

MR. FRUGE'

**COASTAL WETLANDS PLANNING,
PROTECTION, AND RESTORATION ACT**

TASK FORCE MEETING

SEPTEMBER 24, 1991

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

September 24, 1991

AGENDA

- I. **Introductions**
 - A. Task Force Members or Alternates.
 - B. Other Attendees.
 - C. Opening Remarks by Task Force Members.
- II. **Adoption of Minutes from the August 12, 1991 Meeting**
- III. **Unfinished Business**
 - A. Travel Reimbursement for the Chairman of the Citizen Participation Group.
 - B. Charter for the Citizen Participation Group.
 - C. Potential Non-Federal Sponsors.
 - D. Funding of NEPA Document Preparation.
- IV. **Fiscal Year 1992 Budget Proposal**
- V. **Status of Fiscal Matters**
 - A. Programming of FY 1992 Funds.
 - B. Distribution of FY 1992 Funds.
 - C. Potential Funding After FY 1996.
- VI. **Status of the Priority Project List**
- VII. **Status of Section 303(e) Implementation**
- VIII. **Preparation of an "Environmental Evaluation" by EPA**
- IX. **Additional Agenda Items**
- X. **Date/Location of the Next Task Force Meeting**
- XI. **Request for Written Questions from the Public**

Tab B

COASTAL WETLANDS PLANNING, PROTECTION, AND
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TASK FORCE MEETING
September 24, 1991

TAB B

TASK FORCE MEMBERS

Tab B

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEMBERS

<u>Task Force Member</u>	<u>Member's Representative</u>
Governor, State of Louisiana	Mr. David Chambers Executive Assistant for Coastal Activities Office of the Governor P. O. Box 94004 Baton Rouge, LA 70804-9004 (504) 342-6493 ; FAX: (504) 342-3522
Administrator, EPA	Mr. Russell F. Rhoades Division Director Environmental Services Division Region VI Environmental Protection Agency 1445 Ross Ave. Dallas, Texas 75202 (214) 655-2210 ; FAX: (214) 655-7446
Secretary, Department of the Interior	Mr. S. Scott Sewell Director Minerals Management Service U.S. Department of the Interior Mail Stop: 4230 M.I.B. 1849 C Street, NW, Office #4210 Washington, D.C. 20240 (202) 208-3500 ; FAX: (202) 208-7248

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEMBERS (cont.)

<u>Task Force Member</u>	<u>Member's Representative</u>
Secretary, Department of Agriculture	Mr. Horace J. Austin State Conservationist Soil Conservation Service 3737 Government Street Alexandria, Louisiana 71302 (318) 473-7751 ; FAX: (318) 473-7771
Secretary, Department of Commerce	Dr. Clement Lewsey Gulf Regional Manager Coastal Programs Division Office of Ocean and Coastal Resource Management U.S. Department of Commerce Room 721; Universal Bldg. 1825 Connecticut Avenue, N.W. Washington, D.C. 20235 (202) 606-4138 ; FAX: (202) 606-4329
Secretary of the Army (Chairman)	Col. Michael Diffley District Engineer U.S. Army Engineer District, N.O. P.O. Box 60267 New Orleans, LA 70160-0267 (504) 862-2204 ; FAX: (504) 862-2492

Tab C

COASTAL WETLANDS PLANNING, PROTECTION, AND
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TASK FORCE MEETING
September 24, 1991

TAB C

TASK FORCE PROCEDURES

Tab C

COASTAL WETLANDS PLANNING, PROTECTION, AND
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IMPLEMENTATION PLAN

TASK FORCE PROCEDURES

I. Task Force Meetings and Attendance

A. Scheduling/Location

The Task Force will hold regular meetings quarterly, or more often if necessary to carry out its responsibilities. When possible, regular meetings will be scheduled as to time and location prior to the adjournment of any preceding regular meeting.

Special meetings may be called upon request and with the concurrence of a majority of the Task Force members, in which case, the Chairperson will schedule a meeting as soon as possible.

Emergency meetings may be called upon request and with the unanimous concurrence of all members of the Task Force at the call of the Chairperson. When deemed necessary by the Chairperson, such meetings can be held via telephone conference call provided that a record of the meeting is made and that any actions taken are affirmed at the next regular or special meeting.

B. Delegation of Attendance

The appointed members of the Task Force may delegate authority to participate and actively vote on the Task Force to a substitute of their choice. Notice of such delegation shall be provided in writing to the Task Force Chairperson prior to the opening of the meeting.

C. Staff Participation

Each member of the Task Force may bring colleagues, staff or other assistants/advisors to the meetings. These individuals may participate fully in the meeting discussions but will not be allowed to vote.

D. Public Participation (see Public Involvement Program)

All Task Force meetings will be open to the public. Interested parties may submit written questions or comments that will be addressed at the next regular meeting.

II. Administrative Procedures

A. Quorum

A quorum of the Task Force shall be a simple majority of the appointed members of the Task Force, or their designated representatives.

B. Voting

Whenever possible, the Task Force shall resolve issues by consensus. Otherwise, issues will be decided by a simple majority vote, with each member of the Task Force having one vote. The Task Force Chairperson may vote on any issue, but must vote to break a tie. All votes shall be via voice and individual votes shall be recorded in the minutes, which shall be public documents.

C. Agenda Development/Approval

The agenda will be developed by the Chairperson's staff. Task Force members or Technical Committee Chairpersons may submit agenda items to the Chairperson in advance. The agenda will be distributed to each Task Force member (and others on a distribution list maintained by the Chairperson's staff) within two weeks prior to the scheduled meeting date. Additional agenda items may be added by any Task Force member at the beginning of a meeting.

D. Minutes

The Chairperson will arrange for minutes of all meetings to be taken and distributed within two weeks after a meeting is held to all Task Force members and others on the distribution list.

E. Distribution of Information/Products

All information and products developed by the Task Force members or their staffs will be distributed to all Task Force members normally within two weeks in advance of any proposed action in order to allow adequate time for review and comment, unless the information/product is developed at the meeting or an emergency situation occurs.

III. Miscellaneous

A. Liability Disclaimer

To the extent permitted by the law of the State of Louisiana and Federal regulations, neither the Task Force nor any of its members individually shall be liable for the negligent acts or omissions of an employee, agent or representative selected with reasonable care, nor for anything the Task Force may do or refrain from doing in good faith, including the following: errors in judgement, acts done or committed on advice of counsel, or mistakes of fact or law.

B. Conflict of Interest

No member of the Task Force (or designated representative) shall participate in any decision or vote which would constitute a conflict of interest under Federal or State law. Any potential conflicts of interest must clearly be stated by the member prior to any discussion on the agenda item.

Tab D

COASTAL WETLANDS PLANNING, PROTECTION, AND
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TASK FORCE MEETING
September 24, 1991

TAB D

MINUTES FROM THE AUGUST 12, 1991 TASK FORCE MEETING

Tab D

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

MINUTES

I. INTRODUCTION

Colonel Michael Diffley, representing the Secretary of the Army, convened the third meeting of the Louisiana Coastal Wetlands Conservation and Restoration Task Force at 9:00 a.m., August 12, 1991, in the District Assembly Room of the New Orleans District, U.S. Army Corps of Engineers. The Agenda is attached as Enclosure 1. The Task Force was created by the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) which was signed into law (PL 101-646, Title III) by President Bush on November 29, 1990.

II. ATTENDEES

The Attendance Records for the Task Force meeting are attached as Enclosure 2. Listed below are the six Task Force members, all of whom were in attendance, with the exception of Mr. Sewell, who was represented by Mr. David Fruge'.

Mr. David Chambers, State of Louisiana
Mr. Russell Rhoades, Environmental Protection Agency
Mr. S. Scott Sewell, U.S. Department of the Interior
Mr. Horace Austin, U.S. Department of Agriculture
Dr. Clement Lewsey, U.S. Department of Commerce
Col. Michael Diffley, U.S. Department of the Army, Chairman

III. APPROVAL OF MINUTES FROM PREVIOUS MEETING

The minutes from the second Task Force meeting, held on June 17, 1991, (Enclosure 3) were unanimously approved, as amended, by the Task Force members. Mr. Chambers requested that the underlined portion of IV. M. be added to the minutes. [1/210] *

IV. TASK FORCE DECISIONS

The Task Force voted and passed the following motions:

- A. Revise item V.B.1.m. in Enclosure 4 by deleting "Marsh Committee of the". The Task Force voted unanimously in favor of this motion. [1/370]
- B. Revise item V.B.1.n. in Enclosure 4 by deleting "(Potential Member)". The Citizen Participation Group will have one representative from the Police Jury Association of Louisiana and one representative from those coastal parishes operating under home rule authority, unless those parishes are represented on the Police Jury Association. The Task Force voted unanimously in favor of this motion. [1/380]
- C. Revise item V.B. in Enclosure 4 by deleting "Subcommittee" and adding "Participation Group". The Task Force voted unanimously in favor of this motion. [2/65]
- D. Adopt the "Priority Project List Contents Policy" (Enclosure 5). The Task Force voted unanimously in favor of this motion. [3/240]
- E. An Environmental Evaluation will be prepared to satisfy Recommendation 3 in the EPA Memorandum authored by Mr. Pat Rankin (Enclosure 6). The Task Force voted unanimously in favor of this motion. [3/310]
- F. National Environmental Policy Act compliance for projects on the Priority Project List will be achieved according to each lead Task Force member's existing regulations and administrative procedures. The Task Force voted unanimously in favor of this motion. [3/575]
- G. Approve the "Coastal Wetlands Restoration Project Area Map" (Enclosure 7) and "Definition of Coastal Wetlands" (Enclosure 8). The Task Force voted unanimously in favor of this motion. [3/610]

V. TASKS REQUIRING FURTHER ACTION

- A. The Soil Conservation Service, in cooperation with the Technical Committee members, will identify potential means of using CWPPRA funds to support the full participation of the Citizen Participation Group chairman in Task Force activities by reimbursing the chairman's travel costs. This topic will be addressed at the September Task Force meeting. [1/615]
- B. The New Orleans District will determine if a Lead Task Force member has the authority to execute a Local Cooperation Agreement with any or all of the following: [2/460]
1. Political subdivision of the State of Louisiana such as a parish or levee board.
 2. Private organization.
- C. Mr. Chambers asked if the preparation of NEPA documentation for listed projects would be Federally funded from the \$5 million annual allotment identified in Section 306(a)(1). Although there appeared to be agreement that Section 306(a)(1) funds would be used for preparation of NEPA documentation, a motion to that effect was not proposed. Therefore, this issue will be placed on the agenda for the September 24, 1991 Task Force meeting. [2/505]
- D. Following a discussion of the Implementation Plan for Section 303 (Enclosure 9), Mr. Chambers asked that the Priority Project List diagram be modified to reflect a situation in which a Category B. project could enter the construction phase prior to preparation of the next annual list. [2/620]
- E. The Planning and Evaluation Subcommittee chairman reported that the identification of contract services requirements is proceeding as part of the FY92 budget preparation process. He stated that he would make another report at the next Task Force meeting. [3/30]
- F. Colonel Diffley noted that Ms. Marcia Jones, from Senator Breaux's staff, reconfirmed the November 28, 1991 deadline for submittal of the Priority Project List to Congress. She was responding to an inquiry made by Colonel Gorski at the June 17, 1991 Task Force meeting. [3/615]

