with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by April 19, 2005, will have the opportunity to address the committee at those sessions.

Dated: March 28, 2005.

James F. Giachino,

Designated Federal Official.

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DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Record of Decision for the Programmatic Environmental Impact Statement on the Emergency Watershed Protection Program

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Record of Decision.

SUMMARY: This notice presents the Record of Decision (ROD) regarding the Natural Resources Conservation Service (NRCS) implementation of revisions to the Emergency Watershed Protection (EWP) Program to allow NRCS to more effectively and efficiently meet EWP statutory requirements and improve the effectiveness of agency responses to sudden watershed impairments caused by natural disasters. NRCS prepared a Final Programmatic Environmental Impact Statement (FPEIS) for EWP Program changes and published the FPEIS on the NRCS Web site. A Notice of Availability (NOA) of the EWP FPEIS was published in the **Federal Register** on December 30, 2004 and all agencies and persons on the FPEIS distribution list were notified individually as well. Printed and CD-ROM versions of the FPEIS were made available and delivered to all those who requested. This Decision Notice summarizes the environmental, social, and economic impacts of the EWP Program alternatives identified in the FPEIS that were considered in making this decision, and explains why NRCS selected the Preferred Alternative—EWP Program Improvement and Expansion (Alternative 4) for improving the EWP Program. The public may access the NRCS responses to substantive comments on the FPEIS at *http://www.nrcs.usda.gov/programs/ewp/*.

FOR FURTHER INFORMATION CONTACT: Mr. Victor Cole, USDA/NRCS/Financial Assistance Programs Division, P.O. Box 2890, Washington, DC, 20013–2890, (202) 690–0793, or e-mail: *victor.cole@usda.gov*. The EWP FPEIS including appendices and this ROD may be accessed via the Internet on the NRCS Web site at: *http://www.nrcs.usda.gov/programs/ewp/*. More detailed information on this program may also be obtained from the NRCS web site, or by contacting Victor Cole using the information provided above.

Record of Decision

I. The Decision

A. FPEIS Preferred Alternative—EWP Program Improvement and Expansion—as the Basis for Implementing and Expanding the EWP Program

Based on a thorough evaluation of the resource areas affected by the EWP Program, a detailed analysis of four Program alternatives, and a comprehensive review of public comments on the Draft PEIS, NRCS has selected the Preferred Alternative—EWP Program Improvement and Expansion (Alternative 4) to improve and expand the EWP Program to improve the timeliness and environmental, economic, and social defensibility of activities conducted under the Program, as well as to ensure their technical soundness.

B. Overview

The EWP Program funds and provides technical assistance to sponsoring organizations (entities of local government) to implement emergency measures for runoff retardation and soil erosion prevention to assist in relieving imminent hazards to life and property from natural disasters, including, but not limited to, floods, fires, windstorms, ice storms, hurricanes, tornadoes, volcanic actions, earthquakes, and drought, and the products of erosion created by natural disasters that have caused or are causing sudden impairment of a watershed. The Program is authorized by Section 216 of the Flood Control Act of May 17, 1950 (Pub. L. 81–516; 33 U.S.C. 701b–1) and by Section 403 of Title IV of the Agricultural Credit Act of 1978, (Pub. L. 95–334), as amended by Section 382 of the Federal Agricultural Improvement and Reform Act of 1996 (Pub. L. 104–127; 16 U.S.C. 2204). The EWP Program is administered by NRCS on state, tribal, and private lands, with funding typically provided through Congressional emergency supplemental appropriations. NRCS regulations implementing the EWP Program are set forth in 7 CFR part 624.

C. Programmatic Changes to the EWP Program

Fifteen key aspects of the current EWP Program were considered for improvement or expansion in the PEIS, and were used to define the alternatives to the current program in the PEIS. To implement the Preferred Alternative—EWP Program Improvement and Expansion, NCRS would incorporate the following 15 elements to improve the delivery and defensibility of the Program and incorporate new restoration practices:

1. *Retain the term ''exigency''; eliminate ''non-exigency.''* NRCS would not eliminate the key term ''exigency'' because of its broad interagency use but would eliminate the term non-exigency and simply refer to them as emergencies.

2. *No State level funding for immediate exigency response. Change allowed time to address exigencies to 10 days.* Funding would not be set aside in each of the States to immediately address exigencies, though the time frame to respond to exigencies would be lengthened to 10 days to allow more time to request and secure funding and to allow NRCS and sponsors to secure any necessary emergency permits and comply with any applicable Federal and State laws or regulations.

3. *Set priorities for funding of EWP practices.* NRCS would suggest priorities to be applied consistently across the country for funding EWP measures. Exigency situations would have highest priority.

4. *Establish cost-share of up to 75 percent; up to 90 percent in limited-resource areas; and add a waiver provision allowing up to 100 percent in unique situations.* In addition to the changes in Federal cost-share rates, a waiver provision would be included allowing up to 100 percent cost-sharing for a sponsor in unique situations or when the sponsor demonstrates they have insufficient resources or finances to contribute the 25 percent cost-share.

5. *Stipulate that practices be economically, environmentally, and socially defensible.* In addition to environmental and economic defensibility, project alternatives would be reviewed to determine their acceptability according to the ideals and background of the community and individuals directly affected by the recovery activity.

6. *Improve disaster-readiness through interagency coordination, planning, and training.* Major steps would be taken to improve interagency coordination, planning, and training. Although Disaster Assistance Recovery Teams

would not become a major Program element, technical teams for specific disasters, or to provide programmatic training, would be assembled.

