

**LOUISIANA COASTAL AREA
BARATARIA BASIN BARRIER SHORELINE RESTORATION
FINAL CONSTRUCTION REPORT
AND
FINAL ENVIRONMENTAL IMPACT STATEMENT**

**REAL ESTATE PLAN
APPENDIX C**

REAL ESTATE PLAN
BARATARIA BASIN BARRIER SHORELINE RESTORATION PROJECT
LOUISIANA COASTAL AREA
LAFOURCHE, JEFFERSON, AND PLAQUEMINES PARISHES, LOUISIANA

1. Project Name and Purpose. The purpose of this Real Estate Plan (REP) is to present the overall plan describing the real estate requirements and costs for the Louisiana Coastal Authority, Barataria Basin Barrier Shoreline Restoration Project. The Barataria Basin Barrier Shoreline Restoration Project was identified as a critical near-term restoration project in the *Louisiana Coastal Area, Louisiana Ecosystem Restoration Study Report* (LCA Report). This project was recommended for authorization by the Chief of Engineers on 31 January 2005, and was transmitted by the Assistant Secretary of the Army for Civil Works (ASA(CW)) to Congress on November 18, 2005. Title VII of the Water Resources Development Act of 2007, section 7006(c)(1)(C) requires USACE to submit a construction report to the House Committee for Transportation and Infrastructure and the Senate Committee for the Environment and Public works for approval to commence construction.

The proposed action to be evaluated in the Chief's Report is the restoration of the Barataria Basin Barrier Shoreline through shoreface, dune, and marsh creation and nourishment. The purpose of the proposed action is to restore the geomorphic functions of the barrier shoreline to improve ecosystem habitat.

The non-Federal Sponsor for this study is the State of Louisiana's Coastal Protection and Restoration Authority (CPRA) and includes participation by the Louisiana Department of Natural Resources and the Louisiana Department of Wildlife and Fisheries. The information contained herein is tentative and for planning purposes only. The final real property acquisition lines are subject to change even after approval of this report. All exhibits referred to are attached herein.

2. Authorization. The Barataria Basin Barrier Shoreline Restoration Feasibility Study, as described in the LCA Study, was conducted under the authority provided to USACE through resolutions adopted by the Committees on Public Works of the Senate and U.S. House of Representatives dated 19 April 1967 and 19 October 1967, respectively. These resolutions requested a review of prior USACE reports by the Chief of Engineers to determine the advisability of improvements or modifications to existing improvements in the coastal area of Louisiana in the interest of hurricane protection, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and related water resources purposes. These resolutions contain the following language.

“RESOLVED BY THE COMMITTEE ON PUBLIC WORKS OF THE UNITED STATES SENATE, That the Board of Engineers for Rivers and Harbors created under Section 3 of the River and Harbor Act approved June 13, 1902, be, and is hereby requested to review the reports of the Chief of Engineers on the Mermentau River and Tributaries and Gulf Intracoastal Waterway and Connecting Waters, Louisiana, published as Senate Document Numbered 231, Seventy-ninth Congress, on the Bayou Teche,

Teche-Vermilion Waterway and Vermilion River, Louisiana, published as Senate Document Numbered 93, Seventy-seventh Congress, on the Calcasieu River Salt Water Barrier, Louisiana, published as House Document Numbered 582, Eighty-seventh Congress, and on Bayous Terrebonne, Petit Caillou, Grand Caillou, DuLarge, and Connecting Channels, Louisiana, and the Atchafalaya River, Morgan City to the Gulf of Mexico, published as House Document Numbered 583, Eighty-seventh Congress, and other pertinent reports including that on Bayou Lafourche and Lafourche-Jump Waterway, Louisiana, published as House Document Numbered 112, Eighty-sixth Congress, with a view to determining the advisability of improvements or modifications to existing improvements in the coastal area of Louisiana in the interest of hurricane protection, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and related water resource purposes.”

3. Study Area. The Barataria Basin Barrier Shoreline Study includes two areas. The first is the Caminada Headland, located near the southern end of Louisiana Highway 1, which terminates at Grand Isle. The second is Shell Island, located offshore in Plaquemines Parish, near the southern end of the Empire Waterway. A pipeline corridor near Empire, Louisiana will be required to transport dredge material from the Mississippi River to the Shell Island project site.

The majority of the Caminada Headland is located at the southern end of Lafourche Parish. Lafourche Parish is situated in southeast Louisiana, and its parish seat of Thibodaux is located approximately 63 miles southwest of New Orleans. A small portion of the eastern part of Caminada Headland is located in Jefferson Parish. Thunder Bayou separates Jefferson from Lafourche Parish. Jefferson Parish is bordered on the northern side by Lake Pontchartrain and on the southern side by the Gulf of Mexico. The parish is located on both sides of the Mississippi River. The southern portion of Jefferson Parish is part of the Barataria-Terrebonne Basin. Located between the Mississippi River and the Atchafalaya Swamp, the Barataria-Terrebonne Basin encompasses more coastal wetlands than any other estuary in the United States. The area of the Caminada Headland in Jefferson Parish is called Cheniere Caminada. This area is closely tied economically and socially to Grand Isle.

Grand Isle, located to the east of the project area, is the only inhabited, incorporated coastal island in the Louisiana barrier shoreline. The primary industries on Grand Isle are tourism, commercial fisheries, and oilfield related services. Approximately 1,500 people live on Grand Isle, but during the summer months, Grand Isle witnesses a boost in tourism, due to its close proximity to the Gulf of Mexico and its available amenities.

The Greater Lafourche Port Commission, located near the project area, was established in 1960 and exercises jurisdiction over an area south of the Intracoastal Waterway including Port Fourchon and the South Lafourche Leonard Miller, Jr. Airport. Port Fourchon’s primary service market is domestic deepwater oil and gas exploration, drilling, and production in the Gulf of Mexico. The port comprises 600 developed acres of service facilities, and is in the midst of a 700 acre expansion to the north of its current facilities. It is a land base for offshore oil support services as well as a land base for the Louisiana Offshore Oil Port (LOOP). Additionally, it serves as a commercial and recreational fishing area, and foreign cargo shipping terminal. Port Fourchon is located on the western end of the Caminada Headland at the mouth of Bayou Lafourche.

Louisiana Highway 1 is located north of the project area. Highway 1 is the only hurricane evacuation route for Grand Isle and for the southern parts of Lafourche Parish. It is also the only route to Port Fourchon and to Louisiana Offshore Oil Port (LOOP). The U.S. Congress designated Highway 1 as a “high-priority corridor” because of its role as critical energy infrastructure. Currently, an ongoing project to expand the entirety of Highway 1 will result in 18 miles of four-lined elevated roadway from Golden Meadow to Port Fourchon. Port Fourchon supports more than 75% of the Gulf of Mexico’s deepwater oil production, and more than 18% of the United States’ oil supply traverses the Highway 1 corridor.

Shell Island is located at the southwestern edge of Plaquemines Parish. Plaquemines Parish is a long, narrow parish where the northern boundary begins slightly down-river from New Orleans and traverses the Mississippi River on both the east and west banks to the mouth of the river at the Gulf of Mexico. Shell Island is part of the Plaquemines barrier shoreline. The Plaquemines shoreline has undergone a dramatic transformation due to subsidence, extensive canal dredging, and lack of sediment.

Plaquemines Parish is serviced by rail lines, which run along both banks of the rivers. On the east bank, the Norfolk-Southern Railroad follows Highway 39 north connecting with the main Norfolk-Southern railroad line, offering direct single-system rail service to Kansas City in the west and to Buffalo, NY, Washington, D.C., and Jacksonville, FL in the east. Plaquemines Parish also contains major ports, due to its proximity and relatively easy access to the Gulf of Mexico and its access to several natural resources.

