

Attachment 9A
Explanatory Note for Department of Homeland Security (DHS) Report

February 1, 2010

The following information addresses the Department of Homeland Security (DHS) spreadsheet on the status of NEPA compliance for DHS projects/activities receiving funding under the American Recovery and Reinvestment Act of 2009 (ARRA).

The line numbers refer to the DHS NEPA ARRA Sec 1609 12/31/2009 Report spreadsheet:

DHS Spreadsheet Page 1 row 2 - CBP programs for Non-Intrusive Inspection Systems and Tactical Communications/Radios were two line items in the previous report. For clarity and consistence with the DHS ARRA Financial report, the two programs have been combined in the new spreadsheet and are shown as one program.

DHS Spreadsheet Page 1, row 3 – Customs and Border Protection (CBP) Border Security Fencing has not expended funds as of 12/31/2009.

DHS Spreadsheet Page 1, row 6 – TSA Explosive Detection Systems’ 25 projects/activities (“Installation and improvements to baggage conveyor systems at Federalized airports”) and Detection Systems’ 12 projects/activities (“Facility modifications projects to deploy Advanced Surveillance Systems”) were grouped together because all 37 were categorically excluded. As a part of the application of the categorical exclusion, all environmental review requirements were considered to ensure that there are no extraordinary circumstances. When it was determined that the program of activities was categorically excluded, all federal environmental reviews and documents were also completed. Two projects have been withdrawn since DHS began ARRA NEPA reporting. One was withdrawn during the previous reporting period. Another project was withdrawn during this reporting cycle because a site did not wish to pursue acquisition of the equipment.

DHS Spreadsheet Page 1, row 12 - FEMA Emergency Food and Shelter, Recovery Act, NEPA is not applicable because DHS performs purely an administrative function to support a committee of federal and non-federal members (chaired by the Red Cross) that determines which activities should receive funding. This has been an item since the first DHS NEPA ARRA Report.

DHS Spreadsheet Page 2, row 3 - CBP Non-intrusive Inspection Systems: shows no NEPA actions. The reason for this is because the program managers have not decided on the proposals to be funded. This remains unchanged since the first DHS NEPA ARRA Report.

Explanation of Pending NEPA Reviews over multiple reports:

DHS Spreadsheet Page 2, row 2 – (Item from 4/30/2009 report) DHS Consolidated Headquarters at St Elizabeth’s (Phase 2): This program for the DHS Consolidated Headquarters at St Elizabeth’s requires an EIS. This EIS is being prepared with the General Services Administration as the lead agency and, because of the complex nature of the environmental review, is expected to be completed in the summer of 2010.

DHS Spreadsheet Page 2, rows 4-6 – (Item from 4/30/2009 report) CBP, Tactical Communications and Radios: HLT Sector, P25 EPT Sector, P25 RGV Sector; Environmental assessments are delayed due to contracting with a historic preservation consultant. CBP expects to have the historic preservation assessment completed with the next quarter with the final NEPA review before the summer of 2010. The 9/30/2009 report was incorrect, the status should have shown “pending”.

DHS Spreadsheet Page 2, rows 12-22 – (Item from 4/30/2009 report) Construction, Customs and Border Protection, 23 sites: Out of 23 sites, 17 have NEPA reviews complete, leaving 6 to be completed. These 6 are pending not because of the NEPA review, but part of a larger DHS review of immigration policies and activities. The only remaining NEPA review for the six remaining construction projects is the publication of a Notice of Availability of the Finding of No Significant Impact (FONSI). DHS expects to be able to provide the appropriate public notifications of the completion of the NEPA review for all 23 of these construction projects before the end of 2010.

DHS Spreadsheet Page 2, rows 33-36 – (Item from 4/30/2009 report) Atlas Tactical Communications and Radios, Immigration and Customs Enforcement: These four projects are being reviewed using a categorical exclusion. The review process is almost complete, and should be done in the second quarter of FY2010.

DHS Spreadsheet Page 2, row 46 – (Item from 4/30/2009 report) Support Center Elizabeth City, NC - Replace Thrun Hall Barracks Phase 1: The public comment period on the draft EA is complete. North Carolina Department of Environmental and Natural Resources (NCDENR) provided comments which are being addressed. The Final EA and FONSI are anticipated to be complete in February 2010.

DHS Spreadsheet Page 2, row 48 – (Item from 4/30/2009 report) Training Center (TRACEN) Yorktown, VA - Upgrade the water distribution system: Additional Archeological investigation was required to adjust waterline alignment away from a discovered feature. The archeological investigation was awarded and a final report is scheduled for January 2010. Consultation and concurrence from Virginia SHPO on the archeological investigation is anticipated in February 2010 with NEPA finalization March 2010. Notably, this site is adjacent to the Yorktown National Battleground.

Explanation of Some New NEPA Actions:

DHS Spreadsheet Page 2, row 55 – (Project identified in the first report and the level of NEPA review was determined during this reporting period) The NEPA review has been completed for the FEMA Transit and Rail Security, Recovery Act: This action was determined to be eligible for a categorical exclusion per FEMA's NEPA implementing regulations (44 CFR Part 10.8). This action fits into the following predefined category: Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other

system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment.