7. *Allow repair of impairments to agricultural lands using sound engineering alternatives.* This element would permit sound structural measures to be repaired where they are economically, environmentally, and socially defensible.

8. *Limit repair of sites to twice in any 10-year period.* Where a site has been restored twice and 10 or fewer years have elapsed since the first disaster event, the options remaining available under the EWP Program would be to acquire a floodplain easement, fund a buyout with structure removal as a recovery measure, or take no action at all.

9. *Eliminate the requirement that multiple beneficiaries (property owners) be threatened before a site would be eligible for EWP Program repairs.* NRCS recognized that in almost every instance benefits accrue to someone downstream of the impairment area.

10. *Apply the principles of natural stream dynamics and bio-engineering in restoration.*

11. *Simplify purchase of agricultural floodplain easements; eliminate land designation categories.* NRCS would establish a single agricultural floodplain easement category and would specify compatible landowner uses.

12. *Repair enduring (structural or long-life) conservation practices, except when such measures are under ECP jurisdiction.* Conservation practices, such as waterways, terraces, diversions, irrigation systems, and animal waste systems that are damaged during a disaster event would be eligible for EWP Program cost-share assistance. However, repair of enduring conservation practices or disaster-recovery work that is eligible for emergency assistance under the Emergency Conservation Program would not be eligible under EWP.

13. *Partially fund improved alternative solutions.* The EWP Program would be allowed to partially fund work that would be eligible for disaster recovery throughout the impaired watershed, but when a sponsor desires a more extensive or differently designed solution than NRCS would initially recommend, the sponsor is required to pay 100 percent of the additional costs.

14. *Allow disaster-recovery work in floodplains away from streams and in upland areas, where such measures are not under ECP jurisdiction.* Expansion of the EWP Program to include areas in an impaired watershed not directly adjacent to streams would allow the removal of sediment deposits from cropland and pastures and other debris (generally wind-blown material) from land and environmentally sensitive areas and plantings when necessary for runoff retardation or soil erosion prevention.

15. *Allow purchase of floodplain easements on non-agricultural lands only to fully restore floodplain function but not where small rural communities are at issue. Fund buyouts for recovery of small flood-prone communities through sponsors.* NRCS would not purchase floodplain easements on lands with multiple property owners and residences for the sole purpose of relocating small flood-prone rural communities under the floodplain easement portion of the EWP Program. However, as an EWP recovery measure, NRCS would consider cost-sharing with a sponsor to fund buyouts of residents in such flood-prone circumstances when it would be the most cost-effective and environmentally preferable recovery measure.

II. Description of the Current EWP Program

NRCS administers the EWP Program to respond to life and property-threatening watershed impairments caused by natural disasters. Local sponsors (e.g., counties, conservation districts) who request EWP assistance provide at least 20 percent of funding for EWP watershed repair practices. NRCS may provide up to 80 percent of funding and technical assistance (up to 100 percent for exigency) for EWP practices that remove disaster debris; repair damaged streambanks, dams, and dikes; protect floodplain structures; and restore critical watershed uplands. The EWP Program is one among a number of Federal and State-level programs dealing with disaster assistance and watershed management. It has been characterized in public comments as one of the most responsive to local needs in small, rural watersheds.

The major practices currently employed under EWP include stream flow capacity restoration; stream bank restoration and protection; dam, dike, and levee repair; protection of structures in floodplains; and restoration of critical upland portions of watersheds. The EWP practices generally share common activities: creating access to reach a damage site, use of heavy equipment on bank, in-stream, or on uplands, material disposal, and grading, shaping, and revegetating portions of the site as appropriate. EWP also currently administers a voluntary program of floodplain easement purchase on agricultural lands.

The EWP Manual documents NRCS policy governing EWP; the National EWP Handbook covers field procedures. NRCS staff administers the EWP Program in the field when sponsors request assistance with disaster damage. NRCS completes Damage Survey Reports (DSRs) describing the watershed impairments at a particular site, their eligibility for repairs, the cost and benefits of appropriate repair practices, and the environmental and technical soundness of the proposed measures. The EWP regulations, manual, and handbook (including the DSR) would be revised to reflect any Program changes NRCS decides to adopt.

The 1996 Farm Bill authorization of floodplain easements provides NRCS with an opportunity to purchase easements on flood-prone lands as an alternative to traditional eligible EWP practices. It is not intended to deny any party access to the traditional eligible EWP practices. It is intended to provide a permanent alternative solution to repetitive disaster assistance payments and to achieve greater environmental benefits where the situation warrants and where the affected landowner is willing to participate in the floodplain easement approach. The National Watersheds Manual 390–V, Circular 4, provides the current Program guidance for acquisition of floodplain easements. Currently, three categories of easements are eligible for purchase on agricultural lands that are frequently damaged: (1) Allows no agricultural uses, (2) allows certain compatible uses such as timbering, haying, and grazing, (3) allows cropping as well as timbering, haying, and grazing.

Exigency (high priority emergency situations) sites receive immediate attention and priority in funding. NRCS coordinates its work with Federal agencies, principally the U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), Federal Emergency Management Agency (FEMA), Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), and U.S. Forest Service (USFS), and with State agencies, including the relevant State Historic Preservation Office, Tribal Historic Preservation Officer, and other consulting agencies, such as federally recognized tribes, wildlife resource and water quality offices, tribal governments, and local communities. At issue are important regulatory and environmental requirements, such as protecting federally listed endangered or threatened species and preserving unique cultural and historic resources, including those listed on or eligible for the National Register of Historic Places.

