

Summary of Public Comments Received on Draft Maps for John H. Chafee Coastal Barrier Resources System Units NJ-02/NJ-02P, NJ-03P, NJ-04, NJ-15P and NJ-16P, and U.S. Fish and Wildlife Service Responses and Recommendations

I. Overview

The U.S. Fish and Wildlife Service (Service) prepared one draft revised map dated May 16, 2016, for three existing and three proposed new Coastal Barrier Resources System (CBRS) units in Middlesex and Monmouth Counties, New Jersey – Seidler Beach Unit NJ-02/NJ-02P, Cliffwood Beach Unit NJ-03P, Conaskonk Point Unit NJ-04, Sayreville Unit NJ-15P, and Matawan Point Unit NJ-16P. The Service held a 45-day public comment period on the draft map from July 7 through August 22, 2016. The draft maps were prepared in accordance with the Coastal Barrier Resources Reauthorization Act of 2006 (Pub. L. 109-226) which directs the Service to prepare draft revised maps for all CBRS areas, propose additions to the CBRS, and solicit public comments on the draft revised maps.

The Service announced the availability of the draft map and the opportunity to provide comments in a notice published in the *Federal Register* on July 7, 2016 (81 FR 44320). The Service sent letters dated July 12, 2016, to approximately 40 stakeholders, including members of Congress; Federal, state, and local officials; and nongovernmental organizations. The draft map, *Federal Register* notice, and summaries of the proposed boundary changes were made available on the Service's website during the public comment period.

The Service received comments from the following three entities during the comment period:

- Bayshore Regional Sewerage Authority (BRSA; generally supports proposed changes to Unit NJ-04, but opposes the inclusion of BRSA property within the unit)

- Monmouth County Planning Board (requests exclusion of infrastructure)
- New Jersey Department of Environmental Protection (requests exclusion of infrastructure)

The Service received no comments specific to Units NJ-02/NJ-02P, NJ-03P, or NJ-15P.

Copies of the comments submitted to the Service during the public comment period are available on the Federal e-Rulemaking Portal at <http://www.regulations.gov>. In the Search box, enter FWS-HQ-ES-2016-0069, which is the docket number for the public review notice.

II. Summary of Public Comments and Service Responses

The comments received during the public comment period and the Service's responses to these comments are summarized below.

Boundaries of Unit NJ-04 Affecting the BRSA

Comment: A representative of the BRSA commented that while they generally support the proposed revisions to Unit NJ-04, they do have concerns about the location of the proposed boundary around the wastewater treatment facility and the Monmouth County Bayshore Outfall. The proposed boundary leaves a single sampling point walkway and an active clean effluent chamber in the wetlands within the CBRS, and the BRSA seeks to have these structures removed from the CBRS as the effluent chamber would serve as a source of flooding back into the wastewater treatment facility if it remains outside the floodwall that is planned to be constructed by the U.S. Army Corps of Engineers (USACE). They requested

that the revised CBRS boundary follow the parcel data for the wastewater treatment facility so that future Coastal Barrier Resources Act (CBRA) consultations would not be necessary for Federal expenditures related to the operation and maintenance of the facility and the proposed flood control structures.

Service Response: The Service agrees that the existing single sampling point walkway and effluent chamber should be removed from the CBRS so that they may be protected by the proposed floodwall. In accordance with our mapping protocol for the protection of existing critical facilities, the placement of the final recommended boundary has been coordinated with the USACE so as to account for the revised design of the proposed flood control project that is intended to protect the entire wastewater treatment facility. The Service does not agree, however, that the boundary of the CBRS unit should be coincident with the parcel boundary of the BRSA. Placing the CBRS boundary at the parcel boundary would unnecessarily remove additional areas of undeveloped wetlands from the unit. The existing structures associated with the wastewater treatment facility are recommended for removal from Unit NJ-04; therefore, if the final recommended map is adopted by Congress, CBRA consultations will not be required for any actions affecting those portions of the facility that are no longer within the CBRS.

