
U.S. Army Corps of Engineers
New Orleans District
New Orleans, LA

Project Information Report
PL 84-99 Rehabilitation of Hurricane or Shoreline Protection Project

Lake Pontchartrain, La And Vicinity Hurricane Protection Project

Orleans Parish, LA

NEW ORLEANS EAST

19 October 2005

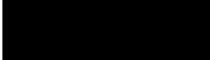
1. Project Identification

- a. Project Name: Lake Pontchartrain, LA and Vicinity Hurricane Protection Project
- b. Project Funding Classification: FCCE Class 330
- c. Project CWIS Number: 009350

2. Project Authority

- a. Classification: Federal
- b. Authority:

Public Law: The Flood Control Act of 27 October 1965, P.L. 89-298, as amended, authorized the "Lake Pontchartrain, Louisiana and Vicinity Hurricane Protection Project" substantially in accordance with House Document 231, 89th Congress, 1st Session.

- c. Estimated original cost of project: 
 - d. Construction start date of original project: 1965
 - e. Construction completion date of original project: 1995
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f. Major modifications/improvements/betterments since beginning of project: Reevaluation report dated July 1984, updated June 2005.

3. Public Sponsor

a. Sponsor Identification: Orleans Levee District

b. Application for Assistance: Letters dated September 26, 2005 and October 8, 2005 (see Appendix A).

c. Sponsor Coordination Summary: Multiple inspections for damage survey reports were conducted 8 Sept 05 – 1 Oct 05 to inspect damages to the levee and control structures resulting from Hurricane Katrina. Following is the team(s) that conducted the inspections –

Project Manager	Kenny Crumholt
Structural Engineer	Bob Grubb
Civil Engineer	Christina Montour
Geotechnical Engineer	Richard Pinner
Construction Engineer	Chris Wagner
Environmental	Richard Boe
Real Estate	Dawn Lambert

4. Project Location

a. Location: The project is located in St. Bernard, Orleans, Jefferson, and St. Charles Parishes in southeast Louisiana, generally in the vicinity of the city of New Orleans, and between the Mississippi River and Lake Pontchartrain. The Orleans East portion of this project is located in Orleans Parish, east of Downtown New Orleans and is bordered by Lake Ponchartrain, the Inner Harbor Navigation Canal (IHNC) and the Gulf Intracoastal Waterway (GIWW).

b. Description: The project is designed to protect residents between Lake Pontchartrain and the Mississippi River levee from surges in Lake Pontchartrain driven by storms up to the Standard Project Hurricane. The SPH is equivalent to a fast-moving Category 3 hurricane.

5. Project Design

a. The New Orleans East portion of the project protects 44,700 acres of residential, urban, commercial, and industrial lands. The levee portion is constructed with a 10-foot crown width with side slopes of 1 on 3. The height of the levee varies but is in the range of 13.8 - 19 feet. There are also floodwall segments along the line of protection

that consist of sheet-pile walls or concrete I-walls constructed on the top of sheet-pile. There are also numerous road and rail road closure structures at various locations throughout the line of protection. The line of protection was designed to provide protection from the Standard Project Hurricane (approximately a fast moving Category 3 storm).

b. The Levee District is classified as an Urban Flood Control Works (FCW). The primary project features per last inspection on May 2005 are as follows:

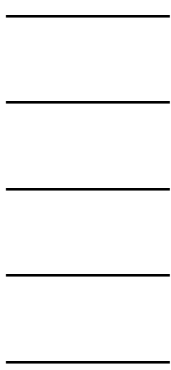
Feature	Primary		PL84-99		Maintenance Performance Level
	Use	Cat	Eligible	Active	
1. Levee	• FCW	• FLU	Yes	Yes	• Acceptable
2. Floodwall	• FCW	• FLU	Yes	Yes	• Acceptable
3. Control Structures	• FCW	• FLU	Yes	Yes	• Acceptable
4. Railroad Closure Structure	• FCW	• FLU	Yes	Yes	• Acceptable

Primary Use Codes: FCW = Flood Control Works NFC = Non-Federal Control Works

Category Codes: 1st Letter	- 2nd Letter	- 3rd Letter
F=Federally Constructed	F=Federally Maintained/Not Eligible	U=Urban
L=Locally Constructed	L=Locally Maintained/Eligible	A=Agriculture
	P=Locally Maintained/Not Eligible	

6. Disaster Incident

The New Orleans East Protection Levee east of New Orleans, LA was damaged by Hurricane Katrina in late August 2005. The protected area is located just east of the Inner Harbor Navigation Canal (IHNC). The flood event produced storm surge levels that overtopped the existing protection along the Mississippi River Gulf Outlet (MRGO) and Gulf Intracoastal Waterway (GIWW). Wave action also contributed to the failure. The height of the existing levees varied but the levee crowns were generally at approximately El. 17.0. Major breaching occurred along this stretch of levee as a result of the overtopping and resulting erosion and scour. In addition there was damage to the railroad closure structure located in the South Point to GIWW levee segment. The remainder of the levee protection system received less severe damage primarily scouring on the land-side of floodwalls, localized scouring of earthen levees, and scouring of the tie-in at each closure structure.



7. Project Damages for New Orleans East Hurricane Protection Levee and Floodwall

Reach A - New Orleans East Back Levee

Damage Length: 12,750 feet

Levee Section: 876+87B/L - 1101+90/B/L

Damage Description: Levee completely degraded

Damage Cause: Overtopping



Reach A

Damage Length: 900 feet

Levee Section: 876+87B/L

Damage Description: Rotated I-wall, Overtopping and Scour

Damage Cause: Overtopping



Reach A

Damage Length: 1200 feet

Levee Section: 271+55B/L

Damage Description: Floodwall breached and scoured

Damage Cause: Overtopping



Railroad Closure Gate

Damage Description: Structural and scouring

Damage Cause: Overtopping from Storm Surge



8. Project Performance Data

a. Inspection Results

- (1). Date of Last Inspection: May 2005
- (2). Type of Last Inspection: Inspection of Completed Works
- (3). Project Condition Code of Last Inspection: Acceptable

b. Sponsor's Annual O&M Cost – unknown

c. Estimated cost to repair maintenance deficiencies: None

d. Previous PL-84-99 Assistance: There has not been any previous PL84-99 assistance provided to this project.

e. This project has no beach nourishment features.

9. Project Repair Alternatives Considered

a. Description

(1) No Action. This alternative consists of providing no emergency repairs to this portion of the hurricane protection system under PL 84-99 authority or funding sources. The protected area would remain unprotected and not be suitable for residential, industrial and other urban usage.

(2) Non-Structural Flood Recovery / Floodplain Management. This alternative consists of non-structural strategies generally involving change in land use offered by other federal and state programs. Such strategies would include: (1) Acquisition, relocation, elevation, and flood proofing existing structures; (2) acquisitions of easements and/or fee; and (3) restoration of wetland. The sponsor has not expressed any desire to pursue any non-structural alternatives.

(3) Rebuild Levee, Floodwalls and Closure Structures to pre-Flood Condition. This alternative consists of repair and rehabilitation of damaged areas and the replacement of particular features to the authorized level of design protection, including over build, as appropriate, as constructed prior to the 2005 hurricane event, in accordance with project authority.

b. Discussion.

(1) No Action alternative is not acceptable to the Sponsor because the area would remain unprotected and continually flood and prevent reliable commercial and industrial use of the land. There is an operating Six Flags amusement Park, a NASA assembly plant, and Air Products, one of the major suppliers of hydrogen products in the nation are located within the protected area.

(2) Non-Structural Flood Recovery / Floodplain Management alternative is not acceptable due to the numerous industrial uses for the lands within the protected area. In addition there will be residents who will want to and will be allowed to rebuild there homes. The sponsor has not requested a non-structural alternative.

(3) Structural Repair alternative restores the hurricane protection system to the authorized project height (returns the project to its previously constructed height) and is fully supported and desired by the Sponsor. If the repair is not done, continued damage will occur during future flooding events. Repairs would be the replacement of lost material to restore the levee alignment and cross section to pre-flood condition, replacement of the damaged floodwall sections and repair to the two damaged control structures and a rail road closure structure.

