



DEPARTMENT OF THE ARMY  
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December 11, 2020

Regional Planning and Environment  
Division South  
Environmental Planning Branch

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

**DRAFT ENVIRONMENTAL ASSESSMENT  
EAST BATON ROUGE FLOOD RISK MANAGEMENT PROJECT  
CLEARING AND SNAGGING OF LOWER JONES,  
LOWER BAYOU FOUNTAIN AND LOWER WARD CREEKS  
EAST BATON ROUGE PARISH, LOUISIANA  
DRAFT EA #561**

**Description of the Proposed Action (Recommended Plan):** The U.S. Army Corps of Engineers (USACE), Mississippi River Valley Division (MVD), Regional Planning and Environment Division South, New Orleans District (CEMVN) has prepared Draft Environmental Assessment (EA) #561, which is attached hereto and incorporated herein, to evaluate potential impacts associated with the proposed clearing and snagging of debris and vegetation from approximately 11.5 miles of stream channels in East Baton Rouge (EBR) Parish to control flooding.

The activities described in this draft EA #561 were previously studied in the February 1995 Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed Flood Risk Management Project Environmental Impact Statement (EIS). Since the initial 1995 assessment, EBR Parish has experienced an increase in development and the area has transitioned from a rural setting with large amounts of undeveloped land, to a more densely populated urban setting containing subdivisions, buildings and roadways. The proposed work will convey the flows that are likely to occur during more frequent storm events, compared to the storm events that were considered in the original plan and addressed in the 1995 EIS. Draft EA #561 has been prepared to ensure that potential impacts to these changed conditions are considered.

All proposed work would be performed from within the channel. Barges and excavators would access the streams from temporary staging areas located at public access points. Across all three locations, a total of approximately 111.8 acres of bottomland hardwood (BLH) and approximately 155 acres of water bottoms would be permanently impacted

from the proposed clearing and snagging activities. All permanent impacts to BLH associated with the proposed actions will be mitigated for and can be referenced in EA #576 which can be found on the New Orleans District website. Debris removed would be hauled by truck to the parish landfill. The purpose of the proposed actions is to help reduce localized flooding caused by out of bank stages caused during heavy rainfall events.

The proposed action consists of clearing and snagging a total of approximately 11.5 miles of stream channel in the Lower Bayou Fountain (LBF), Lower Ward Creek (LWC) and Lower Jones Creek (LJC) stream channels in East Baton Rouge Parish, Louisiana.

Clearing and snagging for flood control consists of the removal of woody and herbaceous vegetation and debris from stream channels and banks to increase their hydraulic capacity. The action involves the removal of all obstructions from the channel (snagging) and the removal of all significant vegetation within a specified width on both sides of the channel (clearing). The purpose of the proposed modifications is to help reduce localized flooding caused by out of bank stages that occur during heavy rainfall events.

#### **Lower Bayou Fountain Improvements:**

The proposed plan for LBF consists of clearing and snagging approximately 4.6 miles of channel. The proposed improvements would begin at the mouth of Bayou Manchac and continue upstream to Burbank Drive and are designed to reduce flood damages in the immediate area caused by headwater flooding in the stream channel. It is anticipated stage lowerings of up to 1 foot would occur within the stream channel. A total of approximately 40.1 acres (33.27 average annual habitat units (AAHUs)) of existing BLH would be permanently impacted by the proposed action in LBF with approximately 37 acres (32.39 AAHUs) from clearing and snagging activities, approximately 1.52 acres (.42 AAHUs) from staging and approximately 1.6 acres (.46 AAHUs) from access points.

#### **Staging areas:**

There are two (2) temporary staging areas, totaling approximately 9 acres, associated with the LBF portion of the proposed action. LBF staging area #1 is approximately 4.3 acres and can be accessed directly from Burbank Drive. This previously developed area has been converted to open grassland and is surrounded by a chainlink fence. The southern portion of the staging area would be cleared for direct access to the creek, impacting approximately 1 acre (.28 AAHUs) of BLH. LBF staging Area #2 is approximately 4.7 acres and can be accessed directly from Highland Road. Access to LBF creek would be along the southern portion of the staging area. This area is located in an open area in the eastern end of the Highland Community Park, which is operated by the Recreation and Park Commission for the Parish of East Baton Rouge (BREC). An area along the southern portion of the staging area, located next to the creek, would be cleared for access directly to the creek, impacting approximately .52 acres (.14 AAHUs) of BLH.

