



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

March 1, 2019

REPLY TO
ATTENTION OF

Regional Planning and Environment
Division South
Environmental Planning Branch

**DRAFT FINDING OF NO SIGNIFICANT IMPACT
(FONSI)
DRAFT SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT
NOV-NF-W-05a.1 – LA REUSSITE TO MYRTLE GROVE LEVEE
PLAQUEMINES PARISH, LOUISIANA
SEA #565**

Description of the Proposed Action (Recommended Plan): The U.S. Army Corps of Engineers (USACE), Mississippi River Valley Division, Regional Planning and Environment Division South, has prepared a Supplemental Environmental Assessment (SEA) (NOV-NF-W-05a.1) SEA #565 for New Orleans District (MVN) to evaluate potential impacts associated with proposed modifications to the New Orleans to Venice Non-Federal Levees (NFL). The proposed project includes the realignment of the existing drainage canal and construction of three new floodwalls, a drainage structure, and a 6.3 mile long levee spanning from La Reussite to Myrtle Grove in Plaquemines Parish.

The impacts caused by NFL NOV projects were first assessed in "*Final Environmental Impact Statement New Orleans to Venice, Louisiana Hurricane Risk Reduction Project: Incorporation of Non-Federal Levees from Oakville to St. Jude, Plaquemines Parish, Louisiana*", and then supplemented by "*Supplemental Environmental Assessment #537 New Orleans To Venice Hurricane Risk Reduction Project: Changes To The Non-Federal Levees Project, Oakville To St. Jude, Plaquemines Parish, Louisiana*" with a FONSI signed March 25, 2016 and "*Environmental Assessment #543 New Right of Way and Mitigation For The New Orleans To Venice Hurricane Risk Reduction Project: Incorporation Of Non-Federal Levees From Oakville To St. Jude And New Orleans To Venice Federal Hurricane Protection Levee, Plaquemines Parish, Louisiana*" FONSI signed December 12, 2017. The SEA #537 and EA #543 are hereby incorporated into this document by reference. SEA #537 and EA #543 are being supplemented by this SEA "*NOV-NF-W-05a.1- La Reussite To Myrtle Grove Levee Plaquemines Parish, Louisiana SEA #565*".

The previously approved alignment was dismissed due to engineering considerations as well as other factors. The newly proposed levee alignment would provide better

underlying foundation conditions for construction of the levee, result in a shorter overall levee length which would reduce the overall construction duration and cost, reduce the real estate interest to be acquired for construction and would minimize the overall impacts to the environment thus reducing the compensatory mitigation requirement.

The proposed NOV-NF-05a.1 project consists of the realignment of the existing drainage canal, construction of three new floodwalls, a drainage structure, and a 6.3 mile long levee spanning from La Reussite to Myrtle Grove in Plaquemines Parish (see Figure 1 of the SEA). The proposed construction would also consist of associated project features, such as access ramps, canal crossings, and culverts.

The levee, from start to finish, has eight different sections, which vary in elevation and width. Approximately 1,794,000 cubic yards of embankment would be used for construction of the levee and ramps.

The canal would serve as storage for rainwater runoff while the pumps at the Wilkinson pump station are not running. The canal, from start to finish, would vary in width and depth. The estimated amount of material that would be excavated during construction of the new canal is approximately 53,000 cubic yards and would be used for backfilling the existing canal adjacent to the levee. The crossings and associated culverts would be constructed where the canal crosses existing access roads.

Two floodwalls would be constructed for the utility crossing areas, with one at the north reach and one at the south reach. A drainage structure consisting of four sluice gates and an associated floodwall would be constructed at the south end of the levee reach.

