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CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
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Regional Planning and
Environment Division South
Environmental Planning Branch

DRAFT FINDING OF NO SIGNIFICANT IMPACT (FONSI)

SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT (581)

Jean Lafitte National Historical Park and Preserve Augmentation Features Supplemental Environmental Assessment and National Historic Preservation Act Assessment of Effects, West Bank and Vicinity Hurricane and Storm Damage Risk Reduction System Augmentation

Jefferson Parish, Louisiana

Description of the proposed action. The U.S. Army Corps of Engineers (USACE), Mississippi River Valley Division (MVD), Regional Planning and Environment Division South (RPEDS), in cooperation with the National Park Service (NPS), Jean Lafitte National Historical Park and Preserve (JELA), have prepared this Supplemental Environmental Assessment (SEA) for the New Orleans District (CEMVN) to evaluate augmentation measure(s) for the Bayou aux Carpes Clean Water Act (CWA), Section 404(c) site (BAC Site). This SEA #581 has been prepared in accordance with the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality's (CEQ's) Regulations (40 CFR 1500-1508), as reflected in USACE Engineering Regulation ER 200-2-2 and the NPS NEPA Handbook. Per the CEQ's regulations on implementing NEPA (2020), the NPS has accepted the status of Cooperating Agency for this SEA.

In 1985, the Environmental Protection Agency (EPA) issued its CWA Section 404(c) Final Determination for Bayou aux Carpes, in accordance with 33 U.S.C. §1344(c), and 40 CFR Part 231. Following Hurricanes Katrina and Rita in 2005, Congress authorized USACE to complete construction of an improved West Bank and Vicinity (WBV), Hurricane and Storm Damage Risk Reduction System (HSDRRS). This system would ultimately include construction of a storm surge barrier feature that would extend along the northeastern boundary of the BAC Site along the west bank of Bayou Barataria [Individual Environmental Report 12 (IER 12)]. The CEMVN made a formal request, by letter dated November 4, 2008, to the EPA to modify the Section 404(c) Final Determination for Bayou aux Carpes to allow construction of the 4,200 linear foot West Closure Complex (WCC) WBV 404(c) flood wall, including a 100-foot wide corridor. The EPA issued the Modification to the 1985 CWA Section 404(c) Final Determination for Bayou aux Carpes to allow construction of the WBV 404(c) flood wall. In addition to the

compensatory mitigation, the EPA requested and the CEMVN committed to evaluate and consider for implementation additional ecological augmentation features that would add an extra measure of environmental benefits due to the unique status of the BAC Site. The CEMVN agreed to fund and implement such ecological augmentation features as part of the WBV Project, if the results of its investigations indicated an overall gain in environmental benefits to offset potential unanticipated indirect adverse impacts to BAC Site wetlands. The results of those investigations are the subject of this SEA. The initial array of augmentation features considered herein was identified in IER 12 which is incorporated by reference.

The Proposed Action would consist of the removal of an earthen embankment, identified as a “plug”, which was placed where Bayou aux Carpes intersects Bayou Baratavia (Gulf Intracoastal Waterway or GIWW) in 1974. Removal of this earthen embankment would reconnect the GIWW and the BAC to partially restore historic hydrology and increase wetland functions and values in the BAC Site. A sinuous design would be chosen to minimize potential erosion within Bayou aux Carpes from waves generated in the GIWW. Construction of the project would involve the clearing and grubbing of up to approximately 0.67 acres. A maximum of 0.14 acres of wetlands would be negatively impacted during clearing and grubbing activities. A maximum of 3,500 cubic yards would be excavated during construction. Excavated material would be disposed of beneficially in an area of approximately 1.95 acres within the BAC Site. Hydrodynamic modeling suggests approximately 86 acres of wetlands within the BAC Site would receive indirect benefits in the form of increased flow exchange from removal of the plug.

Factors Considered in Determination. CEMVN has assessed the impacts of the No-Action and the Proposed Action alternatives on important resources, including hydrology, water and soil quality, wetlands, uplands, wildlife resources, aquatic and fisheries resources, Threatened, Endangered, and Protected Species, cultural resources, aesthetics and visual resources, recreational resources, air quality, and transportation. No significant adverse impacts were identified for any of these important resources. In addition, the Proposed Action would have net benefits to BAC Site wetlands.

In correspondence dated xyz, (CZD Number), the Louisiana Department of Natural Resources (LDNR) stated that the Proposed Action is consistent, to the maximum extent practicable, with the Louisiana Coastal Resources Program. The Louisiana Department of Environmental Quality (LDEQ) issued a State Water Quality Certification (WQC Number) on xyz and a Section 404(b)(1) was signed on xyz at the end of a 30 day public review period beginning INSERT DATE. In a letter dated xyz, the Louisiana State Historic Preservation Officer (SHPO) concurred with CEMVN’s determination that no known historic properties will be affected by undertaking the Proposed Action. The US Fish and Wildlife Service (USFWS) provided a letter stating “no objection” under the authority of the Fish and Wildlife Coordination Act (FWCA, 48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) on November 3, 2020. In a letter dated November 12, 2020, the USFWS concurred with the CEMVN’s determination that the proposed action may affect, but not likely to adversely affect Endangered Species Act Trust species.