- G. The Planning and Evaluation Subcommittee chairman reported that the deadline for submittal of "Candidate Project Fact Sheets" for the Priority Project List was August 6, 1991. The draft Priority Project List will be addressed at a Task Force meeting in late October or early November. [3/630]

VI. STATUS OF FISCAL MATTERS

- A. Mr. Pittman, Chief of the New Orleans District Program Management Office, stated that he had verbal confirmation from U.S. Army Corps of Engineers headquarters in Washington, D.C., that all FY92 funds appropriated for implementation of Section 303 of the CWPPRA, will be released to the New Orleans District for distribution to the Task Force members. Mr. Pittman stated that written confirmation is expected shortly. [4/65]

- B. Mr. Huntsman, the New Orleans District Comptroller, stated that FY92 funds will be distributed to the other Task Force members, including the State of Louisiana, on a reimbursable basis. Colonel Diffley requested that Mr. Huntsman contact the Comptrollers of the other Task Force members to ensure that all their questions concerning these reimbursable procedures had been answered. [4/90]

VII. ADDITIONAL AGENDA ITEMS

Mrs. Ruth Blankenstein, a resident of River Ridge, Louisiana, described her desire to preserve a Mississippi River batture area. Colonel Diffley stated that he would send Mrs. Blankenstein a list of the members of the Citizen Participation Group, when completed, and a copy of the "Candidate Project Fact Sheet", to aid her in the submittal of her proposal for the consideration of the Task Force. [5/110]

VIII. DATE/LOCATION OF THE NEXT TASK FORCE MEETING

The next Task Force meeting was tentatively scheduled for September 23, 1991 in the Assembly Room of the New Orleans District, beginning at 9:00 a.m., however, Mr. Rhoades noted that he would be unable to attend. Colonel Diffley suggested September 24th as an alternative and asked that the other Task Force members confirm the new date as soon as possible. [4/350]

IX. QUESTIONS FROM THE PUBLIC

No written questions or comments were received from the public. [4/400]

X. ADJOURNMENT

The Task Force meeting was adjourned at 12:10 p.m. [4/415]

* The Task Force meeting was recorded on audio tape. These bracketed figures represent the Tape#/Counter# for the discussion of this item.

Encl 1

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 1

AGENDA

Encl 1

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

August 12, 1991

AGENDA

I. Introductions

- A. Task Force members or alternates.
- B. Other attendees.
- C. Opening remarks by Task Force members.

II. Adoption of Minutes from the June 17, 1991 Meeting

III. Technical Committee Recommendations

- A. Task Force Operating Procedures Outline.
- B. Implementation Plan for Section 303.
- C. Contract Services Requirements.
- D. Priority Project List Contents Policy.
- E. NEPA Compliance Requirements.
- F. Coastal Wetlands Restoration Project Area Map.
- G. Definition of Coastal Wetlands.

IV. Priority Project List Deadline

V. Status of the Candidate Project Fact Sheets

VI. Status of Fiscal Matters

- A. Programming of FY 1992 funds.
- B. Distribution of FY 1992 funds.

VII. Additional Agenda Items

VIII. Date/Location of the Next Task Force Meeting

IX. Request for Written Questions from the Public

Encl 2

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 2
ATTENDANCE RECORDS

Encl 2



ATTENDANCE RECORD



DATE(S)	SPONSORING ORGANIZATION	LOCATION
August 12, 1991	Louisiana Coastal Wetlands Conservation & Restoration Task Force	New Orleans District Assembly Room
PURPOSE Task Force Meeting		
PARTICIPANT REGISTER *		
NAME	JOB TITLE AND ORGANIZATION	TELEPHONE NUMBER
MICHAEL DUFFLEY	DISTRICT ENGINEER, USAED NEW ORLEANS	(504) 862-2200
DAVE CANNY	USAED	(504) 862-2528 FTS 255 2260 214 657 2260
Norm Thomas	USEPA	
Benny Landreaneau	USDA-SCS	318-473-7756
Horea Austin	USDA-SCS	
Russell Rhoades	USEPA	FTS 255-2210 214 657-2210
David Chambers	Governor's Office	(504) 342-6493
Bill Savant	LA DNR/CRD	(504) 342-9420
David N. Jung	USDI/FWS	(318) 264-6630
Richard	Regional Manager CPD/OCRM (NOAA)	202 606 4438
Richard	DOC/NOAA/NMFS	504/389-0508
Bill O'Donnell	DOC/NOAA/OCRM	(202) 606-4010
LEN BATH	Gov's Office	504-342-6492
Virginia Van Sickle	USDI/FWS	504-646-7295
R. Mark Gause	USDOI/MMS - NEW ORLEANS	(504) 736-2766
Ed Martin	USGS - Baton Rouge	(504) 389-0231
Charlie Demus	USGS - Baton Rouge	(504) 389-0391
Ron Ventola	COE	(504) 862-2255
Paul Kemp	Coalition to Restore Coastal La.	(504) 926-0750
Michael Wielke	Coalition to Restore Coastal La.	(504) 926-0750 or 7648394
ELIZABETH A. GRIFFIN	CCRETS OF ENGINEERS - COLNSEL	504-862-2831
MARY V. KINSEY	COE, REAL ESTATE - LGL SPT	(504) 862-1951



ATTENDANCE RECORD



DATE(S) August 12, 1991	SPONSORING ORGANIZATION Louisiana Coastal Wetlands Conservation & Restoration Task Force	LOCATION New Orleans District Assembly Room
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PURPOSE Task Force Meeting

PARTICIPANT REGISTER *

NAME	JOB TITLE AND ORGANIZATION	TELEPHONE NUMBER
MARK DAVIS	LAKE PONTCHARTRAIN BASIN FDN	504 836-2215
Lloyd Mitchell	U.S. Fish and Wildlife Service, Lafayette, La.	318-264-6630
CHRIS ACCARDO	COE PROJ. MGMT. OFFC	504-862-1592
John C. Weber	COE COE Plan Div	504-862-2516
WILLIAM T CAVITT	COE - PLANNING DIVISION	(504) 862-2511
NICK CONSTAN	U.S. Army, N.O. ENG. DIST	(504) 262-1902
Ruth Pinkerton	Hennessey Court Pine Ridge	(504) 737-3090
Jeggy Jones	National Marine Fisheries Service	(504) 389-0508
Timothy Henderson	COE - PLANNING DIV	(504) 862-2512
Rod Pittman	COE - Programs Mgt OFC	(504) 862-2846
WAYNE OBANNON	LMVD - Planning Directorate	601-634-5840
R.H. SCHROEDER JR	COE OF B. PLANNING DIV.	504-862-2288
Oscar Rowe	COE - Plan Div	504 862-2512

* If you wish to be furnished a copy of the attendance record,

Encl 3

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 3

MINUTES FROM THE JUNE 17, 1991 TASK FORCE MEETING *

* This document was previously provided to the Task Force members.

Encl 4

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 4
TASK FORCE OPERATING PROCEDURES OUTLINE

Encl 4

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE OPERATING PROCEDURES OUTLINE

I. INTRODUCTION

- Information taken directly from the Act.

II. AUTHORITY

- Information taken directly from the Act.

III. TASK FORCE RESPONSIBILITIES

- Information previously developed by the Task Force.

A. Purpose.

B. Chairman and Membership.

C. Meetings.

D. Procedures.

1. Quorum.
2. Voting/Consensus.
3. Agenda.
4. Minutes.
5. Information Distribution.
6. Amendments to the Operational Procedures.
7. Authority to Create Committees and Subcommittees.

E. Delegations, Staff, and Public Involvement.

1. Delegation of Authority.
2. Attendance Policy.
3. Opportunity for Public Involvement.

IV. REPORTS TO CONGRESS

- Information taken directly from the Act

A. Priority Project List of Coastal Wetlands Restoration Projects (Section 303a).

B. Louisiana Comprehensive Coastal Wetlands Restoration Plan (Section 303b).

C. Three-year Evaluation of Projects.

V. ESTABLISHMENT OF COMMITTEES AND WORK GROUPS

- Information in various stages of development by the Technical Committee.

A. Technical Committee.

1. Membership.
2. Purpose.
3. Operating Procedures.
4. Areas of Responsibility.
 - a. Project Plan Format.
 - b. Project Formulation Procedures.
 - c. Project Evaluation Procedures.
 - d. Cost-Sharing Procedure.
 - e. Operation and Maintenance Procedures.
 - f. Monitoring and Evaluation Procedures.
 - g. Authority to Create and Oversee Work Groups.
 - h. Budget Development and Management.
 - i. Contract Administration and Support Services.
 - j. Project Implementation.
 1. Local Sponsor Requirements.
 2. Lead Task Force Member Responsibilities.
 3. Contract Administration.
 4. Lands, Easements, Rights-of-Way, and Assurances.
 5. Operation, Maintenance, and Monitoring Agreements.
 6. Three-year Post-Project Evaluation Plan and Report.
 - k. Point of Contact for the Media.

B. Citizen Participation Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

1. Membership.

- a. Coalition to Restore Coastal Louisiana.
- b. Concerned Shrimpers of America.
- c. Gulf Coast Conservation Association.
- d. Gulf Intracoastal Canal Association.
- e. Louisiana Association of Soil and Water Conservation Districts.
- f. Louisiana Farm Bureau Federation, Inc.
- g. Louisiana Landowners Association.
- h. Louisiana League of Women Voters.
- i. Louisiana Nature Conservancy.
- j. Louisiana Oyster Growers and Dealers Association.
- k. Louisiana Wildlife Federation, Inc.
- l. Midcontinent Oil and Gas Association.
- m. New Orleans Steamship Association.
- n. Police Jury Association of Louisiana.

2. Purpose.

3. Operating Procedures.

4. Areas of Responsibility.

- a. Provide Advice and Volunteer Assistance on the Public Involvement Process.
- b. Represent their Membership at Task Force, Technical Committee, or subcommittee Meetings.
- c. Provide Scoping Input.
- d. Identify the impact of specific projects on their areas of concern.

C. Planning and Evaluation Subcommittee.

- Information in various stages of development by the Planning and Evaluation Subcommittee.

1. Membership.

2. Purpose.

3. Operating Procedures.

4. Areas of Responsibility.

- a. Identify Candidate Projects and Plans.
- b. Develop and implement a Screening and Ranking Procedure.

