

FINAL AMENDMENT TO THE PRESIDENTE RIVERA 1996 RESTORATION PLAN



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**National Oceanic and Atmospheric Administration
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1. Introduction

1.1. The Presidente Rivera Oil Spill

On June 24, 1989, the Uruguayan oil tanker M/V *Presidente Rivera* ran aground near Marcus Hook, Pennsylvania, spilling approximately 200-255,000 gallons of No. 6 fuel oil into the Delaware River. The oil spill resulted in injury to natural resources held in public trust by both federal and state governments (New Jersey and Delaware).

The most heavily oiled areas in the Delaware River were immediately south of the Port of Wilmington for a distance of approximately 3 miles, but oil was observed as far south as New Castle, Delaware. In total, about 22 miles of riverine and estuarine shoreline was impacted by oil, with the highly viscous fuel oil forming a thick coating band upon the shoreline in widths of 5 to 20 feet. The Trustees asserted injury to both shorebirds and blue crabs, documenting a closure and loss to the blue crab fishery as well as crab mortality. A reduction in recreational boating, fishing and shoreline use was also documented in the portions of New Jersey and Delaware affected by the spill.

The United States filed a claim under Section 311(f) of the Clean Water Act for natural resource damages and for recovery of costs of removal of the oil on behalf of the federal natural resource trustees, the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Department of the Interior (DOI). The State trustees, New Jersey and Delaware, also asserted claims for natural resource damages, removal costs, and penalties under the Clean Water Act and applicable state laws. Uruguay previously paid \$1.3 million to settle certain claims for removal costs and penalties with the United States, New Jersey, Delaware, Pennsylvania, and the City of Wilmington arising from the Presidente Rivera spill.

1.2. Natural Resource Trustees

The natural resources trustees for the Presidente Rivera oil spill include the following federal and state agencies: the National Oceanic and Atmospheric Administration (NOAA) on behalf of the U. S. Department of Commerce, the United States Fish and Wildlife Service (USFWS) on behalf of the U.S. Department of the Interior (DOI), the States of New Jersey and Delaware (collectively, the Trustees). The goal of the Trustees' natural resource damage assessment (NRDA or Assessment) was to determine the nature and extent of injuries to natural resources and to quantify the resulting resource and service losses. Once this Assessment was undertaken, the Trustees examined restoration options in the Restoration Plan.

1.3. Presidente Rivera Oil Spill Settlement and Restoration Plan

On July 14, 1993, the United States (through NOAA and DOI), the State of New Jersey, the State of Delaware and the Oriental Republic of Uruguay entered into a Consent Decree with the United States District Court for the District of Delaware. Under the Consent Decree, the parties agreed to settle the governments' remaining claims for \$2.65 million, plus interest accrued. The Consent Decree stipulated that \$2,140,972.00, plus

interest accrued in the escrow account, be designated as “natural resource damage recovery”. This natural resource damage recovery was equally divided between the States of New Jersey and Delaware to be used for restoration projects agreed upon by these states, NOAA, and DOI.

The State of Delaware previously implemented a suite of restoration projects, and those are not discussed further here.

For the State of New Jersey portion of the settlement, the Trustees prepared a Restoration Plan (“Natural Resources Restoration Plan for Damages Associated with the Presidente Rivera Oil Spill of June 1989”) for proposed projects to compensate for natural resource injuries to blue crab and bird populations and diminished recreational use of the Delaware River and shoreline areas adjacent to the oil spill. The New Jersey-specific Restoration Plan (RP) was completed in August 1996. The RP supported implementing projects to expend the \$1.157 million portion of the settlement that New Jersey received for natural resource restoration. Based on public meetings and outreach to federal, state, and local agencies, the Trustees developed a list of potential restoration and lost use project options. From this list, the Trustees selected a suite of proposed projects for implementation after a detailed analysis on project feasibility, cost and anticipated benefits. The Restoration Plan called for:

- (1) Acquisition of lands in the coastal areas of Salem and Cumberland Counties in the area of Alloways Creek drainage;
- (2) restoration of degraded marshes occurring on acquired property; and
- (3) restoration of an historic pier at Fort Mott State Park to improve access to, and enhance enjoyment of, Delaware Estuary resources.

2. Purpose and Need for Action

The purpose of this Final Amendment to the Restoration Plan for the Presidente Rivera oil spill (Amendment) is to make the environment and the public whole for injuries resulting from the oil spill, and resulting impacts by implementing restoration actions that restore and compensate for injured natural resources and services. A number of the ecological restoration and lost recreational use projects that the Trustees selected in the original RP have been completed and closed out by the Trustees, but as detailed below some projects were not able to be implemented.

The acquisition of lands in the Alloways Creek drainage was accomplished at the Mad Horse Creek Wildlife Management Area known as the Quashnee property, using a portion of the Presidente Rivera Settlement funds (item 1 above). Restoration of the degraded marshes on the Quashnee property (item 2 above) did not occur for many years as the state amassed various additional parcels, and accumulated the needed funds to implement the larger planned project. Ultimately, the site was restored using settlement funds from the much larger M/V *Athos* oil spill, which was able to dedicate the total

amount of funds needed to accomplish the now planned nearly 200-acre project, of which 25 acres of that total will be tidal wetlands restoration of degraded marsh.

The State of New Jersey did fully implement the renovations of the pier at Fort Mott State Park (item 3 above).

Because the Trustees for the Presidente Rivera oil spill lacked sufficient funds to complete implementation of the wetland restoration at the acquired property within the Mad Horse Wildlife Management Area, there remains an outstanding need for additional wetlands restoration to compensate the public for injured natural resources in the vicinity of the original oil spill. The Trustees must consider other options for compensating the public for service losses due to the oil spill. The Trustees propose to modify the 1996 RP, replacing the proposed restoration of degraded marshes on acquired property (Quashnee Property) with a suitable and comparable restoration alternative.

3. Public Involvement

This Final Amendment to the Restoration Plan provides the public with information on the Trustees' restoration project progress to date, the Trustees' remaining restoration objectives, the restoration alternatives considered, and the preferred restoration alternative. The Draft Amendment was released and circulated for public comment by the Trustees, electronically, via email to known interested parties and through a NOAA web-based posting (<https://darrp.noaa.gov/>), and through placement at public document centers for a 30-day comment period. The Trustees received one comment on the Draft Amendment, expressing support for the planned park generally and public access specifically.