III. Alternatives Considered

In September 1998, NRCS initiated a formal scoping process to solicit input on issues, concerns, and opportunities for EWP Program improvement from the public and other local and Federal agencies. Public scoping meetings were advertised in regional and local newspapers and held in six cities located throughout the country. NRCS published notices in the **Federal Register** and national newspapers stating that the agency was preparing a PEIS and that input was being sought through multiple venues, including the public scoping meetings, regular mail, e-mail, and a toll-free phone line. NRCS also held discussions with other agencies, including Farm Service Agency, EPA, USFS, FEMA, USACE, and USFWS, as well as NRCS field personnel who routinely deal with EWP projects. Based on input from scoping, NRCS developed, and evaluated in detail in the Draft EWP PEIS, three alternatives for future administration of the EWP Program, which are described in detail below: the No Action alternative (Alternative 1), NRCS' Draft PEIS Proposed Action (Alternative 2), and Prioritized Watershed Planning and Management (Alternative 3).

Based on comments from other agencies and the public on the Draft EWP PEIS, comments on the Proposed EWP Rule (published on November 19, 2003 in the **Federal Register**, Vol. 68, No. 223), and internal agency considerations concerning management, funding, and implementation feasibility of EWP Program changes, NRCS developed a fourth alternative (the Preferred Alternative—EWP Program Improvement and Expansion), which was fully evaluated in the Final EWP PEIS. The Preferred Alternative—EWP Program Improvement and Expansion—incorporates many of the elements of improvement and expansion proposed under the Draft PEIS Proposed Action, but leaves some elements unchanged or introduces only minor changes when compared with the No Action. The EWP FPEIS also fully described and evaluated the three Draft EWP PEIS alternatives.

A. Alternative 1—No Action (Continue the Current Program)

NRCS would continue to conduct the current EWP Program as it does now with no improvement or expansion. The 15 elements of the current EWP Program that would remain in effect under the No Action Alternative include:

1. *Continue using the terms ''exigency'' and ''non-exigency'' as they are now used.* An exigency exists when the near-term probability of damage to life or property is high enough to demand immediate Federal action. A non-exigency situation exists when the near-term probability of damage to life or property is high enough to constitute an emergency, but not sufficiently high to be considered an exigency.

2. *Continue current exigency response procedures.* NRCS National Headquarters would continue to respond to State requests to provide funding for exigency responses as they are received by NHQ and would not provide each State with separate ''pre-disaster'' funding for ''on the spot'' State-level responses. NRCS would continue to allow 30 days to address exigencies.

3. *Continue using current procedures for project prioritization.* NRCS State Conservationists would continue to prioritize EWP projects for their States in non-Presidentially declared disasters and may include input from the sponsors in these decisions. In Presidentially declared disasters, NRCS would continue working with FEMA and the USACE in establishing priorities.

4. *Continue to administer EWP under current cost-share rates.* NRCS would continue to provide EWP funding at a Federal cost-share of up to 100 percent for exigencies and up to 80 percent for non-exigencies. [**Note:** Although current regulations tie cost-sharing to the exigency/non-exigency designation, for the past 10 years, NRCS has been applying a single cost-share rate of 75 percent to both exigency and non-exigency situations.]

5. *Continue to employ current defensibility review requirements.* NRCS would continue to review EWP recovery practices to determine whether they are economically and environmentally defensible.

6. *Continue current EWP Program coordination, training and planning in each State.*

7. *Continue to disallow repair of impairments to agricultural lands.* This would preclude use of restoration measures to protect high-value croplands from continued erosion caused by future flooding.

8. *Continue to allow repeated repairs to EWP sites.* NRCS would impose no restrictions on the number of repeated repairs of damaged EWP sites that could be funded.

9. *Continue to require multiple beneficiaries for non-exigency measures.* NRCS would continue to require that multiple beneficiaries be identified and documented in the project Damage Survey Report (DSR) for site repair of non-exigency emergencies. This is not a requirement for exigencies where sites with single beneficiaries are eligible for EWP repairs.

10. *Continue to employ only least-cost restoration measures.* NRCS would continue to fund disaster recovery measures on a least-cost basis for repair of site damage alone, so long as they are environmentally defensible, without regard to ancillary environmental considerations or benefits.

11. *Continue to allow land-owner uses of floodplain easements under the three existing categories.* Under the No Action Alternative published in the Draft EWP PEIS, NRCS would have continued to fund agricultural floodplain easement purchases under three land-use categories. Since that time, NRCS has restricted compatible uses to a single category of uses.

12. *Continue to disallow repairs of enduring conservation practices.*

13. *Continue to disallow funding of improved alternative solutions.* NRCS would fund projects based on a least-cost design to achieve the specific site restoration objectives only, without regard to any additional benefits sponsors may wish to gain with an expanded but more expensive design.

14. *Continue to disallow disaster-recovery work away from streams and critical areas.*

15. *Continue to disallow purchase of floodplain easements on improved lands.* Under the No Action Alternative published in the Draft EWP PEIS, NRCS would have continued to disallow purchase of floodplain easements on improved lands. Since that time, NRCS has instituted procedures to acquire improved lands in connection with floodplain easement purchases where continued use of those lands would affect NRCS' ability to attain the benefits of the floodplain easement by restoring full floodplain function.

