



APPENDIX B

Real Estate Plan



B-1.0 PROJECT PURPOSE, DESCRIPTION, LOCATION AND DESCRIPTION OF THE LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS AND DISPOSAL (LERRD) REQUIRED

The purpose of this Real Estate Plan (REP) is to address real estate issues associated with acquisition of real estate interests to construct the project evaluated in this General Reevaluation Report (GRR). The first two phases of the project have been completed; Phase I was completed in December 1987 and Phase II was completed in December 1994. The plan of action that was initially conceived, immediately after authorization, provided that Phase 3 of the Project would construct the Project navigation channel to the fully authorized depth of 55 feet from the Gulf of Mexico through the Port of Baton Rouge, Louisiana. However, due to constraints that result from the non-Federal sponsor's desire to limit its responsibilities for OMRR&R, this General Reevaluation Report (GRR) is examining only those reasonable alternatives that propose construction of the navigation channel up to a depth of 50 feet.

The information contained herein is for planning purposes and may be subject to change as project design is refined during Project Engineering Design. A draft REP was prepared in November 2016 in support of the draft GRR. This Final REP incorporates information from a more detailed feasibility analysis, which includes a change to the Recommended Plan (from the plan that was presented in the draft GRR as the Tentatively Selected Plan (TSP)), analysis of training works, refinement of utility relocations, additional hydraulic modeling, as well as, resolution of comments received from both the public and other agency reviews; the Agency Technical Review (ATR); Independent External Peer Review (IEPR), and review by the Vertical Team. The REP was written to the same level of detail as the GRR it supports.

The project area is the southeastern portion of Louisiana (see map in Section B-5.0 below) consisting of:

The Recommended Plan proposes to provide deep draft navigation to 50 ft. from the Gulf beginning at River Mile (RM) 22 Below Head of Passes (BHP) through the Port of Baton Rouge ending at RM 232.4 Above Head of Passes (AHP). This would be accomplished by constructing and maintaining the MRSC to a depth of -50 ft. Mean Lower Low Water (MLLW) in the lower Mississippi from RM 13.4 AHP to RM 22 BHP, and by deepening the twelve regularly maintained crossings located within the Port of South Louisiana and the Port of Baton Rouge to a depth of -50 ft. Low Water Reference Plane (LWRP).



Placement of materials dredged from the 12 regularly maintained deep draft crossings will be deposited back into the river adjacent to or below the dredged location. All actual dredging activities for the crossings will be conducted below the ordinary high water mark of the River; therefore, the actual dredging work can be accomplished by invoking the Federal navigation servitude.

Similarly, placement of materials dredged within the Lower Mississippi River from RM 13.4 AHP to RM 19.5 BHP will be placed within existing placement areas adjacent to the Mississippi River in the southern portion of Plaquemines Parish between Venice, Louisiana and the Gulf of Mexico in accordance with the limitations established by the Federal regulations regarding the Federal Standard, and from RM 19.5 BHP to RM 22 BHP the material will be disposed of in the Ocean Dredge Material Disposal Site (ODMDS). USACE has previously obtained environmental clearance over 143,264 acres, most of which are located in the USFWS Delta National Wildlife Refuge and in the LaDWF Passe a Loutre Wildlife Management Area. In accordance with the findings of the Mississippi River Ship Channel Gulf of Mexico to Baton Rouge, LA Dredged Material Management Plan Preliminary Assessment Summary of Findings and Recommendations (PA DMMP), dated November 2017, as approved by the District Commander, no new LERRDs (except for relocations which are required for construction) are required for placement of dredged material resulting from the continued maintenance of the project as presently constructed, nor as a result of the construction, operation and maintenance of the Recommended Plan proposed in this GRR .

The above referenced PA DMMP was prepared in accordance with the requirements of Engineering Regulation 1105-2-100 for the purpose of assessing the project's dredged material placement needs in future years. The PA DMMP addressed whether the current OMRR&R methods for dredging and disposal of material for the MRSC are sufficient for both the currently constructed and maintained project dimensions and for the construction and maintenance of the deepening of the main navigation channel as proposed in the Recommended Plan for this GRR. The PA DMMP dated November 2017 concluded that there is sufficient capacity to address current OMRR&R dredged material placement needs of the project, as well as the construction and OMRR&R needs of the project, as proposed in the Recommended Plan for this GRR. As such, there is no requirement for the acquisition of additional dredged material placement and access areas at this time. The draft GRR provided that the analysis of the Recommended Plan for the final GRR would determine whether additional disposal area would need to be environmentally cleared and acquired for the construction and maintenance of the Recommended Plan for Phase 3 implementation of the Project. The PA DMMP analysis concluded that current practices for disposal of dredge material are sufficient for both current and proposed deepening within the 20-year period of analysis that is established by the DMMP regulations. These regulations currently establish a schedule for re-analysis of dredged material disposal practices and requirements.



