

FINDING OF NO SIGNIFICANT IMPACT

Supplemental Environmental Assessment Arkansas River Navigation Study Arkansas and Oklahoma

The U.S. Army Corps of Engineers, Tulsa and Little Rock Districts (Corps) have prepared a Supplemental Environmental Assessment (SEA) in accordance with the National Environmental Policy Act of 1969, as amended, to supplement the River Navigation Study (ARNS) Final Feasibility Report and Environmental Impact Statement (2005 ARNS FR/EIS). The 2005 ARNS FR/EIS, incorporated herein by reference, was completed in 2005, and the Record of Decision was signed 27 September 2005. This SEA, dated August 2024, serves to: 1) provide a concise summary of the history and status of the originally-authorized ARNS project; 2) document the changes and refinements made to the MKARNS 12-foot Channel Deepening design during the Pre-Construction Engineering and Design (PED) and Construction phases, including mitigation; and, 3) evaluate the potential environmental effects of the updated construction and design plans that may have changed since the FEIS was completed.

The recommended plan, known as the MKARNS 12-foot Channel Deepening Project, is the National Economic Development (NED) Plan and, as authorized in the 2005 ARNS FR/EIS and modified in this SEA, includes: construction of 112 new or modified rock river training structures (decreased from the 193 planned in 2005); construction of 39 new upland disposal sites (decreased from 55) for channel deepening and maintenance, as identified in the updated MKARNS Dredge Material Management Plan; use of 170 in-water disposal sites in Arkansas (same quantity identified in 2005); and, dredging at 96 locations (increase from 73 locations) for channel deepening, totaling approximately 5,791,100 cubic yards of dredge material (decrease from 10,840,245 cubic yards). Under the 2005 ARNS FR/EIS, a flow management component was authorized and has been implemented, therefore this component is not included in this SEA. Unavoidable adverse impacts to aquatic habitats will require compensatory mitigation, monitoring, and adaptive management when applicable and appropriate. Monitoring will continue until any required mitigation has been determined to be successful based on the identified criteria within the MKARNS 12-foot Channel Deepening Mitigation and Adaptive Management Plan (Appendix F, MKARNS 12-foot SEA dated September 2024). Monitoring is expected to last no more than 10 years.

In addition to a “no action” plan, the 2005 ARNS FR/EIS evaluated four action alternatives. The MKARNS 12-foot Channel Deepening as described in the 2005 ARNS FR/EIS is already authorized and this SEA serves to identify modifications to the authorized design and evaluate the resulting environmental impacts. As such, only the No Action Alternative and the MKARNS 12-foot Channel Deepening Alternative were evaluated in this SEA.

For both the No Action and MKARNS 12-foot Channel Deepening alternatives, potential effects were evaluated in this SEA as appropriate. A summary assessment of the potential effects of the recommended plan are listed in Table 1:

Table 1: Summary of Potential Effects of the Recommended Plan

	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 checked="" type="checkbox"/>	<input 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"/>
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"/>
Public infrastructure	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Socioeconomics	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Soils	<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 recommended plan. Best management practices (BMPs) as detailed in the SEA will be implemented, if appropriate, to minimize impacts. BMPs and conservation measures include, but are not limited to, seasonal timing restrictions, biological monitors with stop-work authority, utilizing existing access roads and channels to the greatest extent practicable, siting pumps and pipes in areas that would have the least disturbance on the overall system, utilizing the smallest construction footprint possible, monitoring for water quality and modifying dredged material release rates or decanting to remain below the state water quality standards for turbidity, and employing construction BMPs such as limiting idling and storing equipment, fuels, and hazardous materials away from water sources and significant resources. Aquatic resource and threatened/endangered species avoidance and minimization measures are identified in Endangered Species Act documentation (Appendix C), Fish and Wildlife Coordination Act documentation (Appendix D), and draft Clean Water Act Section 404(b)(1) documentation (Appendix H). To account for any unavoidable impacts to cultural resources and historic properties, the terms and conditions of the Programmatic Agreement under Section 106 of the National Historic Preservation Act of 1966, as amended, will be followed to avoid, minimize, and mitigate for adverse impacts to historic properties and other cultural resources (Appendix E).

The recommended plan will result in unavoidable adverse impacts to a maximum of 74 acres of bottomland hardwood forest (45 average annual habitat units [AAHUs]) and 4,974 acres of emergent wetland or shallow backwater habitat (1,364 AAHUs). An additional 165 acres (165 AAHUs) of gravel bar habitat would be impacted. To mitigate for these unavoidable adverse impacts, the Corps will restore up to approximately 135 acres of agricultural fields to bottomland hardwood forest and 5,854 acres to emergent wetland or shallow backwater habitat. Gravel bar habitat totaling up to 165 acres will be recreated. Policy dictates that in order to qualify for compensatory mitigation, habitat lost must be aquatic or must be recognized as significant across public, institutional, and technical disciplines. While the Corps recognizes the importance of upland forest and grassland habitats, the mitigation plan developed under this SEA differs from that of 2005 as upland forest and grassland habitats are no longer included in the compensatory mitigation plan as they are not considered a significant ecological resource in the project area. The mitigation, monitoring, and adaptive management plan is located in Appendix F to the SEA.

