

APPENDIX E

SECTION 404 (B) (1) EVALUATION OF DREDGE AND FILL MATERIAL

**SECTION 404 (B) (1)
EVALUATION**

FOR

**NOYES CUT SECTION 1135
ECOSYSTEM RESTORATION STUDY
CAMDEN COUNTY, GEORGIA**

OCTOBER 2017

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SECTION 404(B) (1) EVALUATION OF DREDGE AND FILL MATERIAL

NOYES CUT SECTION 1135 ECOSYSTEM STUDY CAMDEN COUNTY, GEORGIA

1.0 INTRODUCTION

The following evaluation is prepared in accordance with Section 404(b)(1) of the Clean Water Act of 1977 to evaluate the environmental effects of the proposed placement of dredged or fill material in waters of the United States. Specific portions of the regulations are cited and an explanation of the regulation is given as it pertains to the project. These guidelines can be found in Title 40, Part 230 of the Code of Federal Regulations.

2.0 PROPOSED ACTION AND ENVIRONMENTAL SETTING

2.1 ENVIRONMENTAL SETTING

The study area is located in southern Georgia, just south of the town of Brunswick, Georgia, and includes Noyes Cut, Dover and Umbrella Creeks, as part of the lower Satilla River estuary (Figure 1). Dover and Umbrella Creeks are meandering tidal channels generally running parallel to the Satilla River. The Satilla River (along with salt marshes, hammocks, sand bars, and mud flats) combine to make up the northern portion of the St. Andrews Sound estuary. Tidal marshes and creeks are some of the most ecologically productive ecosystems providing critical habitat for fish and shellfish of commercial and recreational importance. Tidal marshes also provide a rich food source for both resident and migratory birds including osprey and eagles and they are used for many traditional, low impact recreational activities.

The lands adjacent to Dover and Umbrella Creeks are sparsely populated with some residential developments along the creeks that include Dover Bluff Community, Piney Bluff Community, and River Marsh Landing.

More information can be found in the Integrated Feasibility Report and Environmental Assessment entitled “Noyes Cut Section 1135 Ecosystem Restoration Study Satilla River Basin, Georgia” and herein incorporated by reference.

2.2 PROPOSED ACTION

2.2.1 General Description

To achieve the project goals, the Tentatively Selected Plan (TSP) will alter the hydrodynamic environment, which will in turn restore salinity gradients, reduce local sedimentation issues, and increase connectivity for local biota. The TSP results in closing a combination of man-made cuts [e.g., Noyes, Old River Run (ORR) near Bull Whirl Cut, Dynamite] to alter tidal exchange in Dover and Umbrella Creeks (Figure 1).

Closing cuts is anticipated to restore historic conditions of salinity regimes and increase connectivity for local fauna into the upper reaches of Dover and Umbrella Creeks.

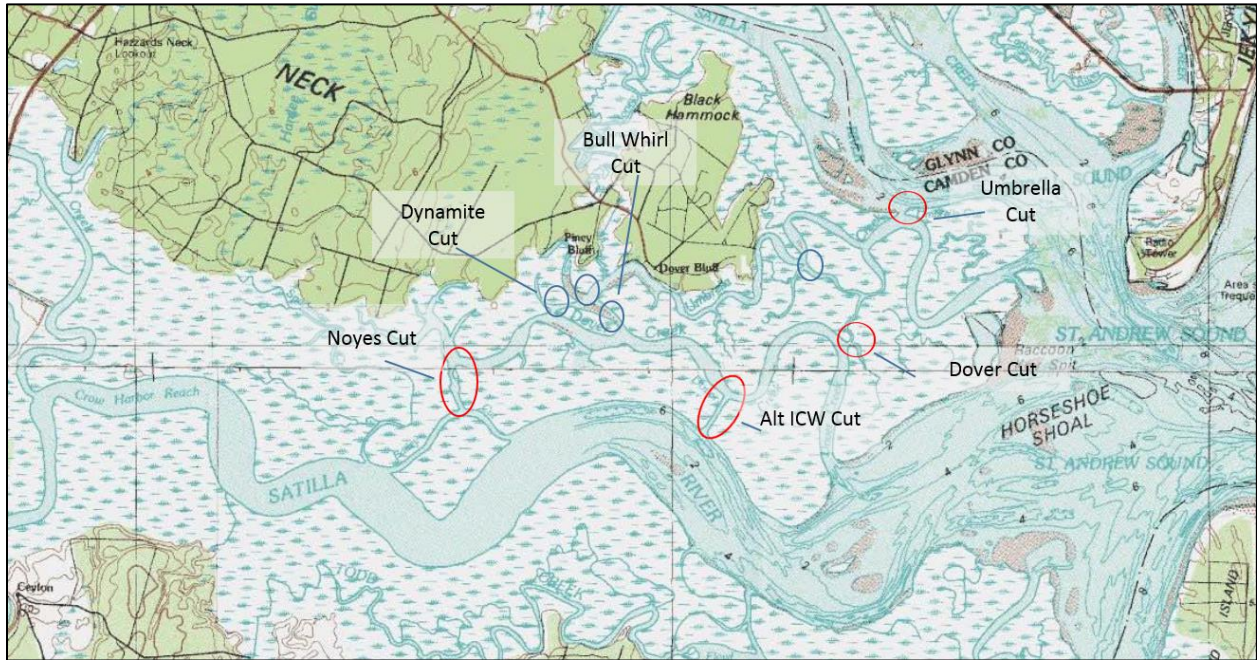


Figure 1 - Satilla River estuary with series of navigation cuts. Congress authorized cuts depicted in red. Blue cuts were created by local citizens.

Action alternatives would increase flow to upstream areas of Dover and Umbrella Creeks and consequently, would be expected to convert brackish water to a more freshwater system in the upper reaches of these creeks. This conversion would restore the hydrologic/salinity regime closer to historical levels. The upper reaches of these creeks contain traditional historic spawning grounds for many species of anadromous fish.

Since the action alternatives involve restoring natural circulation patterns by closing man-made cuts, overall impacts are expected to be beneficial on an individual project and cumulative effects basis.

Description of Actions Subject to Section 404 of Clean Water Act

To achieve the project goals, the TSP would alter the hydrodynamic environment by closing man-made cuts (Noyes Cut, Dynamite Cut, and ORR) detailed below.

1) Noyes Cut is approximately 3100 feet long and 500 feet wide. The Noyes Cut closure structure would consist of the following:

Sheet Pile End Walls	Materials	6.56 Tons
Sheet Pile End Walls	Installation	604 SF Wall
Bedding Stone		1200 Tons
Rip Rap, GDOT Type 1		4800 Tons

Closure of this cut would result in the filling of 0.64 acres of open water (waters of the U.S.) and 0.12 acres of *Spartina alterniflora* salt marsh (Jurisdictional Wetlands). After installation of the closure, Noyes Cut would be expected to fill in with wetland habitat from natural processes of sedimentation and regeneration of wetland vegetation. This process of natural restoration of tidal salt marsh is expected to offset the loss of the wetlands from the closure structures over the 50-year period of analysis.

2) ORR is approximately feet 3000 feet long and 30 feet wide. The ORR closure structure would consist of the following:

Sheet Pile End Walls	Materials	6.56 Tons
Sheet Pile End Walls	Installation	604 SF Wall
Bedding Stone		320 Tons
Rip Rap (GDOT Type 1)		1100 Tons

Closure of this cut would result in the filling of 0.04 acres of open water (waters of the U.S.) and 0.02 acres of *Spartina alterniflora* salt marsh (Jurisdictional Wetlands). After installation of the closure, ORR would be expected to fill in with wetland habitat from natural processes of sedimentation and regeneration of wetland vegetation. This process of natural restoration of tidal salt marsh is expected to offset the loss of the wetlands from the closure structures over the 50-year period of analysis.

3) Dynamite Cut is approximately 350 feet long and 250 feet wide. The Dynamite Cut closure structure would consist of the following:

Sheet Pile End Walls	Materials	6.56 Tons
Sheet Pile End Walls	Installation	604 SF Wall
Bedding Stone		1030 Tons
Rip Rap, GDOT Type 1		4140 Tons

Closure of this cut would result in the filling of 0.19 acres of open water (waters of the U.S.) and 0.07 acres of *Spartina alterniflora* salt marsh (Jurisdictional Wetlands). After installation of the closure, Dynamite Cut would be expected to fill in with wetland habitat from natural processes of sedimentation and regeneration of wetland vegetation. This process of natural restoration of tidal salt marsh is expected to offset the loss of the wetlands from the closure structures over the 50-year period of analysis.

The natural conversion to tidal salt marsh around the closure structures would displace an equal amount of open water, which is of lower value from a scarcity perspective. This conversion to tidal salt marsh within man-made cuts would restore the area closer to historical conditions. More detail regarding adverse and beneficial impacts to wetlands and jurisdictional waters of the US may be found in the integrated report.

Summary: The closure of the three man-made cuts in the TSP would result in the loss of a total of 0.87 acres of jurisdictional waters of the U.S.; and the loss of a total of 0.21 acres of jurisdictional wetlands [*Spartina* salt marsh]. However, these adverse impact

would be expected to be nullified by the restoration of salt marsh habitat within the cuts. The tidal salt marsh restored would displace an equal amount of open water, which is of lower value from a scarcity and ecological perspective. As illustrated by the photographs of New Cut (in Savannah Harbor) in Section 4.4 "Wetland Impacts" of the integrated report, Noyes Cut and ORR may eventually fill in with wetland habitat from natural processes of sedimentation and regeneration of wetland vegetation.

New Cut (in Savannah Harbor) has completely filled due partially to the deposition of fill material and partially due to the natural processes of sedimentation and regeneration of wetland vegetation. All three of the cuts in the TSP that would be closed are also expected to at least partially fill with wetland habitat from natural processes of sedimentation and regeneration of wetland vegetation.

Threatened, Endangered and other Listed Species

Savannah District has been coordinating the study with the US Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) to obtain their opinions on the potential for impacts to Federally Protected Species. Species protected under the Endangered Species Act are addressed in the integrated report in more detail. This project "May affect but is not likely to adversely affect" any listed species. The TSP is expected to benefit some of these species.

3.0 SUBPART B - COMPLIANCE WITH THE GUIDELINES

The following objectives should be considered in making a determination of any proposed discharge of dredged or fill material into waters of the U.S.

3.1 RESTRICTIONS ON DISCHARGE - (SECTION 230.10)

"(a) except as provided under Section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practical alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences."

No other practicable alternative with less environment impacts on the aquatic ecosystem has been identified. The proposed closures of man-made cuts are designed to restore aquatic habitat and the overall ecosystem. Modeling determined that the TSP would provide more benefits to the ecosystem than all other alternatives.

"(b) Discharge of dredged material shall not be permitted if it;"

"(1) Causes or contributes, after consideration of disposal dilution and dispersions, to violations of any applicable state water quality standard;"

"(2) Violates any applicable toxic effluent standard or prohibition under Section 370 of the Clean Water Act."

Fill material requirements for the project's closure of man-made cuts would come from clean sources (e.g. rock and sheet pile).

"(3) Jeopardizes the continued existence of species listed as endangered and threatened under the Endangered Species Act of 1973, as amended."

Manatees may move through the study area in the summer months. The potential for adverse impacts to this species would be limited to short term impacts during construction activities associated with the closure structures. The USFWS requires standard construction procedures [if construction activities are performed outside winter months of [December thru March] designed to protect the manatee. These construction procedures for mitigation of potential impacts to manatees will be part of the contractor specifications and must be followed on the project site by the contractors at all times. Construction contractor specifications will include the standard manatee construction limitations provided by the USFWS.

This project "May affect but is not likely to adversely affect" any listed species. The proposed action is expected to benefit some of these species after project implementation. Species protected under the Endangered Species Act are addressed in the integrated report in more detail.

"(4) Violates any requirements imposed by the Secretary of Commerce to protect any marine sanctuary designated under Title III of the Marine Protection Research and Sanctuaries Act of 1972."

No marine sanctuary or other items addressed under this Act would be affected by the proposed work.

"(c) Except as provided under Section 404(b)(2), no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States. Findings of significant degradation related to the proposed discharge shall be based upon appropriate factual determinations, evaluations, and tests required by Subparts B and G of the consideration of Subparts C-F with special emphasis on the persistence and permanence of the effects contributing to significant degradation considered individually or collectively include:"

"(1) Significantly adverse effects of the discharge of pollutants on human health or welfare including, but not limited to effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites."

The proposed work is expected to improve water quality and conservation by restoring the hydrologic regime. Therefore, this project is expected to have a beneficial effect on fish, shellfish, wildlife, and special aquatic sites; and may have a beneficial effect on plankton.

"(2) Significantly adverse effects of the discharge of pollutants on life stages of aquatic life and other wildlife dependent upon aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their by-products outside the disposal site through biological, physical, and chemical processes."

There would be little potential for the spread of pollutants since the fill material for cut closures consists of rock and sheet pile. During installation of these closure structures, turbidity booms would be used to reduce turbidity and sediment loss during construction of the closures.

Pollutants from existing sediments being disturbed during construction activities are not expected. Historical land use does not warrant sediment testing for contaminants.

"(3) Significantly adverse effects of the discharge of pollutants on aquatic ecosystems diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy; or"

"(4) Significantly adverse effects of the discharge of pollutants on recreational, aesthetic, and economic values."

The proposed action would not have potential to produce adverse effects on recreational, aesthetic, or economic values from the discharge of pollutants.

"(d) Except as provided under Section 404(b)(2), no discharge of dredged or fill material shall be permitted unless appropriate and practical steps have been taken which will minimize the potential adverse impacts of the discharge on the aquatic ecosystem."

As designed (see description under proposed action), the TSP would have negligible and temporary impacts during construction of the closures. The beneficial impacts to the aquatic ecosystem would be substantial and long term. All practical measures will be implemented to minimize the adverse impacts during construction activities.

3.2 FACTUAL DETERMINATION. - (SECTION 230.11)

3.2.1 Physical Substrate Determinations

Consideration shall be given to the similarity in particle size, shape, and degree of compaction of the material proposed for discharge and the material constituting the substrate at the disposal site and any potential changes in substrate elevation and bottom contours.

Fill material requirements for the project's closure of man-made cuts would come from clean sources (e.g. rock and sheet pile). After installation of the closure, the cuts would be expected to fill in with wetland habitat from natural processes of sedimentation and

regeneration of wetland vegetation. The natural conversion to tidal salt marsh around the closure structures would displace an equal amount of open water, which is of lower value from a scarcity perspective. This conversion to tidal salt marsh within man-made cuts would restore the area closer to historical conditions.

Possible loss of environmental values

No losses of environmental value are expected and the features in the project design are designed to improve environmental values of the project area.

Actions to minimize impacts

Due to the nature of the proposed action (ecosystem restoration), no other actions to minimize adverse impacts to the physical substrate are deemed appropriate. This project is expected to result in improvements to the ecosystem.

3.2.2 Water Circulation, Fluctuations, and Salinity Determinations

Consideration shall be given to water chemistry, salinity, clarity, color, odor, taste, dissolved gas levels, temperature, nutrients, and eutrophication plus other appropriate characteristics. Also to be considered are the potential diversion or obstruction of flow, alterations of bottom contours, or other significant changes in the hydrologic regime. Changing the velocity of water flow can result in adverse changes in location, structure, and dynamics of aquatic communities, shoreline erosion and deposition, mixing rates and stratification, and normal water-level fluctuation patterns. These effects can alter or destroy aquatic communities.

The proposed closure of three man-made cuts would substantially alter water circulation patterns. These alterations would restore tidal flows to patterns that existed in the 1930's. As designed, the TSP is expected to restore aquatic habitat for a wide variety of fauna due to the restoration of the hydrologic regime. This project will increase tidal exchange throughout Dover and Umbrella Creeks. Exchange volume serves as an important surrogate for the restoration of salinity gradients, which influence the wide variety of species occurring in the estuary. Additionally, exchange volumes may be used to assess the predictability of the salinity regime in the estuary and the degree to which it represents the unaltered condition needed for estuarine fauna (i.e., expected upstream-to-downstream, fresh-to-saline patterns).

3.2.2.1 Loss of environmental value

The TSP as designed is expected to restore the hydrologic/salinity regime to historic levels and no substantial adverse impacts have been identified in this study.

3.2.2.2 Actions to Minimize Impacts

Due to the nature of the proposed action (ecosystem restoration), no other actions to minimize adverse impacts to water circulation, fluctuations, or salinity are deemed appropriate. This project is expected to result in improvements to the ecosystem.

3.2.3 Suspended Particulate/Turbidity Determinations

Effects due to potential changes in the kinds and concentrations of suspended particulate/turbidity in the vicinity of the disposal site. Factors to be considered include grain size, shape and size of any plume generated, duration of the discharge and resulting plume, and whether or not the potential changes will cause violations of applicable water quality standards. Consideration shall include the proposed method, volume, location, and rate of discharge, as well as the individual and combined effects of current patterns, water circulation and fluctuations, wind and wave action, and other physical factors on the movement of suspended particulates.

Due to the use of sheet pile and rock for the closure structures any impacts would be negligible and temporary. In addition, turbidity booms would be used to reduce turbidity and sediment loss during construction of the closures.

3.2.3.1 Loss of Environmental Values

Due to reduction in light transmission, reduction in photosynthesis, reduced feeding and growth of sight dependent species, direct destructive effects to nektonic and planktonic species, reduced DO, increased levels of dissolved contaminants, aesthetics.

Impacts from construction of closures are expected to be minor and temporary and cease soon after construction is completed. After project implementation, potential indirect long-term benefits of restoring depths and flows in the study area may include increased dissolved oxygen (DO) levels, decreased Total Suspended Solids (TSS), and improved nutrient exchange between the Satilla River, St. Andrews Sound, and the Atlantic Ocean.

Indirect beneficial impacts are expected to occur to the aquatic ecosystem and improve habitat for flora and fauna that utilize this habitat.

3.2.3.2 Actions to Minimize Impacts

The TSP avoids adverse impacts by using barges to construct closures to avoid impacts to surrounding wetlands. Barges and rocks would not be placed within marshes outside of the closure area. Turbidity booms would be used to reduce turbidity and sediment loss during construction of the closures. Closures are designed with sheet pile tying into the marsh (not across the entire structure) on both ends to minimize environmental impacts in the marsh.

