

Regional Planning and Environment Division, South Environmental Compliance Branch

#### DRAFT FINDING OF NO SIGNIFICANT IMPACT (FONSI)

#### Neptune Pass Emergency Armoring Plaquemines Parish, Louisiana Environmental Assessment #595

**Introduction:** The U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), has prepared draft environmental assessment #595 (EA #595) in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended. The draft EA assesses potential impacts associated with emergency construction of a stone revetment structure along the eastern bank of the mouth of Neptune Pass, adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana.

<u>Action Taken:</u> The emergency action required placement of approximately 58,000 tons of stone by barge mounted equipment positioned both within the Pass and Mississippi River to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The stone was placed in open water and no wetlands within the area were impacted by the action. The project area is approximately 8 acres of open water located along the eastern bank of the mouth of Neptune Pass. Construction of the stone revetment structure was completed on June 3, 2023.

<u>Authority for the Action:</u> USACE Engineering Regulation (ER) 200-2-2, Environmental Quality, Procedures for implementing the NEPA, at paragraph 8, provides that district commanders may respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses in advance of compliance with the documentation and procedural requirements of NEPA. Paragraph 8 of the regulation states that NEPA documentation should be accomplished prior to initiation of emergency work if time constraints render this practicable; however, if appropriate, such documentation may be accomplished concurrently or after completion of the emergency action. CEMVN is accomplishing the NEPA documentation after completion of the emergency action.

**Purpose and Need for the Action:** The purpose of the emergency action was to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass and prevent increased navigational impacts associated with the Neptune Pass diversion. Analysis of recent bathymetric surveys conducted within Neptune Pass and the adjacent segment of the Mississippi River determined significant, continued scouring and expansion of Neptune Pass. Existing conditions within Neptune Pass have resulted in unacceptable hazards to navigation, including shoaling and suction effects near the junction of Neptune Pass and the River. Any additional scouring and expansion of the Mississippi River. Emergency actions in the form of risk reduction measures (i.e., stone revetment) were required.

In the absence of the selected action, additional uncontrolled scouring at the mouth of Neptune Pass would have occurred, resulting in increased flow being diverted from the Mississippi River. The existing conditions prior to performing the selected action posed a threat to navigation, and this increased flow through Neptune Pass would have amplified the navigational threats caused by this diversion. As conditions would have continued to deteriorate in the absence of the selected action, an increase in dredging operations would be needed to compensate for the resulting shoaling in the Mississippi River, and increased suction effects would impact vessels transiting this segment of the Mississippi River.

**Factors Considered in Determination:** In accordance with NEPA and other applicable laws and regulations, CEMVN has assessed the impacts of the Action Taken and the No Action alternative. All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the Action Taken. A summary of the potential effects is listed in Table 1.

Relevant Resource	Impacted	Not Impacted
Navigation	Х	
Aquatic Resources/Fisheries	Х	
Wetlands		Х
Essential Fish Habitat	Х	
Wildlife	Х	
Threatened and Endangered Species		Х
Cultural Resources		Х
Tribal Resources		Х
Air Quality	Х	
Water/Sediment Quality	Х	

Table 1: Relevant resources and their impact status, both adverse and beneficial.

**Endangered Species Act of 1973:** 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 species within the vicinity of the project, or any critical habitat. The U. S. Fish and Wildlife Service (USFWS) concurred with the USACE's determination in a letter dated April 13, 2023. No encounters or take of threatened, endangered, or protected species were reported during project activities.

**National Historic Preservation Act of 1966:** In accordance with 36 CFR 800.12 (d), CEMVN has determined that the proposed action qualifies as an "emergency undertaking" because of an "immediate threat to life or property" and is thus exempt from the provisions of Section 106. CEMVN notified Consulting Parties on April 19, 2023, of the emergency undertaking. On May 26, 2023, the Louisiana State Historic Preservation Officer responded with a concurrence letter of 'no historic properties affected.' CEMVN received a finding of 'no historic properties affected' from the Choctaw Nation of Oklahoma on April 29, 2023, a letter of 'no objection' from the Chitimacha Tribe of Louisiana on May 15, 2023, and a letter of 'no objection' from the Coushatta Tribe of Louisiana on May 31, 2023. No other Consulting Parties responded.

**<u>Clean Water Act of 1972 – Section 404 and Section 401:</u>** Pursuant to the Clean Water Act (CWA) of 1972, as amended, a CWA Section 404(b)(1) public notice was distributed for public and agency review on May 8, 2023. No adverse comments were received. A CWA Section 404(b)(1) evaluation was completed on August 24, 2023.

CWA Section 401 requires a Water Quality Certification from the LDEQ that a project does not violate established effluent limitations and water quality standards. Surface water quality standards are established in the Louisiana Administrative Code (LAC) Title 33, Part IX (2020). A CWA Section 401 State Water Quality Certification (WQC 230613-02) was issued by LDEQ on June 20, 2023.

<u>**Clean Air Act of 1972:**</u> The Clean Air Act (CAA) sets goals and standards for the quality and purity of air. It requires the EPA to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. The project area is in Plaquemines Parish, which is currently in attainment of NAAQS. The LDEQ is not required by the CAA and Louisiana Administrative Code, Title 33 to grant a general conformity determination.

**Coastal Zone Management Act of 1972:** A determination of consistency with the Louisiana Coastal Zone Management Program pursuant to the Coastal Zone Management Act of 1972 was submitted to the Louisiana Department of Natural Resources (LDNR) on May 1, 2023. A Coastal Zone Consistency Permit (C20230049) was issued by LDNR on May 18, 2023.

**Magnuson-Stevens Fisheries Conservation and Management Act:** The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended, Public Law (P.L.) 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 MSFCMA. 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 NEPA documents prepared for those projects. NMFS authorized the USACE to proceed with the emergency action as described within a letter received on May 25, 2023. No encounters or take of protected species occurred during project activities.

**Fish and Wildlife Coordination Act of 1934:** The Fish and Wildlife Coordination Act (FWCA) provides authority for the USFWS involvement in evaluating impacts to fish and wildlife from proposed water resource development projects. It requires that fish and wildlife resources receive equal consideration to other project features. It requires federal agencies that construct, license or permit water resource development project to first consult with USFWS, NMFS, and state resource agencies regarding the impacts on fish and wildlife resources and measures to mitigate these impacts. The USFWS provided no objections or comments to the emergency action in an email received on May 5, 2023. A Planning Aid Letter (PAL) was received from USFWS on August 17, 2023.

<u>Migratory Bird Treaty Act of 1918</u>: The Migratory Bird Treaty Act (MBTA) is intended to ensure the sustainability of populations of all protected migratory bird species. The MBTA prohibits the take of protected migratory bird species without prior authorization by USFWS. 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 MBTA. Project construction took place outside of the USFWS/LDWF buffer zones established for bald eagles. The project area is located in habitats which are commonly inhabited by colonial nesting waterbirds and/or seabirds; however, no nesting activity, encounters, or take of migratory birds, colonial nesting waterbirds, or seabirds were reported during project activities.

**Decision:** The USACE has evaluated the environmental impacts of the emergency action in draft EA #595. Without implementation of the emergency action, conditions within the project area would have continued to deteriorate resulting in an increased threat to navigation. The lower Mississippi River is a primary access point for commercial shipping to ports of call along the river, and the segment of the Mississippi River from Baton Rouge to the Gulf of Mexico supported approximately 428 million tons of waterborne commerce in 2020 (USACE 2020). There is a national interest in providing progressive channel stabilization to prevent any alteration of the river flow that could potentially pose a navigation threat for large vessels transiting these sections of the river.

Based on this assessment and the implementation of the environmental design commitments, a determination has been made that the proposed action would have no significant impact on the environment. Therefore, an Environmental Impact Statement will not be prepared.

# DRAFT

Date

Cullen A. Jones COL, U.S. Army Commanding

# DRAFT ENVIRONMENTAL ASSESSMENT

NEPTUNE PASS EMERGENCY ARMORING

PLAQUEMINES PARISH, LOUISIANA

EA #595



# August 2023



U.S. Army Corps of Engineers Mississippi Valley Division Regional Planning and Environment Division South New Orleans District

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Appendix B: Clean Water Act Section 404 Public Notice

Appendix C: Clean Water Act Section 404(b)(1) Evaluation

Appendix D: U.S. Fish and Wildlife Service (USFWS) Coordination

Appendix E: National Marine Fisheries Service (NFMS) Coordination

Appendix F: National Historic Preservation Act (NHPA) Section 106 Coordination

Appendix G: Louisiana Department of Environmental Quality (LDEQ), Water Quality Certificate (WQC) 230613-02

Appendix H: Louisiana Department of Natural Resources (LDNR), Office of Coastal Management, Coastal Zone Consistency C20230049 Appendix I: Agency Comments

# DRAFT ENVIRONMENTAL ASSESSMENT

#### Neptune Pass Emergency Armoring Plaquemines Parish, Louisiana

#### EA #595

# **1 INTRODUCTION**

The U.S. Army Corps of Engineers (USACE), Mississippi River Valley Division, Regional Planning and Environment Division South, has prepared this Environmental Assessment (EA) to evaluate the potential impacts associated with emergency construction of a stone revetment structure along the eastern bank of the mouth of Neptune Pass, adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana (Figures 1 - 3). This EA has been prepared in accordance with the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality's (CEQ) regulations (40 CFR 1500-1508), as reflected in the USACE Engineering Regulation ER 200-2-2. This EA provides sufficient information on the potential adverse and beneficial environmental effects to allow the District Commander, USACE, New Orleans District (CEMVN), to make an informed decision on the appropriateness of an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

#### 1.1 Action Taken

The action was to construct a stone revetment/channel stabilization feature in the Mississippi River and Neptune Pass. The action required placement of approximately 58,000 tons of stone by barge mounted equipment positioned both within the Pass and Mississippi River to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The stone was placed in approximately 8 acres of open water located along the eastern bank of the mouth of Neptune Pass. Construction of the stone revetment structure was completed on June 3, 2023.

#### 1.2 <u>Authority for the Action</u>

The Flood Control Act of 1928, as amended 1936, 1938, 1941, 1946, 1950, 1954, 1962, 1965, and 1968 and the Water Resources Development Act of 1986, committed the federal government to a definite program of flood control and authorized general and progressive channel stabilization and river regulation from Cairo, Illinois to Head of Passes, Louisiana.

Congressional authority for construction of the "Mississippi River, Baton Rouge to the Gulf of Mexico, Louisiana" project is contained in the River and Harbor Act of March 2, 1945 (Public Law 14, 79th Congress, 1st Session). The Act authorizes construction in accordance with the plans recommended in the report of the Chief of Engineers printed in House Document 215, 76th Congress, 1st Session.

The Rivers and Harbors Acts of 1946 and 1962, the Supplemental Appropriations Act of 1985, and the Water Resources Development Act of 1986 (Public Law 99-662) provide for the construction of a 55-foot-deep channel in the Mississippi River from the Gulf of Mexico to Baton Rouge, LA, a distance of 257 miles.







Figure 2. Project as-built.



Figure 3. Photo of the project area as viewed from within Neptune Pass.

# 1.2.1 Emergency Action Authority

According to 33 CFR 337.7, titled "Emergency Action", after obtaining approval from the division engineer, the district engineer will respond to emergency situations on an expedited basis, complying with the procedures of this regulation to the maximum degree practicable. With the approval of the district engineer, the mitigative measures will be conducted immediately.

USACE Engineering Regulation (ER) 200-2-2, Environmental Quality, Procedures for implementing the National Environmental Policy Act (NEPA), at paragraph 8, provides that district commanders may respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses in advance of compliance with the documentation and procedural requirements of NEPA. Paragraph 8 of the regulation states that NEPA documentation should be accomplished prior to initiation of emergency work if time constraints render this practicable; however, if appropriate, such documentation may be accomplished concurrently or after completion of the emergency action. CEMVN is accomplishing the NEPA documentation after completion of the emergency action.

# 1.3 <u>Purpose and Need for the Action</u>

Analysis of recent bathymetric surveys conducted within Neptune Pass and the adjacent segment of the Mississippi River determined significant, continued scouring and expansion of Neptune

Pass. Existing conditions within Neptune Pass have resulted in unacceptable hazards to navigation including shoaling and suction effects near the junction of Neptune Pass and the River. Any additional scouring and expansion of Neptune Pass would further increase the threat to navigation in this vital segment of the Mississippi River. Emergency actions in the form of risk reduction measures (i.e., stone revetment) were required.

# 1.4 Prior NEPA Documents

The environmental impacts associated with maintaining channels, outlets, and specified dimensions of the Mississippi River from Baton Rouge, Louisiana to deep water in the Gulf of Mexico were addressed in the Final Environmental Impact Statement (EIS), "Mississippi River, Baton Rouge to the Gulf of Mexico, Louisiana." A Statement of Findings (SOF) for this EIS was signed on February 15, 1974. The project commences at the Port of Baton Rouge, 128.6 miles above the Port of New Orleans, and continues through the Port of New Orleans to about 94.5 miles south to the Head of Passes. Below the Head of Passes, two channels, Southwest Pass and South Pass, connect to the Gulf of Mexico.

Supplement I to the 1974 EIS addressed unintentional omissions in the original EIS and unanticipated changes in dredging requirements. A SOF for Supplement I was signed on March 8, 1976.

Supplement II to the 1974 EIS addressed the addition of recommended features to the existing project to reduce the amount of maintenance dredging required to maintain navigation within the project area. A SOF was signed for Supplement II on May 15, 1985.

The "Integrated General Reevaluation Report & Supplement III to the Final Environmental Impact Statement, Mississippi River Ship Channel, Baton Rouge to the Gulf of Mexico, Louisiana" addressed navigation improvements for deep draft navigation access to ports located along the Mississippi River in southeast Louisiana. A Record of Decision (ROD) was signed for Supplement III on August 3, 2018.

# 1.5 <u>Public Concerns</u>

The lower Mississippi River is a primary access point for commercial shipping to ports of call along the river, and the segment of the Mississippi River from Baton Rouge to the Gulf of Mexico supported approximately 428 million tons of waterborne commerce in 2020 (USACE 2020). There is a national interest in providing progressive channel stabilization to prevent any alteration of the river flow that could potentially pose a navigation threat for large vessels transiting these sections of the river.

# 2 ALTERNATIVES TO THE ACTION

# 2.1 <u>No-Action – Future without Project Condition</u>

In the future without project condition (a.k.a. no-action), the selected action would not have occurred. In the absence of the selected action, additional uncontrolled scouring at the mouth of Neptune Pass would have occurred, resulting in increased flow being diverted from the Mississippi River. The existing conditions prior to performing the selected action posed a threat to navigation, and this increased flow through Neptune Pass would have amplified the navigational threats caused by this diversion. As conditions would have continued to deteriorate in the absence of the selected action, an increase in dredging operations would be needed to compensate for the resulting shoaling in the Mississippi River, and increased suction effects would impact vessels transiting this segment of the Mississippi River.

# 3 AFFECTED ENVIRONMENT

# 3.1 Description of Project Area

The project area is located in Plaquemines Parish in southeastern Louisiana. Parish lands occupy part of the active delta of the Mississippi River in a dynamic area dependent upon the disbursement and settlement of river sediments to maintain land elevations above water. The Mississippi River splits into three main channels within the delta region: Pass a Loutre, South Pass, and Southwest Pass. Land elevations range from sea level along the Gulf coast, to approximately +10 feet above sea level along the natural levee ridges. It is a sparsely populated region characterized by river channels with attendant channel banks, natural bayous, and manmade canals interspersed with intermediate and fresh marshes. Water levels fluctuate within the river, passes, estuarine bays, and marshes according to river flow from upstream, tidal, and wind influences.

Within the immediate vicinity of the action, initial stabilization efforts were completed by the USACE following the bank failure and expansion of Neptune Pass. A 90,000-ton stone revetment was placed on the remaining bank line at the confluence of Neptune Pass and the Mississippi River in September 2022. This armoring effort was done to prevent the opening of Neptune Pass from widening or deepening beyond its condition at the time of repair. This effort was completed under the USACE Channel Improvement authority, which authorizes bank stabilization efforts under the Mississippi River and Tributaries Program.