### Access:

The clearing and snagging activities in LBF would also require the construction and use of a temporary gravel access corridor, which would impact approximately 1.6 acres (.46 AAHUs) of BLH. The proposed access corridor is 50 feet wide and would be accessed directly from the channel. The corridor would be located on the right descending bank and is approximately 5,280 feet downstream of Burbank Drive. Additional clearing for the access corridor shall be limited to the minimum required for access from the channel. The temporary access corridor shall be returned to pre-construction condition or better upon completion of construction activities.

### **Lower Jones Creek Improvements:**

The proposed plan for LJC consists of clearing and snagging approximately 3.3 miles of channel. Proposed modifications begin at the mouth of the Amite River and continue upstream to O'Neal Lane and are designed to reduce flood damages in the immediate area caused by headwater flooding in the stream channel. It is anticipated stage lowerings of up to 4 feet would occur within the stream channel. A total of approximately 36 acres (27.23 AAHUs) of existing BLH would be permanently impacted by the proposed action in LJC with approximately 32 acres (26.30 AAHUs) from clearing and snagging activities and approximately 4 acres (.93 AAHUs) from staging.

### Staging areas:

There are three (3) temporary staging areas, totaling approximately 4 acres in size, associated with the LJC portion of the proposed action. LJC staging area #1 is can be accessed directly from O'Neal Lane. The entire staging area would be cleared of all vegetation, which would impact approximately 2.0 acres (.38 AAHUs) of BLH.

LJC staging area #2 is approximately 1.0 acre of grassland, fringed with BLH, and is positioned along the edge of Jones Creek, on the western side of the Woodlake Drive Bridge. This staging area would be cleared of all vegetation, which would impact approximately 1.0 acre (.275 AAHUs) of BLH. The southern portion of the staging area, which runs alongside LJC and contains no vegetation, would be utilized as a direct access point to the channel.

LJC staging area #3 is approximately 1.0 acre in size, located on the eastern side of the Woodlake Drive Bridge. LJC staging area #3 would need to be cleared of all vegetation, including the section along the southern portion of the staging area which would be used for direct access to the channel. Clearing activities would impact approximately 1.0 acre (.275 AAHUs) of BLH.

### **Lower Ward Creek Improvements:**

The proposed plan for LWC consists of clearing and snagging approximately 3.3 miles of channel. Proposed modifications begin 4,000 feet upstream of the mouth of Bayou Manchac and continue to 1,200 feet upstream of Pecue Lane and are designed to reduce

flood damages in the immediate area caused by headwater flooding in the stream channel. It is anticipated stage lowerings of up to 3 feet would occur within the stream channel. The proposed improvements begin at station 40+00 (4,000 feet upstream of the mouth of Bayou Manchac) and continue upstream to station 211+65 (1,200 feet upstream of Pecue Lane). A total of approximately 35.7 acres (24.83 AAHUs) of existing BLH would be permanently impacted by the proposed action in LWC with approximately 31 acres (23.71 AAHUs) from clearing and snagging activities, approximately 4.20 acres (1.02 AAHUs) from staging and approximately .50 acres (.10 AAHUs) from access points.

#### Staging areas:

There are four (4) temporary staging areas, totaling approximately 48.1 acres, associated with the LWC portion of the proposed action. LWC staging areas #1 and #2 are located on either side of the Pecue Lane Bridge. Staging area #1 measures approximately 3.0 acres and staging area #2 measures approximately 5.2 acres in size. Access directly to LWC would occur on the southern portion of both staging areas, impacting approximately .50 acres (.37 AAHUs) and .80 acres (.44 AAHUs) of BLH respectively.

Staging area #3 is approximately 29.8 acres and is located behind Pecue Properties, LLC, off LeCrete Lane. In order to access the staging area from LeCrete Lane, a 25 foot wide temporary gravel access corridor would be established along the southern portion of the staging area. Trees along the bank of the canal in the northern section of the staging area would be cleared for the purposes of direct equipment access and debris removal from the channel, impacting approximately 1.87 acres (.44 AAHUs) of BLH. In addition to being utilized for stockpiling of debris removed from the LWC stream channel, staging area #3 would also be used for the temporary storage of construction related equipment, materials, debris stockpiles, and office trailers. LWC staging area #3 would also include the temporary placement of stone gravel for parking, office pads, channel access points, and truck wash-down racks.

LWC staging area #4 is approximately 10.1 acres and can be accessed from Highland Road via a 100 foot access corridor located on the northwest side of the staging area or from Highway 61 via a 50 foot gravel access corridor located on the northeast side of the staging area. The northwest side of the staging area, which runs along the bank of LWC, would be cleared for direct access to the channel for the purposes of equipment access and debris removal, impacting approximately .66 acres (.21 AAHUs) of BLH.