If future preliminary DMMP analysis determines that additional dredged material placement areas and/or access areas may be necessary, the Government will conduct a DMMP analysis pursuant to the regulations applicable to DMMP formation and management at that time. Such an analysis, should it arise in the future, would include, among other things, analysis under environmental laws and regulations existing at that time. In any decision of that sort, the Government would maximize use of the Federal navigation servitude, to the extent practicable, and in keeping with project needs, for the additional dredged material placement and access requirements for the project. Exercise of the Federal navigation servitude, if appropriate, would apply to lands and waterbottoms owned by private persons and by non-Federal governmental entities (for example, the La DWF Passe a Loutre Wildlife Management Area). If such a decision were to be made in the future, the non-Federal sponsor would be obligated acquire LERRDs as determined to be necessary by the USACE for the construction and OMRR&R of the Project (and provide authorization for entry acceptable to the USACE) over any lands and waterbottoms that are not available under the Federal Navigation Servitude, where such lands and waterbottoms are owned by private persons or by non-Federal governmental entities. If authorization is necessary over any lands under the jurisdiction of another Federal agency, the USACE will obtain authorization for entry via a special use permit (SUP) to enter these lands. For purposes of this REP, it is noted that, within the study area for this GRR, USFWS has jurisdictional responsibility for the Delta National Wildlife Refuge in lower Plaquemines Parish.

B-2.0

NON-FEDERAL SPONSOR-OWNED LERRD

The Non-Federal Sponsor (NFS) for the project is the Louisiana Department of Transportation and Development (LaDOTD). It is assumed that LaDOTD does not have jurisdiction over any LERRDs within the Mississippi River or in the existing areas for dredged material placement or access in southern Plaquemines Parish. If necessary, the NFS will provide an authorization for entry over any LERRD needed for this project which cannot be utilized by invoking the Federal navigation servitude.

LaDOTD has been an active participant in the development of the scope of the integrated GRR and SEIS and the Project Management Plan and executed a Feasibility Cost Sharing Agreement in April 2015. LaDOTD has expressed strong support and willingness to continue as the NFS through construction.

B-3.0 STANDARD ESTATE

At this time, the recent PA DMMP has determined that there is no need for additional Lands, Easements or Rights-of-Way (LER) in support of the construction or OMRR&R of the Project. Under the present Federal regulations regarding the creation and management of DMMPs, it is likely that USACE will conduct at least one more Preliminary DMMP analysis within the 50-year



period of analysis for this GRR. If that Preliminary DMMP analysis determines that it is likely that additional LER are required for disposal of dredged materials or access, the regulations require that USACE conduct a formal DMMP study in support of a final decision regarding the need to acquire additional disposal and access areas. Such a decision will be supported by the appropriate level of analysis under prevailing environmental laws and regulations and by an appropriate analysis under prevailing Real Estate regulations and guidance regarding the lands required to be obtained for construction and OMRR&R of the Project. At that time, for any of the necessary lands that lie outside of the area available under the Federal Navigation Servitude, the future DMMP study would identify the appropriate estates recommended to be approved for acquisition. However, at present, any need for additional disposal areas during the 50 year period of analysis (for this GRR) is speculative. This is particularly true since the area in question (the extreme lower portion of the navigation channel) is subject to such a significant degree of subsidence and coastal erosion that it is not possible, at this time, to speculate what privately-owned lands would remain outside of the Federal Navigation Servitude more than 20 years in the future.

B-4.0 EXISTING FEDERAL PROJECT(S) WITHIN THE PROJECT LERRD

The Gulf Intracoastal Waterway (GIWW) links deep-water ports, tributaries, rivers and bayous and stretching for more than 1,300 miles from Mexican border at Brownsville, Texas to Apalachicola, Florida. Within this Mississippi River Ship Channel project, there are four locks within the GIWW – Port Allen Lock near Baton Rouge and Algiers, Harvey and Inner Harbor Navigation Canal Locks in the New Orleans area.

The following projects are within the vicinity of the Mississippi River in lower Plaquemines Parish: Coastal Wetlands Planning, Protection & Restoration Act (CWPPRA) West Bay, LCA BUDMAT West Bay, Tiger Pass, and Hurricane Storm Damage Risk Reduction System (HSDRRS) to include the West bank and Vicinity/Mississippi River Levee (WBV/MRL) Co-Located Project, and the Lake Pontchartrain Vicinity (LPV) Project, and South East Louisiana Area (SELA).

Mississippi River and Tributaries Project (MR&T) the largest flood risk reduction project in the world, provides flood risk reduction to the 36,000 square-mile lower Mississippi Valley. The four major elements are levees, floodways, channel improvement and stabilization and tributary basin improvements. MR&T has levees and a floodway within the Mississippi River Ship Channel project area.

The USFWS has jurisdictional responsibility for the Delta National Wildlife Refuge in lower Plaquemines Parish. The USACE will obtain a special use permit from USFWS to any lands necessary for construction and OMRR&R of the Recommended Plan that are situated on the refuge.



B-5.0 FEDERALLY-OWNED LANDS WITHIN THE LERRD FOR THE PROJECT

Mississippi River South and Southwest Passes Project encompass 14,706.34 acres of waterways and wildlife refuge areas in Plaquemines Parish, of which 35.25 acres are encumbered with easements, 8,367.17 acres are owned by the United States in fee, and 6,303.92 acres are public domain lands. Much of the placement sites are within this project boundary.