10. Recommended Alternative

a. Description. The repairs will consist of three major components, to be awarded as three separate contracts. The first is to construct the portion of the hurricane protection system (approximately 33,000 feet of earthen levee and floodwalls) along the GIWW/MRGO in the same general alignment and template as the levee originally constructed there (see Appendix B-2). Approximately 700,000 yards of semi-compacted and uncompacted impervious materials will be needed to construct the levee. The elevations of the levee and floodwalls will match the authorized heights (returning the project to its previously constructed height). The cross section used will be that used during the most recent levee construction contract along this reach. The second repair will be to replace an I-wall segment at Pump Station No. 15 which ties this segment into the adjacent levee segments. The third repair will be to construct a sheet-pile floodwall along the same alignment used on the original sheet-pile segments.

b. The remaining work to be performed will be awarded as six (6) additional contracts and consist primarily of repairing scoured areas throughout the remainder of the hurricane protection system, to include repair of damaged closure structures.

ASSESSMENT OF SELECTED ALTERNATIVE

11. Economic Analysis

a. General: The economic feasibility analysis for the New Orleans East portion of the Lake Pontchartrain Hurricane Protection Project was conducted in accordance with EP 500-1-1 in support of the repair and reconstruction of federally-authorized flood control works as provided for under Public Law 84-99.

b. Benefit Analysis: The total average annual benefits associated with the New Orleans East reach of the Lake Pontchartrain Hurricane Protection Project are \$36,737,000. The source of this estimate is the "Lake Pontchartrain, La. and Vicinity Hurricane Protection Project Reevaluation Study (July 1984), the latest approved decision document, as updated in June 2005 in support of the FY 2007 Congressional

budget submission. Inundation damage reduction benefits include those associated with avoided losses to residential, commercial, and industrial structures, their contents, and vehicles associated with these structures. This figure is estimated using 2005 price levels and the FY 2006 current Federal discount rate of 5.125 percent. These benefits are based upon an expectation that all damaged or destroyed facilities will be fully restored and is consistent with current planning guidance that requires adjustments if there is specific information that indicates such restoration will not occur. No adjustments thus far were made to account for partial replacement in kind of structures that have been damaged or destroyed by Hurricane Katrina.

c. Cost Analysis: The total first cost for the rehabilitation work is [REDACTED]. The total average annual cost associated with repair of the damaged portions of the New Orleans East portion of the Lake Pontchartrain Hurricane Protection Project is [REDACTED]. This estimate includes construction costs, contingencies, engineering and design costs, and construction management costs. The total first costs reflect October 2005 price levels and were amortized at an expected FY 2006 Federal discount rate of 5.125 percent over a 50-year period of evaluation. Since the repair is expected to be completed within one year, no interest during construction accrues. No incremental operations and maintenance costs are expected since the scope of the original project design has not changed.

d. Benefit Cost Ratio: The degree to which average annual project benefits exceeds average annual project costs is the measure of positive average annual net project benefits and is consistent with a benefit-to-cost ratio of 1.0 or greater. Net benefits for the rehabilitation project is [REDACTED]. The benefit-to-cost ratio is accordingly 10.6 to 1.0.

e. Construction Cost Estimate

Detailed Repair Costs:

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Estimated Amount</u>
Mob. & Demob	Sum	Job		[REDACTED]
Excavation/Site Prep		L.S.		[REDACTED]
Embankment, semi-compacted	475,000	C.Y.		[REDACTED]
Embankment, Uncompacted Fill	205,000	C.Y.		[REDACTED]
Truck Wash-Down Rack	1			[REDACTED]
Establishment of Turf	125	Acre		[REDACTED]

Construction Costs (cont.)

Subtotal:

Citrus Back Levee	Sum	Job
Sheet Pile Transition PS #15	Sum	Job
Tie-in at CSX Railroad	Sum	Job
Southpoint to GIWW	Sum	Job
200 Ft Floodwall Breach	Sum	Job
Lakefront Airport	Sum	Job
Hwy 11 to Hwy 90	Sum	Job
IHNC East Wall Scour	Sum	Job
Floodwall Repair, Michoud Canal	Sum	Job

Subtotal:

Contingency - [REDACTED]

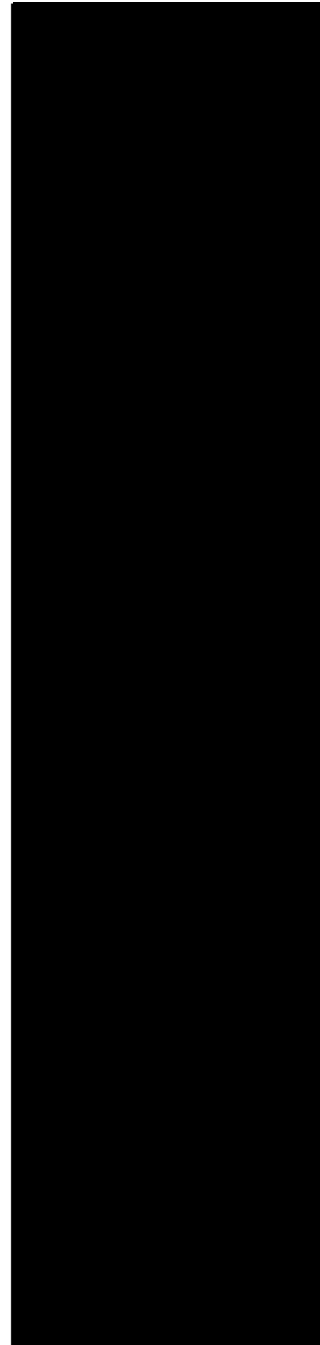
Subtotal:

Engineering & Design - [REDACTED]

Construction Management - [REDACTED]

Real Estate costs

TOTAL PROJECT REPAIR COST



12. Environmental and Other Factors

a. Effect of Proposed Work on Environment: Levee repairs are not expected to have significant impacts to endangered species, important fish and wildlife resources, water quality, flood plains, or other natural and cultural resources. The New Orleans District has determined that the features of the proposed project that will be constructed within the original project footprint are categorically excluded from NEPA documentation according to ER200-2-2, paragraph 9.a., which provides for repair, rehabilitation, and replacement of existing projects. The proposed action has the potential to impact areas not previously a part of the construction of this facility, and which have not been the subject of any prior environmental review. Since this is emergency work that will be undertaken to restore the New Orleans East flood protection system to its condition prior to the 2005 hurricane season in order to address the immediate risk to life, health, property and economic losses, documentation under the National Environmental Policy Act (NEPA) is not required prior to implementation of this project, as per ER 500-1-1, paragraph 2-4k(1). Project features that are outside of the original project footprint, including borrow areas, are not expected to have significant impacts on the environment. The District has been, and will continue to coordinate the proposed action with other interested Federal and state resource and regulatory agencies.

b. Fish and Wildlife Coordination Act: The proposed repairs have been coordinated with the U.S. Fish and Wildlife Service by telephone and e-mail on 1 and 2 October 2005. The Service does not object to the proposed repairs.

c. Water Resources: A temporary increase in water turbidity could occur around repair operations due to runoff from the construction site. Best management practices, such as silt fencing, would be part of the construction contract. The water resources of the area, mainly fishery resources, have already been severely impacted by 2005 hurricanes. No additional adverse impacts associated with turbidity are anticipated.

d. Permits: The Corps will not need to apply for a stormwater pollution prevention permit from the Louisiana Department of Environmental Quality (LDEQ) pursuant to Section 402 of the Clean Water Act since LDEQ has granted the Corps blanket authority to discharge storm water runoff from construction activities related to hurricane response activities in the Emergency Areas. The blanket permit requires that Best Management Practices be implemented to the greatest extent practicable to avoid erosion and offsite transport of sediments. Accordingly, silt fences and truck wash down racks are required for this project. These requirements will be included in plans and specifications.

CEMVN-PM-R has coordinated the proposed action with the Louisiana Department of Natural Resources (LDNR), Coastal Management Program office. Under their emergency procedures, the LDNR has agreed with the Corps' determination that the proposed action is consistent to the maximum extent practicable with the Louisiana's Coastal Resources Program by telephone communication dated 2 October 2005. The

LDNR reserves the right to consider the need for mitigation once the project is reviewed under their normal procedures.