In addition, standard BMPs would be implemented to mitigate potential impacts as detailed in Sections 4.6 and 4.11 of the Integrated Report. Due to the nature of the proposed action (ecosystem restoration), no other actions to minimize adverse impacts are deemed appropriate. This project is expected to result in improvements to the ecosystem.

3.2.4 Contamination Determination

Consider the degree to which the proposed discharge will introduce, relocate, or increase contaminants. This determination shall consider the material to be discharged, the aquatic environment at the proposed disposal site, and the availability of contaminants. Consideration of Evaluation and Testing (parts 230.60, and 230.61).

Fill material requirements for the project's closure of man-made cuts would come from sources that are free of any contamination (e.g. rock and sheet pile). Pollutants from existing sediments being disturbed during construction activities are not expected and historical land use does not warrant any sediment testing for contaminants.

3.2.5 Aquatic Ecosystem and Organism Determinations

Effect on the structure and function of the aquatic ecosystem and organisms and effect on the re-colonization and existence of indigenous aquatic organisms or communities.

3.2.5.1 Threatened and Endangered Species

Implementation of the TSP is expected to have no adverse effect on threatened or endangered species and will likely improve habitat for the West Indian manatee and the wood stork.

3.2.5.2 Fish, Crustaceans, Mollusks and other Aquatic Organisms in the Food Web

This project is expected to improve habitat for these animals.

3.2.5.3 Other Wildlife

This project is expected to improve habitat for other wildlife including fish, shellfish, and all the various birds and mammals that feed on fish.

3.2.5.4 Special Aquatic Sites

There are no Special Aquatic Sites in the study area.

3.2.5.5 Potential Effects on Human Use Characteristics

The proposed work is expected to result in positive impacts regarding this issue.

3.2.5.6 Possible Loss of Environmental Values

The proposed work is expected to increase the environmental value of the ecosystem.

3.2.5.7 Actions to Minimize Impacts

The proposed work is expected to result in net positive impacts to the environment.

3.2.6 Proposed Disposal Site Determination

Each disposal site shall be specified through application of the guidelines. The mixing zone shall be confined to the smallest practicable zone within each

specified disposal site that is consistent with the type of dispersion determined to be appropriate by the application of the guidelines.

No sediment disposal sites would be needed for the TSP and no practicable alternatives are available that produce the same benefits.

3.2.7 Determination of Cumulative Effects on the Aquatic Ecosystem

Cumulative effects attributable to the discharge of dredged or fill material in waters of the United States should be predicted to the extent reasonable and practical.

The Satilla River estuary contains a complex network of tidal channels. From 1900 to 1939, eight man-made cuts were made between natural channels to increase the accessibility of the tidal creeks for the timber industry (Figure 1). These cuts changed the circulation patterns in the estuary and (1) altered local patterns of tidal exchange; (2) disrupted gradual salinity gradients from the headwaters to the mouth of the creeks; and (3) reduced access to headwaters for estuarine species due to channel sedimentation.

Currently, salinity gradients are altered by a large volume of Satilla River water entering through the short pathway of Noyes Cut. This large volume of estuarine water overwhelms the freshwater that enters the headwater area and causes the salinity to be nearly constant throughout most of Dover Creek. Additionally, tidal flows through multiple creeks and cuts causes a tidal node where sediment deposition clogs channels.

By closing man-made cuts, the project is expected to improve the aquatic ecosystem by restoring the historic hydrologic regime. These improvements would offset much of the historic adverse impacts to the ecosystem from the eight man-made cuts created since 1900.

3.2.8 Determination of Secondary Effects on the Aquatic Ecosystem

Secondary effects are effects on an aquatic ecosystem that are associated with a discharge of dredged or fill materials, but do not result from the actual placement of the dredged or fill material.

Potential indirect long-term benefits of restoring depths and flows in the study area may include increased dissolved oxygen (DO) levels, decreased Total Suspended Solids (TSS), and improved nutrient exchange between the Satilla River, St. Andrews Sound, and the Atlantic Ocean.

Indirect beneficial impacts are expected to occur to the aquatic ecosystem and improve habitat for flora and fauna that use this habitat.

In addition, after cut closures, the entire area within the cuts are expected to fill in with wetland habitat from natural processes of sedimentation and regeneration of wetland vegetation.

4.0 FINDINGS OF COMPLIANCE OR NONCOMPLIANCE WITH RESTRICTIONS ON DISCHARGE – (SECTION 230.12)

4.1 DETERMINATIONS

a. That an ecological evaluation of the discharge of dredged material associated with the proposed action has been made following the evaluation guidance in 40 CFR 230.6, in conjunction with the evaluation considerations at 40 CFR 230.5.

b. That potential short-term and long-term effects of the proposed action on the physical, chemical, and biological components of the aquatic ecosystem have been evaluated and it has been found that the proposed discharge will not result in significant degradation of the environmental values of the aquatic ecosystem. The project as designed would be expected to restore the impaired hydrology and benefit the aquatic ecosystem.

c. That there are no less environmentally damaging practicable alternatives to the proposed work that would accomplish project goals and objectives. Some alternatives were eliminated for not accomplishing all project goals or for not being as cost effective. The No Action alternative is found to be unacceptable.

(1) That the proposed action will not cause or contribute to violations of any applicable State water quality standards, will not violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act, will not jeopardize the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, and will not violate any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

(2) That the proposed work will not cause or contribute to significant degradation of the waters of the United States.

(3) That the discharge includes all practicable and appropriate measures to minimize potential harm to the aquatic ecosystem.

4.2 FINDINGS

Based on the determinations made in this Section 404 (b) (1) evaluation, the finding is made that, with the conditions enumerated in this document, the proposed action complies with the Section 404(b)(1) Guidelines.

APPENDIX F - REAL ESTATE

NOYES CUT SECTION 1135 ECOSYSTEM RESTORATION STUDY

REAL ESTATE SUMMARY

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SECTION 1. THE REAL ESTATE REPORT

1.1 Statement of Purpose

This report is tentative in nature, focuses on the Tentatively Selected Plan, and is to be used for planning purposes only. There may be modifications to the plans that occur during Pre-construction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or administrative and land cost. The Real Estate Appendix is intended to support the Detailed Project Report and Environmental Assessment for the Noyes Cut Satilla River Basin, Georgia Section 1135 project. The author of this report is familiar with the Project area. The Georgia Department of Natural Resources (DNR) and the Satilla Riverkeeper, are the non-Federal sponsors for the project. Date of this report is July, 2017.

1.2 Study Authority

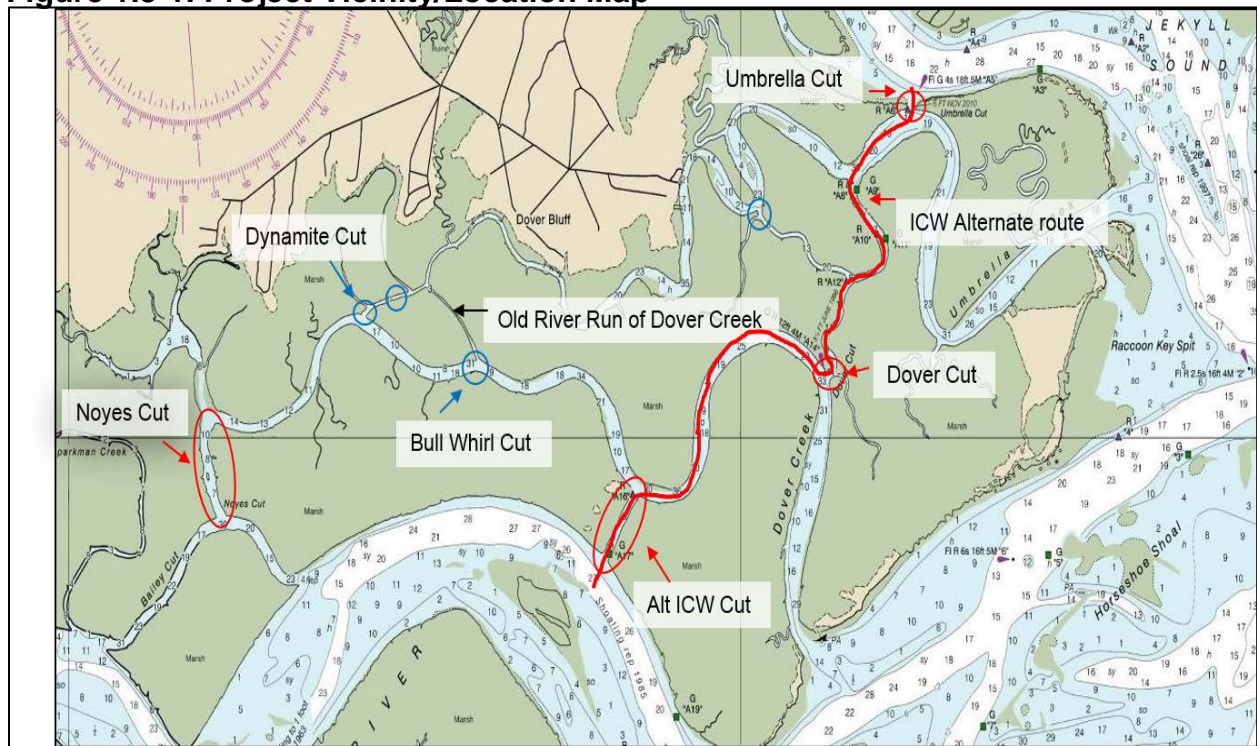
Section 1135 of the Water Resources Development Act (WRDA) (P.L. 99-662) of 1986, as amended provided authority for this study. The modifications proposed in this study would be part of the federally authorized Atlantic Intracoastal Waterway (AIWW) project.

1.3 Project Location

The project area is located in southern Georgia, just south of the city of Brunswick, Georgia, in Camden County and includes Noyes Cut, Dover and Umbrella Creeks, as part of the lower Satilla River estuary (Figure 1.3-1 below). Dover and Umbrella Creeks are meandering tidal channels generally running parallel to the Satilla River. The Satilla River (along with salt marshes, hammocks, sand bars, and mud flats) combine to make up the northern portion of the St. Andrews Sound estuary. Tidal marshes and creeks are some of the most ecologically productive ecosystems providing critical habitat for fish and shellfish of commercial and recreational importance. Tidal marshes also provide a rich food source for both resident and migratory birds including osprey and eagles and they are utilized for many traditional, low impact recreational activities.

The lands adjacent to the study area are sparsely populated with some residential developments along the creeks that include Dover Bluff Community, Piney Bluff Community, and River Marsh Landing. Dover Bluff is a small residential community of 20-30 homes; and Piney Bluff and River Marsh Landing are failed developments consisting of around 15 homes each.

Figure 1.3-1. Project Vicinity/Location Map



1.4 Project Description

The project is the restoration to improve the quality of the existing aquatic habitat for resident species (e.g., blue crabs, shrimp) and increase connectivity for migratory species (e.g., striped bass, American eels, shad, river herring) in the upper reaches of the Dover and Umbrella Creeks. This project will restore the hydrologic connectivity by altering the hydrodynamic environment; and consequently restore the flow circulation in the watershed, restore salinity gradients, reduce local sedimentation issues, and increase connectivity for local species.

This tentative selected plan (TSP) would close man-made cuts, Noyes Cut, Dynamite Cut, and Old River Run. These closures will restore salinity gradients, reduce local sedimentation issues, and increase connectivity for local biota by increasing tidal exchange in Dover and Umbrella Creeks.

1.5 Real Estate Requirements

There will be minimal Real Estate requirements for this project. Construction will occur in the tidal creeks and wetlands of the State of Georgia and US Government. The nonfederal sponsors will be responsible for obtaining an interagency agreement for the staging and laydown area located at the Georgia Ports Authority Brunswick Terminal.

1.6 Utility/Facility Relocation

There are no utility/facility relocations with this project.

1.7 Existing Projects

With the exception of the existing Intracoastal Waterway Project, there are no other federal projects within the study area.

1.8 Environmental Impacts

Environmental Impacts are addressed in the main report.

1.9 Project Sponsor Responsibilities and Capabilities

The Georgia Department of Natural Resources and Satilla Riverkeeper will be the non-Federal Project Sponsors (NFS). The NFS has the responsibility to acquire all real estate interests required for the Project. The NFS shall accomplish all alterations and relocations of facilities, structures and improvements determined by the government to be necessary for construction of the Project. The sponsor will have operation and maintenance responsibility for the project after construction is completed.

Title to any acquired real estate will be retained by the NFS and will not be conveyed to the United States Government. Prior to advertisement of any construction contract, the NFS shall furnish to the government an Authorization for Entry for Construction (Exhibit "A" to the Real Estate Appendix) to all lands, easements and rights-of-way, as necessary. The NFS will also furnish to the government evidence supporting their legal authority to grant rights-of-way to such lands. The NFS shall comply with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, approved 2 January 1971, and amended by Title IV of the Surface Transportation Uniform Relocation Assistance Act of 1987, Public Law 100-17, effective 2 April 1989, in acquiring real estate interests for the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act(s). An Assessment of the Non-Federal Sponsor's Capability to Acquire Real Estate is at Exhibit "B" to the Real Estate Appendix

The non-Federal sponsor is entitled to receive credit against its share of project costs for the value of lands it provides and the value of the relocations that are required for the project. Generally, for the purpose of determining the amount of credit to be afforded, the value of the LER is the fair market value of the real property interest, plus certain incidental costs of acquiring those interests, that the non-federal sponsor provided for the project as required by the Government.

The NFS should not acquire lands required for the project prior to execution of the Project Partnership Agreement (PPA). Should the NFS proceed with acquisition of lands prior to execution of the PPA, it is at the risk of not receiving credit or reimbursement for any costs incurred in the connection with the acquisition process should the PPA not be signed. There is also risk in acquiring lands either not needed for the project or not acquired in compliance with requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989.

1.10 Government Owned Property

The Georgia Port Authority (State of Georgia) is owner of the land proposed for staging areas for the project. Construction will occur in the tidal creeks and wetlands of the State of Georgia and US Government. The US Army Corps of Engineers completed construction of Noyes Cut in 1932 as an AIWW Waterway auxiliary channel to provide small boats a safe inland route from the Satilla River to Brunswick, Georgia. Eleven acres were acquired in fee by the State of Georgia and conveyed to the US Government on 15 Jan 1931.

1.11 Historical Significance

Historical significance is addressed in the Cultural Resources section in the main report.

1.12 Mineral Rights

There are no known mineral activities within the scope of the proposed project.

1.13 Hazardous, Toxic, and Radioactive Waste (HTRW)

No hazardous or toxic waste sites are known to occur in the project area, nor will any toxic substances be introduced as part of this project.

1.14 Navigation Servitude

Navigation Servitude is not applicable to this project.

1.15 Zoning Ordinances

Zoning ordinances are not of issue with this project. Application or enactment of zoning ordinances is not to be used in lieu of acquisition.

1.16 Induced Flooding

There will be no flooding induced by the construction or the operation and maintenance of the project.

1.17 Public Law 91-646, Relocation Assistance Benefits

There are no relocations of individuals, businesses or farms for this project.

1.18 Attitude of Property Owners

The project is fully supported. There are no known objections to the project from landowners within the project area.

1.19 Acquisition Schedule

The project sponsors is responsible for acquiring real estate interests required for the project. The Georgia Ports Authority owns the parcel proposed for the staging area. It

is projected the construction can be accomplished within 3-6 months, and can begin when final plans and specs have been completed and the PPA has been executed. The Project Sponsor, Project Manager and Real Estate Technical Manager will formulate the milestone schedule upon project approval to meet dates for advertisement and award of a construction contract.

1.20 Estates for Proposed Project

There will be minimal real estate acquisition required for this project. An interagency agreement will be entered into between the Georgia Department of Natural Resources and the State Properties Commission for the staging area located at the Georgia Ports Authority Brunswick Terminal.

1.21 Real Estate Estimate

The real estate requirements are minimal for this project. The sponsors will be required to provide a interagency agreement. The estimated real estate costs include the Administrative costs are those costs incurred for verifying ownership of lands, certification of those lands required for project purposes, legal opinions, analysis or other requirements that may be necessary during Planning, Engineering and Design (PED). A 25% contingency is applied to the estimated total for these items. Table 1.21-1 is a summary of the real estate cost.

Table 1.21-1. Real Estate Estimate

Noyes Cut Section 1135 - Real Estate Estimate			
a. Lands		\$	-
b. Improvements		\$	-
c. Mineral Rights		\$	-
d. Damages		\$	-
e. P.L. 91-646 Relocation costs		\$	-
f. Acquisition Cost - Admin (6 ownerships)		\$	4,300
	Federal	\$	1,800
	Non-federal	\$	2,500
		\$	4,300
Sub-Total		\$	4,300
Contingencies (25%)		\$	1,075
TOTAL		\$	5,375
ROUNDED		\$	5,400

1.22 Chart of Accounts

The cost estimate for all Federal and non-Federal real estate activities necessary for implementation of the project after completion of the feasibility study for land acquisition, construction, LERRD, and other items are coded as delineated in the Cost Work Breakdown Structure (CWBS). This real estate cost estimate is then incorporated into the Total Current Working Estimate utilizing the Microcomputer Aided Cost Engineering System (MCACES).