4. Administrative Record

This document will be retained in the formal administrative record for the case, which currently resides with the NOAA Restoration Center, at National Oceanic and Atmospheric Administration – National Marine Fisheries Service, 200 Harry S. Truman Parkway, Annapolis, Maryland 21401.

5. Alternatives Considered

5.1. Criteria for Identifying and Evaluating Additional Potential Restoration Projects

In the 1996 RP, the Trustees set criteria that restoration funds from the spill should be used for (i) restoration, rehabilitation, and replacement activities to address injuries to natural resources impacted or affected by the spill; (ii) acquisition of fee title of, or conservation easements on, lands or property in the area of the spill and related ecosystems constituting natural resources equivalent to any affected by the spill; and (iii) performance of studies and projects necessary and appropriate to (i) and (ii) above.

In seeking to identify and evaluate an alternative project to revise the RP, the trustees prioritized identifying a similar type project with comparable benefits to the original project not implemented, to the extent practical. The Trustees also factored into the current evaluation additional criteria: project type nexus to spill impacts, proximity of project to original spill, and readiness for construction. The Trustees chose to emphasize the limitations of available funds (approximately \$660K), so that it would maximize the amount of funds that go toward on-the-ground project implementation, versus expending a portion of the limited funds on additional planning and design activities.

5.2. Alternative Projects Considered but Deemed Not Feasible

Mad Horse Wildlife Management Area – Wetlands Restoration

The Trustees evaluated enhancing additional tidal wetlands restoration on acreage adjacent to the original site within the Mad Horse Wildlife Management Area, the site originally proposed for these settlement funds but later transferred to the Athos settlement. The Trustees located a 5-acre adjacent wetland that could be enhanced through increased channel width and depth for fish habitat, elevation of adjacent wetlands for long-term resiliency, and *Phragmites* control and re-planting with native species. The Trustees initiated gathering survey information to obtain topography to support a concept design to allow evaluation of this alternative. The initial concept design also estimated the full project costs for implementation (design, permitting, and construction costs). Even with the anticipated savings of the project co-occurring with the larger Mad Horse restoration, the Trustees determined that the project would exceed the available funding. Without a direct, known source of additional funds to fully implement the additional acreage, it did not meet the Trustees goals, and was therefore removed from further consideration.

Cramer Hill Waterfront Park Project – Non-Feasible Elements

The Trustees further evaluated the known inventory of proposed or potential restoration projects in New Jersey coastal and tidal wetland areas that were in the range of available funds here, or were on a timeline that could be timely implemented and these settlement funds could contribute a known and currently unmet benefit. Those alternative projects needed to both meet the restoration goals of providing public access and utilization of water resources in the vicinity of the oil spill, and restoring natural resources injured from the spill (wetlands and shorelines).

Portions of the Harrison Avenue Landfill remediation were identified as potentially being suitable for having the habitat and public use outcomes the Trustees are seeking, as well as being readily implementable. The site is a former 86-acre municipal landfill in the Cramer Hill neighborhood of Camden, New Jersey, at the intersection of Harrison Avenue and East State Street where the Cooper River flows into the Delaware River. The landfill operated from approximately 1952 to 1971, but it was never capped or officially closed. A portion of the site was remediated and developed into a community center in 2006. NJDEP's Office of Natural Resource Restoration (ONRR), using natural resource damage settlement monies unassociated with the Presidente Rivera

spill, completed a design for the Cramer Hill Waterfront Park project (Figure 1 and Appendix A) to close and restore the remaining 62 acres of the landfill in the fall of 2017.

There are four main components to the proposed Cramer Hill Waterfront Park design: landfill closure, shoreline protection, habitat restoration, and recreational park amenities.

The completed waterfront park will include features such as an amphitheater, an entry plaza, exercise stations, a fishing plaza, hiking/biking paths and trails, historic/educational signage, a kayak launch, a picnic area, a playground, a sensory garden, shoreline observation areas, and a vista summit with panoramic views of Camden, the Delaware River, and Philadelphia. Habitat restoration involves enhancing and expanding the existing freshwater wetlands by constructing approximately 7 acres of tidal freshwater wetlands on both the Cooper and Delaware Rivers, creating 3 living shoreline areas along the back channel of the Delaware River, preserving three areas of existing trees as bald eagle forage habitat, re-planting trees within the remainder of the bald eagle forage habitat including an area where large, specimen trees will be planted. Over 375,000 plantings are included in the project. The tidal freshwater wetland on the Cooper River will connect to a fishing pond that will also be a prominent feature of the waterfront park.

The landfill closure involves excavating and redistributing about 375,000 cubic yards of solid waste and soil onto the center of the landfill, installing a passive gas venting system, and constructing a 2-foot thick semi-permeable cap of clean fill material and vegetation. This portion of the proposed project would not be suitable for consideration for use of the Presidente Rivera settlement funds since it involves remedial activities that clean up a former landfill, but does not involve habitat restoration or uplift or public access amenities.

The shoreline protection involves regrading and stabilizing over 3,000 feet of shoreline on the Delaware River where municipal solid waste and contaminated soil including pesticides and PCBs are exposed on the surface of the unstable, steep slopes in this area of the landfill. While portions of the shoreline component of the proposed project would be suitable for consideration for use of the Presidente Rivera settlement funds (not the remedial activities, but the re-planting and habitat outcomes after the contaminant removal), this work has already been completed with other funds.

5.3. Proposed Alternative Project

Cramer Hill Waterfront Park – Habitat Restoration and Public Access Components

Camden, New Jersey lies on the east side of the Delaware River, just upstream from the area initially affected by oil spill near Marcus Hook, Pennsylvania, on the west side of the River and slightly to the south.

