FEMA
FINDING OF NO SIGNIFICANT IMPACT
Stream and Shoreline Stabilization in New York and New Jersey

BACKGROUND

The Federal Emergency Management Agency (FEMA) makes federal assistance available to state, local, tribal, and territorial governments and certain private nonprofit entities under the Public Assistance and Hazard Mitigation Assistance Programs. These partners are FEMA's Recipients and Subrecipients. Public Assistance grants are used to repair or restore disaster-damaged facilities and may include mitigation measures along with repair in accordance with Section 406 of the Stafford Act. Hazard Mitigation Assistance encompasses several grant programs, including the Pre-Disaster Mitigation and Hazard Mitigation Programs, the latter known as 404 Mitigation. Stream work, shoreline stabilization, and stream bank stabilization are common components of response, recovery, mitigation, and resiliency projects in New York State and the State of New Jersey.

FEMA is required during decision making to evaluate and consider the environmental consequences of its federal actions, in accordance with The National Environmental Policy Act (NEPA; 42 U.S.C. §§ 4321–4327); the Council on Environmental Quality (CEQ) regulations implementing NEPA (Title 40 Code of Federal Regulations [CFR] §§ 1500–1508); Department of Homeland Security (DHS) Instruction Manual 023-01-001-01, Revision 01, Implementation of the National Environmental Policy Act; FEMA Directive 108-1: Environmental and Historic Preservation Responsibilities and Program requirements; and FEMA Instruction 108-1-1: Instruction on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program Requirements. The purpose of an Environmental Assessment is to analyze the potential environmental impacts of project alternatives including, a No Action alternative, and to determine whether to prepare an Environmental Impact Statement or a Finding of No Significant Impact (FONSI). A Programmatic Environmental Assessment (PEA) assesses environmental impacts of proposed policies, plans, programs, and groups of actions. The CEQ issued guidance for Effective Use of Programmatic NEPA Reviews in 2014.

If a project is consistent with the scope described in this PEA, but creates impacts not described; creates impacts greater in magnitude, extent, or duration than described; or requires mitigation measures to minimize impacts that have not been described in this PEA; then FEMA will prepare a Site-Specific Environmental Assessment (SSEA) that is tiered from this PEA. The SSEA will contain an appropriate level of analysis to determine the significance of impacts that exceed those described in this PEA.

PROJECT DESCRIPTION

November 2014, DHS published a Federal Register Notice changing FEMA's implementation of NEPA to align with other DHS components which were fully implemented in August 2016. As a result of administrative changes in FEMA's implementation of NEPA, FEMA observed that multiple otherwise routine actions would now require EAs under more narrow definitions. FEMA sampled 215 Public Assistance and Hazard Mitigation Assistance projects incorporating stream restoration, stream bank stabilization, and shoreline stabilization from the last decade in New York and New Jersey. Public Assistance projects accounted for 196 of these, and the remaining 19 were Hazard Mitigation Assistance projects. This sampling provided an example of the range of project scopes, dimensions, and project locations in these states, but there is not a "typical" embankment project. Embankments are damaged and

require repair in urban, rural, coastal, mountainous, flat, inland, and agricultural areas. Some repair pre-existing structures; others restore natural embankments using new materials. The majority of non-coastal projects are adjacent to roads.

FEMA surveyed the NEPA categorical exclusions of other Federal Agencies for comparison of thresholds associated with ground disturbance, streambank, and coastal actions. FEMA also considered thresholds for levels of review in New York State's State Environmental Quality Review Act and New Jersey's State Executive Order 215.

SUMMARY OF POTENTIAL IMPACTS AND MITIGATION

FEMA evaluated five types of common actions in recovery, mitigation, and resiliency project scopes: no action, return to pre-disaster function and form, bioengineering methodologies, in-stream structures, loose stone or rip rap stabilization, and rigid or semi-rigid armoring. FEMA limited the scale of the evaluation to no more than one linear mile and no more than five acres of ground disturbance for all actions except bulkheads. These actions are limited to 1,000 linear feet aligning to U.S. Army Corps of Engineers permitting thresholds. FEMA will continue to consult with regulatory and consulting partners according to established practice for projects submitted for consideration under this PEA.

All action alternatives would have short-term, mostly minor but in some cases up to moderate impacts to resources during construction activities and until all aspects of the stabilization are complete. Moderate impacts are measurable locally or regionally, positive or negative, and where negative, impacts would be limited with mitigation measures and conformance with applicable permits. FEMA expects bioengineering techniques to have the greatest amount of positive long-term impacts of the alternatives but may not be practicable in all locations. In-stream structures also had positive long-term impacts followed by limited positive impacts for return to pre-disaster condition.

