

FINDING OF NO SIGNIFICANT IMPACT for the Damage Assessment and Restoration Plan/Environmental Assessment for the Galaxy/Spectron Site in Cecil County, Maryland

National Oceanic and Atmospheric Administration Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. 1508.27 state that the significance of an action should be analyzed both in terms of 'context' and 'intensity.' Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria, and is specific to the preferred alternative – Alternative 5: Scotchmen Creek – based on the evaluation of that alternative in the supporting EA. These include:

1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans (FMPs)?

Response: No, the proposed actions will cause no damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans (FMPs). The NOAA Fisheries Habitat Conservation Division is charged with review of federal projects pursuant to the Magnuson Stevens Act and has determined that the action presents no threat to EFH species. The project site is not designated as EFH habitat. The project sponsors determined that the preferred alternative will create new habitat or enhance the existing habitat. Temporary impacts, such as construction related disturbance in the stream bed, will be avoided or minimized through use of best management practices.

2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: No, the project will not have a substantial impact on ecosystem function and species biodiversity within the affected area, but the effect of this project will be beneficial to the productivity and ecosystem function of the area. The project will alter the physical structure of the stream in order to return lost function (stream flow) and biological productivity (provide access for anadromous and resident fish to historical forage and nursery areas). The project will create a stable stream channel and remove a known fish blockage.

Although not subject to the settlement funding restoration actions subject to NOAA's responsibilities under NEPA, the project partners also plan to conduct several related enhancements. First, they will place large woody debris to serve as refuge and nursery habitat for many species of fish and other wildlife. In addition, the invasive wetland plant (*Phragmites australis*) will be removed by herbicide

spraying and controlled burns. This area will be replanted with native marsh vegetation. An emergent marsh will be enhanced and planted with native vegetation. Small vernal pools will be created for additional fish and wildlife habitat.

The project has been designed to compensate for lost natural resources due to the release of hazardous substances at the Spectron site. Therefore, the project will have a positive effect on biodiversity and ecosystem function by design. Temporary adverse effects associated with constructed related stream disturbance and transport of materials and personnel to and from the site will involve minor impacts on the benthic environment and streambed, however, the site will be rapidly stabilized and overall enhancement of benthic productivity and ecosystem function is expected.

3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: No, the project will not have a substantial adverse impact on public health and safety. The project will, however, compensate the public for injuries resulting from past hazardous waste substances releases from the Spectron site.

No substantially adverse impacts to human health and safety are likely to occur from exposure to sediment, dust, or debris.

4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: No, the project will not significantly adversely affect any federal or state listed species, based on discussions with USFWS. ESA consultation (letter dated 04 December 2001) was completed for the site, determining that, except for occasional transient individuals, no federally proposed or listed endangered or threatened species are known to exist within the project area.

Additional consultation with the USFWS will continue during the design phase of the project to ensure complete compliance with Section 7 of the Endangered Species Act.

Adverse effects for all non-targeted species are expected to be temporary and limited to the construction and recovery phase (estimated at 3-5 years for most species).

5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No, there are no significant adverse social or economic impacts interrelated with natural or physical environmental effects brought by the proposed

action. The human environment will largely benefit from the selected restoration project since passive recreational opportunities have been included in the restoration project, including a proposed kayak/canoe launch, but this is not a significant social or economic impact.

6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No, it has been determined that the project will have no substantial adverse effects on the quality of the human environment and thus is not likely to generate high levels of controversy. Restoring the natural resources to compensate for the release of hazardous substances is expected to have a neutral impact on human environment.

Comments received during 30-day review include two comments from the general public. One commenter requested increasing the amount of open water in the former lake impoundment without replacing the dam. The exact size of the emergent marsh will be determined during the design phase of the project. The Trustees will investigate the feasibility of increasing the marsh size; however, size of the emergent marsh will be limited to the area colonized by invasive plants. Since the focus of this project is environmental restoration and compensation to the public for injuries to anadromous resources, healthy native marsh in the upper portion of the project area cannot be impacted by this project. Replacement of the dam is not an option with the current funding. Another interested party noted the need for a public canoe and kayak launch at the restoration site. The Maryland Historical Trust deemed the project to have "no adverse effect" on historic properties. Maryland Department of Planning mentioned the project is consistent with water quality goals and objectives. The Maryland Departments of Business and Economic Development, Natural Resources, Cecil County, and the Maryland Department of Planning found the project to be consistent with their plans, programs and objectives.

