



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVENUE
NEW ORLEANS, LOUISIANA 70118

REPLY TO
ATTENTION OF

Regional Planning and Environment
Division South
Environmental Planning Branch

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

**ENVIRONMENTAL ASSESSMENT #567
LOUISIANA COASTAL AREA (LCA) BENEFICIAL USE OF DREDGED MATERIAL
PROGRAM, BARATARIA BAY WATERWAY AT JEFFERSON PARISH, LOUISIANA**

Description of the Proposed Action (Recommended Plan): Alternative BA-1 East

The proposed Project, referred to as Alternative BA-1 East, consists of a marsh creation site (site) of approximately 75 acres using dredged material sourced from the Barataria Bay Waterway Federal navigation channel (BBW). The site is located in the narrow corridor of wetlands that separates Bayou Perot and Bayou Rigolettes in Jefferson Parish, LA. See Engineering Plate R01.

The site perimeter is approximately 8,500 continuous linear feet. Dredged material would be placed in the site. The site would have a target final elevation of +0.6 ft North American Vertical Datum 1988 (NAVD88), with a maximum tolerance of +/-0.5 ft (+0.1 ft to +1.1 ft NAVD88) after material settlement has occurred after the deposition of the material. The gross volume of dredged material is approximately 764,000 cyd of material. Sources of the material include: the Barataria Bay Entrance Y; the upper BBW reach; and a flotation access channel that will be dredged from BBW to the project site. For the construction of the site, the material dredged from the BBW would be loaded onto barges, transported to a designated pump-out location adjacent to the site, and then offloaded using a temporary pipeline. Material removed from the flotation access channel would be transported to the site where it would be incorporated into the site.

Since Bayou Rigolettes is too shallow for loaded barges to traverse, the flotation access channel would be dredged in state-owned water bottoms to allow for ingress and egress of the barges and equipment required for the construction of the site (i.e., dredge material, temporary pipeline, earth moving equipment, etc.). Barge loaded equipment would be used for construction. The material excavated from the water bottoms from the creation of the flotation access channel would be placed in the site.

The approximately 105-acre flotation access channel from the BBW to the project site would be approximately 200 feet wide and 3.5 miles long.

Temporary pipeline corridors would be required for accessing the site at ground level. The pipeline corridor to the north portion of the site would be approximately 50 feet wide by 450 feet long and the pipeline corridor to the south portion of the site would be approximately 50 feet wide by 1300 feet long. The pipeline corridors total approximately 2.0 acres.

Dredged material placed in the site would be held in place using natural shoreline and through the use of minimum retention (e.g., hay bales, core logs, sandbags, earthen fill, etc.)

Factors Considered in Determination: This U.S. Army Corps of Engineers, New Orleans District (“CEMVN”) has assessed the impacts of “no action” and the recommended plan on important resources including: navigation; wetlands; wildlife; threatened, endangered, and protected species; water and sediment quality; aquatic resources/fisheries; essential fish habitat; cultural resources; recreational resources; aesthetics (visual resources); socio-economics and environmental justice; and air quality. No significant adverse impacts were identified for any of these important resources. No impacts have been identified that would require compensatory mitigation and all practical means of avoiding adverse environmental effects have been adopted. The recommended plan should result in an overall net benefit to wetland resources in the project area, through the restoration and creation of emergent wetland habitat, which is of a higher value to fish and wildlife resources than the existing open water.

On **February 9, 2019**, draft EA #567 and the associated draft Finding of No Significant Impact were mailed out for a 30-day public review and comment period. 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 Jefferson 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 of 1972 – Section 401 and Section 404: The Clean Water Act (CWA) sets and maintains goals and standards for water quality and purity. Section 401 requires a Water Quality Certification from the Louisiana Department of Environmental Quality (LDEQ) that a proposed project does not violate established effluent limitations and water quality standards. Coordination with LDEQ for a State Water Quality Certification remains ongoing for the proposed marsh creation site as of the time of public review.

As required by Section 404(b)(1) of the CWA, an evaluation to assess the short- and long-term impacts associated with the discharge of dredged and fill materials into waters of the United States resulting from this Project has been completed. The Section 404(b)(1) public notice would be mailed for concurrent public and agency review with draft EA #567 on **February 7, 2019**.

Coastal Zone Consistency: The Coastal Zone Management Act (CZMA) requires that "each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs." Coordination with LDNR with Coastal Zone Permit C20190004 remains ongoing with intent to modify the permit to allow soil borings on the site for geotechnical analysis.

Endangered Species Act: The Endangered Species Act (ESA) is designed to protect and recover threatened and endangered (T&E) species of fish, wildlife and plants. On January 30, 2019, the USFWS issued a "not likely to adversely affect" (NLAA) letter for listed T&E species, including the West Indian manatee, migratory shorebirds, and species of management concern (i.e. rare and very species) that are known to occur or believed to occur within the vicinity of the project area. No plants were identified as being threatened or endangered in the project area (See T&E Species concurrence letter in Appendix B).