#### Access:

The clear and snagging activities in LWC would also require the construction and use of a temporary gravel access corridor. The proposed access corridor is 50 feet wide (approximately 0.50 acres) and would be accessed directly from the channel. The corridor would be located on the right descending bank and is approximately 4,000 feet downstream of I-10 and approximately 2,100 feet upstream of Barringer Foreman Road. Additional clearing for the access corridor shall be limited to the minimum required for

access from the channel. The temporary access corridor shall be restored to pre-construction condition or better upon completion of construction activities.

**ALL SITES:**

The proposed action within all stream channels involves the clearing, felling, trimming, and cutting of trees and other vegetation, including downed timber, stumps, roots, brush, piling, riprap, abandoned structures, fencing, and similar debris, and their removal off site. Clearing and snagging activities are not expected to impair bank stability. Cleared trees shall be cut off no more than two (2) inches from the natural ground surface and shall be felled in such a manner as to avoid impacting bank stability and to avoid damage to trees to be left standing and to existing structures and installations and to those areas under construction. Vegetation to be removed shall consist of crops, grass, bushes, and weeds. Close growing grass and other vegetation shall be mowed and shall not exceed two (2) inches above natural ground surface. All stumps and exposed roots, over 1-1/2 inches in diameter, shall be cut to two (2) inches above the natural ground surface. Herbicide, in accordance with the manufacturer's label, shall be applied to the top surface of stumps that would remain in place to ensure re-sprouting does not occur.

Unless otherwise specified, all proposed work would be performed from within the channels, from top of bank to top of bank. The top of bank is described as the point where an abrupt change in slope is evident, which can vary between 90 feet and 120 feet wide (LBF), 100 feet and 160 feet wide (LJC) and 100 feet and 120 feet wide (LWC). However, if a tree not located in the clearing and snagging corridor has limbs which are growing down into the channel, thus interfering with work or impeding flow, those limbs would be removed (not the whole tree). All injuries to bark, trunk, limbs, and roots of trees, on top of bank, would be repaired with bituminous based paint (of standard manufacture) specially formulated for tree wounds and would be applied in accordance with manufactures specifications. Debris removed would be hauled by truck to the parish landfill. It is anticipated that the clearing and snagging work would be accomplished using chain saws, brush cutters, floating barges and excavators.

Work is expected to take approximately 410 days in LBF, 400 days in LJC, and 280 in LWC. In the event of a heavy rainfall event during construction, all equipment and personnel will be removed from any of the channels to prevent any impacts from their activities or loss of equipment or injury to personnel.

**Factors Considered in Determination:** The U. S. Army Corps of Engineers, New Orleans District (CEMVN) has assessed the impacts of the "no action" and the proposed action (proposed project) on important resources in the project area including: wetlands, aquatic resources; wildlife; threatened, endangered, and protected species; water and sediment quality; air quality; cultural resources; recreational resources; visual resources (aesthetics); environmental justice, and noise. No significant adverse impacts were identified for any of the relevant resources based on implementation of the proposed

action. Because the proposed action (clearing and snagging) would reduce the risk of flood damage to portions of EBR Parish, it is the environmentally preferable alternative.

**Clean Air Act of 1972:** The Clean Air Act (CAA) sets goals and standards for the quality and purity of air. It requires the Environmental Protection Agency to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. The proposed action project area is located in East Baton Rouge Parish which is currently in attainment of NAAQS. A general conformity determination is not required.

**Clean Water Act, Section 401:** CEMVN has applied to the Louisiana Department of Environmental Quality (LDEQ) for a state Water Quality Certification (WQC) for the proposed project. LDEQ issued a WQC on July 30, 2020, in which they stated that the requirements for a WQC have been met and the proposed action would not violate water quality standards.

**Clean Water Act, Section 404:** Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into jurisdictional Waters of the United States (WOTUS), including wetlands. A CWA Section 404(b)(1) evaluation is not required as there will be no dredge or fill material discharged as a result of the proposed action and therefore would not result in significant adverse impacts to WOTUS.

**Coastal Zone Consistency:** The proposed action is located in a portion of East Baton Rouge Parish that is located outside the coastal zone boundary, therefore a Consistency Determination is not required.

**Endangered Species Act:** The Endangered Species Act (ESA) is designed to protect and recover threatened and endangered (T&E) species. The following T&E species have been reported to occur or potentially occur in the study area; West Indian manatee (*Trichechus manatus*) and the Atlantic sturgeon (*Acipenser oxyrinchus desotoi*). The inflated heelsplitter mussel (*Potamilus inflatus*) has been reported to occur specifically in the project area in the LJC creek. CEMVN determined construction of the clearing and snagging activities would have no effect upon any T&E species or critical habitat. USFWS concurred in their responses that the proposed action is not likely to adversely affect threatened and endangered species under their jurisdiction, especially the inflated heelsplitter mussel. Because CEMVN has determined that the clearing and snagging will have no effect on any listed species under the jurisdiction of NMFS, ESA consultation with NMFS is not required.

