

Action Items, Outcomes, and Next Steps from the National EFH Workshop  
April 30 - May 2, 2002  
La Jolla, California

The NMFS Office of Habitat Conservation (F/HC) hosted a national Essential Fish Habitat (EFH) workshop at the NMFS Southwest Fisheries Science Center in La Jolla, California, on April 30 - May 2, 2002. The first two days of the workshop focused on the EFH environmental impact statements being prepared by five of the Fishery Management Councils under the AOC v. Daley court order. The third day focused on EFH consultations and related issues. The meeting participants shared information on common problems and potential solutions, leading to the following decisions and action items.

EFH Environmental Impact Statements

1. F/HC will draft a narrative that discusses the implications of designating EFH and HAPCs. This will be a generic section to be inserted into the Environmental Consequences chapter of the EFH EISs (like the other generic sections developed by F/HC: a purpose & need chapter and a review of national and international literature on the effects of fishing on fish habitat). F/HC will circulate a draft for comments and then distribute a revised version, which the Regions and Councils can adapt as needed for the EISs.
2. The workshop attendees decided that no additional policy guidance should be developed on the types of EFH designation alternatives to be evaluated in the EISs. The alternatives may take the form of different methodologies for designating EFH or different EFH designations that could result from using a single methodology (e.g., with different cutoffs representing the areas with the highest 75% or 90% relative abundance of the species). However, to show a range of environmental consequences from alternatives for EFH designation, each EIS should evaluate some alternatives that result in different outcomes (i.e., different designations). NOAA General Counsel will determine whether further legal guidance is needed on the range of alternatives.
3. F/HC will continue to coordinate discussions with the Regions and Councils regarding a common approach for mapping EFH designations, following up on the April 10, 2002 conference call on this topic.
4. F/HC will revise a draft document that was discussed during the workshop that lists and explains the various steps involved in conducting a thorough analysis of options to minimize adverse effects of fishing on EFH. This document is intended to provide suggestions on doing the necessary analysis, blending the requirements of NEPA and the EFH final rule.
5. F/HC will draft a list of relevant considerations for determining which fishing activities affect EFH in a manner that is more than minimal and not temporary in nature – the threshold used in the EFH final rule (at 50 CFR 600.815(a)(2)(ii)) to distinguish fishing activities that warrant full evaluation to assess whether FMPs minimize adverse effects to the extent practicable.
6. The workshop attendees decided that no additional policy guidance or methodologies should be developed to assist in determining the practicability of management measures to minimize the adverse effects of fishing on EFH. Instead, practicability should be evaluated using the guidance in the EFH regulations at 50 CFR 600.815(a)(2)(iii) and using the same types of socioeconomic analyses conducted to evaluate the effects of other fishery management measures. NOAA General Counsel will determine whether further legal guidance is needed on documenting practicability.

7. The Northwest Region (Steve Copps) will investigate the possibility of hosting an intranet site where Regions and Councils can post white papers, draft documents, outlines, etc. related to the EFH EISs.
8. The Southwest Region (Mark Helvey) will coordinate with other Regions regarding the development of updated discussions of non-fishing threats to EFH for use in the EFH EISs.

#### EFH Consultations and Related Issues

1. F/HC will develop a web site with pdf versions of all the different EFH-related guidance memos F/HC has issued in the past few years.
2. Regional EFH Coordinators should follow up with their counterparts in federal action agencies if there are chronic deficiencies in the EFH Assessments submitted by action agencies to initiate EFH consultation – especially if the EFH Assessments do not contain the type of information the action agencies agreed to provide in their respective regional “findings.” If problems cannot easily be resolved at the field level, regional EFH Coordinators should inform F/HC so NMFS can decide whether to raise concerns to the headquarters offices of other agencies.
3. F/HC will poll the Fishery Management Council Executive Directors to determine whether they would be interested in having some sort of written guidance or templates for Council EFH comment letters to state and federal action agencies under section 305(b)(3) of the Magnuson-Stevens Act.
4. F/HC will work with the regional EFH Coordinators to develop tools for making better use of NMFS’ authority to provide EFH Conservation Recommendations to state agencies.
5. F/HC will work with the regional EFH Coordinators to determine whether further headquarters-level coordination is needed with the Corps of Engineers to improve upon the EFH consultations process for civil works projects.
6. The Regional EFH Coordinators will provide comments to F/HC (Kelly Shotts) on the proposed data fields for the PRISM V.3 tracking system for EFH consultations. Comments are most needed on the Activity Description Tab, Location Info Tab, and EFH Process Tab.
7. F/HC will send to each regional EFH Coordinator a copy of the submissions F/HC received for an EFH Success Stories report. The regional EFH Coordinators should review this packet and provide additional information or examples to F/HC.
8. F/HC will work with the regional EFH Coordinators to develop an outreach product to help federal action agencies and consultants prepare EFH Assessments.

# Essential Fish Habitat National Meeting

April 30-May 2, 2002

NMFS Science Center  
La Jolla, California

## AGENDA

***Note:** Since we have all shared background documents to describe the process being used for EFH designations, HAPC designations, and addressing fishing impacts, the short presentations for each Council on these three topics should provide a brief overview and should highlight any barriers to progress or other issues that may be good discussion topics for the group. We will keep a list of potential discussion topics, and then after each round of presentations the group will decide which items are the highest priorities for the discussion sessions. Potential discussion topics are identified below as a starting point.*

### Day 1 - EFH EIS Issues

8:00-8:10 Welcome, Introductions, Logistics

8:10-8:30 **Update on EFH-Related Current Events** (Jon Kurland)  
- Magnuson-Stevens Act reauthorization  
- EFH final rule lawsuit  
- Budget

**EFH Designations** (Jon Kurland)  
8:30-9:30 **Overview of approach being used for each Council** (5-10 minutes each)  
- What process is being used to identify and evaluate EFH alternatives?  
- What new data sets or other information sources are being used?  
- Who is involved (Science Centers, stakeholder groups, etc.)?  
- What are the barriers to progress?

9:30-10:30 **Discussion of common issues of concern**  
Potential topics: Is it feasible to make the EFH designations smaller? How do we handle ecological groupings in our designations? Can we achieve consistency in mapping? Should alternatives be framed as methodologies or specific designations? How should we handle seasonal or interannual variability?

10:30-10:45 Break

10:45-12:30 **Discussion of common issues of concern (continued)**

12:30-1:30 Lunch

**HAPC Designations** (Korie Johnson)

1:30-2:30 **Overview of approach being used for each Council (5-10 minutes each)**

- What process is being used to identify and evaluate HAPC alternatives?
- What types of alternatives are being considered?
- Who is involved (Science Centers, stakeholder groups, etc.)?
- What are the barriers to progress?

2:30-3:30 **Discussion of common issues of concern**

**Potential topics:** What are different approaches for identifying HAPCs? How do we refine or supplement the considerations in the regulations? Should there be a process for ongoing designations of HAPCs? What is the relationship between HAPCs and MPAs?

3:30-3:45 Break

3:45-5:00 **Discussion of common issues of concern (continued)**

**Day 2 - EFH EIS Issues (continued)**

**Adverse Effects of Fishing** (Jon Kurland and Korie Johnson)

8:00-9:00 **Overview of approach being used for each Council (5-10 minutes each)**

- What process is being used to evaluate potential adverse effects of fishing?
- Has the team discussed how to apply the minimal/temporary standard or how to evaluate practicability of management measures?
- Who is involved (Science Centers, stakeholder groups, etc.)?
- What are the barriers to progress?

9:00-10:00 **Discussion of common issues of concern**

**Potential topics:** How do we evaluate potential adverse effects? What are the criteria for determining whether a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary? How do we identify options to minimize adverse effects? What do we do if there is incomplete information? How do we evaluate practicability of measures to minimize adverse effects? What is the role of MPAs?

10:00-10:15 Break

10:15-12:00 **Discussion of common issues of concern (continued)**

12:00-1:00 Lunch

1:00-3:15 **Discussion of common issues of concern (continued)**

3:15-3:30Break

3:30-5:00**Other issues related to the EFH EISs** (Jon Kurland)

- How can the existing coordination mechanisms be improved?
- Should headquarters provide additional (or less?!) assistance or guidance on any particular topics?

**Day 3 - EFH Consultations and Related Issues**

8:30-10:00**Review of completed consultations and lessons learned** (Jon Kurland)

10:00-10:15Break

10:15-11:15**Tracking/PRISM** (Kelly Shotts and Karen Salvini)

11:15-12:00**Success Stories from EFH consultations and the use of EFH considerations in fishery management** (Kelly Shotts)

12:00-1:00Lunch

1:00-2:00**Integrating EFH and ESA Consultations** (Russ Strach)

- How do our EFH Conservation Recommendations compare to ESA terms and conditions or conservation recommendations?
- How can we improve the integration of EFH and ESA consultations to take more of an ecosystem approach?
- Do we need to revisit the existing guidance on combined EFH and ESA consultations?

2:00-2:45**New policies/guidance/outreach materials** (Ric Ruebsamen)

2:45-3:00Break

3:00-3:30**General Concurrences** (Jon Kurland)

- What's changed in the final rule?
- What types of actions should be handled with a GC?

3:30-4:30**Programmatic Consultation** (Korie Johnson)

- What's changed in the final rule?
- What types of actions should be handled programmatically?