Boundary Placement Affecting Infrastructure

Comment: The New Jersey Department of Environmental Protection commented that the proposed changes to the CBRS mapping may negatively impact the ability of the State, towns, counties and private property owners to manage infrastructure in or adjacent to System Units or Otherwise Protected Areas (OPAs), and that the Service needs

to account for existing infrastructure and their possible replacement and modification. The Monmouth County Planning Board commented that the proposed boundaries, particularly of Units NJ-04 and NJ-16P, appear to be too close to County-owned and maintained roads and bridges. The County requested that the boundaries have a buffer of 100 feet between any County infrastructure and a CBRS unit so that they can continue using Federal aid to maintain, improve, and possibly expand bridges and roads as necessary.

Service Response: Bridges, roads and road rights-of-way are commonly included within the CBRS. There are exceptions that may be applicable for the maintenance, reconstruction, and repair of such infrastructure, and they are dependent upon a number of factors. Examples of the specifics considered during CBRA consistency consultations may include (depending on the type of project) but are not limited to: the date that the infrastructure that is to be repaired was first constructed, whether there is a proposed expansion in service volume and/or area of the infrastructure, and the anticipated effects of the particular project on fish and wildlife. Due to the case by case nature of individual projects, the Service cannot provide generalized responses as to whether such projects would be allowable under the CBRA. The Federal funding agency must consult with the Service's local Ecological Services Field Office prior to committing funds for a project or action within or affecting a System Unit of the CBRS. Information concerning the CBRA's limitations on Federal expenditures, and exceptions to those limitations, is available on the Service's website at <https://www.fws.gov/cbra>.

[fws.gov/ecological-services/habitat-conservation/cbra/Consultations/Limitations-and-Exceptions.html](https://www.fws.gov/ecological-services/habitat-conservation/cbra/Consultations/Limitations-and-Exceptions.html).

In cases where the CBRS boundary follows a bridge, an appropriate buffer (about 20 feet) is applied between the bridge and the unit boundary. Additional visible bridge infrastructure (e.g., fenders) is generally excluded but not buffered. This protocol is not intended to allow for existing bridges (which are currently not within the CBRS) to be expanded, but rather to ensure that the structure (as it existed at the time of the CBRS designation of the adjacent area) is clearly outside of the unit. In all other cases where the CBRS boundary falls very close to existing structures or infrastructure that is intended to be outside of the unit, an appropriate buffer (generally at least five feet) is applied between the unit boundary and the structures or infrastructure. The Service generally does not consider the potential for future development or infrastructure projects when assessing areas for addition to the CBRS.

It should also be noted that the only Federal funding prohibition within OPAs (such as Unit NJ-16P) is on flood insurance. There are no CBRA prohibitions affecting Federal funding or financial assistance for infrastructure construction and/or maintenance within OPAs. Remapping OPAs to exclude all bridges, roads, and road rights-of-way would be resource intensive, impractical, and unnecessary.

III. Service Recommendations

The Service has prepared a final recommended map, dated October 7, 2016, for three existing and three

new CBRS units, Seidler Beach Unit NJ-02/NJ-02P, Cliffwood Beach Unit NJ-03P, Conaskonk Point Unit NJ-04, Sayreville Unit NJ-15P, and Matawan Point Unit NJ-16P, located in Middlesex and Monmouth Counties, New Jersey. The final recommended map removes properties that were inappropriately included within the CBRS in the past and adds undeveloped lands and associated aquatic habitat that meet the CBRA criteria for inclusion within the CBRS (16 U.S.C. 3503(g)(1)). The final recommended map also removes areas from the CBRS in accordance with the Service's protocol for the protection of existing critical facilities that is described in a notice in the *Federal Register* (81 FR 44320).

The Service has reviewed all comments received on the draft map dated May 16, 2016. Based on the comments received from the BRSA, the boundary of Unit NJ-04 was modified to remove from the CBRS a sampling point walkway and effluent chamber associated with the wastewater treatment facility and to accommodate a revised design for the proposed flood control project in this area. The placement of the final recommended boundary has been coordinated with the USACE.

The map dated October 7, 2016, reflects the Service's recommended changes to certain CBRS units in New Jersey; however, these changes will only take effect if the revised map is adopted through legislation enacted by Congress. Copies of the map and summaries of the recommended changes are available on the Service's website at: www.fws.gov/cbra.

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