FINDING OF NO SIGNIFICANT IMPACT
for the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Bayport Channel Collision in Galveston Bay, Texas.
Unique ID #45461.661

I. Purpose of Finding of No Significant Impact (FONSI): The National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major Federal action significantly affecting the quality of the human environment (42 U.S.C. § 4332(C)). Agencies may issue a Finding of No Significant Impact (FONSI) if they determine that a proposed agency action will not have a significant effect on the human environment and therefore does not require the issuance of an EIS (*Id.* § 4336e(7)). Based on the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Bayport Channel Collision in Galveston Bay, Texas (Final DARP/EA), the National Oceanic and Atmospheric Administration (NOAA) Damage Assessment, Remediation, and Restoration Program (DARRP) has determined in this FONSI that preparation of an EIS is not required for the proposed restoration activities described in the Final DARP/EA because the proposed action will not have significant effects.

In preparing this FONSI, we reviewed the Final DARP/EA, which evaluates the affected area, the scale and geographic extent of the proposed action and the alternatives, and the degree of effects on the human environment (including the duration of impact and whether the impacts were adverse and/or beneficial and their magnitude). The Final DARP/EA considered multiple alternatives to meet the purpose and need for the proposed action, which is to compensate the public (i.e., make the public and the environment whole) for resource injuries caused by the release of oil into the Houston Ship Channel and Galveston Bay.

On May 10, 2019, the tanker ship VLGC *Genesis River* collided with the tugboat *Voyager* in the Houston Ship Channel near Bayport, Texas (Collision). At the time of the Collision, the *Voyager* was pushing two tank barges owned and operated by Kirby Inland Marine, L.P. (Kirby). The Collision resulted in a cut through the hull of a barge owned and operated by Kirby, rupturing the barge's oil storage tanks and rapidly discharging an estimated 14,278 barrels (about 600,000 gallons) of reformate, a gasoline blending stock, into the Houston Ship Channel and Galveston Bay (Spill). Kirby was identified as the Responsible Party for natural resource damages resulting from the Spill. Natural resources within Galveston Bay and the Houston Ship Channel were injured from exposure to reformate as a result of the Spill. Spilled reformate and dead fish and invertebrates washed ashore on the western shore of Galveston Bay. Dead organisms included surface dwelling, mid-water, and benthic organisms, which suggests that the reformate mixed into and impacted the entire water column, from surface to sediment.

NOAA and its co-Trustees have selected the *Gordy Marsh Living Shoreline* alternative as the preferred restoration alternative, and which hereafter is referred to as the "preferred alternative" and discussed under each criterion below. The Final DARP/EA is incorporated by reference.

II. Approach to Analysis: The Final DARP/EA is an integrated document to efficiently address the Trustees' dual requirements to comply with both NEPA and the Oil Pollution Act of 1990 (OPA; 33 U.S.C. §§ 2701 et seq.). The Final DARP/EA considered the following alternatives: 1) Gordy Marsh Living Shoreline project; 2) Swan Lake Marsh Restoration; 3) Landscape Scale Oyster Restoration; and

4) No Action/Natural Recovery. The Gordy Marsh Living Shoreline project was ultimately selected as the preferred alternative (proposed action).

A. The scale of the proposed action will be locally substantial but would not contribute to a significant impact at a regional or greater level.

B. The proposed action 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. If the collective effects of the proposed action were added to possible effects of other related actions, their impacts would still only be local and the magnitude would not be significant at a regional or greater scale.

III. Geographic Extent and Scale of the Proposed Action: The Gordy Marsh property is located on the eastern side of the Galveston Bay system in Trinity Bay. The property consists of 1,739 acres of high-quality, tidally-influenced wetland and coastal prairie habitats. The property is managed by the Galveston Bay Foundation (GBF) through a conservation easement that ensures the property's ecological services are protected into the future. The conservation easement on the property restricts future land uses and protects the property against man-made threats, but this legal protection does not prevent natural forces from degrading the existing shoreline habitats. These ecologically valuable habitats are threatened by erosional forces that have caused 1-2 meters of shoreline erosion annually along the eastern shoreline of Trinity Bay. This erosion threatens the health of coastal wetland, marsh, and upland habitats located along the shoreline, including those at Gordy Marsh. The construction of a breakwater is therefore an important restoration effort, which would provide multiple natural resource and resource service benefits by protecting the property's imperiled habitat types.

This project proposes to protect and restore Gordy Marsh in two phases. The first phase is the construction of 9,000 linear feet of breakwater, which will protect wetland and coastal prairie habitat that would otherwise be subject to harm from erosion. In the second phase, sediment is expected to accumulate behind the breakwater, allowing for the creation of up to 16 acres of intertidal wetland habitat through the planting of salt marsh grasses. Long-term erosion control would be accomplished as the nearshore breakwater protects the wetlands and coastal prairie habitat. The Trustees would work with GBF to implement this project.

IV. Degree of Effect: The Final DARP/EA analyzes potential environmental impacts associated with the activities constituting the preferred alternative. The analysis is provided in Chapter 5 of the Final DARP/EA and is incorporated here by reference. This alternative is anticipated to have mainly no or only minor short-term adverse impacts and long-term beneficial impacts to physical, biological, and socioeconomic resources.

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. The project will undergo all required reviews and permitting prior to implementation.

B. There are no substantial adverse public health or safety impacts expected from the proposed action.

C. The degree to which the proposed action is expected to affect a sensitive biological resource, including:
    a. The proposed action is not expected to adversely affect Federal endangered or threatened species or their designated critical habitat. Rather, the proposed action is expected to benefit fish and wildlife resources, including federally and state listed species, by preventing future oil spills and the resulting impacts to shoreline habitats.
    b. The proposed action is not expected to adversely affect marine mammals, their critical habitat, or other non-target species. Rather, the proposed action is expected to benefit marine mammals.
    c. The proposed action is not expected to cause substantial damage to Essential Fish Habitat (EFH) as defined under the Magnuson-Stevens Fishery Conservation and Management Act. Rather, the proposed action is expected to benefit EFH.
    d. The proposed action is not expected to adversely affect bird species protected under the Migratory Bird Treaty Act. The proposed action would, overall, benefit migratory birds.
    e. No adverse impacts to national marine sanctuaries or monuments will occur.
    f. The proposed action is not expected to have any substantial adverse impacts on biodiversity or ecosystem function. Rather, the proposed action is expected to benefit the environment by creating and preserving important habitat for natural resources.

D. The proposed action is not expected to adversely affect National Historic Places or scientific, cultural, or historical resources. The Trustees will ensure coordination with the State Historic Preservation Office in accordance with Section 106 of the National Historic Preservation Act.

E. The proposed action is not 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.

F. The proposed action is not expected to have a substantial impact to any other physical or biological resources within the project areas or over which there is substantial uncertainty or scientific disagreement.

DETERMINATION

Based on the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Bayport Channel Collision in Galveston Bay, Texas, NOAA has determined in this FONSI that preparation of an EIS for the proposed action is not required because the proposed action will not have significant effects. All adverse impacts of the proposed action have been evaluated to reach this conclusion of no significant impacts.

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