

**Department of Homeland Security Record of Decision
for Adoption of the Final Environmental Impact Statement for the
Proposed Marine Container Terminal at the Naval Complex,
North Charleston, South Carolina (EIS Number 20060506)**

In 2003, the South Carolina State Ports Authority (SCSPA) submitted a permit application to the U.S. Army Corps of Engineers (USACE) to construct a marine container terminal and support facilities at the former Charleston Naval Complex (CNC) in North Charleston, South Carolina. In 2005, the South Carolina Department of Transportation (SCDOT) submitted a permit application to USACE to construct an access roadway as part of the new marine container terminal project. The USACE, Charleston District completed a Final Environmental Impact Statement (FEIS) to evaluate both permit applications and issued a Record of Decision (ROD) on April 26, 2007. The FEIS entitled *Final Environmental Impact Statement for the Proposed Marine Container Terminal at the Charleston Naval Complex, North Charleston, SC (EIS Number 20060506) (December 2006)* was prepared in accordance with: (1) Section 102(2)(c) of the National Environmental Policy Act (NEPA) (42 U.S.C. Section 4321 et seq.); (2) the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 C.F.R. Parts 1500-1508; (3) USACE NEPA regulations (33 C.F.R. Part 325, Appendix B); and (4) 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged Material (40 CFR Part 230). USACE was the lead agency for this FEIS, with the Federal Highway Administration serving as a cooperating agency.

With this ROD, the Department of Homeland Security (DHS) formally adopts the 2006 USACE FEIS. DHS has conducted an independent review and determined that the FEIS was prepared in a manner that complies with all requirements of NEPA and all related policies of the Department for the preparation of NEPA documents, including DHS Directive 023-01, Revision 01 and Instruction Manual 023-01-001-01, Revision 01, *Implementation of the National Environmental Policy*.

This DHS ROD will be used to facilitate decisions affecting DHS real property within the former CNC where potential impacts have been adequately covered by the 2006 USACE FEIS. Additional environmental analysis will be conducted as needed, for any future Proposed Actions affecting DHS real property within the former CNC that are not covered by the 2006 USACE FEIS.

Since DHS was not a cooperating agency on the 2006 USACE FEIS, the FEIS has been recirculated as provided for by 40 C.F.R. Part 1506.3. DHS notified the U.S. Environmental Protection Agency of its intent to adopt the 2006 USACE FEIS and a notice was published in the Federal Register on June 29, 2018 (Volume 83, Number 126, page 30730) with a review period that ended on July 30, 2018.

Proposed Action

The Proposed Action analyzed in the 2006 USACE FEIS consists of the development of a marine container terminal and the associated roadway infrastructure at the former CNC in North Charleston, South Carolina. The Proposed Action is needed to provide state-owned port facilities

that meet the reasonably projected throughput capacity for containerized cargo in the state of South Carolina in the next twenty years.

The Preferred Alternative is considered the Proposed Action, as described below. Additional details may be found in Chapter 3 of the 2006 USACE FEIS. SCSPA's action would construct a 287-acre port facility on Cooper River, consisting of the following major components:

- **Wharf.** The SCSPA would develop 11.5 acres of wharf structure on the west side of the Cooper River, with a berth area 49 feet deep and 150 feet wide. This wharf would be developed with an estimated six container cranes with a minimum outreach of 200 feet.
- **Berth and Access Channel.** The SCSPA would develop a 65.8-acre berth and access channel. This area extends approximately 850 feet from the edge of the proposed wharf to the edge of the existing Federal navigation channel. The berth and access channel will be excavated to a total depth of -49 feet at mean low water (MLW), which is equal to the depth of the adjacent federal navigation channel.
- **Container Yard and Support Facilities.** The SCSPA would develop 225 acres of lighted, paved area for container processing and storage upland of the wharf. In addition, the SCSPA proposes to build 40 acres of paved area and buildings for support gate structures and other operations and facilities.
- **Improvements to Tidewater Road.** The SCSPA would make improvements to Tidewater Road to provide access to Cooper River Marina, which is owned and operated by Charleston County Parks and Recreation Commission. This new two-lane paved roadway would also provide access to an employee parking area for the proposed port facility.
- **Stormwater Management Facilities.** The SCSPA would develop approximately 25 acres of stormwater management facilities. The runoff would be collected from the support area, container yard, wharf, and portions of Tidewater Road and routed to a stormwater treatment pond that would be constructed along the south side of the terminal.