DHS Spreadsheet Page 2, rows 56 and 57 – (Activity identified in the first report and the level of NEPA review was determined during this reporting period) FEMA Port Security, Recovery Act: This is the first time these projects are reported as pending. These projects are pending NEPA approval for two reasons. Some of the projects are awaiting additional information from the grantee to ensure that the actions meet the requirements for a categorical exclusion(s) and that there are no extraordinary circumstances further impacting the environment of historic properties. The remaining projects have the potential for impacts to environmental and historic resources and require further analysis to ensure that the potential impacts are less than significant. In order to expedite the review process, FEMA has completed an initial review of all projects and provided grantees with a list of additional information that is required for the completion of the EHP compliance reviews.

DHS Spreadsheet Page 2, row 58 – (Activity identified in the first report and the level of NEPA review was determined during this reporting period) FEMA Firefighter Assistance Grants, Recovery Act (CEs): This is the first time these projects are reported as pending. These projects are pending NEPA approval because the proposed actions are undergoing additional analysis to ensure that there are no extraordinary circumstances and to identify and implement mitigation measures (if extraordinary circumstances are identified).

DHS Spreadsheet Page 2, row 59 – (Activity identified in the first report and the level of NEPA review was determined during this reporting period) FEMA Firefighter Assistance Grants, Recovery Act (EAs): This is the first time these projects are reported as pending. These projects are pending NEPA approval because the proposed actions have the potential for impacts to environmental and historic resources and require the completion of an Environmental Assessment (EA). In order to expedite the review process, grantees are being provided a wide range of technical assistance including FEMA EA writing guidance and example statements of work.

Benefits:

The following are examples of projects where benefits have been provided as a result of NEPA actions administered by DHS:

DHS Spreadsheet, Page 2, row 44 – USCG Coast Guard Cutter (CGC) Sycamore Cordova, AK - Construction of the final phase of a housing project:

An original EA was published on January 15, 2002. This EA identified a requirement for additional site hydrology studies of wetlands within the building location. The environmental field studies conducted during the NEPA process discovered extensive on-site wetlands, the impact to which could not be totally avoided. A draft supplemental EA developed in June 2007 provided additional alternatives for configuration of the housing and provided an opportunity for public input. The spatial arrangements of the housing units went through many configurations during the planning and design phases of the project before an ideal compromise was reached.

The supplemental EA and FONSI provided recommendations that preserve and maintain much of these wetlands and minimize down slope storm water runoff.

DHS Spreadsheet, Page 2, row 46 – USCG Support Center Elizabeth City, NC - Replace Thrun Hall Barracks Phase 1:

A draft EA has been completed November 10, 2009. This EA incorporates the Coast Guard's determination of the existing Thrun Hall Barrack's eligibility for listing in the National Register of Historic Places. The NEPA process has provided for documentation of the structure's unique architecture, as well as the historical attributes of Chief Gunner Theodore Thrun, the first Coast Guard enlisted man to qualify as an aviator and who lost his life in the line of duty during a rescue mission.

DHS Spreadsheet, Page 2, row 53 – USCG Alteration of Burlington Bridge:

The NEPA process allowed the Coast Guard to determine the potential impacts the bridge construction would have on species of concern. Construction processes were modified to mitigate impacts to these species. Alteration of the Burlington Northern Santa Fe Railroad Bridge consists of removal of the existing swing span and replacing it with a new vertical lift span that will provide 300 feet horizontal clearance and 60 feet vertical clearance above the normal pool elevation. Spectaclecase mussels, a species of conservation concern in Iowa and endangered in Illinois, were located on the existing bridge piers. As part of the NEPA process, a Biological Assessment concluded the mussels would be relocated prior to construction in order to avoid an adverse effect on the mussels.

DHS Spreadsheet, Page 2, rows 55-59 – FEMA Transit and Rail Security, Recovery Act, Port Security, Recovery Act, Firefighter Assistance Grants, Recovery Act:

The NEPA process has had a positive impact on FEMA ARRA grants by enabling more informed decision making for actions undertaken by grantees. Grantees are taking into account ways to minimize impacts to sensitive resources, including historic structures, endangered species, wetlands, and floodplains. This will not only encourage them to minimize the impacts of the projects that they are proposing, but it also helps to raise their awareness and improve their planning for future grant-funded projects so that they can proactively begin data gathering and will know what resources to avoid as they move forward. In addition, as more projects progress through the NEPA process, mitigation measures will be identified and implemented in order to protect valuable resources. This process is already underway for the ARRA Fire Fighter Assistance, Fire Station Construction Grants, where award making decisions were considered potential impacts to sensitive resources.

While FEMA's grant awards are intended to help strengthen the resiliency of communities in their overall homeland security preparedness, grant award documents are also written to help ensure that grant funded projects are accomplished with little to no impact to the environment. Grant award terms and conditions prevent the release of grant funding until FEMA has determined that a project is eligible for a categorical exclusion, a finding of no significant impact or the grantee has agreed to implement mitigation activities.

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