If entry is necessary to any lands under the jurisdiction of another federal agency, such as USFWS and its lands in the Delta National Wildlife Refuge, the USACE will obtain a special use permit (SUP) to enter those lands.

B-6.0 NAVIGATION SERVITUDE

The navigation servitude is the dominant right of the Government under the Commerce Clause of the U.S. Constitution (Art. I, §8, cl.3) to use, control and regulate the navigable waters of the United States and the submerged lands hereunder for various commerce-related purposes including navigation and flood control.

When constructing authorized Federal navigation improvements, the Corps has the power, under the Federal navigation servitude, to utilize navigable waters and lands below the ordinary or mean high water mark. This power is superior to any private property rights in the navigable waters themselves or in the underlying land. Utilities include all subaqueous pipelines, cables, or related facilities located in or under navigable waters of the U.S. They may be publicly or privately owned and do not have to serve the general public. The law apportions payment responsibility between the owner and the non-Federal sponsor only in the case of utility relocations necessitated by projects with an authorized depth of greater than 45 feet. For such “deep-draft utility relocations,” the non-Federal sponsor must bear at least 50% of the cost of relocation.

The Mississippi River Ship Channel Project is a navigation project; therefore, the project purpose meets the first test. Dredging will take place below the Ordinary High Water Mark within the banks of the Mississippi River that are outside of tidally influenced areas and within tidally influenced areas within the lower portion of the river below RM 13.4. The Mississippi River is considered both a waterbottom of the State of Louisiana and a navigable waterway of the United States. As such, dredging of the River can be accomplished under the Navigation Servitude. However, it must be noted that in order to accomplish dredging in certain reaches of the River, fourteen pipelines must first be relocated. Policy Guidance Letter (PGL) 44, dated 27 September 2017 states that the Navigation Servitude cannot be applied in an attempt to avoid a requirement of the non-Federal Sponsor to pay for a portion of the costs associated with utility relocations. Both the District and the Non-Federal Sponsor fully understand this. Therefore, the statement that dredging will be accomplished through invoking the Navigation Servitude only applies to the



construction work of dredging the River and not to the relocations of utilities. For the relocation of utilities and facilities, as required for construction and OMRR&R of Phase 3 of the project, the requirements of the above referenced PGL 44 will be applied, including the requirements for the consideration by the Government as to whether to compel relocation or removal through exercise of its authority under the Federal navigation servitude or under its Section 10 permit authority. At present, it is the opinion of the General Counsel for the NFS, as evidenced by NFS letter dated November 22, 2017, that it possesses sufficient right and authority to compel the relocation and removal of all of the fourteen facilities that are described in this document as requiring relocation or removal. A copy of that letter is available through the Real Estate Division office situated in MVN. Dredged material from the 12 regularly maintained deep draft crossings from RM 115 AHP to RM 232.4 AHP will be deposited back into the river adjacent to or below the dredged location. Dredged material from the Lower Mississippi River RM 13.4 AHP to RM 19.5 BHP will be placed in the Hopper Dredge Disposal Area (HDDA) within existing placement areas for beneficial use within the Federal Standard adjacent to the Mississippi River in southern portions of Plaquemines between Venice, Louisiana and the Gulf of Mexico. The HDDA is located on federally-owned and state-owned lands. Material from RM 19.5 BHP to RM 22 BHP, will be placed within the ODMDS. The ODMDS areas are believed to be tidally influenced areas which would could potentially be identified as being within the Federal navigation servitude. A final determination by District Office of Counsel with input from Engineering Division will be made prior to construction. Based on these analysis at this time, no new LER are required for disposal.

B-7.0 PROJECT MAPS

Figure B-1 below shows the main navigation channel of the Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana project area extending from RM 233.8 AHP to RM 22 BHP. Figure B-2 shows the location of the 12 regularly maintained deep draft crossing located between RM 232.4 AHP to RM 115 AHP (the reach between RM 233.8 AHP to RM 232.4 AHP is not considered in the scope of the GRR/SEIS for deepening). Between RM 115 AHP to RM 81.2 AHP, the main navigation channel is naturally deep and wide and does not require construction or maintenance dredging. Within this reach the approach channel to the New Orleans Harbor located between RM 104.5 to 84.7 is federally constructed and maintained in accordance with the River Harbors Act of 1938 (shown in Figure B-3). From RM 81.2 AHP to RM 13.4 AHP the main navigation channel is naturally deep and wide and does not require construction or maintenance dredging. Beginning at RM 13.4 AHP to RM 22 BHP the channel is maintained to a depth of 48.5 MLLW (Figure B-4).

See Exhibit C for Maps of Utility Relocations.

