Appendix A: 404(b)(1) Analysis

Appendix B: Agency Coordination Documentation

LANCE R. LEFLEUR
DIRECTOR

KAY IVEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov
1400 Coliseum Blvd. 3611(}.2400 ■ Post Office Box 301463
Montgomery, Alabama 3613(}.1463
(334) 271-7700 ■ FAX (334) 271-7950

September 28, 2023

Jeremy LaDart
Chief, Planning and Environmental Division
Mobile District
U.S. Anny Corps of Engineers
Post Office Box 2288
Mobile, Alabama 36628-0001

RE: State of Alabama Water Quality Certification (WQC) Pursuant to Clean Water Act (CWA) §40 I(a)
Mobile Harbor Upper Bay Channel Widener Federal Navigation Project
U.S. Anny Corps of Engineers (USACE) Joint Public Notice (JPN): FP23-MH0l-12
Alabama Department of Environmental Management (ADEM) Tracking Code: ADEM-2018-345.1-WQC-COEP

Dear Mr. LaDart:

On August 9, 2023, the ADEM received a copy of the USACE's JPN including therein its request for WQC. The ADEM has completed its review of all submitted materials related to the USACE's proposal to widen the federally authorized Mobile Harbor Navigational Channel in the Upper Bay segment with placement of dredged material within previously authorized disposal sites in Mobile Bay, Mobile County, Alabama, as described in Public Notice Number FP23-MH0l-12.

Action pertinent to WQC is required by CWA §40J(a)(l), 33 U.S.C. § I 251, et. - If conducted in accordance with the conditions prescribed herein, there is reasonable assurance that the discharge resulting from the proposed activity will not violate applicable water quality standards established under §303 of the CWA and §22-22-9(g), Code of Alabama (1975). By this letter, the ADEM hereby notifies the USACE that CWA §40 I WQC is **granted**. This WQC tenninates with the expiration of FP23-MH01-12. This WQC only addresses potential discharges to state waters resulting from the activities described in the referenced JPN. ADEM certifies that there are no applicable effluent limitations under §30 I and §302 nor applicable standards under §306 and §307 of the CWA in regard to the activities specified.

In recognition that projects are site specific in nature and conditions can change during project implementation, the ADEM reserves the right to request additional infonnation or request additional management measures to be implemented, as necessary on a case-by-case basis, in order to ensure the protection of water quality and coastal resources. Deviation from the approved project design may necessitate additional coordination.

This WQC does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations and in no way purports to vest in the USACE title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State that may be in the USACE's possession. This certification is not transferable without prior written notice and approval of the ADEM. Upon such notice, the Director may require submission of additional infonnation.

BirminghamBranch
U0 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)

Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
3664 Dauphin Street, Suite B
Mobile, AL 36608
(251) 304-U76
(251) 304-1189 (FAX)

Adherence to the following conditions is required in order to ensure protection of water quality.

1. Appropriate and Effective Best Management Practices (BMPs) shall be implemented to minimize turbidity impacts to the maximum extent practicable. Turbidity generated by the activity must not cause substantial visible contrast nor result in an increase of more than fifty (50) Nephelometric turbidity units above background in state waters. If turbidity generated from project exceeds acceptable levels, operations must cease until turbidity is restored to acceptable levels. The ADEM Mobile Coastal office (251) 304-1176 must be notified ofresultant work stoppage.

2. Upon the loss or failure of any treatment facility, BMP, or other management control measure as identified by responsible on-site staff during day-to-day operations or as identified by ADEM technical staff during inspections, work/activity and all discharges shall, where necessary to maintain compliance with this WQC, be suspended, halted, reduced, or otherwise controlled until effective treatment is restored.

3. Spoil material utilized beneficially through strategic placement onto state water bottoms shall be free of toxic pollutants in toxic amounts.

Contact the Mobile-Coastal office anytime with questions. Always include the ADEM tracking code above when corresponding on this matter. Sarila Mickle is the Mobile-Coastal office contact for this project; she may be reached by phone at 251.304.1176 or by e-mail at Sarila.Mickle@adem.alabama.gov.

Anthony Scott Hughes, Chief
Field Operations Division

ASH/jsb/sm

cc: USEPA [Molly Martin - (Martin.Molly@eparnail.epa.gov)
USACE | Mobile District, Don Mroczko - (Donald.E.Mroczko@usace.army.mil)
ADCNR | (DCNR.Coastal@dcnr.alabama.gov)
ADCNR-SLD [(Submerged.Lands@dcnr.alabarna.gov)

File: CZCERT/12532

LANCE R. LEFLEUR
DIRECTOR

KAY IVEY
GOVERNOR

Alabama Department of Environmental Management
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Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

September 28, 2023

Jeremy LaDart
Chief, Planning and Environmental Division
Mobile District
U.S. Anny Corps of Engineers
Post Office Box 2288
Mobile, Alabama 36628-000 I