- c. Determine the Non-Monetary Benefits of Candidate Projects.
- d. Recommend Priority Project Lists and the Restoration Plan.
- e. Prepare Priority Project List and Restoration Plan Submittal Packages.
- f. Maintain the Task Force Operational Procedures Manual.
- g. Develop Project Evaluation and Monitoring Procedures.
- h. Develop Plan of Study for the Restoration Plan.
- i. Project Planning.
 - 1. Lead Task Force Member Designation.
 - 2. Report Format.
 - 3. Project Formulation Procedures.
 - 4. Project Evaluation Procedures.
 - 5. Cost-Sharing Responsibilities.
 - 6. Project Plan Reviews.
 - 7. Demonstration Projects.

D. Engineering Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

- 1. Membership.
- 2. Purpose.
- 3. Operating Procedures.
- 4. Areas of Responsibility.
 - a. Establish Reconnaissance and Feasibility-Level Design/Cost Standards.
 - b. Develop Criteria for Estimating Acres of Coastal Wetlands Created, Restored, Protected, or Enhanced in cooperation with the Environmental Work Group.
 - c. Review the Engineering Design and Cost Estimates of Candidate Projects.
 - d. Review Plans and Specifications Prior to Advertisement of Construction Bids.

E. Economics Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

- 1. Membership.
- 2. Purpose.
- 3. Operating Procedures.

4. Areas of Responsibility.
 - a. Analyze the Cost Effectiveness of Candidate Projects.
 - b. Determine the Economic Impacts of Candidate Projects.
 - c. Annualize HU Outputs of Candidate Projects.

F. Data Support Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

1. Membership.
2. Purpose.
3. Operating Procedures.
4. Areas of Responsibility.
 - a. Provide Requested Data and Technical Assistance to the Technical Committee, Planning and Evaluation Subcommittee (e.g., wetland maps and trends, sediment and contaminant data, water quality, geologic data and processes, hydrologic data and processes.).

G. Environmental Work Group.

- Information subject to the review and approval of the Technical Committee and the Task Force.

1. Membership.
2. Purpose.
3. Operating Procedures.
4. Areas of Responsibility.
 - a. Prepare Appropriate Documents to Achieve Compliance with:
 1. NEPA.
 2. Sections 10/404.
 3. Endangered Species Act.
 4. NHPA
 5. Louisiana Coastal Management Program.
 6. Louisiana Water Quality Regulations.
 - b. Develop Criteria for Estimating Acres of Coastal Wetlands Created, Restored, Protected, or Enhanced in Cooperation with the Engineering Work Group.
 - c. Conduct Wetland Value Assessments of Candidate Projects.

VI. DISTRIBUTION OF APPROPRIATIONS

- Information taken directly from the Act or in various stages of development by the Technical Committee.

A. Funding Source.

1. Federal.
2. Non-Federal.

B. Funding Amounts.

1. Estimated total to be \$34 million annually (FY92-96).
2. Authorized to spend \$5 million of the total, annually (FY92-99) to prepare the Priority Project List and Restoration Plan

C. Funding Management (Secretary of the Army).

1. Transfer of Funds to Agencies.
2. Project Sponsorship.
3. Funding for Operation, Maintenance, and Monitoring.

VII. MISCELLANEOUS

- Information taken directly from the Act or previously developed by the Technical Committee.

A. Definitions.

B. Conflict of Interest.

C. Liability Disclaimer.

VIII. APPENDICES

A. Coastal Wetlands Planning, Protection, and Restoration Act.

B. Congressional Record - House, October 27, 1990.

C. President's Signing Statement.

Encl 5

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 5
PRIORITY PROJECT LIST CONTENTS POLICY

Encl 5

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

PRIORITY PROJECT LIST CONTENTS POLICY

Technical Committee Recommendation:

Approve the following policy :

The Priority Project List (Section 303a), submitted to Congress by the Chairman of the Task Force, will contain two categories of coastal wetlands restoration projects:

A. Projects that have final Task Force approval, full NEPA compliance, a Letter of Intent to cost share from a local non-Federal Sponsor, and are ready for construction with current year funds.

B. Projects that have tentative Task Force approval and a Letter of Interest from a local non-Federal Sponsor, but are subject to final Task Force approval upon completion of NEPA compliance requirements and detailed engineering and design. The status, schedule, and cost estimate for completion of NEPA compliance, detailed engineering and design, and construction, will be documented for each project when the Priority Project List is submitted to Congress.

Additional Considerations:

None.

Encl 6

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 6
EPA MEMORANDUM

Encl 6



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TEXAS 75202-2733

July 24, 1991

MEMORANDUM

SUBJECT: Timing of National Environmental Policy Act (NEPA) Compliance in the Administration of the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA).

FROM: Pat Rankin 
Assistant Regional Counsel (6C-A)

TO: Norm Thomas, Chief
Federal Activities Branch (6E-F)

On July 9, 1991, the Technical Committee recommended that the Task Force adopt the draft NEPA Compliance Policy attached hereto. As requested, I provide the following comments and recommendations on that draft policy statement:

PROJECT PRIORITY LISTING

The draft policy states:

lead Task Force member(s) will...initiate preparation of appropriate NEPA documentation for listed projects after ...the [priority] list is approved by the Task Force.

The extent to which this statement complies with the mandates of NEPA depends both on the nature and effect of the Task Force's listing decision. Here, I assume that the decision to place a project on the priority list is neither a final Task Force decision to implement that project nor a recommendation that Congress independently authorize the project,¹ but simply a decision on allocating future appropriations for further feasibility studies and possible implementation of proposed projects.

Given that assumption, a Task Force listing decision cannot itself "significantly affect the quality of the human environment" and is thus not subject to NEPA §102(2)(C), 42 USC §4332(2)(C). Accordingly, the Task Force may make listing decisions without preparing an environmental impact statement (EIS) or finding of no significant impact (FNSI). This does not, however, mean Task Force listing decisions are not subject to other requirements of NEPA.

¹ CWPPRA provides little guidance on the reasons for submitting project priority lists to Congress. It seems most likely Congress intends using the lists in its general oversight function and for determining whether the Task Force should be provided supplemental appropriations in a given year. If Congress intended to use the lists as the basis for authorizing individual projects, however, Task Force listing decisions would be "proposals for legislation" subject to NEPA §102(2)(C). See 40 CFR §1506.8

NEPA §102(2)(E), 42 USC §4332(2)(E), requires that all federal agencies:

study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

This statutory obligation is of broader scope and independent of the corresponding requirement that federal agencies consider alternatives in preparing EISs under NEPA §102(2)(C)(iii). It applies whenever a federal proposal involves "unresolved conflicts concerning alternative uses of available resources," regardless of whether or not adoption of the proposal will itself have significant environmental effects or irretrievably commit resources. See, e.g., Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228-1229 (9th Cir. 1988). Because developing a project priority list involves such "unresolved conflicts" (which are resolved through its adoption), the Task Force must comply with NEPA §102(2)(E) before making its final listing decision, presumably through preparation and consideration of an environmental assessment (EA) describing the relative environmental merits and drawbacks of various projects proposed for listing. See generally 40 CFR §1508.9(a)(2) and (b).

THE STATUTORY CONFLICT RATIONALE

The draft policy states:

It will not be possible for the Task Force to achieve full NEPA compliance with all NEPA requirements for all projects on the list prior to submission of the list to Congress because of the short deadline set by Congress.

Because it refers to "all projects on the list," this provision suggests the Technical Committee erroneously assumed applicability of NEPA §102(2)(C) to the first year Task Force listing decision, but believed full compliance with that provision would be rendered infeasible by a statutory conflict. See, e.g., Flint Ridge Development Co. v. Scenic Rivers Association of Oklahoma, 426 U.S. 776, 787-792, 96 S.Ct. 2430, 2438-2440 (1976) (30 day decisional deadline mandated by statute excused compliance with NEPA §102(2)(C)). Indeed, the only apparent purpose for the draft policy is justifying submission of a project priority list to Congress prior to completion of full NEPA review on each listed project. As indicated above, such justification is unnecessary as long as the Task Force considers an EA before adopting the list.

Although the statutory conflict doctrine also applies to NEPA §102(2)(E), a finding that an EA could not have been prepared in the year between enactment of CWPPRA and the deadline for submission of the priority list appears unrealistic. Forelaws on Board v. Johnson, 743 F.2d 677, 683-685 (9th Cir. 1985) (9 month statutory deadline did not excuse failure to prepare EIS). As a practical matter, such an EA would merely have to describe various candidate projects with sufficient detail to enable Task Force Members to evaluate their relative environmental benefits and detriments. It need not even be a separate document, but could be incorporated in whatever document the Technical Committee intends to provide the Task Force in support of its own priority recommendations. See 40 CFR §1502.25. A reviewing court (or the President's Council on Environmental Quality) would thus

be likely to conclude a Task Force failure to comply with NEPA §102(2)(E) was in fact based on considerations of administrative difficulty, delay, or economic cost, not on an irreconcilable statutory conflict. See, e.g., Calvert Cliff's Coordinating Committee, Inc. v. U.S. Atomic Energy Commission, 449 F.2d 1109, 1114-1115 (D.C. Cir. 1971).

INDIVIDUAL PROJECT IMPLEMENTATION

The draft policy states:

Each lead task force member will ensure that full compliance with all NEPA requirements is achieved for each of their listed projects prior to advertisements of construction bids or issuance of Federal permits.

Pursuant to NEPA §102(2)(C), an EIS (or FNSI and EA) must be prepared and considered on "every recommendation or report on proposals for...major federal actions significantly affecting the quality of the human environment." "Proposal" is defined at 40 CFR §1508.26:

"Proposal" exists at that stage in the development of an action when an agency subject to the act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

In relevant part, 40 CFR §1502.5 moreover provides:

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§ 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize decisions already made (§§ 1500.2(c), 1501.2, and 1502.2)...For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no-go) stage and may be supplemented at a later stage if necessary....

Given my limited knowledge of the Task Force's project review and authorization procedures, I believe a specific project is "proposed" when it is added to the priority list because this is the point at which the Task Force has a "goal"

with respect to that specific project (as opposed to the broader overall programmatic goal of restoring wetlands in coastal Louisiana). Accordingly, NEPA §102(2)(C) review of an individual project should be commenced "early enough" after placing that project on the priority list that the resulting EIS (or FNSI and EA) can make "an important contribution to the decisionmaking process" leading to the Task Force's "go-no-go" decision on project implementation.

The time at which permits and solicitations for bids are issued does not appear an appropriate deadline for completion of NEPA review. Decisions on those actions are made by individual agencies, i.e., the Corps (on projects requiring a Section 10 and/or 404 permit) or the lead Task Force member issuing the solicitation for bids. Neither action is necessarily related, either temporally or functionally, to the Task Force's decision to proceed with an individual project. NEPA and 40 CFR §1502.5 require, however, that the collective Task Force or every federal agency participating in its "go-no-go" decision² consider the environmental consequences of that decision.