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
1315 East-West Highway  
Silver Spring, MD 20910

THE DIRECTOR

DEC 18 2001

RECEIVED  
DEC 26 2001  
N.P.F.M.C

Mr. David Benton  
Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup>  
Anchorage, Alaska 99501-2252

Dear Mr. <sup>Dave</sup> Benton:

On December 5, 2001, the Department of Justice (DOJ) filed with the United States District Court for the District of Columbia a signed settlement agreement in the case of *American Oceans Campaign, et al., v. Evans, et al.*, also known as *AOC v. Daley*. This case arose when seven environmental groups and two fishermen's associations challenged the approval by the Secretary of Commerce (acting through NMFS) of the essential fish habitat (EFH) amendments to the fishery management plans of five regional Fishery Management Councils (North Pacific, Pacific, Gulf of Mexico, Caribbean, and New England). These amendments were required by the 1996 Sustainable Fisheries Act, which amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On September 14, 2000, Judge Gladys Kessler of the U.S. District Court for the District of Columbia found that the Secretary's actions did not violate the Magnuson-Stevens Act but that the agency's environmental analyses were insufficient under the National Environmental Policy Act (NEPA). The court enjoined the agency from "enforcing" the EFH amendments until such time as a "new and thorough EA or EIS as to each EFH amendment" is prepared, and ordered the agency to undertake those analyses. The plaintiffs appealed their loss on the Magnuson-Stevens Act issues to the D.C. Circuit Court of Appeals.

The plaintiffs approached DOJ in September of 2000 and proposed that the parties discuss settlement terms for implementing the court order, and DOJ and NOAA agreed. The parties worked diligently for more than a year to come to an agreement. Essentially, the stipulation that was filed with the court (1) sets forth a schedule for completion of EISs for all of the challenged amendments; (2) provides for a determination by NMFS as to whether the relevant fishery management plans need to be amended based on the analysis in the EIS; (3) provides for a process by which the Councils will submit any needed amendments to NMFS for approval within a time to be specified; (4) provides for action by NMFS if a Council fails to submit a needed amendment; and (5) provides that the plaintiffs will dismiss their Magnuson-Stevens Act appeal and that the injunction prohibiting NMFS from enforcing the EFH amendments is dissolved. We now await the court's approval of the stipulation and entry of the proposed order.

This settlement, if approved by the court, offers significant benefits to NMFS and the Councils. It provides a three-year schedule for completion of the EISs, which was developed based on informal coordination with the Councils regarding the amount of time that would be necessary to do the work required by the court order. This schedule should be a sufficient amount of time to complete these documents while allowing for the public process and thorough analysis that is required by NEPA. This is significant, because in the

THE ASSISTANT ADMINISTRATOR  
FOR FISHERIES



absence of an agreed-upon schedule, the court likely would have imposed a more rigorous time frame.

The stipulation also contains some specifications as to the contents of the EISs (e.g., the analyses of alternatives) as required by NEPA and its implementing regulations, and thus provides some clarity as to the expectations of the parties. The agreement would dissolve the injunction against "enforcement" of the EFH amendments, thus removing the ambiguity presented by that injunction. Finally, the agreement would result in the dismissal of the plaintiffs' Magnuson-Stevens Act appeal, which, if they had prevailed, could have posed more serious problems for the agency and the Councils.

A copy of the settlement agreement is enclosed. Once again, the agreement is not final unless and until it has been approved by the court. However, as you know, the NEPA process is already underway for the EFH amendments. We look forward to working closely with you throughout this process.

Sincerely,



William T. Hogarth, Ph.D.  
Assistant Administrator  
for Fisheries

Enclosure

RECEIVED  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICAN OCEANS CAMPAIGN, et al.,

Plaintiffs,

v.

DONALD EVANS, Secretary of Commerce,  
et al.,

Defendants.

REC -5 PM 5:07

NANCY M.  
MAYER-WHITTINGTON  
CLERK

Civil No. 99-982 GK

JOINT STIPULATION AND [PROPOSED] ORDER

WHEREAS, plaintiffs in this case challenged the federal defendants' approval (in whole or in part) of certain fishery management plan amendments concerning essential fish habitat (EFH) in the following fishery management regions: Caribbean, Gulf of Mexico, New England, North Pacific, and Pacific (hereinafter "the EFH Amendments");

WHEREAS, plaintiffs alleged that federal defendants' approval of the EFH Amendments violated the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and federal defendants' own regulations, because federal defendants had (1) failed to analyze adequately the potential adverse effects of fishing gear on EFH; (2) failed to analyze adequately whether there were any practicable steps to minimize any such adverse effects of fishing on EFH; and (3) failed to take all practicable steps to minimize any such adverse effects of fishing on EFH;

WHEREAS, plaintiffs also alleged that federal defendants' approval of the EFH Amendments violated the National Environmental Policy Act (NEPA), because federal defendants had failed to analyze adequately the potential direct and indirect environmental impacts of fishing on EFH and to develop and analyze adequately a range of alternatives for minimizing any such



adverse effects of fishing on EFH;

WHEREAS, the Texas Shrimp Association and Wilma Anderson (defendant-intervenors) intervened to defend the partial approval of the Gulf of Mexico EFH Amendment;

WHEREAS, in a Memorandum Opinion and Order filed on September 14, 2000, the Court denied defendant-intervenors' motion to dismiss plaintiffs' Magnuson-Stevens Act claim as to the Gulf of Mexico EFH Amendment, and granted federal defendants' and defendant-intervenors' summary judgment motions as to plaintiffs' Magnuson-Stevens Act claims;

WHEREAS, in its September 14, 2000, Memorandum Opinion and Order, the Court granted plaintiffs' summary judgment motion as to the NEPA claims relating to the EFH Amendments at issue in this case;

WHEREAS, in its September 14, 2000, Memorandum Opinion and Order, the Court remanded the EFH Amendments at issue in this case to the federal defendants to comply with NEPA; and

WHEREAS, in its September 14, 2000, Memorandum Opinion and Order, the Court enjoined federal defendants "from enforcing the EFH Amendments until such time as they perform a new, thorough, and legally adequate EA [environmental assessment] or EIS [environmental impact statement] for each EFH Amendment";

NOW, THEREFORE, IT IS HEREBY STIPULATED AND ORDERED AS FOLLOWS:

#### I. JURISDICTION AND SCOPE

1. This Court has jurisdiction over the parties and subject matter of this action pursuant to 16 U.S.C. §§ 1855(f) and 1861(d) and 28 U.S.C. §§ 1331 and 1361.

2. This Joint Stipulation and Order constitutes full settlement of all of plaintiffs' claims

under the Magnuson-Stevens Act and NEPA in this case. Further, the Joint Stipulation and Order provides the basis for plaintiffs' dismissal of their appeal of the Court's summary judgment ruling on their Magnuson-Stevens Act claims. Additionally, the Joint Stipulation and Order does not constitute a settlement of plaintiffs' claims for litigation costs, including attorney fees.

## II. ENVIRONMENTAL IMPACT STATEMENTS

### A. General EIS Provisions

3. Federal defendants, acting through the National Marine Fisheries Service (NMFS), will prepare EISs for all of the fisheries that were challenged in this lawsuit.

4. In preparing the EISs pursuant to this Joint Stipulation and Order, NMFS will comply with the requirements of all applicable statutes and regulations, including NEPA; the Council on Environmental Quality (CEQ) NEPA implementing regulations, 40 C.F.R. Parts 1500-1508; and National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6.

5. Each EFH Amendment amends one or more fishery management plans (FMPs). For each EFH Amendment, the scope of the EISs prepared pursuant to this Joint Stipulation and Order will include analyses of the environmental impacts of fishing on EFH, including direct and indirect effects, as defined in the EFH regulations at 50 C.F.R. § 600.810, and analyses of the environmental impacts of alternatives for implementing the requirement of the Magnuson-Stevens Act, 16 U.S.C. § 1853(a)(7), that the FMP "minimize, to the extent practicable, adverse effects on [EFH] caused by fishing."

6. Each EIS (or, where appropriate, the portions thereof relating to EFH) prepared pursuant to this Joint Stipulation and Order will consider a range of reasonable alternatives for minimizing the adverse effects (as defined by the EFH regulations at 50 C.F.R. § 600.810) of fishing

on EFH, including potential adverse effects. This range of alternatives will include "no action" or status quo alternatives and alternatives setting forth specific fishery management actions that can be taken by NMFS under the Magnuson-Stevens Act. The alternatives may include a suite of fishery management measures, and the same fishery management measures may appear in more than one alternative.

7. Each draft and final EIS prepared pursuant to this Joint Stipulation and Order will identify one preferred alternative, except that, in the draft EIS, NMFS may elect, if it deems appropriate, to designate a subset of the alternatives considered in the draft EIS, as the preferred range of alternatives, instead of designating only one preferred alternative.

8. Each draft and final EIS (or, where appropriate, the portions thereof relating to EFH) prepared pursuant to this Joint Stipulation and Order will present the environmental impacts of the proposed action and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among the options, as set forth in CEQ regulation 40 C.F.R. § 1502.14.

#### **B. EIS Preparation Schedule**

9. NMFS will prepare the EISs pursuant to this Joint Stipulation and Order in accordance with the schedule attached hereto as Attachment 1. NMFS will make good-faith efforts to complete EIS preparation tasks prior to the milestones set forth in Attachment 1 and to stagger the comment periods for the EISs so as to facilitate the provision of public comment.

#### **C. NMFS Decisionmaking Based on EISs and RODs**

10. In the Record of Decision (ROD) for each EIS prepared pursuant to this Joint Stipulation and Order, NMFS will determine either that action is necessary or that action is not

necessary to comply with the requirements of Section 303(a)(7) of the Magnuson-Stevens Act. If NMFS determines that action is necessary to comply with the requirements of Section 303(a)(7) of the Magnuson-Stevens Act, NMFS will determine whether the FMP will be amended in accordance with the preferred alternative identified in the Final EIS, and, if not, what other action, if any, is necessary.