SCDOT's Proposed Action is to construct an access roadway, which includes the following major components:

- **Port Access Road.** The SCDOT would construct a four-lane access roadway from the entrance of the proposed port facility to Interstate 26. The majority of the proposed roadway would be elevated on structure to minimize the potential impact to Shipyard Creek and existing roadway and railway infrastructure (such as Spruill Avenue, Meeting Street Road, CSX Cooper Yard).
- **Meeting Street Interchange (Exit 217).** The SCDOT would rebuild the existing interchange in order to construct collector/distributor roads. These improvements consist of two additional lanes of traffic that are separated from the interstate by a concrete barrier, which would help vehicles from the proposed port access road and the existing

interchange to safely and efficiently enter and exit the interstate.

- **Local Access Roadway.** The SCDOT would construct a four-lane roadway at Stromboli Avenue that provides eastbound and westbound access to Interstate 26 via the port access road. This roadway also establishes a new connection to Bainbridge Avenue that provides Veterans Terminal and the Federal Law Enforcement Training Centers (FLETC) more direct access to Interstate 26 via the port access road.
- **Stromboli Avenue Improvements.** The SCDOT would reopen Stromboli Avenue to through traffic and to construct improvements to the existing intersection with Carner Avenue and Meeting Street.
- **Bridge to Tidewater Road.** A second bridge would be constructed across Shipyard Creek from the local access roadway to Tidewater Road. This bridge would provide access to the Cooper River Marina and the employee entrance to the proposed port facility.

Alternatives Analysis

The 2006 USACE FEIS included a detailed analysis of the Proposed Action (Preferred Alternative), the No Action Alternative, and two alternative sites (Daniel Island Alternative and Clouter Island Alternative). A detailed discussion of the alternatives considered as well as those dismissed from further analysis is found in the FEIS, Chapter 3. The alternatives analyzed in the FEIS adequately addressed the wide range of resource considerations in compliance with NEPA. The selection of the Preferred Alternative by the USACE, based upon the analysis in the FEIS, provided a decision that was responsive to all substantive resource issues identified both internally and through public and interagency participation for the project.

Environmentally Preferable Alternative

DHS concurs with the USACE's determination that the Proposed Action (Preferred Alternative) is also the environmentally preferable alternative as documented in the April 26, 2007 USACE ROD. The Proposed Action at any of the alternative sites would result in both beneficial and adverse impacts, as documented in the USACE FEIS and ROD. The issues that were identified as the most relevant during the public review period and those that exhibited the greatest differences among the alternatives were used by the USACE in determining the environmentally preferred alternative. Resource areas that had the most substantial differences between the alternative sites were land use, transportation, air quality, and aesthetics. Table 1 below shows a general comparison between the alternative sites, and a detailed discussion may be found in Chapters 3-5 of the 2006 USACE FEIS and the ROD.