Section 106 cultural resources coordination for the project area has been initiated with SHPO and with Federally-recognized Tribes. CEMVN has determined that “No Historic Properties will be Affected” and coordination of this determination with the SHPO and Federally-recognized Tribes will be completed prior to approval of federal funding for the proposed undertaking.

The EPA determined that the work associated with the proposed action would satisfy Exemption 3 of their 1985 CWA 404(c) determination for the BAC Site via letter dated December 10, 2020 as long as certain conditions and best management practices are adhered to (see environmental design commitments below). Exception 3 removes from prohibition “...discharges associated with projects with the sole purpose of habitat enhancement and specifically approved by the EPA”.

Authorizations and permissions will be obtained from the NPS before any work associated with the Proposed Action would occur on the JELA.

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

1) The CEMVN would survey the Project Area and vicinity for Migratory Bird Treaty Act (MBTA) and Bald and Golden Eagle Protection Act (BGEPA) trust species prior to construction. Coordination with the USFWS would continue throughout construction for MBTA and BGEPA trust species.

2) For areas containing nesting wading birds (i.e., herons, egrets, night-herons, ibises, roseate spoonbills, anhingas, and/or cormorants), all activity occurring within 1,000 feet of a nesting colony will be restricted to the non-nesting period.

3) If an eagle’s nest is discovered within 1,500 feet of the proposed action, then an evaluation and coordination with USFWS will be performed.

4) All on-site personnel are responsible for observing water-related activities for the presence of manatee(s). All work, equipment, and vessel operation should cease if a manatee is spotted within a 50-foot radius (buffer zone) of the active work area. Once the manatee has left the buffer zone of its own accord (manatees must not be herded or harassed into leaving), or after 30 minutes have passed without additional sightings of manatee(s) in the buffer zone, in-water work can resume under careful observation for manatee(s).

5) *EPA’s Conditions and Best Management Practices for the Proposed Action.* As part of the EPA’s Final Determination that the Proposed Action would satisfy Exemption 3 of the 1985 CWA 404(c) determination for the BAC Site, the EPA determined that the following conditions and best management practices are necessary to ensure that any discharges of dredged or fill material to comply with the terms of the 1985 BAC Site Final Determination:

- a) The CEMVN will confirm in writing with any contractors conducting work as a part of this project the boundaries of the project worksite, per the Proposed Action, so as to prevent unapproved impacts to adjacent wetlands through unauthorized machinery/equipment access or unapproved discharges of dredged or fill material. Discharges of dredged or fill material are restricted to those areas specified in the project proposal.
- b) During final project design, the CEMVN shall utilize all feasible engineering and construction practices to minimize the potential for impacts to the Bayou aux Carpes wetlands outside the project footprint.
- c) The approved mode of transportation of excavated material to the final discharge site, as proposed by the District, is for barge transport. Should other means of transport be proposed, the District must seek approval from EPA Region 6 prior to implementation.
- d) Prior to project implementation, the CEMVN shall confer with the USFWS and comply with any specified endangered species requirements identified by the USFWS.
- e) Prior to construction, the CEMVN shall be responsible for obtaining all necessary Federal, state and/or local authorizations and conducting all required regulatory coordination and approvals prior to implementing proposed project.
- f) Throughout the life of the project, the CEMVN shall ensure that any necessary adaptive construction modifications that significantly deviate from the proposed District plan shall be approved by EPA Region 6 prior to implementation.
- g) The CEMVN shall be responsible for ensuring compliance with the terms of this approval, including the conditions and BMPs. The District shall be responsible for ensuring that all employees and contractors working within the Bayou aux Carpes CWA Section 404(c) site understand the terms and extent of this approval.
- h) Any violation of the terms of this approval shall be reported by the CEMVN to EPA Region 6 by telephone immediately upon discovery, followed by a written report by the CEMVN describing the circumstances and ecological impacts. In this event, all related work activities shall cease until resolution is reached with EPA.

Public Involvement. Public Notice of the release and availability of the draft SEA and FONSI for public comment was published in the New Orleans Advocate on January 30, 2021. A Notice of Availability announcing the 30 day public review and comment period for these documents that started February 1, 2021 was also mailed to persons and entities on the public mailing list. The draft SEA and FONSI were made available for download at <https://www.mvn.usace.army.mil/Missions/Environmental/NEPA-Compliance-Documents/HSDRRS-Projects/IER-12-Harvey-Algiers-Canal-Levee->

[Floodwall-Jefferson-Orleans-and-Plaquemines-Parishes-Louisiana/](#) on January 29, 2021.

The proposed action has been coordinated with appropriate Federal, state, and local agencies and businesses, organizations, and individuals. Comments received during the 30 day public review period of the draft SEA 581 and associated FONSI would be summarized here.

Conclusion. CEMVN Environmental Planning Branch has assessed the potential environmental impacts of the Proposed Action, considered all public comments received during the public review period, and has determined that the action, if implemented, would not cause significant environmental impacts.

I have reviewed SEA 581 and have considered public and agency comments and recommendations. Based on the assessment conducted in SEA #581 and the implementation of the environmental design commitments listed above, I have determined that the proposed action will not have significant impacts and does not require the preparation of a Supplemental Environmental Impact Statement.

The plan is justified and in accordance with environmental statutes. It is in the public interest to implement the proposed action in SEA 581.

Date

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