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 recommended plan on important resources in the project area including: wetlands; wildlife; threatened and endangered species; cultural resources; socio-economics; air quality; prime and unique farmlands and noise. No significant adverse impacts were identified for any of the relevant resources. Environmental compliance for the federal action was achieved based upon the following actions:

Executive Order (E.O.) 11988 Floodplain Management: Executive Order 11988 directs Federal agencies to reduce flood loss risk; minimize flood impacts on human safety, health, and welfare; and restore and preserve the natural and beneficial values served by flood plains. Agencies must consider alternatives to avoid adverse and incompatible development in the flood plain. If the only practical alternative requires action in the flood plain, agencies must design or modify their action to minimize adverse impacts. The proposed action represents the least environmentally damaging alternative to accomplish the needed risk reduction system modifications.

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 Plaquemines Parish which is currently in attainment of NAAQS. The Louisiana Department of Environmental Quality is not required by the CAA and Louisiana Administrative Code, Title 33 to grant a general conformity determination.

Clean Water Act Section 404(b)(1): A Clean Water Act Section 404(b)(1) evaluation and public notice were signed and mailed out for public and agency review and comment on March 4, 2019. The 404(b)(1) public notice is in Appendix F of SEA #565.

Clean Water Act Section 401: Coordination with the Louisiana Department of Environmental Quality determined that the State Water Quality Certification WQC 110520-01 issued on January 7, 2016 for EA #537 and EA #543 is still valid for the proposed action (Appendix B).

Coastal Zone Consistency: In accordance with Section 307, a Consistency Determination was prepared for the previously approved Project and was coordinated with the Louisiana Department of Natural Resources (LADNR) in a letter dated *May 24, 2017*. LADNR concurred by letter dated *August 22, 2017* with the determination that the previously approved action is consistent, to the maximum extent practicable, with the Louisiana Coastal Resources Program; Consistency (*CZD C20100384 mod 11*). A modification to that consistency determination was prepared and submitted to LADNR on Oct 26, 2018 (Appendix B). C20100384 Mod 12, Consistency was received on December 13, 2018.

Endangered Species Act: The Endangered Species Act (ESA) is designed to protect and recover threatened and endangered (T&E) species. There are no known T&E species in the project area aside from the American alligator, which does not require Section 7 consultation because it is classified as “threatened due to similarity of appearance,” and therefore coordination under the ESA is not necessary.

Fish and Wildlife Coordination Act: The Fish and Wildlife Coordination Act (FWCA) provides authority for the 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 the USFWS to produce a Coordination Act Report (FWCAR) that details existing fish and wildlife resources in a project area, potential impacts due to a proposed project and recommendations for a project. The USFWS determined that the proposed action would not need a Coordination Act Report under the Fish and Wildlife Coordination Act.

Hazardous, Toxic, and Radioactive Waste (HTRW): The USACE is obligated under Engineer Regulation (ER) 1165-2-132 to assume responsibility for the reasonable identification and evaluation of all Hazardous, Toxic, and Radioactive Waste (HTRW) contamination within the vicinity of proposed actions. ER 1165-2-132 identifies that HTRW policy is to avoid the use of project funds for HTRW removal and remediation activities. The proposed project area was previously included as part of a larger ASTM E 1527-05 Phase 1 Environmental Site Assessment (ESA) that was completed in July 2009. An update to ASTM 1527-05 Phase I Environmental Site Assessment was completed on January 11, 2019 and a copy of the updated Phase 1 ESA is being maintained on file at the U.S. Army Corps of Engineers, New Orleans District Headquarters. The probability of encountering HTRW for the proposed action is low. If a recognized environmental condition is identified in relation to the project site, the U.S. Army Corps of Engineers, New Orleans District would take the necessary measures to avoid the recognized environmental condition so that the probability of encountering or disturbing HTRW would continue to be low.

Magnuson-Stevens Fisheries Conservation and Management Act: The Magnuson-Stevens Fishery Conservation and Management Act, as amended, Public Law 104-208, 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 the CEMVN on the fulfillment of coordination requirements under provisions of the Magnuson-Stevens Fishery Conservation and Management Act. In those findings, the 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. There is no EFH within the project area and therefore CEMVN expects no effect to EFH.