The portion of the overall park design being considered under this proposed alternative is the habitat (wetland/shoreline) restoration, and kayak access located along a proposed tidal wetland channel (Figure 1 and Appendix A). These tidal channels were designed with sinuosity and tributaries and small coves reflective of natural small stream systems

in the freshwater tidal Delaware River watershed. Channel widths are designed to be approximately 15 to 35 feet, with adjacent wetland areas extending up to 250 feet from the open water. Additionally, the tidal channel along the Cooper River will be constructed as an open water system with a sub-aquatic bed to promote recreational opportunities by supporting small, non-motorized watercraft (e.g., kayaks) with a 2-foot draft at MLW. A concrete kayak launch that is accessible at all tides will be located at the upstream end of this channel, immediately below the weir creating the fishing pond. All other stream channels will be sub-aquatic in their lower reaches and intertidal in upper reaches.

Stream banks will be constructed in 12-inch terraces to an overall maximum 3:1 slope using coir logs and biodegradable erosion control matting. Along the channel margins, shallower areas will be seeded and planted with emergent wetlands consisting of yellow pond-lily or similar in the lower marsh and marsh marigold and wild rice or similar in the upper marsh. Beyond the emergent marsh, higher-elevation areas will be planted with alders, dogwoods, and buttonbush, or similar species, to establish scrub-shrub wetland habitats. These created and enhanced wetland systems mirror those found along freshwater tidal channels at the Rancocas Creek reference site and will replace degraded wetland systems dominated by the invasive common reed.

The un-vegetated portions of stream channels will contain a 10-inch layer of sand substrate overlain by a thin layer of gravels and cobbles to provide suitable habitat for benthic macroinvertebrates and target species of freshwater mussels and fish. The vegetated channel margins and wetland areas will be backfilled with a 12-inch top layer of finer substrates – silty and sandy loams – that are more conducive for plant growth. Coir logs and erosion control matting will be installed with herbaceous aquatic and wetland vegetation at elevations that are expected to support establishment. Elevations below those expected to support vegetation will consist of intertidal mudflat. Elevations used for determining wetland zones and species were established based on tide gage data and a freshwater tidal wetland survey.

The proposed activities would utilize the remaining Presidente Rivera settlements funds and fulfill the need for restoration of degraded marshes on acquired property, as the Harrison Avenue Landfill was formerly wetlands prior to its conversion many years ago. There are sufficient funds available within the Presidente Rivera case funds to accomplish these wetland/channel restoration (channel and streambank construction, substrate placement, and wetlands plantings) and public access (kayak launch) components of the project.

In conjunction with the initial site remediation, and the co-occurring shoreline projects and recreational amenities, the proposed project will provide habitat (wetland and shoreline) restoration and public access, both of which were outcomes for the initial natural resources damages assessment and settlement for the Presidente Rivera oil spill.

5.4. No Action/Natural Recovery Alternative

NEPA requires the Trustees to consider a “no action” alternative, and the Oil Pollution

Act (OPA) regulations require consideration of the natural recovery option. These alternative options are equivalent. Under this alternative, the Trustees would take no direct action to restore injured natural resources or compensate for lost services pending environmental recovery. Instead, the Trustees would rely on natural processes for recovery of the injured natural resources. While natural recovery would occur over varying time scales for the injured resources, the interim losses suffered would not be compensated under the no action alternative.

The principal advantages of this approach are the ease of implementation and low cost. This approach relies on the capacity of ecosystems to “self-heal”. OPA, however, clearly establishes Trustee responsibility to seek compensation for interim losses pending recovery of the natural resources. This responsibility cannot be addressed through a no action alternative. While the Trustees have determined that natural recovery is appropriate as primary restoration for injuries resulting from this incident, the no action alternative is rejected for compensatory restoration. Technically feasible and cost-effective alternatives exist to compensate for these losses.

The no action/natural recovery alternative would not result in impacts to the physical, biological, and cultural/human use environment since no restoration actions would be undertaken. However, the benefits from wetland/shoreline restoration and public access would not be fully achieved and the public would not be fully compensated for these losses resulting from the spill.

5.5. Preferred Alternative

After considering multiple alternatives, the Trustees propose selection of the wetland/shoreline restoration and public access (kayak access) components of the Cramer Hill Waterfront Park Project at the Harrison Avenue Landfill site as a preferred restoration alternative to address natural resource injury due to the Presidente Rivera oil spill, and to provide comparable benefits to the unimplemented restoration originally proposed for the Quashnee property site. The Trustees have determined that the proposed action is of a similar scope and project type (tidal wetlands restoration of degraded marsh), falls within the vicinity of the spill area and the original scoping area, and provides similar resource benefits, as the originally selected restoration alternative described in the Final RP. The Trustees have also determined that the proposed habitat (wetland/shoreline) restoration and public access components of the Cramer Hill Waterfront Park meet the restoration goal of restoring lost natural resources and recreational uses impacted by the spill, and are consistent with the alternatives identification and evaluation criteria described in section 5 above and in the original RP. Further, there were no other alternatives identified by the Trustees that met the restoration goals and objectives or that met the Trustees’ criteria for identifying potential projects.

The Trustees, therefore, propose to amend the original RP to include funding the wetland/shoreline restoration and public access (kayak access) portion of the Cramer Hill Waterfront Park Project at the former Harrison Avenue Landfill site in Camden, New Jersey.

6. Compliance with the National Environmental Policy Act

Actions undertaken by federal trustees to restore natural resources or services under OPA and other federal laws are subject to the National Environmental Policy Act, (NEPA), 42 U.S.C. § 4321 *et seq.*, and the regulations guiding its implementation (40 C.F.R. 1500 *et seq.*). The original Presidente Rivera RP completed by the state did not have an accompanying NEPA component completed by the Trustees at that time.

6.1 Requirements for Analysis under NEPA

Under NEPA, federal agencies must evaluate potential impacts to the environment from their proposed actions and reasonable alternatives. If impacts are potentially significant an environmental impact statement (EIS) is required, but if impacts are either unclear or considered not significant, an environmental assessment (EA) may be prepared. Additionally, some types of actions may qualify for a Categorical Exclusion (CE), or otherwise not be subject to NEPA. NOAA is acting as the lead agency for NEPA compliance for this Final Amendment to the RP.