RE: State of Alabama Concurrence with the U.S. Army Corps of Engineers' Coastal Consistency Determination
Mobile Harbor Upper Bay Channel Widener Federal Navigation Project
U.S. Anny Corps of Engineers (USACE) Joint Public Notice (JPN): FP23-MH01-12
Alabama Department of Environmental Management (ADEM) Tracking Code: ACAMP-2018-345.1-FC-FAA-COEP

Dear Mr. LaDart:

On August 9, 2023, the ADEM received the USACE's Consistency Determination (CD) that the proposed federal action is consistent with the Alabama Coastal Area Management Program. The proposed action is a change in work associated in Phase 6 and includes adding a 100-foot widener along a portion of the Upper Bay Channel across from the McDuffie Coal Terminal. The proposed widener will be located on the east side of the channel starting south of the turning basin. The turning basin was previously proposed and authorized in the 2019 Mobile Harbor GRR. The proposed widener extends approximately 3,500 feet south from the turning basin before it begins to taper back to the normal channel width. The tapered area extends approximately 3,400 feet ending just north of the federally authorized Arlington Channel. The widening of this portion of the channel would be consistent with the authorized improvement depths to -50 feet MLLW as described in the 2019 Mobile Harbor GRR/SEIS. The approximate quantity of new work material is approximately 1.4 million cubic yards (mcy). Pursuant to Title 15 C.F.R. §930.41(a) and based upon review of the information submitted by the USACE, by this letter the ADEM hereby notifies the USACE of its **concurrence** with the USACE's CD.

Should it become necessary to modify the activities described in the JPN after this concurrence has been issued, a revised CD may be necessary pursuant to Title 15 C.F.R. §930.46. Contact the Mobile-Coastal office anytime with questions. Always include the ADEM tracking code above when corresponding on this matter. Sarila Mickle is the Mobile-Coastal office contact for this project; she may be reached by phone at 251.304.1176 or by e-mail at Sarila.Mickle@adem.alabama.gov.

Anthony Scott Hughes, Chief
Field Operations Division

ASH/jsb/sm

cc: USEPA | Molly Martin - (Martin.Molly@epamail.epa.gov)
USACE | Mobile District, Don Mroczko - (Donald.E.Mroczko@usace.army.mil)
ADCNR | (DCNR.Coastal@dcnr.alabama.gov)
ADCNR-SLD | (Submerged.Lands@dcnr.alabama.gov)

File: CZCERT/12532

Birmingham Branch
U0 Vulcan Road
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Mobile-Coastal
3664 Dauphin Street, Suite **B**
Mobile, **AL** 36608
(251) 304-U76
(251) 304-1189 (FAX)

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1208-B Main Street
Daphne, Alabama 36526

JUL 27 2023

IN REPLY REFER TO:
2023-0092336

Ms. Jennifer Jacobson
Department of the Army
Corps of Engineers, Mobile District
P.O. Box 2288
Mobile, AL 36628

Dear Ms. Jacobson:

Thank you for your letter dated June 29, 2023, requesting Endangered Species Acts (ESA) Section 7 concurrence on the Army Corps of Engineers (Corps) effects determination for the proposed maintenance dredging of the Mobile Harbor Navigation Channel project in the upper Mobile Bay and the placement of associated dredge material. We understand that this project has already been consulted on by our office (2016-CPA-0130) and the Corps is requesting review of changes to the project plan, specifically Phase 6, since its last review by us in 2019. Plan changes include adding a 100-foot widener along a portion of the Upper Bay Channel across from the McDuffie Coal Terminals. Our comments are provided in accordance with provisions of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

We understand that you determined this project may affect, but is not likely to adversely affect the following federally listed species:

- West Indian manatee *(Trichechus manatus)* (T),
- Loggerhead sea turtle *(Caretta caretta)* (T),
- Kemp's ridley sea turtle *(Lepidochelys kempii)* (E), and
- Gulf sturgeon *(Acipenser oxyrinchus (=oxyrhynchus) desotoi)* (T).

Based upon a review of our records, the information provided in your letter, and the implementation of the "Standard Manatee Construction Conditions" during dredging activities, we concur with your determination that the project actions may affect, but are not likely to adversely affect the listed species.

The Corps has determined this project will have no effect on the following federally listed species:

- Wood stork *(Mycteria americana)* (T),
- Alabama red-bellied turtle *(Pseudemys alabamensis)* (E),

While the ESA gives federal action agencies the authority to make a no effect determination without additional concurrence from the Service, we certainly appreciate you notifying us of your decision.

This concurrence concludes your ESA Section 7 responsibilities relative to the species above for this project unless: 1) the identified action is subsequently modified in a manner that causes an effect on listed species or a designated Critical Habitat; 2) new information reveals the identified action may affect Federally protected species or designated Critical Habitat in a manner or to an extent not previously considered; or 3) a new species is listed or Critical Habitat is designated under the Endangered Species Act that may be affected by the identified action.

For further discussion, please contact Ms. Brittany Barker-Jones of my staff via email at brittany_barker-jones@fws.gov. Please refer to the reference number located at the top of this letter in future phone calls or written correspondence.