B. Alternative 2—EWP Program Improvement and Expansion (Draft PEIS Proposed Action)

The 15 specific EWP Program changes to improve the delivery and defensibility of the Program and incorporate new restoration practices under the Draft PEIS Proposed Action included:

1. *Eliminate the terms ''exigency'' and ''non-exigency.''*

2. *Stipulate that ''urgent and compelling'' situations be addressed immediately upon discovery.* In a situation that demands immediate action to avoid potential loss of life or property, employees with procurement authority would be permitted to hire a contractor to remedy a watershed

impairment immediately after evaluation of the site.

3. *Set priorities for funding of EWP measures.* NRCS would suggest priorities to be applied consistently across the country for funding EWP measures. Urgent and compelling situations would have highest priority.

4. *Establish a cost-share rate of up to 75 percent for all EWP projects (except for projects in limited-resource areas, where sponsors may receive up to 90 percent, and floodplain easements, which are funded at 100 percent).*

5. *Stipulate that measures be economically, environmentally, and socially defensible and identify the criteria to meet those requirements.* Project alternatives would be reviewed to determine their acceptability according to the ideals and background of the community and individuals directly affected by the recovery activity. A combination of all three categories would be used to determine defensibility.

6. *Improve disaster-recovery readiness through interagency coordination, training, and planning.* NRCS would employ Disaster Assistance Recovery Training teams to train its employees, evaluate and implement ways to improve coordination between EWP and other emergency programs, and assist State Conservationists in preparing Emergency Recovery Plans detailing working relationships with other Federal, State, and local groups.

7. *Allow repair of impairments to agricultural lands using sound engineering alternatives.*

8. *Limit repair of sites to twice in a 10-year period.* Where a site has been restored twice and 10 or fewer years have elapsed since the first disaster event, the options remaining available under the EWP Program would be to acquire a floodplain easement or take no action at all.

9. *Eliminate the requirement that multiple beneficiaries (property owners) be threatened before a site would be eligible for EWP Program repairs.*

10. *Apply the principles of natural stream dynamics and, where appropriate, use bioengineering in the design of EWP restoration practices.* DART teams would incorporate these design principles into disaster-readiness training of NRCS staff and provide more intensive training to NRCS staff responsible for EWP practice design and review.

11. *Simplify purchase of agricultural floodplain easements.* NRCS would establish a single agricultural floodplain easement category and would specify compatible landowner uses.

12. *Repair enduring (structural or long-life) conservation practices.* Conservation practices such as waterways, terraces, diversions, irrigation systems, and animal waste systems that are damaged during a disaster event would be eligible for EWP Program cost-share assistance.

13. *Partially fund expanded or improved alternative solutions.* This would allow the EWP Program to help fund work that would be eligible for disaster recovery throughout the impaired watershed, but that would constitute a more extensive or differently designed solution than NRCS would initially recommend.

14. *Allow disaster-recovery work in floodplains away from streams and in upland areas.* This change would allow the removal of sediment deposits from cropland and pastures and other debris from land and environmentally sensitive areas and plantings or other measures to prevent erosion.

15. *Purchase floodplain easements on non-agricultural lands.* Floodplain easements would be purchased on both unimproved and improved lands. For improved land, NRCS would provide 100 percent of the cost of an easement that conveys all interests and rights. Any structures would be demolished or relocated outside the 100-year floodplain at no additional cost to the government.

C. Alternative 3—Prioritized Watershed Planning and Management

This alternative would allow NRCS to focus EWP Program efforts proactively on disaster-prone watersheds and integrate those efforts with other USDA programs dealing with watershed issues. Prioritized watershed planning would combine the changes of Alternative 2 with focused, Program-neutral, disaster-readiness and mitigation planning for selected high-priority watersheds. In addition to instituting all 15 Program improvements and expansions described under the Draft PEIS Proposed Action (Alternative 2), the EWP Program elements implemented under Alternative 3 would include:

a. *Continuing to deliver EWP project funding and technical assistance to address immediate threats to life and property as required by law.* This would continue to be the highest, but not sole, priority in the EWP Program.

b. *Facilitating a locally led pre-disaster planning effort.* This locally-led effort initiated and coordinated by NRCS would address concerns about recurrent application of EWP repair measures in watersheds that have a history of frequent disasters and integrate EWP activities in those watersheds with NRCS programs dealing with other watershed issues.

c. *Funding of priority watersheds in each State for pre-disaster planning and management.* High priority watersheds and, as funding permits, medium priority watersheds would undergo pre-disaster planning and management providing there is a local sponsor (State, county, tribal organization or other eligible entity) who agrees to sponsor the pre-disaster planning.

d. *Coordinating pre-disaster planning and management efforts with Federal, State, and local agencies and interested stakeholders.* This would include establishing an overall watershed management plan; integrating other program authorities and practices available to NRCS; purchasing floodplain easements on a stepwise, proactive, risk-reduction basis; and combining EWP with other program authorities to enhance watershed values.

D. Alternative 4—EWP Program Improvement and Expansion (Preferred Alternative—EWP Program Improvement and Expansion)

The Preferred Alternative—EWP Program Improvement and Expansion—would incorporate the 15 changes discussed under ''Programmatic Changes to the EWP Program'' above.

IV. Impacts Under the Alternatives

This section summarizes some of the effects that would be expected to occur to such resource areas as aquatic, riparian, and floodplain ecosystems, wetland communities, and human communities under each of the four alternatives.