The Corps will not need to obtain a State Water Quality Certification pursuant to Section 401 of the Clean Water Act from the LDEQ since they have sent a letter to the Corps dated 7 September 2005, which waives and dispenses with the requirement of State Water Quality Certification prior to performing such work as needed to repair, replace, or restore public infrastructure damaged or destroyed by 2005 hurricanes.

e. Hazardous, Toxic and Radioactive Waste (HTRW) Sites: No adverse impacts are anticipated from the repair operation. An assessment of the potential of encountering HTRW indicates that there is a low probability of encountering HTRW during project construction.

f. Soils and Land Use: Project construction would not alter soils or land use. The Government furnished borrow area is within the Federally-owned Bonnet Carre' Spillway. The borrow source has been covered in previous environmental assessments and is available for use in any levee repair project.

g. Air Quality: Repair activities will result in dust and exhaust fumes from equipment. These are short-term minor impacts that will terminate after the repair is completed. Expected emissions levels have been estimated to be below the threshold *de minimus* levels for Orleans Parish as provided in the State Implementation Plan. Therefore a conformity determination is not required.

h. Noise: There will be no significant impacts. The area where work is required are either remote or commercial/industrial, so construction noise is not expected to significantly affect residential areas.

i. Flora: No long-term adverse impacts are expected as a result of levee repairs. The levee will be seeded and re-vegetated to pre-storm conditions.

j. Fauna: No long-term adverse impacts are expected as a result of levee repairs. The construction area is mowed levee and floodwall, which provides poor habitat for faunal resources.

j. Fisheries: No significant adverse impacts are anticipated as a result of levee repairs.

k. Threatened and Endangered Species: Threatened and endangered species are not expected to be impacted as a result of this levee repair. Compliance was achieved with the Endangered Species Act through U.S. Fish and Wildlife agreement with the Corps' assessment of no effect through correspondence on 1 and 2 October 2005.

l. Essential Fish Habitat: The National Marine Fisheries Service (NMFS) was contacted to determine the effects of the proposed action on Essential Fish Habitat under

provisions of the Magnuson-Stevens Fishery Conservation and Management Act. The NMFS responded by email dated 3 and 4 October 2005 that the proposed action would not adversely impact Essential Fish Habitat or marine fishery resources.

m. Cultural Resources: The area of the proposed levee and floodwall repairs are located on recently deposited (50-100 years ago) sediments from construction of the Gulf Intracoastal Waterway and the Lake Pontchartrain, Louisiana and Vicinity Hurricane Protection project. Therefore, the likelihood of encountering potentially significant archeological remains within this context is extremely low. The proposed action has been coordinated with the State Historic Preservation Officer who agreed that no further cultural resources investigations are warranted by email dated 10 October 2005.

n. Socioeconomic Resources: The levee repair will result in the protection of approximately 44,700 acres of urban and industrial land from the Standard Project Hurricane (fast moving Category-3).

o. Aesthetic Resources: Same as pre-construction.

p. Recreational Resources: The levees and floodwalls to be repaired are not used for recreational purposes. Therefore there would be no effect.

q. Section 404(b) Evaluations: The levee repair would not result in deposition of fill material into waters of the U.S. Therefore Section 404 does not apply.

r. Executive Order 11988: EO 11988, Floodplain Management, is not applicable to this levee repair action.

s. Cumulative Impacts: The proposed action is part of a comprehensive program named Task Force Guardian, which is the U.S. Army Corps of Engineers' effort to rehabilitate the Standard Project Hurricane protection for Orleans, St. Bernard and Plaquemines Parishes to its condition prior to the 2005 hurricane season. Repairs are being planned for both the Lake Pontchartrain and Vicinity project and the New Orleans to Venice Project. Failure to repair the damages to the hurricane storm-surge protection system would leave large developed areas vulnerable to flooding from minor storms. Separate assessments may be conducted for other proposed actions under Task Force Guardian. An after-the-fact comprehensive National Environmental Policy Act document, if determined by the Corps to be necessary, will be prepared for all actions taken under Task Force Guardian, which are not categorically excluded, once all of the actions needed to repair damages to flood protection systems have been accomplished.

13. One-Time Deviation from the Policy Requirements of Cooperation for the Rehabilitation Efforts:

a. Approval Memorandum: Pursuant to CECW-HS, Memorandum for Assistant Secretary of the Army for Civil Works (ASA(CW)), SUBJECT: Recommendations for One-Time Deviations to Certain Policies Regarding Use of P. L. 84-99 (33 U.S.C. 701n) in New Orleans and Vicinity following Hurricane Katrina-FOR APPROVAL, dated October 7, 2005 (a copy of which is attached hereto as Appendix I), approved by the ASA(CW) on October, 12, 2005, and affirmed by the Office of Management and Budget on October 17, 2005, the Government shall utilize Flood Control and Coastal Emergencies (FCCE) funds, at full Federal expense pursuant to the provisions of P. L. 84-99, to fund the performance of the following activities as a one-time exception of policy specific to flood control works in St. Bernard, Orleans, and Plaquemines Parishes, Louisiana, following Hurricane Katrina, as follows:

1) Federally Authorized and Constructed Flood Damage Reduction Projects, Turned Over to Non-Federal Sponsor (hereinafter "Completed Project"): Fund the acquisition of lands, easements, rights-of-way, relocations, borrow and disposal areas (LERRDs) not owned or under the control of the Public Sponsor and the performance of relocations that are needed for the construction, operation and maintenance of the permanent rehabilitation of the Completed Project;

2) Non-Federal Flood Damage Reduction Projects, Not Active in the Corps' Rehabilitation and Inspection Program (RIP) (hereinafter "Non-Federal Project"): Undertake permanent rehabilitation to pre-storm condition, and fund the acquisition of LERRDs not owned or under the control of the Public Sponsor and the performance of relocations that are needed for the rehabilitation of the Non-Federal Project;

3) Federally Authorized and Constructed Flood Damage Reduction Projects, Not Turned Over to Non-Federal Sponsor But Operated and Maintained (O&M) by Non-Federal Sponsor (hereinafter Essentially Completed Project). Undertake permanent rehabilitation to pre-storm condition, and fund the acquisition of LERRDs not owned or under the control of the Public Sponsor and the performance of relocations that are needed for the rehabilitation of the Essentially Completed Project;

4) Federally Authorized Projects Under Active Construction (Incomplete Project). Undertake permanent rehabilitation to pre-storm condition, and fund the acquisition of LERRDs not owned or under the control of the Public Sponsor and the performance of relocations that are needed for the rehabilitation of the Incomplete Project.

b. Approved P. L. 84-99 FCCE Policy Deviations Applicable to the Rehabilitation Efforts for the Lake Pontchartrain, LA and Vicinity Hurricane Protection Project, Orleans Parish, Louisiana, New Orleans East: The following approved FCCE policy deviations, as described in sub-paragraph a. of this paragraph, apply to the rehabilitation efforts for the subject project:

1) Completed Project Deviation: the Rehabilitation Effort identified in the subject PIR

2) Non-Federal Project: none

3) Essentially Completed Project: none

4) Uncompleted Project: none

14. Requirements of Federal and Public Sponsor Cooperation for the Rehabilitation Efforts: A Cooperation Agreement will be entered into between the Government and the Public Sponsor. Obligations of the Government and the Public Sponsor for the herein described rehabilitation efforts are described in the following sub-paragraphs.

a. Lands, Easements, Rights-of-Way, and Disposal or Borrow Areas (LERD):

(1) LERD Owned, Claimed or Controlled by the Public Sponsor: Upon the Government's request that the Public Sponsor provide right of entry for LERD determined by the Government to be necessary for the construction, operation and maintenance of the permanent rehabilitation efforts herein described, the Public Sponsor shall provide, at no cost to the Government, a right of entry to LERD on lands that were owned, controlled, or claimed by the Public Sponsor on the date of the Government's request for right of entry (hereafter "Public Sponsor LERD"). The Public Sponsor shall secure, at no cost to the Government, the subordination or release of all third party interests within said Public Sponsor LERD, as required by the Government's request for right of entry.

(2) LERD Owned, Claimed or Controlled by Other Non-Federal Governmental Entities: The Public Sponsor, at no cost to the Government, shall use its best efforts to provide right of entry, as requested by the Government, to LERD that were owned, controlled or claimed by other non-Federal Government entities on the date of the Government's request for right of entry (hereinafter "Other Non-Federal Governmental LERD"). If the Public Sponsor, despite diligent efforts, is unable to acquire right of entry to Other Non-Federal Governmental LERD, the Government shall obtain right of entry to the Other Non-Federal Governmental LERD from the non-Federal governmental entity who owns, controls or claims said LERD.

(3) Owned by Private Interests: For the rehabilitation efforts described herein, the Government shall fund the acquisition of LERD that are not owned, claimed or under the control of the Public Sponsor or any other non-Federal governmental entities on the date of the Government's request for right of entry (hereinafter "Private LERD"). The Government's responsibility to fund the acquisition of Private LERD shall be in accordance with the following procedures and requirements.