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Field Supervisor
Alabama Ecological Services Field Office

ALABAMA HISTORICAL COMMISSION

Lisa D. Jones
Executive Director
State Historic Preservation Officer

468 South Perry Street
Montgomery, Alabama 36130-0900

Tel: 334-242-3184
Fax: 334-242-1083

October 6, 2023

Wendy Weaver
Corps of Engineers
P.O. Box 2288
Mobile, AL 36628

Re: AHC 23-1297
USACE Mobile District- Mobile Harbor Federal Navigation Channel Expansion, Mobile, AL
Mobile County

Dear Ms. Weaver:

Upon review of the report of findings from the additional investigations, we agree that the investigated targets represent modern debris that are not eligible for the National Register of Historic Places. Therefore, we concur with your agency's determination of no effect to historic properties.

Consultation with the State Historic Preservation Office does not constitute consultation with Tribal Historic Preservation Offices, other Native American tribes, local governments, or the public. If archaeological materials are encountered during construction, the procedures codified at 36 CFR 800.13(b) will apply. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal, and glass objects. The federal agency or the applicant receiving federal assistance should contact our office immediately. If human remains are encountered, the provisions of the Alabama Burial Act (Code of Alabama 1975, §13A-7-23.1, as amended; Alabama Historical Commission Administrative Code Chapter 460-X-10 Burials) should be followed. This stipulation shall be placed on the construction plans to ensure contractors are aware of it.

We appreciate your commitment to helping us preserve Alabama's historic archaeological and architectural resources. Should you have any questions, please contact Eric Sipes at 334.230.2667 or Eric.Sipes@ahc.alabama.gov. Have the AHC tracking number referenced above available and include it with any future correspondence.

Sincerely,

Lee Anne Hewett

Lee Anne Hewett
Deputy State Historic Preservation Officer

LAH/SGH/EDS/nj

Appendix C: Public Notice, Comments, Responses

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, AL 36628-0001

CESAM-PD-EC July 24, 2023
PUBLIC NOTICE NO. FP23-MH01-12

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT
AND
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

PROPOSED MOBILE HARBOR UPPER BAY CHANNEL WIDENER
MOBILE HARBOR NAVIGATION PROJECT
MOBILE COUNTY, ALABAMA

A FEDERALLY AUTHORIZED NAVIGATION PROJECT

Interested persons are hereby notified that the U.S. Army Corps of Engineers (USACE), Mobile District proposes to widen the federally authorized Mobile Harbor Navigational Channel in the Upper Bay segment with placement of dredged material within previously authorized disposal sites in Mobile Bay, Mobile County, Alabama.

This public notice is issued in accordance with rules and regulations published in the Federal Register April 26, 1988. These laws are applied whenever dredged or fill materials may enter waters of the United States. The recipient of this notice is requested specifically to review the proposed action as it may impact on water quality, relative to the requirements of Section 404(b)(1) of the Clean Water Act and Coastal Zone Management Act. Review of any other potential impacts is also requested.

WATERWAY AND LOCATION: The Mobile Harbor Upper Bay Channel is located in Mobile Bay, Mobile County, Alabama (Figure 1).

DESCRIPTION OF THE ENTIRE AUTHORIZED PROJECT: Improvements to the existing Federal project were most recently reauthorized in Section 201 of the Water Resources Development Act (WRDA) of 1986 (Public Law (PL) 99 – 662, Ninety-ninth Congress, Second Session), which was approved November 17, 1986, and subsequently amended by Section 302 of the WRDA of 1996, to read:

AUTHORIZATION OF CONSTRUCTION - The following projects for harbors are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

The project for navigation, Mobile Harbor, Alabama: Report of the Chief of Engineers, dated November 18, 1981, at a total cost of $451,000,000, with an estimated first Federal cost of $255,000,000 and an estimated first non-Federal cost of $196,000,000.

In disposing of dredged material from such project, the Secretary, after compliance with applicable laws and after opportunity for public review and comment, may consider alternatives to disposal of such material in the Gulf of Mexico, including environmentally acceptable alternatives for beneficial uses of dredged material and environmental restoration."

The report referenced by this authorization recommended the following improvements to the Federal project: deepening and widening the Bar Channel to 57 feet (ft) deep by 700 ft wide, deepening and widening the Bay Channel from the mouth of the bay to south of the Mobile River to 55 ft deep by 550 ft wide, deepening and widening the upper 3.6 miles of the Bay Channel to 55 ft deep by 650 ft wide; providing a 55-foot deep anchorage area and turning basin in vicinity of Little Sand Island; and, deepening the Mobile River Channel to 55 ft deep to a point about 1 mile below Interstate 10 (I-10) and the U.S. Highway 90 tunnels.

DESCRIPTION OF THE PROPOSED ACTION: In May 2019, USACE Mobile District prepared the Mobile Harbor Integrated General Reevaluation Report with Supplemental Environmental Impact Statement (GRR/SEIS) that was approved with a Record of Decision (ROD) signed in September 2019. The Recommended Plan (RP) consisted of a 5-foot deepening of the channel, or a 52-foot Bar Channel, a 50-foot-deep Bay Channel, and a 3-mile long by 100-foot channel widener in the bay with bend easings and turning basin modifications.