A. Alternative 1—No Action (Continue the Current Program)

This alternative has the lowest likelihood of addressing watershed level effects (*e.g.*, water quality). Minor adverse effects from restoration practices would continue to occur and would add to habitat loss in riparian, floodplain, and wetland ecosystems and loss of natural floodplain functioning that are a contributing part of general watershed decline. Agricultural floodplain easements may mitigate these effects in some watersheds.

Aquatic Ecosystems: Under Alternative 1, aquatic ecosystems would continue to benefit in the short-term from restoration of channel capacity and reduction of bank erosion at EWP repair sites. The hydrology of disaster-damaged stream reaches would be restored and turbidity and sedimentation reduced, which would improve conditions for aquatic life in

many respects. However, aquatic ecosystems would continue to be adversely affected in the longer-term primarily due to the widespread emphasis on the use of armoring and removal of in-stream debris. Generally, armoring and levee repairs would continue to provide lower quality habitat for aquatic life, limit riparian vegetation growth, and redirect stream energy to downstream locations with potentially damaging consequences, such as increased flow velocities and increased turbidity in downstream reaches. Adverse effects on habitat structure would likely continue to occur from almost complete removal of in-stream debris, as this removes habitat and nutrients. Continuing to use three easement categories would result in some easement lands serving as natural floodplains; others would support intensive agriculture. Category 1 easements would increase filtration, improve vegetation, and increase flood storage. Category 3 would continue to contribute to agricultural runoff and declines in water quality.

Riparian Ecosystems: Under Alternative 1, riparian communities and streambanks would continue to be adversely affected, primarily due to continued reliance on armoring practices and levee repairs. While these practices do stabilize streambanks, the structures used limit or damage riparian vegetation, reduce the quality of habitat for aquatic and riparian species, redirect streamflow energy further downstream, and restrict natural floodplain function. Additionally, current methods for creating access and clearing and snagging may adversely affect streambank stability and habitat quality. Increased use of natural structural materials may mitigate these impacts. Floodplain easements would offer improved habitat from increased vegetative cover. Category 1 would yield the greatest potential benefits, while Category 3 would yield minimal benefits.

Floodplain Ecosystems: Under Alternative 1, floodplain ecosystems would continue to be adversely affected, since armoring alters natural floodplain function and levees confine flood flows to the stream channel, protecting the lands behind them while preventing the development of natural floodplain function. Stream energy would continue to be channeled to downstream reaches and floodplain habitat would continue to be absent or underdeveloped. Substantive improvements would occur with Category 1 floodplain easements, as easement purchases would return developed lands to a more natural state, improving water quality, habitats, and infiltration. Category 3 easements offer minimal benefit, as intensive agriculture is allowed.

Wetland Communities: Under Alternative 1, wetland communities may continue to be adversely affected, as many restoration practices act to restrict stream hydrology and normal flood regime and may limit the water available for wetland functions. Filtration, flood retention, groundwater recharge and wetland habitat functions may be affected. However, continued purchase of agricultural floodplain easements would continue to restore some natural flooding conditions, improving wetland hydrology in some watersheds, and would continue to promote wetland creation or growth, resulting in increased wetland habitat.

Human Communities: Continuation of the current Program would be expected to have a minimal impact on the local economy of affected communities. Most of the proposed projects are relatively small in scope and the total dollar expenditures would not contribute substantially to the local economy. Alternative 1 would benefit the local economy from restoration of previous productive land use and value. Purchase of floodplain easements could result in a loss of employment and income from agricultural land, but would reduce demand for services and disaster assistance, and may provide the additional benefit of protecting open space and improving the visual or recreational quality of an area. With respect to infrastructure and social resources and services, the effect of the Program is generally beneficial. Some temporary disruption of social patterns during project construction may result, but no permanent disruption to local community. Short-term benefits would occur from protecting public health and safety; however, in disaster-prone areas, long-term public health and safety concerns would remain high.

B. Alternative 2—EWP Program Improvement and Expansion (Draft PEIS Proposed Action)

This alternative would have an increased likelihood of addressing watershed level effects than Alternative 1 from using environmentally preferable practices (design based on the principles of natural stream dynamics and bioengineering) and more floodplain easements on non-agricultural lands. There would be a reduced likelihood of adverse impacts on aquatic, riparian, wetland, and floodplain ecosystems. Use of non-agricultural floodplain easements would encourage more restricted land uses of floodplains.

Aquatic Ecosystems: Under Alternative 2, Program-wide training in and use of stream restoration design based on the principles of natural stream dynamics and floodplain easements would provide substantial benefits to aquatic ecosystems. These practices would help restore sinuosity, regulate stream flow, create aquatic habitat, increase channel structure quality, and improve water quality. Increased use of bioengineering may also better regulate water temperatures. Under the Alternative 2, only one category of agricultural floodplain easement would be available, which would allow compatible uses such as grazing, haying or timber. Purchase of agricultural and improved land floodplain easements would reduce urban and agricultural runoff, improving water quality. This type of easement would improve habitats, channel structure, and floodplain function. Requiring a buffer strip on all floodplain easements and fencing on grazing floodplain easements will help to maintain or improve environmental conditions.

Riparian Ecosystems: Under the Alternative 2, emphasis on stream restoration based on the principles of natural stream dynamics and increased floodplain easement purchases could provide considerable benefits for riparian communities. These practices would promote natural re-vegetation, stabilize streambanks, dissipate stream energy, establish aquatic and riparian habitat, and restore natural channel structure and morphology. Easements would serve to augment these benefits by restoring floodplain function and establishing riparian forests and buffer zones.