Table 1.22-1. Chart of Accounts

Noyes Cut Section 1135 - Chart of Accounts

	FEDERAL	NON-FEDERAL	TOTALS
01A PROJECT PLANNING			
Other			
Project Cooperation Agreement	\$	\$	\$
01AX Contingencies (25%)	\$	\$	\$
Subtotal	\$	\$	\$
01B LANDS AND DAMAGES			
01B40 Acq/Review of PS	\$ 1,800.00	\$	\$ 1,800.00
01B20 Acquisition by PS	\$	\$ 2,500.00	\$ 2,500.00
01BX Contingencies (25%)	\$ 450.00	\$ 625.00	\$ 1,075.00
Subtotal	\$ 2,250.00	\$ 3,125.00	\$ 5,375.00
01G Temorary Permits/Lic/ROEs			
01G10 By Govt			
01G20 By PS	\$	\$ -	\$ -
01G30 By Govt on Behalf of PS	\$	\$	\$
01GX Contingencies (25%)	\$	\$ -	\$ -
Subtotal	\$	\$ -	\$ -
01H AUDIT			
01H10 Real Estate Audit	\$	\$	\$
01HX Contingencies (15%)	\$	\$	\$
Subtotal	\$	\$	\$
01R REAL ESTATE LAND PAYMENTS			
01R1B Land Payments by PS	\$	\$ -	\$ -
01R2B PL91-646 Relocation Pymt by PS	\$	\$ -	\$ -
01R2D Review of PS	\$	\$	\$
01RX Contingencies (25%)	\$	\$ -	\$ -
Subtotal	\$	\$ -	\$ -
TOTALS	\$ 2,250.00	\$ 3,125.00	\$ 5,375.00
ROUNDED TO			\$ 5,400.00

Exhibits

Exhibit A - Authorization For Entry For Construction

Exhibit B – Assessment of Non-Federal Sponsor’s Real Estate Acquisition Capability

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

I _____, _____ for the
(Name of accountable official) (Title)

(Sponsor Name) _____, do hereby certify that the (Sponsor Name) has acquired the real property interest required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands to support construction for (Project Name, Specifically identified project features, etc.). Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon _____
(identify tracts)

to construct (Project Name, Specifically identified project features, etc.) as set forth in the plans and specifications held in the U. S. Army Corps of Engineers' (district, city, state)

WITNESS my signature as _____ for the
(Title)

(Sponsor Name) this __ day of _____, 20_____.

BY: _____
(Name)

(Title)

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, _____, _____ for the
(Name) (Title of legal officer)

(Sponsor Name), certify that _____ has
(Name of accountable official)

authority to grant Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as _____ for the
(Title)

(Sponsor Name), this _____ day of _____, 20_____.

BY: _____
(Name)

(Title)

Exhibit A

**Assessment of Non-Federal Sponsor's
Real Estate Acquisition Capability
Noyes Cut Satilla River Basin Section 1135**

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **YES**
- b. Does the sponsor have the power to eminent domain for this project? **YES**
- c. Does the sponsor have "quick-take" authority for this project? **YES**
- d. Are any of the land/interests in the land required for this project located outside the sponsor's political boundary? **NO**
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **NO**

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P. L. 91-646, as amended? **NO**
- b. If the answer to II.a. is "yes", has a reasonable plan been developed to provide such training? (yes/no)
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **YES**
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load, if any, and the project schedule? **YES**
- e. Can the sponsor obtain contractor support, if required in a timely fashion? **YES**
- f. Will the sponsor likely request USACE assistance in acquiring real estate? **YES - only in advisory capacity**

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? **YES**
- b. Has the sponsor approved the project/real estate schedule/milestones? **NO – Project Milestone will be developed during PED; will be joint effort between RE, PM and NFS**

**Exhibit B
1st page**

IV. Overall Assessment:

a. Has the sponsor performed satisfactory on other USACE projects?
YES

b. With regard to the project, the sponsor is anticipated to be: **Highly capable**

V. Coordination:

a. Has this assessment been coordinated with the sponsor? **YES**

b. Does the sponsor concur with this assessment? **YES**

Prepared by:

Patricia Casey
Senior Realty Specialist

Reviewed and approved by:

Ralph J. Werthmann
Chief, Real Estate Division

Exhibit B
2nd page

APPENDIX G

**Federal Consistency
Determination
for the
Georgia Coastal Zone
Management Program
NOYES CUT ECOSYSTEM RESTORATION STUDY
Camden County, Georgia**

November 2017



**US Army Corps
of Engineers**
*Savannah District
South Atlantic Division*

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1.0 Summary Determination

The Federal Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 et seq., as amended, requires each Federal agency activity performed within or outside the coastal zone (including development projects) that affects land or water use, or natural resources of the coastal zone to be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs. A direct Federal activity is defined as any function, including the planning and/or construction of facilities, which is performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities. A Federal development project is a Federal activity involving the planning, construction, modification or removal of public works, facilities or other structures, and the acquisition, use or disposal of land or water resources.

To implement the CZMA and to establish procedures for compliance with its Federal consistency provisions, the US Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), has promulgated regulations which are contained in 15 C.F.R. Part 930. This Consistency Determination is being submitted in compliance with Part 930.30 through 930.44 of those regulations.

Much of the information contained within this Consistency Determination is also contained in the draft Integrated Feasibility Report and Environmental Assessment prepared for the proposed action. References to that document are included in some of the discussions on the Project's compliance with certain individual state policies. Should further information concerning the proposed project be desired, please refer to the draft Integrated Feasibility Report and Environmental Assessment, to which this Determination is an Appendix.

In accordance with the CZMA, Savannah District has determined that the proposed ecosystem restoration project at Noyes Cut would be carried out in a manner which is fully consistent with the enforceable policies of the Georgia Coastal Management Program. The evaluations supporting that determination are presented in Sections 6 through 9 of this document. In addition, this determination is supported by information and analysis in the draft Integrated Feasibility Report and Environmental Assessment, which is incorporated by reference to the extent relevant to Georgia coastal zone consistency issues.

Much of the information contained within this Consistency Determination is also contained in the draft Integrated Feasibility Report and Environmental Assessment prepared for the proposed action. References to that document are included in some of the discussions on the Project's compliance with certain individual state policies. Should further information concerning the proposed project be desired, please refer to the draft Integrated Feasibility Report and Environmental Assessment, to which this Determination is an Appendix.

2.0 Background

2.1 Purpose

This Consistency Determination addresses the consistency of the proposed action to close a combination of man-made cuts to alter tidal exchange in Dover and Umbrella Creeks to restore historic conditions of salinity regimes and increase connectivity for local fauna into within the project with the Georgia Coastal Management Program, as required by the CZMA. For purposes of the CZMA, the enforceable policies of the Georgia Coastal Management Plan constitute the approved state program.

The objectives of this ecosystem restoration project are to improve the quality of the existing aquatic habitat for resident species and increase connectivity for migratory species (e.g., striped bass, American eels, shad, river herring) in the upper reaches of the Dover and Umbrella Creek watersheds. To achieve these objectives, the proposed action will restore the hydrologic connectivity by restoring the historic flow patterns in the watershed. These changes would restore salinity gradients and reduce local sedimentation issues; both of which will improve access to upstream spawning habitat for local migratory species.

2.2 Authority

The Federal Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 et seq., as amended, is the legislative authority regarding the consistency of Federal actions with state coastal policies. Section 1456(c)(1)(A) of the CZMA states: "Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs." A Federal activity is defined as any function, including the planning and/or construction of facilities that is performed on behalf of a Federal agency in the exercise of its statutory responsibilities.

To implement the CZMA and to establish procedures for compliance with its federal consistency provisions, the US Department of Commerce, National Oceanographic and Atmospheric Administration, has promulgated regulations, 15 C.F.R. Part 930. This Consistency Determination was prepared in compliance with § 930.30

through 930.44 of those regulations.

3.0 Project Description

A description of the alternatives that were evaluated as part of the Noyes Cut Study, including the No Action Alternative, can be found in Section 3.3.2 of the draft Integrated Feasibility Report and Environmental Assessment for the Noyes Cut Section 1135 Ecosystem Restoration Study. The Tentatively Selected Plan can be identified as Alternative 7 and its description can be found in Section 3.3.2.2 of the draft report.

4.0 Effects of Proposed Project

Effects of the proposed project can be found in Section 4.0 of the draft Integrated Feasibility Report and Environmental Assessment for the Noyes Cut Ecosystem Restoration Study.

5.0 Other Areas of Environmental Concern

Environmental impacts associated with the proposed project can be found in Section 4.1 to 4.12 of the draft Integrated Feasibility Report and Environmental Assessment for the Noyes Cut Ecosystem Restoration Study.

6.0 State Enforceable Policies

6.1 Introduction

The goals of the Georgia Coastal Management Program are attained by enforcement of the policies of the State as codified within the Official Code of Georgia Annotated. "Policy" or "policies" of the Georgia Coastal Management Program means the enforceable provisions of present or future applicable statutes of the State of Georgia or regulations promulgated duly there under (O.C.G.A. 12-5-322). The statutes cited as policies of the Program were selected because they reflect the overall Program goals of developing and implementing a balanced program for the protection of the natural resources, as well as promoting sustainable economic development of the coastal area.

The list of state laws shown below, which -- along with their associated regulations -- describe the legal authority for the state's regulation of its salt marshes, beaches and dune fields, and tidal water bottoms. Each of the coastal resources and use areas of concern is discussed separately in this section, in alphabetical order. For each coastal resources and use areas of concern, a policy statement is provided with a

direct citation to Georgia law. The laws are not cited in their entirety. Instead, the purpose of the statute, or a pertinent section of the statute, is cited. The Program policies are the enforceable provisions of the laws cited. A policy statement for each law describes the spirit of the law, directly cited from statements set out in the particular law. In each case, the citation for the statement is provided. The particular statements may or may not be enforceable as written, but the laws to which they relate contain enforceable provisions that have been enacted by the Georgia General Assembly to implement the policies as stated. The policies cited here are, therefore, supported by legally binding laws of the State of Georgia, through which Georgia is able to exert control over impacts to the land and water uses and natural resources in the coastal area. The statutes referenced herein can be found in the Official Code of Georgia Annotated (O.C.G.A.), copies of which are located in headquarters offices of State and local agencies, most public libraries, local courthouses, and numerous other public offices.

A paragraph titled “General Description” is included after each cited policy to serve as a quick reference to the relevant provisions of the law. The General Description is not intended to be, nor should it be interpreted as, law, policy, or restatement of the law. It is merely provided for the convenience of the reader to gain an initial concept as to the content of the related law. The reader is advised to refer to the actual law cited, and not to rely on the General Description as a basis for a legal interpretation of the law on any particular issue. The “Policy Statement” and “General Description” paragraphs were copied directly from the Georgia CZM Program. A paragraph titled “Consistency” follows those two paragraphs to explain Savannah District’s position on the extent to which the proposed project is consistent with that enforceable provision.

6.2 List of Pertinent State Laws and Authorities

Georgia Coastal Management Act
Coastal Marshlands Protection Act
Department of Natural Resources Authority
Endangered Wildlife Act
Game and Fish Code
Georgia Aquaculture Development Act
Georgia Air Quality Act
Historic Area Act
Georgia Boat Safety Act
Georgia Administrative Procedures Act (Revocable License Program)
Georgia Comprehensive Solid Waste Management Act
Georgia Environmental Policy Act
Georgia Erosion and Sedimentation Control Act
Georgia Fisheries Law Pertaining to Shellfish
Georgia Hazardous Waste Management Act
Georgia Heritage Trust Act
Georgia Natural Areas Act
Georgia Environmental Policy Act

Georgia Oil and Gas Deep Drilling Act
Georgia River and Harbor Development
Georgia Safe Dams Act
Georgia Safe Drinking Water Act
Georgia Scenic Rivers Act
Georgia Scenic Trails Act
Georgia Surface Mining Act
Georgia Underground Storage Tank Act
Georgia Water Quality Control Act
Groundwater Use Act
Licenses to Dig, Mine, and Remove Phosphate Deposits
Protection of Tidewaters Act
River Corridor Protection Act
Title 31 - Health (Septic Tank Law)
Shore Protection Act
Water Wells Standards Act
Wildflower Preservation Act

6.3 Aquaculture

6.3.1 Policy Statement

Georgia Aquaculture Development Act (O.C.G.A. 27-4-251, et seq.) 27-4-254. Duty of commission to develop aquaculture development plan; contents of plan; meetings of commission; staff support. The commission shall make a thorough study of aquaculture and the potential for development and enhancement of aquaculture in the state. It shall be the duty of the commission to develop, distribute, and, from time to time, amend an aquaculture development plan for the State of Georgia for the purpose of facilitating the establishment and growth of economically viable aquaculture enterprises in Georgia. (Code 1981. SS 27-4-254, enacted by Ga.L. 1992, p. 1507, SS 8.)

6.3.2 General Description

The Georgia Aquaculture Development Act was enacted in 1992 to study aquaculture development in Georgia. A 14-member Aquaculture Development Commission composed of industry representatives, scientists, agency representatives, and others is created. The Department of Natural Resources, with assistance from the Department of Agriculture and the Department of Industry, Trade, and Tourism provides staff support for the Commission.

6.3.3 Consistency

This policy is not applicable to the proposed project

6.4 Air Quality

6.4.1 Policy Statement.

Georgia Air Quality Act (O.C.G.A. 12-9-1, et seq.) 12-9-2. Declaration of public policy. It is declared to be the public policy of the State of Georgia to preserve, protect, and improve air quality and to control emissions to prevent the significant deterioration of air quality and to attain and maintain ambient air quality standards so as to safeguard the public health, safety, and welfare consistent with providing for maximum employment and full industrial development of the state. (Code 1933, 88-901, enacted by Ga.L. 1967, p. 581, SS 1; Ga.L. 1978, p. 275, SS 1; Ga.L. 1992, p. 918, SS 2; Ga.L. 1992, p. 2886, SS 1.)

6.4.2 General Description

The Georgia Air Quality Act provides authority to GA DNR's Environmental Protection Division to promulgate rules and regulations necessary to abate or to control air pollution for the State as a whole or from area to area, as may be appropriate. Establishment of ambient air quality standards, emission limitations, emission control standards, and other measures are necessary to provide standards that are no less stringent than the Federal Clean Air Act are mandated. The Act also requires establishment of a program for prevention and mitigation of accidental releases of hazardous air contaminants or air pollutants, training and educational programs to ensure proper operation of emission control equipment, and standards of construction no less stringent than the federal Act. The Environmental Protection Division administers the Georgia Air Quality Act throughout the State. The Memorandum of Agreement between the Georgia Coastal Resources Division and the Environmental Protection Division ensures cooperation and coordination in the achievement of the policies of the Program.

6.4.3 Consistency

There would be no long term impacts to air quality from proposed action. There would be some short term negligible impacts from air emissions during construction of the closure structures. The project area is currently in attainment for the NAAQS for all criteria pollutants. Therefore, implementation of any of the alternatives would not be expected to contribute to a change in this designation.

6.5 Boating Safety

6.5.1 Policy Statement

Georgia Boat Safety Act (O.C.G.A. 52-7-1. et seq.) 52-7-2. Declaration of policy. It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote the uniformity of laws relating thereto (Ga.L. 1973, p. 1427, SS 2).

6.5.2 General Description

The Georgia Boat Safety Act provides enforceable rules and regulations for safe boating practices on Georgia's lakes, rivers, and coastal waters. This Act establishes boating safety zones for a distance of 1,000 feet from the high-water mark on Jekyll Island, Tybee Island, St. Simons Island, and Sea Island. All motorized craft, including commercial fishing vessels, jet skis, and powerboats, are prohibited from these waters, except at certain pier and marina access points. This Act defines "abandoned vessels" as any left unattended for five days and provides for their removal. The Law Enforcement Section of the Georgia Department of Natural Resources, Wildlife Resources Division and the Georgia Bureau of Investigation enforces these regulations.

6.5.3 Consistency

The proposed action as part of the Federal navigation channel would comply with all required US Coast Guard safety regulations. The AIWW channel would be identified with the required US Coast Guard buoys and channel markers.

6.6 Coastal Management

6.6.1 Policy Statement

Georgia Coastal Management Act (O.C.G.A. 12-5-320, et seq.) 12-5-321. Legislative purpose. The General Assembly finds and declares that the coastal area of Georgia comprises a vital natural resource system. The General Assembly recognizes that the coastal area of Georgia is the habitat of many species of marine life and wildlife, which must have clean waters, and suitable habitat to survive. The General Assembly further finds that intensive research has revealed that activities affecting the coastal area may degrade water quality or damage coastal resources if not properly planned and managed. The General Assembly finds that the coastal area provides a natural recreation resource, which has become vitally linked to the economy of Georgia's coast and to that of the entire state. The General Assembly further finds that resources within this coastal area are costly, if not impossible, to reconstruct or rehabilitate once adversely affected by human-related activities and it is important to conserve these resources for the present and future use and enjoyment of all citizens and visitors to this state. The General Assembly further finds that the coastal area is a vital area of the state and that it is essential to maintain the health, safety, and welfare of all the citizens of the state. Therefore, the General Assembly declares that the management of the coastal area has more than local significance, is of equal importance of all citizens of the state, is of state-wide concern, and consequently is properly a matter for coordinated regulation under the police power of the state. The General Assembly further finds and declares that activities and structures in the coastal area must be regulated to ensure that the values and functions of coastal waters and natural habitats are not impaired and to fulfill the responsibilities of each generation as public trustees of the coastal waters and habitats for succeeding generations.

6.6.2 General Description

The Coastal Management Act provides enabling authority for the State to prepare and administer a coastal management program. The Act does not establish new regulations or laws; it is designed to establish procedural requirements for the Department of Natural Resources to develop and implement a program for the sustainable development and protection of coastal resources. It establishes the Department of Natural Resources as the State agency to receive and disburse federal grant moneys. It establishes the Governor as the approving authority of the program and as the person that must submit the program to the Federal government for approval under the Federal Coastal Zone Management Act. It requires other State agencies to cooperate with the Coastal Resources Division when exercising their activities within the coastal area.

6.6.3 Consistency

Preparation of this Consistency Determination is evidence that the U.S. Army Corps of Engineers agrees that Georgia's coast is a vital natural resource that deserves protection from unwise use. The proposed project fully adheres to the state's enforceable policies concerning development on the coast. The proposed project is fully consistent with this policy.

6.7 Coastal Marshlands

6.7.1 Policy Statement

Georgia Coastal Management Act (O.C.G.A. 12-5-320, et seq.) 12-5-321. Legislative purpose. The General Assembly finds and declares that the coastal area of Georgia comprises a vital natural resource system. The General Assembly recognizes that the coastal area of Georgia is the habitat of many species of marine life and wildlife, which must have clean waters, and suitable habitat to survive. The General Assembly further finds that intensive research has revealed that activities affecting the coastal area may degrade water quality or damage coastal resources if not properly planned and managed. The General Assembly finds that the coastal area provides a natural recreation resource, which has become vitally linked to the economy of Georgia's coast and to that of the entire state. The General Assembly further finds that resources within this coastal area are costly, if not impossible, to reconstruct or rehabilitate once adversely affected by human-related activities and it is important to conserve these resources for the present and future use and enjoyment of all citizens and visitors to this state. The General Assembly further finds that the coastal area is a vital area of the state and that it is essential to maintain the health, safety, and welfare of all the citizens of the state. Therefore, the General Assembly declares that the management of the coastal area has more than local significance, is of equal importance of all citizens of the state, is of state-wide concern, and consequently is properly a matter for coordinated regulation under the police power of the state. The General Assembly further finds and declares that activities and structures in the coastal area must be regulated to ensure that the values and functions of coastal waters and natural habitats

are not impaired and to fulfill the responsibilities of each generation as public trustees of the coastal waters and habitats for succeeding generations (Code 1981, SS 12-5-281, enacted by Ga.L. 1992, p. 2294, SS 1.).

