



DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
7400 LEAKE AVENUE
NEW ORLEANS, LOUISIANA 70118

REPLY TO
ATTENTION OF

Regional Planning and Environment
Division South
Environmental Planning Branch

**DRAFT FINDING OF NO SIGNIFICANT IMPACT
(FONSI)**

**ENVIRONMENTAL ASSESSMENT #543
NEW RIGHT OF WAY AND MITIGATION FOR THE NEW ORLEANS TO VENICE
HURRICANE RISK REDUCTION PROJECT: INCORPORATION OF NON-FEDERAL
LEVEES FROM OAKVILLE TO ST. JUDE AND NEW ORLEANS TO VENICE
FEDERAL HURRICANE PROTECTION LEVEE, PLAQUEMINES PARISH,
LOUISIANA**

Description of the Proposed Action: The U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), has prepared Environmental Assessment (EA #543) to evaluate the potential impacts associated with proposed modifications to the required right of way (ROW) for the approved New Orleans to Venice Non-Federal Levees (NFL) and the New Orleans to Venice (NOV) Federal Hurricane Protection Levee (HPL) projects. EA #543 also evaluates the potential impacts associated with mitigating impacts that would be incurred from construction of the NFL NOV levees using the currently identified ROW as modified by the proposed new ROW in EA #543. As result of the NFL NOV levee construction within the Barataria Basin ("The Basin"), dry bottomland hardwoods (BLH-Dry), wetland bottomland hardwoods (BLH-Wet), scrub shrub, swamp, wet pasture, freshwater marsh, intermediate marsh, brackish marsh, saline marsh, and open water habitats are being impacted. The proposed compensatory mitigation would replace the lost functions and services of the impacted habitat through restoration activities designed to create/increase/improve the habitat functions and services at specific mitigation sites. Impacts to these habitats would be mitigated within the same watershed where the impacts occurred. The proposed action includes the following four actions:

1. Acquisition of new ROW to safely construct the NFL NOV project in levee reaches NOV 09, and NOV-NF-W-05a.1, which would reduce the BLH-Wet and wet pasture impacts identified for these reaches in the NFL EIS, SEA #537, and NOV SEIS down to 23.5 acres (14.3 AAHUs) of BLH-Wet and 34.9 acres (11.4 AAHUs) of wet pasture respectively.
2. Acquisition of sufficient BLH-Wet, and swamp mitigation bank credits in the Barataria Basin to mitigate 191.5 AAHUs of BLH-Wet, BLH-Dry, scrub shrub, and swamp impacts.

3. Acquisition of sufficient freshwater marsh credits from the State of Louisiana In Lieu Fee (ILF) program and mitigation banks in the Barataria Basin to mitigate 53 AAHUs of freshwater marsh and wet pasture impacts.
4. Construction of the Coleman Flood Side (FS) Brackish Marsh project to mitigate 105.6 AAHUs of open water; intermediate, brackish, and saline marsh impacts. This project would restore 230 acres of brackish marsh from open water with material mined from 348 acres of Point Celeste borrow area within the Mississippi River. The proposed Coleman mitigation project is located adjacent to the NFL NOV in Plaquemines Parish near West Pointe a La Hache, west of Louisiana Highway 23, between Mississippi River mile 46 and 49.

The NFL NOV impacts were assessed in the Final Environmental Impact Statement (FEIS) titled “Final Environmental Impact Statement New Orleans to Venice, Louisiana Hurricane Risk Reduction Project: Incorporation of Non-Federal Levees from Oakville to St. Jude, Plaquemines Parish, Louisiana” with a Record of Decision (ROD) signed October 31, 2011; Supplemental Environmental Assessment (SEA) #537 titled “Supplemental Environmental Assessment #537 New Orleans to Venice Hurricane Risk Reduction Project: Changes to the Non-Federal Levees Project, Oakville to St. Jude, Plaquemines Parish, Louisiana” with a FONSI signed March 25, 2016; and Final Supplemental Environmental Impact Statement (SEIS) titled “Final Supplemental Environmental Impact Statement New Orleans to Venice Federal Hurricane Protection Levee Plaquemines Parish, Louisiana” with a ROD signed October 31, 2011. After the RODs were signed for the NFL EIS and NOV SEIS, a risk analysis was performed for the NFL NOV project which determined that the following levee sections were of lower priority and would not proceed to construction at this time: NOV 01, NOV 06A, NOV 08A, NOV 12, NOV 15, and NOV 16. As such, the mitigation plan in the proposed action only mitigates for impacts incurred from construction in the following reaches: NFL sections 1-5, NOV 02, NOV 05A and B, NOV 06B, NOV 07 A and B, NOV 08B, NOV 09, NOV 10, NOV 11, NOV 13, NOV 14, P-14a, and P-17a.

