alternatives at 6 sites were evaluated.[1] The alternatives included:

- Binnen Kill
  - North Alternative 1
    - Wetland restoration (89.94 acres) and culvert crossing enlargement (0.27 acres).
  - North Alternative 2
    - Wetland restoration (43.77 acres), forested wetland creation (15.52 acres), emergent wetland creation (4.29 acres), emergent wetland restoration and channel creation (41.88 acres), and culvert crossing removal (0.27 acres).
  - Alternative 3
    - Wetland restoration (89.94 acres).
  - North Alternative 4
    - Wetland restoration (43.77 acres), forested wetland creation (15.52 acres), emergent wetland creation (4.29 acres), and emergent wetland restoration and channel creation (41.88 acres).
  - South Alternative 1
    - Wetland restoration (13.85 acres), tidal wetland restoration (7.47 acres), road crossing, and side channel and riparian corridor creation (14.85 acres).
  - South Alternative 2
    - Wetland restoration (13.85 acres), tidal wetland restoration (7.47 acres), road crossing, and side channel and riparian corridor creation (27.02 acres).
- Schodack Island
  - North Alternative 1
    - Tidal wetland restoration (17.49 acres), tidal wetland restoration and conversion to side channel connection (2.31 acres), road crossing, and side channel and tidal wetland corridor (9.09 acres).
  - North Alternative 2
    - Tidal wetland restoration (17.49 acres), tidal wetland restoration and conversion to side channel connection (2.31 acres), road crossing, and side channel and tidal wetland corridor creation (9.09 acres).
  - South Alternative 1
    - Side channel and riparian corridor creation (1.45 acres), road crossing, and tidal wetland restoration (2.77 acres).
  - South Alternative 2
    - Side channel and tidal wetland corridor creation (3.80 acres), road crossing, and tidal wetland restoration (2.77 acres).
  - Pocket Wetlands
    - Tidal wetland restoration/creation (9.47 acres) and non-tidal wetland restoration (1.48 acres).

[1] 40 CFR 1505.2(b) requires a summary of the alternatives considered.

- Henry Hudson Park
  - Alternative 1
    - Tidal wetland creation (3.77 acres) and vegetated riprap (0.43 acres).
  - Alternative 2
    - Tidal wetland creation (5.28 acres) and pocket wetland creation (0.09 acres).
- Charles Rider Park
  - Interstitial rock planting restoration (0.12 acres) and tidal wetland creation (0.99 acres).
- Rondout Creek
  - Alternative 1: Technical fishway.
  - Alternative 2: Dam removal.
  - Alternative 3: Dam notching.
- Moodna Creek
  - AOP 1 Alternative 1
    - Sewer pipe removal.
  - AOP 1 Alternative 2
    - Roughened rock ramp.
  - AOP 2 Alternative 1
    - Dam removal.
  - AOP 2 Alternative 2
    - Technical fishway.
  - AOP 3 Alternative 1
    - Dam removal.
  - AOP 3 Alternative 2
    - Partial dam removal.

These alternatives are further discussed in section 3.6 Alternatives Development of the FR/EA.

For all alternatives, the potential effects were evaluated, as appropriate. A summary assessment of the potential effects of the recommended plan are listed in Table 1:

**Table 1: Summary of Potential Effects of the Recommended Plan**

| | Insignificant effects | Insignificant effects as a result of mitigation* | Resource unaffected by action |
|---|---|---|---|
| Aesthetics | ☒ | ☐ | ☐ |
| Air quality | ☒ | ☐ | ☐ |
| Aquatic resources/wetlands | ☒ | ☐ | ☐ |
| Invasive species | ☒ | ☐ | ☐ |
| Fish and wildlife habitat | ☒ | ☐ | ☐ |
| Threatened/Endangered species/critical habitat | ☒ | ☐ | ☐ |
| Historic properties | ☒ | ☐ | ☐ |
| Other cultural resources | ☒ | ☐ | ☐ |
| Floodplains | ☒ | ☐ | ☐ |

| | Insignificant effects | Insignificant effects as a result of mitigation* | Resource unaffected by action |
|---|---|---|---|
| Hazardous, toxic & radioactive waste | ☒ | ☐ | ☐ |
| Hydrology | ☒ | ☐ | ☐ |
| Land use | ☒ | ☐ | ☐ |
| Navigation | ☐ | ☐ | ☒ |
| Noise levels | ☒ | ☐ | ☐ |
| Public infrastructure | ☒ | ☐ | ☐ |
| Socio-economics | ☒ | ☐ | ☐ |
| Environmental justice | ☐ | ☐ | ☒ |
| Soils | ☒ | ☐ | ☐ |
| Tribal trust resources | ☒ | ☐ | ☐ |
| Water quality | ☒ | ☐ | ☐ |
| Climate change | ☒ | ☐ | ☐ |

