

**FINDING OF NO SIGNIFICANT IMPACT
FOR THE FINAL RESTORATION PLAN ADDENDUM AND SUPPLEMENTAL
ENVIRONMENTAL ASSESSMENT FOR THE MAY 14, 1996 CHEVRON PIPELINE
OIL SPILL INTO WAIAU STREAM AND PEARL HARBOR, OAHU, HAWAII**

I. Purpose of Finding of No Significant Impact: The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded will not have a significant impact on the human environment 40 CFR §§ 1500.4(b) & 1500.5(b). To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A Companion Manual, Appendix A-2). In considering the degree of effect on these resources, agencies should examine both short- and long-term effects (40 CFR § 1501.3(b)(2)(i); NAO 216-6A Companion Manual Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.3(b)(ii)-(iv). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Final Restoration Plan Addendum and Supplemental Environmental Assessment (Final RP Addendum/Supplemental EA) to replace freshwater marsh resources and services injured by the 1996 Chevron pipeline oil spill, which tiers from and uses criteria established in the Final Restoration Plan and Environmental Assessment (Final RP/EA) to evaluate specific restoration alternatives and select a Preferred Alternative. The Final RP Addendum/Supplemental EA was prepared by the United States Department of the Interior (DOI, acting through the United States Fish and Wildlife Service), the National Oceanic and Atmospheric Administration (NOAA), and the State of Hawaii (acting through the Department of Health and the Department of Land and Natural Resources). The Final RP Addendum/Supplemental EA evaluates the potentially affected area, the scale and geographic extent of the proposed action, and the degree of effects on affected resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The Preferred Alternative selected is the Pouhala Marsh Enhancement Project. The Final RP Addendum/Supplemental EA is hereby incorporated by reference (40 CFR § 1501.12).

In November 1999, the Trustees completed the Final Restoration Plan and Environmental Assessment for the spill and selected four preferred restoration projects for implementation: Pouhala Marsh Enhancement; Waiawa Unit Mangrove Removal; Shoreline Protection System; and Visitor Center Boat Dock. The Pouhala Marsh Enhancement Project was never fully funded or completed. The Final RP Addendum/Supplemental EA updates the planned implementation methodology for the Pouhala Marsh Enhancement Project and supplements the environmental assessment for the project.

II. NOAA Environmental Review and Adoption of Final RP Addendum/Supplemental EA: DOI acted as the lead Federal agency for National Environmental Policy Act (NEPA) compliance for the Final RP Addendum/Supplemental EA and NOAA participated as a cooperating Federal agency pursuant to NEPA (40 CFR. §§ 1501.7 & 1501.8). As a Trustee for the Chevron Pipeline Oil Spill case and a cooperating Federal agency for NEPA, NOAA has

participated in the development and finalization of the Final RP Addendum/Supplemental EA. Participating as a Trustee and a cooperating agency allowed NOAA to ensure that the necessary information and analyses were included in the Final RP Addendum/Supplemental EA to support the proposed action and allow for consideration of adoption of the document for NOAA's NEPA purposes.

NOAA has evaluated the Final RP Addendum/Supplemental EA and found that it includes all required components for adoption by NOAA: sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or FONSI; brief discussion of the purpose and need for the proposed action; a listing of the alternatives to the proposed action; a description of the affected environment; a discussion of the environmental impacts of the proposed action and alternatives; and a list of agencies and persons consulted. As a result of this review, NOAA has determined that it is not necessary to prepare a separate Supplemental EA or EIS to identify and select the preferred alternative to compensate for injuries resulting from the oil spill. Accordingly, NOAA has adopted the Final RP Addendum/Supplemental EA under CEQ Regulations (40 CFR. § 1506.3) and has issued this FONSI. This FONSI documents NOAA's determination to adopt the Final RP Addendum/Supplemental EA.

