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Authority: The authority for this action is the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et al.*).

Dated: June 9, 2009.

Marvin Moriarty,

Acting Director, Fish and Wildlife Service.

[FR Doc. E9–14346 Filed 6–17–09; 8:45 am]

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INTERNATIONAL BOUNDARY AND WATER COMMISSION

United States Section; Notice of Availability of a Final Environmental Assessment and Final Finding of No Significant Impact for Flood Control Improvements to the Arroyo Colorado Floodway, Hidalgo and Cameron Counties, TX

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of Final Environmental Assessment (EA) and Final Finding of No Significant Impact (FONSI).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Final Regulations (40 CFR Parts 1500 through 1508), and the United States Section, International Boundary and Water Commission's (USIBWC) Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981 (46 FR 44083); the USIBWC hereby gives notice of availability of the Final Environmental Assessment and FONSI for Flood Control Improvements to the Arroyo Colorado Floodway, a component of the

interior floodways system of the Lower Rio Grande Flood Control Project.

FOR FURTHER INFORMATION CONTACT: Rita Crites, Environmental Protection Specialist, Environmental Management Division, United States Section, International Boundary and Water Commission; 4171 N. Mesa, C-100; El Paso, Texas 79902. Telephone: (915) 832-4781; e-mail: ritacrites@ibwc.gov.

DATES: The Final EA and FONSI will be available June 11, 2009.

SUPPLEMENTARY INFORMATION:

Background

The Arroyo Colorado is an ancient distributary of the Rio Grande, and it serves as drainage for crop irrigation, municipal wastewater returns, and as a floodway during periods of heavy precipitation in the Lower Rio Grande Valley. The project area includes two segments of the flood control levee system with a combined length of 11 miles.

The USBWC prepared this EA for the proposed action to increase flood control of the Arroyo Colorado Levee System by raising the elevation of these two levee segments for improved flood protection.

The beginning of this project is a 2.1 mile Divisor Dike near the juncture point of the Arroyo Colorado and the North Floodway in Hidalgo County, extending a total of 6.9 miles to the Willacy Canal. The remaining segment is 4.0 miles from the Willacy Canal ending at White Ranch Road in Cameron County, Texas.

Proposed Action

The proposed levee rehabilitation improvements consist of: (1) Raising the top-of-levee elevation, (2) conducting geotechnical investigations and testing to determine the type and extent of any required remediation improvements due to slope stability, seepage, levee settlement, and any other geotechnical issues that may cause levee failure; and (3) modifying, if necessary, hardware or structures located along the levee reaches. Any modifications will be in compliance with the Texas Historical Commission recommendations. The top elevation of the levee-raising improvements will be to provide containment of flood flows with a minimum freeboard of 3 feet for water surface elevations as calculated in the USBWC 2003 Hydraulic Model for the LRGFCP. A centered levee expansion is assumed for most areas of the Arroyo Colorado Levee system, except south of La Feria reservoir, where levee expansion will be offset to the riverside of the existing levee.

The proposed action will increase the height of the levee up to 2 feet for approximately 8.6 percent of the 11-mile segment. Approximately 4 percent of the levee segment will be increased from 2 to 4 feet, and approximately 2.4 percent will be increased from 4 to 6 feet. The existing levee is a raised trapezoidal compacted-earth structure with a crown width of 16 feet, a typical height ranging from 10 to 15 feet, and approximately 3:1 side slope ratio (horizontal run: vertical rise). For a typical levee cross-section at the ACF that requires additional fill material to the crown the levee footprint would be expanded at a 1:6 ratio (crown height: footprint length). The footprint expansion would be equally divided between the riverside and landside (centered expansion) or entirely on one side (offset expansion). Moderately higher increases will be needed in a small segment that accounts for less than 1.2 percent of the total length. In areas where existing topography is too steep to allow levee expansion, construction solutions, including armored banks (riprap) or retaining walls, will be used. Excavation outside the existing right-of-way is not anticipated.

The EA assesses potential environmental impacts of the proposed action and the no action alternative. Potential impacts on natural, cultural, and other resources were evaluated, and mitigation measures were incorporated into the proposed action. A Finding of No Significant Impact was issued for the proposed action based on a review of the facts and analyses contained in the EA.

Summary of Findings

Pursuant to the National Environmental Policy Act (NEPA) guidance (40 CFR 1500-1508), The President's Council on Environmental Quality issued regulations for implementing NEPA, which included provisions for both the content and procedural aspects of the required EA. The USBWC completed an EA of the potential environmental consequences of raising the Arroyo Colorado Floodway (ACF) levee system to meet current requirements for flood control. The EA, which supports this Finding of No Significant Impact, evaluated the proposed action and no action alternative.

Levee System Evaluation

No Action Alternative

The no action alternative was evaluated as the single alternative action to the proposed action. The no action

alternative will retain the current configuration of the ACF levee system, with no impacts to biological and cultural resources, water resources, land use, soil, community resources, or environmental health issues. In terms of flood protection, however, current containment capacity under the no action alternative may be insufficient to fully control Rio Grande flooding under severe storm events, including associated risks to personal safety and property. The levee system will not meet FEMA requirements for levee system certification.

Proposed Action

Biological Resources

Biological resources in the vicinity of the levee systems are dominated by agricultural fields, rangelands, and non-native grasslands. There are some woody species along the margins of the Arroyo Colorado, drainage ditches from irrigation fields, and adjacent to borrow pits. The 160-foot wide biological survey corridor, centered on the existing levee, includes approximately 221 acres, primarily composed of non-native grasslands dominated by buffelgrass and king ranch bluestem.