In the absence of additional information, it is difficult to pinpoint the time at which the Task Force now intends to decide whether or not individual projects should be implemented. I understand, however, that the Task Force now plans to budget \$2.5 million its FY92 appropriations for development of a State Coastal Conservation Plan, \$5 million for general planning purposes, and the rest for implementation of specific projects, i.e., preparation of detailed plans and specifications and project construction. This suggests the "go-no-go" decision on a specific project proposal occurs (or should occur³) when the Task Force decides to obligate funds in its project implementation budget to a specific project, i.e., when it reserves appropriated funds for implementing that project and provides the lead agency authorization to spend those funds. NEPA review of individual project proposals must be completed by the time of that decision.

In addition to assuring compliance with the law, completing NEPA review before obligating project implementation funds would serve a practical function, i.e., assuring that public funds would not be spent on preparing detailed plans and specifications for projects subject to subsequent alteration or abandonment as a result of information developed in NEPA review. It would also be consistent with established procedures at least two of the federal agencies on the Task Force, i.e.,

² It is not at all clear that the Task Force is itself an "agency" for NEPA purposes. Is compliance with NEPA thus a collective obligation of the Task Force or an individual obligation of each of its federal agency members? See generally People, Etc. v. City of Lake Tahoe, 466 F.Supp. 527 (E.D. Cal. 1978). As long as each member considers an appropriate EA or EIS in deciding how to vote on "go-no-go" Task Force decisions, this issue should remain academic. See 40 CFR §1506.3.

³ If it has discretion to do so, an agency must develop and implement administrative procedures accomodating full compliance with NEPA. See NEPA §§101(b), 102(1), 103, 42 USC §§4331(b), 4332(1), 4333; Calvert Cliff's, supra; Forelaws on Board, supra.

the Corps and EPA, apply in their roughly analogous public works programs,⁴ rendering it unnecessary for those agencies to "reinvent the wheel" in applying their internal procedures to preparation of NEPA review documents on Task Force activities.

RECOMMENDATIONS

(1) The current draft policy should be abandoned as an unnecessary statement based on an erroneous interpretation of NEPA. Any future Task Force NEPA Compliance Policy should be drafted from a functional perspective, i.e., after identifying the functions of specific Task Force decisions and the functions NEPA review should play in those decisions.

(3) The Task Force should prepare and consider an EA describing the relative environmental merits and drawbacks of projects proposed for inclusion on the priority list before adopting that list.

(4) The Task Force should complete full NEPA review on individual projects before making its decision to fund preparation of detailed plans and specifications for those projects.

Attachment

⁴ In Corps public works programs, Congress usually makes the "go-no-go" decision (to authorize a project), but Corps recommendations are based on a "feasibility study" and NEPA review documents. In EPA's construction grants program, the Agency's decision to award funds for project implementation is based on a "facilities plan" and NEPA review documents. Normally, neither agency obligates federal funds for preparing detailed plans and specifications until completion of NEPA review.

Encl 7

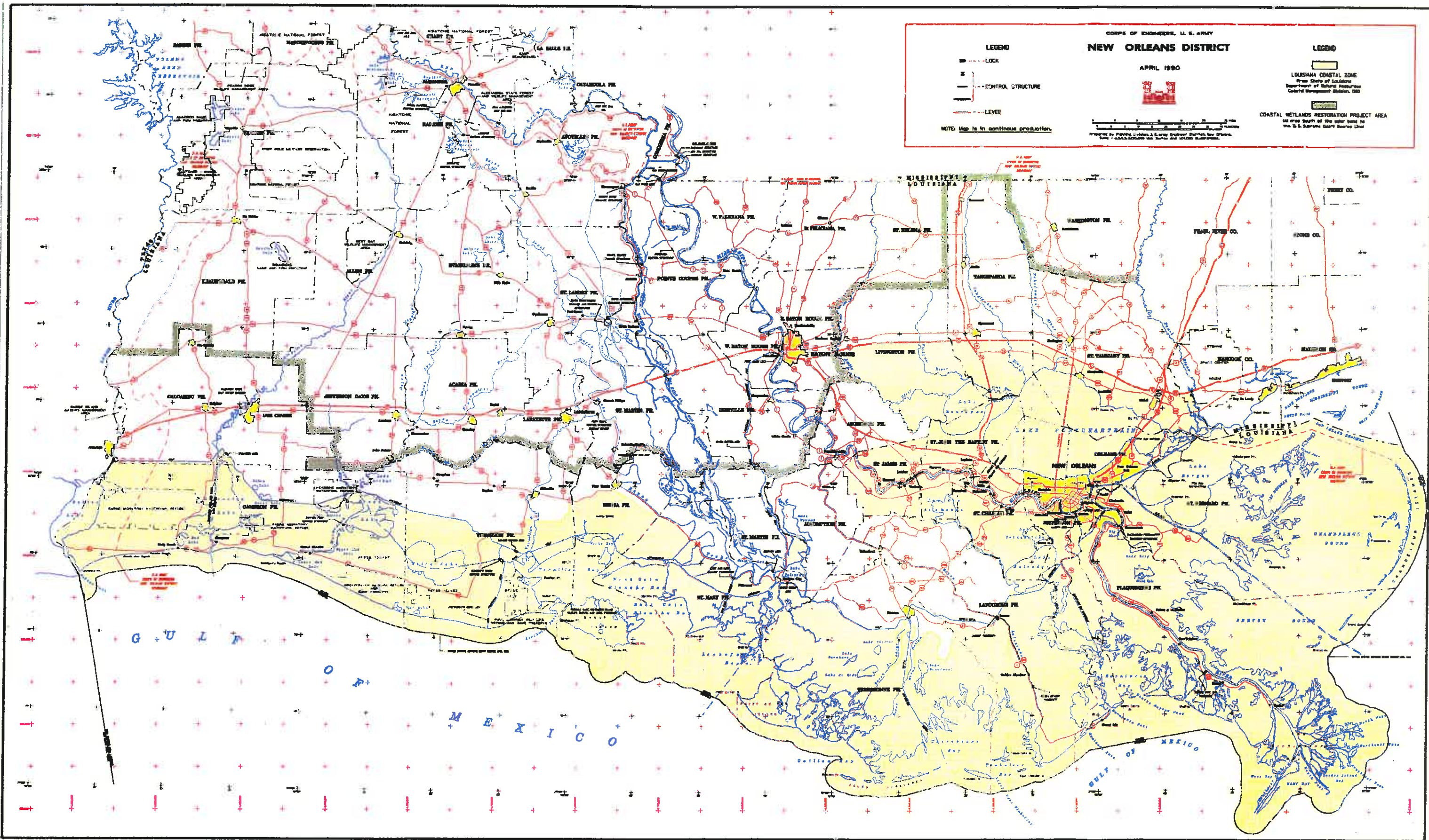
COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 7

COASTAL WETLANDS RESTORATION PROJECT AREA MAP

Encl 7



CORPS OF ENGINEERS, U. S. ARMY
NEW ORLEANS DISTRICT
APRIL 1990

LEGEND

- LOCK
- CONTROL STRUCTURE
- LEVEE

NOTE: Map is in continuous production.

Scale: 0 to 10 Miles / 0 to 16 Kilometers

Prepared by Planning Section, U.S. Army Engineer District, New Orleans, Louisiana, 1988. Scale = 1:62,500 (NAD 83) and 1:62,500 (NAD 27).

LEGEND

- LOUISIANA COASTAL ZONE
From State of Louisiana
Department of Natural Resources
Coastal Management Division, 1988
- COASTAL WETLANDS RESTORATION PROJECT AREA
All areas South of the water front to
the U.S. Seacoast Survey Line

Encl 8

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 8
DEFINITION OF COASTAL WETLANDS

Encl 8

Definition of Coastal Wetlands as used in Section 303 of the Coastal Wetlands, Planning, Protection, and Restoration Act

Coastal wetlands are defined as vegetated wetlands, located within the "Coastal Wetlands Restoration Project Area" which are or were subject to tidal influence prior to human intervention. These include estuarine emergent wetlands, palustrine emergent wetlands, and palustrine forested wetlands and associated beds of aquatic vegetation. The vegetated wetland component of the definition is based on existing wetland definitions (Attachment 1) and inferences made in the Act (Attachment 2).

For purposes of administering the Section 303 of the Act, four wetland types were designated to categorize coastal wetlands. These include the following:

Saline Marsh. Saline marsh is described in the Fish and Wildlife Service's wetland classification system¹ as estuarine intertidal emergent vegetation narrow-leaved persistent regular tidal regime polyhaline. E2EM5N4 is the symbol used to designate saline marsh on wetland maps using the wetland classification system. Saline marsh is typically vegetated by oyster grass (*Spartina alterniflora*), black rush (*Juncus roemerianus*), saltwort (*Batis maritima*), and salt grass (*Distichlis spicata*). Other wetland types associated with saline marsh include scrub/shrub wetlands, shell reefs, flats, streams and ponds. Generally aquatic plants do not exist in saline marsh waters along the Louisiana coast. However, widgeongrass (*Ruppia maritima*) may occur in saline marsh waters bordering the brackish marsh zone where lower salinities exist. Also, seagrass beds occur in waters associated with saline marshes located on some barrier islands. Seagrass species include shoalgrass (*Diplanthera wrightii*), turtlegrass (*Thalassia testudinum*), and manateeegrass (*Cymodocea manatorum*).

Brackish Marsh. Brackish marsh is described as estuarine intertidal emergent vegetation narrow-leaved persistent irregular tidal regime mesohaline. E2EM5P5 is the symbol used to designate brackish marsh on wetland maps using the Fish and Wildlife Service's wetland classification system. Brackish marsh is typically vegetated by wiregrass (*Spartina patens*), three-cornered grass (*Scirpus olneyi*), and leafy three-square (*Scirpus maritimus*). Other wetland types associated

¹ Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. U.S. Fish Wildl. Serv. FWS/OBS-79/31, Washington, D.C. 131 pp.

with brackish marsh include scrub/shrub wetlands, flats, streams and ponds. Aquatic plants that commonly occur in brackish marsh waters include widgeongrass, common duckweed (*Lemna minor*, Eurasian watermilfoil (*Myriophyllum spicatum*), muskgrass (*Chara vulgaris*), coontail (*Ceratophyllum demersum*), and dwarf spikerush (*Eleocharis parvula*).

