



FEMA

**DRAFT FINDING OF NO SIGNIFICANT IMPACT
LOMITAS NEGRAS ARROYO STABILIZATION PROJECT
SCOPE MODIFICATION
RIO RANCHO, SANDOVAL COUNTY, NEW MEXICO
HMGP-DR-4079-NM PROJECT #12**

BACKGROUND

Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA) submitted an application to the Federal Emergency Management Agency (FEMA) through the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM) for a grant under FEMA's Hazard Mitigation Grant Program (HMGP) following Major Disaster FEMA-DR-4079-NM. This program, as authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, provides grants to states and local governments to implement long-term hazard mitigation measures after a major disaster declaration.

In accordance with FEMA's Instruction 108-1-1, an Environmental Assessment (EA) was prepared pursuant to Section 102 of the National Environmental Policy Act (NEPA) of 1969, as implemented by the regulations promulgated by the President's Council on Environmental Quality (CEQ; 40 CFR Parts 1500-1508) for the construction of an off-channel detention pond and bank stabilization along the Arroyo de las Lomitas Negras. The original EA concluded with a Finding of No Significant Impact (FONSI), dated February 9, 2017.

This Supplemental Environmental Assessment (SEA) has been conducted in accordance with NEPA and the associated CEQ regulations, as well as FEMA's own regulations implementing NEPA (FEMA Instruction 108-1-1) to address a scope of work modification to the original project. The purpose of the proposed project is to protect adjacent properties and infrastructure from flood and erosion damage, and to mitigate lateral channel migration in the project area. This SEA informed FEMA's decision on whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

Two project alternatives were considered in this SEA: 1) No Action; and 2) The Proposed Action. The No Action alternative would entail no construction of bank protection measures along this reach of the Arroyo de las Lomitas Negras and the arroyo would continue to migrate laterally. Consequently, the flood and erosion threats to Enchanted Hills Elementary School along with nearby transportation infrastructure and dwellings along this reach of the arroyo would not be addressed. The Proposed Action would extend the bank stabilization area proposed in the original EA between Saratoga Road and Rio Rancho Road. Additional work would include: installation of four-foot-high, stepped, soil-cement structures along an additional 1,978 linear feet of the south bank and 1,497 linear feet of the north bank; extension of two storm drains from the adjacent elementary school through the new stepped, soil-cement structures; installation of strategically placed perpendicular rock lined berms along the top of the bank to

prevent erosion due to sheet flow entering the arroyo; and clearing and grubbing vegetation as needed.

A public notice was posted in the local newspaper of record and on FEMA's website. The draft SEA was made available for public comment at a local public building and on FEMA's website. No comments were received from the public during the comment period.

FINDING OF NO SIGNIFICANT IMPACT

The Proposed Action as described in the SEA will not adversely impact geology, ground water quality, wetlands, threatened and endangered species, critical habitat, cultural resources, low-income and minority populations, hazardous materials, and public services and utilities. During construction, short-term impacts to soils, air quality, surface water quality, wildlife, noise, traffic, and public health and safety are anticipated. All adverse impacts require conditions to minimize and mitigate impacts to the proposed project site and surrounding areas.

FEMA has determined that the proposed action is located within the regulatory floodplain. Presidential Executive Order 11988 (Floodplain Management) as implemented in 44 Code of Federal Regulations (CFR), Part 9, require that certain federal actions in or affecting a floodplain be reviewed to determine if there are any practicable alternatives outside of the floodplain; to identify and minimize impacts; and to provide initial and final notification to the public regarding its actions in the floodplain. Initial public notice has already been achieved for this project through the public notice for the original EA in 2017. Any comments and other information received were fully evaluated by FEMA along with evaluation of social, economic, environmental, and safety considerations. This notice constitutes final public notice as required by 44 CFR Part 9.12.

The proposed action must be located in an area affecting or affected by a floodplain because it serves a functionally dependent use and is the only practicable alternative that will achieve the purpose and need for the project. SSCAFCA originally identified four project alternatives in the original EA, including no action; however, each of these alternatives would have also been located within the floodplain. Refer to the original EA for details. Since the threat of erosion and flood is location-specific, no other locations outside of the floodplain were considered.

The proposed action will be performed in compliance with the National Flood Insurance Program and will conform to applicable state and local floodplain protection standards. The proposed action will not result in an increased base discharge and is intended to reduce the flood hazard potential to surrounding structures and infrastructure. The project is not expected to encourage development within the floodplain. The proposed action will not change land use or result in a reduction to societal and recreational benefits provided by the floodplain at this location. Open space and recreational uses in the parks will not be impacted by the proposed action.