Floodplain Ecosystem Impacts: Under Alternative 2, inclusion of recovery measures to restore natural stream dynamics and an increased emphasis on easements would improve floodplain function, increase flood retention capabilities, substantially improve hydrology, and promote floodplain habitat. Natural stream dynamics may lead to change in land use to more natural land uses, as stream channel is allowed to meander. Limitations on compatible uses within floodplain easements may offer benefits to water quality, infiltration, and groundwater recharge.

Wetland Communities: Under Alternative 2, natural stream dynamics and a focus on floodplain easement purchase may lead to improvements in wetland communities. By restoring to more natural hydrologic regimes, wetlands may be restored in areas with appropriate soils and hydrology.

Easements would also likely restore wetlands and wetland functions, as periodic flooding would promote wetland growth and development.

Human Communities: Alternative 2 would be generally beneficial to affected human communities. Increased Federal cost-share for projects in limited resource communities and expansion of the defensibility criteria for EWP projects would substantially increase access to potentially beneficial effects of the projects for socially disadvantaged or minority persons who may have been previously excluded and would reduce the potential financial burden on these communities. By establishing a social rationale based on the use of the property by the landowner, the proposed action includes a category of participant who might otherwise have been excluded from the current Program, especially in circumstances where the economic value of a property may be low or difficult to calculate.

Expansion of the floodplain easement option to include non-agricultural and improved land would likely increase the potential for short-term disruption of local communities or neighborhoods by the displacement of residents, but it also represents an opportunity for the community to reduce the long-term impact of natural disasters and the associated recovery cost, especially on improved properties. The general effect on the local economy would be similar to Alternative 1; however, expansion of floodplain easements to improved land may have a greater impact on employment and income from affected properties. Easement purchases may result in the loss of business, commercial, or residential structures, or alter previous land uses on or land value of subject and neighboring properties. Where floodplain easements are purchased, there is some possibility that the easements could become part of an area's comprehensive plan for growth, by meeting a portion of the need for functional open space for the community.

C. Alternative 3—Prioritized Watershed Planning and Management

Alternative 3 would have the highest likelihood of planning for and addressing watershed level effects, as well as reducing adverse effects and increasing beneficial effects on aquatic, wetland, floodplain, and riparian ecosystems, especially in well-managed priority watersheds. This alternative would also have the highest likelihood of encouraging the best use of floodplains, but the highest potential for disruption of older rural communities.

Aquatic Ecosystems: Alternative 3 would have the same impacts on aquatic ecosystems as those described under Alternative 2, with the following additional benefits. Planning and coordination at the local level would act to focus restoration efforts on high priority disaster-prone watersheds. Through watershed scale management, the benefits realized with restoration design based on natural stream dynamics and purchase of floodplain easements could be amplified, as contiguous habitat areas and longer reaches of naturally flowing streams could be restored and improved. This would result in greater improvements in water quality and more permanent establishment of biotic populations.

Riparian Ecosystems: Alternative 3 would have the same impacts on riparian ecosystems as those described under Alternative 2, with the following additional benefits. Coordinated planning under Alternative 3 may result in: decreased emphasis on local impairments, focusing on watershed scale stream function; contiguous easement sections, reducing the need for streambank repairs and benefiting riparian ecosystems; and contiguous ecosystem components and habitat, such as riparian forests and buffer zones, which would benefit riparian biota.

Floodplain Ecosystems: Alternative 3 would have the same impacts on floodplain ecosystems as those described under Alternative 2, with the following additional benefits. Coordination and planning under Alternative 3 may lead to the establishment of large segments of contiguous, freely flowing stream and floodplain systems in priority watersheds. Floodplain land uses may be converted to more natural uses, improving floodplain function and reducing threats to life and property. Coordinated easement purchases may create contiguous reaches of well-regulated flows during flooding events and result in an overall reduction in stream energy and velocity thereby safeguarding lives and property within that portion of the watershed.

Wetland Communities: Alternative 3 would have the same impacts on wetland ecosystems as those described under Alternative 2, with the following additional benefits. Planning and coordination would likely lead to further improvements to wetland communities. Watersheds may be managed for natural stream flows, which may lead to contiguous reaches with sufficient flooding and natural hydrology to maintain, improve, and promote wetland areas. This may also result in contiguous segments of wetland, which would augment the quality of habitat and filtration capacity. Coordinated easement purchase may result in creation or growth of more extensive wetland habitat than Alternatives 1 or 2, resulting in large scale filtration and improving water quality.

Human Communities: The primary effect of the proposed watershed planning and management approach under Alternative 3 is the proactive benefit of allowing watershed planning on a macro scale. Where this alternative would continue to provide funding and technical assistance similar to that proposed under Alternative 2, similar impacts would be anticipated. However, the incorporation of pre-disaster planning and management of the watershed on a macro scale provides a greater understanding of a land use vision for the community. The integration of watershed planning into the process enables environmental concerns to be addressed as part of the community's long-term growth strategies. An integrated approach to program management allows for more efficient use of capital resources and the economic potential of the watershed, while minimizing adverse environmental effects. Some potential for loss of existing community resources may be possible, but this is offset by the increased availability of watershed related recreational, educational, or other uses. An important beneficial effect associated with this approach concerns the involvement of multiple program authorities, local and State agencies, and stakeholders in the process.