Fresh/Intermediate Marsh. This type includes fresh and low salinity coastal marshes. Fresh marsh is described as palustrine emergent vegetation. PEM is the symbol used to designate fresh marsh on wetland maps using the Fish and Wildlife Service's wetland classification system. Vegetative species composition in fresh marshes is diverse but generally includes maidencane (*Panicum hemitomon*), pennywort (*Hydrocotyle sp.*), pickerelweed (*Pontederia cordata*), alligatorweed (*Alternanthera philoxeroides*), and bulltongue (*Sagittaria sp.*). Aquatic plants that commonly occur in fresh marsh waters include common duckweed, coontail, Eurasian watermilfoil, spikerush, and muskgrass. Intermediate marsh is described as estuarine intertidal emergent vegetation narrow-leaved persistent irregular tidal regime oligohaline. Intermediate marsh has been combined with fresh marsh because its habitat values are similar and it generally lies between fresh and brackish marshes in the form of a relatively narrow band. E2EM5P6 is the symbol used to designate intermediate marsh on wetland maps. Vegetative composition is usually a mixture of fresh marsh and brackish marsh species and typically includes wiregrass, bulltongue, roseau (*Phragmites australis*), bullwhip (*Scirpus californicus*), sawgrass *Cladium jamaicense*, Walter's millet (*Echinochloa walteri*), and cow pea (*Vigna luteola*). Aquatic plants that commonly occur in intermediate marsh waters include widgeongrass, dwarf spikerush, muskgrass, coastal waterhyssop (*Bacopa monnieri*, Eurasian watermilfoil, and southern naiad (*Najas guadalupensis*). Other wetland types associated with this marsh type include scrub/shrub wetlands, small "islands" of cypress swamp, flats, streams and ponds.

Cypress-tupelo Swamp. Cypress-tupelo swamp is described as palustrine forested broad-leaved deciduous/needle-leaved deciduous. PFO1/2 is the symbol used to designate cypress-tupelo swamp on wetland maps using the Fish and Wildlife Service's wetland classification system. Tree species typically include baldcypress (*Taxodium distichum*), tupelogram (*Nyssa aquatica*), and red maple (*Acer rubrum*). Other wetland types associated with cypress swamp include relatively small areas of scrub/shrub wetlands fresh marsh, streams and ponds. Aquatic beds and emergents may characterize the

understory. Aquatic beds usually consist of floating vegetation, water hyacinth (*Eichornia crassipes*) and duckweed (*Lemna* sp.). The understory may include saplings of the overstory species and buttonbush (*Cephalanthus occidentalis*).

Attachment 1.

Wetland Definitions (Source-Federal Wetlands Delineation Manual):

Section 404 of the Clean Water Act (CE & EPA)

Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Food Security Act of 1985 (SCS) and Section 301 of the Emergency Wetlands Resources Act of 1986 (FWS)

Areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.*

Classification of Wetlands and Deepwater Habitats of the U.S. (FWS)

Lands that are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes, (2) the substrate is predominantly undrained hydric soil, and (3) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

* The Food Security Act wetland definition excludes lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.

Attachment 2.

The Coastal Wetlands Planning, Protection, and Restoration (Act) does not specifically define coastal wetlands. However, in Section 303.(b)(3), the Task Force is directed to integrate the Corps' Louisiana Comprehensive Coastal Wetlands Feasibility Study and the State's Coastal Wetlands Conservation and Restoration Plan in developing a restoration plan to address coastal wetland loss in Louisiana. The State's plan concentrates on vegetated wetlands and incorporates measures to arrest the loss of vegetated wetlands.

The report prepared for the Corps' study addressed vegetated wetland loss, described major wetland types as marsh and forested wetlands, noted the conversion of wetlands to open water, and noted the national significance of the amount and loss of coastal wetlands in Louisiana. In the Fish and Wildlife Service's 1984 wetland status and trend report, Louisiana's coastal marsh was identified as a national problem area because of the high rate of loss experienced there. The report noted that the problem primarily resulted from the increasing submergence of coastal marshes.

Section 304. of the Act provides for the development of a conservation plan for Louisiana coastal wetlands that has as its goal the achievement of no net loss of coastal wetlands as a result of development activities. As referred to previously, the concern over wetland loss in coastal Louisiana stems from the loss of vegetated wetlands.

Section 305. of the Act provides for granting funds to coastal states for implementing coastal wetlands conservation projects. The Act encourages projects that are consistent, with the National Wetlands Priority Conservation Plan (Plan) prepared by Fish and Wildlife Service for the Department of Interior in 1989. The purpose of the Plan is priority planning for wetland acquisition. Coastal vegetated wetlands would rank high under the criteria used for prioritizing acquisition sites whereas open water areas would rank much lower. The assessment criteria consider wetland losses, threats, functions and values.

Section 307. of the Act authorizes the Corps of Engineers to study the feasibility of utilizing existing projects to increase the transport of sediment for building land and nourishing wetlands. As referred to previously, the concern expressed over Louisiana coastal wetland loss has been the loss of vegetated wetlands, not open water. Land building would occur at the expense of open water. Nourishing wetlands with sediment implies offsetting the effects of processes resulting in the submergence of marshes. By succeeding in wetland nourishment, vegetated wetland loss would be reduced with reductions in open water gains.

Encl 9

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
August 12, 1991

ENCLOSURE 9

IMPLEMENTATION PLAN FOR SECTION 303 *

* See Tab I "Fiscal Year 1992 Budget Proposal" for Current
Section 303 Implementation Plan Diagram.

Encl 9

Tab E

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB E

TRAVEL REIMBURSEMENT
FOR THE
CHAIRMAN OF THE CITIZEN PARTICIPATION GROUP

Tab E

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TRAVEL REIMBURSEMENT
FOR THE
CHAIRMAN OF THE CITIZEN PARTICIPATION GROUP

Recommendation For Task Force Approval:

Approve the following policy:

The Chairman of the Citizen Participation Group will be reimbursed for travel costs associated with attendance at meetings of the Task Force, Technical Committee, and Planning and Evaluation Subcommittee, as well as, other meetings approved by the Technical Committee.

Additional Considerations:

The representative from the Soil Conservation Service will now discuss options for reimbursement of the Chairman of the Citizen Participation Group for travel costs.

Tab F

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB F

CHARTER FOR THE CITIZEN PARTICIPATION GROUP

Tab F

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

CHARTER FOR THE CITIZEN PARTICIPATION GROUP

Recommendation For Task Force Approval:

Approve the Charter for the Citizen Participation Group.

Additional Considerations:

The above-recommended Charter is displayed on the following three pages.

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT
(PL 101-646)

CHARTER
for the
CITIZEN PARTICIPATION GROUP

I. NAME:

The name of the group shall be the Coastal Wetlands Planning, Protection, and Restoration Act Citizen Participation Group (CPG). The CPG's area of interest includes the coastal wetlands of Louisiana as identified by the Task Force.

II. GOALS AND OBJECTIVES:

The CPG has the following goals and objectives:

- a. Promote the development of Coastal Wetlands Planning, Protection and Restoration Activities.
- b. Promote citizen participation and involvement in the formulation of the Priority Project List (Section 303a) and the Restoration Plan (Section 303b).
- c. Assist and participate in a public involvement program to insure public involvement in the restoration planning process.

III. AUTHORITY:

The CPG is a standing work group established by the Louisiana Coastal Wetlands Conservation and Restoration Task Force. The CPG reports to the Task Force and will, from time to time, meet with the various committees and work groups of the Task Force, particularly the Technical Committee.

IV. ADMINISTRATIVE:

The principal mailing address shall be that of the Chairman. Clerical assistance shall be provided by the U.S. Army Corps of Engineers. A representative from the U.S. Army Corps of Engineers will act as an advisor to the CPG and will attend their meetings upon request. The CPG may request other Task Force members to attend CPG meetings and make presentations, as needed.

V. PURPOSE:

The purpose of the CPG will be to:

- a. Maintain consistent public review and input into the plans and projects being considered by the Task Force.
- b. Assist and participate in the public involvement program.
- c. Perform additional tasks at the request of the Task Force or at the suggestion of members of the CPG, upon approval of the Task Force.

VI. MEMBERSHIP:

The membership of the CPG will be as follows:

- a. Coalition to Restore Coastal Louisiana.
- b. Concerned Shrimpers of America.
- c. Gulf Coast Conservation Association.
- d. Gulf Intracoastal Canal Association.
- e. Louisiana Association of Soil and Water Conservation Districts.
- f. Louisiana Farm Bureau Federation, Inc.
- g. Louisiana Landowners Association.
- h. Louisiana League of Women Voters.
- i. Louisiana Nature Conservancy.
- j. Louisiana Oyster Growers and Dealers Association.
- k. Louisiana Wildlife Federation, Inc.
- l. Midcontinent Oil and Gas Association.
- m. New Orleans Steamship Association.
- n. Police Jury Association of Louisiana.

Each organization will designate a representative to the CPG. Whenever the designated CPG member is unable to attend a meeting, he or she will identify an alternate. Changes to the CPG membership must be approved by the Technical Committee.

VII. DUTIES OF THE CPG CHAIRMAN:

At their first meeting, the CPG will select a chairman whose duties will be to:

- a. Coordinate the activities of the CPG to insure that the overall goals and objectives of the CPG are accomplished.
- b. Preside over meetings of the CPG, attend extra meetings as necessary to achieve the CPG goals, call meetings as necessary, and sign correspondence and documents when authorized to do so on the behalf of the CPG.
- c. Represent the CPG at Task Force meetings.
- d. Make presentations to Task Force on behalf of the CPG.

Tab G

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB G

POTENTIAL NON-FEDERAL SPONSORS

Tab G

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

POTENTIAL NON-FEDERAL SPONSORS

Recommendation For Task Force Approval:

Approve the following policy:

Local Cooperation Agreements may only be executed between the Federal Government and the State of Louisiana and not with political subdivisions of the State of Louisiana or non-profit entities.

Additional Considerations:

The above-recommended policy is based upon the attached legal opinion from the Assistant Division Counsel of the U.S. Army Corps of Engineers, Lower Mississippi Valley Division.

