



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69-A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

CESAC-RD

July 8, 2013

MEMORANDUM FOR RECORD

SUBJECT: Need for an Environmental Impact Statement
South Carolina Public Railways
Intermodal Container Transfer Facility, Charleston County, SC
SAC-2011-00609

1. The controlling criteria for determining the need for an EIS are whether or not an action is likely to have a significant effect on the quality of the human environment (Section 102(2) (C), National Environmental Policy Act, Public Law 91-190, 42 U.S.C. 4332(2)(C)). In defining the term "significantly" at 40 CFR 1508.27, the CEQ states that both the *context* and *intensity* of an impact must be evaluated. Ten criteria are given which are to be considered in evaluating impacts and these are important in the decision to require an EIS. While potential impacts discussed herein do not represent an exhaustively inclusive analysis, the following discussion of impacts under the ten criteria below was sufficient to inform a decision:

“(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.”

The proposed project consists of the development of a new regional Intermodal Container Transfer Facility (ICTF) at the former Charleston Navy Base. It is expected to have a variety of direct and indirect effects on the quality of the human environment. While the most intense focus is typically placed on adverse effects, and in particular those effects that constitute *significant* adverse effects, there are also a number of beneficial effects associated with the proposed project.

According to South Carolina Public Railways (SCPR), the development of the proposed ICTF will increase the efficiency of existing rail operations and accommodate future increases in containerized goods within the region. Therefore, some of the adverse impacts (noise, air, light, etc) discussed in this memorandum occur at existing intermodal railyards today and will be expected to occur at the ICTF in the future.

Beneficial

- In general, the redevelopment of a “brownfield site” is considered beneficial because it avoids and minimizes potential impacts to undeveloped, natural areas. As a result, the proposed ICTF is expected to have minimal impacts to conservation, wetlands, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, and food and fiber production.
- The project site includes areas where soil and groundwater contamination have been documented. Therefore, the development of the proposed project may result in the remediation of some of these areas.

- The proposed ICTF is located approximately 1 mile northwest of a new SCSPA marine container terminal at the former Charleston Navy Base. As proposed, the ICTF includes a private road that would allow containers to move between the new port facility and the ICTF. This would reduce the number of containers that enter and exit the new port facility by truck and would reduce truck traffic on the Port Access Road and Interstate 26.
- According to the SCPR, the construction and operation of the proposed ICTF will generate new jobs. Many of these jobs will be "local hires" due to low-to-moderate skill requirements.
- The development of a new regional railyard is expected to encourage the redevelopment of commercial and industrial properties on or near the former Charleston Navy Base. In addition, existing manufacturing facilities across the state will benefit from more efficient rail operations that support the import and export of raw materials and finished goods.

In general, the beneficial effects that are reasonably expected to occur collectively constitute significant economic benefits to be caused directly by the proposed project.

Adverse

- The majority of the potential adverse impacts associated with the proposed ICTF fall under land use because they are typical impacts associated with the construction and operation of an industrial facility. The proposed project may have significant adverse impacts on noise, air, light, and aesthetics in the vicinity of the project site.
- The operation of the ICTF may also have a significant adverse impact on local roadways and traffic patterns. Although the existing intermodal railyards are only 2.5 miles northwest of the proposed ICTF, the development of a new regional ICTF may result in substantial increases in truck traffic in the vicinity of the project site and may result in substantial decreases in truck traffic in the vicinity of the existing intermodal rail yards.
- As proposed, the operation of the ICTF will result in an increase in future rail traffic at specific at-grade crossings. This may have a substantial impact on local traffic patterns.

Collectively, the impacts identified above are likely to have a significant impact on the quality of the human environment. This conclusion is based on the variety and individual significance of beneficial and adverse effects, particularly those associated with long-term impacts to noise, air, light, and roadways. We anticipate that a mitigation plan will be developed to address potential adverse impacts associated with the construction and operation of the proposed ICTF. However, information about potential mitigation measures is not available at this time.

"(2) The degree to which the proposed action affects public health or safety."

The construction and operation of the proposed project is expected to result in an increase in noise, air, and light on the project site. Based on comments that were received (and lawsuits that were filed) in response to the DA permit (SAC 2003-1T-016) that was issued for the SCSPA's new marine container terminal at the former Charleston Navy Base, we anticipate that nearby residents will express concerns about potential adverse impacts to public health and safety. Therefore, our evaluation of the proposed project will include detailed analyses of these issues. Although the proposed project is not expected to result in the construction of any new at-grade crossings, we anticipate that there will be an increase in rail traffic on some existing rail

lines and at some existing grade crossings.

Secondary impacts include impacts to existing roadway and railway traffic patterns as a result of developing a new ICTF at the former Charleston Navy Base.

"(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas."

The proposed ICTF will result in the redevelopment of approximately 90 acres at the former Charleston Navy Base. Therefore, we do not anticipate any adverse impacts to park lands, prime farmlands, wild and scenic rivers, or ecologically critical areas.

However, the proposed ICTF and the associated roadway and railway spurs will adversely impact an undetermined acreage of tidal salt marsh. This acreage will be refined once we begin to evaluate alternatives that avoid any minimize adverse impacts.

Cultural resources are addressed in criterion 8 below.

"(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial."