**Fish and Wildlife Coordination Act:** The Fish and Wildlife Coordination Act (FWCA) provides authority for USFWS involvement in evaluating impacts to fish and wildlife from proposed water resource development projects. It requires that fish and wildlife resources receive equal consideration to other project features. It requires federal agencies that construct, license or permit water resource development projects to first consult with the

USFWS, NMFS and state resource agencies regarding the impacts on fish and wildlife resources and measures to mitigate these impacts. Section 2(b) requires USFWS to produce a Coordination Act Report (CAR) that details existing fish and wildlife resources in a project area, potential impacts due to a proposed project, and recommendations for a project. A draft CAR from USFWS was received on October 19, 2020. In their reply, the USFWS stated they would not object to the proposed project provided their recommendations that will help achieve fish and wildlife resource conservation, are incorporated into the proposed project. The recommendations and CEMVN's responses are included in the draft EA.

**Magnuson-Stevens Fisheries Conservation and Management Act:** The Magnuson-Stevens Fishery Conservation and Management Act, as amended, addresses the authorized responsibilities for the protection of Essential Fish Habitat (EFH) by NMFS in association with regional fishery management councils. The NMFS has a "findings" with CEMVN on the fulfillment of coordination requirements under provisions of the Magnuson-Stevens Fishery Conservation and Management Act. In those findings, CEMVN and NMFS have agreed to complete EFH coordination requirements for federal civil works projects through the review and comment on National Environmental Policy Act documents prepared for those projects. No portion of the proposed project area is located in EFH therefore a NMFS consultation is not required.

**Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act:** The Migratory Bird Treaty Act (MBTA) (40 Stat. 755, as amended; 16 U.S.C. 703 et seq.) and the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) offer protection to many bird species within the project area including colonial nesting birds, osprey, and the bald eagle (*Haliaeetus leucocephalus*).

The general project area is known to be frequented by colonial nesting wading/water birds (e.g., herons, egrets, ibis, night-herons and roseate spoonbills), and the bald eagle (*Haliaeetus leucocephalus*). Based on review of existing data, site visits, and with the use of USFWS guidelines, CEMVN determined that implementation of the proposed action (proposed project) would have no effect on colonial nesting water/wading birds or shorebirds. USFWS has recommended CEMVN biologists inspect proposed work sites for the presence of undocumented colonial nesting colonies during the nesting season (e.g. February through September depending on the species). If colonies exist, work should not be conducted within 1,000 feet of the colony during the nesting season.

On-site personnel should also be informed of the possible presence of nesting bald eagles and ospreys within the project boundary, and should identify, avoid, and immediately report any such nests to USFWS. If a bald eagle nest is located within 660 feet of the proposed activities, the Corps will complete an on-line evaluation (<http://www.fws.gov/southeast/birds/Eagle/tamain.html>) to determine if there are potential disturbances to nesting bald eagles and any protective measures necessary.

CEMVN biologists will survey the proposed project areas before construction to confirm no nesting activity is taking place or is likely to take place within or immediately adjacent to the project areas. If active nesting exists within 1,000 feet (water birds) or 660 feet (bald eagle) of construction activities then CEMVN, in coordination with USFWS, would develop specific measures to avoid adverse impacts to those species. A detailed nesting prevention plan may be necessary in order to deter birds from nesting within the aforementioned buffer zones of the Project footprint in order to avoid adverse impacts to these species. If a nesting prevention plan is necessary, it would be prepared in coordination with USFWS.

**National Historic Preservation Act:** Section 106 of the National Historic Preservation Act of 1966, as amended, requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The procedures in 36 CFR Part 800 define how federal agencies meet these statutory responsibilities. The Section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, including the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and any federally recognized Tribe that attaches religious or cultural significance to historic properties that may be affected by an undertaking. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

CEMVN consulted with the LA SHPO and with federally-recognized tribes (the Alabama-Coushatta Tribe of Texas [ACTT], 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], and the Tunica-Biloxi Tribe of Louisiana [TBTL]), via letter October 9, 2020. The LA SHPO concurred with CEMVN's determination via letter dated November 9, 2020. The MCN determined that the APE was outside of the Tribe's area of interested and deferred to other Tribes (via email on October 20, 2020). The remainder of the federally-recognized Tribes did not respond within the regulatory timeframes provided for in 36 CFR 800 concluding Section 106 consultation with the condition of conducting a Phase I cultural resources survey and, if necessary, implementing avoidance measures, as specified in the consultation.

