

## DRAFT FINDING OF NO SIGNIFICANT IMPACT

### After-Action Environmental Assessment for the Webbers Falls Pool and Robert S. Kerr Pool Emergency Dredging and Open Water Disposal Rogers, Wagoner, Cherokee, Muskogee, Haskell, Sequoyah, and Le Flore Counties, Oklahoma

The U.S. Army Corps of Engineers, Tulsa District (USACE) has conducted an environmental analysis in accordance with the National Environmental Policy Act of 1969, as amended. The Draft After-Action Environmental Assessment (EA) for the Webbers Falls Pool and Robert S. Kerr Pool Emergency Dredging and Open Water Disposal addresses dredging and sediment disposal in the McClellan-Kerr Arkansas River Navigation System in Oklahoma.

The Draft EA, incorporated herein by reference, evaluated various alternatives that would address extreme sedimentation in the study area. The Emergency Action is the National Economic Development (NED) Plan and includes: 1.6 million cubic yards of sediment dredged from the McClellan-Kerr Arkansas River Navigation System; unavoidable adverse impacts resulting from sediment disposal include 10 acres of bottomland hardwood, 2.4 acres of forested wetland, 31.4 acres of emergent wetland, and 288.2 acres of open water habitat; compensatory mitigation will require the creation of a minimum of 15 acres of bottomland hardwood forest, 10.8 acres of forested wetland, and 78.5 acres of emergent wetland habitat. Monitoring will continue until any required mitigation has been determined to be successful based on the identified criteria within the Mitigation Plan included in Appendix A. Monitoring is expected to last no more than 10 years.

In addition to a “no action” plan, one alternative was evaluated. The alternative included implementing the Emergency Action under the Council of Environmental Quality (CEQ) regulation 40 Code of Federal Regulations (CFR) 1506.12, which provides guidance for alternative arrangements for National Environmental Policy Act (NEPA) compliance. The alternative analysis is discussed in Section 1.5 of the EA.

For all alternatives, the potential effects were evaluated, as appropriate. A summary assessment of the potential effects of the Emergency Action are listed in Table 1:

**Table 1: Summary of Potential Effects of the Emergency Action**

	Insignificant effects	Insignificant effects as a result of mitigation*	Resource unaffected by action
Aesthetics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Air quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Aquatic resources/wetlands	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Invasive species	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fish and wildlife habitat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Threatened/Endangered species/critical habitat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Historic properties	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other cultural resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Floodplains	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hazardous, toxic & radioactive waste	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Insignificant effects	Insignificant effects as a result of mitigation*	Resource unaffected by action
Hydrology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Land use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Navigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Noise levels	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Socio-economics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Soils, including Prime Farmlands	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Geology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Topography	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tribal trust resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the Emergency Action. Best management practices (BMPs) as detailed in the EA will be implemented, if appropriate, to minimize impacts. Due to the immediate need of the Emergency Action Alternative, avoidance and minimization were not included during implementation of dredging and disposal.

The Emergency Action resulted in unavoidable adverse impacts to 10 acres of bottomland hardwood forest, 2.4 acres of forested wetland, 31.4 acres of emergent wetland, and 288.2 acres of open water habitat. To mitigate for these unavoidable adverse impacts, USACE will assess the mitigation needs using the Tulsa District Regulatory guidance under 33 Code of Federal Regulation (CFR) § 332 which requires acre ratios for compensatory mitigation. The compensatory mitigation for aquatic resources, wetlands, and fish and wildlife habitat will be enacted through the creation of a minimum of 15 acres of bottomland hardwood forest habitat, 10.8 acres of forested wetland habitat, and 78.5 acres of emergent wetland habitat. Open water habitat impacts will not be mitigated. No critical habitat was impacted through implementation of the Emergency Action, but a determination of “May Affect, and is Likely to Adversely Affect” has been selected for American burying beetle (ABB) (*Nicrophorus americanus*) and northern long-eared bat (NLEB) (*Myotis septentrionalis*). It is assumed the use of “Incidental Take” as described in the 2016 Programmatic Biological Opinion will be used to account for the potential losses for ABB and NLEB through the dredging, disposal, and proposed compensatory mitigation.

Public review of the Draft EA and FONSI will be completed on September 29, 2021. All comments submitted during the public review period will be responded to in the Final EA and FONSI.

Pursuant to section 7 of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (FWS) is expected to issue a biological opinion, which should determine whether the Emergency Action jeopardized the continued existence of the following federally listed species or adversely modify designated critical habitat: gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), NLEB, Ozark big-eared bat (*Corynorhinus (=Plecotus) townsendii*

*ingens*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), whooping crane (*Grus americana*), interior least tern (*Sterna antillarum*), Ozark Cave Fish (*Amblyopsis rosae*), Neosho mucket (*Lampsilis rafinesqueana*), rabbitsfoot (*Quadrula cylindrica cylindrica*), and ABB. All terms and conditions, conservation measures, and reasonable and prudent alternatives and measures resulting from these consultations shall be implemented in order to minimize take of endangered species and avoid jeopardizing the species.

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, USACE determined that the Emergency Action dredge and disposal has no potential to affect historic properties. The mitigation component of the action – in contrast to the dredging and dredge disposal component of the action – comprises a distinct “potential to affect” historic properties under Section 106. As plans and designs are formalized for mitigation, cultural resources will be taken into account in accordance with Section 106 and implementing regulations. Surveys will be performed and reported in accordance with USACE Tulsa District requirements, and in coordination with the Oklahoma State Historic Preservation Office and Tribal Nations who have an interest in the locations or whose ancestral or historic homelands include the proposed locations. All surveys will be conducted by professional archaeologists meeting the requirements established in Secretary of the Interior's Standards and Guidelines (36 CFR Part 61), under Archaeological Resources Protection Act permits issued by the Tulsa District, and in accordance with all relevant laws, regulations, and executive orders. Cultural resources that are identified as a part of these investigations will be fully delineated to determine their horizontal extent on the landscape. All cultural resources will then be completely avoided (to include buffer zones) and construction activities will be monitored to ensure compliance.

Pursuant to the Clean Water Act of 1972, as amended, the discharge of dredged or fill material associated with the Emergency Action is expected to be compliant with section 404(b)(1) Guidelines (40 CFR 230). The Clean Water Act Section 404(b)(1) Guidelines evaluation is found Appendix C of the EA.

The Oklahoma Department of Environmental Quality has waived water quality certification pursuant to section 401 of the Clean Water Act. A water quality certification letter was provided to the Tulsa District on July 19, 2019.

All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives. Based on this report, the reviews by other Federal, State and local agencies, Tribes, input of the public, and the review by my staff, it is my determination that the Emergency Action would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

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Date

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Scott Preston  
Colonel, Corps of Engineers  
District Commander