The proposed action would include Standard Manatee Conditions for In-Water Activities with the contractor instructing all personnel regarding the potential presence of manatees in the project area, and the need to avoid collisions with these animals. If a manatee(s) is sighted within 100 yards of the project area, moving equipment must be kept at least 50 feet away from the manatee or shut down. There would be restrictions on vessel operation, restrictions on the use of siltation barriers, and mandatory signage designed to avoid any harm to manatees in the project area. More specific information would be contained in the dredging contracts.

Fish and Wildlife Coordination Act: The USFWS reviewed the proposed action in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 USC 661 et seq.) and provided a draft Fish and Wildlife Coordination Act Report (FWCAR) dated December 14, 2018. This office has concurred with, or resolved, all

recommendations contained in the draft FWCAR, and project-specific recommendations have been addressed in EA #567 and are incorporated into this FONSI.

Hazardous, Toxic and Radioactive Waste (HTRW): Engineer Regulation (ER) 1165-2-132 provides that in the Planning, Engineering and Design (PED) Phase that, for proposed project in which the potential for HTRW problems has not been considered, an HTRW initial assessment, as appropriate for a reconnaissance study, should be conducted as a first priority. If the initial assessment indicates the potential for HTRW, testing, as warranted and analysis similar to a feasibility study should be conducted prior to proceeding with the project design. The NFS (non-federal sponsor), Jefferson Parish, would be responsible for planning and accomplishing any HTRW response measures, and would not receive credit for the costs incurred.

An ASTM E 1527-05 Phase 1 Environmental Site Assessment (ESA), HTRW 16-01 dated 17 July 2018, was completed for the project area and a copy is being maintained on file at CEMVN. The probability of encountering HTRW for the proposed action is low based on the initial site assessment. If a recognized environmental condition (REC) is identified in relation to the project area, the U.S. Army Corps of Engineers, New Orleans District would take the necessary measures to avoid the REC 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. The EA #567 was provided to the NMFS for review and comment on February XX, 2019. Comments and EFH conservation recommendations were received from the NMFS in their letter dated February XX, 2019.

Migratory Bird Treaty Act: The bald eagle was removed from the List of Endangered and Threatened Species in August 2007 but continues to be protected under the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act of 1918, as amended (MBTA). During nesting season, construction must take place outside of USFWS/LDWF buffer zones. A Corps Biologist and USFWS Biologist would survey for nesting birds. This would be done prior to the start of construction.

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, the

CEMVN finds that implementation of the proposed actions would have no effect on colonial nesting water/wading birds or shorebirds. USFWS and USACE biologists would 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.

National Historic Preservation Act: Section 106 consultation was conducted with the Louisiana State Historic Preservation Officer (“SHPO”) and federally recognized Indian Tribes for the EA with a finding of no historic properties affected in December 4, 2018. The SHPO concurred with the finding of no adverse effect for the EA in a letter dated January 7, 2019. The Jena Band of Choctaw Indians concurred in their letter dated December 20, 2018, and the Choctaw Nation of Oklahoma concurred in their letter dated January 4, 2019. Consultation with the SHPO and federally recognized Indian Tribes for the proposed action as described in EA #567 was initiated on December 4, 2018 and has been completed.

No cultural resources are known or expected within the site. If previously unidentified cultural resources are discovered, those resources would be evaluated for significance and eligibility for listing to the National Register of Historic Places (NRHP) and additional consultation would be conducted with the State Historic Preservation Office (SHPO) and Federally-recognized Indian tribes. Identified cultural resources that are determined to be significant and eligible for listing or are listed on the NRHP would be avoided. If avoidance is not possible, strategies would be developed in consultation with the SHPO and Federally-recognized Indian tribes to mitigate for adverse effects to significant cultural resources.

Public Involvement: The recommended plan has been coordinated with appropriate federal, state, and local agencies and businesses, organizations, and individuals through distribution of EA #567 for a 30-day public review and comment period. Comments on the Draft EA #567 and FONSI were received from US Fish and Wildlife Service, the National Marine Fisheries Service, the Louisiana Department of Wildlife and Fisheries, and the Louisiana Department of Environmental Quality, and Coastal Engineering Solutions on behalf of the Jefferson Parish Government. All comments received have been addressed and responses have been provided (Appendix B of the EA #567).

Decision: CEMVN has assessed the environmental impacts of the recommended plan on relevant resources in EA #567 and has determined that the proposed action would have no significant adverse impact on the human and natural environment. The

recommended plan would have only temporary short term impacts on navigation, wetlands, aquatic resources/fisheries, wildlife, essential fish habitat, and water quality during construction.

The recommended plan would directly impact approximately 4.0 acres of existing fresh-intermediate marsh and approximately 178 acres of open water. The impacted fresh-intermediate marsh would be expected to re-establish within one year following completion of construction. Impacted wetlands would be restored to a substrate elevation similar to the surrounding marsh and temporary pipeline corridors would be backfilled upon project completion.

I have reviewed the EA #567 and have considered public and agency comments and recommendations. Based on the assessment conducted in EA #567 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.

Date

Michael Clancy
Colonel, U.S. Army
District Commander