6.7.2 General Description

The Coastal Marshlands Protection Act provides the Coastal Resources Division with the authority to protect tidal wetlands. The Coastal Marshlands Protection Act limits certain activities and structures in marsh areas and requires permits for other activities and structures. Erecting structures, dredging, or filling marsh areas requires a Marsh Permit administered through the Coastal Management Program. In cases where the proposed activity involves construction on State-owned tidal water bottoms, a Revocable License issued by the Coastal Resources Division may also be required. Marsh Permits and Revocable Licenses are not issued for activities that are inconsistent with the Georgia Coastal Management Program.

The jurisdiction of the Coastal Marshlands Protection Act extends to "coastal marshlands" or "marshlands", which includes marshland, intertidal area, mudflats, tidal water bottoms, and salt marsh area within estuarine area of the state, whether or not the tidewaters reach the littoral areas through natural or artificial watercourses. The estuarine area is defined as all tidally influenced waters, marshes, and marshlands lying within a tide-elevation range from 5.6 feet above mean high-tide level and below. Exemptions from the jurisdiction of the Act include: Georgia Department of Transportation activities, generally; agencies of the United States charged with maintaining navigation of rivers and harbors; railroad activities of public utilities companies; activities of companies regulated by the Public Service Commission; activities incident to water and sewer pipelines; and, construction of private docks that don't obstruct tidal flow.

Any agricultural or silvicultural activity that directly alters lands within the jurisdictional areas of the Coastal Marshlands Protection Act must meet the permit requirements of the Act and must obtain a permit issued by the Coastal Resources Division on behalf of the Coastal Marshlands Protection Committee. Permits for marinas, community docks, boat ramps, recreational docks, and piers within the jurisdiction of the Coastal Marshlands Protection Act are administered by the Coastal Resources Division. To construct a marina, a marina lease is required. Private-use recreational docks are exempt from the Coastal Marshlands Protection Act, but must obtain a Revocable License and a State Programmatic General Permit.

6.7.3 Consistency

The project would be constructed in Georgia waters and would affect wetlands within the jurisdiction of the Georgia Coastal Marshlands Protection Act. Construction of the closures in Noyes Cut, Dynamite Cut, and ORR would result in the loss of a total of 0.87 acres of jurisdictional waters of the U.S.; and the loss of a total of 0.21 acres of jurisdictional wetlands [*Spartina* salt marsh]. However, this adverse impact would be

expected to be more than offset by the restoration of wetlands (tidal salt marsh habitat) within the cuts.

6.8 Dams

6.8.1 Policy Statement

Georgia Safe Dams Act (O.C.G.A. 12-5-370, et seq.) 12-5-371. Declaration of purpose. It is the purpose of this part to provide for the inspection and permitting of certain dams in order to protect the health, safety, and welfare of all the citizens of the state by reducing the risk of failure of such dams. The General Assembly finds and declares that the inspection and permitting of certain dams is properly a matter for regulation under the police powers of the state (Ga.L. 1978, p. 795. SS 2).

6.8.2 General Description

The Georgia Safe Dams Act provides for the inspection and permitting of certain dams to protect the health, safety, and welfare of Georgia residents. The Environmental Protection Division of the Georgia Department of Natural Resources is responsible for inspecting and certifying dams.

6.8.3 Consistency

Construction or operation of a dam is not included as part of the proposed action.

6.9 Department of Natural Resources

6.9.1 Policy Statement

12-2-3. Departmental purposes. It shall be the objectives of the department: a. To have the powers, duties, and authority formerly vested in the Division of Conservation and the commissioner of conservation; b. By means of investigation, recommendation, and publication, to aid: (1) In the promotion of the conservation and development of the natural resources of the state; (2) In promoting a more profitable use of lands and waters; (3) In promoting the development of commerce and industry; and In coordinating existing scientific investigations with any related work of other agencies for the purpose of formulating and promoting sound policies of conservation and development. c. To collect and classify the facts derived from such investigations and from the work of other agencies of the state as a source of information accessible to the citizens of the state and to the public generally, which facts set forth the natural, economic, industrial, and commercial advantages of the state; and d. To establish and maintain perfect cooperation with any and every agency of the federal government interested in or dealing with the subject matter of the department. (Ga. L. 1937, p. 264, SS 4; Ga. L. 1949, p. 1079, SS 1; Ga.L. 1992, p. 6. SS 12.)

6.9.2 General Description

The authority for the Department of Natural Resources is found at O.C.G.A. 12-21, et seq. The objectives for the Department are described, including to aid: in promoting the conservation and development of the State's natural resources; in promoting a more profitable use of lands and waters; in promoting the development of commerce and industry; and in coordinating existing scientific investigations with related work of other agencies for the purpose of formulating and promoting sound policies of conservation and development. The Act also requires the Department to establish and maintain perfect cooperation with any and every agency of the federal government interested in or dealing with the subject matter of the department."

The powers of the Department are established, including: investigations of the natural mining industry and commercial resources of the State and promotion of the conservation and development of such resources; the care of State parks and other recreational areas now owned or to be acquired by the State; examination, survey, and mapping of the geology, mineralogy, and topography of the State, including their industrial and economic utilization; investigation of the water supply and water power of the State with recommendations and plans for promoting their more profitable use and promotion of their development; investigations of existing conditions of trade, commerce, and industry in the State, with particular attention to the causes that may hinder or encourage their growth, and recommendations of plans that promote development of their interests.

The Department is set up in several Divisions. The Wildlife Resources Division is empowered to acquire land areas and to enter into agreements with landowners and the federal government for purposes of managing wildlife species and establishing specific sanctuaries, wildlife management areas, and public fishing areas. The Wildlife Resources Division administers a management plan for each area, which establishes short- and long-term uses, and guidelines for protection and use of each specific area. These areas owned and/or managed by the Wildlife Resources Division are important resources of the coastal area for conservation of wildlife and also for recreational hunting and fishing opportunities. Wildlife management areas within the jurisdiction of the Coastal Marshlands Protection Act and/or Shore Protection Act receive the additional protection provided by said legislation. The Environmental Protection Division is empowered to manage the State's air and water resources. The Coastal Resources Division is charged with management of coastal resources, which includes implementation of the Coastal Marshlands Protection Act and the Shore Protection Act. The Coastal Resources Division responsibilities also include management of marine fisheries resources. The Pollution Prevention Assistance Division provides technical assistance and education for reducing pollution throughout Georgia, including development of Best Management Practices for various industries. The Historic Preservation Division is charged with cataloging, protecting, and preserving the State's historic sites and areas. The Parks, Recreation, and Historic Sites Division has primary responsibility for development and maintenance of the State's parks and historic sites. The Program Support Division provides administrative support for the Department.

6.9.3 Consistency

The draft Integrated Feasibility Report and Environmental Assessment for the Noyes Cut Ecosystem Restoration Study will be coordinated with GA DNR. The proposed project is consistent with this policy.

6.10 Endangered Wildlife

6.10.1 Policy Statement

Endangered Wildlife Act (O.C.G.A. 27-3-130, et seq.) 27-3-132. Powers and duties of department and board. The department shall identify and inventory any species of animal life within this state which it determines from time to time to be rare, unusual, or in danger of extinction; and, upon such determination, such species shall be designated protected species and shall become subject to the protection of this article.

The board shall issue such rules and regulations as it may deem necessary for the protection of protected species and for the enforcement of this article. Such rules and regulations shall not affect rights in private property or in public or private streams, nor shall such rules and regulations impede construction of any nature. Such rules and regulations shall be limited to the regulation of the capture, killing, or selling of protected species and the protection of the habitat of the species on public lands.

6.10.2 General Description

The Endangered Wildlife Act provides for identification, inventory, and protection of animal species that are rare, unusual, or in danger of extinction. Additional species may be added by the Board of Natural Resources at any time. The protection offered to these species is limited to those that are found on public lands of the State. It is a misdemeanor to violate the rules prohibiting capture, killing, or selling of protected species, and protection of protected species habitat on public lands. The rules and regulations are established and administered by the Department of Natural Resources for implementation of this Act.

Projects permitted under the authority of the Coastal Marshlands Protection Act, the Shore Protection Act, and the Revocable License require full compliance with the protection of endangered and protected species. Outside the jurisdiction of these laws, for those areas that are not public lands of Georgia, protection of endangered species is provided by the federal Endangered Species Act, which has jurisdiction over both private and public lands.

6.10.3 Consistency

Impacts associated with the proposed action on rare, threatened, and endangered species within the project area can be found in Section 4.6 of the draft Integrated

Feasibility Report and Environmental Assessment for the Noyes Cut Ecosystem Restoration Study.

6.11 Environmental Policy

6.11.1 Policy Statement

Georgia Environmental Policy Act (O.C.G.A. 12-16-1, et seq.) 12-16-2. Legislative findings. The General Assembly finds that: a. The protection and preservation of Georgia's diverse environment is necessary for the maintenance of the public health and welfare and the continued viability of the economy of the state and is a matter of the highest public priority; b. State agencies should conduct their affairs with an awareness that they are stewards of the air, land, water, plants, animals, and environmental, historical, and cultural resources; c. Environmental evaluations should be a part of the decision-making processes of the state; and d. Environmental effects reports can facilitate the fullest practicable provision of timely public information, understanding, and participation in the decision-making processes of the state. (Code 1981, SS 12-16-2, enacted by Ga. L. 1991, p. 1728, SS 1.)

6.11.2 General Description

The Georgia Environmental Policy Act (GEPA) requires that all State agencies and activities prepare an Environmental Impact Report as part of the decision-making process. This is required for all activities that may have an impact on the environment. Alternatives to the proposed project or activity must be considered as part of the report.

6.11.3 Consistency

This Coastal Zone Management Consistency Determination is a component of the draft Integrated Feasibility Report and Environmental Assessment for the Noyes Cut Ecosystem Restoration Study, which evaluates the impacts of the proposed project. Although GEPA does not directly apply to a Federal navigation project, Federal agencies must comply with a similar law, the National Environmental Policy Act (NEPA). Preparation of the draft Integrated Feasibility Report and Environmental Assessment for the Noyes Cut Ecosystem Restoration Study is fully consistent with both this state law and NEPA.

6.12 Erosion and Sedimentation

6.12.1 Policy Statement

Georgia Erosion and Sedimentation Act (O.C.G.A. 12-7-1. et seq.) 12-7-2. Legislative findings; policy of state and intent of chapter. It is found that soil erosion and sediment

deposition onto lands and into waters within the watersheds of this state are occurring as a result of widespread failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses. It is therefore declared to be the policy of this state and the intent of this chapter to strengthen and extend the present erosion and sediment control activities and programs of this state and to provide for the establishment and implementation of a state-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of this state. (Ga. L. 1975, p.994, SS 2.)

6.12.2 General Description

The Georgia Erosion and Sedimentation Act requires that each county or municipality adopt a comprehensive ordinance establishing procedures governing land disturbing activities based on the minimum requirements established by the Act. The Erosion and Sedimentation Act is administered by the Environmental Protection Division of the Georgia Department of Natural Resources, and by local governments. Permits are required for specified "land-disturbing activities," including the construction or modification of manufacturing facilities, construction activities, certain activities associated with transportation facilities, activities on marsh hammocks, etc. With certain constraints, permitting authority can be delegated to local governments.

One provision of the Erosion and Sedimentation Act requires that land-disturbing activities shall not be conducted within 25 feet of the banks of any State waters unless a variance is granted (O.C.G.A. 12-7-6-(15)). Construction of single-family residences under contract with the owner are exempt from the permit requirement but are still required to meet the standards of the Act (O.C.G.A. 12-7-17-(4)). Large development projects, both residential and commercial, must obtain a permit and meet the requirements of the Act. According to the Georgia Coastal Management Act, any permits or variances issued under the Erosion and Sedimentation Act must be consistent with the Georgia Coastal Management Program. Permits within the jurisdiction of the Coastal Marshlands Protection Act and the Shore Protection Act can include requirements that certain minimum water quality standards be met as a condition of the permit.

There are specific exemptions to the requirements of the Erosion and Sedimentation Act (O.C.G.A. 12-7-17 - Exemptions). The exemptions include: surface mining, granite quarrying, minor land-disturbing activities such as home gardening, construction of single-family homes built or contracted by the homeowner for his own occupancy, agricultural practices, forestry land management practices, dairy operations, livestock and poultry management practices, construction of farm buildings, and any projects carried out under the supervision of the Natural Resource Conservation Service of the US Department of Agriculture. Exemptions from the requirements of the Act also apply to any project involving 1.1 acres or less, provided that the exemption does not apply to any land-disturbing activities within 200 feet of the bank of any State waters.

Construction or maintenance projects undertaken or financed by the Georgia Department of Transportation, the Georgia Highway Authority, or the Georgia Tollway Authority, or any road or maintenance project undertaken by any county or municipality, are also exempt from the permit requirements of the Act, provided that such projects conform to the specifications used by the Georgia Department of Transportation for control of soil erosion. Exemptions are also provided to land-disturbing activities by any airport authority, and by any electric membership corporation or municipal electrical system, provided that such activities conform as far as practicable with the minimum standards set forth at Code Section 12-7-6 of the Erosion and Sedimentation Act. The Georgia Department of Transportation has developed a "Standard Specifications -- Construction of Roads and Bridges," which describes contractor requirements, including controls for sedimentation and erosion. The specifications describe the requirements for both temporary control measures for use during the construction phase, and permanent erosion and sedimentation control measures that need to be incorporated into the design of the project. Failure to comply with the provisions of the specification will result in cessation of all construction activities by the contractor, and may result in the withholding of moneys due to the contractor according to a schedule of non-performance of erosion control, enforced by the Georgia Department of Transportation. Forestry and agricultural land-disturbing activities are subject to the Best Management Practices of the Georgia Forest Commission and the Georgia Soil and Water Conservation Commission, respectively.

6.12.3 Consistency

The proposed action recommends closing a combination of man-made cuts to restore historic conditions of salinity regimes and increase connectivity for local fauna into the upper reaches of Dover and Umbrella Creeks. Impacts from construction of closures are expected to be minor and temporary and cease soon after construction is completed. After project implementation, potential indirect long-term benefits of restoring depths and flows in the study area may include increased dissolved oxygen (DO) levels, decreased Total Suspended Solids (TSS), and improved nutrient exchange between the Satilla River, St. Andrews Sound, and the Atlantic Ocean. Indirect beneficial impacts are expected to occur to the aquatic ecosystem and improve habitat for flora and fauna that use this habitat.

Fill material requirements for the project's closure of man-made cuts would come from clean sources that are free of sediment (e.g. rock and sheet pile). Due to the use of sheet pile and rock for the closure structures any impacts would be negligible and temporary. In addition, turbidity booms would be used to reduce turbidity and sediment loss during construction of the closures. During the D/I Phase of this project, coordination will occur with GADNR to obtain all required permits (e.g Buffer Variance, Erosion Control, etc.).

The proposed project is therefore consistent with this policy.

6.13 Game and Fish

6.13.1 Policy Statement

27-1-3. Ownership and custody of wildlife; privilege to hunt, trap, or fish; general offenses. (Game and Fish Code) The ownership of, jurisdiction over, and control of all wildlife, as defined in this title, are declared to be in the State of Georgia, in its sovereign capacity, to be controlled, regulated, and disposed of in accordance with this title. All wildlife of the State of Georgia are declared to be within the custody of the department for purposes of management and regulation in accordance with this title. However, the State of Georgia, the department, and the board shall be immune from suit and shall not be liable for any damage to life, person, or property caused directly or indirectly by any wildlife.

To hunt, trap, or fish, as defined in this title, or to possess or transport wildlife is declared to be a privilege to be exercised only in accordance with the laws granting such privilege. Every person exercising this privilege does so subject to the right of the state to regulate hunting, trapping, and fishing; and it shall be unlawful for any person participating in the privileges of hunting, trapping, fishing, possessing, or transporting wildlife to refuse to permit authorized employees of the department to inspect and count such wildlife to ascertain whether the requirements of the wildlife laws and regulations are being faithfully complied with. Any person who hunts, traps, fishes, possesses, or transports wildlife in violation of the wildlife laws and regulations violates the conditions under which this privilege is extended; and any wildlife then on his person or within his immediate possession are deemed to be wildlife possessed in violation of the law and are subject to seizure by the department pursuant to Code Section 27-1-21.

It shall be unlawful to hunt, trap, or fish except during an open season for the taking of wildlife, as such open seasons may be established by law or by rules and regulations promulgated by the board or as otherwise provided by law.

It shall be unlawful to hunt, trap, or fish except in compliance with the bag, creel, size, and possession limits and except in accordance with such legal methods and weapons and except at such times and places as may be established by law or by rules and regulations promulgated by the board.

It shall be unlawful to hunt, trap, or fish for any game species after having obtained the daily or season bag or creel limit for that species.

A person who takes any wildlife in violation of this title commits the offense of theft by taking. A person who hunts, traps, or fishes in violation of this title commits the offense of criminal attempt. Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

If any court finds that any criminal violation of the provisions of this title is so egregious as to display a willful and reckless disregard for the wildlife of this state, the court may,

in its discretion, suspend the violator's privilege to hunt, fish, trap, possess, or transport wildlife in this state for a period not to exceed five years. Any person who hunts, fishes, traps, possesses, or transports wildlife in this state in violation of such suspension of privileges shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction thereof shall be punished by a fine of not less than \$1,500.00 nor more than \$5,000.00 or imprisonment for a period not exceeding 12 months or both. (Ga. L. 1968, p. 497, SS 1; Code 1933, SS 45-201, enacted by Ga. L. 1977, p. 396, SS 1; Ga. L. 1978, p. 816, SS 13, 14; Ga. L. 1992, p. 2391, SS 1.) 27-1-4.

