DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVENUE
NEW ORLEANS, LOUISIANA 70118-3651

FINDING OF NO SIGNIFICANT IMPACT

Louisiana State Penitentiary
Flood Damage Reduction Measures
West Feliciana Parish, Louisiana
Supplemental Environmental Assessment #278-D

The U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), has performed a Supplemental Environmental Assessment (SEA) in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended. The SEA addresses the proposed construction of flood damage reduction measures at the Louisiana State Penitentiary (LSP), located near Angola (Work Area), in West Feliciana Parish, Louisiana. The Mississippi River Flood of 2018-2019, which transpired from November 2018 through August 2019, resulted in damage to the existing LSPL. The proposed 1.5 acre borrow site is located on the river side of the LSPL approximately 1,100 feet from the existing levee baseline. The 1.5 acre borrow site is part of a larger 77-acre proposed borrow area that CEMVN, Engineering Division identified as a viable earthen borrow source adjacent to the LSPL site on the river side of the existing LSPL protection system for both the subject Work Item and potential future Work Items of the MR&T Project at or near the current Work Area, as needed. As the 77-acre borrow area is a homogenous land use type (i.e., wet-pastureland) and encompasses the 1.5 acre borrow site, all relevant resources were evaluated on the current and future use of the entire 77-acre site.

The Proposed Action includes: excavation of failed embankment material and damaged LSP levee sections; the replacement of embankment material in compacted levee lifts; the construction of a more gradual flood side and landside levee slope for slides 1, 3, 4, and 5 (100, 135, 110, and 470 linear feet, respectively); and the removal of an existing unpaved levee ramp for slide 2 (75 linear feet). For LSPL slides 1, 3, 4, and 5, the repair will rehabilitate these sections using suitable embankment material to increase stability by decreasing the levee slope. The repaired LSPL sections will be designed using the Mississippi River and Tributaries (MR&T), Mississippi River Levee (MRL) design standards and criteria. From the levee crown at elevation 69 feet North American Vertical Datum 1988 (NAVD88), the new river/landside levee slope will be 1 vertical on 5 horizontal to the existing ground. The estimated borrow quantity required to repair levee slides 1, 3, 4, and 5 is approximately 23,000 cubic yards, and the total combined length of all 4 slides is 815 linear feet. For levee slide 2, on the unpaved ramp, the repair will consist of degrading the ramp to a uniform slope to match the areas directly adjacent to slide 2. From the levee crown at elevation 69 feet NAVD88, the new landside slope will be 1 vertical on 4 horizontal to the existing ground and will extend 75 linear ft. No borrow material is expected to be required to perform the repair for levee slide 2.

In preparation for the construction of the repairs, erosion protection (i.e., silt fencing) would be installed and surficial materials from the existing damaged portions of the LSPL would be removed. The silt fence would be constructed along the LSPL right-of-way, which will be five (5) feet from the toe of the LSPL, to minimize erosion and sediment runoff. The silt fence would be designed to retain sediment from runoff during clearing and grubbing, excavation, embankment placement, and final grading. Additional site preparation would require stripping vegetation and topsoil from areas that will receive clay. For the entire LSPL reach, this vegetation and topsoil may be stockpiled within the levee right-of-way and later placed on the levee to spur the growth of new vegetation. Any excess material that cannot be reused would become property of the USACE construction contractor who may dispose of the material in any legal manner. Before placement of the new embankment material, the damaged sections of the LSPL would be scarified (i.e. the surface would be roughened) so that any newly added material would bind to the clay material of the existing LSPL. Embankment material would be placed and spread in successive lifts (before compaction). Upon completion of the levee embankment repairs, all areas disturbed by the construction activities will be seeded with Bermuda grass and fertilized. Removal of silt fence barriers would occur after construction is complete and the soil is stabilized

The proposed borrow site is approximately 1.5 acres and is located on the river side of the LSPL approximately 1,100 feet from the existing LSPL baseline. The 1.5 acre borrow site is part of a larger 77-acre proposed borrow area that CEMVN, Engineering Division identified as a viable earthen borrow source adjacent to the LSP site on the river side of the existing levee protection system for both the subject Work Item and potential future Work Items of the MR&T Project at or near the Work Area, as needed. As the 1.5 acre borrow site is located within the larger overall 77-acre borrow area and the borrow area is a homogenous land use type (i.e., wet-pastureland), for purposes of this assessment all relevant resources evaluated herein will focus on both the proposed 1.5 acre borrow site and anticipated future use of the larger overall 77-acre borrow area.