11. Except as provided in Paragraph 12 below, if NMFS determines in a ROD that action is necessary and that the applicable FMP will be amended so as to comply with the requirements of Section 303(a)(7) of the Magnuson-Stevens Act, NMFS will approve an FMP amendment and implementing regulations no later than 24 months after the date of the ROD, unless the Secretary subsequently determines that an FMP amendment and implementing regulations are no longer necessary. If NMFS determines that action other than an FMP amendment and implementing regulations is necessary, NMFS will approve that other action no later than 24 months after the date of the ROD, unless the Secretary subsequently determines that such other action is no longer necessary.

a. If NMFS determines in a ROD that an FMP will be amended, NMFS will confer with plaintiffs, the appropriate Council, and other members of the interested public, regarding the schedule for the Council to develop and submit to NMFS an FMP amendment and implementing regulations. Based in part on the comments of plaintiffs, the Council, and other members of the interested public, NMFS will develop and recommend a schedule to the Council that will enable NMFS to approve an FMP amendment and any necessary implementing regulations, as quickly as practicable, but, in any event, no later than 24 months from the date of the ROD, pursuant to the appropriate decisions made in accordance with the provisions of Paragraphs 11(b) and (c) below.

If NMFS determines in a ROD that action other than an FMP amendment is necessary, NMFS will confer with plaintiffs, the appropriate Council, and other members of the interested public, regarding the schedule for the Council to take that other action. Based in part on the comments of plaintiffs, the Council, and other members of the interested public, NMFS will develop and recommend a schedule to the Council that will enable NMFS to take that other action, as quickly as practicable, but, in any event, no later than 24 months from the date of the ROD, pursuant to the appropriate decisions made in accordance with the provisions of Paragraphs 11(b) and (c) below.

b. If the Council transmits a proposed FMP amendment and implementing regulations to NMFS in accordance with the schedule that NMFS recommends to the Council pursuant to Paragraph 11(a) above, NMFS will evaluate the FMP amendment and implementing regulations pursuant to the standards and deadlines set forth in 16 U.S.C. §§ 1851 and 1854(a)-(b). If the Council transmits a proposed action other than an FMP amendment to NMFS, in accordance with the schedule that NMFS recommends to the Council pursuant to Paragraph 11(a) above, NMFS will review; approve, disapprove, or partially approve; and, if appropriate, implement such action pursuant to the standards and time-frames established by the Magnuson-Stevens Act and other applicable law.

c. If NMFS disapproves, in whole or in part, the EFH provisions of a proposed FMP amendment and/or proposed implementing regulations submitted to NMFS pursuant to Paragraph 11(b) above, or if the Council fails to comply with the schedule recommended by NMFS pursuant to Paragraph 11(a) above, NMFS will issue a written determination, stating either that NMFS will develop an FMP amendment and/or implementing regulations or other appropriate action, or that an FMP amendment and/or implementing regulations or other actions are no longer

necessary within the timeframe proposed. If NMFS disapproves, in whole or in part, an action other than an FMP amendment submitted to NMFS pursuant to Paragraph 11(b) above, or if the Council fails to comply with the schedule recommended by NMFS pursuant to Paragraph 11(a) above for such other action, NMFS will issue a written determination, stating either that NMFS will develop an appropriate action or that no action is necessary within the timeframe proposed.

d. Nothing in this Joint Stipulation and Order will limit the discretion of NMFS to decide to issue the EISs prepared pursuant to this Joint Stipulation and Order in combination with other FMP amendments. In the event that it decides to do so, NMFS will notify the Court and plaintiffs in writing within seven days after making such a decision. Further, NMFS will not exceed the EIS preparation schedule set forth in Paragraph 9 above and Attachment 1 hereto. Nothing in this sub-paragraph will be construed to limit plaintiffs' right to sue on any grounds, including NEPA, regardless of whether NMFS decides to integrate the EISs prepared pursuant to this Joint Stipulation and Order into an EIS already being prepared for an FMP amendment.

12. As to the New England Fishery Management Council, if NMFS determines in a ROD that action is necessary and that the applicable FMP will be amended so as to comply with the requirements of Section 303(a)(7) of the Magnuson-Stevens Act, NMFS will approve an FMP amendment and implementing regulations by no later than February 1, 2005, for the groundfish and the scallop fisheries, and by no later than September 10, 2005, for the herring, monkfish, and salmon fisheries, unless the Secretary subsequently determines that an FMP amendment and implementing regulations are no longer necessary. If NMFS determines that action other than an FMP amendment and implementing regulations is necessary, NMFS will approve that other action by no later than February 1, 2005, for the groundfish and the scallop fisheries, and by no later than September 10,

2005, for the herring, monkfish, and salmon fisheries, unless the Secretary subsequently determines that such other action is no longer necessary.

a. If the Council transmits a proposed FMP amendment and implementing regulations to NMFS in a timely manner that would allow NMFS to meet its schedule for approving an FMP amendment and implementing regulations by no later than February 1, 2005, for the groundfish and the scallop fisheries, and by no later than September 10, 2005, for the herring, monkfish, and salmon fisheries, NMFS will evaluate the FMP amendment and implementing regulations pursuant to the standards and deadlines set forth in 16 U.S.C. §§ 1851 and 1854(a)-(b). If the Council transmits a proposed action other than an FMP amendment to NMFS in a timely manner that would allow NMFS to meet its schedule for approving that other action by no later than February 1, 2005, for the groundfish and the scallop fisheries, and by no later than September 10, 2005, for the herring, monkfish, and salmon fisheries, NMFS will review; approve, disapprove, or partially approve; and, if appropriate, implement such action pursuant to the standards and time-frames established by the Magnuson-Stevens Act and other applicable law.

b. If NMFS disapproves, in whole or in part, the EFH provisions of a proposed FMP amendment and/or proposed implementing regulations submitted to NMFS pursuant to Paragraph 12(a) above, or if the Council fails to act in a timely manner that would allow NMFS to meet its schedule for approving an FMP amendment and implementing regulations by no later than February 1, 2005, for the groundfish and the scallop fisheries, and by no later than September 10, 2005, for the herring, monkfish, and salmon fisheries, NMFS will issue a written determination, stating either that NMFS will develop an FMP amendment and/or implementing regulations or other appropriate action, or that an FMP amendment and/or implementing regulations or other actions are

no longer necessary within the timeframe proposed. If NMFS disapproves, in whole or in part, an action other than an FMP amendment submitted to NMFS pursuant to Paragraph 12(a) above, or if the Council fails to act in a timely manner that would allow NMFS to meet its schedule for approving such other action by no later than February 1, 2005, for the groundfish and the scallop fisheries, and by no later than September 10, 2005, for the herring, monkfish, and salmon fisheries, NMFS will issue a written determination, stating either that NMFS will develop an appropriate action or that no action is necessary within the timeframe proposed.

### III. STATUS REPORTS AND NOTIFICATIONS

13. For each EFH Amendment that is the subject of the Joint Stipulation and Order, NMFS will provide notice to the Court and plaintiffs, as soon as possible, upon the occurrence of each of the events specified in Sections II.B. and II.C. of this Joint Stipulation and Order.

14. NMFS will send to plaintiffs, by regular, first-class United States mail only, ten copies of each of the following documents, on the date of their release to the public: the Draft EIS, the Final EIS, the ROD, the proposed FMP Amendment and implementing regulations (if any), and the Final FMP Amendment and implementing regulations (if any). NMFS may provide the documents to plaintiffs on CD-ROM in a mutually acceptable file format, instead of paper copies.

15. Every 90 days, NMFS will file a status report with the Court describing the work that has been done by NMFS and the Councils, and the milestones that have been achieved, in preparing the EISs and, if applicable, the FMP Amendments, that are the subject of this Joint Stipulation and Order. NMFS will file the first status report within 90 days of the date of the entry of this Joint Stipulation as an Order of the Court.

16. All written notices, status reports, and documents referenced in this Joint Stipulation



and Order will be served on counsel for the parties at the following addresses and, whenever appropriate, by facsimile, at the following facsimile numbers, unless otherwise provided herein:

For Plaintiffs:

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For Intervenor-Defendants:

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James P. Walsh  
Davis Wright Tremaine, L.L.P.  
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#### IV. GENERAL PROVISIONS

17. This Joint Stipulation will become effective upon the date of its entry as an Order of the Court. On that date, the injunction that is set forth in the Court's Memorandum Opinion and Order filed on September 14, 2000, and that prohibits federal defendants from enforcing the EFH Amendments is dissolved. Also, upon entry of this Joint Stipulation as an Order of the Court, plaintiffs will dismiss their appeal of the Court's summary judgment ruling on their Magnuson-Stevens Act claims.

18. The terms and provisions of this Joint Stipulation and Order will apply to and be binding upon the parties hereto.

19. If there is a dispute over compliance with any term or provision of this Joint Stipulation and Order, the disputing party will notify the other parties in writing of the dispute. The parties will attempt to work out the dispute informally before seeking judicial review by this Court.

20. The disputing party will engage the other parties in informal dispute resolution. During this informal dispute resolution period, which will not exceed 21 days (unless the parties agree to an extension of the period), the parties will meet as many times as both deem necessary to discuss and attempt to resolve the dispute.

21. If the parties are unable to resolve the dispute through informal dispute resolution, either party may file a motion asking that the Court enforce the relevant term(s) and provision(s) of the Joint Stipulation and Order.