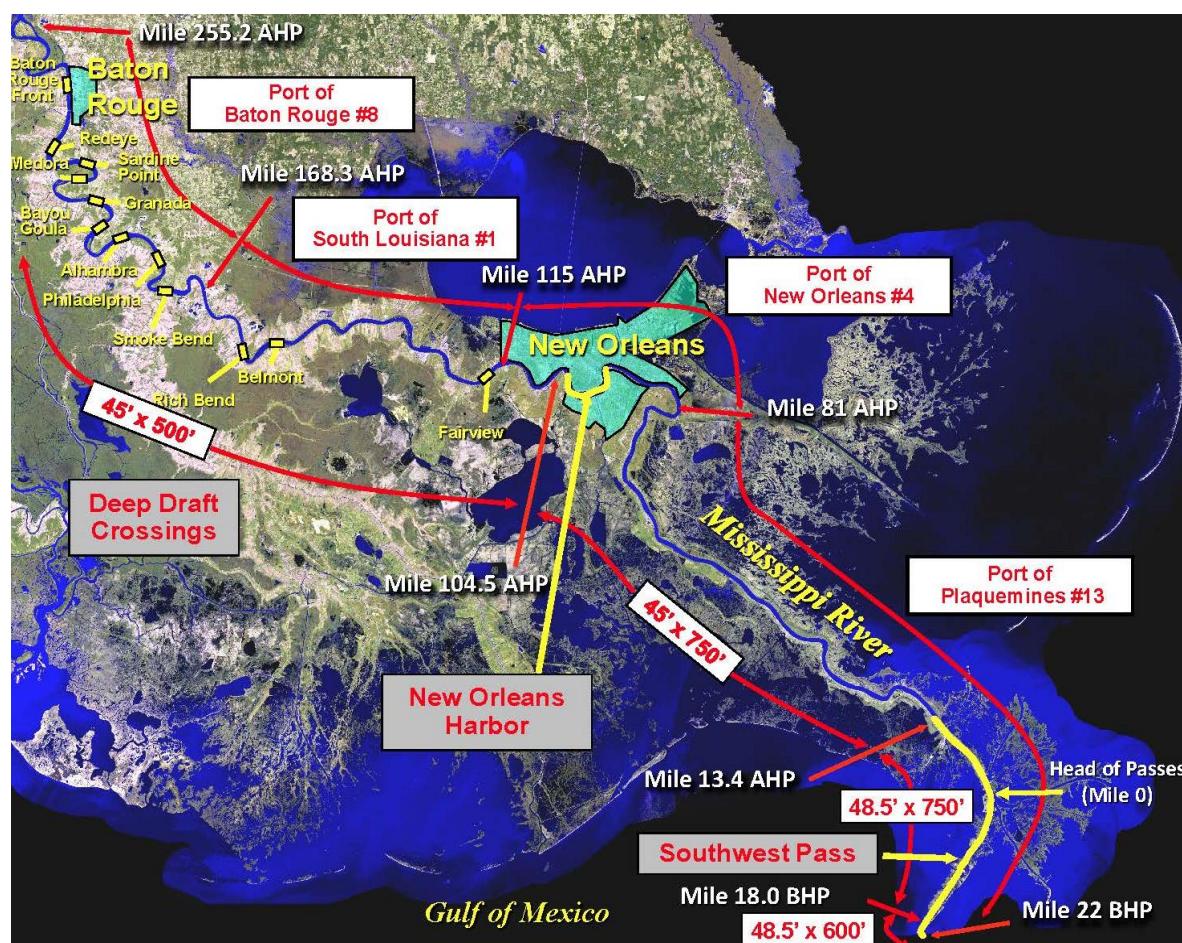


Figure B-1: Vicinity of the MRSC Project (the redline does not represent the Project Area, that was addressed in this report)