NEPA allows for broad programmatic analyses that subsequently can be used to meet NEPA requirements for project-level actions through incorporation by reference and “tiering.” This process is discussed further in section 6.2 below. The NEPA process ensures that public decision-makers are fully informed about the potential impacts of the proposed actions and alternatives and allows for meaningful public involvement in the decision-making process. For this Final Amendment, the federal trustees propose to satisfy their NEPA obligations by applying the impacts analysis and conclusions drawn in another, previously published programmatic NEPA document—NOAA’s Restoration Center Programmatic EIS. The public was invited to provide feedback on the Trustees’ proposed action and alternatives and the analysis conducted in the Draft Amendment.

This Final Amendment complies with NEPA by 1) describing the purpose and need for restoration; 2) addressing public participation for this process; 3) identifying alternative actions; 4) summarizing the current environmental setting; and 5) analyzing environmental consequences.

6.2 NOAA Restoration Center Programmatic EIS

After decades of experience evaluating and implementing environmental restoration projects, NOAA’s Restoration Center (RC) has determined that many of its efforts involve similar types of activities with similar environmental impacts. To increase efficiency in conducting future NEPA analyses for a large suite of habitat restoration actions, the RC developed the “Programmatic Environmental Impact Statement for habitat restoration activities implemented throughout the coastal United States” (RC PEIS) in 2015. After a public comment period, a Record of Decision was signed July 20, 2015. The RC PEIS is available at the following link:

<https://www.fisheries.noaa.gov/resource/document/restoration-center-programmatic-environmental-impact-statement>

The RC PEIS provides a program-level environmental analysis of NOAA's habitat restoration activities throughout the coastal and marine environment of the United States. Specifically, it evaluates typical impacts related to a large suite of projects undertaken frequently by the RC, including, but not limited to: Coral Reef Restoration; Debris Removal; Beach and Dune Restoration; Signage and Access Management; Fish Passage; Fish, Wildlife, and Vegetation Management; Levee and Culvert Removal, Modification, and Set-Back; Shellfish Reef Restoration; Subtidal Planting; Wetland Restoration; Freshwater Stream Restoration; and Conservation Transactions. These analyses may be incorporated by reference in subsequent NEPA documents, including tiered NEPA documents, where applicable.

For example, a site-specific NEPA document may evaluate a restoration project where all potential impacts were addressed in the RC PEIS. In that instance, the site-specific NEPA document would, in effect, incorporate by reference the full impacts analysis from the RC PEIS. In those cases where the RC PEIS determined none of the potential impacts would be significant, the site-specific NEPA document could incorporate that conclusion by reference as well. In short, no further NEPA analysis may be necessary so long as the proposed activity is within the range of alternatives and scope of potential environmental consequences analyzed in the RC PEIS and would not cause significant adverse impacts. Conversely, if the site-specific restoration activity is not within the scope of alternatives or environmental consequences considered in the RC PEIS, it will require additional NEPA analysis through preparation of a new NEPA document.

For this Final Amendment, the Trustees have made the determination that the RC PEIS fully covers the scope of the proposed action and all environmental impacts, and a separate NEPA analysis and decision document is not needed. This determination has been documented in sections 6.4 - 6.8 below, and in a final NEPA "Inclusion Analysis" (Appendix B).

The environmental impacts from the types of restoration actions proposed in this Final Amendment have been analyzed in the RC PEIS, specifically in section 4.5.2 (Riverine and Coastal Habitat Restoration). Those general analyses are incorporated here by reference and are summarized in the final Inclusion Analysis (Appendix B), as discussed in section 6.5 below.

6.3 Affected Environment

This section provides a general description of the affected physical, biological, and social environments, and related resources, as they relate to the geographic area that may be affected by the restoration alternatives considered in this Final Amendment.

While stream and riverine systems are dynamic and highly variable environments, they do share certain qualities that are somewhat universal. This Final Amendment

incorporates by reference and briefly summarizes the affected environment description of stream and river channels in the RC PEIS (section 3.1.3 “Stream and River Channels” of the RC PEIS). The RC PEIS also provides a general description of wetland (including tidal and nontidal wetlands), and some aspects of those environments overlap with stream and river channel environments and may be applicable to this Final Amendment as well. The discussion of tidal and nontidal wetlands in the RC PEIS is incorporated here by reference; however, that material is not summarized below. See sections 3.1.1 (“Wetlands”), 3.1.1.1 (“Tidal Wetlands”) and 3.1.1.2 (“Nontidal Wetlands”) of the RC PEIS for the discussion of wetlands affected environments.

Tidal and nontidal stream and river systems are located in every region of the NOAA RC. Many rivers and streams along the coast are tidal, with the effects of ocean tides extending upstream. The channel of a stream or river is the portion of the cross section that is usually submerged and totally aquatic. Channel substrates may be composed of various materials, including cobbles, boulders, sand, clay, and silt. Portions of a river channel often contain biological elements such as oyster reefs or submerged aquatic vegetation beds that help shape or define the channel.

Stream and river channels are critical to the viability of living coastal and marine resources. In addition to providing freshwater, rivers and streams transport nutrients and provide habitat for thousands of aquatic and terrestrial species, including birds, shellfish, finfish, amphibians, reptiles, mammals, plants, and invertebrates. Vegetation that grows along the banks of rivers and streams stabilizes the banks, shades the water, and provides cover and food for animals and nutrients for the ecosystem (e.g., from fallen leaves).

The integrity of stream and river channels is important to the viability of not only the streams and rivers themselves, but also to the estuaries, oceans, marshes, and wetlands connected to them. Processes such as accelerated channel erosion, pollution, diking, damming, channel alteration, scouring, and dumping can drastically affect the rivers and streams and their receiving waters by causing accelerated sedimentation, and alteration of temperature and water quality, among other factors.

The Trustees have made the determination that the RC PEIS contains an applicable description of the affected environment generally associated with the restoration project types described in this Final Amendment.