22. Each party expressly reserves the right to move the Court for relief from the provisions of this Joint Stipulation and Order, pursuant to Rule 60 of the Federal Rules of Civil Procedure.

23. Plaintiffs expressly reserve the right to apply to the Court for litigation costs, including attorney fees and expenses. Federal defendants expressly reserve all rights and defenses regarding plaintiffs' application(s) for costs.

24. The Court will retain jurisdiction over this case for the purpose of enabling the parties to this Joint Stipulation and Order to apply to the Court for any further order that may be necessary to construe, carry out, or enforce the terms of this Joint Stipulation and Order.

25. Upon formal written request by plaintiffs, transmitted by facsimile and mail, NMFS will produce, within 45 days of the date on which the agency receives the written request by facsimile, any document that pertains to the EISs, RODs, and any applicable FMP amendments prepared pursuant to this Joint Stipulation and Order, that is not already in the possession of plaintiffs or that is not already readily available to plaintiffs, unless the requested document is deemed by federal defendants to be protected from disclosure by privilege and/or unless the parties have agreed to a separate production schedule, as provided in this paragraph below. Federal defendants expressly reserve the right to assert the applicable privilege(s) as to any document(s) requested by plaintiffs and, based on that assertion, withhold the document(s) from production. In the event that federal defendants withhold from disclosure a document or documents requested by plaintiffs based upon their assertion of privilege, federal defendants will inform plaintiffs of their action and explain the basis for their action, promptly and in writing. In the event that plaintiffs' request for production of documents and/or NMFS's response thereto is complex or voluminous, the parties will confer and, if appropriate, agree to a period longer than 45 days for NMFS to produce the requested documents.


26. No term or provision of this Joint Stipulation and Order will constitute or will be

construed as a commitment or a requirement that federal defendants obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, and any other applicable law or regulation.

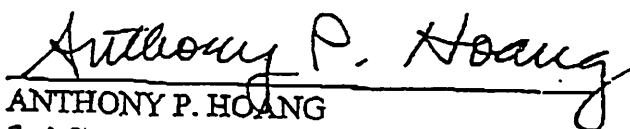
27. This Joint Stipulation and Order is the entire agreement between the parties in this case. All prior conversations, meetings, discussions, drafts, and writings of any kind are specifically superseded by this Joint Stipulation and Order. The terms of this Joint Stipulation and Order will not be changed, revised, or modified, except as provided (1) by a written instrument signed by the parties to this Joint Stipulation and Order and approved and entered by this Court as an Order; or (2) by an Order of the Court based on a party's motion for relief pursuant to Rule 60 of the Federal Rules of Civil Procedure, as set forth in Paragraph 22 above.

28. The undersigned representative(s) for each party certifies that he or she is fully authorized by the party or parties whom he or she represents to enter into the terms and conditions of this Joint Stipulation and Order and to bind such party or parties legally to it.

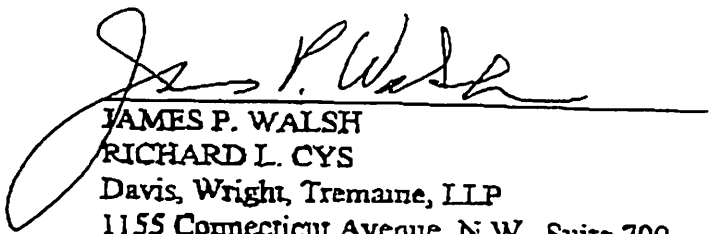
Respectfully submitted this 5<sup>th</sup> day of December, 2001,

  
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 MONICA B. GOLDBERG  
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Attorneys for Texas Shrimp Association and  
Wilma Anderson

**[PROPOSED] ORDER**

APPROVED and ENTERED as an Order of this Court, on this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
HON. GLADYS KESSLER  
United States District Judge

The following counsel should be notified of the entry of this Order:

Stephen E. Roady  
Eric Bilsky  
Monica B. Goldberg  
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**ATTACHMENT 1: SCHEDULE FOR EIS ENVIRONMENTAL IMPACT STATEMENTS**

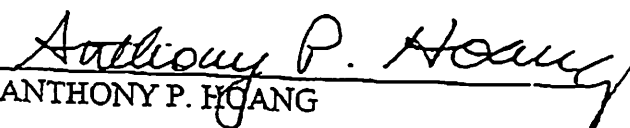
<u>Council / Fisheries</u>	<u>Notice of Intent to Prepare EIS Published in Federal Register</u>	<u>Scoping Period</u>	<u>Scoping Meetings</u>	<u>Draft EIS Published</u>	<u>Draft EIS Public Comment Period</u>	<u>Issuance of Final EIS</u>	<u>Issuance of Record of Decision</u>
NEFMC / groundfish	2/1/01	2/1/01 - 4/4/01	Gloucester 2/22/01	10/31/03	10/31/03 - 1/30/04	5/31/04	7/1/04
NEFMC / scallops	2/1/01	2/1/01 - 4/4/01	Gloucester 2/22/01	10/31/03	10/31/03 - 1/30/04	5/31/04	7/1/04
NEFMC / herring, monkfish, salmon	9/10/01	9/10/01 - 11/21/01	Gloucester 11/7/01	10/31/03	10/31/03 - 1/30/04	5/31/04	7/1/04
CFMC / all fisheries challenged in <u>AOC v. Daley</u>	3/19/01	3/19/01 - 4/18/01 and 6/4/01 - 6/27/01	St. John 6/12/01 St. Thomas 6/13/01 St. Croix 6/14/01 Hato Rey 6/18/01 Arecibo 6/19/01 Mayaguez 6/20/01 Ponce 6/21/01 Culebra 6/25/01 Vieques 6/26/01 Fajardo 6/27/01	12/30/02	12/30/02 - 3/31/03	9/30/03	10/30/03
GMFMC / all fisheries challenged in <u>AOC v. Daley</u>	3/19/01	3/19/01 - 4/18/01 and 6/8/01 - 6/30/01	Corpus Christi 6/14/01 Houston 6/15/01 Kenner 6/18/01 Biloxi 6/19/01 Panama City 6/21/01 Key West 6/25/01 Tampa 6/28/01	1/30/03	1/30/03 - 4/30/03	11/28/03	12/30/03
PFMC / groundfish	4/10/01	4/10/01 - 6/30/01	Newport 5/22/01 Astoria 5/23/01 Eureka 5/29/01 Los Alamitos 5/30/01 Seattle 6/5/01 Burlingame 6/12/01	8/8/03	8/8/03 - 11/10/03	4/2/04	5/3/04
NPFMC / all fisheries challenged in <u>AOC v. Daley</u>	6/6/01	6/6/01 - 7/21/01	Kodiak 6/4/01 Unalaska 6/8/01 Anchorage 6/11/01 Seattle 6/19/01 Juneau 6/20/01 Sitka 6/21/01	8/1/03	8/1/03 - 10/31/03	6/1/04	8/13/04

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing JOINT STIPULATION AND [PROPOSED] ORDER was served on December 5, 2001, by regular, first-class United States mail, postage pre-paid, on the following counsel:

Stephen E. Roady  
Eric Bilsky  
Monica B. Goldberg  
OCEANA, INC.  
2501 M Street, N.W., Suite 300  
Washington, D.C. 20037

Richard L. Cys  
James P. Walsh  
DAVIS WRIGHT TREMAINE, L.L.P.  
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Washington, D.C. 20036

  
ANTHONY P. HOANG



MAY 10 2002



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
1335 East-West Highway  
Silver Spring, MD 20910  
THE DIRECTOR

Chris W. Oliver, Executive Director  
North Pacific Fishery Management Council  
605 West Fourth Ave., Ste. 306  
Anchorage, AK 99501-2252

RECEIVED

MAY 20 2002

N.P.F.M.C.

Dear Mr. <sup>Chris</sup> Oliver:

The Estuary Habitat Restoration Council is currently finalizing the *Draft Estuary Habitat Restoration Strategy*, a document that the Council was required to develop under the Estuary Restoration Act of 2000. The purpose of this strategy is to maximize benefits derived from estuary habitat restoration projects and to improve coordination among Federal and non-Federal restoration activities. The explicit goal is to restore 1,000,000 acres of estuary habitat by 2010.

The strategy, which addresses implementation of the Act and pathways for moving toward this restoration goal, was published in the *Federal Register* on May 3, 2002, beginning a 45 day comment period. The National Oceanic and Atmospheric Administration (NOAA) encourages you to review the draft strategy and provide comments.

I have included a fact sheet that summarizes the Estuary Restoration Act of 2000. If you have questions, please contact Becky Allee, Deputy Chief of NOAA's Restoration Center, at 301-713-0174.

Sincerely,

*Bill*

William T. Hogarth, Ph.D.  
Assistant Administrator  
for Fisheries

Enclosure

THE ASSISTANT ADMINISTRATOR  
FOR FISHERIES



Secretary of the Army is requested to review the report of the Chief of Engineers on the Shore of New Jersey from Sandy Hook to Barnegat Inlet, published as House Document, 332, 85th Congress, 2nd Session, the Report of Limited Reconnaissance Study on the entire Shore of New Jersey, dated September 1990, and other pertinent reports, with a view to determining whether any modifications of the recommendations contained herein are advisable at the present time, in the interest of water resources development, environmental restoration, and other applied purposes.

1. Public scoping meetings are scheduled for June 13, 2002 from 2 p.m. to 5 p.m. and from 7 p.m. to 9 p.m. The meetings will be held in Monmouth County at the Sea Bright Borough Hall gymnasium. Results from the public scoping meetings with the District, Federal, state, and local agency will be addressed in the DEIS. Parties interested in receiving notices of public scoping meetings or copies of the Scoping Document should contact Ms. Alvarez at the above address.