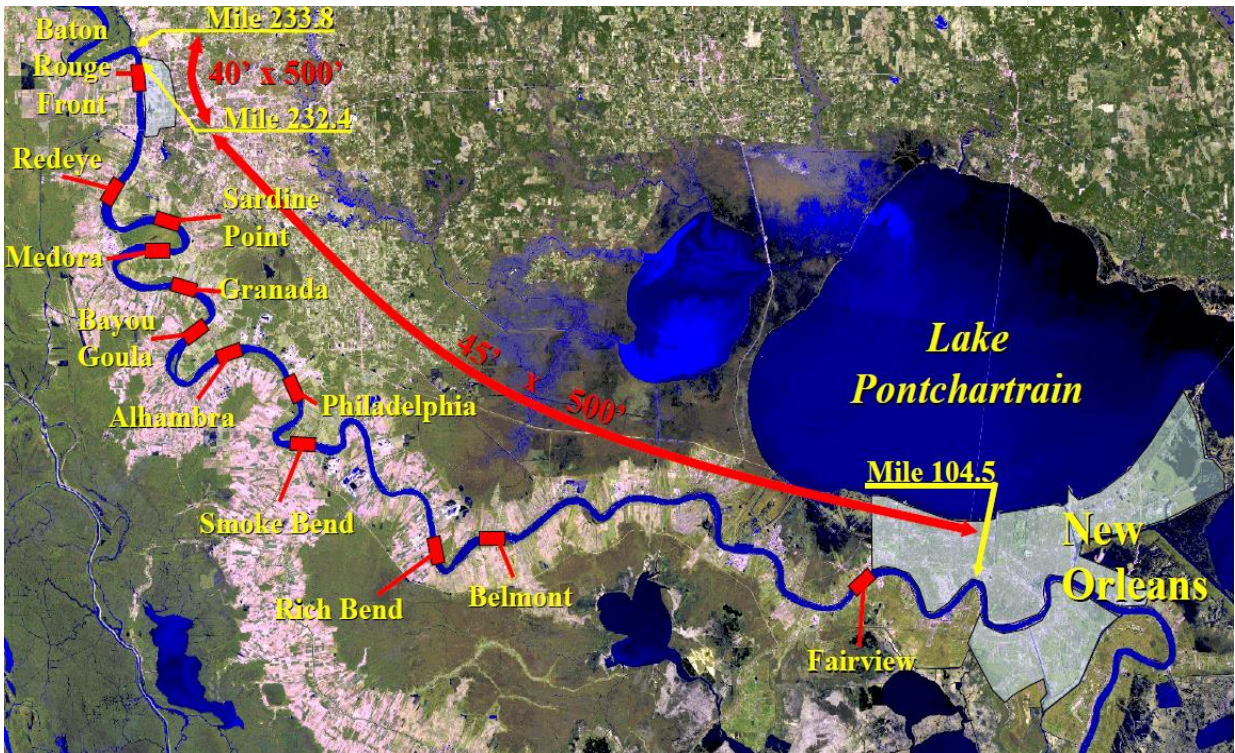


Figure B-2 Baton Rouge to New Orleans

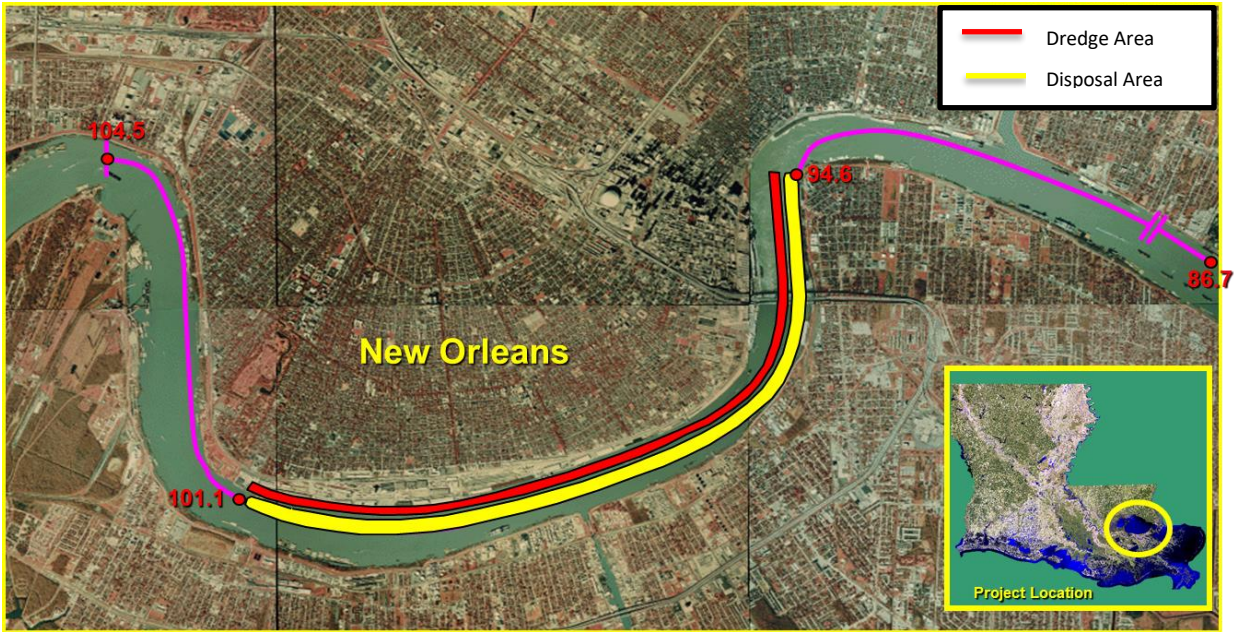


Figure B-3 –Approach Channel to the New Orleans Harbor

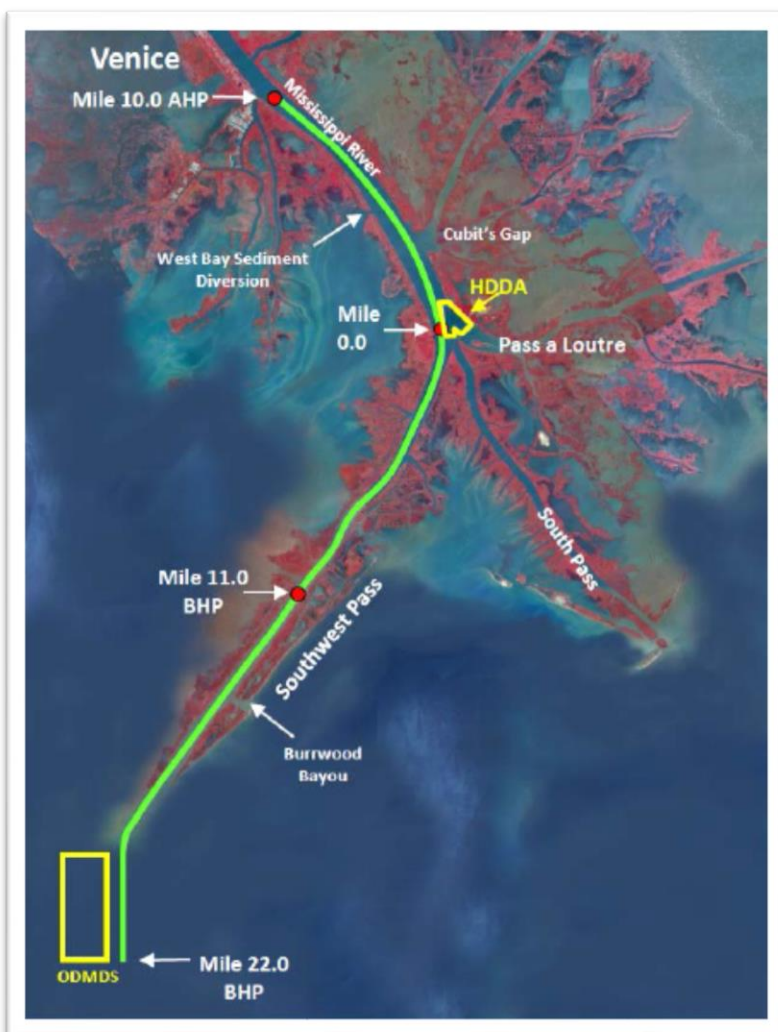


Figure B-4 RM 13.4 AHP to RM 22 BHP

B-8.0 INDUCED FLOODING

Construction of this project will not induce flooding.

B-9.0 BASELINE COST ESTIMATES/CHART OF ACCOUNTS (COA'S)

No acquisition of lands, easements and rights of ways are necessary for this project. Current environmentally cleared disposal areas under the jurisdiction of the Federal Government and State of Louisiana will accommodate the placement of material in accordance with the findings of the November 2017 PA DMMP that was referenced in Section B-1.0 of the REP. Both of these sections of the REP address the DMMP process under USACE regulations and the periodic



reassessment of dredged material management requirements during the period of analysis for this GRR. Minimal administrative costs are estimated for obtaining special use permits from Federal agencies and authorization for entry from the non-Federal sponsor and review NFS costs incurred as a part of its LERRD obligation for credit.

The estimated costs associated with relocating pipelines and facilities in the crossings are \$80,158,000 including contingency. There may be additional incidental costs incurred by the NFS as a part of its obligation for performing or ensuring the performance of relocations necessary for Phase 3. These costs are the responsibility of the Non-Federal Sponsor under its responsibility to provide a clear and unobstructed right of way for the project. In accordance with revised Policy Guidance Letter No. 44 (9-27-2017), the Non-Federal Sponsor must bear at least 50% of the costs of utility relocations; the remaining costs may be borne by the owner, or dependent upon state law, may be borne by the Non-Federal Sponsor.

Real Estate Costs are estimated as follows:

Real Estate Administrative Cost	\$ 10,000
Relocations of Utilities & Facilities	\$80,158,000

A Chart of Accounts is included as Exhibit A.

B-10.0 RELOCATION ASSISTANCE BENEFITS

This Project does not displace residential, commercial, industrial or habitable structures within the Project boundaries; therefore, the provisions under Title II of Public Law 91-646, as amended, are not applicable.

B-11.0 TIMBER/MINERAL/ROW CROP ACTIVITY