Since completion of the Mobile Harbor GRR/SEIS in May 2019, there has been a need to make design changes to Phase 6 of the Mobile Harbor GRR to further improve safety and navigation along the Upper Bay channel. The details of the proposed Phase 6 changes to the 2019 Mobile Harbor GRR/SEIS recommended plan are provided below.

The proposed action consists of widening the existing Upper Bay reach of the Mobile Harbor Federal Navigation Channel by approximately 100 feet via hopper, cutterhead, and/or mechanical dredge. The location of the proposed widening begins between Little Sand Island and the McDuffie Coal Terminals in the Upper Bay Channel reach and ends near the federally authorized Arlington Channel (Figure 2). Specifically, the proposed action is as follows:

Upper Bay Channel Widener: The change in work associated in Phase 6 includes adding a 100-foot widener along a portion of the Upper Bay Channel across from the McDuffie Coal Terminal. The proposed widener will be located on the east side of the channel starting south of the turning basin. The turning basin was previously proposed and authorized in the 2019 Mobile Harbor GRR. The proposed widener extends approximately 3,500 feet south from the turning basin before it begins to taper back to the normal channel width. The tapered area extends approximately 3,400 feet ending just north of the federally authorized Arlington Channel. The widening of this portion of the channel would be consistent with the authorized improvement depths to -50 feet MLLW as described in the 2019 Mobile Harbor GRR/SEIS. The approximate quantity of new work material is approximately 1.4 million cubic yards (mcy).

Dredged Material Management and Disposal Areas: The estimated dredged quantity of new work material (approximately 1.4 mcy) will be placed in totality or in combination of two beneficial use sites (Deer River, Mobile County Restoration and Dauphin Island Causeway Beneficial Use, Mobile County), Site A of the Relic Shell Mined Area, Sand Island Beneficial Use Area (SIBUA), and/or the Mobile Ocean Dredged Material Disposal Site (ODMDS) (Figure 3). All placement sites have been previously reviewed and authorized as part of the Mobile Harbor GRR/SEIS May 2019. All future Operations and Maintenance (O&M) dredged material may be placed within any of the existing and permitted dredge disposal areas to include USACE upland dredge disposal areas, USACE open water placement areas, SIBUA, and/or ODMDS.

WATER QUALITY CERTIFICATION: Pursuant to the Clean Water Act, state water quality certification is required for the proposed activities. Water quality certification is being requested from the Alabama Department of Environmental Management (ADEM). ADEM will decide relative to water quality for the proposed action upon completion of the required comment period for this public notice.

COASTAL ZONE CONSISTENCY: Pursuant to the Coastal Zone Management Act, concurrence with USACE, Mobile District's determination of coastal zone consistency to the maximum extent practicable is being requested from ADEM. Our review of the Alabama Coastal Program indicated that the project is consistent to the maximum extent practicable. ADEM will decide relative to coastal zone consistency for the proposed action upon completion of the required comment period of this public notice.

USE BY OTHERS: The proposed action is not expected to create significant impacts on land use plans. Use of waters within the channel including fishing and recreational boating will be temporarily impacted during the actual construction and future O&M activities.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) CONSIDERATIONS:
In accordance with the requirements of NEPA, all designed improvements to the Mobile Harbor Federal channel were disclosed in the 2019 Mobile Harbor GRR/SES. Impacts associated with the proposed action described above are disclosed in a Supplemental Environmental Assessment (EA). The Draft Finding of No Significant Impact (FONSI) and Supplemental EA is available via USACE, Mobile District website at https://www.sam.usace.army.mil/Missions/Planning-Environmental/Environmental-Assessments/. Documents will be updated should comments be provided that necessitate inclusion. Upon finalization of Supplemental EA, the FONSI will be signed by the District Commander.

SECTION 404(b)(1) EVALUATION REPORT: Environmental concerns involving the proposed placement activities have been evaluated under the Clean Water Act. A Section 404(b)(1) Evaluation Report was prepared and included with the 2019 Mobile Harbor GRR/SEIS to address impacts associated with the improvements to the Federal Navigation channel. Items discussed in the referenced report include temporary increases in turbidity from the dredging of benthic communities. The Section 404(b)(1) evaluation for the proposed action is available via USACE, Mobile District website at the

above link. Appropriate revisions will be incorporated into Section 404(b)(1) Evaluation Report if information is received during coordination of this public notice that would dictate the need to revise the report.

ENDANGERED/THREATENED SPECIES: Pursuant to Section 7 of the Endangered Species Act, the proposed action is being coordinated with the U.S. Department of the Interior, U.S. Fish and Wildlife Service (USFWS) regarding potential impacts to threatened or endangered species and their critical habitat under their purview. USFWS federally listed species that may be found within the vicinity of the project area only include West Indian manatee (*Trichechus manatus latirostris*), Gulf sturgeon (*Acipenser oxyrinchus desotoi*), Loggerhead (*Caretta caretta*) and Kemp's ridley (*Lepidochelys kempii*) sea turtles.