The proposed action will raise the levee using a centered expansion, except in areas south of La Feria reservoir, where an offset expansion will be utilized. The proposed levee expansion will remove non-native grasslands on the levee slopes and adjacent areas. Native grasses will be planted immediately after the completion of the project, and the levee expansion will not occur in wooded areas. Less than one-half acre of non-jurisdictional wetlands will be affected, but no jurisdictional wetlands will be affected by the levee expansion. No habitats used by federally or state-listed threatened or endangered species will be impacted by the levee expansion.

In areas adjacent to sensitive areas such as water bodies, levee expansion may be altered to an offset expansion toward the riverside of the levee to avoid impacting sensitive resources. In areas where the existing topography is too steep to allow levee expansion, construction solutions, including armored banks, will prevent erosion of the levee slopes. The construction solutions will not affect sensitive habitats, including wooded areas, habitats for threatened and endangered species, or jurisdictional wetlands.

Cultural Resources

Improvements to the ACF levee system may adversely affect prehistoric and historic archaeological resources.

Some areas adjacent to the toe of the levee contain intact archaeological resources. Adverse effects to archaeological resources may occur from the use of heavy equipment during levee construction that could disturb surface or shallowly buried deposits. Adverse effects may also occur to archaeological deposits that will be buried by the addition of the fill material on the surface above them. Alternatively, levee footprint expansion may protect archaeological resources by capping with fill material, preserving those resources in place.

Architectural resources may be adversely affected by levee height increases or by expansion of the levee footprint. Potential effects include vibration and ground disturbance from the use of heavy equipment during construction. Design for levee improvements is primarily considering avoidance of the structures as much as possible. However, if structures have to be removed or modified, USIBWC will consult with the Texas Historical Commission (THC) to determine the appropriate level of documentation prior to any modification. In addition to documentation, mitigation of impacts to cultural resources may include their replacement with "in-kind" structures that will look and operate the same.

Native American resources may be affected by the levee improvements; consultation with the Native American tribes is ongoing to identify resources or concerns regarding the project.

Under NEPA, there will be no significant impacts (i.e., "unresolvable" adverse effects under National Historic Preservation Act [NHPA]) to cultural resources because all cultural resources will be identified and evaluated for National Register of Historic Places (NRHP) eligibility. Any impacts to National Register of Historic Places-eligible resources will be mitigated prior to implementation of levee height increases or footprint expansion, in consultation with the Texas Historical Commission and Native American Tribes.

Water Resources

Flood control improvements to the ACF will increase flood containment capacity to control the design flood event with a negligible increase in water surface elevation. Levee footprint expansion will not affect water bodies.

Land Use

Footprint levee expansion, where required, will take place completely within the existing ROW. No urban or agricultural lands will be affected.

Soil

Improvement activity contributing to soil disturbance will include geotechnical investigations and adding soil to the top and sides of the levee. Levee fill material will come from local commercial sources and not from borrow areas in the floodplain. The disturbance of soil will occur within areas where soil has been disturbed and modified by prior levee construction and maintenance activities. Therefore, alteration of soil previously unassociated with the existing levee will not occur.

Community Resources

In terms of socioeconomic resources, the influx of federal funds into Hidalgo and Cameron Counties from the flood control improvement area will have a positive but minor local economic impact. The impact will be limited to the construction period, and represent less than 1 percent of the annual county employment, income, and sales values. No adverse impacts to disproportionately high minority and low-income populations were identified for construction activities. Moderate utilization of public roads will be required during construction; a temporary increase in access road use will be required for equipment mobilization to staging areas.

Environmental Health Issues

Estimated air emissions of five criteria pollutants during construction will be discontinuous and represent less than 0.13 percent of the annual emissions inventory within the air quality control region of Hidalgo, Cameron, and Willacy Counties. There will be a moderate increase in ambient noise levels due to construction activities. No long-term and regular exposure is expected above noise threshold values. A database search indicated that no waste storage and disposal sites were within the proposed ACF levee improvement area, and none will affect, or be affected by, the levee improvement project.

Best Management Practices

When warranted due to engineering considerations, or for protection of biological or cultural resources, the need for levee footprint expansion will be eliminated by levee slope adjustment or use of retaining walls or armored banks. Best management practices during construction will include development of a storm water pollution prevention plan to avoid impacts to receiving waters, and use of sediment barriers and soil wetting to minimize erosion.

To protect vegetation cover, the embankment improvement areas will be re-vegetated with native herbaceous species. To protect wildlife, construction activities will be scheduled to occur, to the extent possible, outside the March to August bird migratory season.

Availability

Single hard copies of the Final Environmental Assessment and Finding of No Significant Impact may be obtained by request at the above contact information. Electronic copies may also be obtained from the USIBWC Home Page at http://www.ibwc.gov/Organization/Environmental/reports_studies.html.

Dated: June 12, 2009.

Robert McCarthy,
General Counsel.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on June 3, 2009, a proposed Consent Decree in *United States v. General Electric Co.*, Civil Action No. 1:09-cv-00545, was lodged with the United States District Court for the District of New Mexico.

The Consent Decree resolves the United States' claims against General Electric Company ("GE") at the South Valley Superfund Site located in Albuquerque, New Mexico. Those claims were brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 107. The Site consists of several industrial facilities, including an aircraft manufacturing plant currently owned and/or operated by GE and formerly owned and/or operated by the United States Air Force ("USAF"), the United States Department of Energy ("DOE"), and others.

The Consent Decree requires that GE pay a lump sum of \$257,670.00 to reimburse the United States for past response costs, a lump sum of \$71,715 toward the United States' future response costs, and interest accrued on these two sums during the period from November 1, 2002 to the date of entry of the Consent Decree. The Consent Decree also memorializes the obligation of the USAF and DOE to pay a lump sum of \$2,605,330.00 in reimbursement for past response costs and a lump sum