Work within the Mississippi River is anticipated to occur by invoking the navigation servitude. Dredged material will be placed within existing placement areas adjacent to or in the Mississippi River or within ODMDS; therefore, Mineral Rights will not be impacted. There is no timber or row crop activity in the area of the placement site or within the banks of the Mississippi River where dredging will take place.

B-12.0 OYSTER LEASES

No oyster leases in the immediate area of the placement sites are evident through a Strategic Online Natural Resources Information System (SONRIS) search of the State of Louisiana online website. Several locations north of the project and two small locations east of the project show leases, but these are well outside of the placement site boundaries.



B-13.0 PROJECT SPONSOR/NFS CAPABILITY ASSESSMENT

The Non-Federal Sponsor (NFS) is responsible for providing an authorization for entry for all areas under the jurisdiction of the State of Louisiana that are not in the ownership or jurisdiction of USACE or another Federal agency. It is not anticipated, at this time, that the NFS will be required to acquire new LER in support of the construction and OMRR&R of the Recommended Plan. However, the NFS will be required to provide authorization for entry to USACE prior to construction or OMRR&R. Additionally, the NFS is required to perform or ensure the performance of the relocation and/or removal of all facilities and utilities that are determined by the Government to be necessary for the construction and OMRR&R of the project. In accordance with Project Guidance Letter No 44, dated 27 September 2017, the Government will not exercise its authority under the Federal navigation servitude in order to compel such relocations or removals unless the NFS meets certain conditions as set forth in PGL 44. Based upon the information provided by the NFS by letter dated 22 November 2017, even though the NFS does not have power of eminent domain for the project, the NFS does have sufficient authority to compel the relocation of the affected facilities/utilities. Therefore, the Government will not exercise its authority under the Federal navigation servitude with regard to the impacted facilities/utilities that require relocation for the project. Although at the present time no new rights of way are required for the construction and OMRR&R of Phase 3 of the project, the sponsor will be advised of the Uniform Relocations Act requirements and Federal requirements for documenting expenses for credit as a precaution. The NFS's capability assessment is attached to this report as Exhibit B. The Capability Assessment was completed by the Real Estate Administrator for LaDOTD.