CELMV-OC (CELMV-PD-F/27 August 1991) (27-1a) 1st Exd
SUBJECT: Coastal Wetlands Planning, Protection and Restoration Act

Mr. Barnett/bl/5769

CELMV-OC

10 September 1991

FDR CELMV-PD

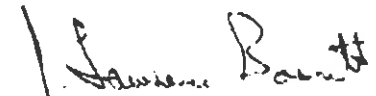
1. This office has been asked for a legal opinion as to whether the Task Force created by the subject Act may enter into an LCA with (a) a political subdivision of a state or (b) a non-profit entity such as the Nature Conservancy. Conversely, does the Act require any project undertaken thereunder, to be cost-shared only with the State of Louisiana or a coastal state? It is our opinion that the Government's cost-sharing partner must be a state and that LCAs with political subdivisions or non-profit entities are prohibited.
2. We find no legislative history for Title III of P.L. 101-646. Therefore, we must rely on the plain meaning of the statute itself.
3. Critical to our analysis is the fact that nowhere in the Act is provision made for cost-sharing or co-sponsoring any project with any local sponsor other than a state. Virtually every reference to a non federal partner in Title III is to the state. Section 306 priority projects are subject to the cost-sharing provisions of Section 303(f). Subsection 303(f)(3) distinguishes between the federal and "state" share. Section 304 identifies the "Governor" as the appropriate party who must enter into an agreement to develop a "conservation plan." Section 305 grants are to be made "to any coastal State." (Sec. 305(a)) Again the Act addresses cost-sharing in terms of the "State Share." (Sec. 305(d)(2))
4. The only language contained in the Act which might imply that a lesser entity than a state is authorized as a project sponsor is Section 303(f)(3) which states: "The share of the cost required of the State shall be from a non-Federal source . . ." We do not believe, however, that this language contradicts the remainder of the statute. Rather it permits a "liberal" policy of accepting assets that may not be the direct product of a state treasury. This interpretation is supported by the remainder of the clause which states in part: "The balance of such State share may take the form of lands, easements, or right-of-way or any other form of in-kind contribution . . ."
5. We note that the Act mentions state agencies in the context of planning and enforcement responsibilities. See, e.g., Sec. 304(a)(2)(B) and 304 (c)(2). Such references, however, relate to the details of implementation rather than identity of the non-federal partner.
6. If Congress had intended any entity other than a state to be a local sponsor, the definition section of the Act, Sec. 302, could have so defined the words "State" and "Coastal State." It is our belief that Congress has set ample precedents for a broader policy on local sponsors to include subdivisions of a state. See, e.g., the W.R.D.A. of 1986 where the term non-Federal interest is used throughout. Thus, Congress has historically used what is now a term of art, "non-federal interest," when it has intended a broader spectrum of local sponsors. We simply have no evidence that Congress intended to do likewise with the subject Act. On the contrary, the plain meaning of the statute, which speaks almost exclusively to a federal state relationship, and the historical practice of Congress in passing laws that use the term "non-Federal interests," lead us to the opinion stated in paragraph 1.

CELMV-OC

10 September 1991

SUBJECT: Coastal Wetlands Planning, Protection and Restoration Act

7. In view of the role of the Secretary with respect to this vital program, we recommend that the issue be submitted to higher authority.


J. LAWRENCE BARNETT
Assistant Division Counsel

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Tab H

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB H

FUNDING OF NEPA DOCUMENT PREPARATION

Tab H

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

FUNDING OF NEPA DOCUMENT PREPARATION

Recommendation For Task Force Approval:

Approve the following policy:

The funding of the preparation of NEPA documents will not be subject to the cost-sharing provisions of Section 303(f).

Additional Considerations:

The NEPA compliance process is intended to be an integral part of the planning process and, as such, is consistent with intent of Section 306(a)(1).

Tab I

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB I

FISCAL YEAR 1992 BUDGET PROPOSAL

Tab I

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

FISCAL YEAR 1992 BUDGET PROPOSAL

Recommendation For Task Force Approval:

Approve the attached FY 1992 Budget Proposal.

Additional Considerations:

The Chairman of the Technical Committee will briefly review the budget preparation process and answer questions from the Task Force. The individual budget tasks are identified on the attached Section 303 Implementation Diagrams.

**COASTAL WETLANDS PLANNING, PROTECTION, & RESTORATION ACT
FY 1992 BUDGET PROPOSAL—
ALLOCATION OF COST & ASSOCIATED MANPOWER**

Activity	Dept of Agriculture Soil Conservation Svc		Dept of the Army US Army Corps of Engrs		Dept of Commerce (2 Agencies)		Dept of Interior (4 Agencies)		Environmental Protection Agency		State of Louisiana		SUMMARY	
	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost
WORK ITEMS—Detail Planning Schedule														
HIRED LABOR ITEMS														
Restoration Plan														
RP 0010	240	6,361	288	9,176	152	4,084	104	2,524	96	2,665	248	5,400	1,128	30,210
RP 0011	260	6,320											260	6,320
RP 0020	680	20,531	992	30,845			336	8,417	240	7,404	960	21,120	3,208	88,317
RP 0030	272	8,140	248	7,902	144	3,770	80	2,094	120	3,803	160	3,680	1,024	29,389
RP 0040	1,400	30,497	1,400	40,092	1,200	32,270	1,720	40,547	480	13,334	960	18,720	7,160	175,460
RP 0050	400	12,723	560	15,608	288	8,420	320	7,054	200	6,339	480	8,960	2,248	59,104
RP 0060	944	27,524	2,320	68,490	960	25,543	2,710	62,395	480	13,267	1,280	28,320	8,694	225,539
RP 0070	944	27,611	2,272	67,410	1,640	50,300	2,830	65,134	960	28,196	1,280	28,320	9,926	266,971
RP 0080	400	12,723	896	27,188	552	16,289	240	6,722	304	9,560	480	12,160	2,872	84,642
RP 0090	112	3,988	256	8,338	96	2,687	88	2,238	104	4,253	128	3,280	784	24,784
RP 0100	1,696	53,349	1,532	46,988	328	9,185	380	10,195	460	13,833	416	9,248	4,812	142,798
RP 0110	400	8,494	160	4,432	416	13,400			0	0	320	4,480	1,296	30,806
RP 0120	480	9,056	640	17,088	760	20,108	3,135	56,957	320	8,198	448	8,704	5,783	120,111
RP 0130	240	7,252	932	27,597	288	8,061	200	4,904	160	4,608	320	7,360	2,140	59,782
Total Restoration Plan:	8,468	234,569	12,496	371,154	6,824	194,117	12,143	269,181	3,924	115,460	7,480	159,752	51,335	1,344,233
First Priority Project List														
PL 0010					32	717	40	1,268	40	1,601	160	4,240	272	7,826
PL 0020	46	1,524	296	9,335	96	2,687	120	3,361	72	2,525	240	6,080	870	25,512
PL 0021	208	5,524	296	9,172	56	1,702			144	4,499	160	4,240	864	25,137
PL 0030													0	0
PL 0040													0	0
PL 0050			72	1,990									72	1,990
PL A010											256	4,496	256	4,496
PL A020											1,029	18,063	1,029	18,063
PL A030											3,088	54,224	3,088	54,224
PL A040											1,029	18,063	1,029	18,063
PL A050											1,029	18,063	1,029	18,063
PL A060											520	9,128	520	9,128
PL A070											515	9,049	515	9,049
PL C010	280	7,278	64	1,958	16	562			24	984	143	2,509	527	13,291
PL C020	2,780	66,761	304	9,458	240	8,436			168	5,094	2,298	40,350	5,790	130,099
PL C030	720	15,658	32	886	240	8,436			24	883	1,723	30,257	2,739	56,120
PL C040	1,280	31,162	56	1,495	480	15,442			96	2,876	1,723	30,257	3,635	81,232
PL C050			224	6,683	40	1,168			128	3,846	575	10,093	967	21,790
PL C060			136	3,960	240	7,005			240	6,912	861	15,111	1,477	32,988
PL C070			128	3,933	80	2,504			32	1,033	143	2,509	383	9,979
Subtotal 1st Priority List:	5,314	127,907	1,608	48,870	1,520	48,659	160	4,629	968	30,253	15,492	276,732	25,062	537,050

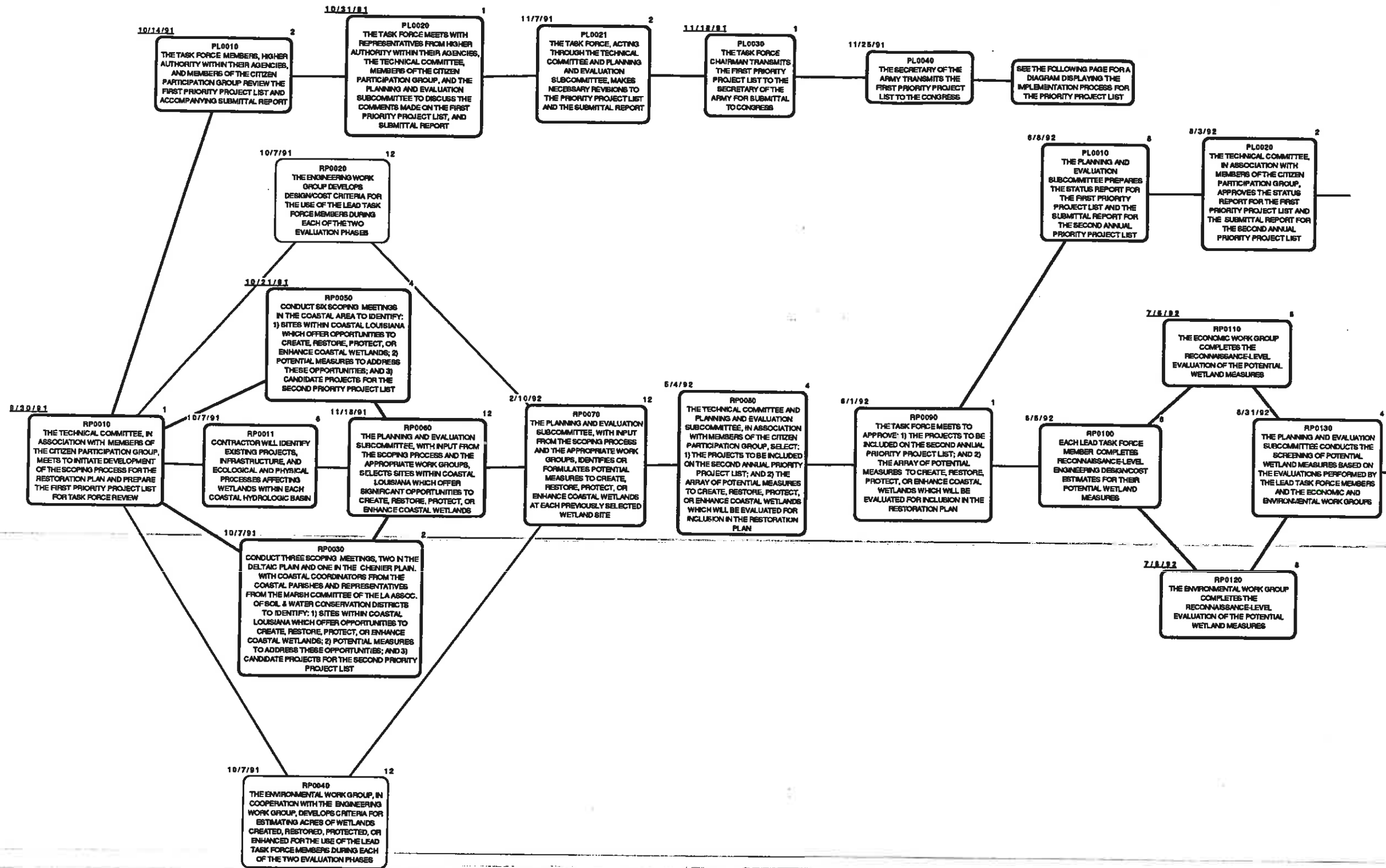
**COASTAL WETLANDS PLANNING, PROTECTION, & RESTORATION ACT
FY 1992 BUDGET PROPOSAL—
ALLOCATION OF COST & ASSOCIATED MANPOWER**