Accordingly, USACE, Mobile District has determined the proposed activity may affect but is not likely to adversely affect any endangered and/or threatened species. No USFWS designated critical habitat is present within the proposed channel widening project area. USACE, Mobile District is coordinating its may affect but not likely to adversely affect determination with USFWS.

ESSENTIAL FISH HABITAT (EFH): EFH is defined in the Magnuson-Stevens Fishery Conservation and Management Act as… "those waters and substrates necessary to fish for spawning, breeding, feeding or growth to maturity." The designation and conservation of EFH seek to minimize adverse effects on habitat caused by fishing and non-fishing activities. The National Marine Fisheries Service, Habitat Conservation Division (NMFS-HCD) has identified EFH habitats for the Gulf of Mexico in its Fishery Management Plan Amendments. The Gulf of Mexico Fishery Management Plan (2017) identifies EFH to be estuarine emergent wetlands, seagrass beds, vegetated and non-vegetated bottoms, shell reefs, and the estuarine water column. These habitats also include algal flats, mud, sand, shell, and rock substrates. Within the project area, EFH include non-vegetated bottoms and the estuarine water column.

Non-vegetated bottoms and the estuarine water column within the project area provides habitat for various species of fish, both invertebrates and vertebrates. Within the project area, the EFH designated for managed species of Gulf of Mexico include red drum, sharks (5 species), coastal migratory pelagic (3 species), reef fish (43 species), and shrimp (4 species). No habitat areas of particular concern were identified for this area. USACE, Mobile District implements environmental protection measures to reduce and avoid potential impacts to EFH as well as other significant area resources. No adverse impacts to wetlands, oyster reefs, or submerged aquatic vegetation (SAV) from the implementation of the project are anticipated. Most of the motile benthic and pelagic fauna, such as crab, shrimp, and fish, should be able to avoid the disturbed area and should return shortly after the activity is completed. No long-term direct impacts to managed species of finfish or shellfish populations are anticipated. However, it is reasonable to anticipate some non-motile and motile invertebrate species will be physically affected through dredging and placement operations. These species are expected to recover rapidly soon after the operations are complete. No significant long-

term impacts to this resource are expected as result of this action. Increased water column turbidity during dredging would be temporary and localized. No change is anticipated to occur to the habitat types.

The proposed action will not adversely affect coastal habitat identified as EFH in the project area. No adverse impacts to wetlands, SAVs or shell reefs, which are outside of the project footprint, are anticipated. Overall, Impacts to EFH would be temporary and localized as a result of the dredging and placement activities. In addition, material being utilized for beneficial use purposes of marsh and wetland creation would be beneficial to coastal habitat and resource conservation. USACE, Mobile District is coordinating its EFH determination with NMFS-HCD through this public notice.

CULTURAL RESOURCES CONSIDERATION: In compliance with Section 106 of the National Historic Preservation Act, coordination with the Alabama State Historic Preservation Officer and Federally recognized Tribal Nations has been initiated. USACE, Mobile District conducted a submerged cultural resources survey within the area of potential effect (APE) followed by diver identification of potential targets indicative of historic properties. No historic properties were identified within the APE. USACE, Mobile District has determined no historic properties affected for the proposed channel widener and placement of the material in the previously approved disposal locations. Consultation with the Alabama SHPO and Federally recognized Tribal Nations is ongoing.

CLEAN AIR ACT: Air quality in the vicinity of the proposed action would not be significantly affected by the proposed action. The equipment and machinery would generate some machinery related air pollution during dredging activities such as increased particulate levels from the burning fossil fuels. However, these impacts would be minor and temporary in nature. The proposed action complies with the Clean Air Act. The project area is in attainment with the National Ambient Air Quality Standards parameters. The proposed action would not affect the attainment status of the project area or the region. A State Implementation Plan conformity determination (42 United States Code 7506(c)) is not required since the project area is in attainment for all critical pollutants.

EVALUATION: The decision whether to proceed with the proposed action will be based on evaluation of the probable impacts including cumulative effects of the proposed action on overall public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from this proposal must be balanced against its reasonably foreseeable determinants. All factors, which may be relevant to the proposal, will be considered. Among these are sediments, water quality, air quality, wetlands, submerged aquatic vegetation, oysters, EFH, terrestrial wildlife, shorebirds, threatened and endangered species, cultural resources, aesthetics, land use, recreation, noise, and the welfare of the people. The proposed action will proceed unless it is found to be contrary to the overall public interest.