B-14.0 ZONING IN LIEU OF ACQUISITION

Zoning ordinances will not be enacted to facilitate the acquisition of real estate interests in connection with the Project.

B-15.0 ACQUISITION SCHEDULE

No new right of way is needed for disposal of material dredged from the Mississippi River. The dredging of the River will be accomplished by invoking the Navigation Servitude with the exception of the utility relocations. The schedule accounts for the relocation of 14 utilities at 6 locations which will begin during PED.

Schedule for each Authorization for Entry (AFE) request

Obtain mapping	6 months
NFS Accomplish Utility Relocations	24 months
Issuance of Authorization for Entry by NFS	2 months

If it becomes necessary for the NFS to acquire real estate interests from private landowners, the



schedule will be revised.

B-16.0 FACILITY/UTILITY RELOCATIONS

During construction of Phases I and II of the project, most impacted utilities would have been relocated to a depth greater than 55 ft. Also, new permit applications for new utility crossings have required utilities to be placed at a depth greater than 55 feet. For these reasons, there are only a few utilities which require relocations as a result of the project. Relocation data for these utilities was collected, tabulated and detailed in the Engineering Appendix C.

The Recommended Plan includes construction and maintenance of the authorized navigation channel to a depth of 50 feet at the twelve crossings within that portion of the project that lies below RM 232.4 within the jurisdictions of the Port of South Louisiana and the Port of Baton Rouge. The below utilities have been identified as needing relocation by the NFS. Total estimated relocation costs are \$80,158,000 (provided by the utility owners and discussed in Appendix C) which is approximately 33.7% of total project first costs estimated to be \$237,667,000. In accordance with a memorandum from the Director of Real Estate dated January 10, 2013, SUBJECT: "Real Estate Policy Guidance Letter No. 31 – Real Estate Support to Civil Works Planning Paradigm (3x3x3)", a preliminary Attorney's Opinion of Compensability is needed to determine compensability and, based on Louisiana Statutes, whether the owner will be partially responsible for the costs. In accordance with this guidance, a Preliminary Attorney's Opinion of Compensability has been prepared and a summary of its findings presented below. A Final Opinion and relocation determination will occur and will further address compensability of each relocation during PED.

Owner	RM (AHP)	Qty	Size/Desc	Total Est Reloc Cost	NFS Share	NFS Share
Enterprise	232.9	4	10" Natural Gas	\$15,600,000	50%	\$7,800,000
Dow	232.7	1	4" LPG	\$3,974,000	50%	\$1,987,000
Boardwalk	232.5	2	8" HVL	\$6,000,000	50%	\$3,000,000
Enterprise	189.8	3	8.63" Petroleum	\$18,600,000	50%	\$9,300,000
Gulf South (BdwalkPtnr)	183.4	3	20" Natural Gas	\$13,000,000	50%	\$6,500,000
Gulf South (BdwalkPtnr)	158.2	1	6" Natural Gas	\$2,900,000	50%	\$1,450,000
			TOTAL	\$60,074,000		\$30,037,000
			TOTAL w/contingency	\$80,158,000		\$40,080,000



In accordance with Section 101(a) (4) of WRDA 1986, for any Federal navigation project that is authorized to be constructed to a depth greater than 45 feet, the non-Federal sponsor must bear a minimum of 50 percent of the cost of any facility/utility relocation required for such project, whether or not the facilities/utilities are publicly or privately owned or serve the general public.

Since the Recommended Plan described in the GRR/SEIS to which this Real Estate Plan is appended, seeks approval to advance the construction of the authorized MRSC project to a depth of 50 feet, 50 percent of the cost of the above described facility/utility relocations will be borne by the non-Federal sponsor. The remaining 50 percent cost of the relocations is the responsibility of the facility utility owner pursuant to the requirements of the permits granted by the State of Louisiana.

ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRD RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.

B-17.0 ENVIRONMENTAL CONSIDERATIONS

The construction and OMRR&R of Phase 3 of the MRSC project provides very low risk of additional saltwater intrusion due to small potential changes in depths and limited impacts to saltwater sill activation. Also, there is a low risk of relative sea level rise impacts. Probability of encountering Hazardous, Toxic and Radioactive Waste (HTRW) is low.

B-18.0 LANDOWNER CONCERNS

All work within the Mississippi River is anticipated to be performed in areas subject to the navigation servitude (with the previously stated exception of the performance of necessary relocations and removals). Therefore, there are no landowner concerns. We anticipate broad public interest in the study from a range of stakeholders including maritime businesses, local communities and environmental groups.