Activity	Dept of Agriculture Soil Conservation Svc		Dept of the Army US Army Corps of Engrs		Dept of Commerce (2 Agencies)		Dept of Interior (4 Agencies)		Environmental Protection Agency		State of Louisiana		SUMMARY	
	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost	Manhrs	Cost
Second Priority Project List														
PL 0010			304	9,063	600	16,251	320	7,678	240	6,912			1,464	39,904
PL 0020	200	6,352	160	4,867	160	4,738	144	3,637	48	1,940			712	21,534
PL 0030			88	2,753	80	2,234	40	1,268	48	1,940			256	8,195
PL 0040			104	3,272	64	1,862	48	1,389	24	973			240	7,496
PL 0050			152	4,483	144	4,034	96	2,689	32	922			424	12,128
PL 0060			48	1,477									48	1,477
Subtotal 2nd Priority List:	200	6,352	856	25,915	1,048	29,119	648	16,661	392	12,687	0	0	3,144	90,734
Total Priority List:	5,514	134,259	2,464	74,785	2,568	77,778	808	21,290	1,360	42,940	15,492	276,732	28,206	627,784
TOTAL HIRED LABOR:	13,982	368,828	14,960	445,939	9,392	271,895	12,951	290,471	5,284	158,400	22,972	436,484	79,541	1,972,017
OTHER COSTS														
Graphics	-	26,800	-	32,000	-	-	-	9,000	-	-	-	20,000	-	87,800
Printing	-	1,900	-	15,500	-	-	-	-	-	-	-	-	-	17,400
Travel	-	41,995	-	1,680	-	24,488	-	16,176	-	62,340	-	33,161	-	179,840
Contracts	-	-	-	-	-	-	-	-	-	-	-	113,000	-	113,000
Other	-	44,200	-	-	-	-	-	25,900	-	-	-	17,196	-	87,296
TOTAL OTHER:	-	114,895	-	49,180	-	24,488	-	51,076	-	62,340	-	183,357	-	485,336
OVERHEAD:	-	154,905	-	289,860	-	148,503	-	184,791	-	36,052	-	118,548	-	932,659
CONTINGENCIES:	-	160,372	-	197,021	-	111,114	-	131,862	-	64,708	-	184,611	-	849,688
TOTAL—DETAIL PLAN SCHED:	13,982	799,000	14,960	982,000	9,392	556,000	12,951	658,200	5,284	321,500	22,972	923,000	79,541	4,239,700
ADDED ITEMS (Approved by Technical Committee)														
HIRED LABOR	0	0	0	0	0	0	1,960	38,984	0	0	0	0	1,960	38,984
OTHER COSTS														
Printing	-	-	-	-	-	-	-	6,000	-	-	-	-	-	6,000
Travel	-	-	-	-	-	-	-	1,000	-	-	-	-	-	1,000
Contracts	-	-	-	-	-	-	-	50,000	-	150,000	-	-	-	200,000
Other	-	-	-	-	-	-	-	-	-	0	-	-	-	0
TOTAL OTHER:	-	0	-	0	-	0	-	57,000	-	150,000	-	0	-	207,000
OVERHEAD:	-	0	-	0	-	0	-	27,847	-	0	-	0	-	27,847
CONTINGENCIES:	-	0	-	0	-	0	-	30,969	-	37,500	-	0	-	68,469
TOTAL—ADDED ITEMS:	0	0	0	0	0	0	1,960	154,800	0	187,500	0	0	1,960	342,300
TOTAL BUDGET PROPOSAL:	13,982	799,000	14,960	982,000	9,392	556,000	14,911	813,000	5,284	509,000	22,972	923,000	81,501	4,582,000

LEGEND

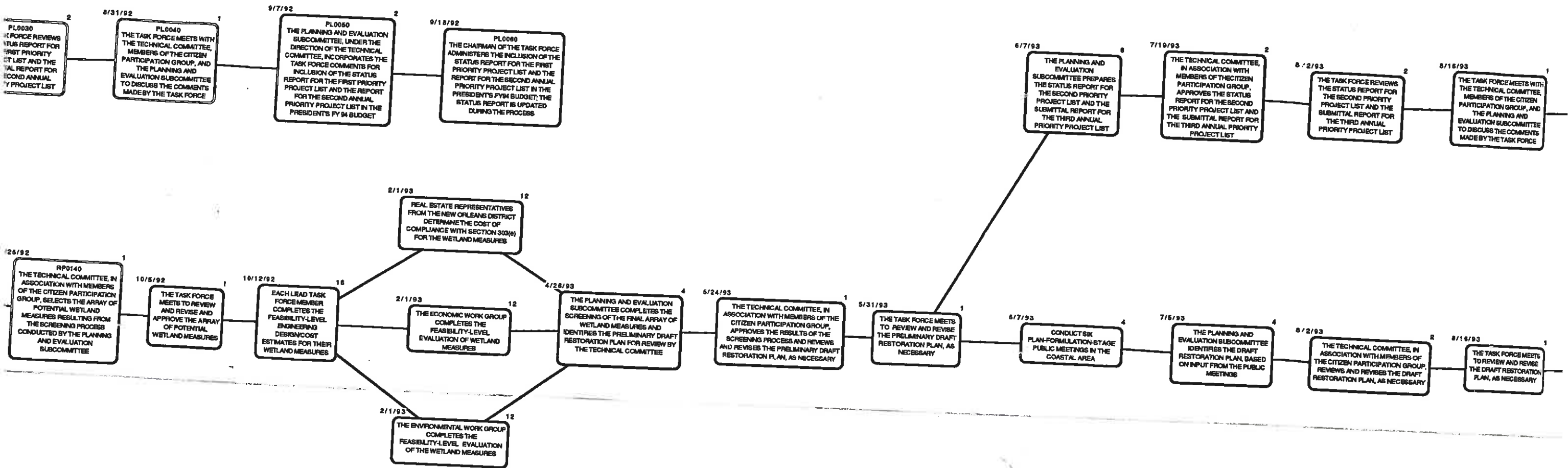
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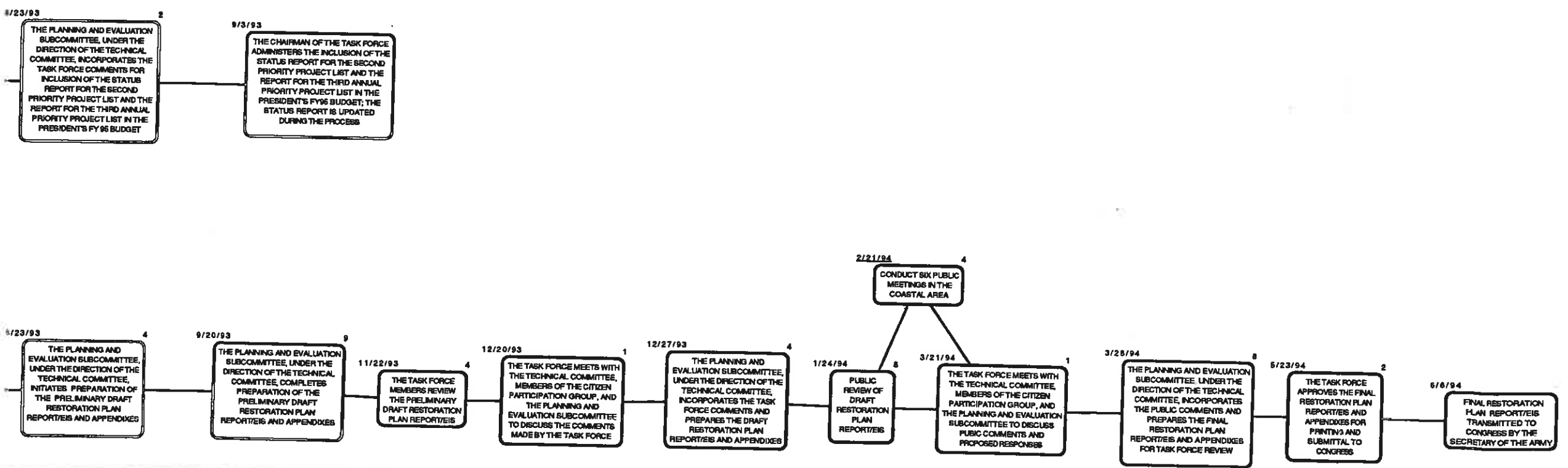
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LOUISIANA COASTAL WETLANDS RESTORATION PLAN