6.4. Evaluation of Preferred Alternative Relative to the RC PEIS

As discussed above in section 5.5, the preferred alternative is comprised of shoreline and wetland habitat restoration and public access improvement (kayak access) features within the larger Cramer Hill Waterfront Park project, located at the former Harrison Avenue Landfill site at the confluence of the Cooper and Delaware rivers in Camden, New Jersey (Figure 1 and Appendix A). Section 2.2.2 of the RC PEIS addresses “Riverine and Coastal Habitat Restoration” alternatives, including the types of restoration activities proposed in this Final Amendment. Specifically, the RC PEIS describes the actions associated with channel and streambank construction, including use of coir logs and erosion control matting and gravel/cobble substrate placement; and native emergent

wetland and higher-elevation (scrub-shrub) vegetative plantings, in sections 2.2.2.5.1 (“Channel Restoration”) and 2.2.2.5.2 (“Bank Restoration and Erosion Reduction”) of that document. Wetlands planting activities are further discussed in section 2.2.2.11.5 (“Wetland Plantings”) of the RC PEIS. Activities associated with the proposed kayak launch feature, though not specifically described in the RC PEIS, generally fall within the description of “Road Upgrading and Decommissioning; Trail Restoration” in section 2.2.2.7 of the RC PEIS and will likely result in similar types of benefits (i.e., provide better public access to natural areas) and environmental impacts.

The Trustees have determined that the project activities that comprise the preferred alternative described in this Final Amendment fall within the scope of the “Riverine and Coastal Habitat” alternatives considered in the RC PEIS. Further, the restoration activities associated with the preferred alternative described in this Final Amendment are fully described in the appended final Inclusion Analysis under “Project Description/Scope of Activities.”

6.5. Impacts Analyzed for Preferred Alternative

The RC PEIS impacts analysis includes a description of the impacts associated with the types of restoration activities proposed in this Final Amendment. That information can be found in section 4.0 of the RC PEIS (“Environmental Consequences”; also see Table 11). The environmental consequences from activities related to wetland and shoreline habitat restoration are described in sections 4.5.2 (“Riverine and Coastal Habitat Restoration”) of the RC PEIS, and more specifically, in sections 4.5.2.5.1 (“Channel Restoration”), 4.5.2.5.2 (“Bank Restoration and Erosion Reduction”), and 4.5.2.11.3 (“Wetland Plantings”). Also, see Tables 23, 24, and 35 of the RC PEIS for a summary of these impacts. In addition, restoration alternatives providing public access are analyzed in section 4.5.2.7 (“Road Upgrading and Decommissioning; Trail Restoration”) and summarized in Table 28 of the RC, and those environmental consequences are applicable to the kayak launch feature proposed in this Final Amendment. Direct, indirect, and cumulative impacts to relevant resources (e.g., geology and soils, water resources, living coastal and marine resources and EFH, threatened and endangered species, cultural and historic resources, land uses, and demographics) with the preferred alternative are also fully summarized in the final Inclusion Analysis in “Project Impact Analysis – IV.4 and IV.5,” core questions 4 and 5 (Appendix B).

The Trustees have also determined that the preferred alternative would not have adverse impacts beyond the scope of those analyzed in the RC PEIS, or meet any other criteria for exclusion from analysis under the RC PEIS (refer to Table 10 of the RC PEIS).

Ultimately, the RC PEIS concludes that the anticipated impacts would not be significant, and the Trustees propose to adopt that conclusion and the analysis in this Final Amendment. A more detailed description of the Trustees’ justification for doing so can be found in the final Inclusion Analysis (Appendix B).

6.6. Evaluation of the No Action Alternative

The Trustees evaluated the impacts of the no action alternative on relevant resources (e.g., geology and soils, water, air, living coastal and marine resources and Essential Fish Habitat, threatened and endangered species, cultural and historic resources, land use and recreation, and socioeconomics). As noted above, the no action alternative was a non-preferred alternative because it fails to compensate the public for losses associated with the Presidente Rivera oil spill. However, NEPA mandates that federal agencies evaluate the environmental impacts of no action.

By definition, the no action alternative lacks physical interaction with the environment. Accordingly, the no action alternative would cause no direct impacts to any of the elements of the environment listed above. However, if the Trustees undertook no action, the environment would not benefit from the ecological uplift created by active restoration. Conversely, the type of active restoration with the proposed action would restore the resources and services that were injured by the Presidente Rivera spill. The no action alternative would have either no effect or minor to moderate indirect adverse effects on the environment.

6.7. Cumulative Effects

Under NEPA, federal agencies are required to consider the cumulative effects of their proposed actions within the affected environment, taking into consideration other activities that have occurred, are occurring and are likely to occur in the future.

Because the proposed restoration is restoring natural habitat structure and function, the Trustees expect that there will be long-term, minor to moderate positive cumulative effects on the biological and physical health of the project area under the preferred alternative. Cumulative impacts will not occur at a regional scale, and are consistent with those described in the RC PEIS (section 4.9, “Cumulative Impacts”). Relative to the magnitude of ecological impacts that currently exist in the area, the positive cumulative benefits of these proposed restoration actions are not expected to be significant as defined under NEPA. Cumulative impacts to relevant resources with the proposed action are also summarized in the final Inclusion Analysis under “Project Impact Analysis – IV.5” (Appendix B).

Cumulatively, it is anticipated that there may be a long-term adverse effect to the physical and biological resources of the project area were the no action alternative selected because the restoration would not occur. However, relative to the magnitude of adverse ecological impacts that currently exist in the affected area, the adverse cumulative effect of the no action alternative is not expected to be significant as defined under NEPA.

6.8. NEPA Conclusion

Through the analysis in this Final Amendment, the Trustees have made a final

determination that the corresponding project type descriptions and impacts fall entirely within the scope of the project descriptions and analysis contained in the RC PEIS sections referenced herein. Moreover, there are no site-specific considerations, sensitivities, unique habitat, or resources that warrant additional NEPA analyses beyond what is provided in the RC PEIS. The public was invited to provide feedback on the Trustees' proposed action and alternatives and the analysis conducted in the Draft Amendment, which included a draft Inclusion Analysis. The Trustees have determined that no substantive changes are needed to the Amendment, and the Trustees will not be preparing any further NEPA analysis or seeking a Finding of No Significant Impact or Record of Decision for the proposed restoration.

7. Conclusions

In conclusion, the Trustees are confident that the proposed restoration in this Final Amendment, the shoreline/wetland habitat restoration components of the Cramer Hill Waterfront Park Project, provides similar benefits as the original planned restoration selected in the Final RP that could not be implemented. Furthermore, coupled with the kayak launch area, natural pathways, and recreational amenities underway, the proposed restoration would also contribute to increased public access to the newly restored site. When the proposed restoration activities are considered in conjunction with the other co-located restoration, the benefits exceed the original planned restoration.