In order to prepare the 1.5 acre borrow site, bulldozers and other heavy construction equipment would be utilized to clear the area of any vegetation, and earthen material deemed not suitable for the LSPL repairs. The borrow site would then be excavated to a pit depth of approximately -20.0 feet NAVD88. Excavation activities at the proposed borrow site would be conducted during dry or low water periods, or as much as practicable. Any vegetation and unsuitable earthen material removed may be temporarily stockpiled on-site. Groundwater seeping into the pit would be pumped out into adjacent areas and drain to the Mississippi River. Excavators (i.e. backhoes) would remove the suitable earthen material and process the material to eliminate water and reduce the moisture content from the soil. Moisture content processing will be done either adjacent to or within the borrow pit and using mechanical methods such as utilizing bulldozers to stockpile materials and disks to further reduce the moisture content of the soil. Once the moisture content has been reduced to levels that are acceptable to USACE, borrow material would be hauled in trucks with secured binders on tailgates to the Work Areas. Transportation routes for trucks carrying borrow material would be established on top of

the existing LSPL. After all suitable earthen material is excavated from the borrow site, the borrow site would be allowed to fill with both rainwater and water resulting from seasonal high-water events on the Mississippi River. It is expected that the pit would remain an open water site for the life of the MR&T Project.

The staging area for construction equipment, materials, and personnel would be located within the existing LSPL right-of-way immediately adjacent to the LSPL repair sites. The staging area would be utilized for the duration of the repairs and would be returned to pre-existing conditions upon completion of the LSPL repairs.

In addition to the Proposed Action, a "No Action" alternative was also evaluated.

For the Proposed Action, the potential effects were evaluated. A summary of the potential effects is listed in Table 1:

Table 1: Summary of Potential Effects of the Proposed Action

	Insignificant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Wetlands	☐	☒	☐
Aquatic Resources/Fisheries	☒	☐	☐
Wildlife Habitat	☒	☐	☐
Terrestrial Resources	☒	☐	☐
Threatened/Endangered Species – Critical Habitat	☒	☐	☐
Cultural resources	☒	☐	☐
Water quality	☒	☐	☐
Air Quality	☒	☐	☐
Hazardous, toxic & radioactive waste	☐	☐	☒
Tribal trust resources	☐	☐	☒

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the Proposed Action.

The Proposed Action will result in unavoidable adverse impacts to approximately 1.5 acres of wetland resources classified as wet pastureland. As originally described in Environmental Assessment (EA) #278, which is incorporated herein by reference, compensatory mitigation requirements were based on the mitigation planning experience of CEMVN personnel, with concurrence from the USFWS in a letter dated April 27, 1998. In EA #278, the ratio of compensatory mitigation for the unavoidable loss of farmed wetlands was originally established at 1:0.5 with the proposed reforestation of cleared lands with various species of bottomland hardwoods. For the Proposed Action, it was determined that unavoidable impacts to approximately 1.5 acres of wetlands classified as wet pastureland would similarly be compensated by a ratio of 0.5 acres of bottomland hardwood forest land for 1 acre of wet pastureland lost, but would be accomplished

through the purchase of mitigation bank credits at a commercial mitigation bank. Thus, a total of approximately 1.5 acres of wet pastureland losses would be compensated through acquisition of approximately 0.75 acres of bottomland hardwoods compensatory mitigation bank credits. The USACE will purchase approximately 0.75 acres of bottomland hardwoods compensatory mitigation bank credits from available bottomland hardwood mitigation banks located within either the Mississippi River Basin or Lake Pontchartrain River Basin, within the New Orleans District boundaries. In the event that the total amount of credits that would be required to fully compensate for unavoidable wetland impacts would not be achievable, the proposed mitigation bank plan is meant to afford the USACE the opportunity to explore reasonable and available mitigation opportunities both within the impacted service area as well as adjacent service area (Lake Pontchartrain River Basin) in order to compensate for unavoidable wetlands impacts. The amount of credits that would be required to fully compensate for unavoidable wetland impacts will be determined upon selection of an appropriate compensatory mitigation bank. In the Mississippi River Basin, there are currently five approved mitigation banks with available bottomland hardwood mitigation credits: Cypress Plantation; Cypress Plantation II; Tunica Swamp Silos; Ash Slough Headwaters; and Ash Slough Headwaters Addendum 1. In the Lake Pontchartrain River Basin, there are currently 14 approved mitigation banks with available bottomland hardwood mitigation credits: Ash Slough Headwaters; Zachary - Copper Mill Bayou; Zachary – Redwood Creek; Zachary - Comite Flats I; Zachary - Comite Flats II; Comite Properties - Tract A; Comite Properties - Tract B; Beaver Creek; Crooked Branch; Bayou Manchac – Oakley; Bayou Conway; Timberton; Timberton II; and Timberton III.

Pursuant to section 7 of the Endangered Species Act of 1973, as amended, the USACE has determined that the Proposed Action would not likely adversely affect the endangered pallid sturgeon or any critical habitat. The U.S. Fish and Wildlife Service (USFWS) concurred with the USACE's determination of "not likely to adversely affect" under Section 7 of the Endangered Species Act of 1973 and returned a copy of the USACE's letter with their office stamp of concurrence dated January 22, 2021 (Appendix B).

