

APPENDIX A

TO  
CASE DOCUMENT  
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EVALUATION FOR  
COMPLIANCE WITH SECTION 404(B)(1) GUIDELINES  
OF THE CLEAN WATER ACT

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PART 230 OF TITLE 40 OF  
THE CODE OF FEDERAL REGULATIONS  
(40 CFR)

**PART I  
INTRODUCTION**

This appendix evaluates compliance with the Section 404(b)(1) Guidelines of the Clean Water Act (Guidelines). The goal of the Guidelines is “to restore and maintain, the chemical, physical, and biological integrity of waters of the United States (waters of the US) through the control of discharges of dredged or fill material.” The regulations set forth in 40 CFR Section 230 are the substantive criteria issued by the US Environment Protection Agency (USEPA), used in evaluating discharges of dredged or fill material in to waters of the US. The Guidelines provide regulations outlining measures to avoid, minimize and compensate for impacts. For any permit to be issued under Section 404 of the Clean Water Act, the proposed action must address all relevant portions of the Guidelines.

- A. Proposed Project.**
- B. Applicant’s Purpose and Need Statement.**
- C. Basic Project Purpose.**
- D. Water Dependency.**
- E. Overall Project Purpose.**
- F. Geographic Area of Review for Alternative Project Sites.**
- G. Selection of Alternative Project Sites.**
  - 1. Site Selection Screening Criteria.
  - 2. Summary of Alternative Sites Screened for Practicability.

Table 1. Example Summary Table for Site Screening Selection Criteria

<b>Site Screening Selection Criteria</b>	<b>Applicant’s Preferred</b>	<b>Alt 1</b>	<b>Alt 2</b>	<b>Alt 3</b>	<b>Alt 4</b>	<b>Alt 5</b>	<b>Alt 6</b>
<b>Practicable Site</b>							

- G. Regulatory Guidance Letter (RGL) 93-02.**

**PART II**  
**PROPOSED ACTION and ALTERNATIVES**  
**[40 CFR SECTION 230.10(a)]**

In this section, the proposed action, along with different alternatives, are presented and analyzed to identify the least environmentally damaging practicable alternative pursuant to 40 CFR 230.7(b)(1). The purpose of the below analysis is to ensure that “no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem.”

**A. Factors Used to Analyze Practicable Alternatives:**

1. Environmental Factors.
2. Other Factors.

**B. Proposed Action or Applicant’s Preferred Alternative,**

**C. No Action Alternative.**

**D. Off-Site Alternatives.**

**E. Summary of Alternatives Analysis.**

1. Comparative Analysis of Alternatives
2. Summary Table of the Alternatives Analysis

<b>FACTORS</b>	<b>No Action Alternative</b>	<b>Applicant’s Preferred</b>	<b>Alternative 1</b>	<b>Alternative 2</b>
<b>Environmental Factors</b>				
<b>Other Factors</b>				
<b>LEDPA</b>				



2. Suspended Particulates/Turbidity (40 CFR Section 230.21). Discussion.

**FINDINGS:**     **No Effect**                                     **Negligible**                                     **Major (Significant)**  
                                   **Short Term Minor**                                     **Long Term Minor**

3. Water (40 CFR Section 230.22). Discussion:

**FINDINGS:**     **No Effect**                                     **Negligible**                                     **Major (Significant)**  
                                   **Short Term Minor**                                     **Long Term Minor**

4. Currents Patterns & Water Circulation (40 CFR Section 230.23). Discussion.

**FINDINGS:**     **No Effect**                                     **Negligible**                                     **Major (Significant)**  
                                   **Short Term Minor**                                     **Long Term Minor**

5. Normal Water Fluctuations (40 CFR Section 230.24). Discussion.

**FINDINGS:**     **No Effect**                                     **Negligible**                                     **Major (Significant)**  
                                   **Short Term Minor**                                     **Long Term Minor**

6. Salinity Gradients (40 CFR Section 230.25). Discussion:

**FINDINGS:**     **No Effect**                                     **Negligible**                                     **Major (Significant)**  
                                   **Short Term Minor**                                     **Long Term Minor**

