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

APR 15 2020

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. Coastal zone (CZ) impacts will be compensated in the Louisiana coastal zone.

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:

Habitat Type/BBA Project	**AAHUs Impacted**
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.

Tentatively Selected Alternative				
	Projects	**Habitat**	**AAHUs**	**Acres**
BLH-Wet in CZ (WSLP)	Mitigation Bank (LPB)	BLH-wet	TBD	TBD
	Mitigation Bank (OB)	BLH-wet	TBD	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	TBD
	Mitigation Bank (OB)	Swamp	TBD	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	TBD
	Mitigation Bank (OB)	BLH-wet	TBD	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 March 4, 2020. 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 March 12, 2020. Louisiana Department of Environmental Quality has no objection to the proposed project concerning 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 January 28, 2020. This office has concurred with, or resolved, all Fish and Wildlife Coordination Act Report recommendations submitted by USFWS dated March 27, 2020.

CEMVN has chosen to address potential impacts to historic properties under the National Historic Preservation Act (NHPA) Section 106 (36 CFR Part 800) through development of a Programmatic Agreement (PA).

In fulfillment of CEMVN's Section 106 responsibilities, on March, 04, 2020, CEMVN and the Louisiana State Historic Preservation Office executed the *Programmatic Agreement Among the U.S. Army Corps of Engineers, New Orleans District; Amite River Basin Commission; East Baton Rouge Parish; Louisiana Coastal Protection and Restoration Authority; Louisiana Department of Transportation and Development; Pontchartrain Levee District; Louisiana State Historic Preservation Officer of The Department of Culture, Recreation & Tourism; and Choctaw Nation Of Oklahoma; Regarding the Bipartisan Budget Act of 2018 Compensatory Habitat Mitigation Program for the Comite River Diversion, East Baton Rouge Parish Watershed Flood Risk Management, and West Shore Lake Pontchartrain Hurricane and Storm Damage Risk Reduction Projects In Louisiana.* To remain in compliance with Section 106, the NHPA stipulations and conditions detailed within the PA and set forth in this FONSI will be followed.

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. Furthermore, if during the course of work, Native American artifacts or human remains are encountered CEMVN will immediately contact Tribes. The contractor would not proceed with work until CEMVN completes consultation with the Louisiana SHPO, Tribes, 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). Tribes will be contacted as soon as possible in the event Native American artifacts or human remains are encountered.

4. The use of any public lands, e.g., Louisiana Department of Wildlife and Fisheries, should be coordinated with the agency owning those lands. This coordination should continue through all planning, construction and operation stages.

5. Standard sturgeon, sea turtle and manatee Protection Measures will be included in and required by all project contracts. All contract personnel associated with the project will be informed of the potential presence of the Gulf sturgeon, sea turtles, and West Indian manatees and the need to avoid collisions with the species. Standard Protection measures, found in Appendix J of SEA #576 will be implemented when construction activities take place in areas where Gulf sturgeon, sea turtles, or manatees could occur.

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. During this public comment period, comments were received from Federal, state, and local resource and governmental agencies as well as the general public.

<u>Agency Comments and Responses (Appendix P)</u>

a. LDWF- Comment letter dated 28 Feb 2020

b. CPRAB - email dated 31 January 2020
c. LDEQ- email dated 06 March 2020
d. USFWS- letter dated 02 March 2020
e. Louisiana Department of Health and Hospitals- letter dated 21 February 2020

Agency comments:

LDWF

Prefers the restoration of sand and gravel mines along the Amite River project over all others and does not support the creation of wetlands where soil removal is necessary (with the exception of the Amite project). Requests that impacts on LDWF land be mitigated on LDWF land. Supports the River Reintroduction into Maurepas Swamp. And requests that projects throughout the basin that afford the greatest positive impact to Inflated Heelsplitter be prioritized.

CPRAB

Requests that the River Reintroduction into Maurepas Swamp (P0-0029) Project be considered for implementation for all of the required swamp habitat to mitigate for unavoidable impacts to significant resources.

LDEQ

Has no objections to proposed projects. Provided its standard General Comments.

USFWS

Prefers the restoration of sand and gravel mines along the Amite River. Recommends stream mitigation. Requests a meeting to discuss screening criteria and process. The meeting occurred on March 19, 2020.

Louisiana Department of Health and Hospitals

Has no objections to proposed projects. Provided its standard General Comments.

General Public Comments and Responses (Appendix P)

a. Nearly 600 comments were received from the general public urging the CEMVN to consider the CPRA River Reintroduction in to the Maurepas Swamp.

b. Three comments were received from existing or proposed mitigation banks requesting to be considered for credit purchases at the time of implementation.

c. The Amite River Basin and Water Conservation District requested information regarding use of lands it previously purchased for compensatory mitigation for the Comite project.

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.

4/13/2020
Date

Stephen P. Murphy
Colonel, U.S. Army
District Commander