#### **E. O. 13175 Consultation and Coordination with Indian Tribal Governments**

NEPA, Section 106 of the National Historic Preservation Act, EO 13175 (Consultation and Coordination with Indian Tribal Governments), the American Indian Religious Freedom Act, and related statutes and policies have a consultation component. In accordance with CEMVN's responsibilities under NEPA, Section 106, and EO 13175, CEMVN will offer the federally-recognized Indian Tribes the opportunity to review and



comment on the potential of the proposed action to significantly affect protected tribal resources, tribal rights, or Indian lands, through the Section 106 consultation process. CEMVN's analysis indicates that there are no tribal resources, tribal rights, or Indian lands in the project areas and therefore there would be no significant adverse effects on those resources.

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

1. As planning and impact assessments continue to be refined, assessment of those impacts and mitigation needs will need to be revised accordingly. Since impacts to bottomland hardwoods have been identified, and field work has not been permitted, re-assessment of the value of those areas and their mitigation needs will be quantified using the updated Wetland Value Assessment (WVA). Any proposed change in impacts, or plans should be coordinated in advance with the Service.
2. The Service recommends that USACE contact the Service for additional consultation if: 1) the scope or location of the proposed project is changed significantly, 2) new information reveals that the action may affect listed species or designated critical habitat; 3) the action is modified in a manner that causes effects to listed species or designated critical habitat; or 4) a new species is listed or critical habitat designated. Additional consultation as a result of any of the above conditions or for changes not covered in this consultation should occur before changes are made and or finalized.
3. The construction contractor would be required to: (A) Prepare a Stormwater Pollution Prevention Plan (SWPPP) for review and approval by CEMVN; (B) Obtain a Stormwater General Permit from the Louisiana Department of Environmental Quality (LDEQ) and comply with all applicable conditions and requirements set forth in the issued permit; (C) Comply with any applicable conditions and requirements included in the Water Quality Certification issued by LDEQ for the proposed project; (D) Comply with any applicable special conditions set forth in the Coastal Consistency Determination issued for the proposed project by the Louisiana Department of Natural Resources.
4. Avoid impacts to threatened and endangered species, at risk species, and species of concern such as the bald eagle, and wading bird nesting colonies.
5. West Indian manatee conservation measures should be included in all contracts, plans, and specifications for in-water work in areas where the manatee may occur.
6. A survey should be conducted to determine if a bald eagle nest is present within or adjacent to the project area.

7. When applicable erosion control techniques should be implemented to reduce the amount of sedimentation and turbidity that will flow into the river during clearing activities.

**Public Involvement:** The proposed action has been coordinated with appropriate federal, state, and local agencies and businesses, organizations, and individuals through distribution of draft EA #561 for a 30-day public review and comment period from December 11, 2020 through January 10, 2021.

**DECISION:** The proposed action would require clearing and snagging approximately 11.5 miles of stream channels in EBR Parish to control flooding. Construction activities would impact approximately 111.8 acres of BLH (85.33 AAHUs) and approximately 155 acres of water bottoms. The impact to BLH is to help reduce the risk of flood damages caused by out of bank flooding during heavy rainfall by the clearing and snagging of Lower Jones, Lower Bayou Fountain and Lower Ward Creeks, in East Baton Rouge Parish, Louisiana. The waterbottoms impacted are shallow, slow moving, freshwater streams with sandy, silty bottoms that are highly degraded due to heavy sedimentation. Clearing and snagging activities would increase overall turbidity in the channels, however impacts will be temporary, the clearing and snagging of rivers and streams would likely increase hydraulic flow and capacity, improving the health of the system.

I have reviewed the draft EA #561 and have considered public and agency comments and recommendations. Based on the assessment conducted in draft EA #561, which is attached hereto and made a part hereof, and the implementation of the environmental commitments listed above, I have determined that clearing and snagging a total of approximately 11.5 miles of stream channel in the Lower Bayou Fountain, Lower Ward Creek and Lower Jones Creek stream channels in East Baton Rouge Parish, Louisiana would have no significant impact on the human environment.

The proposed action is justified and in accordance with environmental statutes. It is in the public interest to implement that component of the proposed action involving clearing and snagging of the Lower Bayou Fountain, Lower Ward Creek and Lower Jones Creek stream channels as evaluated in draft EA #561.

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Date

**DRAFT**

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Stephen Murphy  
Colonel, US Army  
District Commander