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, the USACE has determined that the Proposed Action constitutes an Undertaking as defined in 36 CFR § 800.16(y). Based on a review of existing documentation; the NRHP database, the Louisiana Division of Archaeology (LDOA) Louisiana Cultural Resources Map (LDOA Website), historic map research, a review of pertinent cultural resources survey reports, and other available data, USACE has determined that there are multiple historic properties as defined in 36 CFR 800.16(l) within the Work Area. However, based on the aforementioned identification and evaluation, the USACE determined that there are no historic properties as defined in 36 CFR 800.16(l) within the APEs. Accordingly, on June 10, 2020, CEMVN submitted a finding of "No Historic Properties Affected" for this Undertaking to the Louisiana State Historic Preservation Officer of the Department of Culture Recreation and Tourism (SHPO), the Choctaw Nation of Oklahoma (CNO), the Coushatta Tribe of Louisiana (CT), the Jena Band of Choctaw Indians (JBCI), the Mississippi Band of Choctaw Indians (MBCI),

Muscogee Creek Nation (MCN), the Seminole Nation of Oklahoma (SNO), Seminole Tribe of Florida (STF), and the Tunica-Biloxi Tribe of Louisiana (TBTL).

SHPO concurrence was received on July 10, 2020 (Appendix C). On July 28, 2020, the MCN submitted a written response letter stating “This project is located within our area of interest and is of importance to us. After reviewing the information provided, the [MCN] is unaware of any Muscogee sacred sites, burial grounds, or significant cultural resources located within the immediate project areas. Due to this, we concur that there should be no effects to any known historic properties and that work should proceed as planned. However, due to the historic presence of Muskogean peoples in the areas, we still request to be notified if any artifacts, cultural material or human remains are discovered during the project. Additionally, if there are any changes or updates to the project, we request to be notified of these,” and on August 21, 2020, CNO submitted a written response letter stating “The Choctaw Nation Historic Preservation Department concurs with the finding of "no historic properties affected". However, we ask that work be stopped and our office contacted immediately in the event that Native American artifacts or human remains are encountered.” The remaining Tribes did not respond within the regulatory timeframes; therefore, the USACE has fulfilled its NHPA Section 106 responsibilities to consult with Tribes.

In summary, the USACE has determined that there would be a negligible effect on the Cultural Resources component of the human environment from implementing the Proposed Action and may proceed with the Undertaking in compliance with Section 106 of the NHPA and in coordination with NEPA.

Pursuant to the Clean Water Act (CWA) of 1972, as amended, A CWA draft Section 404(b)(1) public notice has been completed for this Work Item and will be circulated for public comment with this draft SEA. Additionally, a CWA Section 401 State Water Quality Certificate (WQC 202115-01/AI 101235/CER 20200010) was issued by the Louisiana Department of Environmental Quality by letter dated January 20, 2021. (Appendix D).

The following environmental design commitments are an integral part of the Proposed Action:

1. The Proposed Action will result in unavoidable adverse impacts to approximately 1.5 acres of wetland resources classified as wet pastureland. To mitigate for these unavoidable adverse impacts, the USACE will purchase approximately 0.75 acres of bottomland hardwoods compensatory mitigation bank credits from available bottomland hardwood mitigation banks located within either the Mississippi River Basin or Lake Pontchartrain River Basin, within the New Orleans District boundaries.

2. If the Proposed Action is changed significantly or is not implemented within one year, USACE would reinitiate consultation with the USFWS to ensure that the

Proposed Action would have no effect on any federally-listed threatened or endangered species or critical habitat.

3. **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 USACE 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 finds or affected property. The USACE contractor would ensure that the discovery or unexpected effects are secured and stabilized, as necessary, and access to the area is restricted. The USACE contractor shall inform their Operations Division (OD) contacts at USACE, who would in turn contact Planning Division (PD) staff. The USACE contractor would not proceed with work until USACE PD completes consultation with the Louisiana SHPO, and others, as appropriate.

4. **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 USACE contractor shall notify the law enforcement agency of the jurisdiction where the remains are located within 24 hours of the discovery. The USACE contractor shall also notify USACE and the Louisiana Division of Archaeology within 72 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).

The USACE has evaluated the potential environmental impacts of the Proposed Action in SEA #278-D (incorporated herein by reference). The Proposed Action would serve to benefit the LSP at Angola from a socio-economic standpoint through reduced future efforts of flood fighting and the increased security to farm and prison operators and residents from future high river stages. The maintenance and repair/rehabilitation of the entirety of the LSPL system would serve to prevent future levee overtopping and failure. Additionally, the Proposed Action would contribute to the continued accomplishment of flood risk management objectives, which are of great importance in the Lower Mississippi River Valley. It would also provide a continued reduced risk of flood damage to the natural and human environment on the land side of the Mississippi River levee system in CEMVN as well as provide for the preservation and enhancement of fish, wildlife, and other natural resources within the Mississippi River Basin.

Based on this assessment, a review of the comments made on SEA #278-D, and the implementation of the environmental design commitments listed above, a determination has been made that the Proposed Action would have no significant impact on the human environment. Therefore, an Environmental Impact Statement will not be prepared.

Draft

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Date

STEPHEN F. MURPHY
COL, EN
Commanding