B-19.0 NON-FEDERAL SPONSOR NOTIFICATION OF RISKS

The construction and OMRR&R of Phase 3 of the MRSD will not require the NFS to acquire additional LER for disposal of dredged material based upon the determination reached in the November 2017 PA DMMP beyond the previously approved dredged material disposal areas. This assessment found that there is sufficient capacity in the current disposal areas to accommodate



Project dredged material disposal requirements for construction and OMRR&R of both the existing constructed and maintained project (Phases 1 and 2) and the construction and OMRR&R of the Recommended Plan for Phase 3 that is described in this GRR. Pursuant to the requirements for the assessment of dredged material management set forth in ER 1105-2-100, the period of evaluation in the November 2017 PA DMMP was for 20 years. Since it is possible that at least one additional PA DMMP will be conducted during the 50 year period of evaluation for this GRR, a notification of risks was sent in August, 2017, formally advising the NFS of risks associated with land acquisition prior to the execution of the PPA and formal notice to proceed with acquisition and the risks, including but not limited to funds not being appropriated or acquiring excessive real property.

B-20.0 OTHER RELEVANT REAL ESTATE ISSUES

None.

PREPARED BY:

Pamela M. Fischer
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REVIEWED AND RECOMMENDED BY:

Judith Y. Gutierrez
Deputy Chief, Real Estate Division New Orleans

Revised January 16, 2018



EXHIBIT A

CHART OF ACCOUNTS

CHART OF ACCOUNTS
IN SUPPORT OF REP FOR
MISSISSIPPI RIVER SHIP CHANNEL DEEPENING

				AMOUNT	CONTINGENCY	PROJECT COST
					ROUNDED	
LANDS AND DAMAGES			CONTINGENCY	8,000	2,000	10,000
			PROJECT COST			
ACQUISITIONS						
BY GOVERNMENT	8,000	2,000	10,000			
BY NON-FEDERAL SPONSOR (NFS)	0	0	0			
BY GOVERNMENT ON BEHALF OF NON-FEDERAL SPONSOR (NFS)	0	0	0			
REVIEW OF NFS	0	0	0			
			0			
CONDEMNATIONS			0			
BY GOVERNMENT	0	0	0			
BY NON-FEDERAL SPONSOR (NFS)	0	0	0			
BY GOVT ON BEHALF OF NON-FEDERAL SPONSOR (NFS)	0	0	0			
REVIEW OF NFS	0	0	0			
			0			
APPRAISAL			0			
BY GOVT (IN HOUSE)	0	0	0			
BY GOVT (CONTRACT)	0	0	0			
BY NON-FEDERAL SPONSOR (NFS)	0	0	0			
BY GOVT ON BEHALF OF NON-FEDERAL SPONSOR (NFS)	0	0	0			
REVIEW OF NFS	0	0	0			
			0			
PL 91-646 ASSISTANCE			0			
BY GOVERNMENT	0	0	0			
BY NON-FEDERAL SPONSOR (NFS)	0	0	0			
BY GOVT ON BEHALF OF NON-FEDERAL SPONSOR (NFS)	0	0	0			
REVIEW OF NFS	0	0	0			
			0			
TEMPORARY PERMITS/LICENSES/RIGHTS-OF-ENTRY			0			
BY GOVERNMENT	0	0	0			
BY NON-FEDERAL SPONSOR (NFS)	0	0	0			
BY GOVT ON BEHALF OF NON-FEDERAL SPONSOR (NFS)	0	0	0			
REVIEW OF NFS	0	0	0			
OTHER	0	0	0			
DAMAGE CLAIMS	0	0	0			
			0			
FACILITY/UTILITY RELOCATIONS (Subordination Agreement)			0			
			0			



EXHIBIT B

ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY

**ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY
MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE, LA
LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? Yes
- b. Does the sponsor have the power of eminent domain for this project? No.
According to our legal section, LDOT can only expropriate for highway purposes.
- c. Does the sponsor have "quick-take" authority for this project? No*
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? No**
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? Yes

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? No
- b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training? N/A
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? Yes
- d. Is the sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule? Yes

*Although the NFS cannot exercise its eminent domain or quick take authority for purposes of this project, the NFS's General Counsel has provided a letter dated November 22, 2017, a legal opinion that the NFS sponsor and other State of Louisiana agencies, as the owner of the bed of the Mississippi River, have the authority to compel relocation and removal of pipelines, utilities and other facilities from the area required for construction and OMRR&R of Phase 3 of the project. Per that opinion, this authority derives from the enforcement of the provisions of the real property interests and permissions provided by the State of Louisiana to the respective pipeline, utility and facility owners.

** The LDOT has jurisdiction over all lands within the State of Louisiana political boundary. Those areas of the project which are located within the Gulf of Mexico beyond the State of Louisiana political boundary are not part of the LER responsibility of the Non-Federal Sponsor.

- e. Can the sponsor obtain contractor support, if required in a timely fashion? Yes
- f. Will the sponsor likely request USACE assistance in acquiring real estate? No

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site?
Yes
- b. Has the sponsor approved the project/real estate schedule/milestones? No

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects? Yes
- b. With regard to this project, the sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/insufficiently capable. Fully Capable -- see note for I. Legal Authority, c. on previous page.

V. Coordination:

- a. Has this assessment been coordinated with the sponsor? Yes
- b. Does the sponsor concur with this assessment? (yes/no) Yes

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Judith Y. Gutierrez
Deputy Chief, Real Estate
New Orleans District


Hubert Graves, Real Estate Administrator
Louisiana Department of Transportation and Development


Date



EXHIBIT C

MAPS OF UTILITY RELOCATIONS

