



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

**1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733**

April 4, 2013

U.S. Army Corps of Engineers
Attn: Ms. Patricia Newell
Environmental Analysis and Compliance Branch
1645 S. 101st E. Ave.
Tulsa, OK 74128-4629

Ms. Newell:

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA) and the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency (EPA) Region 6 has reviewed the Draft Environmental Assessment (EA) for the Tulsa Port of Catoosa (Port) Barge Fleeting Area Project in Rogers County, Oklahoma. The proposed action will convey or lease United States Corps of Engineers (USACE) owned land to the Port for the temporary storage of barges. This will reduce wait times for the loading and unloading of barges and result in a more efficient use of port resources. Attached are specific comments for your consideration in preparation of the Final EA.

We appreciate the opportunity to provide comments for the Draft EA. Please send the Final EA to my attention. Should you have any questions or concerns regarding this letter, do not hesitate to call me at 214-665-8006, or contact Keith Hayden of my staff, at 214-665-2133 or hayden.keith@epa.gov for assistance.

Sincerely,

A handwritten signature in black ink that reads "Rhonda Smith". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rhonda Smith
Chief, Office of Planning
and Coordination

**DETAILED COMMENTS
ON THE
DRAFT ENVIRONMENTAL ASSESSEMENT
FOR THE
TULSA PORT OF CATOOSA (PORT) AREA PROJECT
IN ROGERS COUNTY, OKLAHOMA**

BACKGROUND: The Port of Catoosa is situated on the northeastern edge of Tulsa, Oklahoma, at the head of the McClellan-Kerr Arkansas River Navigation System (MKARNS). The 445-mile waterway links Oklahoma, and the surrounding five-state area, with ports on the 25,000-mile long United States inland water system. The Port opened for business in December 1970; concurrent with the opening of the MKARNS. In the Port's current configuration, incoming tows put a great deal of pressure on the Port towboat operator. The operator must stop what they are doing and move stored barges around to clear a space for the incoming barge to dock. The Port proposes to construct and operate a barge fleeting area (BFA) at the former Verdigris River channel to serve as a temporary "parking lot" for barges using the docks. This action will provide additional maneuvering room which will allow the towboat operator to be able to serve a greater number of barges within a normal business day.

COMMENTS:

Soils

Figure 3-1 depicts soil types from the project area and Section 3.1.2 describes the characteristics of the various soil types. There is no discussion of prime or unique farmland soils or consultation with the National Resource Conservation Service (NRCS) to determine impacts to prime farmland soils.

Recommendation:

- Determine if prime or unique farmland soils exist in the project area. If prime soils exist and will be adversely impacted, consult with NRCS to determine if mitigation of adverse impacts will be necessary.

Noise

Figure 3-5 shows a residential area, RST-40, directly west of the barge fleeting fill area (BFFA) area. Large vehicles will be performing earthwork activities across the road from the residences. Current noise levels at the Port are described as substantial and the project is expected to temporarily increase noise levels. Without characterizing the current decibel level of noise at the Port facility it is not possible to determine if noise impacts will adversely affect the residential areas.

Recommendation:

- Include noise levels or estimates of noise levels currently occurring at the project area and then describe how the project will affect those levels.

Tribal Resources

Consultation with Tribes was limited to the initial scoping phase of the EA, and it is not evident what issues potentially affecting tribes were discussed. The Cherokee Tribe should have been consulted due to the project taking place in the Cherokee Oklahoma Tribal Statistical Area (OTSA). The OTSA is an area delineated by the Census Bureau where the Cherokee had a former reservation.

Recommendation:

- Consult with the Cherokee Tribe to determine if they have any concerns with the project.

Threatened, Endangered, and Protected Species

American Burying Beetle

Page 65 states that the American Burying Beetle (ABB) is the only federally protected species potentially inhabiting portions of the project site, and that a survey will be conducted to determine if the species is present. Without this information it is impossible to determine if the species will be affected by the project.

Recommendation:

- Include results of the presence/absence survey, a determination of affects, and any consultation with the United States Fish and Wildlife Service (USFWS) in the final EA.

Whooping Crane

Page 65 of the EA states that the USACE determined the proposed project would have “no effect” on the Whooping Crane. This contradicts the “may effect, but is not likely to adversely affect” (NLAA) determination made for the Whooping Crane in the Appendix A report titled “Tulsa Port of Catoosa Project”. A NLAA determination requires consultation with the USFWS under Section 7 of the Endangered Species Act.

Recommendation:

- Describe what information was used to make a no effect determination for the Whooping Crane.

Rabbitsfoot mussel

Page 65 of the EA states that the USACE determined the proposed project would have “no effect” on the Rabbitsfoot mussel. The rabbitsfoot was designated a proposed threatened species in Rogers County in October 2012 by the USFWS. Page 12, of the Appendix A report titled “Barge Fleeting Area”, cites an Oklahoma Department of Wildlife Conservation (ODWC)

study that says the densest assemblage of Rabbitsfoot mussels within Oklahoma, Missouri, and Kansas is located on the lower Verdigris River below Oologah Lake. The largest threats to the existence of the Rabbitsfoot are habitat modification, sedimentation, and water quality degradation.

Recommendation:

- Although the Rabbitsfoot mussel has not officially been designated a threatened species; it has been proposed to be threatened, and may be designated as such before construction of the proposed project begins. Describe what information was used to make a no effect determination for the Rabbitsfoot mussel.

Migratory Birds

Section 5.3 of the reports in Appendix A list the birds observed in the project area. Many of these birds are protected species under the Migratory Bird Treaty Act (MBTA). While there is similar habitat adjacent to the project area; the USFWS should be consulted to determine potential mitigation measures. Potential measures could include, but not be limited to, avoiding tree clearing during nesting or breeding periods.

Recommendation:

- Consult the USFWS to determine potential mitigation measures for the project impacts to migratory birds.

Wetlands

Clarifying Information

There is an inconsistency in the numbers of wetlands cited on page 3-4 and Appendix A. Page 3-4 states 21 potentially jurisdictional waterbodies are present in the project area, whereas Appendix A states 18 waterbodies are present. Also, page 3-4 states the BFFA contains 12 waterbodies, but only describes 11 of the waters.

Recommendation:

- Please list the number of wetlands in the project area to reflect the correct information.

Define Terms

Page 4-4 and Figure 4-1 contain terms that are not typically used when discussing wetlands and not defined elsewhere in the document.

Recommendation:

- Define the terms “minor jurisdictional water” and “wetland limits” used on page 4-4 and Figure 4-1, respectively.

Mitigation

Page 4-4 lists potential mitigation resources available in the project area. Figures 4-1 and 4-2 are maps of the potential mitigation areas. A review of the appropriateness of the mitigation for the project cannot be reviewed based on the information submitted.

Recommendation:

- Submit a complete mitigation plan for the public and commenting agencies to review that includes a monitoring plan, performance standards, a long term management plan, functionality scores and worksheets, and a draft conservation easement. Please use the following link as guidance. [Compensatory Mitigation Checklist](#)

Consultation

The following documents should be included in a dedicated section of the Final EA submittal to satisfy consultation requirements for the proposed project.

- 401 water quality certification from the Oklahoma Department of Environmental Quality.
- Section 10/404 permit from the USACE.
- Prime farmland consultation with the NRCS.
- Endangered Species Act (ESA) and MBTA consultation from the USFWS.
- A “no-rise” certification from the Rogers County floodplain administrator.