III. Approach to Analysis: The Preferred Alternative consists of the Pouhala Marsh Enhancement Project, which is expected to increase habitat quality and quantity, promote habitat connectivity, create new public use opportunities, and benefit natural resources. The Final RP Addendum/Supplemental EA updates the planned implementation methodology for the Pouhala Marsh Enhancement Project and supplements the environmental assessment for the project.

- A. The scale of the Pouhala Marsh Enhancement Project will be locally substantial but would not contribute to a significant impact at a regional or greater level.
- B. The Pouhala Marsh Enhancement Project will not cause a significant effect to any specific resource. If an impact is determined to be negligible, minor or moderate, it is not considered to meaningfully contribute to a significant impact.
- C. The Pouhala Marsh Enhancement Project and the potential impacts from it are consistent with the Final RP/EA. If the collective effects of the Preferred Alternative were added to possible effects of other related future projects, their cumulative impacts would still only be local and the magnitude would not be significant at a regional or greater scale.

IV. Geographic Extent and Scale of the Proposed Action: The Preferred Alternative consists of a marsh enhancement project that would, if implemented, provide benefits to natural resources injured by the release of oil into the Pearl Harbor and East Loch marsh system and provide natural resource services similar to what would have been provided had those releases not occurred. This project is expected to increase habitat quality and quantity, promote habitat connectivity, create new public use opportunities, and benefit natural resources within the Pearl Harbor watershed, consistent with the Final RP/EA.

V. Degree of Effect: The Final RP Addendum/Supplemental EA analyzes potential environmental impacts associated with the Preferred Alternative for restoration in the Pouhala Marsh. The analysis is covered in Section II.C of the Final RP Addendum/Supplemental EA. The Preferred Alternative is unlikely to have significant adverse impacts on the environment. This

alternative would meet the mandates under Natural Resource Damage Assessment (NRDA) statutes and regulations to restore natural resources and services injured by releases of hazardous substances and is consistent with the goals and objectives outlined in the Final RP/EA. The Preferred Alternative would have direct beneficial effects and only minor, short-term adverse impacts. The No-Action Alternative would not have direct beneficial effects or adverse impacts but would allow the degraded conditions of habitats in the Pouhala Marsh watershed to continue, which would not be consistent with the Final RP/EA.

- A. The proposed action cannot reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment. All relevant permits will be obtained prior to initiating implementation of restoration activities, and the contractor conducting the activities will be expected to follow all regulatory requirements.
- B. There are no substantial adverse public health or safety impacts expected from the proposed action. Short-term public health and safety impacts associated with construction at the project site will be minimized through the implementation of various best management practices (BMPs). Where soil and sediment in estuarine waters will be disturbed, proper engineering controls will be implemented to minimize water quality impacts. These negative effects are expected to be short-lived and will be outweighed by the long-term benefits of the project.
- C. The degree to which the proposed action is expected to affect a sensitive biological resource, including:
 - a. Federally-listed endangered, threatened, and candidate species in the vicinity of Pouhala Marsh have been identified. The proposed action is not likely to adversely affect threatened or endangered species or their designated critical habitats.
 - b. The Preferred Alternative would have no effect on NOAA-listed species, and is expected to either have no effect on threatened or endangered species or is not likely to adversely affect USFWS-listed species based on the type and location of activities. The Trustees will ensure the proposed restoration actions will be in accordance with the Endangered Species Act (ESA). The proposed action will have no effect on marine mammals, their critical habitat, or other non-target species, as none are present within the project area.
 - c. The proposed action will have minimal effect on essential fish habitat (EFH) as defined under the Magnuson-Stevens Fishery Conservation and Management Act. Although some EFH would be adversely impacted by placement of sediments in open water areas, EFH would be mainly positively impacted by the re-establishment and creation of marsh achieved through the proposed restoration action. The proposed action is not expected to adversely affect bird species protected under the Migratory Bird Treaty Act.
 - d. The proposed action is not expected to adversely affect bird species protected under the Migratory Bird Treaty Act.
 - e. There are no national marine sanctuaries or monuments in the project area.
 - f. The proposed action is not expected to adversely affect vulnerable coastal ecosystems, including but not limited to, deep coral ecosystems. There are no coral ecosystems in Pouhala Marsh.