Factors Considered in Determination: The CEMVN has assessed the impacts of the No Action Alternative and the Proposed Action on important resources including: wetlands and other surface waters; wildlife; threatened and endangered species; fisheries, aquatic resources and water quality; essential fish habitat (EFH); cultural resources; recreational resources; air quality; noise; socioeconomics/land use, environmental justice, transportation, navigation, commercial fisheries and the potential of the project to encounter HTRW. No significant adverse impacts were identified for any of the relevant resources. The risk of encountering HTRW is low. The proposed new ROW reduces the amount of mitigation required for construction of the NOV 09, and NOV-NF-W-05a.1 reaches. On June 27, 2017, draft EA #543 and the associated draft Finding of No Significant Impact were mailed out for a 45-day public review and comment period. Environmental compliance for the Federal action will be achieved based upon the following actions:

Executive Order (E.O.) 11988 Floodplain Management: E.O. 11988 directs Federal agencies to reduce flood loss risk; minimize flood impacts on human safety, health, and welfare; and restore and preserve the natural and beneficial values served by flood plains. The proposed action represents the least environmentally damaging alternative to accomplish the needed risk reduction system modifications.

Clean Air Act of 1972 (CAA): The proposed action project area is located in Plaquemines Parish which is currently in attainment of NAAQS; therefore, a general conformity determination is not required.

Clean Water Act (CWA) Section 404(b)(1): A Section 404(b)(1) evaluation and public notice were mailed out for public and agency review and comment on June 27, 2017. The Section 404(b)(1) and public notice is included in Appendix E of this EA #543 and will be signed upon completion of public review and comment.

Clean Water Act Section 401: LDEQ determined that the three State Water Quality Certification (WQC) issued 1) NOV SEIS WQC 110718-04/AI 101235/CER 20110006, approved August 18, 2011; 2) NFL EIS WQC 110520-01/AI 101235/CER 20110002, approved July 6, 2011; and 3) SEA #537 WQC 110520-01/AI 101235/CER20160001, approved January 7, 2016 for the NFL NOV project remain valid for the proposed action. A public notice was posted on the CEMVN website <http://www.mvn.usace.army.mil/About/Projects/>, in the Advocate, Times Picayune, and Plaquemines Gazette on June 25, 2017 for a 30 day public review (Appendix F).

Coastal Zone Consistency: The CEMVN received a consistency determination C20100384 for the NFL FEIS on January 24, 2011 and C20110045 for the NOV SEIS and April 6, 2011. Coordination with the Louisiana Department of Natural Resources (LADNR) for modification to the coastal zone determination (CZD) was initiated by letter dated May 24, 2017. In their letter dated June XX, 2017, the LADNR determined that the project as proposed is consistent with the Louisiana Coastal Resources Plan and issued Modification 8 to CZD XXXX.

Endangered Species Act: On May 25, 2017, the CEMVN submitted an updated threatened and endangered species Biological Assessment (BA) to the U.S. Fish and Wildlife Service (FWS) with a determination of “no effect” on the piping plover, the red knot or any listed sea turtles and “not likely to adversely affect” the West Indian manatee or the pallid sturgeon for the proposed action in EA #543. The FWS concurred with CEMVN’s determinations on June XX, 2017. Standard protection measures would be implemented during construction activities and are included in this FONSI as Environmental Design Commitments as an integral part of the proposed action.

Fish and Wildlife Coordination Act: The FWS reviewed the proposed action in

accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 USC 661 et seq.) and provided a draft Fish and Wildlife Consolidation Act Report (DCAR) dated **June XX, 2017**. This office has concurred with, or resolved, all recommendations contained in the DCAR, and project-specific recommendations have been addressed in section 8.2 of EA #543 and are incorporated into this FONSI.