The floodplain provides the following functions: flood storage and conveyance, filter nutrients and impurities from runoff, reduce flood velocities, reduce flood peaks, moderate temperature of water, reduce sedimentation, promote infiltration and aquifer recharge, and reduce frequency and duration of low surface flows. These functions are expected to remain intact after the implementation of the project.

Further information regarding this project can be obtained from SSCAFCA. Project updates are posted to SSCAFCA's website (<https://www.sscafca.org/>).

CONDITIONS

The following conditions must be met as part of this project. Failure to comply with these conditions may jeopardize the receipt of federal funding.

1. Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
2. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.
3. SSCAFCA will prepare a stormwater pollution prevention plan (SWPPP) and obtain a National Pollution Discharge Elimination System (NPDES) permit prior to construction. Implementation of appropriate erosion and sediment control best management practices (BMPs) will be required during construction. Upon completion of construction activities, the area will be revegetated with native seed mix.
4. SSCAFCA is responsible for coordinating with and obtaining any required Section 404 Permit(s) from the United States Army Corps of Engineers (USACE) and/or any Section 401/402 Permit(s) from the State prior to initiating work. SSCAFCA must comply with all conditions of the required permit(s). All coordination pertaining to these activities should be documented and copies forwarded to the State and FEMA as part of the permanent project files.
5. SSCAFCA must coordinate with the local floodplain administrator and obtain required permits prior to initiating work. All coordination pertaining to these activities and applicant compliance with any conditions should be documented and copies forwarded to the state and FEMA for inclusion in the permanent project files.
6. SSCAFCA will limit vegetation removal during the peak migratory bird-breeding and nesting period of April 15 through August 15 to the extent feasible to avoid take of individuals, nests, or eggs. If vegetation removal must occur during the nesting season, SSCAFCA will employ a monitor qualified to conduct breeding-bird surveys to survey the area for nests prior to clearing/scraping. The monitor will determine the appropriate

timing of surveys in advance of work activities. If an occupied nest is found, work within a buffer zone appropriate for the species will be delayed until the nest is vacated and juveniles have fledged. For work near an occupied nest, the monitor will prepare a report to document the species present and the rationale of buffer selection. SSCAFCA will submit this report to FEMA for inclusion in project files.

7. SSCAFCA will require the final project design to avoid impacts to site LA186030. An avoidance area not less than 50 feet from the boundaries of the site will be identified on the project plan sheets to ensure that the contractor does not disturb the area. Prior to the onset of construction, SSCAFCA will employ a qualified professional archaeologist, who meets Secretary of Interior standards, to flag the avoidance area prior to construction.
8. In the event that archeological deposits, including any Native American pottery, stone tools, bones, or human remains, are uncovered, the project shall be halted, and the applicant shall stop all work immediately in the vicinity of the discovery and take reasonable measures to avoid or minimize harm to the finds. All archeological findings will be secured and access to the sensitive area restricted. If unmarked graves or human remains are present on private or state land, compliance with the New Mexico Cultural Properties Act (Article 18, Section 6, Subsection 11.2 (18-6-11.2), NMSA 1978, also known as the Unmarked Burial Statute is required. NMDHSEM will require the applicant to stop work immediately in the vicinity of the discovery. OEM will immediately notify FEMA, and law enforcement agencies of the discovery, which shall notify the Office of the Medical Investigator (OMI) and the SHPO. OMI shall evaluate the remains for medicolegal significance with minimal disturbance of the remains. OMI will terminate the discovery of any non-medicolegal human remains to the SHPO, who shall proceed pursuant to the Unmarked Burial Statute and its implementing regulations found at 4.10.11 NMAC. For any questions for human remains on state or private land, contact State Archeologist, Bob Estes, (505) 827-4225, Fax (505) 827-6338, bob.estes@state.nm.us .

CONCLUSION

Based on the findings of the SEA, coordination with the appropriate agencies, comments from the public, and adherence to the project conditions set forth in this FONSI, FEMA has determined that the proposed project qualifies as a major federal action that will not significantly affect the quality of the natural and human environment, nor does it have the potential for significant cumulative effects. As a result of this FONSI, an EIS will not be prepared (FEMA Instruction 108-1-1) and the proposed project as described in the attached EA may proceed.

APPROVAL AND ENDORSEMENT

Kevin Jaynes
Regional Environmental Officer
FEMA Region 6

Date _____

Brienne Schmidtke
Acting Hazard Mitigation Assistance Branch Chief
FEMA Region 6

Date _____