COORDINATION: Among the agencies receiving copies of this public notice are:

U.S. Environmental Protection Agency, Region 4
U.S. Fish and Wildlife Service, Daphne, Alabama
U.S. Department of Commerce, National Marine Fisheries Service, Protected Resource Division Offices, St. Petersburg, Florida
U.S. Department of Commerce, National Marine Fisheries Service, Habitat Conservation Division, Baton Rouge, Louisiana
Alabama Department of Environmental Management, Mobile, Alabama
Alabama Department of Archives and History, State Historical Preservation Officer, Montgomery, Alabama
Alabama Department of Conservation and Natural Resources, Game and Fish Division
Alabama Department of Conservation and Natural Resources, Marine Resources Division
Gulf of Mexico Fishery Management Council Federally Recognized Tribal Nations

Other Federal, State, and local organizations, and interested parties are being sent copies of this notice and are invited to participate in coordinating this proposed action. You are requested to communicate the information contained in this notice to any person who may have interest in the proposed action.

CORRESPONDENCE: Any person who has an interest that may be affected by this proposed activity may request a public hearing. Any comments or requests for a public hearing must be submitted in writing to the District Commander within 30 days of the date on this public notice. A request for a hearing must clearly set forth the interest, which may be affected, and the way the interest may be affected. Correspondence concerning the public notice should refer to Public Notice Number FP23-MH01-12 and should be directed to the Commander, U.S. Army Corps of Engineers, Mobile District, Attention: CESAM-PD-EC, Post Office Box 2288, Mobile, Alabama 36628-0001. For more information, contact Mr. Donald Mroczko, via phone at (251) 690-3185 or via email at donald.e.mroczko@usace.army.mil.

Encls

JEREMY M. LADART
Chief, Planning and Environmental Division

Figure 1: Vicinity Map

Figure 2: Project Area

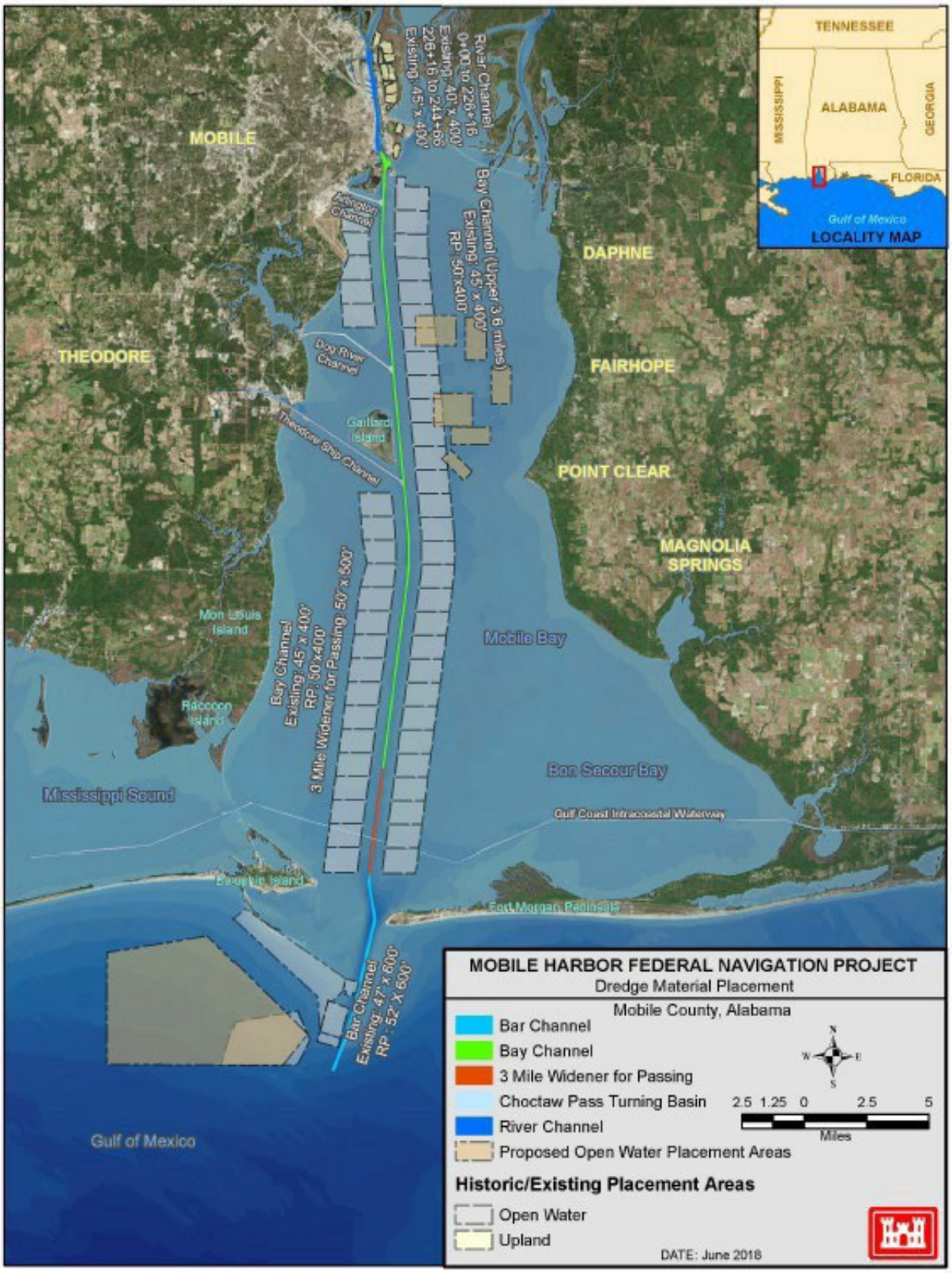

Figure 3: Dredge Material Placement Areas

From: January.Murray@noaa.gov
To: Mroczko, Donald E CIV USARMY CESAM (USA)
Cc: Brabham, Joseph M CTR USARMY CESAM (USA); _NMFS ser HCDconsultations
Subject: [Non-DoD Source] Re: U.S. Army Corps of Engineers, Mobile District Public Notice
Date: Tuesday, August 22, 2023 12:15:57 PM