Migratory Bird Treaty Act

The Project area is known to support colonial nesting wading/water birds (e.g., herons, egrets, ibis, night-herons and roseate spoonbills) and shorebirds (terns and gulls). Based on review of existing data, site visits, and with the use of USFWS guidelines, CEMVN finds that implementation of the Proposed Action would have no effect on colonial nesting water/wading birds or shorebirds. USFWS and USACE biologists will survey the proposed project area before construction to confirm no nesting activity as suitable habitat and the potential for nesting exist within the Project area. If active nesting exists within 1,000 feet (water birds) or 1,300 feet (shorebirds) of construction activities then USACE, 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.

Bald and Golden Eagle Act

The Project area is known to support bald eagles. Based on review of existing data, site visits, and with the use of USFWS guidelines, CEMVN finds that implementation of the Proposed Action would have no effect on bald eagles. USFWS and USACE biologists will survey the proposed project area before construction to confirm no nesting activity as suitable habitat and the potential for nesting exist within the Project area. If active nesting exists within 660 feet of construction activities, CEMVN would coordinate with USFWS to develop avoidance measures. A permit under 50 CFR 22.26 or 22.27 will be required if the project cannot minimize or prevent disturbance of bald eagles.

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 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. A finding of no historic properties affected was coordinated for the previous projects as presented in EA #537 and EA #543, with letters dated January 15, 2016 and August 15, 2017 respectively, to the SHPO, and responses dated February 15, 2016 and September 1, 2017. In a letter dated November 26, 2018, SHPO concurred that the actions of this Supplemental EA #565 are determined as having no additional potential to cause effect to any potential cultural resources.

Tribal Consultation:

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 would offer the following 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: Alabama-Coushatta Tribe of Texas, Caddo Nation of Oklahoma, Chitimacha Tribe of Louisiana, Choctaw Nation of Oklahoma, Coushatta Tribe of Louisiana, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians, Seminole Nation of Oklahoma, Seminole Tribe of Florida, and Tunica-Biloxi Tribe of Louisiana. On October 26, 2018 letters were mailed to the tribal

leaders requesting input regarding the proposed action. A letter of concurrence was received from the Choctaw Nation of Oklahoma dated December 10, 2018. No other responses were received.

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. If any unrecorded cultural resources are determined to exist within the proposed project site, then work will not proceed in the area containing those cultural resources until a CEMVN staff archeologist has been notified, and coordination with the Louisiana State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer has been completed.

Public Involvement: The proposed action has been coordinated with appropriate Federal, state, and local agencies and businesses, organizations, and individuals through distribution of SEA #565 for a 30-day public review and comment period.

DECISION: The recommended plan would directly impact 7-acres (2.3 AAHUs) of wet pasture. Details of these impacts and the mitigation plan were described in Environmental Assessment #543 which was developed to address mitigation for wetland impacts of the New Orleans to Venice and Non-Federal Levees projects as a large scale mitigation plan. EA #543 was signed on December 12, 2017.

Implementation of the recommended plan would result in minimal and insignificant loss of prime farmland soils as a result of levee and canal construction and related activities. The loss of soils resulting from levee and canal construction would not be significant to agricultural production locally or regionally, as those soils are not currently under cultivation.

I have reviewed the SEA #565 and have considered public and agency comments and recommendations. Based on the assessment conducted in SEA #565 which is attached hereto and made a part hereof, and the implementation of the environmental design commitments listed above, I have determined that the recommended plan would have no significant impact on the human environment. Therefore, an Environmental Impact Statement will not be prepared.

The plan is justified and in accordance with environmental statutes. It is in the public interest to implement the Proposed Action in Final SEA #565.

Date

MICHAEL N. CLANCY
COLONEL, U.S. ARMY
DISTRICT COMMANDER