The proposed action can be implemented in compliance with all applicable federal, state and local permits and approvals, and associated state water quality certification. All permits and environmental compliance would be obtained and satisfied prior to project implementation, as discussed in section 8 below.

8. Compliance with other Laws and Regulations

Individual permits have been issued for the proposed project under Section 404 of the Clean Water Act and in accordance with Section 10 of the Rivers and Harbors Act. With the consultation and coordination with that review, the Trustee agencies have also ensured consistency with the Coastal Zone Management Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, the Magnuson-Stevens Act for Essential Fish Habitat, the Marine Mammal Protection Act, and the National Historic Preservation Act.

Additionally, the restoration proposed here, in conjunction with the broader Park project remediation and restoration, will address longstanding environmental justice issues in the area. This is consistent with Executive Order 12898, "Federal Actions to Address

Environmental Justice in Minority Populations and Low-Income Populations." This Executive Order is designed to focus the attention of federal agencies on the human health and environmental conditions in minority communities and low-income communities.

9. Request for Information

Requests for further information about the Final Amendment to the original RP may be directed to Rich Takacs, National Oceanic and Atmospheric Administration – National Marine Fisheries Service, 200 Harry S. Truman Parkway, Room 460, Annapolis, Maryland 21401 or rich.takacs@noaa.gov.

CRAMER HILL WATERFRONT PARK CONCEPTUAL PLAN



Figure 1. Harrison Avenue Landfill/Cramer Hill Park Plan. The restoration features proposed in this Final Amendment include the tidal wetland and kayak launch features located in the western portion of the park.

APPENDIX A: Proposed Living Shoreline and Kayak Access Area for Harrison Avenue Landfill/Cramer Hill Park Plan.

APPENDIX B: NOAA Restoration Center NEPA Inclusion Analysis Form

NOAA Restoration Center NEPA Inclusion Analysis

Award Number

I. IDENTIFYING PROJECT INFORMATION

Project Name: **Presidente Rivera Oil Spill - Final Amendment to Restoration Plan (RP)** Project State: **NJ**

Project Proponent / Applicant: **NOAA, USFWS, NJ DEP - Trustees** Project Contact: **Rich Takacs, NOAA Restoration Center**

II. OTHER FEDERAL PARTNERS AND LEVEL OF NEPA ANALYSIS

Has another Federal agency completed NEPA? Yes No

Is NOAA the lead federal agency for this NEPA analysis? Yes No

III. PROJECT DESCRIPTION / SCOPE OF ACTIVITIES FOR ANALYSIS

Please check one of the following conditions:

I am analyzing impacts of project planning and design activities, in order to gather all required project information

I have all information needed to complete the final analysis of impacts for the entire project

Has a NEPA review been conducted for prior project activities? Yes No Date of NEPA completion for prior phase: **N/A**

Describe the full scope of the project, including historic/ geographic/ ecological context, the type of restoration, and how it will be conducted.

Portions of the Harrison Avenue Landfill remediation site were identified as potentially being suitable for having the habitat and public use outcomes that the Trustees are seeking, as well as being readily implementable. The site is a former 86-acre municipal landfill in the Cramer Hill neighborhood of Camden, New Jersey, at the intersection of Harrison Avenue and East State Street where the Cooper River flows into the Delaware River. The landfill operated from approximately 1952 to 1971, but it was never capped or officially closed. A portion of the site was remediated and developed into a community center in 2006. NJDEP's Office of Natural Resource Restoration, using natural resource damage settlement monies, completed a design for the Cramer Hill Waterfront Park project to close and restore the remaining 62 acres of the landfill in the fall of 2017. There are four main components to the proposed Cramer Hill Waterfront Park design: landfill closure, shoreline protection, habitat restoration, and recreational park amenities.

Only certain features of the Cramer Hill Waterfront Park project comprise the proposed action (wetland/shoreline habitat restoration and public access), as described below and further described and evaluated in the Final Amendment to the Presidente Rivera Restoration Plan (RP).

Describe the proposed action (i.e. the portion of the project that NOAA is funding/approving).

The portion of the overall park design being considered under this proposed action is the habitat (wetland/shoreline) restoration and public access (kayak launch) features located within a proposed tidal wetland channel. Restoration activities include channel and streambank construction, channel substrate placement (sand, gravel, and cobble), native species vegetative plantings along the channel banks and adjacent wetlands, and construction of a kayak launch providing access to the newly constructed tidal channels and the nearby Cooper River. The proposed activities would utilize the remaining Presidente Rivera settlements funds and fulfill the need for restoration of degraded marshes on acquired property, as the Harrison Avenue Landfill was formerly wetlands prior to its conversion many years ago. These restoration activities will replace comparable activities originally selected in the Final RP for the Presidente Rivera Oil Spill that were not able to be implemented.

The non-preferred alternative to the proposed action described above includes the no action alternative, which is premised on natural recovery and is further described and evaluated in the Final Amendment to the RP.

Check the types of activities being conducted in this project:

Technical Assistance

Implementation and Effectiveness Monitoring Environmental Education Classes, Programs, Centers, Partnerships and Materials; Training Programs Fish and Wildlife Monitoring

Planning, Feasibility Studies, Design Engineering, and Permitting

Riverine and Coastal Habitat Restoration

NEPA Inclusion Analysis

<input type="checkbox"/> Beach and Dune Restoration	<input checked="" type="checkbox"/> Bank Restoration and Erosion Reduction	<input type="checkbox"/> Water Conservation and Stream Diversion
<input type="checkbox"/> Debris Removal	<input type="checkbox"/> Coral Reef Restoration	<input type="checkbox"/> Levee & Culvert Removal, Modification, Set-back
<input type="checkbox"/> Dam and Culvert Removal & Replacement	<input type="checkbox"/> Shellfish Reef Restoration	<input type="checkbox"/> Fringing Marsh and Shoreline Stabilization
<input type="checkbox"/> Technical and Nature-like Fishways	<input type="checkbox"/> Artificial Reef Restoration	<input type="checkbox"/> Sediment Removal
<input type="checkbox"/> Invasive Species Control	<input type="checkbox"/> Road Upgrading/Decommissioning; Trail Restoration	<input type="checkbox"/> Sediment/Materials Placement
<input type="checkbox"/> Prescribed Burns/Forest Management	<input type="checkbox"/> Signage and Access Management	<input checked="" type="checkbox"/> Wetland Planting
<input type="checkbox"/> Species Enhancement	<input type="checkbox"/> SAV Restoration	
<input checked="" type="checkbox"/> Channel Restoration	<input type="checkbox"/> Marine Algae Restoration	