Powers and duties of board generally. The board shall have the following powers and duties relative to this title:

- a. Establishment of the general policies to be followed by the department under this title;
- b. Promulgation of all rules and regulations necessary for the administration of this title including, but not limited to, rules and regulations to regulate the times, places, numbers, species, sizes, manner, methods, ways, means, and devices of killing, taking, capturing, transporting, storing, selling, using, and consuming wildlife and to carry out this title, and rules and regulations requiring daily, season, or annual use permits for the privilege of hunting and fishing in designated streams, lakes, or game management areas; and
- c. Promulgation of rules and regulations to protect wildlife, the public, and the natural resources of this state in the event of fire, flood, disease, pollution, or other emergency situation without complying with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Such rules and regulations shall have the force and effect of law upon promulgation by the board (Ga. L. 1911, p. 137, SS 1; Ga. L. 1924, p. 101, SSSS 1, 3,4; Ga. L. 1931, p. 7, SS 25; Ga. L. 1937, p. 264, SSSS 1, 4, 9; Ga. L. 1943, p. 128, SSSS 1, 2, 14; Ga. L. 1955, p. 483, SS 3; Ga. L. 1972, p. 1015, SS 1527; Ga. L. 1973, p. 344, SS 1; Code 1933, SS 45-103, enacted by Ga. L. 1977, p. 396, SS 1; Ga. L. 1978, p. 816, SS 7; Ga. L. 1979, p. 420, SS 3; Ga. L. 1987, p. 179, SS 1).

6.13.2 General Description

The Official Code of Georgia Annotated, Title 27, Chapter I (known as the Game and Fish Code) provides the ownership of, jurisdiction over, and control of all wildlife to be vested in the State of Georgia. The section declares that custody of all wildlife in the State is vested with the Georgia Department of Natural Resources for management and regulation. The Wildlife Resources Division is the principal State agency vested with statutory authority for the protection, management and conservation of terrestrial wildlife and fresh water wildlife resources, including fish, game, non-game, and endangered species. All licensing of recreational and commercial fish and wildlife activities, excluding shellfish, is performed by the Wildlife Resources Division. The Coastal Resources Division issues shellfish permits, regulates marine fisheries activities including the opening and closing of the commercial shrimp harvesting season, areas of shrimp harvest, regulates marine species size and creel limits, and enforces the

National Shellfish Sanitation Program. The Commissioner of the Department of Natural Resources has directed that there will be cooperation and coordination between the Divisions of the Department in the administration of their respective responsibilities.

6.13.3 Consistency

The proposed project includes no feature to hunt, trap, fish, possess or transport any recreational and commercial fish or wildlife species. Therefore, no such license is required by the project.

6.14 Georgia Heritage

6.14.1 Policy Statement

Georgia Heritage Trust Act (O.C.G.A. 12-3-70, et seq.) 12-3-71. Legislative purpose. The General Assembly finds that certain real property in Georgia, because it exhibits unique natural characteristics, special historical significance, or particular recreational value, constitutes a valuable heritage, which should be available to all Georgians, now and in the future. The General Assembly further finds that much of this real property, because of Georgia's rapid progress over the past decade, has been altered, that its value as part of our heritage has been lost, and that such property, which remains, is in danger of being irreparably altered. The General Assembly declares, therefore, that there is an urgent public need to preserve important and endangered elements of Georgia's heritage, so as to allow present and future citizens to gain an understanding of their origins in nature and their roots in the culture of the past and to ensure a future sufficiency of recreational resources. The General Assembly asserts the public interest in the state's heritage by creating the Heritage Trust Program which shall be the responsibility of the Governor and the Department of Natural Resources and which shall seek to protect this heritage through the acquisition of fee simple title or lesser interests in valuable properties and by utilization of other available methods. (Ga. L. 1975, p. 962, SS 2.)

6.14.2 General Description

Georgia's Heritage Trust Act of 1975 seeks to preserve certain real property in Georgia that exhibits unique natural characteristics, special historical significance, or particular recreational value. This Act created the Heritage Trust Commission, composed of 15 members appointed by the Governor who represent a variety of interests and expertise. The Commission served as an advisory body to the Governor and to the Board of the Department of Natural Resources, making recommendations concerning the identification, designation, and acquisition of heritage areas. Although this Act is still in Georgia law, the Commission's term expired and the implementation and administration of many of the goals of the Act has been superseded by the Heritage 2000 Program.

6.14.3 Consistency

While there are no known designated heritage areas within the proposed project area, a low water shoreline survey of the areas where the sheet pile end walls will be placed will be conducted to identify and evaluate significant archaeological resources. The project is consistent with this policy.

6.15 Groundwater Use

6.15.1 Policy Statement

Groundwater Use Act (O.C.G.A. 12-5-90, et seq.) 12-5-91. Declaration of policy. The general welfare and public interest require that the water resources of the state be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation in order to conserve these resources and to provide and maintain conditions, which are conducive to the development and use of water resources (Ga. L. 1972, p. 976, SS 2.).

6.15.2 General Description

The Groundwater Use Act charges the Board of Natural Resources with the responsibility to adopt rules and regulations relating to the conduct, content, and submission of water conservation plans, including water conservation practices, water drilling protocols, and specific rules for withdrawal and utilization of groundwater. The Environmental Protection Division administers these rules and regulations. Groundwater withdrawals of greater than 100,000 gallons per day require a permit from the Environmental Protection Division. Permit applications that request an increase in water usage must also submit a water conservation plan approved by the Director of Environmental Protection Division (O.C.G.A. 12-5-96). The Environmental Protection Division has prepared a comprehensive groundwater management plan for coastal Georgia that addresses water conservation measures, protection from saltwater encroachment, reasonable uses, preservation for future development and economic development issues. The Memorandum of Agreement with the Environmental Protection Division ensures that permits issued under the Groundwater Use Act must be consistent with the Coastal Management Program.

6.15.3 Consistency

Since this project does not involve any dredging or activities associated with dredging, the proposed project is fully consistent with this policy.

6.16 Hazardous Waste

6.16.1 Policy Statement

Georgia Hazardous Waste Management Act (O.C.G.A. 12-8-60, et seq.) F-20 12-8-61. Legislative policy. It is declared to be the public policy of the State of Georgia, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environment, to institute and maintain a comprehensive state-wide program for the management of hazardous wastes through the regulation of the generation, transportation, storage, treatment, and disposal of hazardous wastes (Ga. L. 1979, p. 1127, SS 2; Ga. L. 1992, p. 2234, SS 5.).

6.16.2 General Description

The Georgia Hazardous Waste Management Act describes a comprehensive, statewide program to manage hazardous wastes through regulating hazardous waste generation, transportation, storage, treatment, and disposal. Hazardous waste is defined by the Board of Natural Resources, and it includes any waste that the Board concludes is capable of posing a substantial present or future hazard to human health or the environment when improperly treated, transported, stored, disposed, or otherwise managed, based on regulations promulgated by the US Environmental Protection Agency. The Hazardous Waste Management Act is administered and implemented by the Environmental Protection Division.

6.16.3 Consistency

Fill material requirements for the project's closure of man-made cuts would come from sources that are free of any contamination (e.g. rock and sheet pile). Pollutants from existing sediments being disturbed during construction activities are not expected and historical land use does not warrant any sediment testing for contaminants. The probability of encountering new HTRW contamination for the TSP is very low. If a new environmental condition is identified prior to the construction phase at the site of the closures, USACE will take the necessary measures to avoid that recognized environmental condition so that the probability of encountering or disturbing HTRW would continue to be low. The proposed project is fully consistent with this policy.

6.17 Historic Areas

6.17.1 Policy Statement

Historic Areas (O.C.G.A. 12-3-50, et seq.) 12-3-50. 1. Grants for the preservation of "historic properties"; additional powers and duties of department. It is declared to be the public policy of the State of Georgia, in furtherance of its responsibility to promote and preserve the health, prosperity, and general welfare of the people, to encourage the preservation of historic properties, which have historical, cultural, and archeological significance to the state (Code 1981, SS 12-3-50.1, enacted by Ga. L. 1986, p. 399, SS 1; Ga. L. 1996, p. 6, SS 12.).

6.17.2 General Description

The authority found at O.C.G.A. 12-3-50 provides the Department of Natural Resources with the powers and duties to "promote and increase knowledge and understanding of the history of this State from the earliest times to the present, including the archeological, Indian, Spanish, colonial, and American eras, by adopting and executing general plans, methods, and policies for permanently preserving and marking objects, sites, areas, structures, and ruins of historic or legendary significance, such as trails, post roads, highways, or railroads; inns or taverns; rivers, inlets, millponds, bridges, plantations, harbors, or wharves; mountains, valleys, coves, swamps, forests, or Everglade; churches, missions, campgrounds, and places of worship; schools, colleges, and universities; courthouses and seats of government; places of treaties, councils, assemblies, and conventions; factories, foundries, industries, mills, stores, and banks; cemeteries and burial mounds; and battlefields, fortifications, and arsenals. Such preservation and marking may include the construction of signs, pointers, markers, monuments, temples, and museums, which structures may be accompanied by tablets, inscriptions, pictures, paintings, sculptures, maps, diagrams, leaflets, and publications explaining the significance of the historic or legendary objects, sites, areas, structures, or ruins." The Department is also required to "promote and assist in the publicizing of the historical resources of the State by preparing and furnishing the necessary historical material to agencies charged with such publicity; to promote and assist in making accessible and attractive to travelers, visitors, and tourists the historical features of the State by advising and cooperating with State, federal, and local agencies charged with the construction of roads, highways, and bridges leading to such historical-points." The Historical Preservation Division is charged with carrying out these duties, and coordinates its activities in the coastal area with the Coastal Resources Division.

6.17.3 Consistency

A low water shoreline survey of the areas where the sheet pile end walls will be placed will be conducted to identify and evaluate significant archaeological resources. A remote sensing survey will be conducted within the cuts to identify significant submerged resources. A Memorandum of Agreement would be executed with the Georgia State Historic Preservation Office to mitigate any adverse effects to significant resources that would be impacted.

No historic architectural resources would be affected, nor would the constructed closure structures have an adverse visual effect. The closure structures would help create wetland habitat which is compatible with the viewshed.

Recorded archaeological sites located along the marsh near Umbrella Creek would not be affected by the implementation of this alternative since the sites would not be subjected to increased periods of exposure or longer durations of saturation. The draft Integrated Feasibility Report and Environmental Assessment for the Noyes Cut Ecosystem Restoration Study will be coordinated with the GA SHPO to ensure there are

no adverse impacts from this project. Therefore, the project would be consistent with this policy.

6.18 Natural Areas

6.18.1 Policy Statement

Georgia Natural Areas Act (O.C.G.A. 12-3-90, et seq.) 12-3-91. Legislative findings and declaration of purpose. The General Assembly finds that there is an increasing nation-wide concern over the deterioration of man's natural environment in rural as well as urban areas; that there is a serious need to study the long-term effects of our civilization on our natural environment; that while the State of Georgia is still richly endowed with relatively undisturbed natural areas, these areas are rapidly being drastically modified and even destroyed by human activities; that it is of the utmost importance to preserve examples of such areas in their natural state, not only for scientific and educational purposes but for the general well-being of our society and its people. Therefore, it shall be the purpose and function of the Department of Natural Resources to:

- a. Identify natural areas in the State of Georgia, which are of unusual ecological significance;
- b. Use its influence and take any steps within its power to secure the preservation of such areas in an undisturbed natural state in order that such areas may:

- (1) Be studied scientifically;
 - (2) Be used for educational purposes;
 - (3) Serve as examples of nature to the general public; and
 - (4) Enrich the quality of our environment for present and future generations; and
- c. Recommend areas or parts of areas for recreational use. (Ga.L. 1969, p. 750, SS 2; Ga.L. 1972, p. 1015, SS 151 1.) 12-3-92.

"Natural areas" defined. As used in this article, the term "natural areas" means a tract of land in its natural state which may be set aside and permanently protected or managed for the purpose of the preservation of native plant or animal communities, rare or valuable individual members of such communities, or any other natural features of significant scientific, educational, geological, ecological, or scenic value (Ga. L. 1966, p.330, SS 2; Ga. L. 1969, p.750, SS 3.).

6.18.2 General Statement

The Georgia Natural Areas Act authorizes the Department of Natural Resources to identify areas in the State of Georgia, which are of unusual ecological significance, and to secure the preservation of such areas in an undisturbed natural state. The purpose for such acquisition is to allow scientific study of the property, to educate, to "serve as examples of nature to the general public," and to "enrich the quality of our environment for present and future generations." Natural areas, as defined by the Act, are tracts of land in their natural state that are to be set aside and permanently protected or

managed for the purpose of preserving natural plant or animal communities, rare or valuable members of such communities, or any other natural features of significant scientific, educational, geologic, ecological, or scenic value.

6.18.3 Consistency

The Georgia Department of Natural Resources, Coastal Resources Division, provided a web link to USACE Savannah District showing the locations of Georgia's Known Occurrences of Conservation Areas on or near the Noyes Cut Ecosystem Restoration Project, Camden County, Georgia.

(<http://gcmp.maps.arcgis.com/apps/webappviewer/index.html?id=08a1acc235d6462e8aeea6f779341627>) One only conservation area was shown to be within the vicinity of the project area, the Satilla River Marsh Island. This area, which is owned by Georgia Department of Natural Resource, is located south of where the project activities will occur and therefore should not be impacted by the proposed project.

6.19 Oil and Gas and Deep Drilling

6.19.1 Policy Statement

Georgia Oil and Gas and Deep Drilling Act (O.C.G.A. 12-440, et seq.) 12-441. Legislative findings and declaration of policy. The General Assembly finds and declares that its duty to protect the health, safety, and welfare of the citizens of this state requires that adequate protection of underground fresh water supplies be assured in any drilling operation which may penetrate through any stratum which contains fresh water. This duty further requires that adequate protection be assured in any drilling or the use of such drilled wells in certain other environmentally sensitive areas or in other circumstances where the result of such drilling and use may endanger the health, safety, and welfare of the citizens of this state. It is not the policy of the General Assembly to regulate the drilling of shallow exploration or engineering holes except in such environmentally sensitive areas as defined in this part. The General Assembly further finds and declares that, with the current energy shortage which this state and nation face, it must encourage oil and gas exploration to identify new sources of energy, but not at the expense of our important natural resources such as residential, municipal, and industrial supplies of fresh water. The General Assembly further finds and declares that with an increase in oil exploration, it must provide assurances to persons engaging in such exploration that adequate safeguards regarding results of exploration will remain privileged information for a specified time. The General Assembly further finds and declares that it is in the public interest to obtain, protect, and disseminate all possible geologic information associated with drilling operations in order to further the purposes of future energy related research. (Ga. L. 1975, p. 966, SS 1.)

6.19.2 General Description

Georgia's Oil and Gas and Deep Drilling Act regulates oil and gas drilling activities to provide protection of underground freshwater supplies and certain "environmentally sensitive" areas. The Board of Natural Resources has the authority to implement this Act. The Act establishes requirements for drilling, casing, and plugging of wells for oil, gas, or mineral exploration: (1) to alleviate escape of gas or oil from one stratum to another; (2) to prevent the pollution of freshwater by oil, gas, salt water or other contaminants; (3) to prevent drowning of any stratum that might reduce the total ultimate recovery of gas or oil; and, (4) to prevent fires, waste, and spillage of contaminants such as oil.

6.19.3 Consistency

No oil and/or gas drilling operations are proposed for this project.

6.20 Phosphate Mining

6.20.1 Policy Statement

Licenses to dig, mine, and remove phosphate deposits; restrictions on license holders. (O.C.G.A. 12-4-100, et seq.) 12-4-101. Restrictions on license holders. Whenever any person discovers phosphate rock or phosphatic deposits in the navigable streams or waters of this state or in any public land on their banks or margins and files with the Secretary of State notice of such discovery and a description of the location thereof, he shall be entitled to receive from the Secretary of State a license giving him or his assigns the exclusive right, for ten years from the date of the license, of digging, mining, and removing from such location and from an area for a distance of five miles in any or all directions there from the phosphate rock and phosphatic deposits that may be found therein, provided that persons receiving or holding such licenses shall in no way interfere with the free navigation of the streams and waters or the private rights of any citizen residing on or owning the lands upon the banks of such navigable rivers and waters; provided, further, that as long as the license remains in effect, no person, natural or artificial, shall have the privilege of locating a claim within 20 miles of any other claim for which he has received a license (Ga. L. 1884-85, p. 125, SS 1; Civil Code 1895, SS 1726; Civil Code 1910, SS 1977; Code 1933, SS 43-401.).

6.20.2 General Description

The laws found at O.C.G.A. 12-4-100, et seq., describe the State's management of phosphate deposits. There is great interest in phosphate mining in Georgia. In fact, the citizens of Georgia developed the Coastal Marshlands Protection Act in an effort to limit potential adverse environmental impacts from a proposed phosphate mining operation. The Secretary of State is charged with the administration of this statute, and is networked with the Georgia Coastal Management Program.

6.20.3 Consistency

Mining of phosphates is not included in the proposed project.

6.21 Protection of Tidewaters

6.21.1 Policy Statement

Protection of Tidewaters Act (O.C.G.A. 52-1-1. et seq.) 52-1-2. Legislative findings and declaration of policy. The General Assembly finds and declares that the State of Georgia became the owner of the beds of all tidewaters within the jurisdiction of the State of Georgia as successor to the Crown of England and by the common law. The State of Georgia continues to hold title to the beds of all tidewaters within the state, except where title in a private party can be traced to a valid Crown or state grant which explicitly conveyed the beds of such tidewaters. The General Assembly further finds that the State of Georgia, as sovereign, is trustee of the rights of the people of the state to use and enjoy all tidewaters which are capable of use for fishing, passage, navigation, commerce, and transportation, pursuant to the common law public trust doctrine. Therefore, the General Assembly declares that the protection of tidewaters for use by the state and its citizens has more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and, consequently, is properly a matter for regulation under the police powers of the state. The General Assembly further finds and declares that structures located upon tidewaters which are used as places of habitation, dwelling, sojournment, or residence interfere with the state's proprietary interest or the public trust, or both, and must be removed to ensure the rights of the state and the people of the State of Georgia to the use and enjoyment of such tidewaters. It is declared to be a policy of this state and the intent of this article to protect the tidewaters of the state by authorizing the commissioner of natural resources to remove or require removal of certain structures from such tidewaters in accordance with the procedures and within the timetable set forth in this article. (Code 1981, SS 52-1-2, enacted by Ga. L. 1992, p. 2317, SS 1.)