# 3.2 Description of Watershed

The Mississippi River drains approximately 41% of the 48 contiguous states of the United States. The Mississippi River basin covers more than 1,245,000 square miles which includes all or parts of 31 states and two Canadian provinces. The river roughly resembles a funnel that has its spout at the Gulf of Mexico. Waters from as far east as New York and as far west as Montana contribute to flows in the lower river. The lower alluvial valley of the Mississippi River is a relatively flat plain of about 35,000 square miles bordering on the river which would be overflowed during times of high water if it were not for man-made protective works. This valley begins just below Cape Girardeau, Missouri, is roughly 600 miles in length, varies in width from 25 to 125 miles, and includes parts of seven states—Missouri, Illinois, Tennessee, Kentucky, Arkansas, Mississippi, and Louisiana. The Mississippi River is the mainstem of the world's most highly developed waterway system and is about 12,350 miles in length. Discharge at Baton Rouge ranges from 1,500,000 cubic feet per second (cfs) once every 16 years, on average, to a low of 75,000 cfs recorded once during the period 1930 to the present, and average annual discharge is 450,000 cfs. Southwest Pass of the Mississippi River discharges roughly one-third of the river's total flow, with an average rate of about 145,000 cfs. South Pass of the Mississippi River discharges roughly one-sixth of the river's total flow, averaging about 78,000 cfs. Pass a Loutre of the Mississippi River discharges almost one-third of the river's total flow or slightly less than the Southwest Pass flow. The average discharge rate through Pass a Loutre is just under 145.000 cfs. The combined discharge of Southwest Pass, South Pass, and Pass a Loutre is approximately 80% of the total river flow into the Gulf of Mexico. The remaining flow is distributed through minor passes upstream of Head of Passes.

# 3.3 Climate and Climate Change

The project area climate is humid, subtropical with a strong maritime character. Warm, moist southeasterly winds from the Gulf of Mexico prevail throughout most of the year, with occasional cool, dry fronts dominated by northeast high-pressure systems. The influx of cold air occurs less

frequently in autumn and only rarely in summer. Tropical storms and hurricanes are likely to affect the area three out of every ten years, with severe storm damage approximately once every two or three decades. The majority of these occur between early June and November. Summer thunderstorms are common, and tornadoes strike occasionally. Average annual temperature from the Boothville-Venice climate monitoring station (1981 to 2010 NOAA dataset) is around 70°F, with average temperatures ranging from 82.9°F in July and August to 54.3°F in January. Average annual precipitation is 59.4 inches, varying from a monthly average of 7.5 inches in August, to an average of 2.8 inches in May.

The 2014 USACE Climate and Resiliency Policy Statement states the "USACE shall continue to consider potential climate change impacts when undertaking long-term planning, setting priorities, and making decisions affecting its resources, programs, policies, and operations." A healthy and resilient coastal complex is dynamic, not static, and is subject to the ebb and flow of the various effects, adverse or beneficial, that impact conditions at any given point in time. The most significant adverse potential impact on a coastal wetland as a product of climate change is sealevel change (rise).

# 3.4 <u>Geology</u>

The Mississippi River Delta complex was formed by river deposits between 700 and 7,400 years ago. The Natural Resources Conservation Service (NRCS) classifies soils within the project area as mucks and clays mixed with organic matter, and silts derived from river deposits. The soil composition is subject to change as floodwaters and storm surges deposit sediment. Soil types in the project area are predominantly Gentilly, Clovelly, and Larose. These soils are classified as continuously flooded deep, poorly drained, and permeable mineral clays and mucky clays. Marsh and swamp deposits are found in the vicinity of the river from New Orleans to the Heads of Passes at the Gulf of Mexico. Marsh deposits are primarily organic, consisting of 60% or more by volume of peat and other organic material with the remainder being a composition of various types of clays. Total organic thickness is normally 10 feet, with variances less than one foot. Inland swamp deposits are composed of approximately 70% clay and 30% peat and organic materials. The percentage of sand and sandy silts increases with proximity to the open waters of the Gulf of Mexico (USACE 1974).

# 3.5 <u>Relevant Resources</u>

This section contains a description of relevant resources that could be impacted by the project. The important resources described are those recognized by laws, executive orders, regulations, and other standards of national, state, or regional agencies and organizations; technical or scientific agencies, groups, or individuals; and the general public. Table 1 provides summary information of the institutional, technical, and public importance of these resources.

A wide selection of resources were initially considered and determined not to be affected by the project—mainly due to the remote and uninhabited nature of the project area and general lack of significant populated areas in the vicinity. Wetlands, recreational activities, aesthetic visuals, and socioeconomic resources, including land use, population, transportation, oil and gas, environmental justice, environmental health and safety, community cohesion, desirable community growth, tax revenues, property values, public facilities and services, business activity and employment, and displacement of people would not be affected by the project. The objectives of Executive Order 11988 (Floodplain Management) were considered; however, CEMVN has determined that floodplain impacts, if any, from the action would be negligible. Additionally, there is no practicable alternative for construction outside the 100-year floodplain. No prime or unique farmlands, as defined and protected by the Farmland Protection Policy Act, would be affected by

the project. No portion of the project area has been designated a Louisiana Natural and Scenic River, therefore, a Scenic Rivers permit is not warranted.

Resource	Institutionally Important	Technically Important	Publicly Important
Navigation	Rivers and Harbors Act of 1899 and River and Harbor Flood Control Act of 1970 (PL 91-611).	s and Harbors Act of 1899 River and Harbor Flood Control f 1970 (PL 91-611). USACE provides safe, reliable, efficient, and environmentally sustainable waterborne transportation systems (channels, harbors, and waterways) for movement of commerce, national security peeds and recreation	
Aquatic Resources/ Fisheries	Fish and Wildlife Coordination Act of 1958, as amended; Clean Water Act of 1977, as amended; Coastal Zone Management Act of 1972, as amended; and the Estuary Protection Act of 1968.	They are a critical element of many valuable freshwater and marine habitats; they are an indicator of the health of the various freshwater and marine habitats; and many species are important commercial resources.	The high priority that the public places on their esthetic, recreational, and commercial value.
Essential Fish Habitat (EFH)Magnuson-Stevens Fishery Conservation and Management Act of 1996, Public Law 104-297.Federal and state agencies recognize the value of EFH. The act states, EFH is "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity."		The public places a high value on seafood and the recreational and commercial opportunities EFH provides.	
Fish and Wildlife Coordination A Wildlife 1958, as amended and the Mig Bird Treaty Act of 1918.		They are a critical element of many valuable aquatic and terrestrial habitats; they are an indicator of the health of various aquatic and terrestrial habitats; and many species are important commercial resources.	The high priority that the public places on their esthetic, recreational, and commercial value.
Threatened or Endangered Species	The Endangered Species Act of 1973, as amended; the Marine Mammal Protection Act of 1972; and the Bald Eagle Protection Act of 1940.	USACE, USFWS, NMFS, NRCS, EPA, LDWF, and LDNR cooperate to protect these species. The status of such species provides an indication of the overall health of an ecosystem.	The public supports the preservation of rare or declining species and their habitats.
Cultural Resources	National Historic Preservation Act of 1966, as amended; the Native American Graves Protection and Repatriation Act of 1990; and the Archeological Resources Protection Act of 1979.	State and federal agencies document and protect sites. Their association or linkage to past events, to historically important persons, and to design and construction values; and for their ability to yield important information about prehistory and history.	Preservation groups and private individuals support protection and enhancement of historical resources.
Tribal Resources	The requirement to conduct coordination and consultation with federally recognized tribes finds its basis in the constitution; supreme court cases; EO 13175: consultation and coordination with Indian Tribal Governments; and USACE Tribal Consultation Policy, 2012.	USACE consults with federally recognized tribes to determine if tribal rights, tribal lands, or protected tribal resources, would be significantly adversely affected by a proposed action.	Tribal governments and the public-at-large support the recognition of tribal lands, resources, and protected tribal resources.
Air Quality	Clean Air Act of 1963, Louisiana Environmental Quality Act of 1983.	State and federal agencies recognize the status of ambient air quality in relation to the NAAQS.	Virtually all citizens express a desire for clean air.
Water and Sediment Quality	Clean Water Act of 1977, Fish and Wildlife Coordination Act, Coastal Zone Mgt Act of 1972, and Louisiana State & Local Coastal Resources Act of 1978.	USACE, USFWS, NMFS, NRCS, EPA, and State DNR and wildlife/fishery offices recognize the value of fisheries and good water quality and the national and state standards established to assess water quality.	Environmental organizations and the public support the preservation of water quality, fishery resources, and the desire for clean drinking water.

Table 1. Relevant resources and their institutional, technical, and public importance.

#### 3.5.1 Navigation

#### **Existing Conditions**

The Mississippi River provides deep-draft access to the New Orleans – Baton Rouge port corridor and its associated commerce and industries. Existing conditions within Neptune Pass are

resulting in navigational threats to waterborne commerce transiting the adjacent segment of the Mississippi River. The uncontrolled flow being diverted through Neptune Pass is resulting in shoaling within the adjacent, downstream segment of the Mississippi River. Additionally, due to the large volume of water flowing through the diversion, deep draft vessels are experiencing suction effects as these vessels transit the section of the river adjacent to Neptune Pass.

The emergency armoring of Neptune Pass was implemented to prevent additional scour and erosion of Neptune Pass and a subsequent increase of impacts to navigation; however, the emergency armoring was not designed to eliminate the ongoing shoaling and suction effects which continue to impact navigation in the vicinity of Neptune Pass. Modelling and design efforts are currently in progress for a flow control structure that would eliminate these impacts. Once the modelling and design efforts are complete, this proposed action will be assessed in a separate environmental assessment.

# 3.5.2 Aquatic Resources / Fisheries

#### Existing Conditions

The estuarine nature of the area provides a dynamic aquatic environment where freshwater and saltwater meet, creating a transitional zone between the two aquatic ecosystems. The marshes and waterways provide important spawning and nursery habitat and a food source for a wide variety of fresh and saltwater fish species. Vegetation and marsh loss degrades the utility of the area as nursery habitat and a food source for fisheries.

The influx of freshwater from the Mississippi River, particularly during floods and other high water flow periods, potentially allows for riverine fisheries species to migrate downriver to the delta region. The USFWS published Habitat Suitability Index (HSI) Models in 1982 and 1983, which included salinity tolerances for a variety of freshwater fisheries. Potential species that could occur during high water/low salinity periods include channel catfish, blue catfish, flathead catfish, smallmouth bass, largemouth bass, black crappie, white crappie, sunfish, gizzard shad, and smallmouth buffalo among others.

During low water periods, storm surges, and seasonally strong tidal influences, the increased saltwater intrusion from the Gulf restricts the abundance and diversity of freshwater fisheries, as well as provides opportunities for estuarine (brackish) species. Many of these species are economically and recreationally important, including red drum, black drum, spotted sea trout, sand seatrout, striped mullet, Gulf menhaden, Atlantic croaker, sheepshead, southern flounder, Spanish mackerel, southern kingfish, and spot. Commercially important shellfish found include blue crab, brown shrimp, pink shrimp, white shrimp, and oysters. Other commercially less important species include grass shrimp, mysid shrimp, roughneck shrimp, and mud crab.

The area also supports populations of phytoplankton and zooplankton (e.g., copepods, rotifers, fish larvae, and molluscan and crustacean larvae). Benthic invertebrate populations are comprised of both epifaunal and infaunal species (e.g., polychaete and oligochaete worms, crustaceans, bivalves, and gastropod mollusks). These organisms constitute vital components of the aquatic food chain and may comprise the diets of numerous finfish and shellfish species.

#### 3.5.3 Essential Fish Habitat

#### Existing Conditions

All of the marine and estuarine waters of the northern Gulf of Mexico have been designated as Essential Fish Habitat (EFH). In the northern Gulf of Mexico, EFH has generally been defined as

areas where individual life-stages of specific federally managed species are common, abundant or highly abundant. In estuarine areas, EFH is defined as all estuarine waters and substrates (mud, sand, shell, rock, and associated biological communities), including the sub-tidal vegetation (seagrasses and algae), and adjacent inter-tidal vegetation (marshes and mangroves). The open waters, water-bottom substrates, and inter-tidal marshes of the Neptune Pass Rock Closure project area are considered EFH under the estuarine component. Specific categories of EFH include all estuarine waters and substrates (mud, sand, shell, rock, and associated biological communities), including subtidal vegetation (sea grasses and algae) and adjacent intertidal wetland vegetation (marshes and mangroves). In addition, estuarine aquatic habitats provide nursery and foraging areas that support economically important marine fishery species that may serve as prev for federally-managed fish species such as mackerels, snappers, groupers, billfishes, and sharks. The estuarine waters in the project area include EFH for several federallymanaged species (Table 2). These species use the area for foraging and nursery habitat, as well as a migration route to other areas considered to be EFH. Specific categories of EFH in the project area include estuarine emergent wetlands, mud/sand substrates, and estuarine water column.

Common Name	Life Stage	EFH	
brown shrimp	postlarvae	water column associated	
brown shrimp	juveniles	Submerged aquatic vegetation; emergent marsh; oyster reef; soft bottom; sand/shell	
brown shrimp	subadults	soft bottom; sand/shell	
pink shrimp	juveniles	submerged aquatic vegetation; soft bottom; sand/shell; mangroves; oyster reef	
pink shrimp	subadults	submerged aquatic vegetation; soft bottom; sand/shell; mangroves	
white shrimp	postlarvae	water column associated	
		emergent marsh; submerged aquatic vegetation; oyster reef; soft bottom;	
white shrimp	juveniles	mangroves	
white shrimp	subadults	soft bottom; sand/shell	
white shrimp	adults	soft bottom	
white shrimp	spawning adults	soft bottom	
red drum	eggs	water column associated	
red drum	larvae	submerged aquatic vegetation; soft bottom; water column	
red drum	postlarvae	submerged aquatic vegetation; emergent marsh; soft bottom	
red drum	early juveniles	submerged aquatic vegetation; soft bottom; hard bottom; sand/shell	
red drum	late juveniles	submerged aquatic vegetation; emergent marsh; soft bottom; sand/shell	
red drum	adults	submerged aquatic vegetation; emergent marsh; soft bottom; hard bottom; sand/shell	
Spanish mackerel	early juveniles	estuarine; water column associated	
Spanish mackerel	late juveniles	estuarine; water column associated	
Spanish mackerel	adults	estuarine; Mainly oceanic; water column associated	
red grouper	early juveniles	submerged aquatic vegetation; hard bottom	
gray snapper	adults	hard bottom; soft bottom; reef; sand/shell; banks/shoals; emergent marsh	
cobia	eggs	water column associated	
cobia	larvae	water column associated	
lane snapper	larvae	water column associated	
lane snapper	postlarvae	water column associated; submerged aquatic vegetation	

Table 2. EFH species in the project ar
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#### 3.5.3.1 Brown Shrimp (*Penaeus aztecus*)

Brown shrimp are benthic omnivores distributed from Massachusetts to southern Florida, and throughout the Gulf Coast to the northwestern Yucatan Peninsula (NOAA 1997). The highest abundance of brown shrimp occurs along the Louisiana, Texas, and Mississippi coasts and the shelf waters in the northern Gulf Coast (Allen et al. 1980, NOAA 1985, Williams 1984). Brown

shrimp are an estuarine-dependent species, spending some or all of their life cycle within an estuary. Brown shrimp spawn in depths greater than 60 feet during the fall and spring, and postlarvae migrate to estuaries primarily from February to April (GMFMC 2004). Subadult brown shrimp migrate to offshore areas in the summer, supporting valuable commercial inshore and offshore fisheries (GMFMC 2016).

# 3.5.3.2 Pink Shrimp (*Penaeus duorarum*)

Pink shrimp occur in estuaries and nearshore to depths up to 110 m, with population densities highest in Gulf waters in or near seagrasses at depths ranging from 9-48 m (GMFMC 2016). Pink shrimp spawn year-round in the Tortugas, and postlarvae migrate into estuaries primarily during the spring and fall (GMFMC 2016). They prefer to inhabit sand/shell mud mixtures with less than one percent organic material, feeding on macrophytes, algae, diatoms, crustaceans, and fish (Eldred et al. 1961).

# 3.5.3.3 White Shrimp (*Penaeus setiferus*)

White shrimp can be found in coastal Gulf of Mexico within estuaries and nearshore habitat up to depths of 40 m (GMFMC 2016). White shrimp spawn from spring through fall in depths between 9-34 m, and postlarvae migrations into estuaries occurs from spring through fall, with migration peaking in June and September (GMFMC 2016). Juvenile white shrimp inhabit mostly mud bottoms, feeding on sand, detritus, organic matter and various crustaceans (Darnell 1958, GMFMC 2016). Adult white shrimp inhabit soft mud or silt bottoms of the Gulf at depths less than 30 m (GMFMC 2004).

# 3.5.3.4 Red Drum (*Sciaenops ocellatus*)

Red drum are distributed throughout the Gulf of Mexico. Depending on life stage, they are found from estuarine to offshore waters and occur over a variety of habitat types including SAV, soft bottom, hard bottom, emergent marsh, sand/shell; in early life stages they are associated with the water column (GMFMC 2004, 2016). Red drum spawn on the northern Gulf of Mexico shelf during a relatively brief period, generally August into October (Wilson and Nieland 1994). The larvae and early juveniles are carried by tides and currents in late fall to the shallow estuaries, with peak ingress occurring in October. Larvae are carried through barrier island passes in the surface waters and juveniles move from the bay up the estuary to quiet backwater nursery areas to grow.

# 3.5.3.5 Spanish Mackerel (Scomberomorus maculatus)

Spanish mackerel occur in coastal zones of the western Atlantic and throughout the Gulf of Mexico at depths up to 75 m (GMCMC 2016). Spanish mackerel is an epipelagic and neritic species often found in large schools which, in the past, have covered several square kilometers of area (NOAA 1997, Berrien and Finan 1977). Spawning occurs from May to September, with eggs occurring at depths less than 50 m (GMFMC 2016). Juveniles are found offshore and in beach surf, and are not considered estuarine dependent (NOAA 1997). Adults are typically found offshore in neritic waters and along coastal areas, usually near barrier islands and passes (NOAA 1997). Spanish mackerel is an important commercial and recreational species along the Gulf Coasts, prized for its high food quality (NOAA 1997, Kilma 1959, Moe 1972, Powell 1975).

# 3.5.3.6 Red Grouper (*Epinephelus morio*)

Red grouper can be found nearshore and offshore at depths ranging from 0-100 m depending on the life stage. Early life stages are water column associated; juveniles settle on SAV and hard bottom habitats, and maturing adults transition onto reefs and hard bottom habitats offshore. Spawning occurs over hard bottoms and shelf edge/slope habitats and common prey items include fish, crustaceans, and cephalopods (GMFMC 2016).

#### 3.5.3.7 Gray Snapper (Lutjanus griseus)

Gray snapper occur in estuaries and shelf waters of the Gulf of Mexico and are particularly abundant off south and southwest Florida. Considered to be one of the more abundant snappers inshore, the gray snapper inhabits waters to depths of about 180 meters. Adults are demersal and mid-water dwellers, occurring in marine estuarine and riverine habitats. They occur up to 19.9 miles offshore and inshore as far as coastal plain freshwater creeks and rivers (GMFMC 2016).

#### 3.5.3.8 Cobia (*Rachycentron canadum*)

Cobia are a predatory pelagic species found in coastal nearshore and offshore waters of the Gulf of Mexico, at depths ranging from 1 meter to 70 meters. They are most commonly associated with shoals over hard banks, buoys, shipwrecks, oil rigs and other hard surfaces (GMFMC 2016). Adults feed on fishes and crustaceans, including crabs and shrimp. Cobia migrate seasonally from March through October between spawning and rearing habitats, determined primarily by suitable temperature conditions.

#### 3.5.3.9 Lane Snapper (*Lutjanus synagris*)

Lane snapper can be found throughout the Gulf of Mexico and in the western Atlantic from North Carolina to southeastern Brazil. Juveniles and adults are found across most habitat types, including SAV, sand/shell, reefs, soft bottom, banks, shoals, and mangroves. Adults occupy nearshore and offshore waters, at depths from 4 meters to 132 meters and temperatures of 61 °F to 84 °F (GMFMC 2016).

#### 3.5.4 Wildlife

#### Existing Conditions

Louisiana's coastal wetlands support numerous Neotropical and other migratory avian species, such as rails, gallinules, shorebirds, wading birds, and numerous songbirds. The rigors of longdistance flight require most Neotropical migratory birds to rest and refuel several times before they reach their final destination. Louisiana coastal wetlands provide Neotropical migratory birds with essential stopover habitat on their annual migration routes. Passerine birds common to the project areas include sparrows, vireos, warblers, northern mockingbirds (*Mimis polygottos*), common grackles (*Quiscalus quiscula*), red-winged blackbirds (*Agelaius phoeniceus*), marsh wrens (*Cistothorus palustris*), blue jays (*Cyanocitta cristata*), northern cardinals (*Cardinalis cardinalis*), and American crows (*Corvus brachyrhynchos*). Coastal wetlands provide important fish and wildlife habitats, especially transitional habitat between estuarine and marine environments, used for shelter, nesting, feeding, roosting, cover, nursery, and other life requirements.

Emergent and submerged aquatic vegetation (SAV) and fresh, intermediate, brackish marsh, and saline marsh wetlands are typically used by many different wildlife species, including: nutria (*Myocaster coypus*), muskrat (*Ondatra zibethicus*), mink (*Mustela vison*), river otter (*Lutra canadensis*), white-tailed deer (*Odocoileus virginianus*), Virginia opossum (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), swamp rabbit (*Sylvilagus aquaticus*), eastern cottontail (*Sylvilagus floridanus*), nine-banded armadillo (*Dasypus novemcinctus*), coyote (*Canis latrans*), and a variety of smaller mammals. The basin also provides habitat for the American alligator

(*Alligator mississippiensis*), various species of salamanders, frogs, toads, turtles, as well as several species of venomous and non-venomous snakes.

Open water habitats provide wintering and multiple use functions for American white pelican (*Pelecanus erythrorhynchos*) and brown pelicans (*P. occidentalis*), seabirds, and other open water residents and migrants. Open water habitats provide wintering and multiple use functions for brown pelicans, seabirds, dabbling and diving ducks, coots, and gallinules, as well as other open water residents and migrants (LCWCRTF & WCRA 1999). Various raptors such as great horned owl (*Bubo virginianus*), barred owl (*Strix varia*), red-shouldered hawk (*Buteo lineatus*), northern harrier (*Circus cyaneus*), American kestrel (*Falco sparverius*), red-tailed hawk (*Buteo jamaicensis*), and bald eagle (*Haliaeetus leucocephalus*) may be present.

#### 3.5.5 Threatened, Endangered, and Protected Species

#### Existing Conditions

Eight animal species under the jurisdiction of the USFWS and/or NMFS and presently classified as endangered or threatened are known to occur within the vicinity of the project area (Table 3). Other species that were listed on the endangered species list but have since been de-listed because population levels have improved are the bald eagle (*Haliaeetus leucocephalus*) and the brown pelican (*Pelecanus occidentalis*). Currently, American alligators and shovelnose sturgeon (*Scaphirhynchus platorynchus*) are listed as threatened under the Similarity of Appearance clause in the ESA of 1973, as amended, but are not subject to ESA Section 7 consultation. No critical habitat for any threatened or endangered species has been designated within theproject area, and none of these species are known to breed within the project vicinity.

Common Namo	Scientific Name	Status	Jurisdiction	
Common Name	Scientific Name	Status	USFWS	NFMS
West Indian Manatee	Trichechus manatus	Т	Х	
Eastern Black Rail	Laterallus jamaicensis ssp. jamaicensis	E	Х	
Pallid Sturgeon	Scaphirhynchus albus	E	Х	
Gulf Sturgeon	Acipenser oxyrhynchus desotoi	Т	Х	Х
Kemp's Ridley Sea Turtle	Lepidochelys kempii	E	Х	Х
Loggerhead Sea Turtle	Caretta caretta	Т	Х	Х
Green Sea Turtle	Chelonia mydas	Т	Х	Х
Giant Manta Ray	Manta birostris	Т		Х

#### Table 3. Threatened or Endangered Species that may occur in project area.

# 3.5.5.1 West Indian Manatee (*Trichechus manatus*)

West Indian manatees, also known as sea cows, are large aquatic mammals found in shallow, slow-moving rivers, estuaries, saltwater bays, canals, and coastal areas. Manatees forage on submerged, floating, and shoreline vegetation including seagrasses, algae, and invasive water hyacinth. There is a low chance that manatees would be found in the project area and surrounding shallow open waters; however, if manatees are observed within 100 yards of the "active work zone" during construction and dredging activities, the appropriate special operating conditions would be implemented as provided by the USFWS.

#### 3.5.5.2 Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*)

Eastern black rails are sensitive, sparrow-sized marsh birds found in a variety of wetland habitats along the Gulf Coast. Eastern black rails require dense vegetative cover, foraging on seeds, insects, and other invertebrates as they walk along the shallows. Pairing and nesting occur in

spring and summer. The primary stressors to the eastern black rail include suitable habitat loss, degradation, and fragmentation.

#### 3.5.5.3 Pallid Sturgeon (*Scaphirhynchus albus*)

The pallid sturgeon is an endangered fish found in Louisiana, in both the Mississippi and Atchafalaya Rivers (with known concentrations in the vicinity of the Old River Control Structure Complex); it is possibly found in the Red River as well. The pallid sturgeon is adapted to large, free-flowing, turbid rivers with a diverse assemblage of physical characteristics that are in a constant state of change. Pallid sturgeon occur in the Mississippi River downstream of its confluence with the Missouri River and Ohio River, and inhabit large, deep turbid river channels, usually in strong current over firm sand or gravel.

#### 3.5.5.4 Gulf sturgeon (*Acipenser oxyrhynchus desotoi*)

The Gulf sturgeon was listed as threatened throughout its range on September 30, 1991. The Gulf sturgeon is an anadromous fish that migrates from salt water into coastal rivers to spawn and spend the warm summer months. Subadults and adults typically spend the three to four coolest months of the year foraging in estuaries of the Gulf of Mexico before migrating inland into rivers. This migration typically occurs from mid-February through April. Most adults arrive in the rivers when temperatures reach 70 degrees Fahrenheit and spend eight to nine months each year in the rivers before returning to estuaries or the Gulf of Mexico by the beginning of October.

#### 3.5.5.5 Giant Manta Ray (Manta birostris)

In 2018, NOAA Fisheries listed the giant manta ray as threatened under the ESA. The species is found worldwide in tropical, subtropical, and temperate bodies of water and has been observed in estuarine waters, oceanic inlets, and within bays and intercoastal waterways. Based on a comprehensive review of scientific data available, NFMS concluded that there are no areas within the jurisdiction of the United States that meet the definition of critical habitat for the giant manta ray.

#### 3.5.5.6 Sea Turtles

The most seriously endangered of the sea turtles, Kemp's Ridley turtles (*Lepidochelys kempii*) occur mainly in bays and coastal waters of the Atlantic Ocean and Gulf of Mexico (NMFS/USFWS 1992a). Nesting occurs on the northeastern coast of Mexico and occasionally on Texas Gulf Coast beaches from April to July. Along the Louisiana coast, turtles are generally found in shallow nearshore and inshore areas, and especially in salt marsh habitats, from May through October. No Kemp's Ridley sea turtle nesting habitat occurs near the project area, and nesting has not been known to occur in the area.

Loggerhead sea turtles (*Caretta caretta*) nest within the coastal United States from Louisiana to Virginia, with major nesting concentrations occurring on the coastal islands of North Carolina, South Carolina, and Georgia, and on the Atlantic and Gulf coasts of Florida (NMFS/USFWS 2009). Nesting and hatching for loggerheads in the Gulf of Mexico occur from May through November.

Green sea turtles (*Chelonia mydas*) are more tropical in their distribution and are rarely seen in Louisiana coastal waters (LDWF 2011). Nesting in the southeastern U.S. occurs roughly from June through September (NMFS/USFWS 1991). Nesting within the project area is highly unlikely, as green sea turtles prefer to nest on high-energy beaches with deep sand and little organic

content. Furthermore, the Minerals Management Service (1997) indicated that reports of green sea turtles nesting in the northern Gulf are "isolated and infrequent."

#### 3.5.5.7 Species of Concern

Although it is delisted, the bald eagle (*Haliaeetus leucocephalus*) is still protected by the Bald and Golden Eagle Protection Act (BGEA) and the Migratory Bird Treaty Act (MBTA). Bald eagles nest in Louisiana from December through mid-May in mature trees (e.g., bald cypress, sycamore, willow, etc.) near fresh to intermediate marshes or open water (USFWS 2011). Nest sites typically include at least one perch with a clear view of the water or area where the eagles usually forage. Habitats suitable for use by the bald eagle are present throughout coastal Louisiana and can be found near the project area.

On November 17, 2009, the brown pelican (*Pelecanus occidentalis*) was removed from the federal list of threatened and endangered species. However, the brown pelican is still protected under the MBTA and is a state listed species. Brown pelicans are known to nest on barrier islands and the other coastal islands in St. Bernard, Plaquemines, Jefferson, Lafourche, and Terrebonne Parishes, and on Rabbit Island in lower Calcasieu Lake, in Cameron Parish. Habitat suitable for use by the brown pelican is present throughout coastal Louisiana, including the project area.

#### 3.5.5.8 Colonial Nesting Birds and Seabirds

Coastal Louisiana contains habitat suitable for the support of colonial nesting waterbirds and seabirds which are protected by the MBTA. Colonial nesting birds (e.g., herons, egrets, night-herons, ibises, roseate spoonbills, anhingas, and cormorants) typically nest on islands or areas of higher ground that support small trees and shrubs. Some of the representative nesting seabird species in coastal Louisiana include: laughing gull (*Leucophaeus atricilla*), sooty tern (*Onychoprion fuscatus*), least tern (*Sternula antillarum*), gull-billed tern (*Gelochelidon nilotica*), caspian tern (*Hydroprogne caspia*), Forster's tern (*Sterna forsteri*), royal tern (*Thalasseus maximus*), sandwich tern (*Thalasseus sandvicensis*), black skimmer (*Rynchops niger*), herring gull (*Larus argentatus*), kelp gull (*Larus dominicanus*), and common tern (*Sterna hirundo*). Portions of the project area may contain habitats commonly inhabited by colonial nesting birds and seabirds.

# 3.5.6 Cultural Resources

#### **Existing Conditions**

The National Historic Preservation Act of 1966 (NHPA) (P.L. 89 80 655), NEPA, and other applicable laws and regulations require federal agencies to consider the effects of their undertaking on the environment and any significant cultural resources within the project area of the proposed undertaking, as well as its area of potential effects (APE). Typically, these studies require archival searches and field surveys to identify any cultural resources/historic properties. When significant sites are recorded, efforts are made to minimize adverse effects and preserve the site(s) in place. If any significant sites cannot be avoided and would be adversely impacted, an appropriate mitigation plan would be implemented to recover data that would be otherwise lost due to the undertaking.

The project area is located along the East Bank of the Mississippi River across from the town of Buras in the southern half of Plaquemines Parish. The project area is located on the natural levee of the river and backed by marsh lands extending to Bay Denesse and Quarantine Bay, and finally the Gulf of Mexico itself. The long natural history of the delta region has given much opportunity for land to be created and destroyed by the movement of water. Prior to modern historic

development and settlement in Plaquemines Parish and the subsequent attempts at flood control and navigation improvement, this area was heavily used by Native American populations, and multiple prehistoric sites have been recorded in the general area but not within the project area. The closest prehistoric site to the project area is Buras Mounds (16PL13), an earthen mound site and cemetery, associated with the Plaquemines culture (1100-1500 A.D.) located 3.6 miles southwest of the project area within the marshlands of Barataria Bay.

In historic times, this area of Plaquemines Parish passed through Spanish, French, Spanish again, and then American exploration and rule. Early nineteenth century development within the parish focused on improving river navigation and defense (such as constructing Fort St. Phillip and Fort Jackson) to protect burgeoning economic and transportation interests. These improvements encouraged the establishment of plantations within the parish, which had easy river access for market trade with northern economies. Plantations focusing on sugar cane and rice proliferated along the Mississippi River until the time of the Civil War. During this time, repeated flooding forced the Louisiana state legislature to repair and build new levees on the East Bank down to Pointe-a-la-Hache. Between 1858 and 1874, the east bank levee had been extended down to Fort St. Phillip (Montgomery et al. 1988). The Civil War marked an economic upheaval for Plaguemines Parish as Union troops seized properties and freed slaves of many of the plantations. Reconstruction did not bring substantial economic recovery the parish as the modes of sugar cane and rice cultivation and production shifted to southwest Louisiana, causing many plantations and farms to be sold and/or consolidated. Hurricanes heavily impacted the local parish economy during this time. Specifically, 1893's Hurricane Cheniere Caminada destroyed the towns of Neptune, Ostrica, and Pointe-a-I-Hache along the East Bank (Montgomery et al. 1988). The extension of railroad lines along the West Bank into the southern portion of the parish was a notable reconstruction infrastructure development, which enabled the remaining farms to transport sugar and rice to northern markets. The twentieth century marked a shift toward citrus crop production for the farms surviving Reconstruction. Of note, several floods caused levee breaches during the first half of the twentieth century, which again, heavily impacted local parish economies (Montgomery et al. 1988).

According to the Louisiana Division of Archaeology's Cultural Resource Management Database, there have been 227 cultural resource surveys completed in Plaquemines Parish. Three (3) previous surveys have been conducted within the project area and a total of five (5) surveys have been conducted within a mile of the project area, with most of these conducted in support of the Mississippi River levee construction and improvement projects. The project area was surveyed by two reconnaissance/assessment investigations (Davis et al. 1979; LA DOA Report # 22-0560 and Greene et al. 1984; LA DOA Report # 22-0918) and one hydrographic study (Saltus 1984; LA DOA Report # 22-0918) is a late eighteenth and early nineteenth century Oyster factory settlement situated on the East Bank of the Mississippi River approximately one mile upriver of the project area. The site has undergone severe erosion and has an undetermined NRHP eligibility status. The Our Lady of Good Harbor cemetery is located on the West Bank approximately a mile southwest of the project area. This Catholic cemetery was established in 1900 and served the town of Buras.

#### 3.5.7 Tribal Resources

#### Existing Conditions

Nine federally recognized tribes may have an aboriginal/historic interest in this portion of Plaquemines Parish, Louisiana. The tribes are: 1) the Alabama Coushatta Tribe of Texas, 2)

the Chitimacha Tribe of Louisiana, 3) the Choctaw Nation of Oklahoma, 4) the Coushatta Tribe of Louisiana, 5) the Jena Band of Choctaw Indians, 6) the Mississippi Band of Choctaw Indians, 7) the Muscogee Nation, 8) the Seminole Nation of Oklahoma, and 9) the Tunica-Biloxi Tribe of Louisiana.

There are no tribal lands, nor are there specific tribal treaty rights related to access or traditional use of the natural resources in Plaquemines Parish. There are many protected tribal cultural resources within the parish. However, no tribal cultural resources have been identified within the project area.

#### 3.5.8 Air Quality

#### Existing Conditions

National ambient air quality standards (NAAQS) have been set by the Environmental Protection Agency (EPA) for six common pollutants (also referred to as criteria pollutants) including: ozone, particulate matter, carbon monoxide (CO), nitrogen dioxide, sulfur dioxide, and lead. States are required by the Code of Federal Regulations to report to the EPA annual emissions estimates for point sources (major industrial facilities) emitting greater than, or equal to, 100 tons per year of volatile organic compounds, nitrogen dioxide, sulfur dioxide, particulate matter less than 10 microns in size; 1,000 tons per year of CO; or 5 tons per year of lead. Since ozone is not an emission, but the result of a photochemical reaction, states are required to report emissions of volatile organic compounds, which are compounds that lead to the formation of ozone. Plaquemines Parish is currently classified as in attainment of all NAAQS. This classification is the result of area-wide air quality modeling studies. Therefore, further analysis required by the general conformity rule of Section 176(c) of the Clean Air Act would not apply for the action.

# 3.5.9 Water and Sediment Quality

#### Existing Conditions

As part of its surface water quality monitoring program, the Louisiana Department of Environmental Quality (LDEQ) routinely monitors 25 parameters on a monthly or bimonthly basis using a fixed station, long-term network (Monitored Assessments) (LDEQ 1996). Based upon those data and the use of less-continuous information (Evaluated Assessments), such as fish tissue contaminants data, complaint investigations, and spill reports, the LDEQ has assessed water quality fitness for the following uses: primary contact recreation (swimming), secondary contact recreation (boating, fishing), fish and wildlife propagation, drinking water supply, and shellfish propagation (LDEQ 1996). Based upon existing data and more subjective information, water quality is determined to either fully, partially, or not support those uses. A designation of "threatened" is used for waters that fully support their designated uses but that may not fully support certain uses in the future because of anticipated sources or adverse trends in pollution.

According to the LDEQ "2020 Louisiana Water Quality Inventory: Integrated Report," the Mississippi River – from Monte Sano Bayou to Head of Passes (segment no. LA070301\_00), "fully supports" designated uses for primary contact recreation, secondary contact recreation, fish and wildlife propagation, and drinking water supply based on Evaluated Assessment data (LDEQ 2020). No sources of impairment were identified within this segment.

# 4 ENVIRONMENTAL CONSQUENCES

This section describes the direct, indirect, and cumulative effects of the No Action Alternative and the action. Table 3 provides a list of resources in the project area and the anticipated impact(s) from implementation of the action.

Relevant Resource	Impacted	Not Impacted
Navigation	Х	
Aquatic Resources/Fisheries	Х	
Wetlands		Х
Essential Fish Habitat	Х	
Wildlife	Х	
Threatened, Endangered, and Protected Species		Х
Cultural Resources		Х
Tribal Resources		Х
Air Quality	Х	
Water/Sediment Quality	Х	

 Table 4. Relevant resources and their impact status, both adverse and beneficial.

# 4.1 <u>Navigation</u>

# Future Conditions with No-Action

Without implementation of the selected action, additional, uncontrolled scouring at the mouth of Neptune Pass would have occurred, resulting in increased flow being diverted from the Mississippi River. The conditions prior to performing the selected action posed a threat to navigation, and increased flow through Neptune Pass would have amplified the navigational threats, shoaling and suction effects, caused by this diversion. As conditions would have continued to deteriorate in the absence of the selected action, an increase in dredging operations would have been needed to compensate for the resulting shoaling in the Mississippi River, and increased suction effects would impact vessels transiting this segment of the Mississippi River.

# Future Conditions with the Selected Action

Implementation of the selected action had a positive impact on navigation, stabilizing the rapidly eroding mouth of Neptune Pass and preventing an increase of navigational threats to waterborne commerce. Continued maintenance of the current dimensions of the Mississippi River and its passes are vital to the continued growth and health of the industries and commerce they serve.

# 4.2 Aquatic Resources / Fisheries

# Future Conditions with No-Action

Without implementation of the selected action, uncontrolled scouring at the mouth of Neptune Pass would have resulted in indirect impacts as limited habitat for most fisheries species due to the resulting deep-water channel and reduction in shallow water and emergent marsh habitat within the vicinity of the project area.

# Future Conditions with the Selected Action

With implementation of the selected action, water bottom habitat loss and displacement of benthic organisms and fishes within the project area likely occurred. However, these effects were temporary. Upon conclusion of project activities, displaced fisheries species returned to the project area. Furthermore, the stone substrate used for constructing the flow control feature can be considered suitable habitat for some fisheries and aquatic species (Pennington et al. 1983).

# 4.3 Essential Fish Habitat

#### Future Conditions with No-Action

Without implementation of the action, no direct impacts to EFH within the immediate project area would occur. However, indirect impacts to EFH would have likely occurred as existing, emergent marsh within Neptune Pass continued to be converted to open water habitat due to scouring and erosion. This conversion from emergent marsh to open water habitat would have resulted in decreased habitat suitability for many aquatic species.

#### Future Conditions with the Selected Action

With implementation of the selected action, short-term EFH impacts included temporary and localized increases in water column turbidity during construction of the stone revetment structure. However, the project area is a naturally turbid environment and increased turbidity is not expected to significantly affect EFH needs within the project area. As conditions stabilized following project completion, aquatic species returned to the project area. Additionally, potential positive impacts to EFH may occur as the stone substrate used for constructing the stone revetment structure is considered suitable habitat for many fisheries and aquatic species (Pennington et al. 1983).

#### 4.4 <u>Wildlife</u>

#### Future Conditions with No-Action

Without implementation of the selected action, wildlife within the immediate project would have been indirectly impacted. Scour and erosion of the existing marsh along the banks of Neptune Pass and the Mississippi River would have continued to occur, resulting in a reduction of habitat diversity and availability for resident terrestrial wildlife, migratory foul, and other avian species.

#### Future Conditions with the Action

With implementation of the action, minimal adverse direct and indirect impacts to wildlife are anticipated. Noise or wave action generated by construction activities may have displaced terrestrial wildlife in the area; however, this was a a temporary disturbance, and wildlife likely have returned following the completion of project activities. Overall populations were not adversely affected because these species could move to existing adjacent habitat areas during construction activities.

#### 4.5 <u>Threatened, Endangered, and Protected Species</u>

#### Future Conditions with No-Action

Without implementation of the action, no direct or indirect impacts to threatened or endangered species or their critical habitat would occur.

#### Future Conditions with the Selected Action

Although threatened, endangered, and protected species may occur within the general project vicinity, none of these species were observed during construction activities and their presence within the project area was highly unlikely. The USFWS concurred with CEMVN's determination of "not likely to adversely affect" threatened, endangered or protected species in a letter dated April 13, 2023 (Appendix C). The project area did not contain critical habitat for Federally-listed species, and the open water areas and adjacent wetland habitat surrounding the project area would have allowed them to easily avoid the project activities. Nesting birds were not impacted as no work took place within a rookery. Migratory waterfowl and other avian species, if present, were only temporarily displaced from the project area. No impacts to the bald eagle occurred as

no known nests are located near any project features. Additionally, CEMVN determined that no critical habitat for any threatened, endangered, or candidate species under the purview of the National Marine Fisheries Service (NMFS) was designated within the project area, and that there would be no effect to any of the NMFS Federally-listed species that could potentially occur within the project area. NMFS authorized the USACE to proceed with the emergency action as described within a letter received on May 25, 2023 (Appendix D). No encounters or take of ESA-listed species or species of concern were reported during project activities.

# 4.6 Cultural Resources

# Future Conditions with No-Action

Without implementation of the action, the flow of water may increase or the existing bank of the river may shift. Although no cultural resources have been reported within the project area, such shifts may eventually affect more distant resources.

# Future Conditions with the Action

On March 22, 2023, the Mississippi Valley Division's (MVD) Division Engineer determined that, per 33 CFR 337.7, an "Emergency Action" must be taken immediately as additional scouring and expansion would further increase the threat to navigation and safety in a vital segment of the Mississippi River. In accordance with 36 CFR 800.12 (d), CEMVN has determined that the action qualifies as an "emergency undertaking" because of an "immediate threat to life or property" and is thus exempt from the provisions of Section 106 (Appendix A).

CEMVN visited the site of the emergency action on April 19th, 2023, to document the presence of any unrecorded cultural resources within the project area. The emergency action occurred within the open waters of Neptune Pass, which measured between 40 to 100 feet in depth at the time of the site visit. CEMVN noted the presence of an earthen levee actively eroding due to the pass opening. The exposed levee profile can be seen in Figure 4. No other cultural resources were noted during the site visit.



Figure 4. Overview Photograph of "Potato Ridge" Earthen Levee.

This earthen levee is a remnant of flood protection efforts commissioned between 1858 and 1874 to prevent flooding of the East Bank plantation and farm properties, which extended south to Fort St. Phillip. Today, the levee is known locally today as "Potato Ridge," and measures approximately four (4) feet in height and 25 feet in width; it is overgrown with vegetation and used by cattle in nearby pastures. A review of aerial photography suggest that the levee is highly fragmented between the town of Ostrica and Fort St. Phillip, though a full survey may be needed to determine if more portions remain intact. The action does not place the stone revetment on the earthen levee, but within the 40 to 100-foot-deep channel of Neptune Pass directly in front of it. Due to the limited scope of the action, CEMVN has not conducted a full survey, identification, and evaluation of the Potato Ridge earthen levee. However, the action protects the earthen levee from further erosion from river waters.

CEMVN notified Consulting Parties, including the Louisiana State Historic Preservation Office, the Advisory Council on Historic Preservation, and Federally-recognized Tribes, on April 27th, 2023, of the emergency undertaking and the site visit findings (Appendix D). On May 26th, 2023, the Louisiana State Historic Preservation Officer responded with a concurrence letter of 'no historic properties effected' (Appendix D). CEMVN received a finding of 'no historic properties affected' from the Choctaw Nation of Oklahoma on April 29th, 2023, a letter of 'no objection' from the Chitimacha Tribe of Louisiana on May 15th, 2023 (Appendix D). No other Consulting Parties responded. In addition, on June 30, 2022, CEMVN consulted for a rock closure structure within Neptune Pass in vicinity of this project, with a finding of 'no historic properties effected'; this closure project has not yet been constructed. CEVMN received concurrence from the Louisiana State Historic Preservation Office (LA SHPO) and no objection within regulatory timeframes from Federally-recognize Tribes.

# 4.7 <u>Tribal Resources</u>

# Future Conditions with No-Actions

Without implementation of the action, the flow of water may increase or the existing bank of the river may shift. Although no tribal resources have been reported within the project area, such shifts may eventually affect more distant resources.

#### Future Conditions with the Action

While Plaquemines Parish has a long history of occupation by Native American communities, prior to its establishment and throughout its history, there are currently no protected tribal resources, tribal rights, or Indian lands that have the potential to be significantly affected by the actions within the project area. CEMVN utilized the cultural resources notification letter to seek input from Federally-recognized Tribes regarding these resources (see Section 4.6 for letter dates). No Federally-recognized Tribes raised concerns regarding tribal resources, rights, or lands; therefore, CEMVN has determined that no such resources would be significantly affected by implementing this action.

# 4.8 Air Quality

# Future Conditions with No-Action

Without implementation of the action, no direct or indirect impacts to ambient air quality would occur.

#### Future Conditions with the Selected Action

With implementation of the selected action, direct and indirect impacts to ambient air quality within the project area—and possibly farther afield—were temporary and primarily due to the emissions of construction equipment. Due to the short duration of the project, any increases or impacts to ambient air quality were short-term and minor and did not cause or contribute to a violation of federal or state ambient air quality standards. Once all construction activities associated with the action ceased, air quality within the vicinity returned to pre-construction conditions.

# 4.9 Water and Sediment Quality

# Future Conditions with No-Action

Without implementation of the action, no direct or indirect impacts to water quality or sediment quality would occur.

#### Future Conditions with the Selected Action

With implementation of the selected action, there may have been some disturbances to ambient water quality in the project area; however, direct, and indirect impacts were short-lived and highly localized. Water bottom disturbances associated with construction activities may have caused temporary increases in turbidity and suspended solid concentrations, and a reduction in light penetration in the immediate vicinity. However, since the project is a naturally turbid environment and resident biota are generally adapted to, and very tolerant of, high suspended sediment concentrations, the effects were negligible. Water quality returned to pre-construction conditions soon after the completion of the construction of the project.

# 5 CUMULATIVE IMPACTS

The CEQ regulations define cumulative impacts (CI) as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other actions. CI can result from individually minor but collectively significant actions taking place over a period of time."

Direct and indirect impacts of past, present, and reasonably foreseeable future events were considered in the analysis of the impacts associated with the action taken. The action taken resulted in minor and temporary adverse impacts to environmental resources including: aquatic resources/fisheries, essential fish habitat, wildlife, threatened, endangered, and protected species, air quality, and water and sediment quality; however, the emergency action also stabilized the mouth of Neptune Pass resulting in significant positive impacts to navigation. Overall, the maintenance of conditions within the vicinity of Neptune Pass promoted the continued transit of waterborne commerce within the vicinity of the project area and the adjacent segments of the Mississippi River.

Additionally, the stabilization of Neptune Pass resulting from the emergency action performed has provided additional time for the modelling and design of a flow control structure proposed for Neptune Pass. The purpose of the proposed flow control structure is to eliminate the continued shoaling and suction effects negatively impacting the navigation of vessels transiting the adjacent segment of the Mississippi River. Once the modelling and design efforts are complete, the impacts associated with this proposed action will be assessed in a separate environmental assessment.

# 6 HAZARDOUS, TOXIC AND RADIOACTIVE WASTE (HTRW)

Open water disposal of stone material is exempt from HTRW investigation per ER 1165-2-132 (26 June 1992), provided the disposal sites utilized are not Environmental Protection Agencydesignated CERCLA or National Priority List (Superfund) sites. The open water stone disposal areas for the subject project are not so designated. During emergency action project activities, no encounters, incidents, or direct or indirect impacts associated with HTRW were reported. No further investigation is warranted.

# 7 COORDINATION

Preparation of this draft EA and a draft Finding of No Significant Impact (FONSI) have been coordinated with appropriate congressional, federal, tribal, state, and local interests, as well as environmental groups and other interested parties. The following agencies, as well as other interested parties, have received copies of the draft EA and draft FONSI:

U.S. Department of the Interior, Fish and Wildlife Service U.S. Environmental Protection Agency, Region VI U.S. Department of Commerce, National Marine Fisheries Service U.S. Natural Resources Conservation Service, State Conservationist Advisory Council on Historic Preservation Governor's Executive Assistant for Coastal Activities Louisiana Department of Wildlife and Fisheries Louisiana Department of Natural Resources, Coastal Management Division Louisiana Department of Natural Resources, Coastal Restoration Division Louisiana Department of Environmental Quality Louisiana State Historic Preservation Officer Plaquemines Parish Government Alabama-Coushatta Tribe of Texas Chitimacha Tribe of Louisiana Choctaw Nation of Oklahoma Coushatta Tribe of Louisiana Mississippi Band of Choctaw Indians Muscogee Nation Jena Band of Choctaw Indians Seminole Nation of Oklahoma Tunica-Biloxi Tribe of Louisiana

# 8 COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS

There are many federal and state laws pertaining to the enhancement, management, and protection of the environment. Federal projects must comply with environmental laws, regulations, policies, rules, and guidance. Compliance with laws will be accomplished upon the 30-day public and agency review of EA #595 and associated Finding of No Significant Impact (FONSI).

# 8.1 Clean Air Act of 1972

The Clean Air Act (CAA) sets goals and standards for the quality and purity of air. It requires the EPA to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. The project area is in Plaquemines 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.

#### 8.2 <u>Clean Water Act of 1972 – Section 404 and Section 401</u>

The Clean Water Act (CWA) sets and maintains goals and standards for water quality and purity. A CWA Section 404(b)(1) public notice was distributed for public and agency review on May 8, 2023. No adverse comments were received. A CWA Section 404(b)(1) evaluation was completed on August 24, 2023.

CWA Section 401 requires a Water Quality Certification from the LDEQ that a project does not violate established effluent limitations and water quality standards. Surface water quality standards are established in the Louisiana Administrative Code (LAC) Title 33, Part IX (2020). A CWA Section 401 State Water Quality Certification (WQC 230613-02) was issued by LDEQ on June 20, 2023.

# 8.3 Coastal Zone Management Act of 1972

The Coastal Zone Management Act requires that "each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manger which is, to the maximum extent practicable, consistent with approved state management programs." A determination of consistency with the Louisiana Coastal Zone Management Program pursuant to the Coastal Zone Management Act of 1972 was submitted to the Louisiana Department of Natural Resources (LDNR) on May 1, 2023. A Coastal Zone Consistency Permit (C20230049) was issued by LDNR on May 18, 2023.

#### 8.4 Endangered Species Act of 1973

The Endangered Species Act ("ESA") is designed to protect and recover threatened and endangered ("T&E") species of fish, wildlife and plants. Pursuant to section 7 of the ESA of 1973,

as amended, the USACE determined that the Action would not likely adversely affect the endangered species within the vicinity of the project, or any critical habitat. The USFWS concurred with the USACE's determination in a letter dated April 13, 2023. No encounters or take of threatened or endangered species were reported during project activities.

# 8.5 Magnuson-Stevens Fisheries Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended, Public Law (P.L.) 104-208, addresses the authorized responsibilities for the protection of 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 MSFCMA. 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 NEPA documents prepared for those projects. NMFS authorized the USACE to proceed with the emergency action as described within a letter received on May 25, 2023. No encounters or take of protected species were reported during project activities.

# 8.6 Fish and Wildlife Coordination Act of 1934

The Fish and Wildlife Coordination Act (FWCA) provides authority for the USFWS involvement in evaluating impacts to fish and wildlife from proposed water resource development projects. It requires that fish and wildlife resources receive equal consideration to other project features. It requires federal agencies that construct, license, or permit water resource development project to first consult with USFWS, NMFS, and state resource agencies regarding the impacts on fish and wildlife resources and measures to mitigate these impacts. The USFWS provided no objections or comments to the emergency action public notice in an email received on May 5, 2023. A Planning Aid Letter (PAL) was received from USFWS on August 17, 2023.

# 8.7 Migratory Bird Treaty Act of 1918

The Migratory Bird Treaty Act (MBTA) is intended to ensure the sustainability of populations of all protected migratory bird species. The MBTA prohibits the take of protected migratory bird species without prior authorization by USFWS. 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 MBTA. Project construction took place outside of the USFWS/LDWF buffer zones established for bald eagles. The project area is located in habitats which are commonly inhabited by colonial nesting waterbirds and/or seabirds; however, no nesting activity, encounters, or take of migratory birds, colonial nesting waterbirds, or seabirds were reported during project activities.

# 8.8 National Historic Preservation Act of 1966

Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The procedures in 36 CFR Part 800 define how federal agencies meet these statutory responsibilities. The Section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation on historic properties, including the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) and any tribe that attaches religious or cultural significance to historic properties that may be affected by an undertaking. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties. In accordance with 36 CFR 800.12 (d), CEMVN has

determined that the action qualifies as an "emergency undertaking" because of an "immediate threat to life or property" and is thus exempt from the provisions of Section 106. CEMVN notified Consulting Parties of the emergency undertaking on April 19, 2023. On May 26, 2023, the Louisiana State Historic Preservation Officer responded with a concurrence letter of 'no historic properties affected'. CEMVN received a finding of 'no historic properties affected' from the Choctaw Nation of Oklahoma on April 29, 2023, a letter of 'no objection' from the Chitimacha Tribe of Louisiana on May 15, 2023, and a letter of 'no objection' from the Coushatta Tribe of Louisiana on May 31, 2023. No other Consulting Parties responded.

# 9 CONCLUSION

Without implementation of the emergency action, conditions within the project area would have continued to deteriorate resulting in an increased threat to navigation. The lower Mississippi River is a primary access point for commercial shipping to ports of call along the river, and the segment of the Mississippi River from Baton Rouge to the Gulf of Mexico supported approximately 428 million tons of waterborne commerce in 2020 (USACE 2020). There is a national interest in providing progressive channel stabilization to prevent any alteration of the river flow that could potentially pose a navigation threat for large vessels transiting these sections of the river.

# 10 PREPARED BY

Draft EA #595 and the associated draft FONSI were prepared by Tyler Stevens, biologist, with relevant sections prepared by: Brian Ostahowski – Cultural Resources. The address of the preparers is: U.S. Army Corps of Engineers, New Orleans District; Regional Planning and Environment Division South, CEMVN-PDC-C; 7400 Leake Avenue; New Orleans, Louisiana 70118.

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

April 13, 2023

Regional Planning and Environment Division, South Environmental Compliance Branch

#### PUBLIC NOTICE

Interested parties are hereby notified that the U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), proposes to take emergency action to construct a stone revetment structure along the eastern bank of the mouth of Neptune Pass, adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana. (Figures 1 & 2).

Analysis of recent bathymetric surveys conducted within Neptune Pass and the adjacent segment of the Mississippi River determined significant, continued scouring and expansion of Neptune Pass. Existing conditions within Neptune Pass have resulted in unacceptable hazards to navigation including shoaling and suction effects near the junction of Neptune Pass and the River, and any additional scouring and expansion of Neptune Pass would further increase the threat to navigation in this vital segment of the Mississippi River. Emergency actions in the form of risk reduction measures (i.e., stone revetment) are needed to be conducted immediately. The proposed action would require the placement of stone blankets to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The proposed action would involve placement of approximately 58,000 tons of stone for this action.

According to 33 CFR 337.7, titled "Emergency Action", after obtaining approval from the division engineer, the district engineer will respond to emergency situations on an expedited basis, complying with the procedures of this regulation to the maximum degree practicable. With the approval of the district engineer, the mitigative measures will be conducted immediately. Therefore, time constraints render the completion of National Environmental Policy Act (NEPA) documentation prior to acting impractical. All work will be conducted to minimize any adverse impacts to the extent practicable. USACE Engineering Regulation (ER) 200-2-2, Environmental Quality, Procedures for implementing the NEPA, at paragraph 8, provides that district commanders may respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses in advance of compliance with the documentation and procedural requirements of NEPA. Paragraph 8 of the regulation states that NEPA documentation should be accomplished prior to initiation of emergency work if time constraints render this practicable; however, if appropriate, such documentation may be accomplished concurrently or after completion of the emergency action.
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<u>PROJECT AUTHORITY</u>: The Flood Control Act of 1928, as amended 1936, 1938, 1941, 1946, 1950, 1954, 1962, 1965 and 1968 and the Water Resources Development Act of 1986, committed the Federal government to a definite program of flood control and authorized general and progressive channel stabilization and river regulation from Cairo, Illinois to Head of Passes, Louisiana.

Congressional authority for construction of the "Mississippi River, Baton Rouge to the Gulf of Mexico, Louisiana" project is contained in the River and Harbor Act of March 2, 1945 (Public Law 14, 79th Congress, 1st Session). The Act authorizes construction in accordance with the plans recommended in the report of the Chief of Engineers printed in House Document 215, 76th Congress, 1st Session.

The Rivers and Harbors Acts of 1946 and 1962, the Supplemental Appropriations Act of 1985, and the Water Resources Development Act of 1986 (Public Law 99-662) provide for the construction of a 55-foot-deep channel in the Mississippi River from the Gulf of Mexico to Baton Rouge, LA, a distance of 257 miles.

#### PROJECT PURPOSE:

The lower Mississippi River is a primary access point for commercial shipping to ports of call along the river, and the segment of the Mississippi River from Baton Rouge to the Gulf of Mexico supported approximately 428 million tons of waterborne commerce in 2020 (USACE 2020). There is a national interest in providing progressive channel stabilization to prevent any alteration of the river flow that could potentially pose a navigation threat for large vessels transiting these sections of the river.

<u>PROPOSED ACTION AND AREA</u>: The proposed action would require the placement of approximately 58,000 tons of stone by barge mounted equipment positioned both within the Pass and Mississippi River to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The placement of the stone will be within open water and no wetlands within the area will affected by the proposed action. The proposed project area is approximately 8 acres of open water located along the eastern bank of the mouth of Neptune Pass (Figure 2).

<u>PROPERTY ADJACENT TO THE PROJECT AREA</u>: The property adjacent to the proposed project area includes brackish marsh and the open waters of the Mississippi River, Neptune Pass, Quarantine Bay and Bay Denesse.

<u>EVALUATION FACTORS</u>: The decision to perform the proposed action will be based on evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposal must be balanced against any reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, -3-

wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

<u>NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE</u>: An After the Fact Environmental Assessment addressing impacts of the proposed action will be prepared by the USACE, CEMVN.

<u>STATE WATER QUALITY CERTIFICATION</u>: Section 401 of the Clean Water Act necessitates state water quality certification for the proposed work. The USACE, CEMVN will prepare an application and submit it to the Louisiana Department of Environmental Quality for review and certification.

<u>SECTION 404(B)(1) GUIDELINES</u>: Designation of the proposed areas of stone placement will be made through the application of guidelines promulgated by the Administrator, EPA, in conjunction with the Secretary of the Army. If these guidelines prohibit the placement of stone in the proposed project area, any potential impairment to the maintenance of navigation and anchorage that would result from the failure to construct these project features also will be considered.

<u>COASTAL ZONE CONSISTENCY DETERMINATION</u>: The USACE, CEMVN will prepare a Federal consistency determination for the proposed action and submit it for review to the Louisiana Department of Natural Resources, Coastal Management Division, Office of Coastal Restoration and Management.

<u>ENDANGERED SPECIES ACT</u>: The USACE, CEMVN will consult the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to determine the impact of the proposed construction operations on threatened or endangered species or critical habitat thereof.

<u>ESSENTIAL FISH HABITAT</u>: The initial determination is that the proposed action will not have a substantial impact on Essential Fish Habitat or Federally managed species in the Gulf of Mexico. The environmental assessment will assess the impacts of the proposed action on Essential Fish Habitat and will include the required components of 50 CFR 600.920(g). The final determination relative to impacts and the need for mitigation measures is subject to review by the National Marine Fisheries Service.

<u>CULTURAL RESOURCES</u>: The USACE, CEMVN has consulted on this location on June 30, 2022 receiving concurrence from the Louisiana State Historic Preservation Office (LA SHPO) and no objection within regulatory timeframes from Federallyrecognize Tribes, and is not aware of any historic properties or other cultural resources within project area. Given the emergency nature of this action, the USACE, CEMVN will -4-

consult under 36 CFR 800.12 with the LA SHPO and Federally-recognized Tribes to take into account the potential effects of the proposed emergency action on historic properties.

<u>COORDINATION</u>: The following is a partial list of agencies to which a copy of this notice is being sent for coordination purposes:

Region VI, Environmental Protection Agency Regional Director, National Marine Fisheries Service Regional Director, U.S. Fish and Wildlife Service Commander, Eighth Coast Guard District Louisiana Department of Wildlife and Fisheries Louisiana Department of Environmental Quality Louisiana Department of Natural Resources Louisiana Department of Transportation and Development Louisiana State Historical Preservation Office

<u>PROJECT PLANS</u>: Plans for the proposed work will be on file at the U.S. Army Corps of Engineers, New Orleans District, 7400 Leake Ave., New Orleans, Louisiana, 70118, and may be seen by anyone having an interest in them.

<u>PUBLIC INVOLVEMENT</u>: Interested persons may submit comments on the proposed work and suggest modifications. All comments received within 15 days of the date of this notice will be considered.

Any person who has an interest which may be affected by the proposed action may request a public hearing. The request must be submitted in writing to the District Engineer within the comment period of this notice and must clearly set forth the interest which may be affected and the manner in which the interest may be affected by this activity. You are requested to communicate the information contained in this public notice to any parties who may have an interest in the proposed action.

<u>INFORMATION</u>: Additional information concerning the proposed action can be obtained by writing to: Department of the Army, Corps of Engineers, New Orleans District, ATTN: Tyler Stevens and David Day (CEMVN-PDC-C), 7400 Leake Ave., New Orleans, Louisiana, 70118. Written comments may also be emailed to: <u>tyler.stevens@usace.army.mil</u> and david.j.day@usace.army.mil. Mr. Stevens may also be reached at (504) 862-1290 and Mr. Day at (504) 862-1014.

Sincerely,

Edward P. Lambert

Edward P. Lambert Chief, Environmental Compliance Branch



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

May 8, 2023

Regional Planning and Environment Division South Environmental Compliance Branch

#### CLEAN WATER ACT, SECTION 404 PUBLIC NOTICE

#### Neptune Pass Emergency Armoring Plaquemines Parish, Louisiana

Interested parties are hereby notified that the U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), proposes to take emergency action to construct a stone revetment structure along the eastern bank of the mouth of Neptune Pass, adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana. (Figures 1 & 2). Project construction involves discharge of fill material into navigable waters of the U.S.; therefore, the provisions of Title 33 CFR Parts 336.1(b)(1) and 337.1, effective April 26, 1988, are applicable and issuance of this public notice is required.

This notice is being distributed to all interested state and Federal agencies and other known parties to make known USACE, CEMVN's intentions to initiate and continue maintenance in the areas of work listed herein.

PROJECT: Neptune Pass Emergency Armoring

<u>PROJECT AUTHORITY</u>: The Flood Control Act of 1928, as amended 1936, 1938, 1941, 1946, 1950, 1954, 1962, 1965 and 1968 and the Water Resources Development Act of 1986, committed the Federal government to a definite program of flood control and authorized general and progressive channel stabilization and river regulation from Cairo, Illinois to Head of Passes, Louisiana.

Congressional authority for construction of the "Mississippi River, Baton Rouge to the Gulf of Mexico, Louisiana" project is contained in the River and Harbor Act of March 2, 1945 (Public Law 14, 79th Congress, 1st Session). The Act authorizes construction in accordance with the plans recommended in the report of the Chief of Engineers printed in House Document 215, 76th Congress, 1st Session.

The Rivers and Harbors Acts of 1946 and 1962, the Supplemental Appropriations Act of 1985, and the Water Resources Development Act of 1986 (Public Law 99-662) provide for the construction of a 55-foot-deep channel in the Mississippi River from the Gulf of Mexico to Baton Rouge, LA, a distance of 257 miles.



Figure 1. Vicinity map.

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Figure 2. Project map.

-4-

<u>PROJECT PURPOSE AND NEED</u>: Analysis of recent bathymetric surveys conducted within Neptune Pass and the adjacent segment of the Mississippi River determined significant, continued scouring and expansion of Neptune Pass. Existing conditions within Neptune Pass have resulted in unacceptable hazards to navigation including shoaling and suction effects near the junction of Neptune Pass and the River, and any additional scouring and expansion of Neptune Pass would further increase the threat to navigation in this vital segment of the Mississippi River. Emergency actions in the form of risk reduction measures (i.e., stone revetment) need to be conducted immediately.

The lower Mississippi River is a primary access point for commercial shipping to ports of call along the river, and the segment of the Mississippi River from Baton Rouge to the Gulf of Mexico supported approximately 428 million tons of waterborne commerce in 2020 (USACE 2020). There is a national interest in providing progressive channel stabilization to prevent any alteration of the river flow that could potentially pose a navigation threat for large vessels transiting these sections of the river.

<u>PROJECT LOCATION</u>: The proposed project is located adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana.

<u>DESCRIPTION OF ACTION</u>: The proposed action would require the placement of approximately 58,000 tons of stone by barge mounted equipment positioned both within the Pass and Mississippi River to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The placement of the stone will be within open water and no wetlands within the area will affected by the proposed action. The proposed project area is approximately 8 acres of open water located along the eastern bank of the mouth of Neptune Pass.

<u>METHODS OF DISCHARGE</u>: The excavation of flotation channels is not required for site access. The current dimensions within Neptune Pass are sufficient for maneuvering of the barges needed for transporting equipment and stone. Placement of stone would be accomplished by the U.S. Army Corps of Engineers hired labor and by barge-mounted equipment. Construction of the stone revetment structure would require approximately 58,000 tons of stone placed in an open-water area approximately 8 acres in size.

ADJACENT PROPERTIES: None.

<u>DREDGING BY OTHERS</u>: No accurate estimate can be given to the amounts and/or frequency of dredging required to maintain non-Federal facilities in the vicinity of this project.

<u>NATIONAL ENVIRONMENTAL POLICY ACT DOCUMENTATION</u>: The environmental impacts associated with maintaining channels, outlets and specified dimensions of the Mississippi River from Baton Rouge, Louisiana to deep water in the Gulf of Mexico were

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addressed in the EIS, "Mississippi River, Baton Rouge to the Gulf of Mexico, Louisiana." A Statement of Findings (SOF) for this EIS was signed on February 15, 1974. The project commences at the Port of Baton Rouge, 128.6 miles above the Port of New Orleans, and continues through the Port of New Orleans to about 94.5 miles below the Port of New Orleans to the Head of Passes. Below the Head of Passes, two channels, Southwest Pass and South Pass, connect to the Gulf of Mexico.

A SOF for Supplement I to the 1974 EIS was signed on March 8, 1976. Supplement I addressed unintentional omissions in the original EIS and unanticipated changes in dredging requirements. Supplement II to the 1974 EIS "Mississippi River, Baton Rouge to the Gulf of Mexico, Louisiana" addressed the addition of recommended features to the existing project to reduce the amount of maintenance dredging required to maintain navigation within the project area. A SOF was signed for Supplement II on May 15, 1985.

<u>STATE WATER QUALITY CERTIFICATION</u>: The CEMVN will apply for a Water Quality Certificate (WQC) from the Louisiana Department of Natural Resources. Coordination in currently ongoing.

<u>COASTAL ZONE CONSISTENCY DETERMINATION</u>: The CEMVN will apply for Coastal Zone Consistency concurrence from the Louisiana Department of Natural Resources. Coordination is currently ongoing.

THREATENED AND ENDANGERED SPECIES: Although threatened or endangered species may occur within the general project vicinity, their presence within the project area is highly unlikely. Furthermore, the proposed project area does not contain critical habitat for Federally listed species, and the open water areas surrounding the project area would allow them to easily avoid the project activities. A consistency letter, signed on April 13, 2023, from U.S. Fish and Wildlife Service concurred with the determination of "not likely to adversely affect" any threatened or endangered species within the project area. Additionally, CEMVN has concluded that no critical habitat for any threatened, endangered, or candidate species under the purview of National Marine Fisheries Service (NMFS) has been designated within the project area, and that there would be no adverse impacts (i.e., "no effect") to any of the NMFS Federally listed species that could potentially occur within the project area.

<u>CULTURAL RESOURCES</u>: CEMVN is coordinating the Section 106 NHPA review under 36 CFR 800.12 (d), as the proposed action qualifies as an "emergency undertaking." Coordination is currently ongoing.

<u>COORDINATION</u>: The following is a partial list of agencies to which a copy of this notice is being sent:

U.S. Environmental Protection Agency, Region VI

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U.S. Fish and Wildlife Service National Marine Fisheries Service U.S. Coast Guard, Eighth District Louisiana Department of Environmental Quality Louisiana Department of Natural Resources Louisiana Department of Wildlife and Fisheries Louisiana Department of Transportation and Development Louisiana State Historic Preservation Officer

This notice is being distributed to these and other appropriate Congressional, federal, state, and local interests, environmental organizations, and other interested parties.

<u>PROJECT PLANS</u>: Plans for the proposed work will be on file in the Regional Planning and Environmental Division South Office, Environmental Compliance Branch, Coastal Compliance Section, U.S. Army Corps of Engineers, New Orleans District, 7400 Leake Avenue, New Orleans, Louisiana 70118, and may be seen by anyone having an interest in them.

<u>PUBLIC INVOLVEMENT</u>: Interested parties may submit comments regarding the proposed work in writing to Mr. Tyler Stevens, U.S. Army Corps of Engineers, New Orleans District, 7400 Leake Avenue, New Orleans, Louisiana 70118. Mr. Stevens may also be reached by e-mail at <u>tyler.stevens@usace.army.mil</u> and by telephone at (504) 862-1290.

Any person who has an interest that may be affected by proposed project action may request a public hearing. The request must be submitted in writing to Mr. Stevens within the comment period of this notice and must clearly set forth the interest that may be affected and the manner in which the interest may be affected by the proposed action. You are requested to communicate the information contained in this notice to any parties who may have an interest in the proposed action.

Sincerely,

Edward P Lambert

Edward P. Lambert Chief, Environmental Compliance Branch

Enclosures

COMMENT PERIOD FOR THIS PUBLIC NOTICE EXPIRES: June 7, 2023

# SECTION 404(b)(1) EVALUATION

#### Neptune Pass Emergency Armoring Plaquemines Parish, Louisiana EA #595

The following short form 404(b)(1) evaluation follows the format designed by the Office of the Chief of Engineers. As a measure to avoid unnecessary paperwork and to streamline regulation procedures while fulfilling the spirit and intent of environmental statutes, the U.S. Army Corps of Engineers (USACE), Mississippi Valley Division, New Orleans District (CEMVN), is using this format for all proposed project elements requiring 404 evaluations but involving no significant adverse impacts.

PROJECT TITLE: Neptune Pass Emergency Armoring

<u>PROJECT AUTHORITY</u>: The Flood Control Act of 1928, as amended 1936, 1938, 1941, 1946, 1950, 1954, 1962, 1965 and 1968 and the Water Resources Development Act of 1986, committed the Federal government to a definite program of flood control and authorized general and progressive channel stabilization and river regulation from Cairo, Illinois to Head of Passes, Louisiana.

Congressional authority for construction of the "Mississippi River, Baton Rouge to the Gulf of Mexico, Louisiana" project is contained in the River and Harbor Act of March 2, 1945 (Public Law 14, 79th Congress, 1st Session). The Act authorizes construction in accordance with the plans recommended in the report of the Chief of Engineers printed in House Document 215, 76th Congress, 1st Session.

The Rivers and Harbors Acts of 1946 and 1962, the Supplemental Appropriations Act of 1985, and the Water Resources Development Act of 1986 (Public Law 99-662) provide for the construction of a 55-foot-deep channel in the Mississippi River from the Gulf of Mexico to Baton Rouge, LA, a distance of 257 miles.

<u>EMERGENCY ACTION AUTHORITY</u>: According to 33 CFR 337.7, titled "Emergency Action", after obtaining approval from the division engineer, the district engineer will respond to emergency situations on an expedited basis, complying with the procedures of this regulation to the maximum degree practicable. With the approval of the district engineer, the mitigative measures will be conducted immediately.

USACE Engineering Regulation (ER) 200-2-2, Environmental Quality, Procedures for implementing the National Environmental Policy Act (NEPA), at paragraph 8, provides that district commanders may respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses in advance of compliance with the documentation and procedural requirements of NEPA. Paragraph 8 of the regulation states that NEPA documentation should be accomplished prior to initiation of emergency work if time constraints render this practicable; however, if appropriate, such documentation may be accomplished concurrently or after completion of the emergency action. CEMVN is accomplishing the NEPA documentation after completion of the emergency action.

<u>PROJECT DESCRIPTION</u>: The action was to construct a stone revetment/channel stabilization feature in the Mississippi River and Neptune Pass. The action required placement of approximately 58,000 tons of stone by barge mounted equipment positioned both within the Pass and Mississippi River to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The stone was placed in approximately 8 acres of open water located along the eastern bank of the mouth of Neptune Pass. Construction of the stone revetment structure was completed on June 3, 2023.

<u>SITE ACCESS</u>: The excavation of flotation channels was not required for site access. The current dimensions within Neptune Pass were sufficient for maneuvering of the barges needed for transporting equipment and stone. Placement of stone was accomplished by the U.S. Army Corps of Engineers hired labor and by barge-mounted equipment.

1. Review of Compliance (e230.10 (a)-(d))	Prelimina	ary <sup>1</sup>	Fina	2
A review of this project indicates that:				
a.) The discharge represents the least environmentally damaging practicable alternative and if in a special aquatic site, the activity associated with the discharge must have direct access or proximity to, or be located in the aquatic ecosystem to fulfill its basic purpose (if no, see section 2 and information gathered for environmental assessment alternative);	YES	NO*	YES	NO
b.) The activity does not appear to: (1) violate applicable state water quality standards or effluent standards prohibited under Section 307 of the Clean Water Act; (2) jeopardize the existence of Federally listed endangered or threatened species or their habitat; and (3) violate requirements of any Federally designated marine sanctuary (if no, see section 2b and check responses from resource and water quality certifying agencies);	YES	NO*	YES	NO
c.) The activity will not cause or contribute to significant degradation of waters of the United States including adverse effects on human health, life stages of organisms dependent on the aquatic ecosystem, ecosystem diversity, productivity and stability, and recreational, esthetic, and economic values (if no, see section 2);	YES	NO*	YES	NO

d.) Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem (if no, see section 5).



Not Significant Significant\*

N/A

- 2. Technical Evaluation Factors (Subparts C-F).
- a.) Physical and Chemical Characteristics of the Aquatic Ecosystem (Subpart C).
  - 1. Substrate impacts.
  - 2. Suspended particulates/turbidity impacts.
  - 3. Water column impacts.
  - 4. Alteration of current patterns and water circulation.
  - 5. Alteration of normal water fluctuations/hydro-period
  - 6. Alteration of salinity gradients
- b.) Biological Characteristics of the Aquatic Ecosystem (Subpart D).
  - 1. Effect on threatened/endangered species and their habitat.
  - 2. Effect on the aquatic food web.
  - 3. Effect on other wildlife (mammals, birds, reptiles, and amphibians).
- c). Special Aquatic Sites (Subpart E).
  - 1. Sanctuaries and refuges.
  - 2. Wetlands.
  - 3. Mud flats.
  - 4. Vegetated shallows.
  - 5. Coral reefs
  - 6. Riffle and pool complexes
- d.) Human Use Characteristics (Subpart F).
  - 1. Effects on municipal and private water supplies.
  - 2. Recreational and commercial fisheries impacts.
  - 3. Effects on water-related recreation.
  - 4. Aesthetic impacts.
  - 5. Effects on parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves.

<u>Remarks</u>: Where a check is placed under the significant category, preparer has attached explanation.

$N/\Delta$	Not Significant	Significant
	Not olymnount	orgriniount

Х

Х

Х

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Х

Х

Х	
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Х	

N/A	Not Significant	Significant
10 10		

X	
X	
Х	
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Х	

N/A Not Significant Significant

Х	
Х	
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#### 3. Evaluation of Dredged or Fill Material (Subpart G).<sup>3</sup>

a.) The following information has been considered in evaluating the biological availability possible contaminants in dredged or fill material.	y of
1. Physical characteristics	X
2. Hydrography in relation to known or anticipated sources of contaminants	X
<ol> <li>Results from previous testing of the material or similar material in the vicinity of the project</li></ol>	<u>X</u>
<ol> <li>Known, significant sources of persistent pesticides from land runoff or percolation</li> </ol>	<u>x</u>
<ol> <li>Spill records for petroleum products or designated (Section 311 of CWA) hazardous substances</li> </ol>	X
<ol> <li>Other public records of significant introduction of contaminants from industries, municipalities, or other sources</li> </ol>	X
<ol> <li>Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities</li></ol>	<u>X</u>
8. Other sources (specify)	

Appropriate references:

- 1. Environmental Regulatory Code, Part IX. Water Quality Regulation, Louisiana Department of Environmental Quality, 1994, 3<sup>rrd</sup> Edition.
- 2. State of Louisiana Water Quality Management Plan, Vol. 5, Part B Water Quality Inventory, Louisiana Department of Environmental Quality, Office of Water Resources, 1994.
- Louisiana Department of Environmental Quality (LDEQ). 2020. FINAL 2020 Louisiana Water Quality Inventory: Integrated Report (305(b)/303(d)). Accessed Online 20 April 2022. <a href="https://www.deq.louisiana.gov/page/2020-water-quality-inventory-integrated-report-305b303d">https://www.deq.louisiana.gov/page/2020-water-quality-inventory-integrated-report-305b303d</a>>
  - b) An evaluation of the appropriate information in reference 3 above indicates that there is reason to believe the proposed dredge or fill material is not a carrier of contaminants, or the material meets the testing exclusion criteria.

YES	NO
-----	----

4. Disposal Site Delineation (e230.11(f))

a) The following factors, as appropriate, have been considered in evaluating the disposal site.

1. Depth of water at disposal site	X
2. Current velocity, direction, and variability at disposal site	Х
3. Degree of turbulence*	<u> </u>
4. Water column stratification	Χ_

U.S. Army Corps of Engineers Regional Planning and Environment Division South Appendix C-4

5. Discharge vessel speed and direction	Х
6. Rate of discharge	<u>X</u>
7. Dredged material characteristics (constituents, amount, and type of material, settling velocities	<u>x</u>
8. Number of discharges per unit of time	Х
9. Other factors affecting rates and patterns of mixing (specify)	

\*The Mississippi River is perpetually a turbid river. Any on-site erosional discharges that would occur during construction activities would have relatively minor effects to the overall turbidity of the river.

Appropriate references: Same as 3(a)

b) An evaluation of the appropriate factors in 4a above indicates that the disposal site and/or size of mixing zone are acceptable.

#### 5. Actions to Minimize Adverse Effects (Subpart H)

All appropriate and practicable steps have been taken, through application of the recommendations of 230.70-230.77 to ensure minimal adverse effects of the proposed discharge.

YES

YES	NO*
YES	NO*

NO\*

#### 6. Factual Determination (230.11)

A review of appropriate information as identified in items 2-5 above indicates that there is minimal potential for short- or long-term (adverse) environmental effects of the proposed discharge as related to:

- a) Physical substrate at the disposal site (review sections 2a, 3, 4, and 5 above). YES NO\*
- b) Water circulation, fluctuation and salinity (review sections 2a, 3, 4, and 5).
- c) Suspended particulates/turbidity (review sections 2a, 3, 4, and 5).
- d) Contaminant availability (review sections 2a, 3, and 4).
- e) Aquatic ecosystem structure and function (review sections 2b, 2c, 3, and 5).
- f) Disposal site (review sections 2, 4, and 5).
- g) Cumulative impact on the aquatic ecosystem.
- h) Secondary impacts on the aquatic ecosystem.

\*A negative, significant, or unknown response indicates that the proposed project may not be in compliance with the Section 404(b)(1) Guidelines.

<sup>1</sup>Negative responses to three or more of the compliance criteria at this stage indicates that the proposed project <u>may</u> not be evaluated using this "short form procedure". Care should be used in assessing pertinent portions of the technical information of items 2a-d, before completing the final review of compliance.

YES

YES

YES

YES

YES

YES

NO\*

NO\*

NO\*

NO\*

NO\*

NO\*

<sup>2</sup>Negative responses to one of the compliance criteria at this stage indicates that the proposed project does not comply with the guidelines. If the economics of navigation and anchorage of Section 404(b)(2) are to be evaluated in the decision-making process, the "short form" evaluation process is inappropriate.

<sup>3</sup>If the dredged or fill material cannot be excluded from individual testing, the "short form" evaluation process is inappropriate.

7. Evaluation Responsibility.

Evaluation prepared by:

Name: Tyler Stevens Position: Biologist Organization: CEMVN RPEDS PDC-C Date: 24 August 2023

Michael Brow

Evaluation reviewed by:

Name: Michael T. Brown Position: Supervisory Biologist Organization: CEMVN RPEDS PDC-C Date: 24 August 2023

8. Findings

**a.**) The proposed disposal site for discharge of dredged or fill material complies with the Section 404(b)(1) guidelines

- b.) The proposed disposal site for discharge of dredged or fill material complies with the Section 404(b)(1) guidelines with the inclusion of the following conditions:
- c.) The proposed disposal site for discharge of dredged or fill material does not comply with the Section 404(b)(1) guidelines for the following reason(s):
  - 1. There is a less damaging practicable alternative
  - 2. The proposed discharge will result in significant degradation of the aquatic ecosystem
  - 3. The proposed discharge does not include all practicable and appropriate measures to minimize potential harm to the aquatic ecosystem

Edward P. Lamber

Edward P. Lambert Chief, Environmental Compliance Branch 6

Date

25 August 2023



Figure 1. Project vicinity map.

U.S. Army Corps of Engineers Regional Planning and Environment Division South Appendix C-7



Figure 2. Project plan.



# United States Department of the Interior



FISH AND WILDLIFE SERVICE Louisiana Ecological Services Field Office 200 Dulles Drive Lafayette, LA 70506 Phone: (337) 291-3100 Fax: (337) 291-3139

April 13, 2023

In Reply Refer To: Project code: 2023-0068743 Project Name: Neptune Pass Emergency Armoring

Subject: Verification letter for the project named 'Neptune Pass Emergency Armoring' for specified threatened and endangered species that may occur in your proposed project location pursuant to the Louisiana Endangered Species Act project review and guidance for other federal trust resources determination key (Louisiana DKey).

#### Dear Tyler Stevens:

The U.S. Fish and Wildlife Service (Service) received on April 13, 2023 your effects determination(s) for the 'Neptune Pass Emergency Armoring' (the Action) using the Louisiana DKey within the Information for Planning and Consultation (IPaC) system. The Service developed this system in accordance with the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Based on your answers, and the assistance in the Service's Louisiana DKey, you made the following effect determination(s) for the proposed Action:

Species	Listing Status	Determination
Eastern Black Rail (Laterallus jamaicensis ssp.	Threatened	NLAA
jamaicensis)		
Pallid Sturgeon (Scaphirhynchus albus)	Endangered	NLAA
West Indian Manatee (Trichechus manatus)	Threatened	NLAA

Species protective measures (contained within this application) will be used by the applicant and will be incorporated into any special conditions of a DA permit; therefore the Service concurs with the U.S. Army Corps of Engineers "may affect, not likely to adversely affect" determination(s) for the species listed above. Your agency has met consultation requirements by informing the Service of your "No Effect" determinations. No consultation for this project is required for species that you determined will not be affected by this action.

04/13/2023

This concurrence verification letter confirms you may rely on effect determinations you reached by considering the Louisiana DKey to satisfy agency consultation requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 et seq.; ESA). No further consultation for this project is required for species that you determined will not be affected by this action.

The Service recommends that your agency contact the Louisiana Ecological Services Field Office or re-evaluate the project in IPaC if: 1) the scope or location of the proposed project is changed significantly, 2) new information reveals that the action may affect listed species or designated critical habitat; 3) the action is modified in a manner that causes effects to listed species or designated critical habitat; or 4) a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with the Louisiana Ecological Services Field Office should take place before project changes are final or resources committed.

**Please Note:** If the Federal Action may impact bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act (BGEPA) (54 Stat. 250, as amended, 16 U.S.C. 668a-d) may be required. Please contact Ulgonda Kirkpatrick (phone: 321/972-9089, e-mail: ulgonda\_kirkpatrick@fws.gov) with any questions regarding potential impacts to bald or golden eagles.

## Appendix D: USFWS Coordination

From:	Breaux, Catherine
То:	Brown, Michael T CIV USARMY CEMVN (USA); Stevens, Tyler A CIV USARMY CEMVN (USA)
Cc:	Firmin, Brigette
Subject:	[Non-DoD Source] Neptune Pass stone revetment
Date:	Friday, May 5, 2023 2:07:02 PM

Hi Mike and Tyler,

The Fish and Wildlife Service, Lafayette Ecological Services Office received and reviewed the letter and public notice on the emergency action to construct a stone revetment structure along the east bank of the mouth of Neptune Pass, adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana. The Service has no comments or objections to the proposed revetment. We look forward to continued coordination as this project proceeds. Please contact me with any questions or other needs.

Thanks, Cathy

Catherine (**Cathy**) Breaux (she/her) Senior Fish and Wildlife Biologist U.S. Dept. of the Interior, Southeast Region Fish and Wildlife Service, Louisiana Ecological Services Office c/o Army Corps of Engineers, New Orleans District 7400 Leake Ave, New Orleans, La 70118 office: (337) 291-3122 email: Catherine\_Breaux@fws.gov <u>Office Website</u>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

In Office: Wednesday Please note that I am teleworking almost exclusively. Email is the best way to reach me. Thanks.

## Appendix D: USFWS Coordination

 From:
 Breaux, Catherine

 To:
 Stevens, Tyler A CIV USARMY CEMVN (USA)

 Subject:
 [Non-DoD Source] Re: [EXTERNAL] RE: Neptune Pass Armoring

 Date:
 Thursday, August 24, 2023 12:59:40 PM

Hi Tyler,

This email is to confirm the Service will not provide a full FWCA Report at this time. Because the Neptune Pass Armoring project is an emergency action there is not sufficient time to prepare a FWCA Report. In the interim, we have provided the signed Planning Aid Letter, dated Aug 17, 2023 in in accordance with provisions of the Fish and Wildlife Coordination Act (FWCA; 48 Stat. 401, as amended; 16 U.S.C. 661 et seq.)

Thanks,

Cathy

Catherine (**Cathy**) Breaux (she/her) Senior Fish and Wildlife Biologist U.S. Dept. of the Interior, Southeast Region Fish and Wildlife Service, Louisiana Ecological Services Office c/o Army Corps of Engineers, New Orleans District 7400 Leake Ave, New Orleans, La 70118 office: (337) 291-3122 email: Catherine\_Breaux@fws.gov <u>Office Website</u>

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

In Office: Wednesday Please note that I am teleworking almost exclusively. Email is the best way to reach me. Thanks.

From: Stevens, Tyler A CIV USARMY CEMVN (USA) <Tyler.Stevens@usace.army.mil>
Sent: Thursday, August 24, 2023 10:51 AM
To: Breaux, Catherine <catherine\_breaux@fws.gov>
Subject: [EXTERNAL] RE: Neptune Pass Armoring

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.



United States Department of the Interior

FISH AND WILDLIFE SERVICE Louisiana Ecological Services 200 Dulles Drive Lafayette, Louisiana 70506



August 17, 2023

Colonel Jones District Engineer U.S. Army Corps of Engineers New Orleans District 7400 Leake Avenue New Orleans, LA 70118-3651

Dear Colonel Jones:

The U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), proposes to take emergency action to construct a stone revetment structure along the eastern bank of the mouth of Neptune Pass, adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana. The U.S. Fish and Wildlife Service (Service) submits this Planning Aid Letter (PAL) in accordance with provisions of the Fish and Wildlife Coordination Act (FWCA; 48 Stat. 401, as amended; 16 U.S.C. 661 et seq.). These comments and recommendations do not constitute the final report of the Secretary of Interior as required by Section 2(b) of the FWCA.

Analysis of recent bathymetric surveys conducted within Neptune Pass and the adjacent segment of the Mississippi River determined significant, continued scouring and expansion of Neptune Pass. Existing conditions within Neptune Pass have resulted in unacceptable hazards to navigation including shoaling and suction effects near the junction of Neptune Pass and the River, and any additional scouring and expansion of Neptune Pass would further increase the threat to navigation in this vital segment of the Mississippi River. Emergency actions in the form of risk reduction measures (i.e., stone revetment) are needed to be conducted immediately.

The proposed action would require the placement of approximately 58,000 tons of stone by barge mounted equipment positioned both within the Pass and Mississippi River to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The placement of the stone will be within open water and no wetlands within the area will be affected by the proposed action. The proposed project area is approximately 8 acres of open water located along the eastern bank of the mouth of Neptune Pass (Figure 2).

CEMVN has coordinated with the Service on this emergency action, and we have reviewed the preliminary draft EA #595. As a result of the action there are no adverse impacts to wetland habitat or fish and wildlife resources. Additionally, CEMVN utilized the Service's Information, Planning, and Conservation (IPaC) tool and received a concurrence letter that the project may affect, but is not likely to adversely affect three threatened and endangered species, including

Eastern black rail, pallid sturgeon, and West Indian manatee. Therefore, the Service has no objections to this emergency action.

We look forward to continued coordination with the USACE regarding the Neptune Pass. Should you have any questions regarding our comments, please contact Cathy Breaux (337-291-3122) of this office.

Sincerely

Brigetto D. Firmin

Brigette D. Firmin BRIGETTE FIRMIN Destally signed by BRGETTE Field Supervisor Louisiana Ecological Services Office

cc: Environmental Protection Agency, Dallas, TX National Marine Fisheries Service, Baton Rouge, LA Natural Resources Conservation Service, Alexandria, LA LA Dept of Wildlife and Fisheries, Baton Rouge, LA LA Dept. of Natural Resources (CMD), Baton Rouge, LA Coastal Protection and Restoration Authority (CPRA), Baton Rouge, LA

From:	Joseph Cavanaugh - NOAA Federal
To:	Stevens, Tyler A CIV USARMY CEMVN (USA); NMPS SER Emergency Consult
Subject:	[URL Verdict: Neutral][Non-DoD Source] EMERGENCY CONSULTATION SER 0-2023-00741
Date:	Thursday, May 25, 2023 9:10:37 AM

Good morning Tyler,

Please proceed with the action as outlined in your incoming correspondence. Also, please use SERO-2023-00741 for any future correspondence regarding this action. We would consider the following species could be in the action area at some point in the year: Kemp's ridley, loggerhead (NWA DPS), and green (NA and SA DPS) species of sea turtles; giant manta ray; and Gulf sturgeon. Please follow our <u>Protected Species Construction</u> <u>Conditions</u> as guidance if there are any interactions with ESA-listed species.

At the conclusion of the emergency action, please notify NMFS that the project has concluded and confirm there were no interactions with ESA-listed species. If there is any take associated with the action, notify SERO NMFS of this take through our <u>Take Report Form</u> listed at the bottom of our webpage which I have included here because there is a lot of good content including a link to our <u>Emergency Consultation</u> page.

Thanks and let me know if you any other questions.

Best regards,

-Joe

7.79

Joseph Cavanaugh Pronouns: He/Him/His <u>What's This?</u> Endangered Species & Climate Specialist Section 7 Emergency Coordinator (non-Caribbean) ESA Emergency Consultations in the SE NOAA Fisheries Southeast Regional Office

2 2 2 2 2 2 2 2 2 2 2



DEPARTMENT OF THE ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT 7400 LEAKE AVE NEW ORLEANS, LOUISIANA 70118-3651

April 27, 2023

Regional Planning and Environment Division, South Environmental Planning Branch Attn: CEMVN-PDS-N

Distributed via email.

#### RE: Section 106 Notification of Emergency Action

**Undertaking:** Stone Revetment Construction for Neptune Pass, Plaquemines Parish, Louisiana

Dear Consulting Parties:

The purpose of this correspondence is to notify your office that the U.S. Army Corps of Engineers, Mississippi Valley Division, New Orleans District (CEMVN) has proposed an emergency action to mitigate the continued scouring and expansion of Neptune Pass located along the right ascending bank of the Mississippi River in Plaquemines Parish, Louisiana (**Figure 1**). The scouring and expansion have resulted in unacceptable hazards to navigation, including shoaling and suction effects near the junction of Neptune Pass and the Mississippi River. On March 22, 2023, the Mississippi Valley Division's (MVD) Division Engineer determined that, per 33 CFR 337.7, an "Emergency Action" must be taken immediately as additional scouring and expansion would further increase the threat to navigation and safety in a vital segment of the Mississippi River.

In accordance with 36 CFR 800.12 (d), CEMVN has determined that the proposed action qualifies as an "emergency undertaking" because of an "immediate threat to life or property" and is thus exempt from the provisions of Section 106. The proposed emergency action requires placing 58,000 tons of stone to create a revetment to stabilize the eastern bank of the mouth of Neptune Pass (**Figure 2**). On June 30, 2022, CEMVN consulted for a proposed rock closure structure within Neptune Pass in this vicinity with a finding of 'no historic properties effected"; this closure project has not yet been constructed. CEVMN received concurrence from the Louisiana State Historic Preservation Office (LA SHPO) and no objection within regulatory timeframes from Federally-recognize Tribes.

-2-

CEMVN visited the site of the emergency action on April 19<sup>th</sup>, 2023, to document the presence of any unrecorded cultural resources (**Figure 3**). CEMVN recorded a northsouth oriented earthen levee, measuring approximately 25 feet in width and 4 feet in height, actively eroding due to the pass opening. The exposed levee profile can be seen in **Figure 4**. The levee is known as "Potato Ridge" and was commissioned by the Louisiana state legislature and constructed between 1858 and 1874 as part of flood protection measures along the East Bank of the Mississippi River extending to Fort St. Philip (Montgomery et al. 1988). No other cultural resources were noted during the site visit. The emergency action will occur within the open waters of Neptune Pass, which measured between 40 to 100 feet in depth at the time of the site visit; no stone will be placed on the levee. According to CEMVN engineers, the eastern bank of Neptune Pass laterally erodes an estimated 20 feet per month that the pass is open. The emergency action is anticipated to start in May 2023. After the emergency action, CEMVN will conduct a site visit and produce a summary report for distribution to the Consulting Parties.

Should you have any questions or need additional information about this emergency undertaking, please contact either Brian Ostahowski, Archaeologist and Tribal Liaison, at (504) 862-2188 or <u>brian.e.ostahowski@usace.army.mil</u>; or Jason A. Emery, Chief of Cultural & Social Resources, (504) 862-2364 or <u>jason.a.emery@usace.army.mil</u>.

Sincerely,

WILLIAMS.ERI C.MITCHELL.10 65454323 ERIC M. WILLIAMS

Chief, Environmental Planning Branch

Notified Consulting Parties:

- 1. Louisiana State Historic Preservation Office
- 2. Alabama-Coushatta Tribe of Texas
- 3. Coushatta Tribe of Louisiana
- 4. Chitimacha Tribe of Louisiana
- 5. Choctaw Nation of Oklahoma
- 6. Jena Band of Choctaw Indians
- 7. Mississippi Band of Choctaw Indians
- 8. Muscogee (Creek) Nation

-3-

- 9. Seminole Nation of Oklahoma
- 10. Seminole Tribe of Florida
- 11. Tunica-Biloxi Tribe of Louisiana
- 12. Advisory Council on Historic Preservation

Reference:

Montgomery, John L., Keith Landreth, Joan Exnicios, Kathleen Bowman, James Bowman

1988 Final Report of Cultural Resource Investigations within the U.S. Army Corps of Engineers New Orleans to Venice Hurricane Protection Project. Report prepared by the Agency for Conservation Archaeology for the U.S. Army Corps of Engineers New Orleans District. New Orleans, Louisiana (LA DOA Report No. 22-1274).



DEPARTMENT OF THE CORPS OF ENGINEERS, NEW ORLE 7400 LEAKE AVE NEW ORLEANS, LOUISIANA 7

April 27, 2023

No known historic properties will be affected by this undertaking. Therefore, our office has no objection to the implementation of this project. This effect determination could change should new information come to our attention.

toto P. Danders

Kristin P. Sanders State Historic Preservation Officer Date 5/26/2023

Regional Planning and Environment Division, South Environmental Planning Branch Attn: CEMVN-PDS-N

Distributed via email.

## RE: Section 106 Notification of Emergency Action

**Undertaking:** Stone Revetment Construction for Neptune Pass, Plaquemines Parish, Louisiana

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DEPARTMENT OF 1 U.S. ARMY CORPS OF ENGINEERS, I 7400 LEAKE AVE NEW ORLEANS, LOUISIAN Our records and oral traditions do not indicate that a specific Chitimacha archaeological site or Traditional Cultural Property is within the APE and could be affected; therefore we have no objection to the implementation of the proposed activity; however, if human remains or cultural resources are discovered, you should stop immediately and contact me and the Louisiana State Historic Preservation Office.

Kimberly S. Watden, THPO

13 April 20:

Date

Regional Planning and Environment Division, South Environmental Compliance Branch

#### **PUBLIC NOTICE**

Interested parties are hereby notified that the U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN), proposes to take emergency action to construct a stone revetment structure along the eastern bank of the mouth of Neptune Pass, adjacent to Mississippi River mile 23.9, in Plaquemines Parish, Louisiana. (Figures 1 & 2).

Analysis of recent bathymetric surveys conducted within Neptune Pass and the adjacent segment of the Mississippi River determined significant, continued scouring and expansion of Neptune Pass. Existing conditions within Neptune Pass have resulted in unacceptable hazards to navigation including shoaling and suction effects near the junction of Neptune Pass and the River, and any additional scouring and expansion of Neptune Pass would further increase the threat to navigation in this vital segment of the Mississippi River. Emergency actions in the form of risk reduction measures (i.e., stone revetment) are needed to be conducted immediately. The proposed action would require the placement of stone blankets to stabilize the rapidly eroding eastern bank of the mouth of Neptune Pass. The proposed action would involve placement of approximately 58,000 tons of stone for this action.

According to 33 CFR 337.7, titled "Emergency Action", after obtaining approval from the division engineer, the district engineer will respond to emergency situations on an expedited basis, complying with the procedures of this regulation to the maximum degree practicable. With the approval of the district engineer, the mitigative measures will be conducted immediately. Therefore, time constraints render the completion of National Environmental Policy Act (NEPA) documentation prior to acting impractical. All work will be conducted to minimize any adverse impacts to the extent practicable. USACE Engineering Regulation (ER) 200-2-2, Environmental Quality, Procedures for implementing the NEPA, at paragraph 8, provides that district commanders may respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses in advance of compliance with the documentation and procedural requirements of NEPA. Paragraph 8 of the regulation states that NEPA documentation should be accomplished prior to initiation of emergency work if time constraints render this practicable; however, if appropriate, such documentation may be accomplished concurrently or after completion of the emergency action.

From:	Kassie Dawsey
To:	Ostahowski, Brian E CIV USARMY CEMVN (USA)
Subject:	[Non-DoD Source] RE: Section 106 Notification of Emergency Action - Stone Revetment Construction for Neptune Pass, Plaquemines Parish, Louisiana
Date:	Wednesday, May 31, 2023 1:25:34 PM

Thank you for requesting our 106/EA determination. Based on the information provided, I do not believe that this project will have a negative impact on any archaeological, historic, or cultural resources of the Coushatta people. Accordingly, we do not wish to consult further on this project. If any inadvertent discoveries are made in the course of this project, we expect to be contacted immediately and reserve the right to consult with you at that time.

Aliilamo (thank you),

#### Kassie Dawsey, Section 106 Coordinator Coushatta Tribe of Louisiana Heritage Department

Phone: 337-584-1560 Mobile: 337-246-1275 Email: kdawsey@coushatta.org 1940 C.C. Bel Road, Elton, LA 70648

From: Ostahowski, Brian E CIV USARMY CEMVN (USA) <Brian.E.Ostahowski@usace.army.mil> Sent: Friday, April 28, 2023 2:23 PM

To: DCRT Section 106 <section 106@crt.la.gov>; cmcgimsey@crt.la.gov; Nicole Hobson-Morris <nmorris@crt.la.gov>; e106 <e106@achp.gov>; Chris Daniel <cdaniel@achp.gov>; Bryan Celestine <Celestine.bryant@actribe.org>; Jonathan Rohrer <jrohrer@mycaddonation.com>; kim@chitimacha.gov; Theresa Patingo <theresap@chitimacha.gov>; Lindsey Bilyeu <lbilyeu@choctawnation.com>; Ian Thompson <ithompson@choctawnation.com>; Dakota John <dakotajohn@coushatta.org>; Kassie Dawsey <kdawsey@coushatta.org>; jflynn@jenachoctaw.org; Amanda.bell@choctaw.org; Section106@mcn-nsn.gov; thunt@muscogeenation.com; Yahola.b@sno-nsn.gov; THPOCompliance@semtribe.com; bradleymueller@semtribe.com; paulbackhouse@semtribe.com; earlii@tunica.org; Tim Martin <TMartin@tunica.org> Cc: Emery, Jason A CIV USARMY CEMVN (USA) <Jason.A.Emery@usace.army.mil>; Williams, Eric M CIV USARMY CEMVN (USA) <Eric.M.Williams@usace.army.mil>; Stevens, Tyler A CIV USARMY CEMVN (USA) <Tyler.Stevens@usace.army.mil>; Brown, Michael T CIV USARMY CEMVN (USA) <Michael.T.Brown@usace.army.mil>

Subject: Section 106 Notification of Emergency Action - Stone Revetment Construction for Neptune Pass, Plaquemines Parish, Louisiana

Dear Consulting Parties,

The purpose of this correspondence is to notify your office that the U.S. Army Corps of Engineers, Mississippi Valley Division, New Orleans District (CEMVN) has proposed an emergency action to

mitigate the continued scouring and expansion of Neptune Pass located along the right ascending bank of the Mississippi River in Plaquemines Parish, Louisiana. In accordance with 36 CFR 800.12 (d), CEMVN has determined this action qualifies as an "emergency undertaking." The attached notification provides your office with further details regarding this action.

The primary POC for environmental issues related to this emergency action is Tyler Stevens, tyler.stevens@usace.army.mil, (504) 862-1290. For all other questions or follow-up to this correspondence, please contact me (information below) or Jason A. Emery, Chief of Cultural & Social Resources, (504) 862-2364 or jason.a.emery@usace.army.mil.

Thank you.

V/r,

Brian

Brian E. Ostahowski, MA, RPA Archaeologist and Tribal Liaison Cultural & Social Resources Section (CEMVN-PDS-N) MVD Regional Planning Division, South New Orleans District (MVN) Office: 504-862-2188 Mobile: 504-884-5005 Brian.E.Ostahowski@usace.army.mil

From:	Lindsey Bilyeu
То:	<u>Ostahowski, Brian E CIV USARMY CEMVN (USA)</u>
Subject:	[Non-DoD Source] RE: Section 106 Notification of Emergency Action - Stone Revetment Construction for Neptune Pass, Plaquemines Parish, Louisiana
Date:	Saturday, April 29, 2023 8:03:36 PM

Mr. Ostahowski,

The Choctaw Nation of Oklahoma thanks the USACE, New Orleans District, for the correspondence regarding the above referenced project. This project lies in our area of historic interest. 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.

If you have any questions, please contact me.

Thank you,

Lindsey D. Bilyeu, M.S. Program Coordinator 2 Choctaw Nation of Oklahoma Historic Preservation Department P.O. Box 1210 Durant, OK 74702 Office: (580) 642-8377 Cell: (580) 740-9624

From: Ostahowski, Brian E CIV USARMY CEMVN (USA) <Brian.E.Ostahowski@usace.army.mil> Sent: Friday, April 28, 2023 2:23 PM

To: DCRT Section 106 <section106@crt.la.gov>; cmcgimsey@crt.la.gov; Nicole Hobson-Morris <nmorris@crt.la.gov>; e106 <e106@achp.gov>; Chris Daniel <cdaniel@achp.gov>; Bryan Celestine <Celestine.bryant@actribe.org>; Jonathan Rohrer <jrohrer@mycaddonation.com>; kim@chitimacha.gov; Theresa Patingo <theresap@chitimacha.gov>; Lindsey Bilyeu <lbilyeu@choctawnation.com>; Ian Thompson <ithompson@choctawnation.com>; dakotajohn@coushatta.org; kdawsey@coushatta.org; jflynn@jenachoctaw.org; Amanda.bell@choctaw.org; section106 <section106@mcn-nsn.gov>; thunt@muscogeenation.com; Yahola.b@sno-nsn.gov; THPOCompliance@semtribe.com; bradleymueller@semtribe.com; paulbackhouse@semtribe.com; earlii@tunica.org; Tim Martin <TMartin@tunica.org> Cc: Emery, Jason A CIV USARMY CEMVN (USA) <Jason.A.Emery@usace.army.mil>; Williams, Eric M CIV USARMY CEMVN (USA) <Eric.M.Williams@usace.army.mil>; Stevens, Tyler A CIV USARMY CEMVN (USA) <Tyler.Stevens@usace.army.mil>; Brown, Michael T CIV USARMY CEMVN (USA) <Michael.T.Brown@usace.army.mil>

**Subject:** Section 106 Notification of Emergency Action - Stone Revetment Construction for Neptune Pass, Plaquemines Parish, Louisiana

Halito: This email originated from outside of the organization. Do not click links or open attachments unless you

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Dear Consulting Parties,

The purpose of this correspondence is to notify your office that the U.S. Army Corps of Engineers, Mississippi Valley Division, New Orleans District (CEMVN) has proposed an emergency action to mitigate the continued scouring and expansion of Neptune Pass located along the right ascending bank of the Mississippi River in Plaquemines Parish, Louisiana. In accordance with 36 CFR 800.12 (d), CEMVN has determined this action qualifies as an "emergency undertaking." The attached notification provides your office with further details regarding this action.

The primary POC for environmental issues related to this emergency action is Tyler Stevens, tyler.stevens@usace.army.mil, (504) 862-1290. For all other questions or follow-up to this correspondence, please contact me (information below) or Jason A. Emery, Chief of Cultural & Social Resources, (504) 862-2364 or jason.a.emery@usace.army.mil.

Thank you.

V/r,

Brian

Brian E. Ostahowski, MA, RPA Archaeologist and Tribal Liaison Cultural & Social Resources Section (CEMVN-PDS-N) MVD Regional Planning Division, South New Orleans District (MVN) Office: 504-862-2188 Mobile: 504-884-5005 Brian.E.Ostahowski@usace.army.mil

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Roger W. Gingles Secretary

# State of Louisiana department of environmental quality environmental services

JUN 2 0 2023

AI No.: 235366 Activity No.: CER20230001

Mr. Tyler Stevens JUN US Army Corps of Engineers, New Orleans District Regional Planning Division, South Coastal Environmental Compliance Section CEMVN-PDC-CEC 7400 Leake Avenue New Orleans, Louisiana 70118

RE: Neptune Pass Emergency Armoring Water Quality Certification WQC 230613-02 New Orleans District

Dear Mr. Stevens:

The Louisiana Department of Environmental Quality, Water Permits Division (LDEQ), has reviewed the application for the Neptune Pass Emergency Armoring project within the boundaries of the State of Louisiana.

The information provided in the application has been reviewed in terms of compliance with State Water Quality Standards, the approved Water Quality Management Plan and applicable state water laws, rules and regulations. LDEQ determined that the requirements for a Water Quality Certification have been met. LDEQ concludes that the discharge of fill will not violate water quality standards as provided for in LAC 33:IX.Chapter 11. Therefore, LDEQ hereby issues US Army Corps of Engineers, New Orleans District – Neptune Pass Emergency Armoring Water Quality Certification, WQC 230613-02.

Should you have any questions concerning any part of this certification, please contact Elizabeth Hill at (225) 219-3225 or by email at elizabeth.hill@la.gov. Please reference Agency Interest (AI) number 235366 and Water Quality Certification 230613-02 on all future correspondence to this Department to ensure all correspondence regarding this project is properly filed into the Department's Electronic Document Management System.

Sincerely.

Scott Guilliams Administrator Water Permits Division

c: IO-W

ec: tyler.stevens@usace.army.mil

Post Office Box 4313 • Baton Rouge, Louisiana 70821-4313 • Phone 225-219-3181 • Fax 225-219-3309 www.deq.louisiana.gov

U.S. Army Corps of Engineers Regional Planning and Environment Division South Appendix G-1 Appendix H: LDNR, Office of Coastal Management, Coastal Zone Consistency C20230049

JOHN BEL EDWARDS GOVERNOR



THOMAS F. HARRIS SECRETARY

State of Louisiana

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF COASTAL MANAGEMENT

May 18, 2023

Tyler Stevens Corps of Engineers-New Orleans District Regional Planning and Environment Division South – Environmental Branch 7400 Leake Avenue New Orleans, LA 70118 *Via e-mail:* Tyler.Stevens@usace.army.mil

RE: C20230049, Coastal Zone Consistency New Orleans District, Corps of Engineers (COE) Direct Federal Action After-the-Fact - Armoring along the Eastern Bank of the mouth of Neptune Pass Plaquemines Parish, Louisiana

Dear Mr. Stevens:

The above referenced project has been reviewed for consistency with the Louisiana Coastal Resources Program in accordance with Section 307 (c) of the Coastal Zone Management Act of 1972, as amended. The project, as proposed in this application, is consistent with the LCRP.

If you have any questions concerning this determination, please contact Mark Hogan of the Consistency Section at (225) 219-9530 or mark.hogan@la.gov Sincerely,

#### /S/ Charles Reulet

Administrator Interagency Affairs/Field Services Division

CR/SK/mfh

cc: Sydney Dobson, CPRA Brian Lezina, CPRA

> Post Office Box 44487 • Baton Rouge, Louisiana 70804-4487 617 North Third Street • 10th Floor • Suite 1078 • Baton Rouge, Louisiana 70802 (225) 342-7591 • Fax (225) 342-9439 • http://www.dnr.louisiana.gov An Equal Opportunity Employer



LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY MIKE STRAIN DVM COMMISSIONER



April 26, 2023

7400 Leake Avenue

Agricultural & Environmental Sciences Suite 3000 (225) 925-3770 Fax: 925-3760

Agro-Consumer Services Suite 5000 (225) 922-1341

(225) 922-1341 Fax: 923-4877

Animal Health & Food Safety Suite 4000 (225) 925-3962 Fax: 925-4103

Forestry Suite 6000 (225) 925-4500 Fax: 922-1356

Management & Finance Suite 1000 (225) 922-1255 Fax: 925-6012

Soil & Water Conservation Suite 7000 (225) 922-1269 Ref: Stone Revetment Structure along the Eastern Bank of the Mouth of Neptune Pass

Dear Mr. Stevens & Mr. Day,

New Orleans, LA 70118-3651

New Orleans Environmental Branch

The LA Department of Agriculture & Forestry/Office of Soil & Water Conservation has reviewed the attached Project, and has no objection or further comment at this time.

If this office may be of any further assistance, please do not hesitate to contact us.

Sincerely,

Ample C. Buncus Qu

Joey Breaux Assistant Commissioner, LDAF/Office of Soil & Water Conservation Director, LA Soil & Water Conservation Commission 225-922-1269

USACE - ATTN: Mr. Tyler Stevens & Mr. David Day Regional Planning and Environment Division South

5825 Florida Blvd.. Suite 7000. Baton Rouge. Louisiana 70806 Telephone: (225) 922-1269 www.ldaf.state.la.us
# Appendix I: Agency Comments

From: Sara Krupa Mark Hogan FW: C20230049 USACE Shoreline Armoring Neptune Pass Wechesday, May 10, 2023 8:50:25 AM To: Subject: Date: Attachments: image001.png

From: Brian Lezina <Brian.Lezina@la.gov> Sent: Wednesday, May 10, 2023 8:15 AM To: Sara Krupa <Sara.Krupa@LA.GOV>; Sydney Dobson <Sydney.Dobson@LA.GOV> Cc: Bren Haase <Bren.Haase@LA.GOV> Subject: RE: C20230049 USACE Shoreline Armoring Neptune Pass

### Sara, regarding C20230049:

The CPRA does not object to the emergency armoring of Neptune Pass as described by the USACE. We understand that the measure is being conducted for safety concerns with marine traffic. However, the CPRA feels that any additional actions to close, or substantially constrict Neptune Pass, should undergo a robust environmental review. This review should include potential alternatives as informed by CPRA and other resource agencies, as well as acknowledging the need to holistically manage the River for flood control, commerce, and coastal sustainability.

Thank you for the opportunity to comment.

Brian

## Cosstal Protection and Restoration Authority Division Chief | Planning and Research The Water Campus | 160 Terrace Avenue | Baton Rouge, LA 70802 0:225.342;1475 Brian Lezina www.coastal.la.gov

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CONFIDENTIALITY NOTICE This email cammunication may contain confidential information which also may be legally privileged and is intended only for the use of the intended recipients identified above. If you are not the intended recipient of this communication, you are hereby notified that any unauthorized review, use, dissemination, distribution, downloading, o copying of all or any part of this communication is strictly prohibited. If you are not the intended recipient and have received this communication in error, please immediately notify us by reply email, delete this communication and destroy all copies.

From: Sydney Dobson <<u>Sydney.Dobson@LA.GOV</u>> Sent: Tuesday, May 9, 2023 3:31 PM To: Brian Lezina <<u>Brian.Lezina@la.gov</u>> Subject: FW: C20230049 USACE Shoreline Armoring Neptune Pass

Brian, here is the Consistency Determination review request.

#### From: Sara Krupa <<u>Sara.Krupa@LA.GOV</u>> Sent: Monday, May 1, 2023 2:44 PM

To: Christopher Collins (DOTD) <<u>Christopher.Collins@LA.GOV>; craig.gothreaux@noaa.gov;</u> Dave Butler <<u>dbutler@wlf.la.gov>;</u> dnrpermits@usace.army.mil; Elizabeth Hill <<u>Elizabeth.Hill@la.gov</u>>; Les Rosso (DOA) <<u>Les.Rosso@LA.GOV</u>>; Mike McDonough <mmcdonough@wlf.la.gov>; Sydney Dobson <Sydney.Dobson@LA.GOV>; january.murray@noaa.gov; mccormick.karen@epa.gov; gutierrez.raul@epa.gov; Robert Williamson < Robert.Williamson@LA.GOV>; rspears@ppgov.net Subject: C20230049 USACE Shoreline Armoring Neptune Pass

Public Notice:

### Consistency Determination: https://ucmwww.dnr.state.la.us/ucmsearch/UCMRedir.aspx? url=http%3a%2f%2fucmprod%3a16200%2fcs%2fgroups%2fcoastalmanagement%2fdocuments%2focm%2fmde0%2fmzg0%2f%7eedisp%2f14384985.pdf

Consistency Number: C20230049 Applicant: USACE Project Description: Emergency shoreline armoring along the eastern bank of the mouth of Neptune Pass adjacent to the Mississippi River mile 23.9 in Plaquemines Parish Date received: 5/1/2023 Consistency Analyst: Mark Hogan Deadline for Agency comments: 5/10/2023 OCM decision deadline: 5/15/2023

\_\_\_x\_For your information