Proactive use of floodplain easements in a planned approach would minimize potential problems associated with reliance on a project-by-project approach, especially where neighboring or adjoining properties are volunteered for the Program at different times and under differing circumstances. Where easements are purchased, there is the potential that open spaces can be planned as integral components of the area landscape. Similar to Alternative 2, purchase of improved lands floodplain easements could alter the composition or structure of the community by displacing current residents. Easements could also alter the existing land uses or may result in the breakup of residential networks. These potentially adverse effects may be offset, however, by the more effective use of floodplain easement purchases as a part of a longer-term flood management and watershed planning approach and could reduce Federal funding outlays in the

long-term. This alternative would be the best long-term solution to protect public health and safety.

D. Alternative 4—EWP Program Improvement and Expansion (Preferred Alternative—EWP Program Improvement and Expansion)

Alternative 4 would have an increased likelihood of addressing watershed level effects than Alternative 1 from using environmentally preferable practices (design based on the principles of natural stream dynamics and bioengineering) and more floodplain easements on non-agricultural lands. There would be a reduced likelihood of adverse impacts on aquatic, riparian, wetland, and floodplain ecosystems due to emphasis on bio-engineering practices, but more limited reductions from more limited use of easements than under Alternative 2. Limited support for buyouts as part of the recovery program would encourage more restricted uses of the floodplain but may disrupt older rural communities.

Aquatic Ecosystems: The impacts on aquatic ecosystems under Alternative 4 would be similar to those described under Alternative 2.

Riparian Ecosystems: The impacts on riparian ecosystems under Alternative 4 would be similar to those described under Alternative 2.

Floodplain Ecosystems: The impacts on floodplain ecosystems under Alternative 4 would be similar to those described under Alternative 2.

Wetland Communities: The impacts on wetland communities under Alternative 4 would be similar to those described under Alternative 2.

Human Communities: In general, implementation of the Preferred Alternative—EWP Program Improvement and Expansion—would be beneficial to affected human communities. Funding changes for projects in limited resource communities and expansion of the defensibility criteria for EWP projects would substantially increase access to potentially beneficial effects of the projects for socially disadvantaged or minority persons who may have been previously excluded and would reduce the potential burden on these communities. By establishing a social rationale based on the use of the property by the landowner, the proposed action includes a category of participant who might otherwise have been left out of the current Program, especially in circumstances where the economic value of a property may be low or difficult to calculate.

The potential impact of the installation of engineered solutions at individual sites is similar to that under Alternative 1. Expansion of the floodplain easement option to include improved lands and limited funding of buyouts of small flood-prone rural communities would likely increase the potential for disruption of local communities or neighborhoods in the short-term by the displacement of some residents, but it would also present an opportunity for the community to reduce the long-term impact of natural disasters and the associated recovery cost on improved properties. Program modifications in funding priorities and floodplain easement purchase under the Preferred Alternative—EWP Program Improvement and Expansion—would influence the overall impact of the Program on the human social environment and may alter the proposed solutions or the manner of participation for affected communities. Additionally, the Preferred Alternative—EWP Program Improvement and Expansion—allows for greater opportunities for cooperation with local land use plans. Easement purchases may result in the loss of business, commercial, or residential structures, or alter previous land uses on or land value of subject and neighboring properties. Where easements are purchased, there is some possibility that the easements could become part of an area's comprehensive plan for growth, by meeting a portion of the need for functional open space for the community.

V. Rationale for the Decision

The Preferred Alternative—EWP Program Improvement and Expansion—expands and improves the EWP Program to allow NRCS to more effectively and efficiently meet EWP statutory requirements and improve the effectiveness of agency responses to sudden watershed impairments caused by natural disasters. The Preferred Alternative—EWP Program Improvement and Expansion—beneficially affects aquatic, riparian, floodplain, and wetland ecosystems and human communities. While NRCS recognizes that Alternative 3, ''Prioritized Watershed Planning and Management,'' would likely be the environmentally preferable alternative, the agency supports Alternative 4 (EWP Program Improvement and Expansion) as its Preferred Alternative because:

(1) Current law, as interpreted by USDA legal counsel, limits activities conducted under EWP primarily to disaster recovery work. Alternative 3 would add a substantial increment of preventative measures to reduce future flood damages. Legislative authority would be required to implement such a major expansion of the purpose of EWP under Alternative 3.

(2) To a large extent, NRCS has integrated the management of its water resources programs within the Water Resources Branch of the National Headquarters Financial Assistance Programs Division, working closely with the NHQ Easement Programs Branch. Together they oversee the recovery practices and floodplain easements portions of EWP and provide funding and technical assistance and training to the NRCS State Offices. NRCS is limited in fully implementing the scope of Alternative 3 primarily by funding constraints. Several NRCS watershed programs currently exist under P.L. 566 and P.L. 534 that address watershed-scale planning and management and include measures for watershed protection and flood prevention, as well as the cooperative river basin surveys and investigations. The structural and non-structural practices implemented and the easements purchased under those programs have greatly reduced the need for future EWP measures in project watersheds. Nevertheless, EWP must remain available to deal with the aftermath of major natural disasters regardless of improvements under the other watershed programs.

VI. Implementation and Mitigation

NRCS would continue to consult with the U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) in any situation where there is a potential to affect threatened or endangered species, critical habitat, and anadromous fish species and would work with USFWS and NMFS to develop adequate protective measures.