4. Description of Work

The measures for approaching the solution to the rapid coastal erosion in the aforementioned areas were divided into three general categories: (1) shoreline restoration and protection, (2) marsh restoration, and (3) supporting measures to enhance or maintain shoreline and marsh features. It should be noted that shoreline restoration at Caminada Headland and Shell Island is needed to stabilize these geomorphic features and reduce the rapid rate of shoreline erosion, while marsh restoration alone does not provide the coastal protection against everyday wave action or storm events. Shoreline restoration is necessary in conjunction with marsh restoration for optimal shoreline protection and ecosystem restoration.

Shell Island Alternative for Recommended Plan -- Alternative 5: One Island with Renourishment

Under alternative 5, the Shell Island reach would be restored as one island. The island would include shoreface, dune, and marsh platform features. This alternative would restore Shell Island to a form similar to its pre-Hurricane Bob (1979) condition.

The landward edge of the dune of alternative 5 would be located seaward of the existing shoreline. The west end of the alternative 5 single island would be terminated approximately 0.5 mile before Grand Bayou. It is anticipated that the closure of Coupe Bob would return the tidal prism to its pre-1979 path—flowing through Grand Bayou, with Grand Bayou increasing in size in response to the altered tidal flow pattern. The west end of alternative 5 is close to the western limit of Shell Island that was observed in 1973, prior to the opening of Coupe Bob. The

proposed island follows the shortest and shallowest route across Coupe Bob. The east end of the island would then follow the remnants of Shell Island East, and has a concave shape towards land. The eastern end of the island would be located near the Empire Waterway. The constructed dune would have a uniform width of 189 feet along the length of the restored barrier island.

However, in deeper water (bathymetry below -3.0 feet), it is not feasible to construct the marsh section with only marsh sediments, as the marsh would settle too rapidly and nonuniformly to perform its intended purpose effectively. Instead it is recommended to construct a sand base across Coupe Bob, at -3.0 feet, using shoreline fill material. The marsh can then be constructed on top of this base, which would reduce settlement of the marsh material. A second option is to install a geotextile tube for containment of the marsh fill where the -3 feet NAVD sand base is constructed. The geotextile tube could be filled with sand from the sand base. This option was used for the development of alternative 5. It is estimated that 5.6 million cubic yards of shoreline fill would be required to construct 317 acres of shoreline/dune area (area above +2 feet, NAVD). Approximately 2.1 million cubic yards of marsh fill would be required to construct 466 acres of marsh.

Shell Island would be re-nourished 20 years and 40 years after initial construction to the original template of 317 beach/dune acres. The marsh fill for alternative 5 would also be re-nourished to its original construction template at this time interval. Alternative 5 will create 730.6 AAHUs.

The borrow source for the dune/beach would be a large sand deposit near Nairn in the Mississippi River between mile markers 32 and 34, approximately 11 miles north of the project area. Based on samples obtained from vibracores, the sand grain size is comparable to the sand at the project site. The dredged material would be pumped from the Mississippi River via pipeline. The borrow source for the marsh restoration would be the Empire deposit, approximately 1.5 miles from the Empire Jetties. The borrow area occupies about 207 acres and total mixed sediment volumes range from 5.5 million to 6.6 million cubic yards for 15 foot and 20 foot cut depths, respectively.

Caminada Headland Alternative for Recommended Plan: Alternative 5: Preferred Dune with Expanded Marsh

The conceptual design for the dune/beach restoration feature for Alternative 5 includes two components: design fill and advanced fill. The marsh platform fill would extend along the landward edge of the dune ridge from a point near the terminus of Louisiana Highway 3090 westward through Bay Champagne to the eastern edge of the project boundary where a small spit forms the western edge of Caminada Pass. Additional marsh would also be restored in an area between two existing canals west of the petroleum storage facility immediately landward of the existing dune ridge. Fill quantities for the beach/dune and marsh features for Alternative 5 would be 5.1 million and 5.4 million cubic yards, respectively. Louisiana State Highway 3090 bisects the Caminada Headland project area. The State acquired road servitude over the highway right-of-way and will therefore be utilized to access both the Caminada project area and the construction staging area.

5. Description of Lands, Easements, Rights-of-Way, Relocations, and Dredged Material Disposal Areas (LERRD).

Caminada Headland Alternative

Caminada Headland is located at the mouth of Bayou Lafourche and is defined as the area south of Highway 1 between Belle Pass and Caminada Pass. The beach from Belle Pass to Highway 3090 is known as Fourchon Beach, and the beach at the eastern end of the headland is known as Elmer's Island. Spits have formed at either end of the headland. The 13-mile long beach is narrow and has numerous storm overwashes, particularly after Hurricane Katrina. Back-barrier lagoons include Bay Champagne, Caminada Bay, and several irregular shaped ponds. Numerous small bayous wind through the back barrier wetlands and there are also several man-made pipeline canals. The Chevron canal is parallel to shore, only about 1,200 feet inland from the Gulf, and runs nearly the entire length of the headland. There are also 13 offshore breakwaters west of Bay Champagne.

Caminada Headland will be fronted by a sand dune, in order to better protect and promote the development of the wetlands behind it. The project also includes enhancement of the wetlands in the landward side of the Headland. The dune restoration/creation work will impact approximately 987 acres and for the marsh restoration/creation work which will impact 1,186 acres. This acreage will be acquired from five private landowners on Caminada. The project areas are identified in the Caminada Headland engineering maps found on Exhibit A. Corps of Engineers regulations indicate that real estate interests for the construction of ecosystem restoration projects should generally be acquired in Fee. Therefore, we propose to acquire a standard Fee, Excluding Minerals (with restrictions on use of the surface) estate to accomplish the work for this project. However, a Request to Deviate from Fee Acquisition and Request for Approval of Non-Standard Estates has been submitted and is currently under review. This is discussed further below.

The proposed source of borrow sand for Caminada Headland is Ship Shoal, a sand body in the Gulf located approximately 50 miles southwest of Belle Pass. It is about 31 miles long and 7 miles wide, lying at a water depth of 9 to 30 feet. It is the remaining seaward shoal from one of the older abandoned deltas. Ship Shoal is composed of well-graded quartz sand and is ideal for use in restoring the Caminada Headland since its grain size is slightly larger than the sand found at the headland. Ship Shoal is located in the Gulf of Mexico in water's of the State of Louisiana or the United States; therefore, no real estate interests need to be acquired for excavation of the sand.

Shell Island Alternative

The Shell Island Reach stretches approximately 2.5 miles, from Grand Bayou Pass to the Empire Waterway. The Shell Island Reach is currently highly fragmented into small, shallow shoals and islands, which represent only a fraction of the once continuous shoreline. The remaining shoals and islands have migrated northward into Bastian Bay.

This project will employ the same restoration method utilized for the Caminada Headland, with a sand dune facing the gulf to protect and better ensure the growth of the newly created marsh in

the rear. Shell Island is one island and is identified in the attached engineering maps on Exhibit A. This project proposes to restore/create dunes in an area of 453 acres and to restore/create marsh in an area of 448 acres. As previously discussed, Corps of Engineers regulations indicate that real estate interests for the construction of ecosystem restoration projects should generally be acquired in Fee. Therefore, we propose to acquire a standard Fee, Excluding Minerals (with restrictions on use of the surface) estate to accomplish the work for this project. However, a Request to Deviate from Fee Acquisition and Request for Approval of Non-Standard Estates has been submitted and is currently under review. This is discussed further below.

The proposed source of borrow sand for the Shell Island shoreline/dune fill is the Mississippi River. The primary potential source for borrow is from the vicinity of Nairn, which is located 2 to 4 miles upriver from Empire between Mile Marker (MM) 32 and MM 34 and about 11 miles from the center of Shell Island. The deposit is located in a river meander where greater sediment thickness may be anticipated due to the presence of relict (vertically stacked) sand bars. The Mississippi River is a State of Louisiana/United States waterbottom; therefore, no real estate interests need to be acquired for excavation of the sand.

In addition, due to the need to move dredge material from the Mississippi River to Shell Island, a standard Utility And/Or Pipeline Easement (standard estate) is needed over approximately 174 total acres. At this time, the specific location of the pipeline has not yet been finalized, but a map depicting the approximate location of the pipeline is attached in Exhibit A. The dredged material pipeline will be located slightly south of the Hwy 23 Empire Bridge. It will begin at the Mississippi River levee, traversing the area across Highways 11 and 23, crossing the Hurricane Protection Levee and continuing through the marsh and waterways to Shell Island.

A staging area will be located near Highway 23 on the property owned by Plaquemines Parish south of the Empire Bridge and adjacent to the pipeline easement. Highway 23 provides access to the staging area, making it relatively easy to access. The staging area, totaling four (4) acres will be encumbered by a standard Temporary Work Area Easement for approximately five (5) years.

Construction of this project will impact four owners on Shell Island and nine owners over areas impacted by the pipeline and staging areas. The acreage approximations are based on current information and are subject to change during future phases of this project.

6. Non-Federal Sponsor Owned LER. A State Land Determination dated March 15, 2005 for Shell Island and Caminada Headland was received. The position of the State of Louisiana is that the State of Louisiana is the owner of the bed and bottom of all navigable waterways within the State. The State possesses ownership of the beds and bottoms of all navigable waterways within its boundaries, has asserted public ownership in running waters, the waters and bottoms of natural navigable water bodies, the territorial sea, arms of the sea, the seashore, and beds of certain navigable waterways near the Gulf of Mexico. The above interests are recognized in the Louisiana Civil Code as “public things” owned by the State in its capacity as a public person.

7. Estates. It is Corps of Engineers policy to acquire fee simple title for ecosystem restoration projects. Two reasons for such requirement is to reduce the risk that incompatible uses on project land will occur after project construction and to ensure that ownership rights vested in the project are clear and enforceable (ER 1105-2-100, Appendix F, Amendment #2, F-20b(2)(a). However, regulations also indicate that a lesser interest, such as, a specific type of permanent easement, may be appropriate depending upon the operational requirements of the project and other circumstances relevant to project implementation, including landowner preference (EP 1165-2-502, 17b). Circumstances wherein the acquisition of interests less than fee may be appropriate is where only select and easily identifiable and narrow affirmative rights are required for successful implementation of the project (ER 1105-2-100, Appendix F, Amendment #2, F-20b (2)(b)(i)).

To deviate from acquisition of the fee estate, the District must request approval of a waiver from the Headquarters office. It is the opinion of the Non-Federal Sponsor and the District that construction and maintenance of this project can be accomplished through the acquisition of easements rather than fee. A Request to Deviate from Fee Acquisition and Request for Approval of Non-Standard Estates has been submitted as an independent document for this project, and is currently under review.

The District has prepared a non-standard perpetual Wetland Creation and Restoration Easement describing the real estate interests necessary for areas of marsh restoration/creation and a non-standard perpetual Dune Restoration and Creation Easement describing the real estate interests necessary for areas of dune restoration/creation. Estates similar to these were presented in the Louisiana Coastal Area-Louisiana Ecosystem Restoration Study, dated November 2004. The request includes justifications for acquiring these non-standard estates rather than fee.

However, because the waiver to acquire interests less than fee has not been approved by HQUSACE as of the date of this report, the report proposes the acquisition of the Fee, Excluding Minerals (with restrictions on use of the surface) for the dune restoration/creation and the marsh restoration/creation features of the project. With HQUSACE approval, of the request to deviate from fee acquisition, these non-standard estates will be the estates acquired for the project.

8. Existing Federal Interests. Completed in 1950, the Waterway from Empire, LA to the Gulf of Mexico provides for a navigable channel 9-by-80 feet from Empire to the Gulf of Mexico with construction of stone jetties to the 6-foot depth contour. The length of the waterway is 10 miles. Within the right-of-way acquired, the Government has the right to dredge the waterway and deposit the dredged material.

The dredged material pipeline will cross the New Orleans to Venice Hurricane Protection Project both along the Mississippi River and the back hurricane protection levee. Real Estate interests were transferred to the local levee board.

9. Navigation Servitude. Derived from the Commerce Clause of the U.S. Constitution, Article I, section 8, clause 3, the navigation servitude is the dominant right of the United States to use, control, and regulate the navigable waters and submerged lands underneath. The applicability of the navigation servitude depends on both legal and factual determinations. The Government

must first determine whether a project feature serves a purpose in aid of commerce. If the legal determination supports assertion of the navigation servitude, then the second step is to determine the geographical area over which the servitude can be asserted. In tidal areas, the servitude extends to all lands below the mean high water mark, whereas in non-tidal areas, the servitude extends to all lands within the bed and banks of a navigable stream that lie below the ordinary high water mark. The navigation servitude can be asserted on the Mississippi River.

10. Flooding Induced by the Project. No flooding will be induced by this project.

11. Maps. Maps of the project area are included in Exhibit A of this report.

12. Baseline Cost Estimate/Chart of Accounts (COAs). The real estate costs have been estimated to be \$2,010,000 for Shell Island and \$1,651,000 for Caminada Headland. These costs include land payments and administrative costs to acquire real estate rights. An estimate to cover the administrative costs of possible condemnation is included in the COA. This is based on a percentage of total ownerships. A 25% contingency has been included in the estimate. The contingencies are estimated to cover the scope of work that can be achieved in the Feasibility phase of a project. Most of the right way could only be inspected from aerial photography. Ownership information is very preliminary. The right of way requirements could change during the PED phase. Furthermore, although the locals seem to be in favor of this project, approximately 30% of the affected owners could require condemnation either for price or title. The contingency compensates for court awards above the appraiser value.

The LERRD estimate is based on a gross appraisal last amended on 10 November 2010 and has been reviewed and approved within the New Orleans District. A copy of the chart of accounts is included as Exhibit C.

13. Uniform Relocation Assistance (PL 91-646) as amended, Title II. Benefit payments under the provisions of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended, are not anticipated. Construction of this project will not cause the displacement of persons or habitable or commercial structures. However, should current plans change, and the displacement of persons and habitable or commercial structures be required during the construction of the project, Title II of this Act may become applicable.

14. Oil & Gas Activities/Timber & Crop Harvesting. Under Louisiana law, a landowner does not own oil, gas, or other oil & gas "occurring naturally in liquid or gaseous form." However, the owner does have the exclusive right to explore and develop the land for the production of oil & gas. A landowner cannot transfer the oil & gas estate independent of the surface property, but the owner may convey or lease the right to produce the oil & gas in the form of a servitude or easement. Between private parties, if an oil & gas owner does not exercise the right within ten years, the servitude is extinguished for "non-use," and reverts to the surface owner. This "prescription of non-use" does not apply, however, in instances when the United States or the State of Louisiana, or any subdivision or agency of either, acquires property but reserves the oil & gas interests to the landowner. The statute, La. R.S. 31:149, describes the rights of

landowners involved in a government acquisition and indicates that the owner of the mineral interests will enjoy the right explore and develop oil & gas in perpetuity.

For this project, oil & gas rights will not be acquired. The proposed Fee estate excludes mineral rights from the acquisition but restricts the use of the surface. Furthermore, the non-standard estates included in the request to deviate from fee acquisition also specifically reserve the oil & gas to the landowners, but the surface rights are restricted. If possible, alternative methods to access the oil & gas would be allowed. If the project prevents access to the oil & gas, compensation for the diminished use or enjoyment will be required. If the oil & gas rights owners' rights are completely diminished because oil & gas cannot be accessed, then payment will be required for the oil & gas rights.

Currently, there are several active state leases and a number of conservation units that overlap the project boundaries, but there are no active wells within the project construction areas. There are 4 to 6 active oil wells in the area surrounding the Caminada project, so care would have to be taken in order to not interfere with ongoing production, especially if offshore dredge sites are anticipated as sand sources for the marsh creation portion of the Caminada reach. In the Shell Island project area, there are 3 active units near the project boundaries, but there are no active wells within the project boundaries. Any wells within the project area are either plugged and abandoned or dry and abandoned. However, considering the extent of directional drilling used today, it is unlikely that the marsh creation part of the project would be problematic. There are a number of well heads located offshore which were directionally drilled onshore.

It is noted that the extraction of oil and gas under project areas through directional drilling would not impact the surface. The location of oil and gas in these areas is thousands of feet below the surface of the earth. Therefore, there extraction of oil or gas will not cause the surface of the earth to cave in.

Neither merchantable timber nor crops will be affected by this project.

15. Ownership of Accreted and Emergent Lands and Oil & gas Rights. Pursuant to Article IX, Section 3 of the Louisiana Constitution, owners of land contiguous to and abutting navigable waters, bays, arms of the sea, the Gulf of Mexico, and navigable lakes belonging to the state shall have the right to reclaim or recover land lost through erosion, compaction, subsidence, or sea level rise occurring on or after July 1, 1921. Such private efforts to reclaim or restore lost lands can be made at any time. Coastal restoration projects implemented pursuant to R.S. 49:214.1 et seq. (Act 6, Louisiana Wetlands Conservation and Restoration Act, 1989) might, if successful, impinge upon those private reclamation rights. Accordingly, R.S. 41:1702.D(2)(a) provides that the Louisiana Department of Natural Resources may enter into negotiated boundary agreements with such disaffected landowners to address the anticipated loss of their ownership and reclamation rights in the area of the proposed project where the creation of land is anticipated. In the Caminada Headland project area, Caillouet Land Corporation has filed a reclamation claim to the 1921 shoreline with the State Land Office. The Edward Wisner Foundation, the major landowner in the Caminada Headland area, is considering filing a similar reclamation claim with the State Land Office. In 1955, Wisner negotiated a settlement with the State of Louisiana in which Wisner may claim royalties up to the 1935 coastline.

The state of Louisiana’s position is that, with respect to coastal restoration projects that build land on state water bottoms, the riparian landowners may have a claim for inverse condemnation of their right to reclaim. The value of such a reclamation right, if there is any, is too speculative to assess. If a reclamation issue is raised by a landowner, a case-by-case handling is recommended. A specific claim may be denied on the basis of lack of evidence of value, or, if warranted by the circumstances, compromised pursuant to rather complex legal provisions.

16. Non-Federal Sponsor. An assessment of the non-Federal sponsor was completed and coordinated with CPRA and is included as Exhibit D. The non-Federal Sponsor (NFS) of this project is the Louisiana Coastal Protection and Restoration Authority (CPRA). The Office of Coastal Protection & Restoration (OCPR), a component of CPRA, performs all Real Estate Acquisition activities in support of local levee districts and/or Louisiana Parishes. OCPR has full acquisition capability, except quick-take authorities. In such cases where quick-take authorities are needed, OCPR will engage the Parish Governments and/or Levee Districts impacted by this project, in order to acquire the necessary LER more expeditiously.

17. Zoning Ordinances. No application or enactment of zoning ordinances is proposed in lieu of, or to facilitate, acquisition in connection with this project.

18. Acquisition Schedule. It is expected CPRA through its Office of Coastal Protection and Restoration (OCPR) will acquire all LERRD. The Government will receive an Authorization for Entry for construction to all State lands and water bottoms required for this project as well as obtaining an appropriate real estate instrument from the State of Louisiana. The acquisition schedule is based on having a signed cost share agreement, receiving environmental clearances, and the completion of rights-of-way maps. No acquisition will take place prior to the completion of these activities.

Acquisition Schedule

<u>Task</u>	<u>Duration</u>
Obtain mapping information	60
Obtain title	60
Obtain appraisals	120
Negotiate and issue right of entry	180
Begins condemnation proceedings, if necessary	6 Months

19. Facility/Utility and Cemetery Relocations. Any conclusion or categorization contained in the Real Estate Plan, or elsewhere in this project report, that an item is a utility or facility relocation to be performed is preliminary only. The Government will make a final determination of the relocations necessary for the construction, operation, or maintenance of the project after further analysis and completion and approval of final attorney’s opinions of compensability for each of the impacted utilities and facilities.

At this time, it appears that no facility, utility, or cemetery relocations are necessary for this project.

20. Cultural/Environmental. Environmental documentation (i.e. NEPA) has been prepared and coordinated, as required by law. A preliminary hazardous, toxic, and radioactive waste (HTRW) assessment is not needed at this time, as the nature of the project will not impact lands suspected of containing HTRW. If, during future phases of the project, it is determined construction will adversely impact environmental features, a mitigation strategy will be initiated. A determination of impact on cultural resources will be reached, and provided the discovery of potential impacts to cultural resources, alterations in plan implementation will ensue. Neither acquisition of lands nor initiation of construction will commence until all NEPA requirements are met.

21. Landowner Concerns. Efforts were made to contact each of the major landowners in the Caminada area. Those who responded are generally supportive of the project. However, the landowners are worried about public access and the destruction of their private property by the public. At this time the attitude of landowners impacted by Shell Island project are not known.

22. Notification of Risk. CPRA will be responsible for providing all real estate interests that are owned, claimed, or controlled by the State of Louisiana, including oyster leases, as well as privately owned real estate interests needed for the project. The Non-Federal sponsor is a member of the planning team. The sponsor has been advised by letter dated June 6, 2011 of the risks of commencing acquisition of real estate interests prior to approval of the Chief's report.

23. Access. Access to the project sites will be either over public roads or navigable waterways. In the Caminada area, the public roads utilized will be Louisiana Highways 1 and 3090. Additional access will be over navigable waterways such as the Gulf of Mexico, Bay Champagne, Caminada Pass, and Bayou Moreau. In the Empire area, Louisiana Highways 11 and 23 will be utilized. Shell Island will be accessed by navigable waters such as the Empire Waterway, the Gulf of Mexico, and Bastian Bay.

24. Oysters. The construction and operation of the project will require the acquisition of oyster leases in both the Caminada Headland and Shell Island project areas. The Louisiana Department of Wildlife and Fisheries (LaDWF) leases State of Louisiana water bottoms for oyster production for \$2.00 per acre per year plus survey fees, for a 15-year initial term. The leases give the lessee the exclusive right to harvest oysters from within the leased area. There is no midterm termination clause. An oyster lease has been recognized as a real estate interest by both statute and case law.

During the 2006 legislative session, the Louisiana legislature passed Act 425 which establishes a procedure for the State to acquire oyster leases that are directly impacted by coastal restoration, protection, or conservation projects. The exclusive use of the water bottoms is subordinate to the rights of the State, any political subdivision of the State, the United States, or any of its agencies or agents to take any action in the furtherance of coastal protection, restoration, or conservation. Direct impact is defined as dredging, direct placement of material on the oyster leases, or other work necessary for the construction or maintenance of a project. Only the portion that is directly impacted by the project right-of-way will be acquired unless it is deemed that the remainder of the lease is an uneconomic remnant.

Depending on the plan schedule, the oyster lessee may be allowed to harvest the oysters at his own expense. However, if the plan schedule prevents the oyster lessee from removing the oysters, then the lessee would be compensated for the oyster crop. The lessee would not be allowed to harvest the crop if payment has been made for the oysters. Real Estate costs include the costs associated with oyster lease acquisition.

The State would be obligated to provide real estate as necessary for the construction, operation, and maintenance, repair, rehabilitation, and replacement of the project. As such, the State may acquire existing oyster leases anticipated to be adversely impacted by the project, and the State may choose to not enter into any new oyster leases within oyster impact areas.

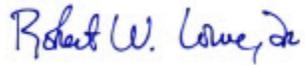
Oyster impacts and costs were provided by LaOCPR. Approximately twenty-four (24) leases, comprising approximately 904 acres will be acquired for the Shell Island portion project; approximately eight (8) leases, comprising approximately 170.5 acres, will be acquired for the Caminada Headland portion of the project.

25. Operations and Maintenance.

After completion of construction, the State will assume all operation and maintenance responsibilities associated with this project. Two renourishment cycles are planned after the initial construction of the project, in the 20th year and another in the 40th year of the project life. As previously stated, regulations indicate that a Fee estate should be acquired for ecosystem restoration projects. If a Fee estate is acquired, then all necessary rights will be available for operation and maintenance of the project. The non-standard estates included in the request to deviate from fee acquisition include language that would protect the project area from human influences such as construction of habitable dwellings, vehicular access, excavation or disposal. In the event that approval to deviate from fee acquisition is granted and the non-standard estates are approved, the Non-Federal sponsor shall be responsible for operating the project to maintain the integrity of the restored features by enforcing the protective restrictions on the land and preventing any foreseeable, non-nature induced alteration. The NFS will be responsible for the maintenance, repair, and rehabilitation of the project features such as the sand fencing. The NFS would be required to monitor the project area to ensure that no unauthorized disposal or excavation has occurred on the project site, and no habitable structures were constructed.

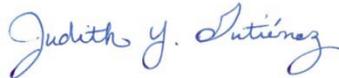
This real estate plan was prepared and reviewed by the following Real Estate personnel in USACE, New Orleans District.

Prepared By:



Robert W. Lowe, Jr., ARA
Staff /Review Appraiser
Real Estate Division
504-862-1306

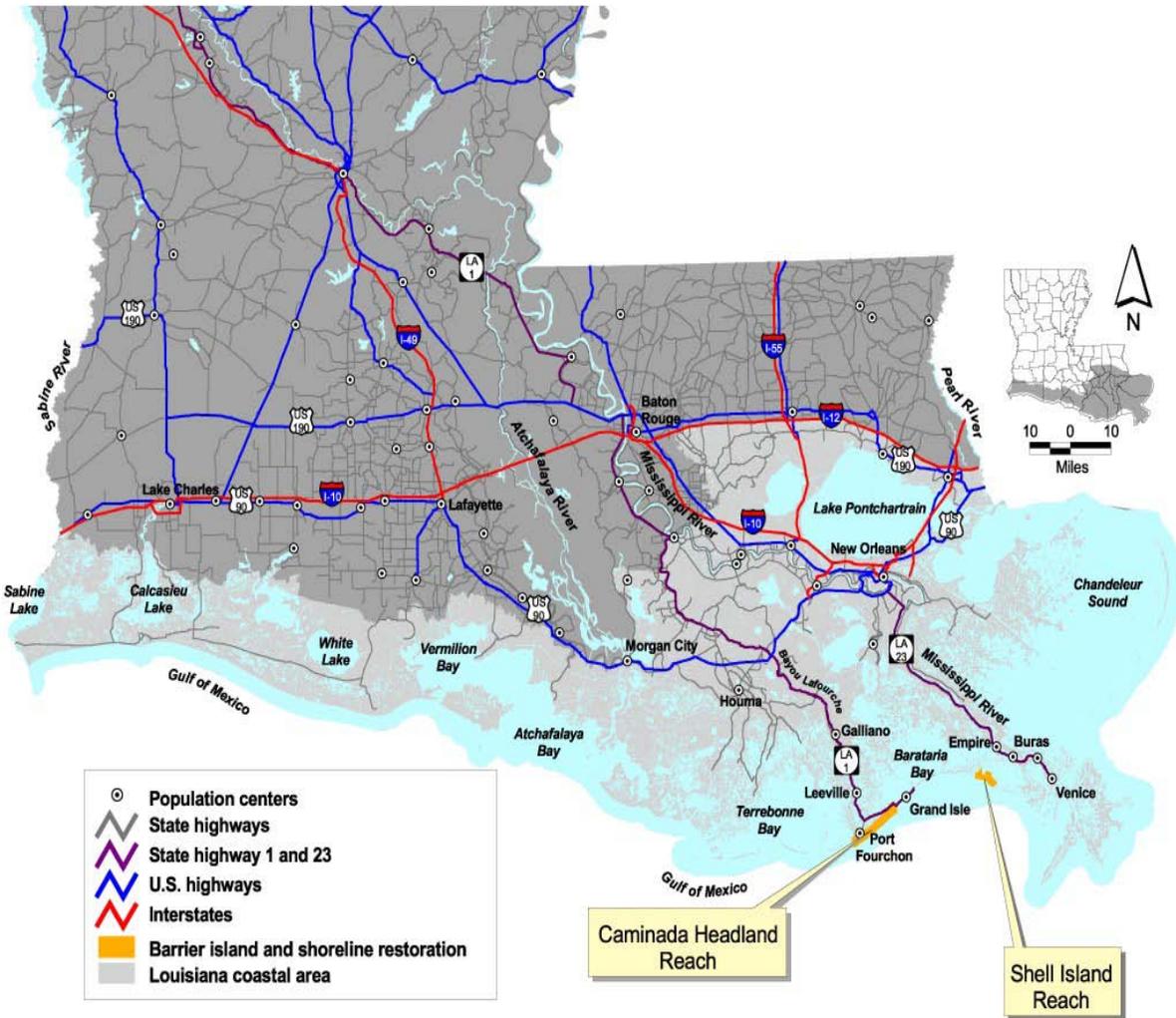
Reviewed By:



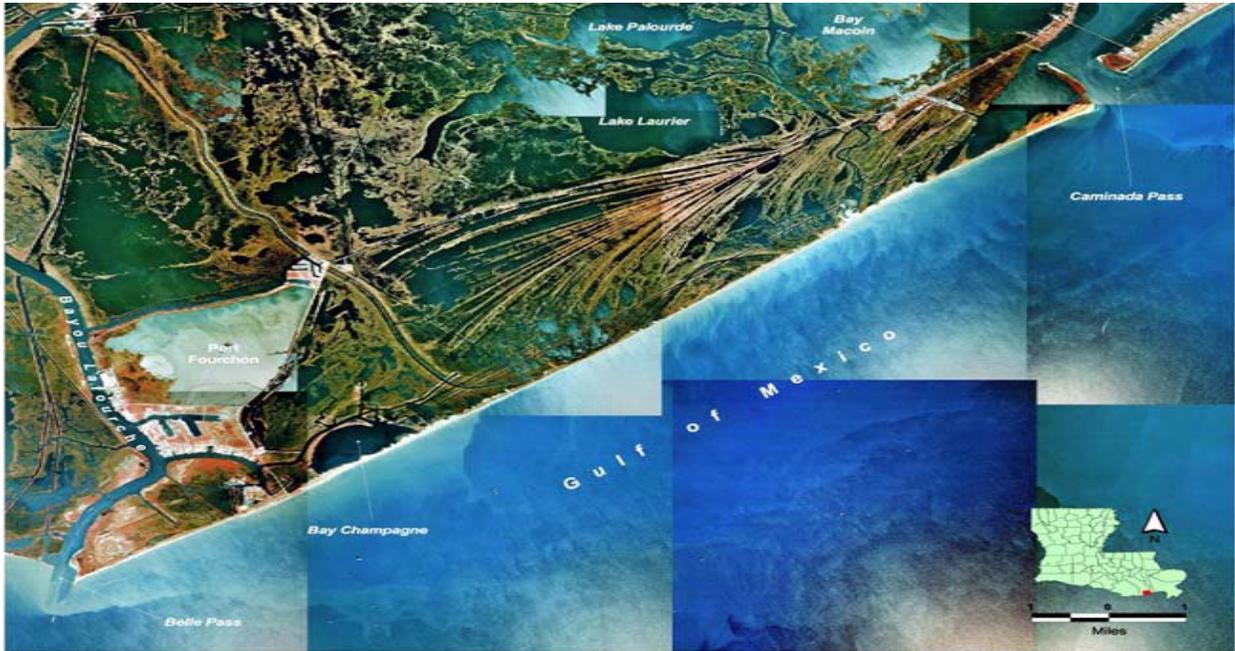
Judith Gutierrez
Chief, Appraisal & Planning Branch
Real Estate Division
504-862-2575

Dated: June 7, 2011

EXHIBIT A
MAPS



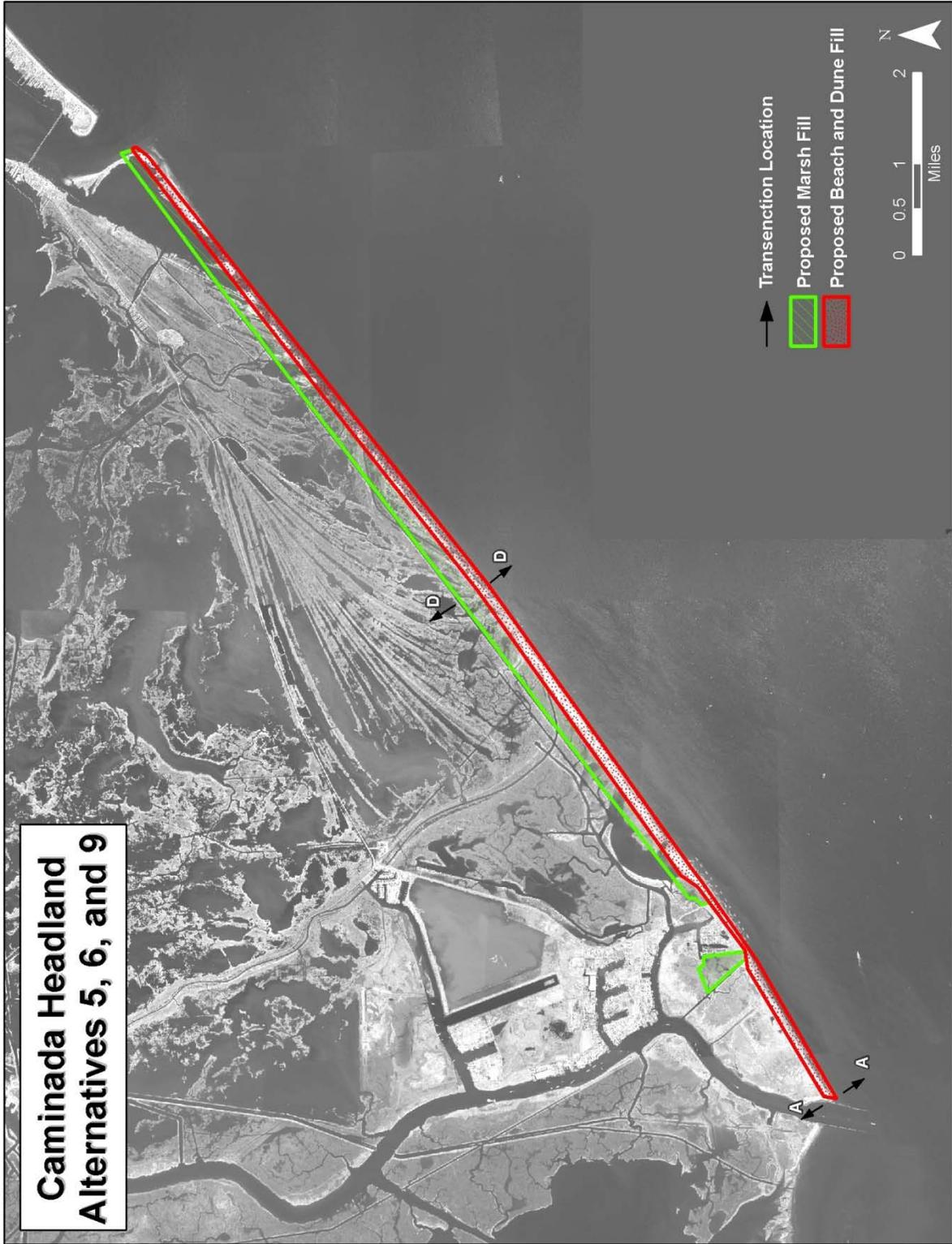
Caminada



Shell Island



Caminada Headland - Project Map



Shell Island - Project Map



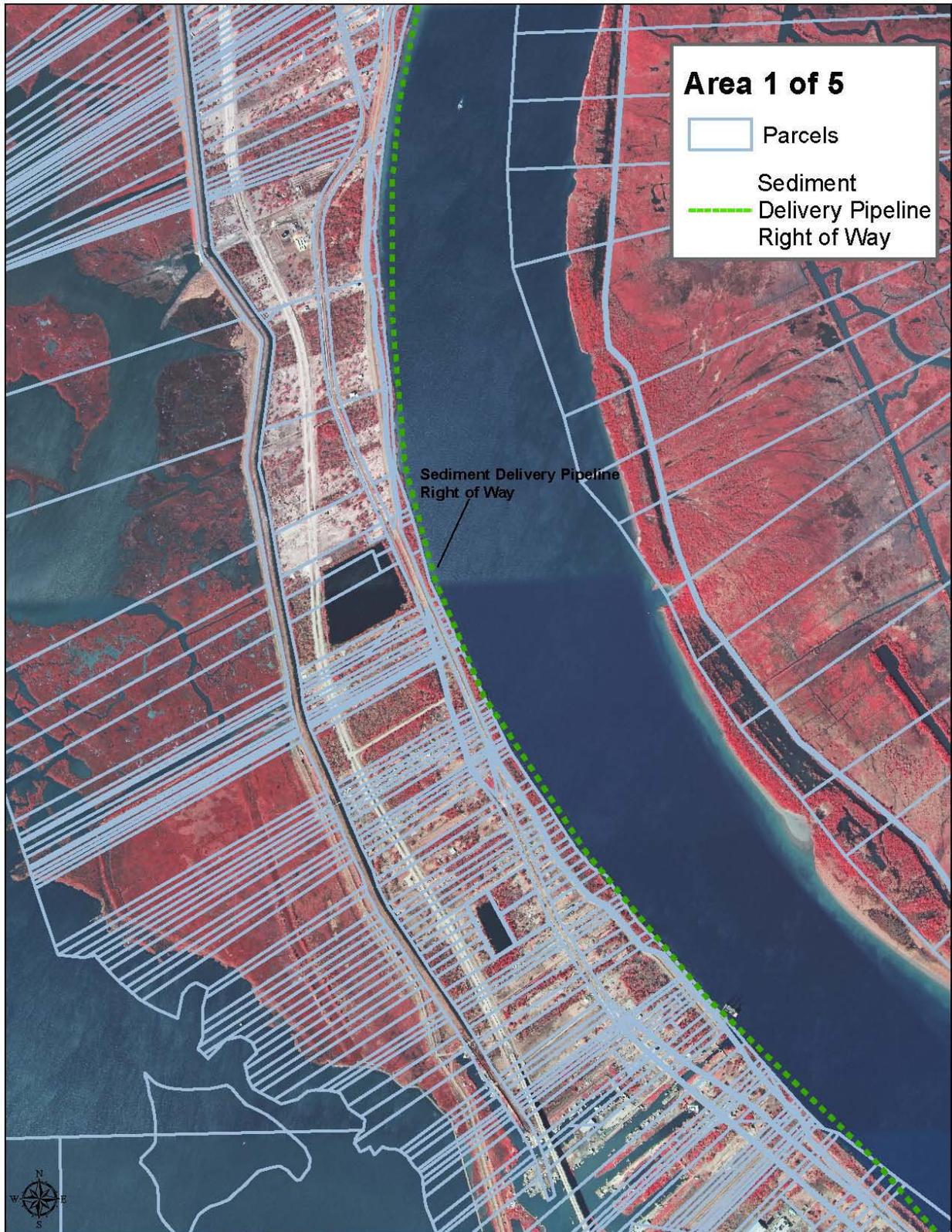
Shell Island - Ownership Map



Shell Island – Ownership Maps for Pipeline Right of Way



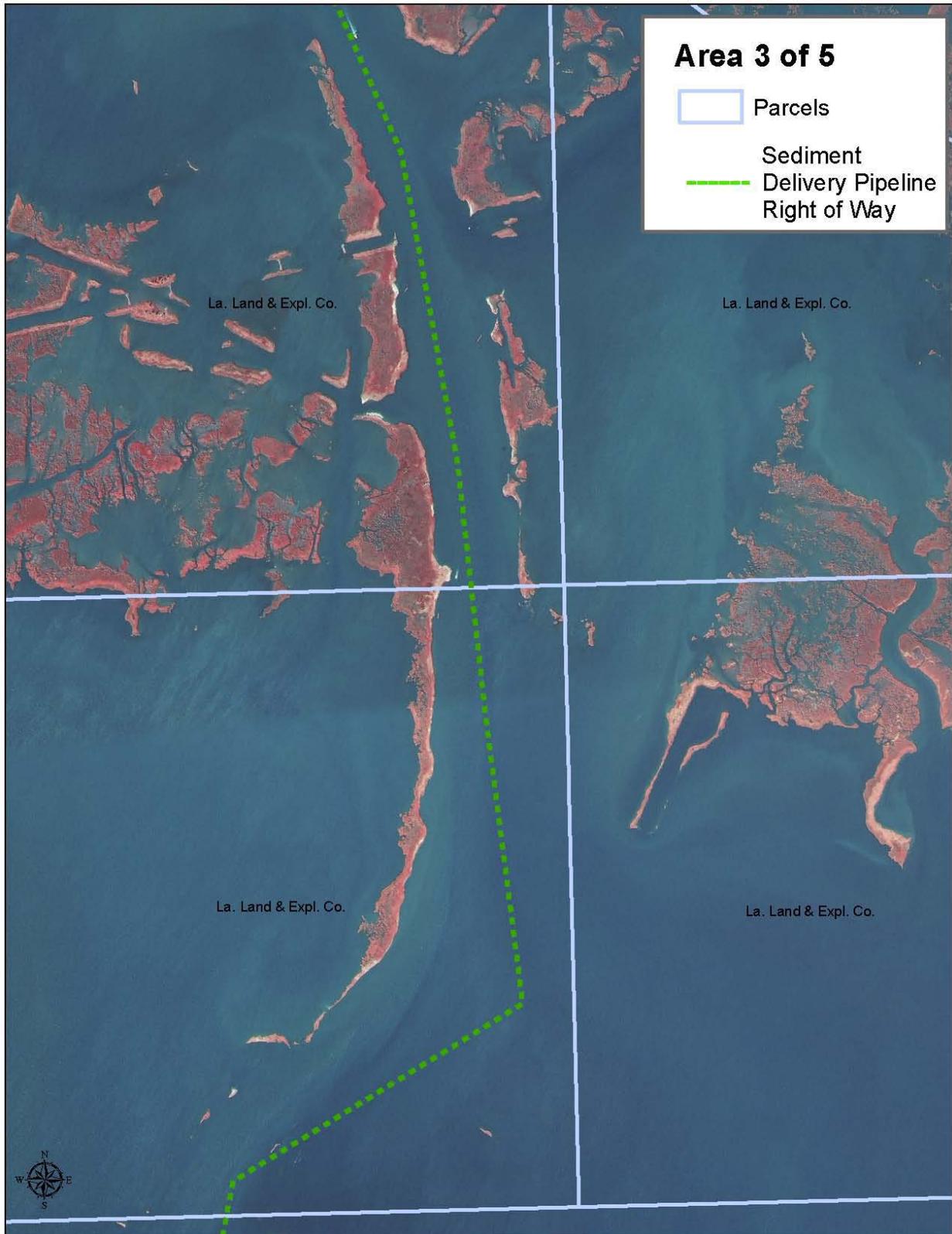
Shell Island – Ownership Maps for Pipeline Right of Way



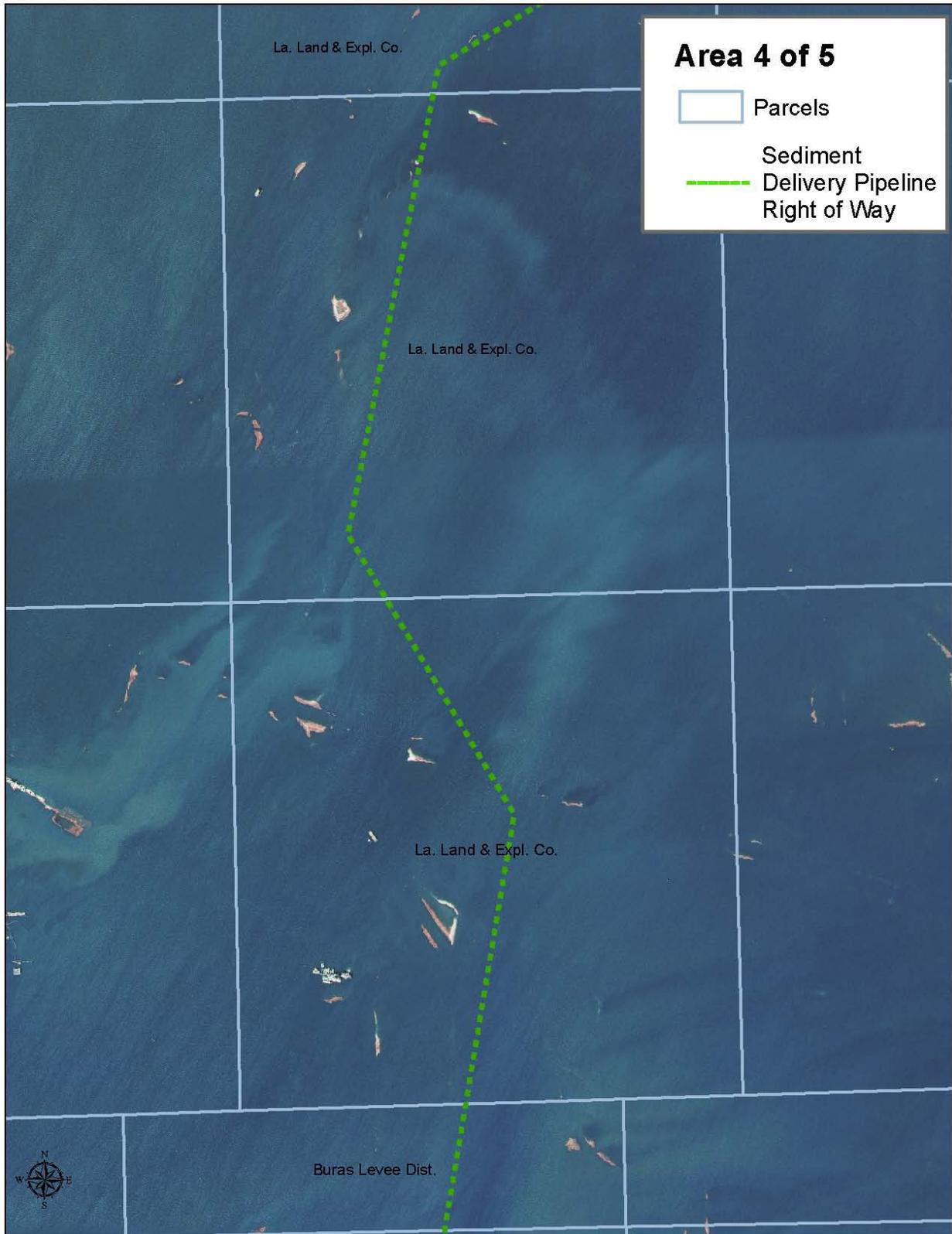
Shell Island – Ownership Maps for Pipeline Right of Way



Shell Island – Ownership Maps for Pipeline Right of Way



Shell Island – Ownership Maps for Pipeline Right of Way



Shell Island – Ownership Maps for Pipeline Right of Way

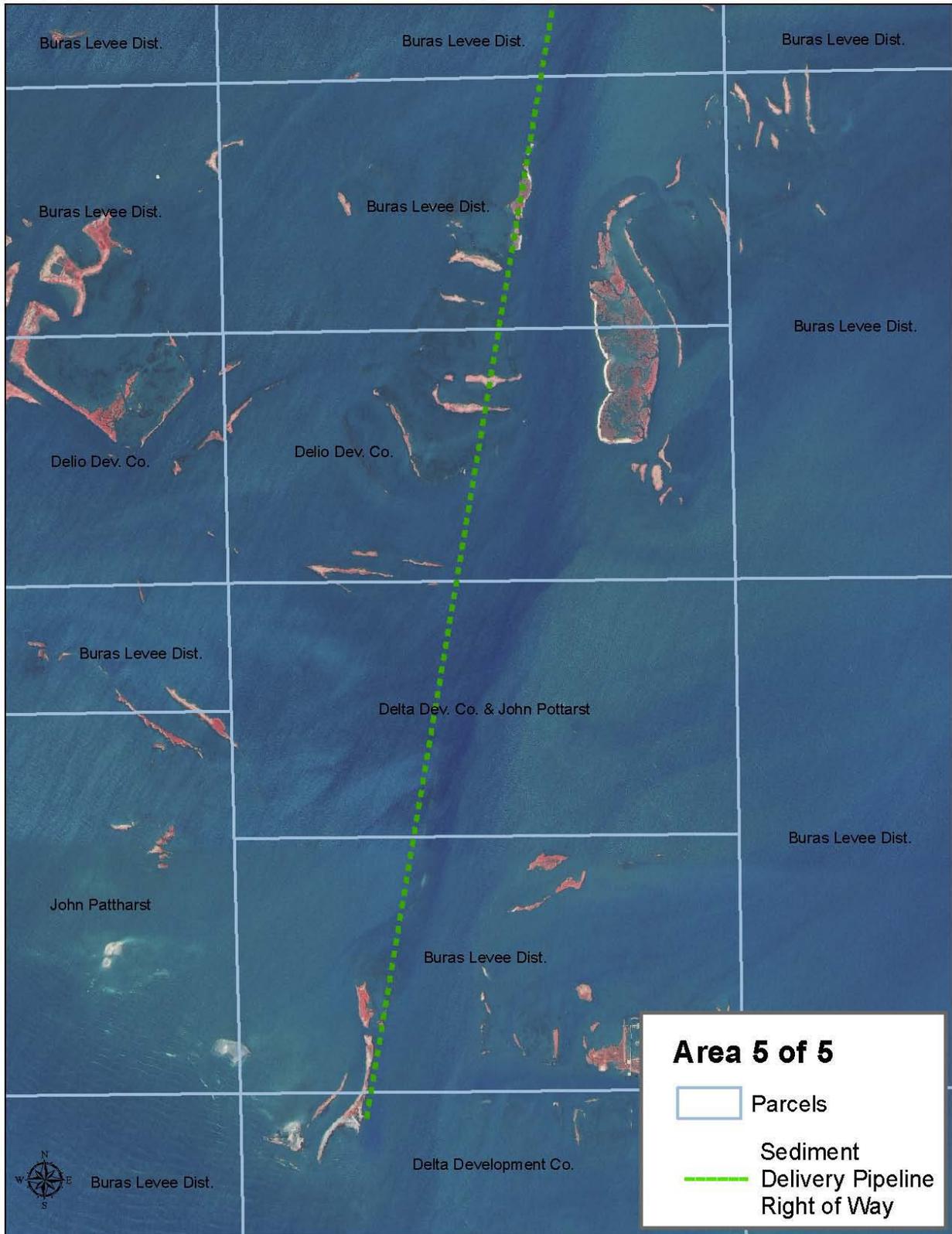


EXHIBIT B
STANDARD ESTATES

FEE EXCLUDING MINERALS
(With Restriction on Use of the Surface)
(Standard Estate)

The fee simple title to (the land described in Schedule A) (Tracts Nos. ____, ____, and ____), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding from the taking all (coal) (oil and gas), in and under said land and all appurtenant rights for the exploration, development, production and removal of said (coal) (oil and gas), but without the right to enter upon or over the surface of said land for the purpose of drilling and extracting there from said (coal) (oil and gas).

UTILITY AND/OR PIPELINE EASEMENT
(Standard Estate)

A perpetual and assignable easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for the location, construction, operation, maintenance, alteration; repair and patrol of (overhead) (underground) (specifically name type of utility or pipeline); together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

TEMPORARY WORK AREA EASEMENT
(Standard Estate)

A temporary easement and right of way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the _____ Project, together with the right to trim, cut, fell and remove there from all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right of way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

EXHIBIT C
CHART OF ACCOUNTS

EXHIBIT D
NON FEDERAL SPONSOR ASSESSMENT

**ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY
(Office of Coastal Protection and Restoration (OCPR))**

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **YES**

- b. Does the sponsor have the power of eminent domain for this project? **YES**

- c. Does the sponsor have "quick-take" authority for this project? **NO**
Although the sponsor does not have quick take authority, if this should be needed for the project, the sponsor may partner with a Levee District or Parish Government which has that authority.

- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? **NO**

- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **NO**

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? **NO**
- b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training? **N/A**
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **N/A**
- d. Is the sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?
Not at this time. CPRA is presently under development. It is expected that the staff will continue to grow in the upcoming months/years, provided sufficient budget & proper legal authorities.
- e. Can the sponsor obtain contractor support, if required in a timely fashion? **YES**
- f. Will the sponsor likely request USACE assistance in acquiring real estate?
It is not likely that the sponsor will request assistance.

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? **YES**
- b. Has the sponsor approved the project/real estate schedule/milestones?
At the feasibility level there are too many unknowns to develop a definite project schedule. Once project designs are finalized, the sponsor will be requested to provide an acquisition schedule.

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? **YES**

- b. With regard to this project, the sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/insufficiently capable.

Fully capable

V. Coordination:

- a. Has this assessment been coordinated with the sponsor?
YES

- b. Does the sponsor concur with this assessment?
YES

Prepared by:
Judith Y. Gutierrez
Chief, Appraisal. & Planning Branch

Approved by:
Linda C. Labure
Chief, Real Estate Division