Table 1. Environmentally Preferable Alternative by Resource

Resource Area	Proposed Action (Preferred Alternative)	Daniel Island Alternative	Clouter Island Alternative
Physical Setting	X		
Socioeconomics	Similar	Similar	Similar
Navigation	Similar	Similar	Similar
Cultural Resources	Similar	Similar	Similar
Threatened and Endangered Species	Similar	Similar	Similar
Shorelines	Similar	Similar	Similar
Floodplains	Similar	Similar	Similar
Social Characteristics	X		
Community Infrastructure and Municipal Services	X	X	
Noise			X
Light	X		
Section 4(f), Section 6(f) and other Recreational Facilities	X		
Haz Waste and Materials	Similar	Similar	Similar
Aquatic Sediments and Dredging		X	
Natural Resources	Similar	Similar	Similar
Water Quality		X	
Land Use	X		
Transportation	X		
Air Quality	X		

Resource Area	Proposed Action (Preferred Alternative)	Daniel Island Alternative	Clouter Island Alternative
Aesthetics	X		

The development of the Proposed Action would have impacts on various resource areas. In order to select the environmentally preferable alternative, the USACE needed to consider each of these factors in light of its statutory responsibilities to protect both navigation pursuant to Section 10 of the Rivers and Harbors Act, and aquatic resources pursuant to Section 404 of the Clean Water Act. In order to develop a marine container terminal and access roadway on any of the alternative sites, both waters of the United States and navigable waters of the United States would be affected.

As documented in the FEIS, the Preferred Alternative is expected to result in the direct loss and the modification through deepening of the greatest acreage of aquatic resources. However, the development of the Clouter Island Alternative would result in the loss of confined disposal facility (CDF) capacity that is necessary to maintain the existing federal navigation channel. Replacement of this CDF capacity would likely result in substantially greater secondary impacts to aquatic resources. Likewise, there are several other areas where the Preferred Alternative would have slightly greater or moderately greater impacts to the human environment.

As described in the 404(b)(1) Guidelines, USACE must also consider other environmental concerns in determining whether or not a specific activity is considered the least environmentally damaging practicable alternative pursuant to the Clean Water Act. In this case, the development of the Daniel Island or Clouter Island Alternative site would result in significantly greater impacts to transportation, air quality, and/or land use than the Preferred Alternative. Therefore, the Preferred Alternative is considered both the environmentally preferable alternative pursuant to NEPA and the least environmentally damaging practicable alternative pursuant to the Clean Water Act.

Environmental Consequences and Mitigation

The 2006 USACE FEIS, Chapters 3-5 and ROD contain a detailed analysis of the environmental impacts of the Proposed Action and alternatives, including the mitigation plan to offset potential adverse impacts. As the mitigation requirements are extensive, this ROD highlights the major components of the mitigation measures but does not provide an exhaustive discussion.

The SCSPA and SCDOT submitted a compensatory mitigation plan for waters of the United States. SCSPA would create approximately 22 acres of salt marsh on Drum Island (located downstream of the project site near the confluence of the Cooper and Wando Rivers), contributing \$1,000,000 to assist the Trust for Public Land, a national non-profit private land conservation organization to secure funding to purchase Morris Island (located downstream of the project site near the entrance channel to Charleston Harbor), contributing \$1,000,000 in funding to the South Carolina Department of Natural Resources to support existing oyster restoration programs in and around Charleston Harbor, and providing the Nature Conservancy

with \$1,000,000 in funding to support their efforts to protect aquatic resources on the Cooper River upstream from the project site. The SCSPA's mitigation plan includes more than 1,000 acres of compensatory mitigation: the 22-acre Drum Island Tract, the 136-acre Morris Island Tract, the 8-acre oyster restoration, approximately 950 acres of freshwater wetlands and upland buffers as part of the Cooper River Initiative, and the purchase of 26.8 credits from an appropriate Federally approved wetland mitigation bank within the Cooper River watershed.

The development of the proposed access roadway would result in substantially less adverse impact to waters of the United States than the port facility. SCDOT's portion of the approved mitigation plan includes debiting the appropriate number of tidal and freshwater mitigation credits/acres from their existing Huspa Creek (30.52 credits) and Black River Mitigation Banks (1.02 acres). The proposed mitigation credits and acreages are consistent with the USACE Charleston District's Standard Operating Procedures for Compensatory Mitigation and the mitigation calculations and ratios that were developed for these specific SCDOT mitigation banks.