An informal public scoping meeting was held at the local fire hall on 01 August 2007 with over 100 people in attendance. All in attendance were in favor of the proposed restoration project.

The project is expected to be in compliance with all applicable environmental protection laws, and no violations are likely or expected, so no controversy should ensue from non-compliance. All disturbances resulting from construction (noise, air, street traffic) will be limited to daylight hours and only during a short (four month) construction period. Noise and dust will be limited by disturbance control practices built into the performance of the contract. In addition, the project will be implemented in compliance with all permits required by the state and federal regulatory agencies.

7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: No, the project cannot be reasonably expected to have a substantial negative impact on historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas.

There are no unique or rare resources of any type that will be affected. The site is degraded and does not present a unique or rare condition for the geographic area.

There are no listed or potentially eligible national historic sites, or other significant cultural resources located in the area of potential effect of the Project. A historic mill site exists outside the disturbance area. The Trustees believe the Project will have no significant adverse effect on any of these resources.

The Maryland Historical Trust has determined that the project will have “no adverse effect” on historic properties. The Maryland Historical Trust has been consulted with under NHPA Section 106.

Prime farmlands, parkland and wild and scenic rivers do not exist on site or in the limited area of the project’s impact.

The proposed action is assumed to have a beneficial effect on these resources by reducing sedimentation downstream of the project site, leading to less degradation of the wetland habitat, fish habitat, and ecologically critical areas downstream of the project site. Any negative impact to these resources was addressed in full in Questions 1, 2 and 4 of the FONSI.

8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No, the proposed action is unlikely to have uncertain effects or involve unique or unknown risks to the human environment associated with its immediate construction or in the long-term. During construction, however, earth moving activities will create limited exposure opportunities in the adjacent residential human environment by way of noise, visual disturbance and dust. It is unlikely to occur in ways that are substantial or that present a substantial risk. Noise and visual disturbances will be mitigated by the noise and visual reduction elements. Silt curtains will be used to limit sediment migration and excavated materials will be wetted to hold down dust.

9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No, the proposed action is not related to other actions with individually insignificant, but cumulatively significant adverse impacts.

10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No, there are no listed or potentially eligible national historic sites, or other significant cultural resources located in the area of the Project. A mill site exists outside the disturbance area. A Cultural Resource Evaluation and Phase I Archeological Assessment have been completed for the project site. The site has been investigated under the National Register of Historic Places Criteria A, B, C and D, and found not eligible. Therefore, the Trustees do not anticipate any adverse affects to scientific, cultural or historical resources.

11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No, the action will not result in the introduction or spread of non-indigenous species but will result in the reduction of such. Appropriate best management practices, such as clearing vegetative material from tires or vehicle tracks will be practiced for any equipment that is used in removal of *Phragmites australis*. Root mat of *Phragmites australis* that is removed to increase water depth would be disposed of as a solid waste, and would not be sent to composting facilities or sidecast on site. Herbicide spraying for *Phragmites australis* has occurred at the site and will continue until construction activities for the proposed restoration project begin. At the time construction begins, the Trustees believe the *Phragmites australis* will be present only in limited stands. If no changes were to be made to the elevation of the marsh surface during the proposed restoration project, continued spraying would be necessary to control the invasive plant. However, with modifications being made to the surface elevation, the Trustees believe this will limit the amount of *Phragmites australis* at the project site. *Phragmites australis* cannot tolerate prolonged water inundation; therefore, lower the marsh surface will assist in limiting colonization.

12) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: No, the proposed action will not establish a precedent for future actions with significant effects.

13) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No, the project has been planned to be in compliance with all applicable environmental protection laws, and no violations are likely or expected. In

addition, the project will be implemented in compliance with all permits required by the state and federal regulatory agencies.