2. Federal agencies interested in participating as a Cooperating Agency are requested to submit a letter of intent to COL. John B. O'Dowd, District Engineer, at the above address.

3. Estimated date of DEIS availability: July 19, 2005.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02-11068 Filed 5-2-02; 8:45 am]

BILLING CODE 3710-06-M

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### Request for Comments on the Draft Estuary Habitat Restoration Strategy Prepared by the Estuary Habitat Restoration Council

AGENCY: Department of the Army, Army Corps of Engineers, DoD.

ACTION: Notice; request for comments.

SUMMARY: The Corps of Engineers on behalf of the interagency Estuary Habitat Restoration Council is soliciting comments on the draft "Estuary Habitat Restoration Strategy."

DATES: Submit comments on or before June 17, 2002.

ADDRESSES: Send comments to Estuary Habitat Restoration Strategy, U.S. Army Corps of Engineers, Institute for Water Resources, 7701 Telegraph Road, Casey Building, Alexandria, Virginia, 22315-

3868. See SUPPLEMENTARY INFORMATION section for electronic filing address.

FOR FURTHER ASSISTANCE CONTACT: Ms. Ellen Cummings, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314-1000, (202) 761-4558; or Ms. Cynthia Garman-Squier, Office of the Assistant Secretary of the Army (Civil Works), Washington, DC, (703) 695-6791.

SUPPLEMENTARY INFORMATION: The Estuary Restoration Act of 2000, Title I of Public Law 106-457 has four purposes: (1) Promotion of estuary habitat restoration; (2) development of a national strategy for creating and maintaining effective estuary habitat restoration partnerships; (3) provision of Federal assistance for estuary habitat restoration projects; and (4) development and enhancement of monitoring and research capabilities to ensure that estuary habitat restoration efforts are based on sound scientific understanding and innovative technologies. The Act authorizes an estuary habitat restoration program for implementation of Federal assistance through cost-shared estuary habitat restoration projects. The Act authorizes funds to be appropriated to Army for this program. Funds were also authorized for the National Oceanic and Atmospheric Administration to establish a database of restoration project information and to develop monitoring data standards. The Estuary Habitat Restoration Council consisting of representatives from Department of the Army, National Oceanic and Atmospheric Administration, the Environmental Protection Agency, United States Fish and Wildlife Service, and the Department of Agriculture was established to oversee these activities.

The Council is charged to develop an estuary habitat restoration strategy designed to ensure a comprehensive approach to maximize benefits and foster coordination of Federal and non-Federal activities. The goal of the strategy is restoration of 1,000,000 acres of estuary habitat by the year 2010. Elements of the draft strategy are discussed in section 106(d) of the Act. The intent of this notice is to obtain comments on the draft strategy prepared by the Estuary Habitat Restoration Council in accordance with these requirements.

While the authorized estuary habitat restoration program is discussed in this draft strategy, the implementation process for solicitation and review of project proposals and evaluation criteria will be the subject of a separate notice at a later date. The strategy is also not intended to be the forum for a detailed

discussion of the monitoring data standards, but does include a discussion of the need for monitoring.

The Council is looking for comments on the entire strategy, including any omissions. The following questions have been developed to indicate areas where additional discussion may be beneficial. However, these questions are not intended to limit the nature and content of the comments you may wish to provide.

*a. Introduction, Paragraph 3*—Calls for supporting restoration activities that create self-sustaining systems integrated into the surrounding landscapes. What criteria should the Council use in evaluating whether a project is "self-sustaining"?

*b. Introduction, Paragraph 5*—Interprets the definition of "estuary" that is set forth in the Act. Is the definition of "estuary" contained in this paragraph consistent with how you would define estuary? If not, why not? What definition would you propose using, consistent with the intent of the Act? Should the Council provide more guidance on defining the boundaries of an estuary? If so, what would you propose?

*c. Introduction, Paragraph 6*—For measuring progress toward the one million acre goal, "restored area" is considered to be the area where monitoring can document restored function. Is this a realistic measurement of progress? What other means would you suggest be used to measure progress toward the goal and why?

*d. Trends of Estuary Habitats, Paragraph 3*—States that the Council will develop a habitat classification system based on Cowardin et al. to address habitat trends as required in the Act. The Federal Geographic Data Committee has adopted Cowardin as the Federal standard for wetland mapping, monitoring and data reporting. Does Cowardin address all components of estuary habitat for which status and trends data should be developed and for which monitoring data should be tracked? If not, what components are missing? What classification systems are currently being used by States and others who track status and trends information?

*e. Trends of Estuary Habitats, Paragraph 6*—Directs the Council, within two years, to review estuary habitat trends data and identify data gaps. What information should be included in the Council's review of trends data? What are the most significant gaps in habitat trends data, either geographically or in terms of habitat types, which should be addressed by the Council?

*f. Trends of Estuary Habitats, Paragraph 6*—States that trends data collected by the Council will be used to establish restoration priorities. Should the Council use trends data to establish national and regional restoration priorities? If yes, how should the data be used and which types of information are most critical? If no, how should national and regional priorities be identified?

*g. Trends of Estuary Habitats, Paragraph 7*—Encourages organizations preparing or updating estuary management and restoration plans to incorporate available trends data and use it to plan priorities. Are there good examples of trends data collection by local or regional groups?

*h. Estuary Management or Habitat Restoration Plans, Paragraphs 2–5*—Describes seven elements that are typically found in effective estuary habitat restoration plans. Should there be other minimum requirements used to identify effective restoration plans? If so, what do you think they are?

*i. Ecosystem Level Approach, Paragraph 5*—Directs the Council in its review of project proposals to support projects developed in an ecosystem context with multiple benefits. What do you believe would indicate that an ecosystem approach has been used in project planning?

*j. Partnerships, Paragraph 3*—Calls for collaboration among government and non-government entities involved in habitat restoration. How can collaboration among agencies, private organizations and individuals be improved to ensure that all interested parties are involved and in a position to contribute to the restoration effort?

*k. Partnerships, Paragraph 4*—Encourages the use of awards to encourage restoration partnerships and the involvement of volunteers. Would a national process be beneficial for granting awards or should the process be developed locally by project partners? Should such a process be run by a Federal agency?

*l. Partnerships, Paragraph 7*—Encourages Council members and private partners to use web sites to provide the public with information on funding for estuary restoration projects. Should a Federal agency develop a national Web site that would act as a clearinghouse to other Web sites?

*m. Habitat Restoration Program, Paragraph 2*—Describes habitat restoration activities that are eligible for funding under the Act. Are the categories of included activities (1) sufficient to achieve the Act's goal of restoring one 4 million acres of estuary habitat by 2010 and (2) inclusive of all critical restoration activities that are not

specifically excluded by the Act? If not, which additional activities should be considered?

*n. Habitat Restoration Program, Paragraph 4*—The Council and the Secretary may consider additional factors, other than those set forth in the Act, for project evaluation, ranking, and selection. What additional factors should the Secretary and the Council consider?

*o. Habitat Restoration Program, Paragraph 6*—Defines a small project as generally one with a Federal cost of \$250,000 or less and that manipulates 50 acres or less. Is this definition adequate for balancing small and large projects in the program?

*p. Ensuring Success, Paragraph 5*—Encourages local, State and regional groups to monitor on an estuary or regional scale. How can restoration success be documented over estuary or regional scales (especially considering funding constraints and the level of effort that might be required)?

*q. Ensuring Success, Paragraph 7*—Directs NOAA to establish standard data formats for project monitoring and to maintain a database on restoration projects. What existing monitoring standards and guidance are available that should be considered in developing monitoring requirements under the Act? What existing restoration 5 project databases already exist that could serve as a model for the database to be created for the Estuary Restoration Act?

*Electronic Filing Address.* You may submit comments by e-mail to: [estuary@usace.army.mil](mailto:estuary@usace.army.mil). Comments should be in one of the following formats: Word, WordPerfect, or ASCII. The subject line for submission of comments should begin with "Estuary Habitat Restoration Strategy comments from [insert name of agency, organization, or individual]."

## Draft Estuary Habitat Restoration Strategy

### Introduction

This draft Estuary Habitat Restoration Strategy (Strategy) has been developed in accordance with the requirements of the Estuary Restoration Act of 2000, Title I of Public Law 106–457 (the Act). The purpose of the Strategy is to ensure a comprehensive approach to maximize benefits derived from estuary habitat restoration projects, provide incentives for the creation of new partnerships between the public and private sectors, and foster coordination of Federal and non-Federal activities related to restoration of estuary habitat. The Act also provides Federal assistance, promotes efficient financing of

technically sound and cost-effective estuary habitat restoration projects, and encourages the use of innovative technologies.

Congress enacted the Estuary Restoration Act to establish a collaborative process for addressing the pressures facing our Nation's estuaries. As part of the Act, an inter-agency Estuary Habitat Restoration Council (Council) was established to develop and submit the Strategy to Congress, solicit, review, and evaluate project proposals, and recommend projects to the Secretary of the Army. Much of the Council's work will involve soliciting and funding on-the-ground habitat restoration projects. The Strategy, however, is broader than site-specific restoration. It encourages coordinating, integrating, and capitalizing upon the broad spectrum of ongoing estuary restoration efforts throughout the country. Its goal is to bring together the collective expertise, technical, and financial resources of the Federal community, the practical experience of State, local and nongovernmental groups, and the vision of the corporate world to restore the integrity of our Nation's estuarine systems. The Federal investment will be used to leverage the financial and technical contribution of non-Federal partners, providing sound ecological and economic returns.