**B. Subpart D - Potential Effects on Biological Characteristics of the Aquatic Ecosystem.**

1. Threatened or Endangered Species (40 CFR Section 230.30). Discussion.

**FINDINGS:**     **No Effect**                                     **May Effect Not Likely to Adversely Effect**  
                                   **Adverse Effect**                                     **Jeopardy**

2. Fish, Crustaceans, Mollusks, and Other Aquatic Organisms in Food Web (40 CFR Section 230.31). Discussion.

**FINDINGS:**     **No Effect**                                     **Negligible**                                     **Major (Significant)**  
                                   **Short Term Minor**                                     **Long Term Minor**

3. Other Wildlife (40 CFR Section 230.32). Discussion.

**FINDINGS:**     **No Effect**                                     **Negligible**                                     **Major (Significant)**  
                                   **Short Term Minor**                                     **Long Term Minor**

**C. Subpart E - Potential Effects on Special Aquatic Sites.**



4. Aesthetics (40 CFR Section 230.53). Discussion.

**FINDINGS:**    **No Effect**                       **Negligible**                       **Major (Significant)**  
                     **Short Term Minor**                       **Long Term Minor**

5. Parks, National and Historical Monuments, National Seashores, Wilderness Areas, Research Sites and Similar Preserves (40 CFR Section 230.54). Discussion.

**FINDINGS:**    **No Effect**                       **Negligible**                       **Major (Significant)**  
                     **Short Term Minor**                       **Long Term Minor**

**For Cultural Resources Subject to Section 106 of the National Historic Preservation Act:**

**FINDINGS:**    **No Effect**                       **No Adverse Effect**                       **Adverse Effect**

**E. Subpart G - Evaluation and Testing.**

1. General Evaluation of Dredged or Fill Material (40 CFR Section 230.60). Discussion.

2. Chemical, Biological, and Physical Evaluation and Testing (40 CFR Section 230.61). Discussion.

**PART VI**  
**SUBPART H - ACTIONS TO MINIMIZE ADVERSE EFFECTS**

Any draft permit issued for this project would include numerous general and special permit conditions addressing specific actions necessary to insure minimization of adverse project related impacts to the categories discussed in this part. See Part III.B.2. of this document for a list of special permit conditions designed to minimize unavoidable impacts to aquatic resources and thereby, reduce potential project related losses in aquatic function. See Part III.C.5. of this document for special permit conditions designed to insure that the permittee completes the compensatory mitigation necessary to offset the loss in aquatic function that would result from unavoidable project related impacts. A listing of all proposed special permit conditions is located at Part V, D of the Case Document and Environmental Assessment.

**PART VII**  
**DETERMINATION OF CUMULATIVE EFFECTS ON THE AQUATIC ECOSYSTEM**  
**[40 CFR Section 230.11(g)]**

According to Title 40 Code of Federal Regulation Parts 1508.7, cumulative impacts are the impacts on the environment that result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Based on an analysis of all available information, the USACE has determined that the proposed project would not result in a significant impact on the

environment; considering the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. A detailed cumulative impacts assessment for this action is located at Part IV.E of the Case Document and Environmental Assessment.

**PART VIII**  
**DETERMINATION OF SECONDARY EFFECTS ON THE AQUATIC ECOSYSTEM**  
**[40 CFR Section 230.11(h)]**

The project was reviewed for potential secondary/indirect impacts such as those associated with utility relocation, satellite development and new infrastructure needs, etc. There would be the need for construction of a new power line from the project site, to the nearby existing Georgia Integrated Transmission System. Construction of this utility line may require impacts to waters of the US. Based on the information available, such impacts would include vegetation change, wildlife change, and a change to water quality; with such impact being negligible. No other known secondary/indirect impacts exist other than what is documented as a direct or cumulative impact in Part III. F of the Case Document and Environmental Assessment.

**PART IX**  
**FINDINGS**

**A. Status of other authorizations and legal requirements.**

1. Water Quality Certification.
2. Coastal Zone Management Consistency Determination.
3. Compliance with Section 106 of the National Historic Preservation Act.
4. Compliance with the Endangered Species Act.
5. Compliance with Clean Air Act.
6. Other State and/or local authorizations.