Conservation Transactions		
<input type="checkbox"/> Land Acquisition	<input type="checkbox"/> Water Transactions	<input type="checkbox"/> Restoration/Conservation Banking

IV. PROJECT IMPACT ANALYSIS

Core Questions

1. Are the activities to be carried out under this project fully described in Section 2.2 of the NOAA RC PEIS?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are the specific impacts that are likely to result from this project fully described in Section 4.5.2 of the NOAA RC PEIS?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
3. Does the level of adverse impact for the project exceed that described in Table 11 of the NOAA RC PEIS for any resource, including significant adverse impact?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

4. Describe the project impacts to resources (including beneficial impacts) and any mitigating measures being implemented.

1. **Habitat Restoration at Cramer Hill Waterfront Park** - Proposed wetland and streambank restoration activities are similar to those described in section 2.2.2.5.1 (“Channel Restoration”), 2.2.2.5.2 (“Bank Restoration and Erosion Reduction”), and 2.2.2.11.5 (“Wetland Plantings”) of the RC PEIS. Project impacts from the proposed habitat restoration activities are consistent with (or less than) those described in sections 4.5.2.5.1 (“Channel Restoration”), 4.5.2.5.2 (“Bank Restoration and Erosion Reduction”), and 4.5.2.11.3 (“Wetland Plantings”) and Tables 23, 24, and 35 of the RC PEIS, and the relevant impacts are summarized below. The proposed activities do not have impacts beyond those analyzed in the RC PEIS, including adverse effects that are significant, or meet any other criteria for exclusion from analysis (Table 10 of the RC PEIS).

A. **Channel Restoration** (includes channel creation/excavation and placement of substrates):

Construction activities related to restoration of in-stream channel and off-channel habitat may cause direct and indirect, short- and long-term, minor and moderate, localized, beneficial and adverse impacts to some resources.

Geology and soils and water resources would receive direct, short-term, minor adverse impacts due to a temporary increase in turbidity and exposure of bare stream banks as a result of the restoration activity. Channel and in-stream restoration can involve the use of heavy equipment, which could disturb soil and the channel beds. Exposure of bare soil can cause erosion, and channel bed disturbances can cause streamturbidity.

Potential impacts to air quality could include direct, short-term, minor adverse impacts to air quality during construction or other on-the-ground activities. These impacts include exhaust emissions from off-road construction equipment, on-road hauling, construction worker employee commuting vehicles, and fugitive dust emissions from paved roads and earthmoving activities.

In-stream and off-channel restoration would cause direct and indirect, short- and long-term, minor and moderate, beneficial and adverse impacts to living coastal and marine resources and EFH and threatened and endangered species. More in-stream complexity promotes higher benthic organism productivity throughout the system, increased feeding opportunities, lowered predation rates on juvenile fish, more suitable spawning substrate, and deeper rearing habitat—conditions that are beneficial to living coastal and marine resources and EFH, and threatened and endangered species. In-stream restoration construction activities could cause temporary alteration of EFH and disruption or mortality of living coastal marine resources.

In-stream channel restoration could have direct, minor, short- and long-term adverse impacts on cultural and historic resources if unknown sites are disturbed during construction.

This restoration activity will also have direct, short- and long-term, minor and moderate adverse and beneficial impacts to land use

Core Questions (continued)

and recreation because increases in recreational opportunity will likely occur in the project area and beyond in the larger river system in the long term; however, short-term use may be curtailed during construction activities.

B. Bank Restoration and Erosion Reduction (includes bank shoring and erosion control using bio-logs and matting; and planting of native vegetation):

Bank restoration and erosion reduction activities would cause direct and indirect, short-term, minor adverse impacts on geology and soils, water, air quality, living coastal and marine resources and EFH, and threatened and endangered species during the on-the-ground implementation phase. These impacts would result from installation of natural features or geotextile materials, stabilization of slopes, removal of bulkheads or other artificial shoreline armoring, or introduction of new vegetation (planting). By protecting erodible or unstable soils, bank restoration and erosion reduction would result in indirect, long-term, minor and moderate beneficial impacts to water quality and benthic habitat in wetlands, water bodies, and other sensitive riparian or coastal habitats where erosion is a problem beyond the project site. Natural processes (beginning after planting) would help stabilize banks and shorelines. Installation of biologs or geotextile materials also would stabilize areas of high erosion.

Bank restoration and erosion reduction activities could cause indirect, long-term, minor impacts on cultural and historic resources and land use either localized to or beyond the project site. The land use would change from its presently managed or otherwise cultural/historic condition to a vegetated, more natural condition at each proposed project site. Any cultural and historic resources nearby could be impacted by ground disturbance during construction or from the change in land use. These impacts would be mitigated through the NHPA section 106 consultation process. However, many projects of this type are in areas that historically functioned as wetlands but were altered or eroded away to their present condition, thereby previously eroding any historic or cultural resources that might exist at the site.

This restoration activity will also have direct, short- and long-term, minor and moderate, adverse and beneficial impacts to land use and recreation because increases in recreational opportunity will likely occur in the project area and beyond in the larger river system in the long term; however, short-term use may be curtailed during construction activities. Increased fishing pressure may occur in the short and long term. Bank restoration activities are widely implemented through the use of volunteers and conservation corps groups, and are a source of local employment and job training in many rural areas. As such, in-stream restoration activities can result in indirect short and long-term, minor and moderate beneficial impacts to socioeconomics.