The Strategy calls for *restoration activities* that improve degraded estuaries or estuary habitat, or those that create estuary habitat with the goal of attaining a self-sustaining system integrated into the surrounding landscape. Restoration projects must improve or reestablish function to degraded or destroyed habitats, and be located to recapture regional ecological integrity. Successful restoration will protect native fish and wildlife in estuaries and their watersheds, while providing multiple additional benefits such as improved surface and ground water quality and quantity, flood control, outdoor recreation, and other services, valued by local stakeholders and consistent with the re-establishment and maintenance of healthy ecosystems.

The goal of the Strategy is to restore one million acres of estuary habitat by 2010. The Council will organize and support a task force to recommend methods for tracking progress toward the million-acre goal, including defining a baseline timeframe for comparison. The task force will consider regional and local perspectives on quantifying project successes. Subsequently, the Council will produce periodic reports on progress toward meeting the Strategy's million-acre goal, as well as other habitat trends.

The Act defines *estuary* as "a part of a river or stream or other body of water that has an unimpaired connection with the open sea and where the sea water is measurably diluted with fresh water from land drainage." Estuary also includes the " \* \* \* near coastal waters and wetlands of the Great Lakes that are similar in form and function to estuaries. \* \* \*" For the purposes of this Strategy, estuary is considered to extend from the head of tide to the boundary with the open sea (to downstream terminus features or structures such as barrier islands, reefs, sand bars, mud flats, or headlands in close proximity to the connection with the open sea). In the Great Lakes, riparian and nearshore areas will be considered to be estuaries. Estuary habitat includes the estuary and its associated ecosystems, such as: salt, brackish, and fresh water coastal marshes, coastal forested wetlands and other coastal wetlands, maritime forests, coastal grasslands, tidal flats, natural shoreline areas, shellfish beds, sea grass meadows, kelp beds, river deltas, and river and stream corridors under tidal influence.

Some restoration projects can easily measure success in terms of acreage (for example, projects that plant vegetation), but many cannot (for example, projects that alter hydrology). By manipulating a relatively small area, the function of a much larger habitat area can be improved. For the purposes of this Strategy, therefore, the restored area will be defined as that area over which appropriate monitoring can document restored function.

The Estuary Habitat Restoration Council developed this Strategy building on work done by Council member agencies, environmental professionals, and private conservation organizations, including Restore America's Estuaries (RAE). In consultation with restoration professionals, scientists, academics, and nonprofit organizations, RAE has developed *A National Strategy for Coastal and Estuarine Habitat Restoration*. The document provides a framework for restoring function to estuarine and coastal habitats, which can aid in focusing restoration efforts to reach this Strategy's million-acre goal.

This Strategy is dynamic. It will evolve over time according to information collected through monitoring and research programs and feedback from restoration practitioners, scientists, and public agencies and private organizations. Reaching the one million acre goal will require further close coordination among the Federal partners, and state, local and private

partners as habitat priorities, project efficiencies, and funding sources are identified.

*Trends of Estuarine Habitats (This section covers 106(d)(4) and (5))*

Section 106(d) of the Estuaries and Clean Water Act of 2000 requires that the National Strategy include guidance on addressing trends of estuarine habitats. For each estuarine habitat type, the Strategy addresses historic losses, estimated current rate of loss, the extent of the threat of future loss or degradation, and a measurement of the rate of change.

Understanding trends as well as the structure, function and extent of various estuary habitats is key to an effective and efficient restoration program. Trends data provide a chronological and geographic picture of change in habitat types, thereby helping managers to recognize ecological stability or stress. They help to identify existing or potential habitat threats so that early action can be taken to avoid or rectify them. This information can be used to establish a baseline from which to quantify restoration success. By identifying both healthy and impaired ecosystems, trends information can help managers to target habitat restoration efforts in a cost-effective manner. For these reasons this Strategy will promote the development and use of trends data in designing restoration programs for estuary habitats.

Council member agencies use different terminology to describe estuarine habitat. The Council will use a classification system based on Cowardin *et al.* (1979). The Cowardin classification system is the national standard for wetland mapping, monitoring and data reporting as determined by the Federal Geographic Data Committee (<http://www.fgdc.gov/>). Examples of the relevant classes are: *estuarine subtidal*, including open water, bay bottoms, and reefs; *estuarine intertidal emergents*, such as salt marsh; *estuarine intertidal forested/shrub*, such as mangroves; *estuarine intertidal unconsolidated shore*, such as beaches, bars and mudflats; and *estuarine aquatic bed*, such as submerged or floating estuarine vegetation. Freshwater habitat categories to be included because they are estuarine-associated ecosystems or are found in the Great Lakes include: *palustrine forested wetlands*, such as forest swamps or riparian zones; *palustrine shrub wetlands*; and *palustrine emergents*, including inland marshes and wet meadows.

For purposes of this Strategy, estuary habitats will include the complex of

physical and hydrologic features and living organisms within estuaries and their associated ecosystems, including salt and fresh water coastal marshes, coastal forested wetlands and other coastal wetlands, maritime forests, coastal grasslands, tidal flats, natural shoreline areas, shellfish beds, sea grass meadows, kelp bed, river deltas, and river and stream banks under tidal influence.

There are several studies that document estuary habitat trends on both a national and regional basis. For instance, Dahl (2000) summarized the status and trends of wetlands in the conterminous United States from 1986–1997. Three categories of estuarine and marine wetlands were included and together these comprise about five percent (5.3 million acres) of the total wetland acreage in the conterminous United States. During the study period, a net loss of 10,400 acres of estuarine and marine wetlands occurred. Filling or draining for urban and rural development accounted for 43 percent of estuarine and marine wetland losses, while saltwater intrusion accounted for an additional 12 percent of the loss.

Within two years, the Council will review information available for estuary habitats concerning historic losses, current rates of loss, the extent of the threat of future loss or degradation, and measures of the rate of change, and identify gaps in trends information that can be addressed by the Council members and/or its partners. Data collected will be used to identify regional and national restoration priorities based on this information.

Organizations and agencies preparing or updating estuary management or restoration plans should incorporate available information on estuary trends in their documents and consider this data when establishing project priorities. Among the sources of information to consult are historic maps and navigation charts, State and local agencies, available aerial photography and other remote sensing data, Federal agencies, such as the members of the Estuary Habitat Restoration Council and the United States Geological Survey, reports on Federal projects in estuaries, and universities conducting research in local estuaries.

It is also important to collect information relating to the causes of change in estuary habitat types, distribution, and quantity. This will help in defining the types of projects that may be needed, setting realistic goals, and influencing the design. For example, if the primary limiting factor is water quality and the source of the problem is upstream, success of any

estuary restoration project might be limited until the upstream problem is resolved.

Project proposals submitted to the Council for potential funding should contain information related to the trends for estuary habitat types in the project area and explain how this information was considered when developing the project proposal. The Council will give priority to projects that clearly address historic losses in areas where steps are being taken to address the causes of degradation and where there is a reasonable likelihood of success in the foreseeable future.

*Estuary Management or Habitat Restoration Plans [This section covers 106(d)(2)]*

This Strategy will be implemented in a manner consistent with estuary management or habitat restoration plans. An *estuary habitat restoration plan* is defined in the Act as “\* \* \* any Federal or State plan for restoration of degraded estuary habitat that was developed with the substantial participation of appropriate public and private stakeholders.” Included are the estuary habitat restoration components of comprehensive conservation and management plans approved under section 320 of the Federal Water Pollution Control Act (FWPCA), lake wide management plans or remedial action plans developed under section 118 of the FWPCA, management plans approved under the Coastal Zone Management Act of 1972, and the interstate management plan developed pursuant to the Chesapeake Bay program under section 117 of the FWPCA.

Effective estuary habitat restoration plans typically contain common elements such as focusing on the watershed as the basic management unit, integrating good science with sound decision-making, and emphasizing collaborative problem solving. Also essential is public and private stakeholder participation. This is crucial to the final success of any plan, because those individuals and private interests affected by measures to maintain and restore the estuary are ultimately responsible for implementing the plan. Providing them the opportunity to design and contribute during early planning stages promotes “buy-in” when the time comes to undertake restoration actions and activities.

Another component of successful restoration plans is clearly identifying a central goal or set of goals and describing means for measuring progress toward achieving these goals.

Performance measures may be as simple as the number of acres of habitat directly restored or protected. Many federally approved estuary management and restoration plans track major milestones or other implementation activities to ensure progress is occurring, or if it is not, to identify what necessary steps to take to move forward.

Successful plans also include trend assessment, which is critical to watershed characterization, such as loss of historic estuarine habitat, land use, development, recreation, and fisheries pressures. This information is necessary to identify problems facing a given estuarine watershed and to select those actions necessary to return it to the desired state. Status and trend information can help to assess the condition of the highest priority resources and can forecast future conditions should current trends continue. It can also highlight data gaps.

Finally, plans should identify management and restoration priorities. Identifying regional or estuary-level restoration priorities will help projects address the most critical habitat needs. The Council will give priority to those projects that have the best potential to restore critical habitat functions successfully. Improved planning will also allow benefits to be accrued over a larger scale, enhancing the overall effectiveness of restoration efforts.

In accordance with the Act, every project considered for funding under this authority must address restoration needs identified in an estuary habitat restoration plan. Additionally, one of the factors for the Secretary of the Army (Secretary) to consider when selecting a project to fund is whether the project is part of an approved Federal estuary management or habitat restoration plan. This selection criterion will help ensure that the Strategy is implemented in a manner consistent with such plans.