(a) Exercise of Commandeering Powers: Immediately upon the Government's request that the Public Sponsor provide Private LERD, the Mayor of New Orleans, as Chief Executive Officer for the City of New Orleans, without cost to the Government, shall sign an executive order commandeering the Private LERD (hereinafter "Commandeering Order"), pursuant to his/her powers under La. R.S. 29:721, et seq., and shall thereafter provide right of entry to the Public Sponsor (in the event that commandeering authority resides in a position other than the chief executive of the Public Sponsor) for the construction of the permanent rehabilitation efforts herein described. The exercise of such commandeering powers and authorities is subject, under the cited state law, to the requirement that the owners of any commandeered interest that is compensable under the law, be identified and justly compensated under the law.

(b) Provision of Right of Entry: At no cost to the Government, the Public Sponsor shall promptly provide right of entry to the Government to the Private LERD for the construction, operation and maintenance of the rehabilitation efforts described herein.

(c) Responsibility for Acquisition of Private LERD: After receipt of the executed Commandeering Order and right of entry from the Public Sponsor, the Government will perform, or cause to be performed, the acquisition of the Private LERD determined by the Government to be necessary for the construction, operation and maintenance of the LERD described herein. The acquisition of LERD by the Government will be subject to the availability and receipt of P. L. 84-99 appropriations and the provision by the Public Sponsor, at no cost to the Government, of the Commandeering Order and right of entry referenced in Paragraph 14.a.(3)(a) and 14.a.(3)(b), respectively.

(d) Acquisition in the Name of the Public Sponsor: The Government shall acquire, as appropriate any Private LERD and Other Non-Federal Governmental LERD and relocations, as well as any subordinations or releases of interest required to be obtained from third parties in the name of the Public Sponsor. Provided however, that if the Government is required to acquire said interests through the exercise of its Federal powers of eminent domain authority, the Government shall file such proceedings in a Federal district court, such that possession and ownership of the condemned LERD and interests shall be in the name of the United States of America. The Government shall thereafter quitclaim such interest to the Public Sponsor and the Public Sponsor shall agree in the Cooperation Agreement to accept the quitclaim of any LERD and interests so acquired by the Government for the purposes of the Rehabilitation Effort herein described.

b. Construction: The Government will expeditiously construct the rehabilitation efforts described herein, subject to the provision of P. L. 84-99 funds by the Congress, and subject to the commandeering of Private LERD by the chief executive officer of the parish or city where the Private LERD are located and to the provision by the Public

Sponsor of a right of entry to the LERD determined by the Government to be necessary for the construction, operation and maintenance of the Rehabilitation Effort.

c. Relocations: The Government will determine and accomplish or assure accomplishment of all the relocations necessary for the construction, operation and maintenance of the Rehabilitation Effort described herein, including those necessary to enable the removal of borrow materials and the proper disposal of dredged or excavated material; provided however, that the Public Sponsor, without cost to the Government, shall commandeer the privately-owned relocated facilities or utilities in accordance with its powers under La. R.S. 29:721, et seq.; shall diligently exercise its rights and authority to secure a subordination or release of third party interests on Public Sponsor LERD; and shall use its best efforts to secure a subordination or release of third party interests on Other Non-Federal Governmental LERD. If the Public Sponsor, despite diligent efforts, is unable to secure the release or subordination of third party interests in Other Non-Federal Governmental LERD, the Government shall obtain such subordination or release from the owners of such interests.

d. Hazardous Substances: The Government shall perform, or cause to be performed, such investigations for hazardous substances as are determined to be necessary by the Government to identify the existence and extent of hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. 9601-9675, on all lands that are determined by the Government to be necessary to the construction, operation, and maintenance of the subject Rehabilitation Effort. In the event that hazardous substances are determined to exist on lands acquired for the Rehabilitation Effort and the Government and the Public Sponsor determine to proceed or continue with the construction after considering liability that may arise under CERCLA, the Public Sponsor shall be responsible, as between the Government and the Public Sponsor, for any and all necessary clean up and response costs, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of the total Rehabilitation Effort the subject project.

e. Indemnification: The Public Sponsor shall hold and save the Government free from all damages arising from the construction, operation, and maintenance of the subject Rehabilitation Effort and any related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

f. Betterments: The Public Sponsor may request the Government to accomplish betterments and shall be solely responsible for any increase in costs resulting from the betterments. All such increased costs will be paid in advance by the non-Federal sponsors.

g. Operation and Maintenance: The Public Sponsor shall operate and maintain those portions of the Rehabilitation Effort herein described at no cost to the Government, in accordance with specific directions prescribed by the Government in Engineer

Regulation 500-1-1 and any subsequent amendments thereto and other applicable authorities

15. Real Estate Requirements: All applicable Rights of Entry will be obtained prior to each construction contract in accordance with the procedures set forth in Paragraph 14 above.

16. Project Management

a. Funding Authority

- (1). Program and Appropriation: FCCE, 96x3125
- (2). Class: 330
- (3). CWIS Number: 009350

b. Project Funds

- (1). Total estimated construction cost including E&D [REDACTED]
- (2). Other Non-Federal cost \$ 0

c. Project Repair Schedule. There will be a minimum of nine (9) construction contracts used for the repair of the New Orleans East Levee hurricane protection system. Eight construction contracts will be used to repair and rebuild the hurricane protection levees and floodwalls and attendant features. A separate contract is for the repair of the railroad closure structure.

d. Project Agreement Requirements: A Cooperation Agreement will be entered into between the Government, and the Sponsor - Orleans Levee District prior to the start of construction.

e. Real Estate Requirements: All applicable Rights of Entry will be obtained prior to each construction contract.

PROJECT SUMMARY

17. Conclusions

a. The New Orleans East Levee portion of the Lake Ponchartrain, LA and Vicinity Hurricane Protection Project was damaged by Hurricane Katrina in August 2005. The damage consisted of extensive breaches, scour and erosion of the levee along

the Gulf Intracoastal Waterway (GIWW). In addition there was extensive damage to floodwall reaches and severe degradation of earthen levee reaches and a railroad closure structure. Minor damage resulting from scouring occurred at each road closure structure.

b. Alternatives consisting of No Action, Non-Structural Recovery, and Structural Repairs were considered. Structural repair of the hurricane protection system was selected as the recommended alternative.


c. Structural repairs to the project would consist of restoring the levee to its pre-flood alignment and cross section, replacement of each damaged section of sheet-pile and concrete floodwall and repair of the closure structures.

d. The total rehabilitation project cost is approximately [REDACTED] with a benefit-to-cost ratio of 10.6 to 1. Without repairs to the Orleans East Levee, flooding during a tropical storm or hurricane would continue leaving the area unusable.

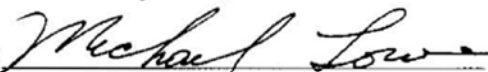
18. Recommendations/Project Authentication

- a. It is recommended that this project should be repaired under PL84-99. The project alternative of structural levee repair should be implemented as described in this document.
- b. It is recommended that this project be approved and that Federal funds in the amount of [REDACTED] be provided. The final design will be completed with contract award scheduled to ensure repairs are completed by the beginning of the 2006 hurricane season.

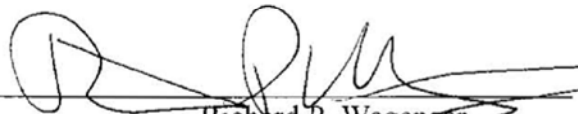
Report Prepared By: _____

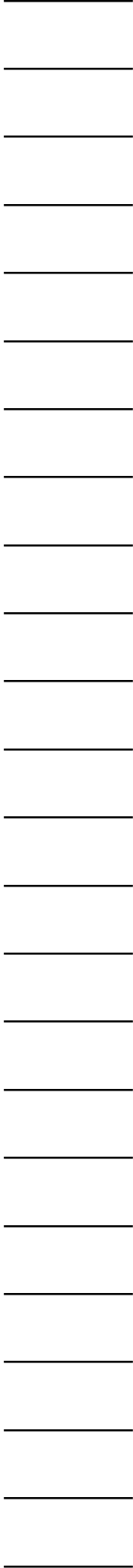

Dennis W. Gilmore
Civil Engineer

Emergency Management Approval By: _____


Michael Lowe
Chief Emergency Operations

District-Level Approval By: _____


Richard P. Wagenaar
Colonel, Engineer
District Engineer



CERTIFICATE OF LEGAL REVIEW

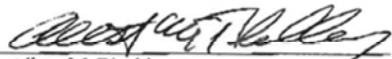
The Project Information Report (PIR) for the repair of the Lake Pontchartrain, LA and Vicinity Hurricane Protection Project, New Orleans East, has been reviewed by the Office of Chief Counsel, Mississippi River Division and is approved as a legally sufficient document for commencement of construction.