Mitigation measures include but are not limited to; following permit conditions, limiting excavation and vegetative clearing to just the amount needed to stabilize the site, replanting disturbed soils with native vegetation, using sedimentation controls, installing structural elements landward of the ordinary high water mark, and using clean and well maintained equipment.

PUBLIC INVOLVEMENT

The PEA was made available for agency and public review and comment for a period of 30 days concluding on December 10, 2020. The public process included information about the actions in a public notice distributed electronically by FEMA to counties throughout both states. Additionally, the public notice and this PEA were posted on the New Jersey Office of Emergency Management website at https://njemgrants.org/; and FEMA coordinated with the New York Department of Environmental Conservation Shoreline Stabilization to include a link on their website at https://www.dec.ny.gov/permits/50534.html; the PEA was also available on FEMA's website for download at https://www.fema.gov/resource-document-library and at https://www.fema.gov/emergency-managers/practitioners/environmental-historic/region/2.

This PEA reflects the evaluation and assessment of the federal government, the decision maker for the federal actions, taking into consideration any substantive comments received during the public review period to inform the final decision regarding grant approval and project implementation. The public was invited to submit written comments by emailing FEMAR2COMMENT@fema.dhs.gov or by mail to Department of Homeland Security, FEMA Region II, Attn: Environmental Planning and Historic Preservation, 26 Federal Plaza, New York, NY, 10278.

PERMITS & PROJECT CONDITIONS

The Subrecipients are responsible for obtaining all applicable federal, state, and local permits and other authorizations prior to construction and to adhere to permit conditions for project implementation. Subrecipients are responsible for providing copies of permits to the Recipients and FEMA prior to project closeout and should do so upon obtaining them. Any substantive change to the approved scope of work will require reevaluation by FEMA for compliance with NEPA, other laws, and Executive Orders.

The Subrecipients must also adhere to project-specific conditions as documented during project implementation and observe the below conservation recommendations. FEMA expects the following conditions are applicable to all project scopes of work covered by this PEA. Failure to comply with grant conditions may jeopardize federal funds:

1. The Subrecipients are responsible for completing state and local environmental and land-use reviews in accordance with state and local regulations.
2. Excavated soil and waste materials must be managed and disposed of in accordance with applicable federal, state, and local regulations. In the event of discovery of soil or water contaminants exceeding reportable levels, the Subrecipient and its construction contractor(s) will follow applicable federal, state, and local protocol to report and respond to the contaminants.
3. The work may be authorized by U.S. Army Corps of Engineers permits. The Subrecipient is responsible for obtaining all necessary permits and complying with all conditions of the permit including but not limited to notification and signature requirements to insure validation of permits.
4. The Subrecipients may be required to obtain a New York State Pollution Discharge Elimination System or New Jersey Pollution Discharge Elimination System permit prior to construction.
5. Subrecipients must comply with any requirements and avoidance measures pursuant to Section 7 of the Endangered Species Act. If protected species are observed during construction, activities that could result in harm or disturbance must stop immediately and the Subrecipient must notify the Recipient and FEMA. U.S. Fish and Wildlife or National Marine Fishery Service may require FEMA to conduct additional consultation.
6. The Subrecipients must follow the conditions resulting from consultation with the State Historic Preservation Office and Tribal Nations. If unexpected archaeological resources are encountered during construction, the Subrecipient must stop work and notify the Recipient and FEMA. FEMA will determine what additional consultation with the State Historic Preservation Office and the Tribal Nations are required, and what additional conditions or avoidance measures may apply.
7. FEMA recommends that the Subrecipients restore disturbed construction areas of the site with native seed and/or plant species to minimize soil erosion and sedimentation, as well as enhance environmental habitat quality of project area. FEMA also recommends that disturbed soil areas be

planted as soon as practicable after exposure to avoid or minimize growth of undesired and potentially invasive plant species. Local landscape plant nurseries and soil conservation offices can assist with identification of suitable native plants for site location and type.

FINDINGS

FEMA received no comments from the public during the comment period and only one comment from agency partners from the United States Environmental Protection Agency concurring with FEMA's evaluation. In accordance with NEPA and the FEMA Directive and Instruction, FEMA has determined that the evaluated actions will have no significant adverse impact on the quality of the human environment. As a result of this FONSI, an Environmental Impact Statement will not be prepared, and the actions as described in the PEA may proceed. This FONSI serves as the final public notice for the proposed project.

APPROVED BY:

JOHN J MCKEE
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John J. McKee
FEMA Region-II Environmental Officer

Date:
8 January 2021

SIGNED FOR AWARENESS BY:

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Claude Hyacinthe
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Date:

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