Magnuson-Stevens Fisheries Conservation and Management Act (MSFCMA):

CEMVN will work with NMFS to resolve their comments and respond to their EFH conservation recommendations on EA #543 when received. Coordination between the agencies would be included in Appendix G and incorporated into the FONSI.

Migratory Bird Treaty Act: On May 25, 2017, the CEMVN submitted an updated BA to the FWS. This BA covered protected species that could potentially be present in the project area. CEMVN determined that the proposed action would not adversely impact other protected species. FWS concurred with the determination on **June XX, 2017**.

National Historic Preservation Act: Section 106 consultation has not yet been completed for the TSA. Additional ROW for NOV 09 is being investigated for National Register of Historic Places eligibility. Correspondence with the SHPO and Federally-recognized Indian Tribes for proposed mitigation areas is being reviewed by those parties. A finding of “no historic properties affected” for new ROW associated with NOV-NF-W-05a.1 was coordinated with the SHPO and Federally-recognized Indian tribes in a letter dated January 15, 2016, and the SHPO concurred with the finding.

Environmental Design Commitments: The following commitments are an integral part of the proposed action:

1. If the proposed action is changed significantly or is not implemented within one year, CEMVN will reinstate coordination with the USFWS to ensure that the proposed action would not adversely affect any Federally listed threatened or endangered species, or their habitat.
2. If any unrecorded cultural resources are determined to exist within the proposed project site, then work will not proceed in the area containing these cultural resources until a CEMVN staff archeologist has been notified and final coordination with the Louisiana State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer has been completed.
3. All contract personnel associated with the project will be informed of the potential presence of the West Indian manatees and pallid sturgeon and the need to avoid collisions with manatees. Standard manatee protection measures and standard pallid sturgeon protection measures, found in section 5.3.3.2 of final EA #543, would be

implemented when activities are proposed that would impact habitat where manatees and pallid sturgeon could occur.

4. A survey will be performed prior to construction to identify the presence of colonial nesting wading birds or nesting bald eagles. If colonial nesting water birds are present, best management practices, developed in coordination with USFWS, would be implemented to avoid potential impacts. This could include using bird abatement procedures before nesting begins in February to avoid impacting the nesting population. If, despite use of these measures, nesting still occurs, work will be required to take place outside of the USFWS and LDWF declared buffer zone of 1,000 ft during nesting season. Work within the buffer zone could only take place during non-nesting season (September 1 to February 15). If nesting bald eagles are present, the National Bald Eagle Management Guidelines would be followed.

Public Involvement: The proposed action has been coordinated with appropriate Federal, state, and local agencies and businesses, organizations, and individuals through distribution of EA #543 for a 45-day public review and comment period. Comments on the Draft EA #543 and Draft FONSI, when received, will be addressed and responded to (Appendix G of the EA #543).

Decision: The CEMVN Environmental Planning Branch has assessed the potential environmental impacts of the proposed action described in EA #543 and has reviewed and responded to the comments received during the public review period for the Draft EA #543 (future action).

In accordance with the environmental considerations discussed above, the public interest will be best served by implementing the proposed action described in EA #543, namely: the acquisition of new ROW for NFL NOV construction in NOV 09 and NOV-NF-W-05a.1; the purchase of mitigation bank credits as mitigation for NFL NOV BLH-Dry, BLH-Wet, and scrub shrub; the purchase of mitigation bank and ILF credits as mitigation for fresh marsh and wet pasture impacts; and the construction of the Coleman FS Brackish Marsh Project as mitigation for NFL NOV intermediate, brackish, and saline marsh impacts.

I have reviewed the EA #543 and have considered public and agency comments and recommendations. Based on the assessment conducted in EA #543 and the implementation of the environmental design commitments listed above, I have determined that the proposed action would have no significant impact on the human and natural environment and would fully offset the habitat losses caused by the construction of NFL sections 1-5, NOV 02, NOV 05A and B, NOV 06B, NOV 07A and B, NOV 08B, NOV 09, NOV 10, NOV 11, NOV 13, NOV 14, P-14a, and P-17a as directed by the Water Resources Development Acts of 1986, 2007, and 2016 (Public Law 99-662 §906, Public Law 110-114 §2036, Public Law xx) and other laws.

The plan is justified and in accordance with environmental statutes. It is in the public interest to implement the recommended projects in EA #543.

Date

Michael N. Clancy
Colonel, U.S. Army
District Commander