Certified by: *Daryl G. Harris*
for J. Lawrence Barnett
Assistant Chief Counsel / Division Counsel

20 October 2005
Date

Division Approvals

Emergency Management Approval By: 
Chief, MVD Emergency Operations

Division-Level Approval By: 
Albert M. Bleakley
Colonel, Engineer
Deputy Division Commander

TECHNICAL POINTS OF CONTACT

Program Management			
Project Manager	Kenny Crumholt	CEMVN-CD-NO-W	
Emergency Management			
Emergency Mgmt Approval	Michael Lowe	CEMVN-OD-R	
Engineering			
Geotechnical Engineer	Richard Pinner	CEMVN-FS	
Civil Engineer	Christina Montour	CEMVN-ED-LL	
Structural Engineer	Bob Grubb	CEMVN-ED-TM	
Environmental			
Biologist	Richard Boe	CEMVN-PM-RP	
Real Estate			
Real Estate Analysis	Dawn Lambert	CEMVN-RE-L	
Construction			
Construction Mgmt	Chris Wagner	CEMVN-CD-NO-Q	
Office of Counsel			
Attorney	Maurya Kilroy	CEMVN-OC	
Executive			
DDPM Chief	Greg Breerwood	CEMVN-EX	
District Engineer	Col R. Wagenaar	CEMVN-DE	

Sponsor Points of Contact

Orlean Levee District		
Executive Director	Max Hearn	
New Orleans Sewer And Water Board		
President	Joe Sullivan	
Parish President (Mayor)	Ray Nagin	

APPENDICES

A. Project Sponsor’s Request for Assistance

B. Project Location and Design Data

B-1 Location Map

B-2 Repair Sections

C. Disaster Incident (See section 6)

D. Damages (See section 7)

E. Repair Alternatives (See section 9)

F. Economic Analysis Documents (See section 11)

G. Environmental Analysis Documents (See section 12)

H. PIR Review Checklist

I. CECW-HS memorandum approving a One-time Deviation to Certain P.L. 84-99 Policies

APPENDIX A
APPLICATION FOR ASSISTANCE

SEPT.
October 26, 2005

Corps of Engineers, New Orleans District
Attn: Construction - Operations Readiness Division (Jocj Wagner)
7400 Leake Ave
New Orleans, LA 70118-3651

This letter is a written request for rehabilitation assistance for the Lake Pontchartrain and Vicinity Hurricane Protection Project.

1) Name of Requesting Agency ORLEANS LEVEE DISTRICT

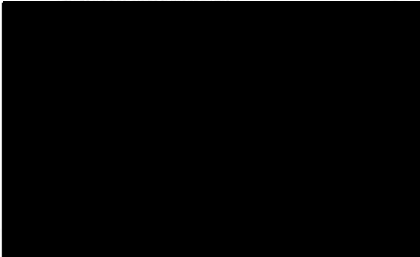
Points of Contact

Phone Number

STEJAN SPENCER

GERRY GILLEN

MAX HEARN



2) May-June 2005 Date of last inspection

3) Flood Control Project Location / _____ Twp./

Section _____ / _____ range/ _____ City/ NEW ORLEANS

LOUISIANA, ORLEANS PARISH County

4) Locations of damaged sections:

17th STREET CANAL (EAST SIDE), LONDON AVENUE CANAL (EAST & WEST SIDE SOUTH OF ROBERT E. LEE BLVD), INDUSTRIAL CANAL (EAST SIDE NEAR FLORIDA AVENUE, SOUTH POINT GIWW (NEAR N-9 FLOODGATE) CITRUS / HAYNE BLVD (NEAR L-15 FLOODGATE), Bayou Bienvenue Flood Control Structure, New Orleans East Back Levee.

5) Waterway causing the damage 17th ST., LONDON AVENUE, AND INDUSTRIAL CANALS, LAKE PONTCHARTRAIN AND GIWW

Sincerely,

Max Hearn EXECUTIVE DIRECTOR
Official Title and Signature

October 8, 2005

Corps of Engineers, New Orleans District
Attn: Operations Division, Readiness Branch (Herbert J. Wagner)
7400 Leake Avenue
New Orleans, Louisiana 70118-3651

This letter is a written request for rehabilitation assistance for the Lake Pontchartrain, Louisiana and Vicinity Hurricane Protection Project and Mississippi River and Tributary Project.

1) Name of Requesting Agency: Orleans Levee District

Points of Contact:

Phone Number:

Stevan Spencer

Gerry Gillen

Max Hearn



2) Date of Last Inspection: May 27, 2005

3) Flood Control Project Location (Section, Township, Range, City and Parish):
Parish of Orleans, State of Louisiana.

4) Locations of damaged Sections: All project features for projects listed above protecting Parish of Orleans, State of Louisiana.

5) Waterways causing the damage: All waterways, lakes and bodies of water adjacent to and running through Orleans Parish, Louisiana, such as Lake Pontchartrain and Mississippi River.

6) Financial Capability of the Non-Federal Sponsor: Hurricane Katrina, August 29, 2005, was a devastating hurricane of catastrophic proportions. The undersigned non-Federal Sponsor requests that the Federal Government assume responsibility and/or cost of the following items of non-Federal responsibility under the requirements of the project's statutory authority and/or under Public Law 84-99: [SIGNIFY REQUEST BY PLACING AN "X" IN THE SPACE PROVIDED.]

a. After required new real property interests identified by the Federal Government are commandeered by or on behalf of the non-Federal sponsor, assume responsibility for acquisition and funding of land payments and incidental cost thereof, of newly acquired lands, easements, rights-of-way, relocations, and disposal areas (IFRRDs), including

credit/reimbursement for fair market value, settlement or final judgment for LERRDs commandeered by or on behalf of the non-Federal sponsor, subject to the requirement that the Federal Government must provide prior approval of fair market value and settlement determinations prior to the non-Federal tender of an offer to land owner:

 X

b. Non-Federal Sponsor's proportionate share of total project Rehabilitation Effort:

 X

c. Costs of Hazardous, Toxic, Radioactive Waste (HTRW) Investigation: X

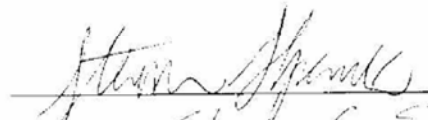
7) The need for Federal Government assumption of cost-sharing responsibility for the above items of local obligation is requested due to the extraordinary demands upon the fiscal resources of the undersigned non-Federal sponsor, as follows: The Orleans Levee District has suffered the catastrophic loss of its tax base, its business and industry community, its population base, its physical infrastructure, municipal employees and now has physical restraints upon recovering any reasonable portion of any or all of the forgoing municipal assets without Federal assumption of cost-sharing.

8) The non-Federal sponsor can provide the following services and/or items of local obligation, without credit or reimbursement: Assist in conducting property title searches, assist in identifying borrow areas, assist in negotiation with property owners for donations or obtaining real property, i.e. immovable property, rights and titles.

9) It is in the national interest to provide permanent rehabilitation of the above described projects for the following reasons: New Orleans is one of the largest ports in the world, and the largest in the nation, at the base of the largest river system in the nation serving as a major economic gateway for industry and commerce to the nation and the world including the export market for the nations grain to the world. There are three petroleum refineries producing a fuel at a critical juncture in our nation's energy plan and serving natural gas pipelines serving major portions of the Northeastern United States. It is a gateway and guard house for the nation between the world and North and south and Central America.

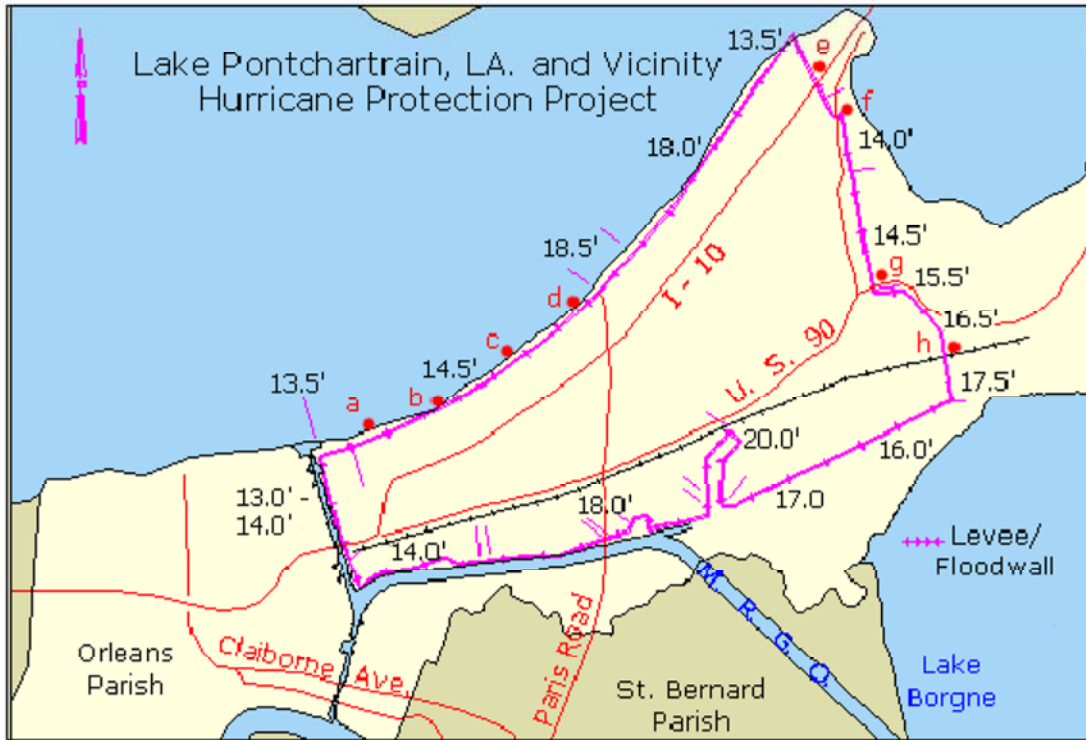
10) It is understood and agreed that the Government's decision regarding the request in Paragraph 6 above will be within the Government's sole discretion, and will be determined based on the facts and circumstances applicable to each project.

Sincerely,

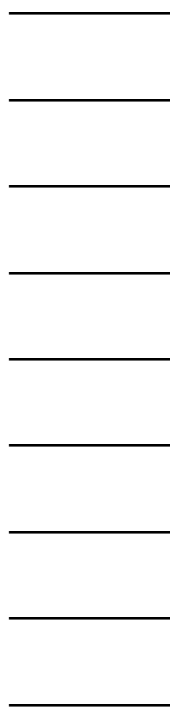

Printed Name: Steven G. Spencer, P.E.
Official Title: Chief Engineer
Orleans Levee District

APPENDIX B-1

ORLEANS EAST HURRICANE PROTECTION



updated July 2003



APPENDIX B-2

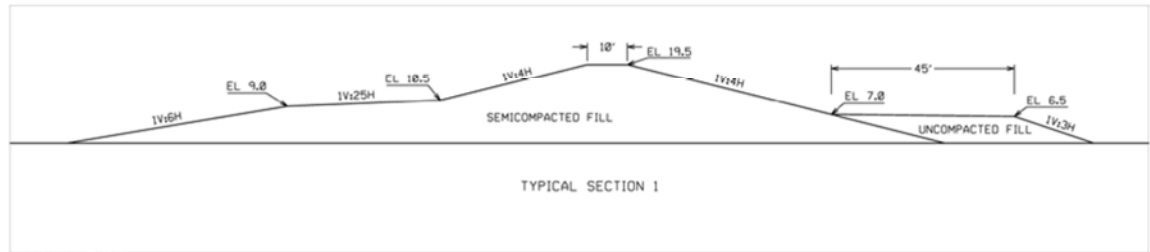
1. Hurricane Levee Between Michoud Canal and Station 1101. There is 13000 ft. of levee between Michoud Canal (station 770+00) and Station 1101+90 that is severely damaged and lost approximately 12' of levee section and is currently at EL 5.0. This levee will be rebuilt to EL 17.5 (plus overbuild) using the original P&S for the contract. There is 240 ft. of sheet pile floodwall and seven segments of T-wall in this reach that was badly damaged and will require replacement. The floodwalls will be constructed under a separate contract.

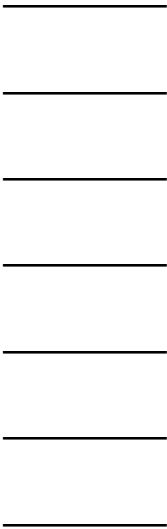
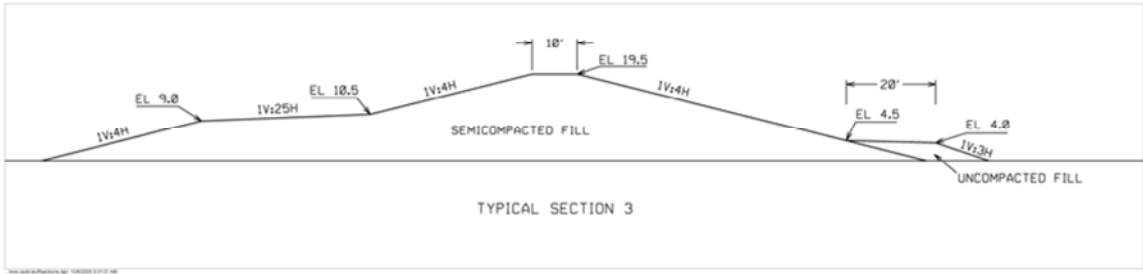
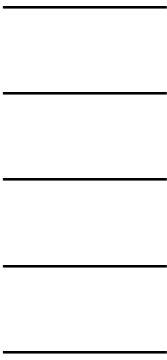
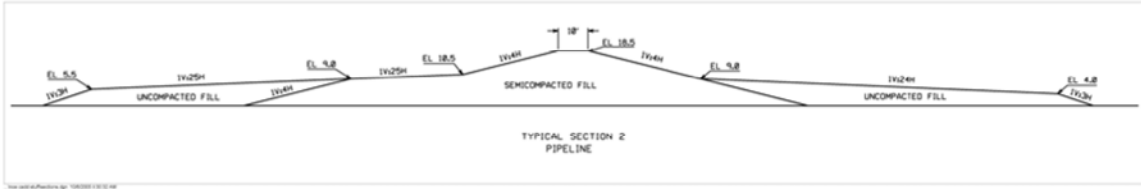
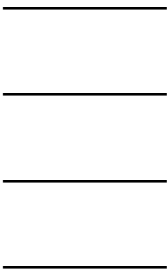
Quantities:

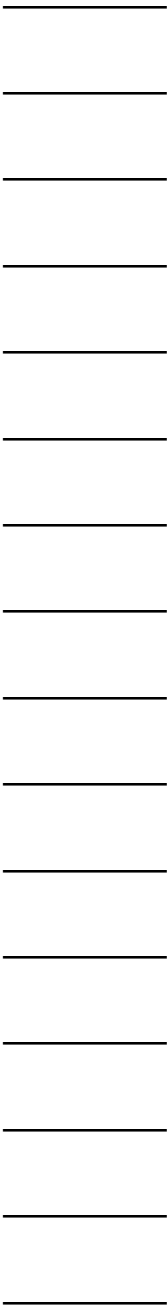
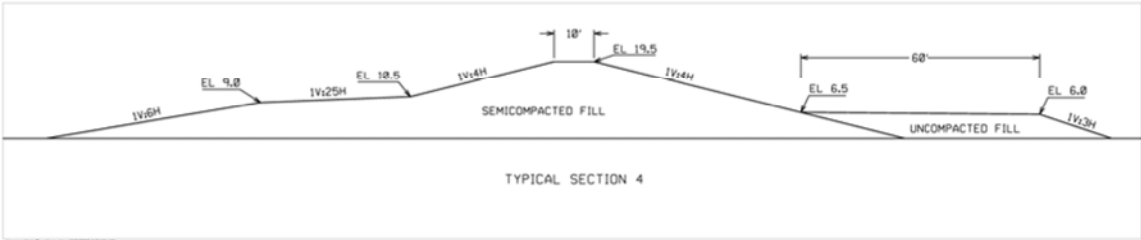
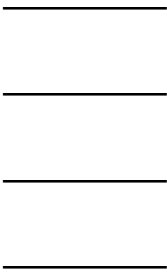
680,000 cy fill

