



Billing Code: 6560-58

GULF COAST ECOSYSTEM RESTORATION COUNCIL

Docket No.: 103172017-1111-10

Proposed Amendment to Initial Funded Priorities List

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Proposed Amendment to Initial Funded Priorities List.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) seeks public and Tribal comment on a proposal to amend its Initial Funded Priorities List (FPL) to approve implementation funding and associated actions for the Palm River Restoration Project Phase II, East McKay Bay project (Palm River), Florida. The Council is proposing to approve \$768,680 in implementation funding for Palm River. The Council is also proposing to reallocate \$87,750 from planning to implementation. The total amount available for implementation of Palm River would be \$856,430. These funds would be used for construction of three stormwater ponds, exotic vegetation removal, native planting, monitoring, management of exotic species, and maintenance of the culverts/stormwater ponds along the Palm River at the mouth of McKay Bay.

In the Initial FPL, components of the Palm River project were split among two sponsors: the Environmental Protection Agency (EPA) and Florida. The EPA portion of the Palm River project was included with a larger set of restoration measures within the FPL activity entitled Tampa Bay National Estuary Program. To enhance administrative efficiency, the Council is proposing to unify the two components of the Palm River project under one sponsor, Florida. The implementation funding proposed above includes monies originally budgeted for implementation of the EPA component (\$271,430).

To comply with the National Environmental Policy Act (NEPA) and other applicable laws, the Council is proposing to adopt an existing Environmental Assessment (EA) and ensure compliance with the terms and conditions of an associated Clean Water Act (CWA) Section 404

permit that has been issued for the project. In so doing, the Council would expedite project implementation, reduce planning costs and potentially increase the ecological benefits of this project.

DATES: Comments on this proposed amendment are due *[Insert date 30 days after publication in Federal Register]*.

ADDRESSES: Comments on this proposed amendment may be submitted as follows:

By Email: Submit comments by email to *frcomments@restorethegulf.gov*. Email submission of comments ensures timely receipt and enables the Council to make them available to the public. In general, the Council will make such comments available for public inspection and copying on its Web site, *www.restorethegulf.gov*, without change, including any business or personal information provided, such as names, addresses, email addresses and telephone numbers. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

By Mail: Send comments to Gulf Coast Ecosystem Restoration Council, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

FOR FURTHER INFORMATION: Please send questions by email to *frcomments@restorethegulf.gov* or contact John Ettinger at (504) 444-3522.

SUPPLEMENTARY INFORMATION:

I. Background

The *Deepwater Horizon* oil spill led to passage of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) (33 U.S.C. 1321(t) and *note*), which dedicates 80 percent of all Clean Water Act administrative and civil penalties related to the oil spill to the Gulf Coast Restoration Trust Fund (Trust Fund). The RESTORE Act also created the Council, an independent Federal entity comprised of the five Gulf Coast states and six Federal agencies. Among other responsibilities, the Council administers a portion of the Trust Fund known as the Council-Selected Restoration Component in order to “undertake projects and programs, using the best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.” Additional information on the Council can be found here: <https://www.restorethegulf.gov>.

On December 9, 2015, the Council approved the FPL, which includes projects and programs approved for funding under the Council-Selected Restoration Component, along with other activities the Council identified as priorities for potential future funding. Activities approved for funding in the FPL are included in “Category 1;” the priorities for potential future funding are in “Category 2.” In the FPL the Council approved approximately \$156.6 million in Category 1 restoration and planning activities, and prioritized twelve Category 2 activities for possible funding in the future, subject to environmental compliance and further Council and public review. The Council included planning activities for Palm River in Category 1 and

implementation activities for Palm River in Category 2.

The Council reserved approximately \$26.6 million for implementing priority activities in the future. These reserved funds may be used to support some, all or none of the activities included in Category 2 of the FPL and/or to support other activities not currently under consideration by the Council. As appropriate, the Council intends to review each activity in Category 2 in order to determine whether to: (1) move the activity to Category 1 and approve it for funding, (2) remove it from Category 2 and any further consideration, or (3) continue to include it in Category 2. A Council decision to amend the FPL to move an activity from Category 2 into Category 1 must be approved by a Council vote after consideration of public and Tribal comments.

II. Environmental Compliance

Prior to approving an activity for funding in FPL Category 1, the Council must comply with NEPA and other applicable Federal environmental laws. At the time of approval of the FPL, the Council had not addressed NEPA and other laws applicable to implementation of Palm River. The Council did, however, recognize the potential ecological value of Palm River, based on a review conducted during the FPL process. For this reason, the Council approved \$87,750 in planning funds for Palm River, a portion of which would be used to complete any needed environmental compliance activities. As noted above, the Council placed the implementation portion of Palm River into FPL Category 2, pending the outcome of this environmental compliance work and further Council review. The estimated cost of implementation of the

Florida portion of Palm River is \$497,250. As discussed earlier, EPA sponsored another component of Palm River, which was also placed in FPL Category 2. The estimated implementation cost of the EPA component is \$271,430. As noted above, the Council is proposing to unify both components under one sponsor (Florida).

Since approval of the FPL, Florida, EPA, and Council staff have collaborated with the U.S. Army Corps of Engineers (USACE) to identify an existing EA and associated environmental compliance documentation that could be used to support Council approval of implementation funding for Palm River. This EA was prepared by USACE in association with a CWA Section 404 nationwide permit (NWP 27) for aquatic habitat restoration, establishment and enhancement activities.

The Council has reviewed this EA and associated documents, including a July 31, 2014, USACE memorandum for the record documenting use of NWP 27 for Palm River and a February 22, 2017, U.S. Fish and Wildlife Service letter to the Council regarding compliance with the Endangered Species Act (ESA). In addition to ESA, the EA and associated documents address compliance with other Federal environmental laws, including the Magnuson-Stevens Fishery Conservation and Management Act, the National Historic Preservation Act, and others. Based on this review, the Council is proposing to adopt this EA to support the approval of implementation funds for Palm River, provided that the project is implemented in accordance with the terms and conditions of the CWA Section 404 permit. This EA and the associated documentation can be found here: <https://www.restorethegulf.gov/funded-priorities-list>. (See :

Palm River Restoration Project Phase II, East McKay Bay – Implementation.)

Palm River Project

If approved for implementation funding, the Palm River project would entail construction of three stormwater ponds, exotic vegetation removal, native planting, monitoring, and perpetual maintenance of exotic species and the culverts/stormwater ponds along the Palm River at the mouth of McKay Bay. Specifically, the Palm River project would improve water quality and enhance upland and wetland areas on 53 acres of Southwest Florida Water Management District land. It would remove exotic vegetation, create an herbaceous wetland, and build three stormwater management areas to provide water quality treatment for 436 acres of residential, commercial and industrial developed land.

Additional information on this Project, including metrics of success, response to science reviews and more is available in an activity-specific appendix to the FPL, which can be found at <https://www.restorethegulf.gov>. (Please see the table on page 25 of the FPL and click on: Palm River Restoration Project Phase II, East McKay Bay, Implementation.)

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[FR Doc. 2017-05353 Filed: 3/16/2017 8:45 am; Publication Date: 3/17/2017]