Hello Donald,
The NMFS Habitat Conservation Division has reviewed the project listed below and does not object to the issuance of the following permit **FP23-MH01-12.**
Thank you for your coordination,
January Murray

On Wed, Aug 9, 2023 at 2:47 PM Mroczko, Donald E CIV USARMY CESAM (USA) <Donald.E.Mroczko@usace.army.mil> wrote:

> The purpose of this message is to notify you of a Federal project Public Notice from the U.S. Army Corps of Engineers, Mobile District.
>
> Public Notice FP23-MH01-12 – PROPOSED MOBILE HARBOR UPPER BAY CHANNEL WIDENER MOBILE HARBOR NAVIGATION PROJECT MOBILE COUNTY, ALABAMA
>
> To print or download an electronic copy of this Public Notice please click this link:
> http://www.sam.usace.army.mil/Portals/46/docs/planning_environmental/docs/PN//07242023_Joint%20Public%20Notice%20-%20MH%20GRR%20Upper%20Bay%20Channel%20Widener.pdf?ver=BuyBr-gBXdc1isx31N-yvA%3d%3d
> You will also be able to find supporting environmental documentation related to the Public Notice such as a draft EA and FONSI on our website.
> http://www.sam.usace.army.mil/Missions/PlanningEnvironmental/PublicNotices.aspx
>
> The Mobile District is required by Federal regulations to issue Public Notices to solicit public comments on Federal Civil Works projects. The comment period is typically 15 or 30 days depending on the scope of the project and is referenced in the Public Notice. If you have any comments on this project, please mail or e-mail your comments to the Project Manager referenced in the Public Notice.
> Do not respond to this e-mail.
>
> The Mobile District maintains an overall mailing list of interested agencies, businesses, organizations, and individuals which we are required to update on a regular basis. If you would like to be removed from this distribution list or know someone who would like to be added to our list, please notify the Project Manager.

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To:	Mroczko, Donald E CIV USARMY CESAM (USA); Long, Larry
Cc:	Jacobson, Jennifer L CIV USARMY CESAM (USA); Reynolds, Lekesha W CIV USARMY CESAM (USA)
Subject:	[Non-DoD Source] RE: Mobile Harbor Upper Bay Channel EPA Comment Response
Date:	Wednesday, September 27, 2023 3:11:00 PM

Good Afternoon Don.

Thank you for sharing the response to comments on the Mobile Harbor Upper Bay Project(Supplemental EA/FONSI). Let us know if we can be of further assistance.

Ntale

Ntale Kajumba
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Subject: Mobile Harbor Upper Bay Channel EPA Comment Response

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Good morning Ntale.

Thank you for your agency's September 10, 2023 comments on the Draft Finding of No Significant Impact and Supplemental Environmental Assessment (FONSI/SEA) that is tiered from the Final Mobile Harbor GRR/SEIS Upper Bay Channel Widening, dated May 2019. Your comments along with the Mobile District's responses and proposed updates to the SEA are below.

Comment/Concern:

1. "Changes to the physical, chemical, and biological conditions of the channels"

USACE Response: The proposed widening of the Upper Bay Channel reach by approximately 100-feet to the east would affect the physical nature of the channel. This widened channel would be constructed to the authorized depths of -50 feet mean lower low water (MLLW) plus an additional -2 feet of advanced maintenance and -2 feet of overdepth dredging with typical sloped banks as described in the 2019 Mobile Harbor GRR/SEIS. The estimated dredge quantity of new work material (approximately 1.4 mcy) will be placed in totality or in combination of two beneficial use sites (Deer River, Mobile County Restoration and Dauphin Island Causeway Beneficial Use, Mobile County), Site A of the Relic Shell Mined Area, and/or the Offshore Dredge Material Disposal Site (ODMDS). Post improvement's physical conditions would be similar to conditions previously disclosed in the GRR/SEIS. New work material dredged at this widener has had minimal to no exposure to anthropogenic influences so impacts attributed to chemical conditions would be minimal to none.