In addition to the compensatory mitigation plan for aquatic resources, other mitigation measures are discussed within the USACE ROD. The USACE is also requiring that special conditions be included with the SCSPA and SCDOT's federal permit, specifically for:

- physical setting (SCSPA only, to ensure that sufficient information is provided to the USACE on cultural resources, federally listed species, etc. when obtaining fill material),
- environmental justice (commitment to implement the CNC Marine Terminal Plan),
- transportation (SCSPA only),
- noise abatement (SCSPA only),
- sediments and dredged material (SCSPA only),
- essential fish habitat (SCSPA only), and
- Federally listed threatened and endangered species (SCSPA only).

Careful review of the 2006 USACE FEIS and ROD considered the document to be a relevant and cogent analysis of the impacts of the Proposed Action and alternatives, with appropriate mitigation to offset potential impacts.

Consultation, Coordination, and Public Involvement

A detailed discussion of agency coordination and consultation as well as public involvement can be found in Chapters 1 and 7 of the 2006 USACE FEIS. Throughout the development of the EIS, the USACE actively sought to disseminate information on the Proposed Action including the results of studies to evaluate the potential impacts on the human and natural environment. The public involvement process was initiated with a Notice of Intent (NOI) published in the Federal Register on February 19, 2004. Scoping meetings were held on March 16, 2004 and March 22, 2004 and public hearing was held on November 17, 2005. The FEIS was noticed in the Federal Register on December 5, 2006. There has been both public opposition and public support for the Proposed Action since the inception of the EIS process. There were a number of opponents, as well as proponents, at the scoping meeting for the EIS, five public workshops, and at the public hearing. Several local communities and municipalities have adopted resolutions, or submitted

comments, in opposition to the Proposed Action. This opposition is based in large part on concerns regarding impacts of the Proposed Action on roadway traffic, air quality, noise, light, and property values. DHS concurs that the USACE has adequately considered public input during the EIS process in accordance with NEPA.

All required agency consultations and coordination have been completed for compliance with the Endangered Species Act and National Historic Preservation Act, among other regulatory requirements. A summary of this information is documented in the FEIS.

Decision and Rationale

With this ROD, DHS formally adopts the 2006 USACE FEIS and concurs with the selection of the Preferred Alternative from that FEIS, as documented in the ROD issued by the USACE in April 2007. This ROD also serves to formally document that the FEIS was prepared in a manner that complies with all requirements imposed by NEPA, the CEQ regulations implementing NEPA, and all applicable requirements and policies of the Department for NEPA compliance. This ROD also documents DHS' concurrence with the determination by the USACE regarding the consistency of the 2006 USACE FEIS and ROD with other applicable laws, regulations and policies.

The CEQ regulations at 40 CFR Part 1505.2(c) require that decision documents, such as this ROD, state whether all practicable means to avoid or minimize environmental harms that may result from the selected alternative have been adopted, and if not, why they were not. For the reasons discussed above and in the 2006 USACE FEIS and ROD, DHS concurs with the determination by the USACE that the selection of the Preferred Alternative from the FEIS includes all of the practicable mitigation and other protective measures needed to avoid or minimize environmental harms that may result from the decisions made with this DHS ROD and the USACE ROD. DHS has also determined that, of the alternatives considered in detail, the Preferred Alternative from the FEIS best met the purpose and need for action discussed in the FEIS. As a result of these determinations, DHS has elected to adopt the 2006 USACE FEIS.

Approval

In consideration of the information above, I approve this ROD with which DHS formally adopts the 2006 USACE FEIS, entitled *Final Environmental Impact Statement for the Proposed Marine Container Terminal at the Charleston Naval Complex, North Charleston, SC (EIS Number 20060506) (December 2006)*. I concur with the selection of the Preferred Alternative in the FEIS, as documented by the USACE ROD of April 26, 2007.

This ROD is hereby approved as of the _____

Dr. Teresa R. Pohlman
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