**B. Evaluation of Compliance with 404(b)(1) guidelines (restrictions on discharge, 40 CFR 230.10). (A check in a block denoted by an asterisk indicates that the project does not comply with the guidelines).**

1. Alternatives test:

               
Yes    No

(a) Based on the discussion in Part II, are there available, practicable alternatives having less adverse impact on the aquatic ecosystem and without **other** significant adverse environmental consequences that do not involve discharges into "waters of the US" or at other locations within these waters?

Yes No (b) Based on the discussion in Part II, if the project is in a special aquatic site and is not water-dependent, has the applicant clearly demonstrated that there are no practicable alternative sites available?

2. Special restrictions: Will the discharge:

Yes No (a) Violate state water quality standards? [Note: Section 401 Water Quality Certification has been issued by Georgia EPD. ]

Yes No (b) Violate toxic effluent standards (under Section 307 of the Act)?

Yes No (c) Jeopardize endangered or threatened species or their critical habitat?

Yes No (d) Violate standards set by the Department of Commerce to protect marine sanctuaries?

Yes No (e) Evaluation of the information in Parts III – VIII indicates that the proposed discharge material meets testing exclusion criteria for the following reason(s).

( ) based on the above information, the material is not a carrier of contaminants

( ) the levels of contamination are substantially similar at the extraction and disposal sites and the discharge is not likely to result in degradation of the disposal site and pollutants will not be transported to less contaminated areas

( ) acceptable constraints are available and will be implemented to reduce contamination to acceptable levels within the disposal site and prevent contaminants from being transported beyond the boundaries of the disposal site

3. Other restrictions: Will the discharge contribute to significant degradation of "waters of the US" through adverse impacts to:

Yes No (a) Human health or welfare, through pollution of municipal water supplies, fish, shellfish, wildlife and special aquatic sites?

Yes No (b) Life states of aquatic life and other wildlife?

Yes No (c) Diversity, productivity and stability of the aquatic ecosystem, such as the loss of fish or wildlife habitat, or loss of the capacity of wetland to assimilate nutrients, purify water or reduce wave energy?

\_\_\_\_\_  
Yes No

(d) Recreational, aesthetic and economic values?

4. Actions to minimize potential adverse impacts (mitigation): Will all appropriate and practicable steps (40 CFR 23.70-77) be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem? If yes, measures are in Part III.

\_\_\_\_\_  
Yes No

**D. Findings of Compliance or Non-compliance with the Restrictions on Discharge (40 CFR Section 230.12)**

( ) The discharge complies with the guidelines. The proposed project is the least environmentally damaging practicable alternative (LEDPA).

( ) All of the appropriate and practicable conditions are listed in Parts III.A and B to mitigate pollution or adverse effects to the affected ecosystem. These conditions have been included as part of the proposed action or will be required by special conditions of the permit. This revised and/or conditioned project is the LEDPA.

( ) The discharge fails to comply with the requirements of these guidelines because:

( ) There is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem and that alternative does not have other significant adverse environmental consequences.

( ) The proposed discharge will result in significant degradation of the aquatic ecosystem under 40 CFR 230.10(b) or (c).

( ) The discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem, namely...

( ) There is not sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with the guidelines.

**PART X  
SUMMARY AND CONCLUSION**

A. The discharge represents the least environmentally damaging, practicable alternative. In addition, adverse impacts on the aquatic environment (including wetland functions and values) by this project would be compensated for by the proposed mitigation.

B. The discharge does not cause or contribute to violation of any applicable state water quality

standard, does not violate any applicable toxic effluent standard, does not impact any endangered or threatened species or marine sanctuary.

C. The discharge does not cause or contribute to significant degradation of the waters of the US.

D. All appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem.

E. The proposed discharge, with the standard conditions placed on Department of the Army permits and other special conditions [found at Part V.D of the case document] would comply with the guidelines promulgated by the Administrator of the USEPA pursuant to Section 404(b) of the Clean Water Act.

## **PART XI EVALUATION RESPONSIBILITY**

PREPARED BY:

REVIEWED BY:

APPROVED BY: