



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

REPLY TO
ATTENTION OF

October 23, 2019

Regional Planning and Environment
Division South
Environmental Planning Branch

**DRAFT FINDING OF NO SIGNIFICANT IMPACT
(DFONSI)**

**SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT 543a
BRACKISH MARSH AND SWAMP 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 AND ST.
TAMMANY PARISHES, LOUISIANA**

Description of the Proposed Action: The U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), has prepared a Supplemental Environmental Assessment (SEA 543a) to evaluate the potential impacts associated with completing compensatory mitigation for the impacts incurred to intermediate, brackish, and saline marsh, open water, and swamp habitats from construction of 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 (collectively referred to as "NFL NOV"). The proposed mitigation in SEA 543a would fully compensate for these impacts.

The Proposed Action Tentatively Selected Plan (TSP) includes:

1. The TSP for mitigating the swamp features would be the purchase of sufficient swamp credits from a permitted bank within the Basin to mitigate a total of 33.9 AAHUs. The particular bank to be utilized is unknown at this time. Since permitted banks exist as reasonably foreseeable projects in the FWOP conditions, no new direct, indirect or cumulative impacts to wetlands and other surface waters, wildlife, threatened and endangered species, fisheries, aquatic resources, water quality, EFH, cultural resources, recreational resources, air quality, noise, aesthetics, prime and unique farmland, HTRW, socioeconomics/land use, environmental justice, transportation, navigation, and commercial fisheries would be incurred from the purchase of these credits for the NFL NOV mitigation.

2. Construction of the Fritchie Flood Side (FS) Brackish Marsh project to mitigate 106.9 AAHUs of intermediate, brackish, and saline marsh and open water impacts. This project would restore up to 350 acres of brackish marsh from open water with material mined from 258 acres of a Lake Pontchartrain water bottoms. The proposed Fritchie mitigation project is located in St. Tammany Parish within the Big Branch National Wildlife Refuge (NWR) on the north shore of Lake Pontchartrain, east and north of Highway (Hwy) 433, and west of Chef Menteur Hwy.

The compensatory mitigation in the Proposed Action would replace the lost functions and services of the impacted intermediate, brackish, and saline marsh, open water and swamp habitat, including essential fish habitat, through restoration activities designed to create/increase/improve the habitat functions and services at specific mitigation sites. Impacts to swamp habitat would be mitigated within the same river basin watershed where the impacts occurred. Impacts to tidal marsh habitat would be mitigated within the expanded watershed, the deltaic plain.

If any of the TSPs cannot be implemented, CEMVN may re-examine the Alternative Evaluation Process (AEP) results and may consider moving to the next ranked project for that habitat type; or would explore other options to mitigate these impacts in coordination with the resource agencies and the non-Federal sponsor.

Background: 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” (NFL FEIS); “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 “Final Supplemental Environmental Impact Statement New Orleans to Venice Federal Hurricane Protection Levee Plaquemines Parish, Louisiana” (NOV SEIS) with a Record of Decision (ROD) signed October 31, 2011.

At the time draft EA 543 titled "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" was released for public review and comment, the Proposed Action included a plan to mitigate all habitat types impacted by the NFL NOV projects including swamp, intermediate, brackish, and saline marsh, and open water habitats. Additional data obtained during a site visit in July 2017 to the project mitigating the marsh and open water impacts (Coleman) resulted in a downward adjustment of the mitigation potential for this project. This adjustment rendered the project, as designed and described in draft EA 543, unable to meet 100 percent of CEMVN's need for these

habitat types. Also problematic was the lack of sufficient response to the solicitation to purchase compensatory mitigation bank credits to mitigate for 100% of the swamp impacts. As a result CEMVN reformulated a plan to mitigate for impacts to intermediate, brackish, and saline marsh, open water and swamp habitats, which is presented for public review and comment in this SEA 543a. Although the purchase of mitigation bank credits for the NFL NOV swamp impacts is again being considered as part of the proposed action in this SEA, additional projected credit releases for swamp are anticipated such that implementation of the TSP may now be successful.

Factors Considered in Determination: The CEMVN has assessed the impacts of the No Action Alternative and the Proposed Action on important resources including: wetlands and other surface waters; wildlife; threatened and endangered species; fisheries, aquatic resources and water quality; essential fish habitat (EFH); cultural resources; aesthetics; prime and unique; recreational resources; air quality; noise; socioeconomics/land use, environmental justice, transportation, navigation, commercial fisheries and the potential of the project to encounter hazardous, toxic, or radioactive waste (HTRW). No significant adverse impacts were identified for any of the relevant resources. The risk of encountering HTRW is low.

On October 23, 2019, draft SEA 543a and the associated draft Finding of No Significant Impact were mailed out for a 45-day public review and comment period. Environmental compliance for the Federal action will be achieved based upon the following actions:

Executive Order (E.O.) 11988 Floodplain Management: E.O. 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. The proposed action represents the least environmentally damaging alternative to accomplish the needed risk reduction system modifications.

Clean Air Act of 1970 (CAA): The proposed action project area is located in St. Tammany Parish which is currently in attainment of National Ambient Air Quality Standards; therefore, a general conformity determination is not required.

Clean Water Act (CWA) Section 404(b)(1): A Section 404(b)(1) evaluation and public notice for the proposed Fritchie Brackish Marsh mitigation project were mailed out for public and agency review and comment on October 23, 2019. The Section 404(b)(1) and public notice is included in Appendix E of this SEA 543a and will be signed upon completion of public review and comment.

Clean Water Act Section 401: A revised 401 State Water Quality Certification (WQC) was completed for the proposed Fritchie Brackish Marsh mitigation project and coordinated with the Louisiana Department of Environmental Quality (LDEQ). SEA 543a will be incorporated into LDEQ's administrative record for WQC 110520-01.

WQC 110520-01 remains valid for this project, see coordination email in Appendix M.

Coastal Zone Management Act: The CEMVN received a consistency determination C20100384 for the NFL FEIS on January 24, 2011 and C20110045 for the NOV SEIS on April 6, 2011. Coordination with the Louisiana Department of Natural Resources (LADNR) for modification to the coastal zone determination (CZD) was initiated by letter dated May 1, 2019 for the Fritchie brackish marsh creation project. In their letter dated July 10, 2019, the LADNR determined that the project as proposed is consistent with the Louisiana Coastal Resources Plan and issued CZD C20100384 mod 13 (Appendix M).

Endangered Species Act: On May 13, 2019, the CEMVN submitted an updated threatened and endangered species Biological Assessment (BA) to the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) determination of “may affect, but not likely to adversely affect” the federally listed species of Gulf sturgeon, West Indian manatee, and the green, Kemp’s Ridley, and loggerhead sea turtles; and a “may affect, but not likely to adversely affect” determination for Gulf sturgeon critical habitat for the proposed action in SEA 543a. The USFWS concurred with CEMVN’s determinations on September 20, 2019 and NMFS concurred on October 18, 2019 that the proposed action is “not likely to adversely affect the NMFS ESA-listed species and/or designated critical habitat.

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 (DCAR) dated September 13, 2019, which is located in Appendix M.

The WVA mitigation potential values are shown in the Draft Coordination Act Report located in Appendix M. This office has concurred with, or resolved, all recommendations contained in the CAR, and project-specific recommendations have been addressed in section 8.2 of SEA 543a.

Magnuson-Stevens Fisheries Conservation and Management Act (MSFCMA): CEMVN will work with NMFS to resolve their comments and respond to their EFH conservation recommendations on SEA 543a when received. Coordination between the agencies would be included in Appendix M and incorporated into the FONSI.

Migratory Bird Treaty Act: On May 13, 2019, the CEMVN submitted an updated BA to the USFWS. This BA covered protected species that could potentially be present in the project area. The CEMVN determined that the proposed action would not adversely impact other protected species. USFWS concurred with the determination on September 20, 2019.

National Historic Preservation Act: The U.S. Army Corps of Engineers is using this Draft SEA to initiate consultation for Section 106 of the National Historic Preservation

Act (NHPA) and with the State Historic Preservation Officer (SHPO) and with Federally-recognized Tribes. No determination of effect under the NHPA is being made at this time. Consultation will follow the standard Section 106 process. The determination of effect and any conditions will be documented in the Final FONSI before it is signed.

Executive Order (E.O.) 13175 Consultation and Coordination with Indian Tribal Governments: This E.O. requires consultation with Federally-recognized Indian tribes on actions that have the potential to significantly affect protected tribal resources, tribal rights, or Indian lands. At this time, no effects to tribal resources, rights, or lands is anticipated by implementing this action. The results of the Section 106 process will augment this determination. Any conditions will be documented in the Final FONSI before it is signed.

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

1. USACE will continue to coordinate with USFWS National Wildlife (NWR) personnel during planning process and construction and obtain a Special-Use Permit.
2. USACE developed the target marsh elevation range of 1.0 ft to 1.5 ft NAVD88 for the Fritchie marsh creation project for the 35% design level from professional judgment, assumptions, and limited data for soil conditions and settlement rates for the borrow and the marsh creation area. During the engineering and design phase field data (which includes surveys, borings, etc.) will be collected as well as any available data for surrounding sites including the Zydeco Ridge project would be utilized. Design requirements for the Fritchie marsh creation site (such as max fill elevation) will be revised based on the gathered field data, a Geotechnical analysis, and results from Zydeco Ridge project.
3. USACE would fulfill its consultation responsibilities and reinitiate consultation as required under the Endangered Species Act (ESA) with USFWS to ensure that the proposed project would not adversely affect any federally listed threatened or endangered species or their critical habitat.
4. All contract personnel associated with the project will be informed of the potential presence of the West Indian manatees, sea turtles and Gulf sturgeon and the need to avoid collisions with manatees. Standard manatee protection measures, found in sections 3.2.3.3.1 and 5.3.3.2 of SEA 543a, would be implemented when activities are proposed that would impact habitat where manatees and Gulf sturgeon could occur.

5. USACE will carefully design project features, and time construction to implement best management practices to avoid adverse impacts to protected birds and their nests. These are described in SEA 543a and include the following: a qualified biologist would inspect the proposed worksite for the presence of undocumented nests during the nesting seasons (i.e., February 15 through October 31 for wading birds and October through mid-May for bald eagles) prior to construction. To minimize disturbance to nesting birds all activity occurring within 1,000 feet of a rookery or 660 feet of an eagle nest would be restricted to the non-nesting period. During nesting season the no-work distances would be implemented and coordinated with USFWS and LDWF.
6. During marsh creation, colonies containing nesting gulls, terns, and/or black skimmers may nest on newly deposited marsh creation material or retaining dikes; all activity occurring within 650 feet of a nesting site should be restricted to the non-nesting period (i.e., September 16 through April 1, exact dates may vary within this window depending on species present). If time of year restrictions cannot be implemented and the project area is within areas known to be occupied by nesting shorebirds, a bird abatement plan would be developed in coordination with the USFWS and the LDWF. The abatement plan would include a monitoring plan including pre-construction and construction monitoring, anticipated abatement procedures, a report outline of daily monitoring and abatement activities, and include a post-construction report.
7. If a bald eagle nest is discovered within or adjacent to the proposed project area, then an evaluation would be performed to determine whether the project is likely to disturb nesting bald eagles. That evaluation would be conducted on-line at: <http://www.fws.gov/southeast/es/baldeagle>, and those results would be forwarded to USFWS.
8. USACE will finalize mitigation plans upon completion of the NEPA process and proceed to mitigation construction so that it will be concurrent with project construction. USACE understands that if construction is not concurrent with mitigation implementation then revising the impact and mitigation period-of-analysis to reflect additional temporal losses will be required.
9. USACE will follow a Stormwater Pollution Protection Plan (SWPPP) and best management practices to implement non-point source erosion control measures to protect wetlands and water bodies prior to initiation of construction and maintain during construction.
10. 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 543a for a 45-day public review and comment period. Comments on the Draft SEA 543a and Draft FONSI, when received, will be addressed and responded to (Appendix G of the SEA 543a).

Decision: The CEMVN Environmental Planning Branch has assessed the potential environmental impacts of the proposed action described in SEA 543a and will review and respond to the comments received during the public review period for the Draft SEA 543a.

In accordance with the environmental considerations discussed above, the public interest will be best served by implementing the proposed action described in SEA 543a, namely: the purchase of mitigation bank credits as mitigation for NFL NOV swamp impacts; and the construction of the Fritchie FS Brackish Marsh Project as mitigation for NFL NOV intermediate, brackish, and saline marsh and open water impacts.

I have reviewed the SEA 543a and will consider public and agency comments and recommendations. Based on the assessment conducted in SEA 543a and the implementation of the environmental design commitments listed above, I have determined that the Proposed Action 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 SEA 543a.

Date

Stephen Murphy
Colonel, U.S. Army
District Commander