- g. The proposed action is not expected to have a substantial impact on biodiversity and/or ecosystem function within the project area. Fish may avoid the project area during construction activities due to the increase in turbidity in the water column, as well as increased noise due to the operation of construction equipment. These impacts are expected to be only temporary and minor.
- D. The proposed action will not adversely affect any historic or cultural resources listed in or eligible for listing in the National Register of Historic Places, and will not cause loss or destruction of significant scientific, cultural, or historical resources, as none exist in the area. The Trustees will initiate consultation with the State Historic Preservation Office to ensure the Pouhala Marsh Enhancement Projects environmental compliance and consistency with all federal, state, and local laws and regulations. All such consultations will be completed prior to project implementation.

- E. The proposed action will not have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (Executive Order 12898). No long-term impacts on population demographics would be expected under the Preferred Alternative, and short-term, minor to moderate, beneficial impacts on the local economy would be expected from the purchase of goods and materials by the contractors completing the restoration activities.

The proposed restoration project would improve the quality of Pouhala Marsh and allow for increased use of the estuary for recreational purposes. Therefore, long-term, minor, beneficial impacts would be expected from increased recreational opportunities and associated impacts on the local economy from the purchase of goods and materials.

- F. The proposed action is not reasonably expected to result in the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species. The selected contractor will be responsible for ensuring all equipment is clean and clear of non-indigenous species prior to mobilizing to the site.
- G. The proposed action is not expected to have a substantial impact to any other physical or biological resources within the project area or over which there is substantial uncertainty or scientific disagreement.

VI. Other Actions Including Connected Actions: The Preferred Alternative is not related to other actions within the Pearl Harbor environment. Any future Federal actions within Pearl Harbor may have to undergo a similar NEPA evaluation and review process, and would consider the Pouhala Marsh Enhancement Project activities when addressing cumulative effects.

The Federal Trustees are aware of several plans and programs that may have similar or related past, present and reasonably foreseeable future environmental impacts as the restoration activities included in the Preferred Alternative. Most notable is the West Loch Pearl Harbor Honouliuli Watershed Wetland Restoration Project, which is being proposed by NOAA and its co-Trustees as part of a separate NRDA restoration planning effort for the Oahu Sugar Site.

The general intent of aspects of these activities, partnerships and programs include restoring or enhancing habitats preferred by native organisms. Restoration and enhancement can take many forms, and might occur in areas outside the location of the restoration project.

Restoration actions under the Final RP Addendum/Supplemental EA and others would cumulatively create long-term benefits. Benefits would include increased invertebrate prey sources, improved shallow-water habitats, stronger food web interactions, reductions in contaminant exposure, and increased quality, quantity, and connectedness of aquatic habitats. It is expected that although these projects and others in the watershed may have the potential to cumulatively provide net positive effects, the cumulative benefits would not be significant at a larger (regional) level.

VII. Mitigation and monitoring: ESA compliance requirements will be completed for the project prior to construction, as the project is currently at the design phase. Any resulting conservation recommendations and BMPs will be included in the permit conditions. Potential impacts to soil, water and biological resources will be minimized or mitigated through BMPs, permit conditions, and consultation requirements if/as required by other statutes (e.g., Clean Water Act).

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting Final RP Addendum/Supplemental EA prepared by the Trustees, it is hereby determined that the Pouhala Marsh Enhancement Project identified by the Trustees as the Preferred Alternative in the Final RP Addendum/Supplemental EA will not significantly impact the quality of the human environment. The Final RP Addendum/Supplemental EA is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impact. Accordingly, preparation of an EIS for this action is not necessary.

for _____ Date _____
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Date _____