Aquatic Community, Wetland, Floodplain, and Riparian Resources

Many potentially adverse impacts to these resources could be minimized by reducing the use of structural EWP practices that harden stream banks, eliminate riparian vegetation, and generally increase runoff and the consequent delivery of pollution sources to the stream. Use of restoration designs based on the principles of natural stream dynamics, and bioengineering would help mitigate these impacts. Other governmental programs could be encouraged to restore and rehabilitate armoring sites to a more natural riparian state where practicable. Where such natural practices are inappropriate, ensuring that the structural EWP practices are properly maintained would help mitigate the

need for additional structural practices due to failure of the original structures.

Coordination with other Federal, State, and local agencies and the landowning public to encourage understanding of the concepts underlying the EPA 404(b)(1) guidelines for wetlands protection in land use activities, and ensuring that the guidelines are followed as a planning practice, as well as for wetlands mitigation, would help mitigate the loss of both wetlands and floodplain resources.

Watershed Upland Resources

Reducing the dependence of EWP Program activities on structural practices would help mitigate damage to terrestrial resources by reducing the use of heavy equipment in surrounding upland areas. Use of more advanced techniques such as helicopter seeding for critical area treatments would reduce heavy equipment impacts on soils.

Socioeconomic and Other Human Resources

Impacts on local economies resulting from funding EWP activities can potentially be mitigated by keeping bid packages for EWP work small, so that local contractors with the skills required would have a fair chance to obtain the work, thus returning some portion of the funds to the locality. Where floodplain easements are used in place of structural practices, floodplain usage may be reduced, requiring relocation of people and activities currently in those areas. Attention paid to preserving and protecting neighborhood structure and residential networking can mitigate the effects of this relocation. In rural communities, certain institutional structures, such as churches, schools, and other ''special'' places, may require special consideration to mitigate adverse effects from such changes.

Where land under floodplain easement purchase is removed from economically productive activities, which were contributing to the local economy and tax base, compensation can be encouraged through seeking alternative replacement activities through such vehicles as HUD's urban development block grants and similar public-private measures. There would be some measure of local economic self-correction inherent in the process anyway, because the community would no longer need to provide the same level of services (power, sewer, road repair) to the easement locality and would no longer have to pay their share of the cost of disaster damage repairs in the future. Nevertheless, NRCS would encourage income-producing activities on floodplain easement lands that would be compatible with their basic purpose. On improved lands floodplain easements where the sponsor gains title to the land, entry fee to open space uses such as trails, walkways, fishing and boat access might be feasible. On agricultural floodplain easements, the landowner keeping title might charge a fee for hunting.

Cultural Resources

If NRCS determines that an adverse effect is going to occur during program implementation, in accordance with 36 CFR 800.6, the agency will continue consultation to resolve (avoid, mitigate, or minimize) this effect. NRCS shall notify the Advisory Council on Historic Preservation (ACHP) of this determination and continued consultation and invite the Council to participate. The NRCS shall also involve all previous consulting parties (including but not limited to the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), and tribes) and provide them all, including the ACHP, with the full documentation and a recommendation regarding steps to be taken to resolve the adverse effect. NRCS will provide a draft of programmatic agreement that outlines the steps to resolve the adverse effects and advise the participants of the nature of the resources that are to be affected.

Currently, some NRCS field offices define the Area of Potential Effect (APE) for EWP projects as the immediate site location, which may inadvertently omit addressing potential adverse impacts to listed or eligible historic properties nearby or downstream. The Cultural Resource Coordinators in the example site states indicate that EWP activities need to be very near to historic resources for NRCS to consider the possibility of impacts. Therefore, at present, unless potential historic structures located in the floodplain, such as homes or mills, are directly affected by sudden impairments and NRCS is planning EWP work to protect them, such resources would not be considered to be in the APE. In addition, NRCS focus on historic structures may result in omitting cultural resources such as archaeological sites, viewsheds, historic landscapes, and cultural places. With narrowly defined APEs, cultural resources may also be affected by ancillary activities such as soil borrow and heavy equipment staging. NRCS' mandatory cultural resources training for field personnel, given to all new field personnel with cultural resources responsibilities, is customized in each state to cover the range and extent of historic, cultural and traditional cultural resources from region to region within the state. Treatments under Section 106 of the National Historic Preservation Act (NHPA) and implementing regulations must, necessarily, be tailored to address the specific values of these resources. This training, coupled with the EWP training and consultation with SHPOs, THPOs, and other consulting agencies, including federally recognized tribes, should ensure that mitigation is appropriate for cultural resources on a case-by-case basis.

Consultation with the SHPO, THPO, and other consulting parties, including federally recognized tribes is a part of the EWP planning and coordination function before a disaster occurs and contact with the SHPO/THPO is made before actions at EWP are taken. Because cultural resources are locality specific, mitigation to protect particular cultural resources would be developed if needed at the site level as part of the defensibility review of the EWP practice.

To minimize impacts to cultural resources, the definition of the APE will be changed to include the entire area of potential effect, including ancillary activities resulting form EWP restoration, such as soil borrow or heavy equipment use. Additionally, recovering information about cultural resources present in the APE will help the agency to design the undertaking to avoid adverse effects to historic properties or help NRCS determine what additional mitigation measures may be necessary to address the potential adverse effect of the projects or actions on NRHP-listed or eligible historic properties.

Signed in Washington, DC, on March 21, 2005.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

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DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

TE–48 Raccoon Island Shore Protection/Marsh Creation Project Terrebonne Parish, Louisiana

AGENCY: Natural Resources Conservation Service, Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy