



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, NEW ORLEANS  
DISTRICT 7400 LEAKE AVE  
NEW ORLEANS LA 70118-3651

REPLY TO  
ATTENTION OF

Regional Planning and Environment  
Division South  
Environmental Planning Branch

## FINDING OF NO SIGNIFICANT IMPACTS (FONSI)

### ENVIRONMENTAL ASSESSMENT #576

### BIPARTISAN BUDGET ACT CONSTRUCTION PROJECTS; WEST SHORE LAKE PONTCHARTRAIN (WSLP), COMITE RIVER DIVERSION (COMITE), AND EAST BATON ROUGE FLOOD RISK MANAGEMENT (EBR), BBA CONSTRUCTION MITIGATION

**Description of the Recommended Plan:** The U.S. Army Corps of Engineers (USACE), Mississippi Valley Division, New Orleans District (CEMVN), has prepared this Environmental Assessment (EA) #576, incorporated by reference herein, to evaluate alternatives to compensate for unavoidable impacts to significant resources associated with the construction of the West Shore Lake Pontchartrain (WSLP), Comite River Diversion (Comite), and East Baton Rouge Flood Risk Management (EBR) projects; also known collectively as the Bipartisan Budget Act of 2018 (BBA 18) Construction Projects.

The watersheds where the impacts are occurring for the BBA Construction Projects are the Lake Pontchartrain Basin (LPB) and the Mississippi River Basin (MSRB). Because the mitigation need is so large, the project delivery team (PDT) also explored opportunities within the larger watershed that encompasses the southern part of the Mississippi Alluvial Plain. A watershed is an area of land that drains all the streams and rainfall to a common outlet. Ecoregions denote areas of general similarity in ecosystems and in the type, quality, and quantity of environmental resources. One component used when determining ecoregions is hydrology, as well as other parameters such as vegetation and soils. Therefore, an ecoregion could be considered a type of watershed. The PDT determined that, when necessary to mitigate outside the LPB and the MSRB, the appropriate expanded watershed to utilize for the BBA 18 mitigation planning was the Mississippi Alluvial Plain, ecoregion 73, within south Louisiana.

The PDT determined that mitigating bottomland hardwood forest (BLH) impacts in the

Mississippi Alluvial Plain would offer the best opportunity to replace the lost functions and values of impacted BLH forest if those forests could not be mitigated in the impacted LPB or MSRB. All swamp impacts (due to WSLP) will occur within the Mississippi Alluvial Plain ecoregion 73. Mitigating those swamp impacts within the same ecoregion offers the best opportunity to compensate fully for the lost functions and values within an area sharing similar ecological attributes when mitigating outside the watershed of impacts.

The tentatively-selected mitigation alternative projects are located within the Mississippi Alluvial Plain and would compensate for the BBA Construction Projects' impacts to fully satisfy the mitigation requirements incurred by these projects. Although some recommended projects are located outside of the LPB and MSRB, those out-of-basin (OB) projects would not be implemented until all projects within the LPB and MSRB have been implemented to the extent practicable.

While the BBA Construction Projects are three different projects, the compensatory mitigation alternatives for those projects are evaluated together in this EA under National Environmental Policy Act (NEPA) regulations on the following grounds: 1) the mitigation projects will compensate for impacts occurring in the same geographical region within the Lake Pontchartrain Basin and the mitigation projects themselves also will be implemented in the Lake Pontchartrain Basin to the extent practicable; 2) the mitigation projects for the different BBA Construction projects are sometimes located adjacent to one another and will involve the same construction/implementation methods; 3) the decision points and timing for mitigation projects should be earlier than for construction (as mitigation should occur prior to or at least not later than construction) and will likely be the same or similar for all the BBA 18 Construction projects.

At this time, CEMVN anticipates that the BBA 18 Construction projects will have the following impacts:

<b>Habitat Type/BBA Project</b>	<b>AAHUs Impacted</b>
BLH-Wet CZ/WSLP	343
BLH-Wet Non-CZ/EBR, Comite	702
Swamp CZ/WSLP	1,504

The tentatively-selected mitigation alternative would mitigate for 1,045 AAHUs of BLH-Wet and 1,504 AAHUs of swamp impacted by the construction of the BBA Construction Projects.

<b>Tentatively Selected Alternative</b>				
	<b>Projects</b>	<b>Habitat</b>	<b>AAHUs</b>	<b>Acres</b>
BLH-Wet in CZ (WSLP)	Mitigation Bank (LPB)	BLH-wet		TBD
	Mitigation Bank (OB)	BLH-wet		TBD

	Saint John (LPB)	BLH-wet	42.1	94.7
	Albania South (OB)	BLH-wet	Max of 99	Max of 180
	Albania North (OB)	BLH-wet	Max of 99	Max of 190.4
Swamp in CZ (WSLP)	Mitigation Bank (LPB)	Swamp		TBD
	Mitigation Bank (OB)	Swamp		TBD
	Pine Island (LPB)	Swamp	774.7	1,965.0
	Joyce (LPB)	Swamp	195.1	1,126.1
	Albania South (OB)	Swamp	up to 87.7	up to 192.1
	Albania North (OB)	Swamp	up to 424.1	up to 964.8
	Cote Blanche (OB)	Swamp	up to 212.1	up to 446
BLH-Wet Out of CZ (Comite, EBR)	Mitigation Bank (LPB or MSRB)	BLH-wet		TBD
	Mitigation Bank (OB)	BLH-wet		TBD
	Ascension (LPB)	BLH-wet	28.5	55.8
	Feliciana (LPB)	BLH-wet	155.6	267.0
	GBRPC (LPB)	BLH-wet	54.1	134.9
	St James (LPB)	BLH-wet	676.2	1246.0

LPB – In Lake Pontchartrain Basin. MSRB – Mississippi River Basin. OB – Outside LPB or MSRB.

Projects converting agricultural land/low quality habitat types already at the required elevation for the target habitat type would include work items such as construction of new access roads, clearing and grubbing, backfilling of existing ponds/ditches, demolition of onsite structures, leveling/harrowing soil to receive planting, and planting of canopy and mid-story plant species required to establish BLH and/or swamp habitat.

Projects converting agricultural land/low quality habitat types not at the required elevation for the target habitat type include all the same actions as those projects that have the required elevation except that a reduction of the site elevations is necessary. This would be accomplished by removing the top 6 inches to 1 foot of soil. The removed earthen material would be used to fill depressions at the site to achieve uniform target elevations throughout the site or would be hauled off by a Contractor to a Government approved disposal area.

Projects converting open water to forested wetlands would require such construction activities as construction of containment dikes, hydraulic dredging of fill material from lake bottom and placement of fill material within containment dikes, planting of canopy and mid-story plant species required to establish BLH and/ or swamp habitat, and gapping or degrading of containment dikes after the fill material has settled to the target elevation.

Projects enhancing degraded forested wetlands would require such construction elements as invasive species control and planting of canopy and mid-story plant species required to establish BLH and/or swamp habitat.

Detailed project descriptions including site specific components are presented in Appendix G of EA #576.

**Factors Considered in Determination:** This U. S. Army Corps of Engineers, New Orleans District (CEMVN) has assessed the impacts of the "no action" and the tentatively-selected alternative on important resources in the project area. No significant adverse impacts were identified for any of the relevant resources. Mitigation alternatives within the LPB and MSRB are environmentally preferred and would be implemented to the extent practicable prior to the OB alternatives.

The risk of encountering HTRW is low. A coastal zone determination was submitted to LDNR on Dec 11, 2019 and LDNR concurred with the determination that the proposed action is consistent, to the maximum extent practicable with the Louisiana Coastal Resources Program on DATE. A Water Quality Certificate was received from LDEQ on Sept 9, 2019 (WQC 190828-02). A Clean Water Act 404 (b)(1) evaluation was signed on DATE. ? comments were received from Louisiana Department of Environmental Quality on the air quality impact analysis documented in the EA. CEMVN determined that the proposed action will have no effect or is not likely to adversely affect any NMFS or USFWS ESA-listed species and/or designated critical habitat. NMFS concurred in a letter dated Nov 21, 2019 and USFWS concurred in a letter/email DATED. This office has concurred with, or resolved, all preliminary Fish and Wildlife Coordination Act Report recommendations submitted by USFWS dated Dec 30, 2019 and received a Final Coordination Act Report on XXdate.

The consideration of impacts to historic and cultural resources is mandated under Section 101(b)(4) of NEPA. CEMVN has chosen to address potential impacts to historic properties through and the National Historic Preservation Act (NHPA) Section 106 process (36 CFR Part 800) through development of a Programmatic Agreement (PA). On July 03, 2019, CEMVN submitted an initial Section 106 consultation letter to the State Historic Preservation Officer (SHPO), Affected Tribes (the Alabama-Coushatta Tribe of Texas (ACTT), the Caddo Nation of Oklahoma (CN), the Choctaw Nation of Oklahoma (CNO), the Coushatta Tribe of Louisiana (CT), the Chitimacha Tribe of Louisiana (CTL), the Jena Band of Choctaw Indians (JBCI), the Mississippi Band of Choctaw Indians (MBCI), the Muscogee (Creek) Nation (MCN), the Seminole Nation of Oklahoma (SNO), the Seminole Tribe of Florida (STF), and the Tunica-Biloxi Tribe of Louisiana (TBTL)), the Non-Federal Sponsors for the Comite, EBR and WSLP projects (the Louisiana Department of Transportation and Development (Comite), Amite River Basin Drainage and Water Conservation District (Comite), City of Baton Rouge/East Baton Rouge Parish (Comite & EBR), Coastal Protection and Restoration Authority (WSLP), and Pontchartrain Levee District (WSLP)), and the Advisory Council on Historic Preservation. The letter provided information regarding CEVMN's proposal to develop a project-specific PA pursuant to 36 CFR § 800.14(b) to fulfill its responsibilities under Section 106 of the NHPA. CEMVN will continue to consult with the aforementioned stakeholders to develop a project-specific PA in furtherance of CEMVN's Section 106 responsibilities for this Undertaking. Once confected, the PA would then govern CEMVN's subsequent NHPA compliance efforts. The PA was executed on \_\_\_\_\_ prior to this FONSI.

**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 reinitiate 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. **Inadvertent Discovery and Unexpected Effects:** If during the course of work, archaeological artifacts (prehistoric or historic) are discovered or unexpected effects to historic properties, including architecture, architectural elements, and/or archaeology, are identified, the contractor shall stop work in the general vicinity of the discovery or unexpected effect and take all reasonable measures to avoid or minimize harm to the artifacts(s) or affected property. The contractor will ensure that the discovery is secured and stabilized, as necessary, and access to the area is restricted. The contractor will inform CEMVN. The contractor would not proceed with work until CEMVN completes consultation with the Louisiana SHPO, and others, as appropriate.
3. **Louisiana Unmarked Human Burial Sites Preservation Act:** If human bone or unmarked grave(s) are present within the Work area, compliance with the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 et seq.) is required. The contractor shall notify the law enforcement agency of the jurisdiction where the remains are located within twenty-four hours of the discovery. The contractor shall also notify USACE and the Louisiana Division of Archaeology within seventy-two hours of the discovery. Discoveries of unmarked graves, burials, human remains, or items of cultural patrimony on Federal or Tribal lands shall be subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. §3001-3013, 18 U.S.C. § 1170) and the Archaeological Resources Protection Act of 1979 (ARPA)(16 U.S.C. §470aa – 470mm).

**Public Involvement:** The tentatively-selected alternative has been coordinated with appropriate Federal, state, and local agencies and businesses, organizations, and individuals through distribution of Draft EA #576 for a 30-day public review and comment period from January 31, 2020 through March 2, 2020.

**Decision:** The tentatively-selected alternative would satisfy CEMVN requirements to mitigate for 1,045 AAHUs of BLH-Wet and 1,504 AAHUs of Swamp habitat. The CEMVN Environmental Planning Branch has assessed the potential environmental impacts of the tentatively-selected alternative as described in the EA #576 and the "no action" alternative and has concluded that there would be no significant impacts.

I have reviewed the EA #576 and have considered public and agency comments and recommendations. Based on the assessment conducted in EA #576 which is attached hereto and made a part hereof, and the implementation of the environmental design commitments listed above, I have determined that the tentatively-selected alternative would have no significant impact on the human environment.

Based on the above-described evaluation and coordination, the tentatively-selected alternative is

the recommended plan for implementation. The plan is justified and complies with relevant environmental statutes. All practicable means to avoid and minimize environmental harm with respect to each alternative mitigation feature have been incorporated. For Corps-constructed mitigation features, monitoring would occur as set forth in Appendix H. It is in the public interest to implement the Recommended Plan.

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Date

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Stephen Murphy  
Colonel, U.S. Army  
District Commander