6.21.2 General Description

The Protection of Tidewaters Act establishes the State of Georgia as the owner of the beds of all tidewaters within the State, except where title by a private party can be traced to a valid British Crown or State land grant. The Act provides the Department of Natural Resources the authority to remove those "structures" that are capable of habitation, or incapable of or not used for transportation. Permits for such structures may not extend past June 30, 1997. The Act provides procedures for removal, sale, or disposition of such structures (This is similar to the Right of Passage Act, except that it is specific to tidewaters rather than all waters of Georgia.).

6.21.3 Consistency

It is understood that the State of Georgia has ownership of the beds of all tidewaters within the state. No structures associated with habitation would be built on these lands. The proposed project is fully consistent with this policy.

6.22 Recreational Docks

6.22.1 Policy Statement

50-16-61. General supervision and office assignment (Under the Administrative Procedures Act, Revocable License Program) The Governor shall have general supervision over all property of the state with power to make all necessary regulations for the protection thereof, when not otherwise provided for.

6.22.2 General Description

The provisions of O.C.G.A. 50-16-61 describe the general supervision of State properties as the responsibility of the Governor. Under this authority, the Department of Natural Resources, Coastal Resources Division issues Revocable Licenses for recreational docks on State-owned tidal water bottoms. In 1995, the Georgia Supreme Court found that the State owns fee simple title to the foreshore on navigable tidal waters and, as a result, owns the river's water bottoms up to the high water mark and may regulate the use of these tidelands for the public good. (*Dorroh v. McCarthy* 265 Ga. 750, 462 S.E. 2d 708 (1995)). The opinion of the State Attorney General states: "In managing tidelands, the Department of Natural Resources acts under the authority of this section and the Department's employment of the extension of property lines method of allocating use of State-owned water bottoms may be generally acceptable, but rigid adherence to such a policy when it denies deep water access to a riparian or littoral owner, may cause inequitable results (1993 Opinion Attorney General No. 93-25). As described in the State Properties Code (O.C.G.A. 50-16-30, et seq.), the term "Revocable License" means "the granting, subject to certain terms and conditions contained in a written revocable license or agreement, to a named person or persons (licensee), and to that person or persons only, of a revocable privilege to use a certain described parcel or tract of the property to be known as the licensed premises for the named purpose." A Revocable License may be revoked, canceled, terminated, with or without cause, at any time by the licensor.

6.22.3 Consistency

This proposed project does not include construction of any recreational docks; therefore, this project is fully consistent with this policy.

6.23 Rights of Passage

6.23.1 Policy Statement

Right of Passage Act (O.C.G.A. 52-1-30, et seq.) 52-1-31. Legislative findings and declaration of policy. The General Assembly finds and declares that by the common law the citizens of this state have an inherent right to use as highways all navigable streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year and that this right of use extends to the entire surface of the stream or river from bank to bank. The General Assembly further finds that the common law regarding such right of use has not been modified by statute nor is it incompatible with the federal or state constitutions. Therefore, the General Assembly declares that ensuring the right of use by all the citizens of this state of navigable streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year as highways has more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and, consequently, is properly a matter for regulation under the police powers of the state. The General Assembly further finds and declares that structures located upon navigable streams and rivers which are used as places of habitation, dwelling, sojournment, or residence interfere with the citizens' right to use the entire surface of such streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year from bank to bank as highways and must be removed to ensure the rights of the citizens of this state to such usage. It is declared to be a policy of this state and the intent of this article to ensure such rights of the citizens of this state by authorizing the commissioner of natural resources to remove or require removal of certain structures from such streams and rivers which are capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year in accordance with the procedures and within the timetable set forth in this article (Code 1981, SS 52-1-31, enacted by Ga. L. 1992, p. 2317, SS 1.).

6.23.2 General Description

The Right of Passage Act declares the right of use of all navigable waterways of the state by all citizens of Georgia. The Act establishes the mechanism to remove "structures" that are capable of being used as a place of habitation, are not used as or are not capable of use as a means of transportation, and do not have a permit under the Act. Permits shall not be issued for a term ending after June 30, 1997. The Right of Passage Act is implemented by the Department of Natural Resources Law Enforcement Division. (This is similar to the Protection of Tidewaters Act, except that it is specific to all navigable waters rather than tidewaters Georgia.)

6.23.3 Consistency

It is understood that the State of Georgia has ownership of the beds of all navigable waters within the state. No structures associated with habitation would be built on these lands; therefore, the proposed project is fully consistent with this policy.

6.24 River Corridors

6.24.1 Policy Statement

Mountain and River Corridor Protection Act (O.C.G.A. 12-2-1. et seq.) 12-2-8. Promulgation of minimum standards and procedures for protection of natural resources, environment, and vital areas of the state. The local governments of the State of Georgia are of vital importance to the state and its citizens. The state has an essential public interest in promoting, developing, sustaining, and assisting local governments. The natural resources, environment, and vital areas of the state are also of vital importance to the state and its citizens. The state has an essential public interest in establishing minimum standards for land use in order to protect and preserve its natural resources, environment, and vital areas. The purpose of this Code section shall be liberally construed to achieve its purpose. This Code section is enacted pursuant to the authority granted the General Assembly in the Constitution of the State of Georgia, including, but not limited to, the authority provided in Article 111, Section VI, Paragraphs I and 11(a)(1) and Article IX, Section 11, Paragraphs III and IV.

The department is therefore authorized to develop minimum standards and procedures, in accordance with paragraph (2) of subsection (b) of Code Section 50-8-7.1 and in accordance with the procedures provided in Code Section 50-8-7.2 for the promulgation of minimum standards and procedures, for the protection of natural resources, environment, and vital areas of the state, including, but not limited to, the protection of mountains, the protection of river corridors, the protection of watersheds of streams and reservoirs which are to be used for public water supply, for the protection of the purity of ground water, and for the protection of wetlands, which minimum standards and procedures shall be used by local governments in developing, preparing, and implementing their comprehensive plans as that term is defined in paragraph (3) of subsection (a) of Code Section 50-8-2 (Code 1981, SS 12-2-8, enacted by Ga. L. 1989, p. 1317, SS 5. 1; Ga. L. 199 1, p. 1719, SS 1; Ga. L. 1992, p. 6. SS 12; Ga. L. 1993, p. 91, SS 12.).

6.24.2 General Description

The statute that is informally known as the Mountain and River Corridor Protection Act (O.C.G.A. 12-2-8) authorizes the Department of Natural Resources to develop minimum standards for the protection of river corridors (and mountains, watersheds, and wetlands) that can be adopted by local governments. The Act is administered by the Environmental Protection Division. All rivers in Georgia with an average annual flow of 400 cubic feet per second are covered by the Act, except those within the jurisdiction of the Coastal Marshlands Protection Act. Some of the major provisions of the Act include: requirements for a 100-foot vegetative buffer on both sides of rivers; consistency with the Georgia Erosion and Sedimentation Act; and local governments must identify river corridors in land-use plans developed under their respective comprehensive planning acts.

Regional Development Centers are instrumental in helping local governments enact the provisions of this Act. The Coastal Georgia Regional Development Center prepared a Regional River Corridor Protection Plan for counties within their jurisdiction. The Plan describes the ten local governments and the associated rivers that are affected by the River Corridor Protection Act, and puts forward a regional plan for the protection of river corridors. Regional plans are preferable to having local governments prepare individual plans. The plan provides for construction of road crossings, acceptable uses of river corridors, maintenance of a vegetative buffer along the river for a minimum of 100 feet from the river's edge (residential structures are allowed within the buffer zone), timber production standards, wildlife and fisheries management, recreation, and other uses. The local governments within the Coastal Regional Development Center jurisdiction affected by the River Corridor Protection Act, and their respective rivers are listed below. Eight coastal counties and two coastal cities (Richmond Hill and Woodbine) are affected.

Adoption of language addressing the River Corridor Protection Act is required in local comprehensive plans. The following counties and cities have adopted a Regional River Corridor Protection Plan.

COUNTY/CITY	RIVER
Bryan County	Canoochee River
City of Richmond Hill	Ogeechee
Camden County	Satilla River St. Mary's
City of Woodbine	Satilla River
Chatham County	Savannah
Effingham County	Ogeechee River
Glynn County	Altamaha River
Liberty County	Canoochee
Long County	Altamaha River
McIntosh County	Altamaha River

Jurisdiction of the River Corridor Protection Act extends along the above named rivers from the limit of Coastal Marshlands Protection Act jurisdiction upstream through the coastal counties.

6.24.3 Consistency

Waters adjacent to the project area are under the jurisdiction of the Coastal Marshlands Protection Act, rather than the River Corridor Protection Act. The proposed project is fully consistent with this policy.

6.25 Rivers and Harbors Development (Includes Burke-Day requirements)

6.25.1 Policy Statement

Rivers and Harbor Development (O.C.G.A. 52-9-2). The State of Georgia recognizes the need for maintaining navigation inlets, harbors, and rivers to promote commercial and recreational uses of our coastal waters and their resources. The State of Georgia further recognizes that dredging activities to deepen or maintain navigation channels within tidal inlets, as well as the entrances to harbors and rivers, often alter the natural drift of sand resources within the littoral zone. This alteration can be exacerbated when the sand resources are deposited in designated upland or offshore disposal areas instead of being returned to the natural river-sand transport-beach system. This alteration can adversely impact natural resources, recreation, tourism, and associated coastal economies. Moreover, the State of Georgia believes in the duties of government to protect life and property. Therefore, it is the policy of this state that there shall be no net loss of sand from the state's coastal barrier beaches resulting from dredging activities to deepen or maintain navigation channels within tidal inlets, as well as the entrances to harbors and rivers. Ga. L. 1967, p. 516; Ga. L. 1972, p. 1015, § 1516; Ga. L. 2002, p. 569, § 2; Ga. L. 2004, p. 784, § 1; Ga. L. 2005, p. 60, § 52/HB 95.

6.25.2 General Description

Disposal of sand and sediment originating from water navigation related projects

(a) With regard to all sand that is suitable for beach replenishment originating from the dredging of navigation channels within tidal inlets, as well as the entrances to harbors and rivers:

(1) Such sand shall be used to replenish the adjacent coastal beaches, if feasible, either by deposition of sand into the nearshore littoral zone or direct placement on affected beaches;

(2) If such sand is placed elsewhere, then a quality and quantity of sand from an alternate location necessary to mitigate any adverse effects caused by the dredging shall be used to replenish affected coastal beaches; provided, however, that this paragraph shall apply only where beach replenishment is necessary to mitigate effects from the dredging and dredged material removal from the natural river-sand transport-beach system of a specific project and beach replenishment from another source is the least costly environmentally sound mitigation option;

(3) The disposition of sand shall be completed in cooperation with and, when required by applicable state or federal law, with the approval of the local governing authority and the Department of Natural Resources according to the requirements of Part 2 of Article 4 of Chapter 5 of Title 12, the "Shore Protection Act"; and

(4) All such activities shall provide protection to coastal marshlands as defined in paragraph (3) of Code Section 12-5-282 and to nesting sea turtles and hatchlings and their habitats.

(b) The Department of Natural Resources and the party undertaking the dredging shall coordinate to determine the option under subsection (a) of this Code section for beach replenishment that is most beneficial to the adjacent or affected coastal beaches, including, where applicable, identifying an alternate source of sand for purposes of paragraph (2) of subsection (a) of this Code section, after taking into consideration environmental impacts and any limitation of applicable state and federal law.

6.25.3 Consistency

This proposed project does not include dredging or the need to place any dredged material within Georgia waters. The proposed project does not require the need to get material from nearby channels and no sand sources will be lost or disturbed in and around the project site. Fill material will come from clean sources offsite which will include bedding stone, riprap, and sheet pile. Therefore, the proposed project would be consistent with the River and Harbor Development Policy.

6.26 Safe Drinking Water

6.26.1 Policy Statement

Georgia Safe Drinking Water Act (O.C.G.A. 12-5-1 70, et seq.) 12-5-171. Declaration of policy; legislative intent; Environmental Protection Division to administer part. As a guide to the interpretation and application of this part, it is declared to be the policy of the State of Georgia that the drinking waters of the state shall be utilized prudently to the maximum benefit of the people and that the quality of such waters shall be considered a major factor in the health and welfare of all people in the State of Georgia. To achieve this end, the government of the state shall assume responsibility for the quality of such waters and the establishment and maintenance of a water-supply program adequate for present needs and designed to care for the future needs of the state.

This requires that an agency of the state be charged with this duty and that it have the authority to require the use of reasonable methods, that is, those methods which are economically and technologically feasible, to ensure adequate water of the highest quality for water-supply systems. Because of substantial and scientifically significant variations in the characteristics, usage, and effect upon public interest of the various surface and underground waters of the state, uniform requirements will not necessarily apply to all waters or segments thereof. It is the intent of this part to confer discretionary administrative authority upon such agency to take the above and related circumstances into consideration in its decisions and actions in determining, under the conditions prevailing in specific cases, those procedures to best protect the public interests. The Environmental Protection Division of the Department of Natural Resources shall be the

state agency to administer the provisions of this part consistent with the above-stated policy (Code 1933, SS 88-2601, enacted by Ga. L. 1964, p.499, SS 1; Ga. L. 1977, p.351, SS 1.).

6.26.2 General Description

The Georgia Safe Drinking Water Act of 1977 charges the Environmental Protection Division with the responsibility for maintaining the quality of drinking water and for maintaining a water-supply program adequate for present and future needs of the State. The Environmental Protection Division is designated as the agency to establish rules and policies for the proper administration of drinking water management programs.

6.26.3 Consistency

The proposed action would not adversely impact the principal drinking water aquifer (upper Floridan) in the coastal area. The closure of the three cuts would not be expected to adversely impact aquifer and production wells in and around the project area. Therefore, the proposed project is consistent with this Act.

6.27 Scenic Rivers

6.27.1 Policy Statement

Georgia Scenic Rivers Act (O.C.G.A. 12-5-350, et seq.) 12-5-352. Rivers comprising the Georgia Scenic River System. The Georgia Scenic River System shall be comprised of the following:

- a. That portion of the Jacks River contained within the Cohutta National Wilderness Area and located in Fannin and Murray counties, Georgia, which portion extends a length of approximately 16 miles;
 - b. That portion of the Conasauga River located within the Cohutta National Wilderness Area and located in Fannin, Gilmer, and Murray counties, Georgia, which portion extends a length of approximately 17 miles;
 - c. That portion of the Chattooga River and its West Fork which are now designated as part of the Chattooga National Wild and Scenic River and located in Rabun County, Georgia, which portion extends a length of approximately 34 miles; and
- (4) That portion of Ebenezer Creek from Long Bridge on County Road S 393 to the Savannah River and located in Effingham County, Georgia, which portion extends a length of approximately seven miles. The Georgia Scenic River System shall also be comprised of any river or section of a river designated as a scenic river by Act or resolution of the General Assembly. (Ga. L. 1969, p. 933, SS 3; Ga. L. 1978, p. 2207, SS 1; Ga. L. 1981, p. 459, SS 1.)

6.27.2 General Description

The Georgia Scenic Rivers Act of 1969 defines "scenic river" to mean certain rivers or section of rivers that have valuable scenic, recreational, or natural characteristics that should be preserved for the benefit and enjoyment of present and future generations. Certain sections of rivers are named in the Act, and the process for designating other sections of Georgia rivers is described. The Georgia Scenic Rivers Act is administered by the Environmental Protection Division.

6.27.3 Consistency

The project area does not include any rivers covered under this act. The project is fully consistent with this policy.

6.28 Scenic Trails

6.28.1 Policy Statement

Georgia Scenic Trails Act (O.C.G.A. 12-3-110, et seq.) 12-3-111. Legislative purpose.

In order to provide for the increasing outdoor recreation needs of an expanding population with an increasing amount of leisure time, in order to promote the enjoyment and appreciation of the outdoor areas of Georgia, and in order to provide for a healthful alternative to motorized travel, trails should be established in urban, suburban, rural, and wilderness areas of Georgia. Therefore, the purpose of this article is to provide for a Georgia Scenic Trails System. (Ga. L. 1972, p. 142, SS 2.)

6.28.2 General Description

The Georgia Scenic Trails Act authorizes the Department of Natural Resources to establish a Scenic Trails System in Georgia. The Department is authorized to construct, maintain, and manage trails on lands acquired through purchase, easement, lease or donation. The purpose is to create a balanced system of trails throughout the State, including urban, bicycle, horse, rural hiking, primitive hiking, historical, bikeways and combination trails. The Georgia Department of Transportation is authorized to construct the bicycle trails and bikeways after the Department of Natural Resources has determined their routes.

6.28.3 Consistency

This proposed action would not involve lands that could be considered suitable for establishing a scenic trail; therefore, the proposed project is fully consistent with this policy.

6.29 Septic Tanks

6.29.1 Policy Statement

Title 31 -- Health (O.C.G.A. Title 31 generally) (Septic Tank Law) 31-2-7. Standards for individual sewage management systems.

The Department of Human Resources shall have the authority as it deems necessary and proper to adopt statewide minimum standards for on-site, individual sewage management systems, including but not limited to standards for the size and construction of septic tanks. The Department is authorized to require that any on-site, individual sewage management system be examined and approved prior to allowing the use of such system in the state. Any on-site, individual sewage management system which has been properly approved shall, by virtue of such approval and by operation of law, be approved for installation in every county of the state; provided, however, that such on-site, individual sewage management system shall be required to meet local regulations authorized by law. Upon written request of three or more health districts, the department is authorized to require the reexamination of any such system or component thereof, provided that documentation is submitted indicating unsatisfactory service of such system or component thereof. Before any such examination or reexamination, the department may require the person, persons, or organization manufacturing or marketing the system to reimburse the department or its agent for the reasonable expenses of such examination. (Code 1981, SS 31-2-7, enacted by Ga. L 1992, p. 3308, SS 1; Ga. L. 1994, p. 1777, SS 1.) 31-3-5.1. Regulations for septic tanks for individual sewage management systems in unincorporated areas; conformity to building permit.