Bonne Carre Spillway Borrow Area

2 contracts



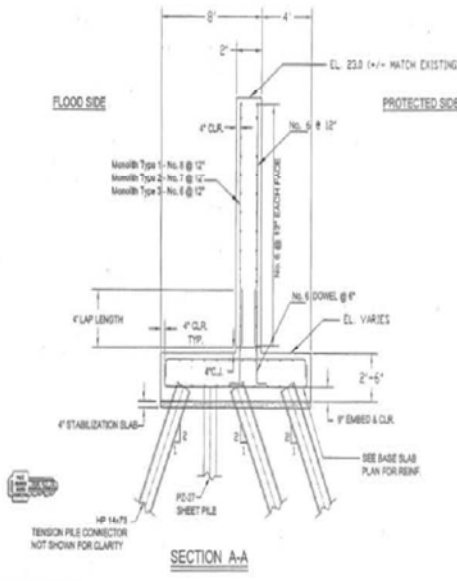
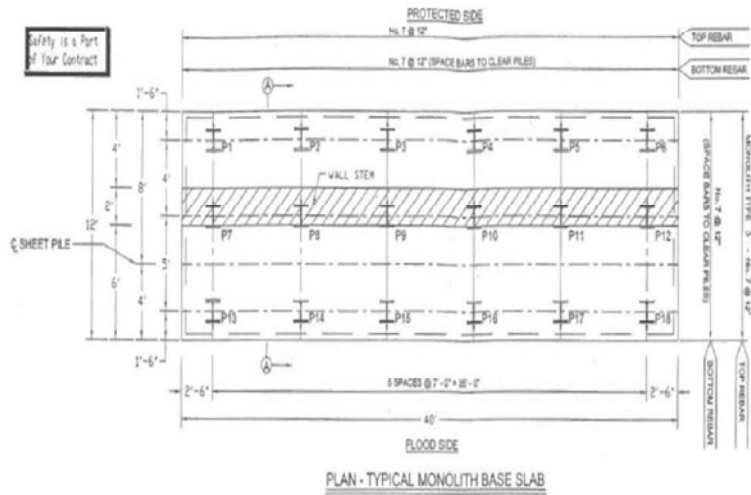




2. Typical I-Wall Floodwall Segments. Following is a typical cross section of the I-Wall and T-Wall replacement floodwalls discussed in 1. above. The existing floodwall was severely damaged by rotation. The reach provides protection for Pump Station #15 and consists of seven segments of T-Wall with 120 feet of sheet pile transitions to the earthen levee on both the east and west sides of the pump station.

Quantities

- 15,000 s.f. of sheet-pile
- 500 cys of reinforced concrete



- NOTES:
1. STRUCTURAL CONCRETE $f_c = 4000$ psi.
 2. $f_y = 60$ ksi.
 3. HP 14x73 STEEL PILE BATTERED AT 2V:1H IN THE DIRECTION OF THE ARROW.
 4. SHEET PILE PZ-27 OR APPROVED EQUAL.
 5. SHEET PILE AND PILING ARE LOCATED IN PLAN AT THE BOTTOM OF THE SLAB.

SCALE
N.T.S.

Sheet 8

APPENDIX H

Eligibility Checklist for HSPP Rehabilitation Assistance

ER 500-1-1, 30 Sept 01

PROJECT: Lake Ponchartrain, LA and Vicinity Hurricane Protection System

Repair

- | YES | NO | N/A | |
|--|-------------------------------------|--------------------------|---|
| 1. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The project is a Federally authorized and constructed hurricane or shore protection project. [ER, 5-2.a.] |
| 2. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The project is active in the RIP [ER, 5-2.a.] Last inspection date: May 2005 |
| 3. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The Public Sponsor has requested Rehabilitation Assistance in writing. (EP, 5-18.b) |
| 4. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The FCCE-funded HSPP Rehabilitation Assistance is necessary (a) to allow for adequate functioning of the project; (b) to reduce the immediate threat to life and improved property; and (c) is to a level no more than the pre-storm condition. [ER, 5-20.a., c., and d.] |
| 5. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | There is sufficient evidence in the PIR to support a finding that the HSPP was damaged by an extraordinary storm [ER, 5-20.e.] |
| 6. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | There are "significant amounts of damage to the HSPP. [ER, 5-20.e.(2)] The criterion used to make this determination is:

_____ the cost of the construction effort to effect repair of the HSPP (<i>exclusive of dredge/demob costs</i>)(a) exceeds \$1 million and (b) is greater than 2 percent of the original project construction costs (expressed in current day dollars); or,

___x___ the cost of the construction effort to effect repair of the HSPP(<i>exclusive of dredge mob/demob costs</i>) exceeds \$6 million;
or,

_____ more than one-third of the planned or historically placed sand for renourishment was lost.

_____ only hard features are involved. |
| 7. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The public sponsor has agreed to sign the Cooperation Agreement, which will occur before USACE begins rehabilitation work. [EP, 5-18.1] |
| 8. <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The rehabilitation project has a favorable benefit cost ratio of greater than 1.0:1. [ER 5-20.a.] |
| 9. _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/> | The Public Sponsor has access to sufficient funds to meet its required cost contributions.
* The Public Sponsor will have to request assistance from the State.

_____ |

-
10. The cost estimate in the PIR itemizes the work and identifies the Public Sponsor's cost responsibility for items such as deferred and deficient maintenance. [ER, 5-2.g.]
11. The cost estimate in the PIR allocates costs between what may be paid for under PL 84-99 rehabilitation Assistance, and what is cost shared between the Corps (using CG funds) and the public sponsor under periodic renourishment terms of the project PCA [ER, 5-20.i.]
12. Dredge mobilization/demobilization costs are born proportionally among contributing sources of funds for sand renourishment. [ER, 5-20.i.]
13. Contingency funds for the FCCE-funded portion of the project are limited to 15% for dredge-related costs, and 10% for all other costs. (ER, 5-2.v.)
14. The repair option selected is the option that is the least cost to the Federal Government. [ER, 5-2.h.]
15. The benefit cost ratio calculation excludes all recreation benefits [ER, 5-20.a.]
16. Betterments are paid by the Public Sponsor. [ER, 5-2.o.]
17. Cost for any betterment are identified separately in the cost estimate. [ER, 5-2.o.]
18. Based on the projected schedule, project history, anticipated degree of contention of undertaking this project, and similar items, the Rehabilitation Assistance will be finished prior to the onset of the next storm season, or within one year of the date of the occurrence of the damage, whichever is less. [ER, 5-20.j.]
19. The proposed work will not modify the HSPP to increase the degree of protection or capacity, or provide protection to a larger area. [ER, 5-2.n.]
20. An assessment of environmental requirements was completed. [ER, 5-13.e.]
21. The Endangered Species Act was appropriately considered. Dredging will not be adversely impacted [ER, 5-13.e.]
22. The Archeological and Historical Preservation Act was appropriately considered.
23. EO 11988 was appropriately considered. [ER, 5-13.f.]
24. Other permitting and evaluations were appropriately considered, and result in no impediment to the Rehabilitation Assistance effort. [ER, 5-13.a.]
25. The cover letter forwarding the PIR to the MSC will contain the projected schedule for completing the Rehabilitation Assistance. [EP, 5-18.f.(2)]
-
-
-

APPENDIX I

CECW-HS, Memorandum for Assistant Secretary of the Army for Civil Works (ASA(CW)), SUBJECT: Recommendations for One-Time Deviations to Certain Policies Regarding Use of P. L. 84-99 (33 U.S.C. 701n) in New Orleans and Vicinity following Hurricane Katrina-FOR APPROVAL



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CECW-HS (500-1-1)

OCT 07 2005

MEMORANDUM FOR Assistant Secretary of the Army for Civil Works (ASA(CW)).

SUBJECT: Recommendations for One-Time Deviations to Certain Policies Regarding Use of P.L. 84-99 (33 U.S.C. 701n) in New Orleans & Vicinity following Hurricane Katrina- FOR APPROVAL

1. Purpose: The purposes of this decision paper are to describe policies regarding the use of funds provided pursuant to P.L. 84-99 (33 U.S.C. 701n); to recommend certain policy deviations; and to provide for your decision options for accomplishing those recommended policy deviations. Approval of the recommended course of action will establish a way forward to facilitate expedient permanent rehabilitation of the flood damage reduction and hurricane and storm damage reduction systems protecting New Orleans, LA. Enclosure 1 is a chart and cost table which sets out the items in this paper. Enclosure 2 contains maps of Lake Pontchartrain & Vicinity and New Orleans to Venice projects showing project categorization and a list of associated contracts. Detail project information for West Bank & Vicinity and SELA is still being developed.