All areas of the Mobile Harbor GRR improvement project were tested and approved by EPA Region IV for disposal in the ODMDS pursuant to Section 103 of the MPRSA. Following the redesign of the Upper Bay Channel, a new testing program was implemented for the areas defined within the Proposed Action. Sediment suitability tests are currently being conducted pursuant to Section 103 of the MPRSA for placement of dredged material into the ODMDS. Physical, chemical and biological analyses of the dredged material are being performed based upon criteria identified in the Ocean Testing Manual and Southeastern Regional Implementation Manual as this material. Should the material be shown to meet the EPA & USACE criteria, the material will be allowed to be placed into the designated ODMDS. The primary placement areas of the new work dredged material area in the previously approved locations, such as beneficial use sites including Deer River, Mobile County Restoration and Dauphin Island Causeway Beneficial Use, Mobile County, Site A of the Relic Shell Mined Area. The testing program for placement within the Federally designated ODMDS is being conducted as a risk management strategy in case that option is needed.

A Section 404(b)(1) Evaluation Report has been prepared for this SEA which describes the existing sediment characterizations in the navigation channel and previously approved placement areas. Sections 230.60 and 230.61 of the Guidelines provide the basis for certain factual determinations with regard to dredged material discharge activities. Section 230.60 provides for a general evaluation of the material and establishes a framework to determine, based on existing information on the proposed dredging and discharge sites, whether the material at issue requires further testing.

2. "Cumulative impacts from the dredging and disposal placement of the dredged materials"

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USACE Response: The CEQ regulations define cumulative impacts as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other action." (40 CFR. § 1508.7). Actions considered in the cumulative impacts analysis include implementation of the proposed action and no action alternatives and other Federal, State, Tribal, local agencies, or government or private actions that impact the resources affected by the proposed action.

The total of direct impacts associated with the proposed channel widening are minor. The natural environment in the project area has long been impacted by a variety of human actions including the construction and maintenance of the Mobile Harbor Federal Navigation channel. This project site is within open water only and adjacent to multiple industrial facilities. The widening of the channel in this location would improve the safety of the vessels operating within the harbor and turning basin. There are no known future actions being contemplated that would add to these cumulative impacts. Cumulative impacts were initially disclosed in the GRR/SEIS and this project modification to shift the channel alignment does not cumulatively contribute to the environmental degradation of the local area.

Complete and thorough details pertaining to the potential cumulative effects can be found in the 2019 Mobile Harbor GRR/SEIS Main Report Section 6.0 and in Section 4 of Environmental Appendix C. In conclusion, the proposed action, as well as the No Action alternative, would have no more than minor direct, indirect, or cumulative impacts on the environment.

3. "Downstream water quality from the dredging activities."

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   USACE Response: As described in the 2019 Mobile Harbor GRR/SEIS, a water quality modeling effort was conducted for the 2019 study to understand the existing water quality within the waters of Mobile Bay and to quantify the relative changes in the water quality resulting from proposed Mobile Harbor Federal Navigation channel modifications. The output from the modeling effort was analyzed to assess relative differences in dissolved oxygen (DO), salinity, temperature, total suspended solids (TSS), nutrients, and chlorophyll-a. A more detailed discussion on the modeling effort and results are included in Sections 2.5.4 and 5.5 of the 2019 Mobile Harbor GRR/SEIS Main Report and Sections 2.4 and 3.5 of the 2019 Mobile Harbor GRR/SEIS Environmental Appendix C. Conditions identified in the water quality certification initially issued by Alabama Department of Environmental Management (ADEM) for the GRR/SEIS improvement project have been met throughout the improvements project. No additional modeling effort was conducted for this SEA as the proposed widening is adjacent to and part of the existing channel and consistent with all previous analysis. The USACE requested Section 401 Water Quality Certification and a Coastal Zone Management Consistency determination from the Alabama Department of Environmental Management (ADEM). Once certifications are received from the ADEM, any conditions of those certifications will be incorporated into the project specs to ensure compliance.

4. "The EPA requests that the USACE ensure that the SEA addresses our concerns listed above and follow the updated Council on Environmental Quality NEPA regulations and Climate Change guidance documents. The EPA also recommends that the proposed Phase 6 changes within the 2019 General Reevaluation Report with Supplemental Environmental Impact Statement (GRR/SEIS) provide bulk chemistry, elutriate and bioassay data once available on the Phase 6 the new proposed 100-foot widener be addressed in an SEA, as previously discussed between the EPA Region 4 and the USACE. The EPA will accept testing results

developed under Marine Protection, Research and Sanctuaries Act (MPRSA) and the accompanying guidance in the Ocean Testing Manual to evaluate for compliance with the Clean Water Act in advance of placement for beneficial use sites including Deer River, Mobile County Restoration and Dauphin Island Causeway Beneficial Use, Mobile County), Site A of the Relic Shell Mined Area."

USACE Response: The USACE adhered to Section 404 Guidelines and the Inland Testing Manual's Tiered approach to make a factual determination for discharge of material in waters regulated under the Clean Water Act. Guidance and environmental laws differ as it pertains to disposal in ocean waters compared to waters of the U.S. The USACE is adhering to Section 103 of MPRSA for sediment evaluation for potential disposal at the ODMDS. Although not required to make USACE's factual determination, we will provide a copy of the final sediment testing report once concluded.

Thank you again for the comments. Have a great day Ntale.

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