SEPTEMBER 10, 1991





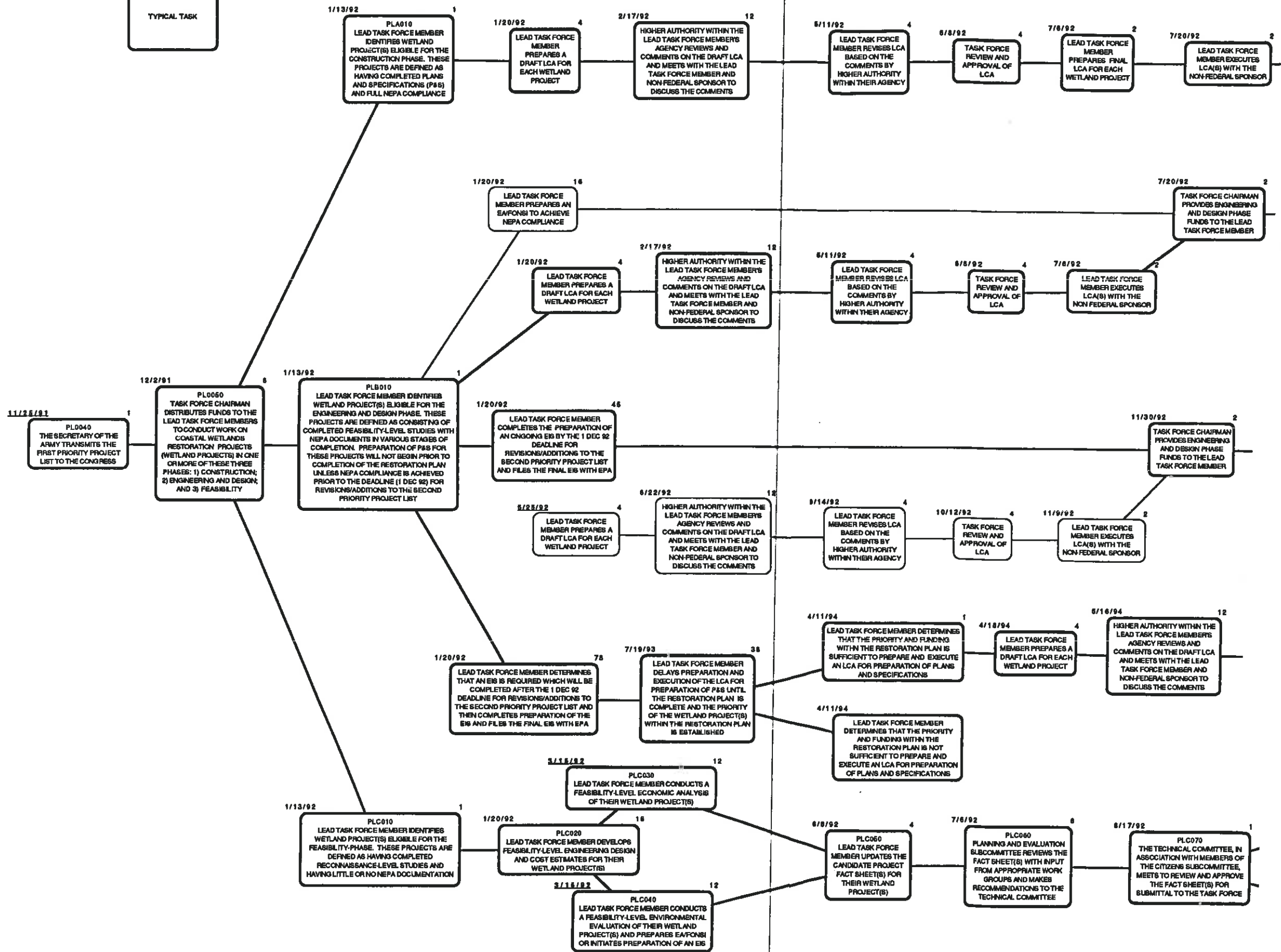
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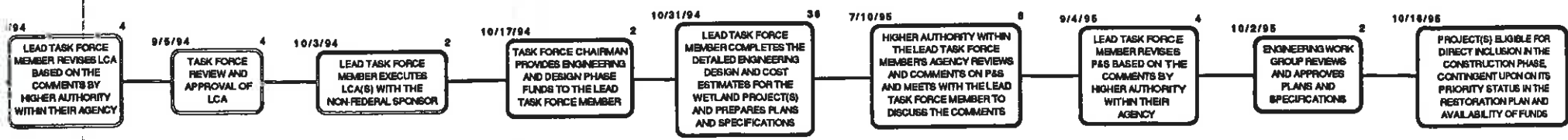
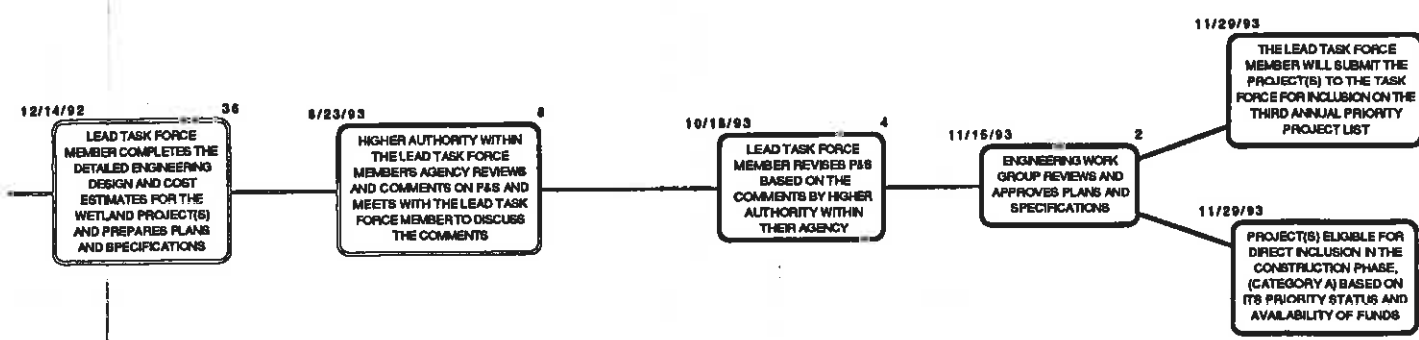
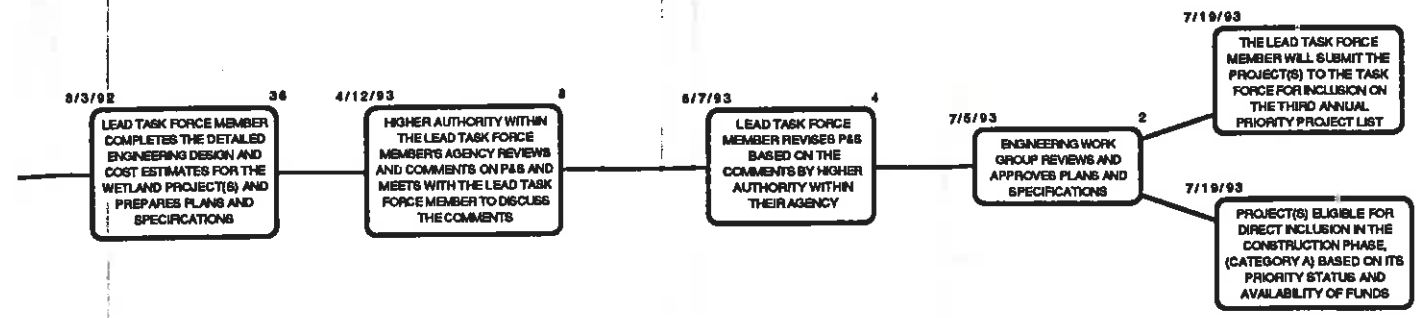
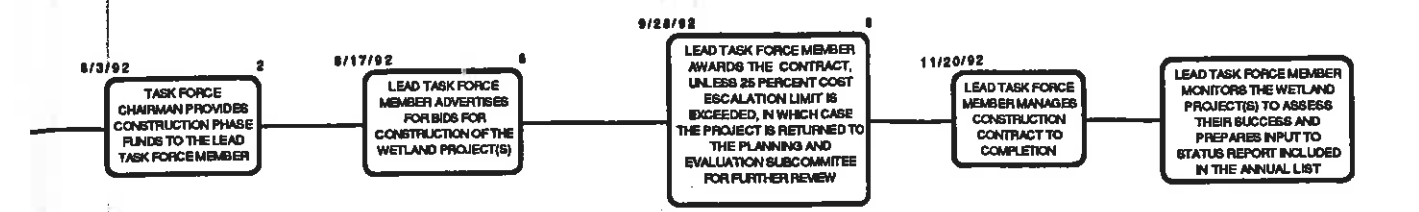
September 10, 1991

(DATE TASK BEGINS) 9/30/91 (DURATION OF THE TASK IN WEEKS) 8

LEGEND

TYPICAL TASK





8/24/92
IF AN EA FULFILLS NEPA COMPLIANCE REQUIREMENTS, THE LEAD TASK FORCE MEMBER WILL SUBMIT THE PROJECT(S) TO THE TASK FORCE FOR INCLUSION ON THE SECOND ANNUAL PRIORITY PROJECT LIST

8/24/92
IF AN EIS FULFILLS NEPA COMPLIANCE REQUIREMENTS, THE LEAD TASK FORCE MEMBER WILL INCLUDE THE PROJECT(S) IN THE RESTORATION PLAN EIS PREPARATION PROCESS

Tab J

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB J

PROGRAMMING OF FY 1992 FUNDS

Tab J

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

September 24, 1991

PROGRAMMING OF FY 1992 FUNDS

A representative from the Program Management Office of the New Orleans District, U.S. Army Corps of Engineers, will report to the Task Force on the status of the Washington-level discussions on this subject.

Tab K

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB K

DISTRIBUTION OF FY 1992 FUNDS

Tab K

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

DISTRIBUTION OF FY 1992 FUNDS

A representative from the Office of the Comptroller of the New Orleans District, U.S. Army Corps of Engineers, will report to the Task Force on the funds distribution plan currently under review within the U.S. Army Corps of Engineers.

Tab L

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB L

POTENTIAL FUNDING AFTER FY 1996

Tab L

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

POTENTIAL FUNDING AFTER FY 1996

The Chairman of the Task Force will discuss potential funding of the CWPPRA after FY 1996.

Tab M

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB M

STATUS OF THE PRIORITY PROJECT LIST

Tab M

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

STATUS OF THE PRIORITY PROJECT LIST

The Chairman of the Planning and Evaluation Subcommittee will provide a brief report on the status of the preparation of the Priority Project List.

Tab N

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB N

STATUS OF SECTION 303(e) IMPLEMENTATION

Tab N

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

September 24, 1991

STATUS OF SECTION 303(e) IMPLEMENTATION

A representative from the New Orleans District Real Estate Division will now provide a brief report on the status of Estates proposed to implement the provisions of Section 303(e).

Tab O

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB O

PREPARATION OF AN "ENVIRONMENTAL EVALUATION" BY EPA

Tab O

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING

September 24, 1991

PREPARATION OF AN ENVIRONMENTAL EVALUATION BY EPA

A representative from EPA will now describe the Environmental Evaluation to be prepared to accompany the Priority Project List.

Tab P

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB P

ADDITIONAL AGENDA ITEMS

Tab P

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

ADDITIONAL AGENDA ITEMS

Each Task Force member has the opportunity at this point to propose additional items/issues for the consideration of the Task Force.

Tab Q

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB Q

DATE/LOCATION OF THE NEXT TASK FORCE MEETING

Tab Q

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

DATE/LOCATION OF THE NEXT TASK FORCE MEETING

Recommendation For Task Force Approval:

DATE: October 31, 1991

TIME: 9:00 a.m.

LOCATION: District Assembly Room
New Orleans District, U.S. Army Corps of Engineers
Foot of Prytania Street
New Orleans, Louisiana

Tab R

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB R

REQUEST FOR WRITTEN QUESTIONS FROM THE PUBLIC

Tab R

COASTAL WETLANDS PLANNING, PROTECTION, AND RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

REQUEST FOR WRITTEN QUESTIONS FROM THE PUBLIC

All Task Force meetings are open to the public. Interested parties may submit a completed "Question Submittal Card" to the Task Force Chairman at this time. Questions and comments will be addressed at the next regularly scheduled Task Force meeting.

Tab S

COASTAL WETLANDS PLANNING, PROTECTION, AND
RESTORATION ACT

TASK FORCE MEETING
September 24, 1991

TAB S

SUMMARY OF THE CWPPRA AND COMPLETE TEXT

Tab S