No building permit for the construction of any residence, building, or other facility which is to be served by a septic tank or individual sewage management system shall be issued by or pursuant to the authority of a county governing authority unless the septic tank or individual sewage management system installation permit is in conformity with any statewide minimum standards for sewage management systems or the rules and regulations of the county board of health adopted pursuant to the authority of subsection (a) of this Code section. No person, firm, corporation, or other entity shall install a septic tank or individual sewage management system in violation of any state-wide minimum standards or the regulations of a county board of health adopted pursuant to the authority of subsection (a) of the Code section. Each county governing authority shall provide by ordinance or resolution for the enforcement of the provisions of this subsection. (Code 1981, SS 31-3-5. 1, enacted by Ga. L. 1986, p. 227, SS 1; Ga. L. 1992, p. 3308. SS 2; Ga. L. 1994, p. 1777, SS 2.)

6.29.2 General Description

As stated above, the standards and regulations for individual sewage management systems are found at O.C.G.A. 31-2-7 and 31-3-5.1. The Department of Human Resources and the county boards of health are described and established by Title 31. There are other references for managing septic systems throughout the Code, including

references within the River Corridor Protection Act (O.C.G.A. 12-2-8), the Georgia Water Quality Control Act (O.C.G.A. 12-5-20), and others, which make reference to safe siting of septic systems to ensure that leakage from those systems does not infiltrate the waters of the State. The county board(s) of health is provided the authority and the responsibility to ensure safe installation and maintenance of septic systems.

6.29.3 Consistency

No septic tanks are proposed as part of this project; therefore, the proposed project is fully consistent with this policy.

6.30 Shellfish

6.30.1 Policy Statement

Game and Fish Code (O.C.G.A. 27-1-1. et seq.) 27-4-190. Master collecting and picker's permits; hours for taking shellfish; recreational harvesting.

(a) It shall be unlawful to take or possess shellfish in commercial quantities or for commercial purposes without first having obtained a master collecting permit or without proof of purchase that such shellfish were purchased from a certified shellfish dealer. Master collecting permits shall specify whether the permittee is authorized to take oysters, clams, or other shellfish and shall only be issued to persons certified by the Department of Agriculture to handle shellfish unless permission to take and possess shellfish for mariculture purposes has been granted by the department as described in subsection (d) of Code Section 27-4-197. Such permits shall be provided annually at no cost by the department but shall only be issued to persons with the right to harvest shellfish pursuant to Code Sections 44-8-6 through 44-8-8 or to holders of leases from such persons. A permittee may request authorization from the department for employees or agents, who shall be referred to as pickers, of such permittee to take shellfish from permitted areas. Such request shall be in writing to the department and shall include the name, address, and personal commercial fishing license number of the picker. It shall be unlawful for pickers to take or possess shellfish as authorized under their employer's master collecting permit unless they carry on their person while taking or in possession of shellfish a picker's permit as provided by the department indicating the exact area and circumstances allowed for taking. Such pickers' permits and charts shall be provided annually by the department at no cost and shall be in a form as prescribed by the department. Pickers must possess a valid personal commercial fishing license as provided for in Code Section 27-4-110 and, when a boat is used, a valid commercial fishing boat license as provided in Code Section 27-2-8. Master collecting permits and pickers' permits shall not be issued to persons who have been convicted three times in the two years immediately preceding the filing of an application for a permit of violations of this Code section, subsection

(b) of Code Section 27-4-193, subsections (a) and (b) of Code Section 27-4-195, or Code Section 27-4-199. Master collecting permits and pickers' permits issued to master collecting permittee's agents shall be surrendered to the department upon termination of Department of Agriculture certification for handling shellfish, upon

termination of right to harvest shellfish, or upon violation of any provision of this title. If a picker is removed from authorization to take shellfish by the master collecting permittee, that picker shall immediately surrender to the department his picker's permit. It shall be unlawful to possess unauthorized pickers' permits or pickers' permits issued to another person.

(c) It shall be unlawful for any person to take or possess shellfish from unauthorized locations and during unauthorized periods of taking. It shall be unlawful to take shellfish except between the hours of one-half hour before sunrise and one-half hour after sunset.

(Code 1981, SS 27-4-190, enacted by Ga. L. 1991, p. 693, SS 6.) 27-4-193. Taking shellfish from unapproved growing areas; operating facility for controlled purification of shellfish.

(a) As used in this Code section, the term "approved growing area" means that area or areas approved by the department for shellfish harvesting and "unapproved growing area" means all other areas.

(b) It shall be unlawful to take or possess shellfish from unapproved growing areas except at such times and places as the department may establish. The department is authorized to close approved growing areas to allow transplanting at any time between January 1 and December 31. It shall be unlawful to engage in transplanting of shellfish from unapproved growing areas without written authorization from the department. Such authorization may condition the transplanting upon compliance with current, sound principles of wildlife research and management. In approving growing areas, the department shall consider such current guidelines as have been established by the National Shellfish Sanitation Program at the time of approval of the growing areas and current, sound principles of wildlife research and management. (Code 1981, SS 27-4-193, enacted by Ga. L. 1991, p. 693, SS 6; Ga. L. 1992, p. 6, SS 27.)

6.30.2 General Description

The provisions of O.C.G.A. Title 27 (Game and Fish Code), Part 4 describe the regulation of shellfish in Georgia. The provisions describe the requirements for a commercial shellfish harvester to have a license, issued by the Department of Natural Resources pursuant to the requirements of the US Department of Agriculture. The Department also is authorized to approve shellfish growing areas for commercial harvest, and must consider the guidelines established by the National Shellfish Sanitation Program. The Department conducts water sampling in areas that are approved for shellfish in conjunction with the National Shellfish Sanitation Program.

6.30.3 Consistency

No commercial shellfish harvesting areas or shellfish growing areas would be impacted as part of this project. The following web link provided by Georgia Department of Natural Resources, Coastal Resources Division
(<http://qcmp.maps.arcgis.com/apps/webappviewer/index.html?id=08a1acc235d6462e8>)

[aeaa6f779341627](#)) shows the only shellfish locations near the proposed project area. These two areas are located far away from where the proposed project would occur. So no adverse impacts to them are expected. The proposed project is fully consistent with this policy.

6.31 Shore Protection

6.31.1 Policy Statement

Shore Protection Act (O.C.G.A. 2-5-230, et seq.) 12-5-231. Legislative findings and declarations. The General Assembly finds and declares that coastal sand dunes, beaches, sandbars, and shoals comprise a vital natural resource system, known as the sand-sharing system, which acts as a buffer to protect real and personal property and natural resources from the damaging effects of floods, winds, tides, and erosion. It is recognized that the coastal sand dunes are the most inland portion of the sand-sharing system and that because the dunes are the fragile product of shoreline evolution, they are easily disturbed by actions harming their vegetation or inhibiting their natural development. The General Assembly further finds that offshore sandbars and shoals are the system's first line of defense against the potentially destructive energy generated by winds, tides, and storms, and help to protect the onshore segment of the system by acting as reservoirs of sand for the beaches. Removal of sand from these bars and shoals can interrupt natural sand flows and can have unintended, undesirable, and irreparable effects on the entire sand-sharing system, particularly when the historical patterns of sand and water flows are not considered and accommodated. Also, it is found that ocean beaches provide an unparalleled natural recreation resource which has become vitally linked to the economy of Georgia's coastal zone and to that of the entire state. The General Assembly further finds that this natural resource system is costly, if not impossible, to reconstruct or rehabilitate once adversely affected by man related activities and is important to conserve for the present and future use and enjoyment of all citizens and visitors to this state and that the sand-sharing system is an integral part of Georgia's barrier islands, providing great protection to the state's marshlands and estuaries. The General Assembly further finds that this sand-sharing system is a vital area of the state and is essential to maintain the health, safety, and welfare of all the citizens of the state. Therefore, the General Assembly declares that the management of the sand-sharing system has more than local significance, is of equal importance to all citizens of the state, is of state-wide concern, and consequently is properly a matter for regulation under the police power of the state. The General Assembly further finds and declares that activities and structures on offshore sandbars and shoals, for all purposes except federal navigational activities, must be regulated to ensure that the values and functions of the sand-sharing system are not impaired. It is declared to be a policy of this state and the intent of this part to protect this vital natural resource system by allowing only activities and alterations of the sand dunes and beaches which are considered to be in the best interest of the state and which do not substantially impair the values and functions of the sand-sharing system and by authorizing the local units of government of the State of Georgia to regulate activities and alterations of the ocean sand dunes and beaches and recognizing that, if the local

units of government fail to carry out the policies expressed in this part, it is essential that the department undertake such regulation. (Code 1981, SS12-5-231, enacted by Ga. L. 1992, p.1362, SS 1.)

6.31.2 General Description

The Shore Protection Act is the primary legal authority for protection and management of Georgia's shoreline features including sand dunes, beaches, sandbars, and shoals, collectively known as the sand-sharing system. The value of the sand-sharing system is recognized as vitally important in protecting the coastal marshes and uplands from Atlantic storm activity, as well as providing valuable recreational opportunities.

The Shore Protection Act limits activities in shore areas and requires a permit for certain activities and structures on the beach. Construction activity in sand dunes is limited to temporary structures such as crosswalks, and then only by permit from the Georgia Coastal Resources Division. Structures such as boat basins, docks, marinas, and boat ramps are not allowed in the dunes. Shore Permits, which are administered by the Coastal Resources Division, are not granted for activities that are inconsistent with the Georgia Coastal Management Program. The Shore Protection Act prohibits operation of any motorized vehicle on or over the dynamic dune fields and beaches, except as authorized for emergency vehicles, and governmental vehicles for beach maintenance or research. The Shore Protection Act also prohibits storage or parking of sailboats, catamarans, or other marine craft in the dynamic dune field.

Direct permitting authority regarding any proposed facilities located within the jurisdictional area the Shore Protection Act lies with the Shore Protection Committee. These permits are administered by the Georgia Coastal Resources Division. This authority is a very important aspect of the Georgia Coastal Management Program, since recreation at the water's edge is a significant demand. Providing public access and recreational opportunities at or near the beach while protecting the sand sharing system is an important component of the Program.

6.31.3 Consistency

The proposed action is not expected to adversely impact this resource. Positive impacts could occur from closing the cuts by restoring historic conditions of salinity regimes and increasing connectivity for local fauna into the upper reaches of Dover and Umbrella Creeks. Since the action alternatives involve restoring natural circulation patterns by closing man-made cuts, overall impacts are expected to be beneficial on an individual project and cumulative effects basis.

6.32 Solid Waste Management

6.32.1 Policy Statement

Georgia Comprehensive Solid Waste Management Act (O.C.G.A. 12-8-21, et seq.) 12-8-21. Declaration of policy; legislative intent.

(a) It is declared to be the policy of the State of Georgia, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environment, to institute and maintain a comprehensive state-wide program for solid waste management which will assure that solid waste facilities, whether publicly or privately operated, do not adversely affect the health, safety, and well-being of the public and do not degrade the quality of the environment by reason of their location, design, method of operation, or other means and which, to the extent feasible and practical, makes maximum utilization of the resources contained in solid waste.

(b) It is further declared to be the policy of the State of Georgia to educate and encourage generators and handlers of solid waste to reduce and minimize to the greatest extent possible the amount of solid waste which requires collection, treatment, or disposal through source reduction, reuse, composting, recycling, and other methods and to promote markets for and engage in the purchase of goods made from recovered materials and goods which are recyclable. (Code 1981, SS 12-8-21, enacted by Ga. L. 1990, p. 412, SS 1; Ga. L. 1992, p. 3259, SS 1; Ga. L. 1993, p. 399, SSSS 1, 2.)

6.32.2 General Description

The Georgia Comprehensive Solid Waste Management Act defines the rules regarding solid waste disposal in the State. Solid waste handling facilities must be permitted by the State unless an individual is disposing of waste from his own residence onto land or facilities owned by him and disposal of such waste does not adversely affect human health (O.C.G.A. 12-8-30.10). State law mandates that a county, municipality, or group of counties beginning a process to select a site for municipal waste disposal must first call at least one public meeting.

In addition to the above-named jurisdictions, a regional solid waste management authority must hold at least one meeting within the jurisdiction of each participating authority. Meetings held to make siting decisions for any publicly or privately owned municipal solid waste disposal facility must be publicized before the meeting is held (O.C.G.A. 12-8-26). Each city and county is required to develop a comprehensive solid waste management plan that, at a minimum, provides for the assurance of adequate solid waste handling capability and capacity for at least ten years. This plan must identify those sites that are not suitable for solid waste facilities based upon environmental and land use factors (O.C.G.A. 12-8-3 1. 1); these factors may include historic and archeological sites. Solid waste facilities within 5,708 yards of a national historic site are not permitted (O.C.G.A. 12-8-25. 1). Solid waste facilities on property owned exclusively by a private solid waste generator are generally exempt from these provisions. Local governments have the authority to zone areas of environmental,

historic, or cultural sensitivity and to protect those sites from becoming waste disposal areas regardless of whether they are public or privately owned.

6.32.3 Consistency

The proposed action does not include materials that meet the definition of solid waste and therefore do not require treatment as such. The proposed project is fully consistent with this policy.

6.33 Surface Mining

6.33.1 Policy Statement

Georgia Surface Mining Act (O.C.G.A. 12-4-70, et seq.) 12-4-71. Legislative purpose; duty of Environmental Protection Division to administer part.

(a) The purposes of this part are:

- (1) To assist in achieving and maintaining an efficient and productive mining industry and to assist in increasing economic and other benefits attributable to mining;
- (2) To advance the protection of fish and wildlife and the protection and restoration of land, water, and other resources affected by mining;
- (3) To assist in the reduction, elimination, or counteracting of pollution or deterioration of land, water, and air attributable to mining;
- (4) To encourage programs which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources to the end that the most desirable conduct of mining and related operations may be universally facilitated;
- (5) To assist in efforts to facilitate the use of land and other resources affected by mining so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration, or protection of such land and other resources.

(b) The Environmental Protection Division of the department shall administer this part consistent with the above-stated purposes. (Ga. L. 1968, p. 9, SS 2.)

6.33.2 General Description

Georgia's Surface Mining Act regulates all surface mining in Georgia, including the coastal zone. Dredging or ocean mining of materials are not directly regulated by State authority, except that sand and gravel operations are subject to the Shore Protection Act.

6.33.3 Consistency

The proposed action of closing the three cuts is not considered a mining operation. There is no dredging recommended. Therefore, there won't be any resultant sediment from the channel that would be sold or processed. The proposed project is fully consistent with this policy.

6.34 Underground Storage Tanks

6.34.1 Policy Statement

Georgia Underground Storage Tank Act (O.C.G.A. 12-3-1. et seq.) 12-13-2. Public policy.

(a) It is declared to be the public policy of the State of Georgia, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environments, to institute and maintain a comprehensive state-wide program for the management of regulated substances stored in underground tanks.

(b) It is the intent of the General Assembly that the Environmental Protection Division of the Department of Natural Resources shall be designated as the state agency to administer the provisions of this chapter. The director of the Environmental Protection Division of the Department of Natural Resources shall be the official charged with the primary responsibility for the enforcement of this chapter. In exercising any authority or power granted by this chapter and in fulfilling duties under this chapter, the director shall conform to and implement the policies outlined in this chapter.

(c) It is the intent of the General Assembly to create an environmental assurance fund which, in addition to those purposes set forth in subsections (f) and (g) of Code Section 12-13-9, may also be used by owners and operators as an alternate to insurance purchased from insurance companies for purposes of evidencing financial responsibility for taking corrective action and compensation of third parties for bodily injury and property damage caused by sudden and non-sudden accidental releases arising from operating underground storage tanks. (Code 1981, SS 12-13-2, enacted by Ga.L. 1988, p. 2072, SS 1; Ga.L. 1989, p. 14, SS 12.)

6.34.2 General Description

The Underground Storage Tank Law provides the authority for the Environmental Protection Division to define the State criteria for operating, detecting releases, corrective actions, and enforcement of the utilization of underground storage tanks (USTs). The rules, found at Chapter 391-3-15 of the Rules and Regulations of the State of Georgia, establish minimum standards and procedures to protect human health and safety and to protect and maintain the quality of groundwater and surface water resources from environmental contamination that could result from any releases of harmful substances stored in such tanks. These requirements reflect the federal law regulating underground storage tanks as well as the applicable State rules. All facilities with underground storage tanks are subject to these requirements. The Memorandum of Agreement between the Coastal Resources Division and the Environmental Protection Division ensures cooperation and coordination in the implementation of UST standards within the coastal area.

6.34.3 Consistency

No installation of USTs is proposed for this project. The proposed project is fully consistent with this policy.

6.35 Water Quality

6.35.1 Policy Statement

Georgia Water Quality Control Act (O.C.G.A. 12-5-20) 12-5-21. Declaration of policy, legislative intent.

(a) The people of the State of Georgia are dependent upon the rivers, streams, lakes, and subsurface waters of the state for public and private water supply and for agricultural, industrial, and recreational uses. It is therefore declared to be the policy of the State of Georgia that the water resources of the state shall be utilized prudently for the maximum benefit of the people, in order to restore and maintain a reasonable degree of purity in the waters of the state and an adequate supply of such waters, and to require where necessary reasonable usage of the waters of the state and reasonable treatment of sewage, industrial wastes, and other wastes prior to their discharge into such waters. To achieve this end, the government of the state shall assume responsibility for the quality and quantity of such water resources and the establishment and maintenance of a water quality and water quantity control program adequate for present needs and designed to care for the future needs of the state, provided that nothing contained in this article shall be construed to waive the immunity of the state for any purpose.

(b) The achievement of the purposes described in subsection (a) of this Code section requires that the Environmental Protection Division of the Department of Natural Resources be charged with the duty described in that subsection, and that it have the authority to regulate the withdrawal, diversion, or impoundment of the surface waters of the state, and to require the use of reasonable methods after having considered the technical means available for the reduction of pollution and economic factors involved to prevent and control the pollution of the waters of the state.