Public, agency, industry, and Tribal Nation review of the draft SEA and FONSI was completed on 10 March 2024. All comments submitted during the public review period were thoroughly evaluated and responded to as needed in the Final SEA and FONSI.

Pursuant to Section 7 of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (FWS) was consulted to evaluate project impacts on federally protected species and their critical habitats. Due to the phased nature of the project, detailed engineering plans are not available for all project features. However, due to the similar design and impacts of project features in all phases, no significant impacts would occur to Federally listed species. To ensure future designs avoid jeopardizing listed species and account for any newly listed species, FWS recommended a phase-by-phase approach to ESA consultation. The initial BA submitted to FWS addressed the effects of Phase I construction efforts on 13 species that may be affected by Phase I construction impacts out of the 22 species that may be impacted by the entire project. The U.S. Army Corps of Engineers determined that Phase I of the recommended plan may affect but is not likely to adversely affect or will not jeopardize the continued existence of the following federally listed species or their designated critical habitat: Eastern Black Rail (*Laterallus jamaicensis ssp. Jamaicensis*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Indiana Bat (*Myotis sodalists*), Northern Long-eared Bat (*Myotis septentrionalis*), Tricolored Bat (*Perimyotis subflavus*), Monarch Butterfly (*Danaus plexippus*), and Alligator Snapping Turtle (*Macrochelys temminckii*). The Corps also determined that Phase I actions may affect and are likely to adversely affect the American Burying Beetle (*Nicrophorus americanus*); however, the Corps utilized the Section 4(d) rule to determine take of the species. The FWS concurred with the Corps' determinations on 12 August 2024. 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, the U.S. Army Corps of Engineers determined that historic properties may be adversely affected by the recommended plan. The Corps and the Arkansas State Historic Preservation Office, Oklahoma State Historic Preservation Office, Federally Recognized Tribal Nations, and the Advisory Council on Historic Preservation have developed a Programmatic Agreement (PA) for the Project, although certain Tribal Nation signatories

continue their internal reviews. As sovereign nations, Tribal Nations have detailed internal processes for review and approval of PAs and other legal agreements. Review of the MKARNS 12-foot Channel PA is therefore nearing completion, and full execution of the agreement is anticipated during the design phase, well in advance of any construction. All terms and conditions resulting from the agreement, including full completion of NRHP Section 106 investigations, consultation, and mitigation of adverse impacts to historic properties, will be implemented prior to construction to minimize adverse impacts to historic properties. Out of respect to Tribal Nations as sovereign nations, the Corps is accepting their request for additional review time prior to their endorsement of the final PA. The Corps acknowledges the potential of signing the FONSI prior to completing a fully executed PA; however, construction would not commence until a fully executed PA is in place.

Pursuant to the Clean Water Act of 1972, as amended, the discharge of dredged or fill material associated with the recommended plan has been found to be compliant with section 404(b)(1) Guidelines (40 CFR 230). The Clean Water Act Section 404(b)(1) Guidelines evaluation is found in Appendix H of the SEA.

Water quality certifications (WQCs) pursuant to Section 401 of the Clean Water Act will be obtained from the Arkansas Division of Environmental Quality (ADEQ) and Oklahoma Department of Environmental Quality (ODEQ). The MKARNS 12-foot Channel Deepening project will be completed in four construction phases. Currently, only Phase I is being fully designed; however, based on preliminary design assumptions and project footprint estimates, analyses of aquatic impacts determined no significant aquatic impacts would occur as a result of the entire project. To ensure future designs meet the assumptions made during the development of the SEA, State agencies requested each phase submit a 404(b)(1) request to verify impacts remain less than significant. In response, the Corps has committed to submitting detailed designs to meet the Section 401 WQC requirements from each State agency ahead of each phase of construction when more details on project components and the resulting water quality impacts are confirmed. Letters acknowledging the phased compliance approach and agreeing to review the project's applications at the appropriate time during PED were received from ADEQ and ODEQ on 24 July 2024 and 17 July 2024, respectively. All conditions of the water quality certifications shall be implemented in order to minimize adverse impacts to water quality.

All applicable environmental laws have been considered and coordination with appropriate agencies and officials has been completed for Phase 1 of the project. Farmlands will be converted for other uses; however, in coordination with the Natural Resources Conservation Service (NRCS), it was determined that the farmland conversion impact rating score on the proposed sites does not exceed the recommended allowable level.

In compliance with Executive Orders 12898, 13985, and 14008 related to Environmental Justice, available tools were used to identify economically disadvantaged communities within the study area and identify potential impacts resulting from the proposed action. No direct impacts to communities or individuals with environmental justice concerns were identified. Outreach and involvement of communities, particularly Tribal Nations, was pursued in line with the goals of both these Executive Orders and Corps policy to further inform and develop project plans. The MKARNS 12-foot Channel Deepening would not disproportionately affect economically disadvantaged communities and is compliant with all

applicable laws, regulations, and orders related to environmental justice.

Technical, environmental, and economic criteria used in the formulation of alternative plans were those specified in the Water Resources Council's 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies. 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 recommended plan would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

11 September 2024

Date

DAMON M. KNARR
Colonel, EN
Commanding