Adverse impacts associated with the redevelopment of the former Charleston Navy Base have resulted in a number of Federal and State lawsuits. Although each lawsuit has been dismissed or resolved when the Plaintiffs decided to sign a Settlement Agreement, we anticipate that the proposed project and potential adverse impacts associated with the redevelopment of the former Charleston Navy Base will continue to be highly controversial.

The City of North Charleston filed a lawsuit against the South Carolina State Ports Authority, S.C. Department of Commerce, SCPR, State of South Carolina, and the Corps in U.S. District Court in August 2011. This lawsuit alleged that the Corps violated the National Environmental Policy Act (NEPA) by failing to require a Supplemental Environmental Impact Statement (SEIS) considering the impacts of an intermodal rail facility as part of the SCSPA's new marine container terminal at the former Charleston Navy Base. This lawsuit also alleged that the SCSPA is in violation of a 2002 Memorandum of Understanding (MOU) between North Charleston and SCSPA. This lawsuit was dismissed in April 2012.

Although SCPR was able to purchase the majority of the land that is required to develop the proposed ICTF, they filed several condemnation notices in December 2010 to acquire the remainder of the necessary property. The City of North Charleston challenged these condemnation actions in January 2011. This lawsuit was resolved in December 2012 when the parties signed a Settlement Agreement. This agreement resulted in several properties at the former Charleston Navy Base being transferred to the City of North Charleston in exchange for properties that were transferred to SCPR.

The Southern Environmental Law Center filed a lawsuit against the Corps, the Environmental Protection Agency and the National Marine Fisheries Service in January 2008. This lawsuit challenged the Corps' issuance of a Department of the Army permit to develop a new marine container terminal at the former Charleston Navy Base. This lawsuit was resolved in August 2010 when the SCSPA and the Plaintiffs signed a Settlement Agreement.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks."

The proposed project consists of the construction and operation of a regional ICTF at the former Charleston Navy Base. At this time, the footprint of the proposed project has not been finalized. Our evaluation of the proposed project will include direct and indirect impacts associated with the development of the ICTF and the associated roadway and railway corridors. In addition, we must consider cumulative impacts associated with the future redevelopment of nearby properties, such as the former Macalloy property on Shipyard Creek, and other undeveloped properties at the former Charleston Navy Base.

In addition, the SCSPA is currently constructing a new marine container at the former Charleston Navy Base. According to transportation studies that were prepared for the new port facility, approximately 20% of the containers entering and exiting the port facility will be carried by truck to one of the existing intermodal railyards. The construction of a regional ICTF may result in many of these containers being carried to the new rail yard. Detailed transportation studies will be required to evaluate potential changes in future traffic patterns and to help determine whether these changes will have a positive or a negative impact on the adjacent community.

"(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration."

The construction and operation of a regional ICTF at the former Charleston Navy Base may have a substantial impact on the redevelopment of industrial and commercial properties on or near the former Charleston Navy Base. For example, the S.C. Department of Commerce owns an additional 150 acres at the former Charleston Navy Base and Shipyard Creek Associates owns 110 acres on Shipyard Creek that will be redeveloped in the near future. In addition, the development of a regional ICTF will enable CSX and Norfolk Southern to reconfigure operations at their existing freight and intermodal rail yards.

"(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts."

As described above, the construction and operation of a regional ICTF may have a substantial impact on the redevelopment of industrial and commercial properties on or near the former Charleston Navy Base. Given the range and the scope of cumulative actions that may occur following the development of a regional ICTF, it is reasonable to conclude that the proposed project may have a cumulatively significant impact on the quality of the human environment. Identification and disclosure of cumulatively significant impacts potentially caused by the proposed project are best presented to the affected public in an EIS.

"(8) The degree to which the action may 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 historic resources."

According to a Historic Properties Assessment that was prepared by Brockington and Associates in 2005, there are several historic structures and districts located on or near the

former Charleston Navy Base. For example, a World War II Chapel that is considered eligible for the National Register of Historic Places (NRHP) is located on the ICTF site, and roadways and railways that will support the operation of the ICTF pass near or through historic districts that are listed on the NRHP.

It is our understanding SCPR has been working with the RDA and SHPO to relocate the existing World War II Chapel to the Charleston Navy Yard Officer's Quarters Historic District. A historic properties assessment will be required to determine whether the proposed ICTF will result in any direct, indirect, or cumulative adverse impacts to these historic properties or districts.

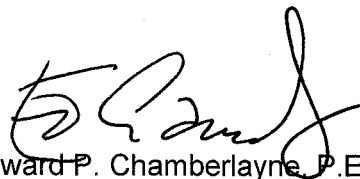
“(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.”

As described above, the proposed ICTF will result in the redevelopment of approximately 90 acres at the former Charleston Navy Base. A database search indicates that threatened or endangered species have not been documented, and designated critical habitat is not located on or near the project site. Therefore, we do not anticipate that any threatened or endangered species or any habitat that is capable of supporting these species will be adversely impacted by the proposed project.

“(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.”

We are unaware of any direct, indirect, or cumulative adverse impacts associated with the proposed ICTF that may threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

In conclusion, based on the information regarding significance of impacts discussed above, in particular Criteria 1, 2, 4, 5, 6, 7 and 8 above, I have concluded that the proposed project is the type of action that NEPA intends for the identification of potentially significant impacts and disclosure of same to the public in an Environmental Impact Statement which the agency can follow with a clear Record of Decision in documenting the project's potential effects as well as the agency's evaluation of the proposal.



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