14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

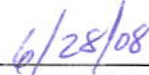
Response: No, the proposed action will not result in a substantial cumulative adverse effect on target species or non-target species. This restoration project's primary goal is to compensate for injured natural resources or services lost due to the release of hazardous substances at the Spectron site. As such, the net effects are incrementally beneficial.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the Restoration Plan and Environmental Assessment for the Galaxy/Spectron Site, Cecil County, Maryland, it is hereby determined that the Preferred Alternative identified for implementation will not significantly impact the quality of the human environment as described above and in the Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



Patricia A. Montanio
Director, Office of Habitat Conservation, NOAA



Date



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

MEMORANDUM FOR: Rodney F. Weiher, Ph.D.
NOAA NEPA Coordinator

FROM: Patricia A. Montano *Patricia A. Montano*
Director, Office of Habitat Conservation

SUBJECT: Finding of No Significant Impact for the Final Restoration
Plan and Environmental Assessment for the
Galaxy/Spectron Site and Scotchman Creek restoration
project, Cecil County, Maryland – DECISION
MEMORANDUM

Based on the subject Restoration Plan/Environmental Assessment for Galaxy/Spectron Site in Cecil County, Maryland, I have determined that no significant impacts to the quality of the human environment will result from the proposed action. I request your concurrence in the determination of a Finding of No Significant Impact. Please return this signed memorandum for our project files and for the Administrative Record.

I concur: _____

S. Kl

6/30/08

Date

I do not
concur: _____

Date





JUN 30 2008

To All Interested Government Agencies and Public Groups:

Under the National Environmental Policy Act, an environmental review has been performed on the following action.

TITLE: FINAL RESTORATION PLAN AND ENVIRONMENTAL ASSESSMENT FOR THE GALAXY/SPECTRON SITE AND THE SCOTCHMAN CREEK RESTORATION PROJECT, CECIL COUNTY, MARYLAND

LOCATION: CECILTON, CECIL COUNTY, MARYLAND

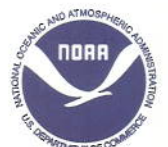
SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is the lead federal agency for National Environmental Policy Act (NEPA) compliance for the Scotchman Creek Restoration Project, Cecilton, Cecil County, Maryland. This project is sponsored by the Galaxy/Spectron Natural Resource Trustees and designed to help restore natural resources injured by the releases of hazardous substances at the Galaxy/Spectron Site in Elkton, Maryland.

The Trustees selected Scotchman Creek as the restoration project based on the anticipated ecological benefits to anadromous fish, project cost-effectiveness and overall need for restoration within the Elk River watershed. This alternative includes the removal of a partial fish blockage and stream restoration at Scotchman Creek at Mill Lane. This area is documented spawning ground for white perch, alewife, and blueback herring. Fish blockage removal and stream restoration at Scotchman Creek will restore 1000 linear feet of stream and open an additional 2.2 miles of habitat for anadromous fish and the American eel.

RESPONSIBLE OFFICIAL:

Dr. Jim Balsiger
Assistant Administrator for Fisheries (Acting)
1315 East-West Highway, Rm. 14743
Silver Spring, MD 20910
(301) 713-2239 x103

The environmental review process led us to conclude that this action will not have a significant effect on the human environment. Therefore, an environmental impact statement will not be prepared. A copy of the finding of no significant impact including the supporting environmental assessment is enclosed for your information.



Although NOAA is not soliciting comments on this completed EA/FONSI, we will consider any comments submitted that would assist us in preparing future NEPA documents. Please submit any written comments to the responsible official named above.

Also, please send one copy of your comments to my staff at NOAA Program Planning and Integration (PPI), SSMC3, Room 15603, 1315 East-West Highway, Silver Spring, MD 20910.

Sincerely,

A handwritten signature in black ink, appearing to read "R. F. Weiher". The signature is fluid and cursive, with the first name "R." and last name "Weiher" clearly distinguishable.

for Rodney F. Weiher, Ph.D.
NEPA Coordinator

Enclosure