Agency staff supporting the Council participated in and reviewed the results of a recent effort supported by the National Oceanic and Atmospheric Administration (NOAA) and led by Restore America's Estuaries (RAE), a nongovernmental organization, to review existing estuary restoration plans. Plans reviewed included those developed for Federal programs such as the National Estuary Program (Comprehensive Conservation and Management Plans), State Coastal Zone Management Plans, and other State plans and watershed or estuary plans, such as the Puget Sound Water Quality Management Plan and Ecoregional Plans developed by The Nature Conservancy. Review of these plans revealed that the level and sophistication of planning for

estuarine and coastal habitat restoration varies significantly among the regions and watersheds of the United States. In some coastal areas, only broad, coastal management planning has been completed, while in other areas sophisticated planning efforts with strong community and stakeholder participation have determined specific habitat restoration goals and priorities.

By working with State and local agencies and nongovernmental organizations, the Council will help to identify gaps in planning, and encourage sharing of information and other collaborative efforts to improve restoration plans. The Council will also seek to promote coordination of planning activities associated with other State and Federal programs. For example, the Council will encourage regional planning workshops, bringing together resource managers, scientists, and other stakeholders to establish restoration goals and priorities. The Council could also identify and recommend the use of successful planning frameworks such as those developed by the National Estuary Program and other examples.

*Ecosystem Level Approach [This section covers 106(d)(3)]*

This Strategy recognizes that successful estuary restoration projects with multiple goals will improve ecosystem function. Restoration projects should be designed using an ecosystem or watershed approach to re-establish a self-sustaining area that provides the structure and function necessary to support the many interrelated physical, biological, and chemical components of healthy estuary habitats. An ecosystem or watershed approach will facilitate the development of projects with multiple benefits. Examining how actions fit into the surrounding area and considering economic, recreational, water quality, land use, and other parameters is necessary to achieve restoration goals. Estuarine habitats are a web of interrelated components, each supporting and depending on the other for healthy function.

Estuary restoration projects that include physical and functional restoration should provide healthy ecosystems to support wildlife, including endangered and threatened species, migratory birds, and resident species of an estuary watershed, as well as fish and shellfish, including commercial and recreational fisheries.

Restoration of healthy ecosystem function can provide improved water quality and flood control benefits. For example, healthy and intact tidal wetlands filter water flowing from rivers

and tributaries to the ocean, remove pollutants from runoff and trap and assimilate nutrients. Estuarine wetlands also have the capacity to store floodwater and can provide a critical physical buffer between land and water, protecting communities from flooding and storm surge.

Healthy estuaries also provide multiple opportunities for outdoor recreation, such as recreational fishing, boating, birding, and a variety of water sports. The recreation industry dependent on healthy estuaries provides significant income to coastal regions. Restoration projects completed under this Strategy may incorporate recreational features that are compatible with the primary goal of restoring healthy habitat function.

In its review of project proposals, the Council will support projects developed in an ecosystem context with multiple benefits. The Council will work with others to share examples of particularly effective projects that exemplify this process.

*Partnerships [This section covers 106(d)(1)]*

To achieve the goal of restoring one million acres of estuary habitat, it will be important to involve individuals and organizations from both the public and private sectors. Enhancing partnerships among agencies and establishing new public-private partnerships is a central theme of the Act and a critical part of this Strategy.

In order to meet the goals of the Act, the Council will improve coordination among existing restoration programs by reviewing and discussing programs administered by agencies represented on the Council, and developing shared goals and objectives for habitat restoration. Although agencies may differ in their implementation strategies, developing common goals will facilitate coordination. The Council will also coordinate with State habitat restoration programs to improve the effectiveness of restoration efforts.

In order to maximize public-private partnerships, the Council encourages collaboration among public agencies, private organizations, companies, and individuals (e.g., private landowners, hunters, birders, fishermen, etc.) in restoration efforts. This connectivity encourages private organizations, companies, landowners and others to bring their resources (financial or in-kind) to the table to assist in planning and implementing successful restoration projects. There are several existing programs that provide models for successful partnerships, including the Coastal America Corporate Wetlands

Restoration Partnership, a voluntary public-private partnership in which corporations join with Federal and State agencies to restore wetlands and other aquatic habitats.

Private support can range from providing materials or funding to the use of volunteers for hands-on restoration or monitoring. One way to encourage resourceful, active partnerships, and especially to acknowledge the efforts of volunteers, is to establish annual awards recognizing successful restoration efforts. These awards may be given to a wide variety of groups, including nongovernmental organizations, individuals, businesses, and local, State and Federal agencies to reward efforts at all levels.

Private partnerships may also be critical for those projects involving demonstration or pilot testing of an innovative technology. The estuary habitat restoration program established in the Act requires a non-Federal interest to provide a minimum of 35 percent of the costs of a restoration project. However, when innovative technology is involved, the percentage required to be contributed by the non-Federal interest shall be reduced to 15 percent for the incremental cost of using the new technology. The Council will consider technology "innovative" if it involves a new process, technique, or material or uses existing processes, techniques, or materials in a new application.

The non-Federal interests must provide all of the lands, easements, rights-of-way and relocations. The non-Federal interest is also responsible for all costs associated with operation, maintenance, replacement, repair and rehabilitation of the project, including monitoring. This presents many opportunities for the involvement of a broad array of individuals and organizations to participate in the restoration effort.

To expand the base of support for restoration, the Council will encourage member Agencies and private partners to maintain and expand existing web sites that provide information on both public and private sources of funding for estuary projects. Web sites should include links to other web sites that emphasize accomplishments of completed restoration projects. Effective implementation of any restoration plan requires a well-developed funding strategy that identifies governmental, nonprofit, and private resources to provide support both in the near and long term.

The Council will work with other Federal, State and local agencies, nongovernmental organizations and

private parties to identify and publicize funding sources, and will also identify examples of effective partnerships that have implemented estuary restoration projects. For example, the U.S. Environmental Protection Agency has established the Environmental Finance Program to assist communities in their search for creative approaches to funding their environmental projects. Environmental finance centers at universities provide publications, analyses of financing alternatives, training, and technical assistance, including workshops for local governments that discuss watershed-financing alternatives. In 2001, the National Estuary Program sponsored workshops on funding solutions for estuary programs and comprehensive conservation management plan implementation. The National Fish and Wildlife Foundation and the Coastal America Corporate Wetlands Restoration Partnership (<http://www.coastalamerica.gov/text/cwrp>) are other examples of the resources available to help non-Federal interests obtain support for estuary projects.

*Habitat Restoration Program [This section covers 106(d)(6) and (7)]*

The Act establishes "an estuary habitat restoration program under which the Secretary may carry out estuary habitat restoration projects and provide technical assistance in accordance with the requirements of this title." This is one means for achieving the one million acre goal of the Strategy. The statute includes requirements for non-Federal origination of projects, selection criteria, cost-sharing, operation and maintenance, authority for nongovernmental agencies to be sponsors, a requirement for a written agreement between the non-Federal sponsor and the Secretary, and potential delegation of project implementation.

The Act defines the term *estuary habitat restoration activity* to mean "an activity that results in improving degraded estuaries or estuary habitat or creating estuary habitat (including both physical and functional restoration), with the goal of attaining a self-sustaining system integrated into the surrounding landscape." Projects funded under this program will be consistent with this definition. Eligible habitat restoration activities include re-establishment of chemical, physical, hydrologic, and biological features and components associated with an estuary. This may entail improvement of estuarine wetland tidal exchange or reestablishment of historic hydrology, providing fish passage, establishment of riparian buffer zones, construction of



reefs to promote fish and shellfish production, reintroduction of native species, and control of nonnative or invasive species. Cleanup of pollution for the benefit of estuary habitat may be considered, as long as it does not meet the definition of excluded activities in the Act. Excluded activities are those required for mitigation of adverse effects of a regulated activity or that constitutes restoration for natural resource damages.

Section 104(c) of the Act contains four required elements and seven listed selection factors to be considered by the Secretary of the Army when determining which projects to fund. Projects must address restoration needs identified in an estuary plan, be consistent with this Strategy, include a monitoring plan, and include satisfactory assurance that the non-Federal interest has adequate authority and resources. The listed selection factors are: inclusion in an approved Federal plan, technical feasibility, scientific merit, encouragement of increased cooperation among government agencies at all levels, fostering of public-private partnerships, cost effectiveness, and whether the State has a dedicated source of funding for acquisition or restoration of estuary habitat. If a project merits selection based on the above criteria, then priority consideration will be given to a project if it: (a) Occurs within a watershed where there is a program being implemented that addresses sources of pollution and other activities that otherwise would adversely affect the restored habitat water quality in the watershed; or (b) includes an innovative technology having the potential for improved cost-effectiveness.

The Council will consider the factors discussed above during its review and ranking of proposals for the Secretary's consideration. Additional criteria may also be developed by the Council to facilitate review and these will be included in the program guidance. The list of recommended projects will be provided in priority order. The Secretary may consider other factors when selecting projects to fund from the list provided by the Council.

In addition to considering the selection and priority factors in sections 104(c)(3) and (4), the Secretary will also select a balance of smaller and larger estuary habitat projects and ensure an equitable geographic distribution of the funded projects. The Council recognizes that the scope of a project is not always directly proportional to the cost and that projects are sometimes difficult to characterize adequately in terms of acreage to be restored. For purposes of

selecting a balance of smaller and larger estuary habitat restoration projects, the Council will use a combination of cost and acreage to be manipulated as criteria to define small projects. In general, a small project would be one with a Federal cost of \$250,000 or less and that manipulates 50 acres or less. The Council will discuss and classify projects that cannot be easily characterized as "small" because of conflicts between cost and acreage factors. The availability of funding, project costs, and the nature of the proposals will affect the ability to assure equitable geographic distribution of projects funded by this program. In any one year, the Council may recommend funding more projects in one region than another but will consider the number, scope and cost of funded projects in a region when making subsequent funding decisions.