(c) Further, it is the intent of this article to establish within the executive branch of the government administrative facilities and procedures for determining improper usage of the surface waters of the state and pollution of the waters of the state, and to confer discretionary administrative authority upon the Environmental Protection Division to take these and related circumstances into consideration in its decisions and actions in determining, under the conditions and specific cases, those procedures which will best protect the public interest. (Ga. L. 1957, p. 629, SS 2; Ga. L. 1964, p. 416, SS 2; Ga. L. 1977, p. 368, SS 1.)

6.35.2 General Description

The Georgia Water Quality Control Act grants the Environmental Protection Division authority to ensure that water uses in the State of Georgia are used prudently, are maintained or restored to a reasonable degree of purity, and are maintained in

adequate supply. In the administration of this law, the Environmental Protection Division can revise rules and regulations pertaining to water quality and quantity, set permit conditions and effluent limitations, and set permissible limits of surface water usage for both consumptive and non-consumptive uses through the Board of Natural Resources. Through a Memorandum of Agreement between the Environmental Protection Division and the Coastal Resources Division, the rules and permits of the Environmental Protection Division are administered in a manner consistent with the enforceable policies of the Coastal Management Program.

The authority to regulate the rivers, streams, lakes, and subsurface waters throughout the State for public and private water supply and agricultural, industrial, and recreational uses is provided to the Environmental Protection Division. The Act makes it unlawful for any person to dispose of sewage, industrial wastes, or other wastes, or to withdraw, divert, or impound any surface waters of the State without a permit. Tourism and recreational entities, manufacturing and transportation facilities, and other activities found in the coastal zone covered under the policies of the Georgia Coastal Management Program are responsible for compliance with the regulations implementing the Georgia Water Quality Control Act.

6.35.3 Consistency

A benefit of closing the man-made cuts would be restoring the natural tidal flows that typically occurs in along the length of unaltered tidal creeks. Additional benefits of restoring depths and flows in the study area would include increased dissolved oxygen (DO) levels, decreased Total Suspended Solids (TSS), and improved nutrient exchange between the Satilla River, St. Andrews Sound, and the Atlantic Ocean.

The proposed project will require a Section 401 Water Quality Certification by the Georgia DNR Environmental Protection Division. The proposed project would adhere to any conditions associated with the Certification and therefore, the project would be fully consistent with this policy.

6.36 Water Wells

6.36.1 Policy Statement

Water Wells Standards Act (O.C.G.A. 12-5-120, et seq.) 12-5-121. Legislative intent. It is the intent of the General Assembly to provide in this part for the application of standards for the siting, construction, operation, maintenance, and abandonment of wells and boreholes so as to protect the public health and the water resources of this state. (Ga.L. 1976, p. 974, SS 2; Ga.L. 1985, p. 1192, SS 1.)

6.36.2 General Description

The Water Wells Standards Act of 1985 provides standards for siting, constructing, operating, maintaining, and abandoning wells and boreholes. The Act requires that individual and non- public wells must be located as far removed from known or potential

sources of pollutants as possible. Licensing requirements for drilling contractors are established by the Act, as well a State Water Well Standards Advisory Council. The Council is authorized to adopt and amend rules and regulations that are reasonable to govern the licensing of well contractors. Compliance with the Water Wells Standards Act is required for all activities that utilize well water. The provisions of the Act are enforceable under Georgia law. The Council may file a petition for an injunction in the appropriate superior court against any person that has violated any provisions of the Act.

6.36.3 Consistency

There will be no impacts to wells or boreholes as a result of the proposed action, therefore, the proposed project is fully consistent with this policy.

6.37 Wildflower Preservation

6.37.1 Policy Statement

The Wildflower Preservation Act (O.C.G.A. 12-6-170, et seq.) 12-6-172. Powers and duties of Department and Board of natural Resources as to wildflower preservation. (a) The Department of Natural Resources shall from time to time designate as a protected species and species of plant life within this state which it may determine to be rare, unusual, or in danger of extinction, and upon such designation such species will become subject to the protection of this article. (Ga.L. 1973, p. 333, SS 3; Ga.L. 1982, p. 3, SS 12.)

6.37.2 General Description

The Wildflower Preservation Act provides for designation of and protection of plant species that are rare, unusual, or in danger of extinction. Additional species may be added by the Board of Natural Resources at any time. The protection offered to these species is limited to those that are found on public lands of the State. It is a misdemeanor to transport, carry, convey, sell, cut, pull up, dig up, or remove protected species listed by this Act.

6.37.3 Consistency

The proposed work would not impact any land which contains wildflowers that are considered rare, unusual, or in danger of extinction. The proposed project is fully consistent with this policy.

7.0 Other Management Authorities

The paragraphs in this section describe management authorities which provide the Coastal Resources Division with additional tools and mechanisms to accomplish the

goals of the Georgia Coastal Management Program. Although these authorities are not listed as policies of the Program, they are laws of the State. Most of the statutes referenced here are primarily procedural. These laws and programs are not considered enforceable policies of the Georgia Coastal Management Program and thus are not used in preparing or reviewing Federal Consistency Determinations and certifications.

7.1 Coordinated and Comprehensive Planning by Counties

(Informally known as the Georgia Planning Act) The Georgia Planning Act (O.C.G.A. 45-12- 200, et seq.) requires each local government to develop a comprehensive plan to guide growth and development as a condition to receive State funding assistance. Under the Georgia Planning Act, minimum planning standard was developed for the preparation, adoption, and implementation of local comprehensive plans. The planning standards constitute a three-step planning process: inventory and assessment; needs and goals; and implementation and strategy. The Act establishes Regional Development Centers (RDCs) throughout Georgia. Three of these Centers have jurisdiction within the coastal zone: the Southeast Georgia RDC includes Brantley and Charlton counties; the Heart of Georgia RDC includes Wayne County; and the Coastal Georgia RDC includes the remaining eight counties (Bryan, Camden, Chatham, Effingham, Glynn, Liberty, Long, and McIntosh). The role of the RDCs is to work with local and county governments individually and on a regional basis to improve services and programs, consistent with local comprehensive plans, to benefit residents of the region. The Coastal Management Program works closely with the RDCs to implement the policies of the Program. Many of the goals, objectives and policies of the Georgia Coastal Management Program can be achieved by local comprehensive planning processes and implemented through local land-use controls and the public infrastructure.

The proposed work would take place in Georgia. The Coastal Georgia RDC has jurisdiction for the portion of this project located within Camden County Georgia. The proposed project will be coordinated with stakeholders, interested agencies, the public, and the Coastal Georgia RDC. It is not expected that the proposed work would conflict with any aspect of an existing long term comprehensive land use plan.

7.2 Georgia Administrative Procedures Act

The Georgia Administrative Procedures Act (O.C.G.A. 50-13-4, et seq.) establishes the procedural requirements for adoption, amendment, or repeal of rules and regulations, among other things. New rules require at least 30 days notice of intended action. Similar public comment requirements are required for federal regulatory actions. Public comment and input is important for any regulatory action, both to provide an opportunity for presentation of citizens' ideas and concerns and to provide time for implementation by those entities that may be potentially impacted.

The 30-day public comment period for the draft Integrated Feasibility Report and Environmental Assessment, which is a requirement of the NEPA process, provide a

formal avenue for the public to provide input on the proposed project. The proposed project complies fully with the spirit of the Georgia Administrative Procedures Act.

7.3 Georgia Litter Control Law

The Georgia Litter Control Law (O.C.G.A. 16-7-40, et seq.) makes it unlawful for any person or persons, "...to dump, deposit, throw, or leave or to cause or permit the dumping, placing, throwing, or leaving of litter on any public or private property in this state or any waters in this state" unless the situation meets one of three conditions. Litter may be disposed at a site if (1) the property is designated as a litter disposal site, (2) litter is placed in a proper receptacle, and/or (3) litter is disposed of by permission of the property owner in a manner consistent with the public welfare.

Construction contracts would contain provisions which require the contractors to remove all construction debris from the project sites as part of their demobilization activities. The proposed project complies with the intent of the Georgia Litter Control Law.

7.4 Georgia Uniform Conservation Easement Act

The Georgia Uniform Conservation Easement Act (O.C.G.A. 44-10-1, et seq.) defines "conservation easement" to mean a non-possessory interest in real property, with limitations or affirmative obligations, the purposes of which include retaining or protecting natural property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; maintaining or enhancing air or water quality; or preserving the historical, archeological, or cultural aspects of real property. A landholder may be a government agency or a charitable organization.

The proposed action would not include or adversely affect any "conservation easements" and therefore the proposed action would be in compliance with the Georgia Uniform Conservation Easement Act.

8.0 State Programs

The following State programs contribute towards effective management of Georgia's coastal resources. As non-regulatory programs, they do not constitute enforceable policies of the Program and are not used in Federal consistency reviews. The District has included a discussion of these programs in this Consistency Determination because of the goals of these programs. In general, these programs would be expected to apply to work in Georgia.

8.1 Acres for Wildlife Program

The Acres for Wildlife Program is administered by the Non-game and Endangered Wildlife Program of the Georgia Department of Natural Resources to provide technical assistance to private landowners for resource and habitat management. The Program

helps to identify wildlife habitat and provides advice to help the landowner manage the property for the welfare of the wildlife.

This program does not apply to the proposed project.

8.2 Certified Burner Program

The Certified Burner Program is administered by the Georgia Forestry Commission to educate the citizens of Georgia about safe burning techniques. The Georgia General Assembly declared that prescribed burning is a resource protection and land management tool that benefits the safety of the public, Georgia's forest resources, the environment and the economy of the State (O.C.G.A. 12-6-146).

The proposed action does not include any prescribed burning.

8.3 Community Wildlife Project

The Community Wildlife Project is the only wildlife habitat certification program directed to the community as a whole. It is designed to encourage and improve management of wildlife habitats found in urban, suburban, and semi-rural areas. The program is administered by local garden clubs affiliated with the Garden Clubs of Georgia in concert with the Non-game and Endangered Wildlife Program of the Georgia Department of Natural Resources. The Community Wildlife Project establishes minimum criteria for community-based habitat management projects.

This policy does not apply to the proposed action.

8.4 Forest Stewardship Program

The Forest Stewardship Program is administered by the Georgia Forestry Commission in cooperation with the Non-game and Endangered Wildlife Division of the Department of Natural Resources. The Program is designed to provide technical assistance to private landowners for management of forest lands. A concomitant Stewardship Incentive Program provides State funding on a cost-sharing basis to implement certain aspects of the program.

This policy does not apply to the proposed action.

8.5 Heritage 2000

Heritage 2000 is a public-private partnership program designed by Governor Miller to acquire historic property and resources throughout Georgia. The initiative is modeled after Preservation 2000.

This policy does not apply to the proposed action.

8.6 Georgia's Non-game Wildlife Conservation and Habitat Fund

Georgia's Non-game Wildlife Conservation and Habitat Fund (O.C.G.A. 12-3-600, et seq.) provides the Department of Natural Resources a mechanism to establish non-game wildlife conservation and habitat acquisition, as well as education programs to enhance the protection of non-game flora and fauna. The Department of Natural Resources may solicit voluntary contributions through an income tax return contribution mechanism, by offers to match contributions, or by fund raising or other promotional techniques. Any funds collected are placed into a "Non-game Wildlife Conservation and Wildlife Habitat Acquisition Fund."

This policy does not apply to the proposed action.

8.7 Preservation 2000

Preservation 2000 is a three-year program implemented by Governor Miller in 1994 to acquire approximately 100,000 acres for the State of Georgia to preserve natural areas, historic sites, parks, wildlife management areas and similar sites. It is funded by a \$65 million bond fund, approximately \$1.45 million in gifts, and small amounts of Federal funds. Since its inception, over 84,000 acres have been acquired and approximately 33,000 acres are under negotiation during the summer of 1997. There were over 450 nominations of various parcels throughout the State. Currently, there are four natural areas and two wildlife management areas designated within the coastal area as a result of Preservation 2000. Some of the 33,000 acres under negotiation lies within the coastal area. The areas acquired provide such uses as protection for bald eagles and other endangered species, hunting, fishing, boating, nature observation, primitive camping, scientific study and protection of water quality for shellfish. A concomitant part of the Preservation 2000 program is the Georgia Greenways Council, a coalition of trail organizations and local, State and Federal agencies involved with trail development. The coalition promotes the protection of linear corridors and coordinates trail development throughout the State. A proposed Coastal Water Trail, the aquatic equivalent of the Appalachian Trail, would run along Georgia's coast from the Savannah River to the St. Mary's River. This trail would provide routing for sea kayaks and other small craft, and include access trails, boat launching sites and camping areas.

This policy does not apply to the proposed action.

8.8 River Care 2000

River Care 2000 is a public-private partnership program designed by Governor Miller to acquire natural areas and historic property along Georgia's riverbanks. The initiative is modeled after Preservation 2000. River Care 2000 is intended to provide recreation and park land, and to allow better flood management.

This policy does not apply to the proposed action.

9.0 Local Land Use Plans

The draft Integrated Feasibility Report and Environmental Assessment for this project will be coordinated with interested parties in Georgia to ensure the proposed action is in compliance with all local land use plans.

10.0 Conclusion

In accordance with the CZMA, 16 U.S.C. SS 1456(c), as amended, it has been determined that the proposed action of closing a combination of man-made cuts to restore historic conditions of salinity regimes would be carried out in a manner which is fully consistent with the enforceable policies of the Georgia Coastal Management Plan. This determination applies to the proposed alternative and the effects of the preferred alternative on the land or water uses or natural resources of the coastal zone, as directed by 15 C.F.R. SS 930.39.

APPENDIX H

COST APPENDIX

**WALLA WALLA COST ENGINEERING
MANDATORY CENTER OF EXPERTISE**

**COST AGENCY TECHNICAL REVIEW
CERTIFICATION STATEMENT**

For Project No. 402833

SAS – Noyes Cut Section 1135
Satilla River Basin, GA
Ecosystem Restoration

The Noyes Cut Section 1135 presented by Savannah District, has undergone a successful Cost Agency Technical Review (Cost ATR), performed by the Walla Walla District Cost Engineering Mandatory Center of Expertise (Cost MCX) team. The Cost ATR included study of the project scope, report, cost estimates, schedules, escalation, and risk-based contingencies. This certification signifies the products meet the quality standards as prescribed in ER 1110-2-1150 Engineering and Design for Civil Works Projects and ER 1110-2-1302 Civil Works Cost Engineering.

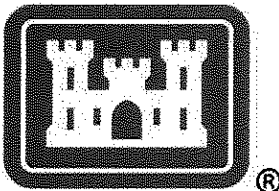
As of October 13, 2017, the Cost MCX certifies the estimated total project cost:

FY18 Project First Cost:	\$7,087,000
Total Project Cost, Fully Funded:	\$7,605,000
Total Federal Costs:	\$6,098,000

It remains the responsibility of the District to correctly reflect these cost values within the Final Report and to implement effective project management controls and implementation procedures including risk management through the period of Federal participation.

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Kim C. Callan, PE, CCE, PM
Chief, Cost Engineering MCX
Walla Walla District

APPENDIX I

8-Step Process for EO 11988: Floodplain Management

8-Step Process for EO 11988: Floodplain Management

Noyes Cut Section 1135 Ecosystem Restoration Study

--Section 205, 1948 FCA (P.L. 80-858), as amended

--Decision Process for E.O. 11988 as Provided by 24 CFR §55.20

Step 1: Determine whether the action is located in a 100-year flood plain (or a 500-year flood plain for critical actions).

This action is inherently located in a 100-year flood plain as it is designed to restore the degraded hydrologic functions of the floodplain. The restoration of the historic hydrology will consequently restore aquatic habitat, which is all inherently located within the 100 year floodplain.

Step 2: Notify the public for early review of the proposal and involve the affected and interested public in the decision making process.

Coordination with the sponsor has been ongoing since approximately 2014. They have acted as the link between the USACE and the public. Some public concerns that were brought to USACE attention are:

- Continued decline to commercial fisheries (i.e. shad, herring, crab, shrimp) from existing hydrologic malfunction related to 8 man-made cuts in study area
- Continued decline in recreational activities include boating and fishing for residents of local communities (i. e. Dover Bluff, Piney Bluff, and River Marsh Landing) due to the extensive sedimentation that has occurred in the area over the decades since Noyes Cut was constructed (Montague 2017). Access for Piney Bluff Community and River Marsh Landing has been restricted to high tide access in skiffs or larger boats that draw less than 2 feet (Montague 2017).

A draft Integrated Feasibility Report/EA will be sent out for public review in 2017 for this project.

Step 3: Identify and evaluate practicable alternatives.

The objective of this study is to restore the hydrologic functions and consequential benefits to the native flora and fauna. All of the alternatives assessed in the Integrated Report are designed to improve the hydrology and ecosystem within the floodplain to varying degrees. The amount of improvement is quantified in the table below for each alternative. The NAA has the lowest amount of improvement and the TSP (Alternative 7) has the most improvement to the ecosystem.

Table 1 - Noyes Cut Ecosystem Restoration Average Annual Habitat Net Benefits		
Alternative		Plan Outputs (AAHU Increase)
Baseline	NAA	0
1	Close Noyes Cut	493
6	Close Dynamite Cut and ORR	1330
7	Close Noyes Cut, Dynamite Cut and ORR	1780

Step 4: *Identify Potential Direct and Indirect Impacts of Associated with Flood Plain Development.*

Since all of the components of the TSP are designed to optimize restoration of hydrologic and ecological functions within the floodplain, there are no adverse floodplain impacts identified. The closure structures would have positive floodplain impacts

Step 5: *Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the flood plain and to restore, and preserve the values of the flood plain.*

Since all of the components of the TSP are designed to restore ecological functions, there are no adverse floodplain impacts to minimize.

Step 6: *Reevaluate the Alternatives.*

Although the TSP is located within a flood plain, the project is designed to restore flood plain values.

The no action alternative is impracticable because it will not satisfy the need to provide the hydrologic changes to restore the ecosystem.

Step 7: *Determination of No Practicable Alternative*

It is our determination that there is no practicable alternative for locating the project out of the flood zone. This is due to the inherent need to locate the project within the floodplain since all of the resources to be restored are within the floodplain.

A final notice will be published during the public review of these documents.

Step 8: *Implement the Proposed Action*

USACE will assure that this plan, as modified and described above, is executed and necessary language will be included in all agreements with participating parties. USACE will also take an active role in monitoring the construction process to ensure no unnecessary impacts occur nor unnecessary risks are taken.