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the recommended plan. Best management practices (BMPs) as detailed in the IFR/EA will be implemented, if appropriate, to minimize impacts. [2] The use of silt curtains, adherence to sediment and erosion control plans, ultra-low sulfur diesel fuel for all construction-related vehicles and non-road construction equipment, speed limit reductions, water or other dust suppressant application, and regular vehicle rinsing would all be used as BMPs.

No compensatory mitigation is required as part of the recommended plan.

Public review of the draft IFR/EA and FONSI was completed on **TBD**. All comments submitted during the public review period were responded to in the Final IFR/EA and FONSI. A 30-day state and agency review of the Final IFR/EA was completed on **TBD**. **PICK OPTION BASED ON RESULTS OF STATE AND AGENCY REVIEW**.

Pursuant to section 7 of the Endangered Species Act of 1973, as amended, the U.S. Army Corps of Engineers determined that the recommended plan may affect but is not likely to adversely affect the following federally listed species or their designated critical habitat: Northern Long-eared Bat (*Myotis septentrionalis*), Indiana Bat (*Myotis sodalis*), Bog Turtle (*Clemmys muhlenbergii*), Dwarf Wedgemussel (*Alasmidonta heterodon*), Small Whorled Pogonia (*Isotria medeoloides*) Shortnose Sturgeon (*Acipenser brevirostrum*), and Atlantic Sturgeon (*Acipenser oxyrhynchus oxyrhynchus*). The U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) concurred with the Corps' determination on **TBD**.

Pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, the U.S. Army Corps of Engineers determined that historic properties may be adversely affected by the recommended plan. The Corps and the New York State Historic Preservation Office

[2] 40 CFR 1505.2(C) all practicable means to avoid and minimize environmental harm are adopted.

entered into a Programmatic Agreement (PA), dated **TBD.** All terms and conditions resulting from the agreement shall be implemented in order to minimize adverse impacts to historic properties.[3]

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Pursuant to the Clean Water Act of 1972, as amended, the discharge of dredged or fill material associated with the recommended plan has been found to be compliant with section 404(b)(1) Guidelines (40 CFR 230). The Clean Water Act Section 404(b)(1) Guidelines evaluation is found in Appendix G2 of the IFR/EA.

A water quality certification pursuant to section 401 of the Clean Water Act will be obtained from the New York State Department of Environmental Conservation prior to construction. In a letter dated **TBD**, the state of New York stated that the recommended plan appears to meet the requirements of the water quality certification, pending confirmation based on information to be developed during the pre-construction engineering and design phase. All conditions of the water quality certification will be implemented in order to minimize adverse impacts to water quality.

A determination of consistency with the state of New York Coastal Zone Management program pursuant to the Coastal Zone Management Act of 1972 will be obtained from the New York State Department of State prior to construction. In a letter dated **TBD**, the state of New York stated that the recommended plan appears to be consistent with state Coastal Zone Management plans, pending confirmation based on information to be developed during the pre-construction engineering and design phase. All conditions of the consistency determination shall be implemented in order to minimize adverse impacts to the coastal zone.

All applicable environmental laws have been considered and coordination with appropriate agencies and officials has been completed.

Technical, environmental, and cost effectiveness criteria used in the formulation of alternative plans were those specified in the Water Resources Council's 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies. All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives.[4] Based on this report, the reviews by other Federal, State and local agencies, Tribes, input of the public, and the review by my staff, it is my determination that the recommended plan would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.[5]

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[3] Required by 36 CFR 800.6(c)(3) meeting the terms and conditions of the MOA.

[4] 40 CFR 1505.2(B) requires identification of relevant factors including any essential to national policy which were balanced in the agency decision.

[5] 40 CFR 1508.13 stated the FONSI shall include an EA or a summary of it and shall note any other environmental documents related to it. If an assessment is included, the FONSI need not repeat any of the discussion in the assessment but may incorporate by reference.

Date

Thomas D. Asbery
Colonel, Corps of Engineers
District Commander