C. Wetland Planting:

Wetland planting may occur as a separate restoration activity or in combination with other restoration types described in the RC PEIS (e.g., "Bank Restoration and Erosion Reduction"). Planting may cause short-term, direct adverse impacts to living coastal and marine resources when existing vegetation is trampled during the planting process. Planting is generally short-term in duration, lasting days to weeks.

Minor adverse impacts to cultural and historic resources may occur during wetland restoration, when historic structures are present within a project site.

Long-term, moderate beneficial impacts to water resources, living coastal and marine resources and threatened and endangered species would occur due to the erosion reduction and increased shelter provided by wetland plants. Woody and herbaceous plant communities play an important role in stabilizing the shoreline. Wetland planting activities would result in beneficial impacts by restoring or creating wetland and/or shallow-water habitats that provide areas for feeding and shelter for fish, as well as nutrient cycling and carbon sequestration and storage capacity.

Changes in land use would be permanent if uplands were converted to wetlands. In general, increases in wetlands are beneficial land use and recreation impacts, due to the historic loss of wetland habitat.

Minor beneficial impacts related to socioeconomic resources may result from increased tourism opportunities that could develop around an improved resource.

2. Public Access/Kayak Launch at Cramer Hill Waterfront Park - Proposed public access (kayak launch) restoration activities are generally similar to those described in section 2.2.2.7 ("Road Upgrading and Decommissioning; Trail Restoration") of the RC PEIS. While this restoration type is not specifically described in the RC PEIS, the environmental impacts are anticipated to be comparable to certain project types that fall within the "Road Upgrading and Decommissioning; Trail Restoration" alternative in the RC PEIS. Project impacts from construction of the public access/kayak launch feature are consistent with (or less than) those described in

section 4.5.2.7 (“Road Upgrading and Decommissioning; Trail Restoration”) and Tables 28 and 29 of the RC PEIS, and the relevant impacts are summarized below. The proposed activities do not have impacts beyond those analyzed in the RC PEIS, including adverse effects that are significant, or meet any other criteria for exclusion from analysis (Table 10 of the RC PEIS).

Restoration activities would cause direct and indirect, short-term, minor and moderate adverse impacts, typically in riparian and upland affected environments, resulting from temporary construction activities in the project area. Aside from construction impacts, however, most of the impacts resulting from these activities would be direct and indirect, moderate to major beneficial impacts, as they are designed to control access to sensitive areas.

Activities that travel through or adjacent to, or are located within watersheds that feed into, sensitive habitat areas would have direct and indirect, short-term, minor to moderate adverse impacts on geology and soils, water resources, air quality, living coastal and marine resources and EFH, threatened and endangered species, and land use. These impacts would result from temporary construction activities in the project area. Activities could also cause indirect, short-term, minor impacts on land use and recreation, resulting from construction activities (e.g., temporarily blocking areas with machinery).

Restoration projects would also cause direct and indirect, long-term, minor to major beneficial impacts on geology and soils, water, living coastal and marine resources and EFH, threatened and endangered species, cultural and historic resources, land use and recreation, and socioeconomics. The beneficial impacts would result from reduced erosion potential and rates after projects were implemented and from both allowing and controlling public access to sensitive areas.

3. No Action - The no action alternative, which is premised on natural recovery, is the non-preferred alternative to the proposed activities described above and is further described and analyzed in sections 5.4 and 6.6 of the Final Amendment to the Presidente Rivera RP.

5. Describe any potential cumulative impacts that may result from past, present or reasonably foreseeable future actions (beneficial or adverse).

Cumulative project impacts would not be significant or occur at a regional scale, and are consistent with those described in the RC PEIS (section 4.9, “Cumulative Impacts”). Because the proposed restoration is restoring natural habitat structure and function, the Trustees expect that there will be long-term, minor to moderate positive cumulative effects on the biological and physical health of the project area under the preferred alternative (including living Coastal and Marine Resources and EFH).

There may be a long-term adverse effect to the physical and biological resources of the project area were the no action alternative selected because the restoration would not occur. However, relative to the magnitude of adverse ecological impacts that currently exist in the affected area, the adverse cumulative effect of the no action alternative is also not expected to be significant.

6. Describe the public outreach and/or opportunities for public comment that have taken place to this point. Are any future opportunities for public input anticipated?

The Draft Amendment to the RP, including a draft Inclusion Analysis, was made available to the public for review and comment. All comments on the Draft Amendment were considered prior to finalization of the Final Amendment. The Trustees determined that no substantive changes were needed to the Amendment, and the Trustees will not be preparing any further NEPA analysis or seeking a FONSI or ROD for the proposed restoration projects.

7. Have any public comments raised issues of scientific/environmental controversy? Please describe.

There have been no public comments to date identifying issues of scientific and environmental controversy related to the Cramer Hill Waterfront Park project. All comments on the Draft Amendment and Inclusion Analysis were considered prior to finalization of the Final Amendment to the Restoration Plan.

8. Describe the most common positive and negative public comments on issues other than scientific controversy described above in Question 7.

The proposed restoration activities are similar to those that have been occurring throughout the northeast many years, and the public has generally been supportive of spending restoration funding on on-the-ground restoration projects, especially those associated with restoring natural resources and providing public access to those resources. The Trustees received one public comment on the Draft Amendment, expressing support for the proposed park generally and public access specifically.

NEPA Inclusion Analysis

V. NEPA DETERMINATION



The action is completely covered by the impact analysis within the NOAA RC Programmatic EIS (PEIS). The project and its potential impacts may be limited through terms or conditions placed on the recipient of NOAA funds. It requires no further environmental review. An EIS Inclusion Document will be prepared.



The action analyzed here has unknown impacts. At this time, funding will be limited to those portions of the action and impacts analyzed in the PEIS. These limitations will be described in terms or conditions placed on the recipient of NOAA funds. If all remaining activities and impacts are later determined to be described in the PEIS, this analysis will be documented in the program record and the applicant may then proceed with the project. If all remaining activities and impacts are later determined to not be described in the PEIS, further NEPA review will be required; see below.



The action or its impacts are not covered by the analysis within the PEIS. It will require preparation of an individual EA, a supplemental EIS, adoption of another agency's EA or EIS, or will be covered by a Categorical Exclusion.

Signature

Date Signed