The goal will be to select those projects of highest national priority while assuring that all regions of the country benefit from the program. The Council will explore various means for defining national priorities and consider those priorities in project selection.

#### *Ensuring Success*

The Act stipulates that monitoring is essential for evaluating and documenting our progress toward reaching the goal of restoring one million acres of estuary habitat. By closely tracking progress at the project level, we can determine whether individual projects contribute to meeting the goals of estuary and regional restoration plans, and tally habitat acreage restored over a national scale. In addition to monitoring at the project level, ecosystem-level monitoring may also be needed to judge restoration success. Monitoring information will allow restoration planners and practitioners to modify their efforts according to on-the-ground results, and can build long-term public support for habitat protection and restoration efforts.

Because monitoring is essential to both documenting success and adapting project and program approaches, it should be a central concern of those designing a restoration project or regional restoration plan. For each habitat type to be restored, the monitoring plan should define the desired structure and functions in the context of project goals, and identify attributes indicating those functions. Quantitative performance standards for projects should include functional and structural elements and be linked to appropriate, local reference habitats that represent "target conditions." It may

also be useful to compare the project site to degraded, non-restored "control" sites to better document project-induced improvements in habitat condition.

Ideally, restoration goals should be quantitative, as well as spatially and temporally specific. Project goals should also be measurable and realistic. A realistic goal should consider causes of past decline of the habitat proposed for restoration and surrounding land cover and ecosystem conditions. Monitoring data should be used to guide project operations and maintenance.

Specific project goals will determine the appropriate complexity of each monitoring plan. The project must include monitoring on a regular basis and over a meaningful time period. The length of the ideal monitoring program will vary depending on the habitat type and project goals for restoring function, but should always include pre-construction measurements to establish baseline conditions, monitoring during project construction to determine whether to adjust techniques or goals, and post-construction monitoring to confirm success of the restoration and alert project managers to the need for adjustments. Project monitoring should document any changes to the original construction specifications, including what problems were encountered, the reasoning behind any changes, and any changes the project staff would recommend with the knowledge they now possess. Information on changes from baseline conditions and comparison to reference or control sites should be included as well.

Beyond monitoring individual restoration projects, local, State or regional groups should also conduct monitoring over the estuary or regional scale to allow a more complete evaluation of restoration successes. System-wide monitoring of water quality and other habitat parameters can gauge ecosystem improvements beyond those achieved at project sites. Additionally, remote sensing may be useful in documenting both baseline habitat information and large-scale changes in habitat coverage and conditions.

The restoration and maintenance of healthy coasts and estuaries will require the long-term support of a broad cross-section of the public. Including local communities in planning and implementing restoration projects will build interest in protecting and maintaining restored habitat. Increased awareness of the attributes needed to sustain healthy habitat will increase local stewardship of the environment and will help to ensure the long-term success of restoration projects.

The National Oceanic and Atmospheric Administration (NOAA), in consultation with the Council, will develop standard data formats for project monitoring, along with requirements for types of data collected and frequency of monitoring. These standards will build on existing inter-agency efforts to develop monitoring protocols and restoration databases. These standards are not intended to limit the types of information gathered by project managers, but rather to ensure that data will be useful to other parties, and to facilitate regional and national tracking of restoration success. Consistent data collection and reporting standards should clarify results, make selection and justification of restoration methods more straightforward, ensure that success is documented based on sufficient data, enhance the restoration knowledge base, and increase the comparability of data among restoration projects.

In addition to developing monitoring data standards, NOAA will also maintain a database of information concerning estuary habitat restoration projects carried out under the Act, including information on project techniques, project completion, monitoring data, and other relevant information. This database will be Internet-accessible, to allow widespread dissemination and use of restoration project and monitoring data.

#### Conclusions

The actions described in this Strategy facilitate reaching the goal of restoring one million acres of estuary habitat by 2010. There are many existing programs and organizations actively involved in estuary restoration whose efforts will also contribute significantly to estuary restoration. Examples include the National Estuary Program, the National Estuarine Research Reserve System, Restore America's Estuaries member organizations, and the program implementing the Coastal Wetlands Planning, Protection, and Restoration Act.

The Strategy is intended to be dynamic. Working with the organizations listed above and other interested stakeholders, the Council will review and refine this Strategy over time in an iterative process, as new information becomes available and progress toward meeting the goals of the Act is evaluated. Section 108(a) of the Act requires the Secretary to report to Congress at the end of the third and fifth fiscal years. As part of this process the Council will review the Strategy and update as necessary.

The Council will prepare additional documents and make them available for public comment regarding habitat restoration program implementation and the development of the monitoring standards. As indicated in this Strategy, the Council will promote a variety of efforts to facilitate promotion of partnerships and efficient, effective restoration of estuary habitats.

#### References

Cowardin, L.M. V. Carter, F.C. Golet, and E.T. LaRoe. 1979. "Classification of wetlands and deepwater habitats of the United States." U.S. Fish and Wildlife Service. Biological Services Program; FWS/OBS-79/31. 131 pp.

Dahl, T.C. 2000. "Status and trends of wetlands in the contiguous United States, 1986-1997." US Department of the Interior. Fish and Wildlife Service. Washington, DC.

Luz D. Ortiz,

*Army Federal Register Liaison Officer.*

[FR Doc. 02-11074 Filed 5-2-02; 8:45 am]

BILLING CODE 3710-92-P

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## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 3, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the

requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: April 29, 2002.

John Tressler,

*Leader, Regulatory Information Management, Office of the Chief Information Officer.*

### Office of Educational Research and Improvement

*Type of Review:* Reinstatement.

*Title:* Fund for the Improvement of Education: Partnerships in Character Education Program.

*Abstract:* This application package, based on the Department of Education's Generic Application package, has program specific criteria which is used to provide guidance to applicants on new statutory requirements. Because this application package is based on the generic application package, it is in an easily recognizable format for applicants. It is necessary to announce the competition as soon as possible to allow state education agencies (SEAs) and local education agencies (LEAs) time to submit the application with a reasonable expectation that awards will be made before the next school year begins.





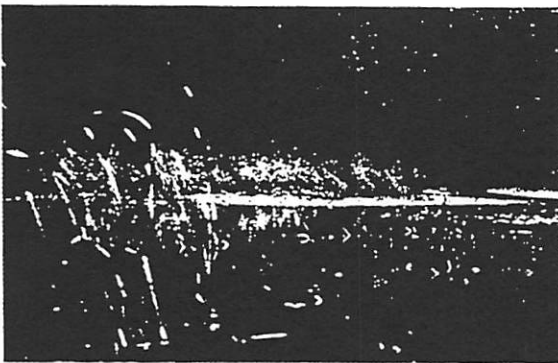
## ESTUARY RESTORATION ACT



### Estuaries: Values and Threats

Estuaries are partially enclosed bodies of water formed where freshwater from streams and rivers mixes with salty ocean water. They are among the most productive natural systems, creating more organic matter annually than comparably sized grasslands, forests, or agricultural lands. Estuaries fulfill vital ecological, economic, and cultural functions: serving as habitat for wildlife, improving water quality, providing flood control, stabilizing shorelines, and offering opportunities for recreation, tourism, port operations, and other activities.

Estuaries face significant physical, chemical, and biological threats that contribute to a suite of human health and ecological problems including contaminated drinking water, beach and shellfish bed closures, algal blooms, depleted fisheries, coastal erosion, and degraded habitat. To address these issues, Congress passed the Estuary Restoration Act of 2000.



### Estuary Restoration Act of 2000

On September 12, 2000, the House passed the Estuary Restoration Act of 2000. This Act has four goals: to promote the restoration of estuary habitat, to develop a national estuary habitat restoration strategy that will foster cross agency and public-private partnerships, to provide Federal assistance for and efficient financing of restoration projects, and to enhance restoration monitoring and research capabilities.

The goal of the *Estuary Habitat Restoration Strategy* is to restore 1,000,000 acres of habitat

For more information:

Contact: Becky Allee, 301-713-0174

Mary Matta, 206-526-6315

by 2010. The strategy will maximize partnerships, promote the restoration of estuaries to healthy, functioning ecosystems, and ensure that projects receiving funding are selected with a sense of equity and the overall restoration goal.



### Provisions

The Act establishes an interagency Estuary Habitat Restoration Council to develop the strategy and oversee its implementation. The Act also provides a framework under which the Secretary of the Army may carry out restoration projects and provide technical assistance. Proposed projects must originate from non-Federal entities and will be evaluated by the Council based on selection criteria outlined in the Act. The Council will also be responsible for assisting with the development of databases, monitoring standards, and reports to Congress.

To help achieve restoration goals, the National Oceanic and Atmospheric Administration is charged with developing monitoring standards and a restoration project database. Information from the database will be publically available. NOAA received \$1.2 million in fiscal year 2002 to begin these initiatives.

The Secretary of the Army will issue a report to Congress at the end of the third and fifth fiscal years summarizing acreage restored, information on project monitoring and restoration success, the efficacy of various restoration techniques, and the status of database development and data-sharing efforts.

Visit the Army Corps of Engineers website:  
<http://www.usace.army.mil/estuary.html>