



## OFFICE OF LOCAL DEFENSE COMMUNITY COOPERATION

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### National Environmental Policy Act Determination Harwood's Mill Reservoir Dam Improvement Project, Defense Community Infrastructure Pilot Program, City of Newport News – Naval Weapons Station Yorktown, Virginia

The Department of Defense Office of Local Defense Community Cooperation (OLDCC) reviewed the attached National Environmental Policy Act (NEPA) determination from the Federal Emergency Management Agency (FEMA) for proposed improvements to the Harwood's Mill Reservoir Dam (Proposed Action), State Highway 17, York County, Virginia. The OLDCC Grantee, the City of Newport News Water Works, proposes to increase the dam height by installing a raised weir crest across the top, replace the spillway infrastructure to ensure continued safe operation during high volume events, and demolish four ancillary structures that are no longer necessary. The Proposed Action will expand flood protection for the dam and spillway to account for probable flood conditions in consideration of both increased runoff associated with regional development and increased storm intensities, all of which protects drinking water that sustains Naval Weapons Station Yorktown (NWSY) and the surrounding community.

OLDCC is the grantor of federal funding for the proposed project under the Defense Community Infrastructure Pilot Program, which seeks to address deficiencies in community infrastructure that support military installations to enhance military value, installation resilience, and/or military family quality of life. The attached documentation was prepared by the OLDCC Grantee for FEMA, who reviewed the environmental analysis and executed the "Record of Environmental Consideration, Newport News – Harwood [sic] Mill Dam Improvement Project, HMGP-4411-DR-VA-010," Categorical Exclusion determination dated June 23, 2020, pursuant to Department of Homeland Security (DHS) "Instruction Manual 023-01-001-01, Revision 01, Implementation of the National Environmental Policy Act (NEPA)," signed November 6, 2014. The FEMA Categorical Exclusions applied are Instruction 023-01-001-01, Appendix A, E4 for "Removal or demolition, along with subsequent disposal of debris to permitted or authorized off-site locations, of non-historic buildings, structures, other improvements, and/or equipment in compliance with applicable environmental and safety requirements," and Appendix A, N9 for "Federal Assistance for Flood Hazard Reduction Actions ... for drainage, berm, water crossing, and detention, retention, or sediment pond projects which have the primary purpose of addressing flood hazards and: (a) Do not affect more than 25 acres, (b) Do not result in adverse flood risk effects to downstream communities ..." (Attachment 1). OLDCC agrees with this determination and finds the attached documentation appropriately evaluates the Proposed Action.

In accordance with the Council on Environmental Quality's "National Environmental Policy Act Implementing Regulations" at 40 CFR §1506.3, OLDCC may adopt another agency's determination that a Categorical Exclusion applies to a proposed action if the action covered by the original Categorical Exclusion determination and OLDCC's proposed action are substantially the same. The action evaluated in the FEMA Categorical Exclusion determination is the same proposed project that is the subject of the OLDCC award except that the Grantee now intends to replace spillway slabs rather than repair them because more recent site inspections revealed

greater damage. Further, OLDCC agrees the project will not have significant individual or cumulative environmental impacts, meets the criteria for the listed Categorical Exclusions, and that no extraordinary circumstances exist to preclude use of the Categorical Exclusions. Therefore, OLDCC adopts the FEMA Categorical Exclusion determination for the subject project as supported by the analysis and documentation provided in the following attached files, which are incorporated by reference herein:

- FEMA Project Approval letter and “Record of Environmental Consideration, Newport News – Harwood [sic] Mill Dam Improvement Project, HMGP-4411-DR-VA-010,” signed by April D. Cummings, Mitigation Division Director, FEMA Region III, executed on July 22, 2020 (Attachment 1 – Newport News FEMA Award Letter and Categorical Exclusion Record of Environmental Consideration); and
- Water, Wetlands, Biological Resources, and Section 106 consultation Records from the State of Virginia, the Army Corps of Engineers, and the US Fish and Wildlife Service; various dates and signers (Attachment 2\_Water and Wetlands Exemptions\_Biological and State Historic Preservation Officer Consultation Records).

The Categorical Exclusion determination and supporting materials demonstrate that the Proposed Action will have no significant environmental impacts and therefore does not require further assessment. The documentation constitutes a complete NEPA determination and shows that the FEMA Categorical Exclusions listed in DHS Instruction 023-01-001-01, Appendix A, E4 and N9 are applicable to this project.

OLDCC has independently reviewed the attached documentation and finds that implementation of the Proposed Action will not significantly impact the quality of the human environment. The Proposed Action may result in minor levels of air emissions from construction equipment and dust, but air emissions will be temporary and will not exceed de minimis levels or result in significant impacts. The Grantee should follow construction best management practices to limit fugitive dust and exhaust from vehicles and equipment during construction. Noise levels may be heightened during construction but will be of a limited duration and not significant. The Virginia Soil and Water Conservation Board issued an alteration permit for dam safety and floodplain management on March 24, 2022 (Attachment 1). The US Army Corps of Engineers issued a Clean Water Act section 404(b) exemption letter on November 3, 2021, and the Virginia Department of Environmental Quality issued a letter on November 4, 2021, stating that a Virginia Water Protection Permit was not required for the Proposed Action (Attachment 2).

One threatened species (northern long-eared bat) may potentially occur in the project area; however, no critical habitat has been designated for this species and the proposed work will have no effect because the limited tree removal proposed (eight trees) will be prohibited from April 1 to November 14 in any given year to avoid effects during roosting. The Proposed Action will have no effect to historic properties and the Virginia State Historic Preservation Officer (SHPO) concurred (Attachment 2). If human remains, funerary objects, cultural items, or archaeological materials are encountered during project construction and related work, activity in the area will cease immediately and appropriate Native American tribal government contacts, OLDCC, and the SHPO will be contacted for additional guidance. The Grantee is responsible for obtaining

any state or local permits that may still be required, and satisfying any remaining requirements listed in the FEMA environmental determination as stated in Attachment 1.

The action for which the Grantee and FEMA prepared and executed the attached Categorical Exclusion determination (Attachment 1) is the same as OLDCC's Proposed Action and applying the FEMA Categorical Exclusions listed in DHS Instruction 023-01-001-01, Appendix A, E4 and N9 are an appropriate NEPA determination for this project. Therefore, OLDCC adopts the Categorical Exclusion determination per 40 CFR § 1506.3. Further, OLDCC, as the adopting agency, confirms that none of the circumstances listed in 40 CFR § 1506.3(e) are present.

I have determined that the information provided in the documents referenced above provides sufficient evidence and analysis for determining that an Environmental Assessment or Environmental Impact Statement is not required.

Sincerely,

Patrick J. O'Brien  
Director

Attachments:  
As stated