2. Background: P.L. 84-99 authorizes the use of Flood Control and Coastal Emergencies (FCCE) funds for, among other things, natural disaster preparedness; flood fighting and rescue operations; and permanent rehabilitation of federal and non-federal flood damage reduction projects and federally authorized hurricane and storm damage reduction projects. P.L. 84-99 has been implemented in accordance with guidance and policies set out in 33 CFR 203, ER 500-1-1 and EP 500-1-1. Under these policies, the Corps of Engineers uses FCCE funds to supplement State and local activities.

Hurricane Katrina has been identified as the second greatest recorded hurricane to make landfall in the U.S., with a point of impact at a major metropolitan area important to national economic infrastructure and national defense. Hurricane Katrina has caused large-scale damage over large portions of the shared local and federal infrastructure. In light of these extraordinary circumstances, this paper addresses potential deviations to policy to advance expedient and coordinated permanent rehabilitation of the flood damage and hurricane and storm damage reduction infrastructure in New Orleans.

3. Issue: Whether permanent rehabilitation to pre-storm condition, at full federal expense using FCCE funds, should be undertaken for all damaged federal and non-federal flood damage reduction projects and federally authorized hurricane and storm damage reduction projects.

4. Policies Established in Regulations Implementing PL 84-99: 33 C.F.R. 203, ER 500-1-1, and EP 500-1-1 establish the policies and procedures followed by the Corps in carrying out its

CECW-HS (500-1-1)

SUBJECT: Recommendations for One-Time Deviations to Certain Policies Regarding Use of P.L. 84-99 (33 U.S.C. 701n) in New Orleans & Vicinity following Hurricane Katrina- FOR APPROVAL

responsibilities under P.L. 84-99. The following are several key policies established in the implementing guidance:

a. Corps assistance provided under authority of P.L. 84-99 is intended to supplement State and local efforts in the areas of disaster preparedness; emergency operations; and permanent rehabilitation of federal & non-federal flood damage reduction projects and federally authorized hurricane and storm damage reduction projects.

b. There will be no reimbursement of State and local emergency costs for preparedness, emergency operations, or permanent rehabilitation.

c. Completed flood damage reduction projects and federally authorized hurricane and storm damage reduction projects are eligible for permanent rehabilitation to the pre-storm condition at full federal expense using FCCE funding. Regulations establish eligibility based on when the federal projects are "turned over" to the non-federal sponsor for OMRR&R.

d. Damages to federally authorized projects that are still under construction are repaired with Construction, General project construction funds and cost-shared with the project's non-federal sponsor in accordance with the Project Cooperation Agreement (PCA).

e. Non-federal flood damage reduction projects that are active in the Corps-established Rehabilitation and Inspection Program (RIP) are eligible for permanent rehabilitation to the pre-storm condition, using FCCE funding, with 80 % federal / 20 % non-federal cost sharing.

f. Permanent rehabilitation assistance is provided when the work is clearly beyond the normal physical and financial capabilities of the non-federal sponsor.

g. Permanent rehabilitation must be economically justified and meet Corps criteria for a favorable benefit-to-cost ratio.

h. Non-federal sponsors must provide all necessary lands, easements, rights-of-way, relocations, and borrow or disposal areas (LERRDs), and do not receive credit for the value of these LERRDs toward any required cost share contribution.

5. Discussion:

Although P.L. 84-99 is broadly written, by regulation the Corps has limited permanent rehabilitation of non-federal flood damage reduction projects active in the Corps' RIP and imposed non-federal cost sharing of 20 %. In addition, for federally authorized projects under construction, the Corps has funded repair of those projects with Construction, General project

CECW-HS (500-1-1)

SUBJECT: Recommendations for One-Time Deviations to Certain Policies Regarding Use of P.L. 84-99 (33 U.S.C. 701n) in New Orleans & Vicinity following Hurricane Katrina- FOR APPROVAL

construction funds and cost-shared that repair with the non-federal sponsor in accordance with the PCA.

Hurricane Katrina struck the New Orleans, LA area directly, causing unprecedented damage and loss of infrastructure. In this case, the local infrastructure is so impacted that local governments will have extreme difficulty in restoring basic infrastructure and services. Further, their tax and revenue bases have been greatly reduced. Under these circumstances, to facilitate rebuilding with minimal additional impact on local governments, it appears appropriate to consider deviations to policy to restore the flood damage reduction and hurricane and storm damage reduction infrastructure at full federal expense.

6. Potential Deviations to Policy:

a. The first potential deviation provides that for federally authorized and constructed projects turned over to the non-federal sponsor, at full federal expense use FCCE funds to fund the acquisition of lands, easements, rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation. The estimated cost of this proposal is \$11.5 million. This proposal conflicts with paragraph 4.h above.

b. The second potential deviation provides that for non-federal flood damage reduction projects active in the RIP, at full federal expense use FCCE funds, to 1) undertake the permanent rehabilitation to pre-storm condition, i.e., waive the 20 % cost share established by policy, and 2) fund the acquisition of lands, easements, rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation. No projects have been identified that fit this category.

c. The third potential deviation provides that for non-federal flood damage reduction projects, including pumps and pump stations, not active in the RIP, at full federal expense use FCCE funds, to 1) undertake permanent rehabilitation to pre-storm condition and 2) fund the acquisition of lands, easements, rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation. The estimated cost of this proposal, which conflicts with paragraphs 4.e. and 4.h. above, is \$155 million for Jefferson, Orleans, St. Bernard and Plaquemines parishes.

d. The fourth potential deviation provides that for federally authorized flood damage reduction or hurricane and storm damage reduction projects currently under construction, under the authority of P. L. 84-99, at full federal expense use FCCE funds to 1) undertake permanent rehabilitation to pre-storm condition and 2) fund the acquisition of lands, easements,

CECW-HS (500-1-1)

SUBJECT: Recommendations for One-Time Deviations to Certain Policies Regarding Use of P.L. 84-99 (33 U.S.C. 701n) in New Orleans & Vicinity following Hurricane Katrina- FOR APPROVAL

rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation. The projects in this category are, New Orleans to Venice, Southeast Louisiana, and West Bank and Vicinity. This proposal, which conflicts with paragraphs 4.d. and 4.h. above, involves undertaking rehabilitation pursuant to the authority provided in P.L. 84-99, rather than pursuing such work under the PCA.

1) For these projects, there are large segments which have not been officially "turned over" but for which the sponsors are performing operation and maintenance. The estimated additional federal cost of undertaking the rehabilitation of these segments under P.L. 84-99 is \$68 million, i.e., what would have been the non-federal share if the work was pursued under the PCA.

2) For these projects, there are segments under active construction. The estimated additional federal cost of undertaking the rehabilitation of these segments under P.L. 84-99 is \$14.5 million.

7. Options:

a. Allow no deviations: Implement in accordance with existing policy.

b. Allow deviations after legislation: Seek legislative direction for some or all recommended deviations to policy in the next emergency supplemental appropriations act related to Hurricane Katrina. As legislation will be required in any event to provide all the necessary funding, it is desirable that Congress provide legislative direction on use of the funds. This approach provides confirmation that Congress understands and agrees to use of the funds for items not traditionally included by the Corps in implementation of P.L. 84-99 authority. Additionally, specific Congressional direction would limit the precedential effect of funding work not normally covered. At Enclosure 3 is draft legislation that covers all the recommended deviations from rehabilitation policy.

c. Defer non-federal cost share: Defer payment of the non-federal contribution for federally authorized projects under construction. Under section 103(k) of WRDA 1986 (33 USC 2213(k)), the ASA(CW) may defer payment of the non-federal contribution for up to thirty years from the date of completion of the project, subject to the payment of interest. Although there is merit to this approach, implementation will entail delays related to the contracts and the existing PCAs and prevent expeditious completion of the permanent rehabilitation of the flood damage reduction and federally authorized hurricane and storm damage reduction systems.

CECW-HS (500-1-1)

SUBJECT: Recommendations for One-Time Deviations to Certain Policies Regarding Use of P.L. 84-99 (33 U.S.C. 701n) in New Orleans & Vicinity following Hurricane Katrina- FOR APPROVAL

d. Approve deviations as one-time exceptions to policy: Approve some or all of the recommended deviations as one-time exceptions to policy after coordination with OMB and the Congressional oversight committees. This approach may establish a precedent and make it more difficult for the Corps to follow its policy in the future. However, it now appears that Congress will delay until after October 2005 the enactment of legislation providing additional funds dealing with Hurricane Katrina. Therefore, this approach would allow more timely initiation and completion of the rehabilitation under discussion.

8. Recommended Course of Action:

a. Based on the magnitude of the devastation, the following deviations are recommended for your approval, after coordination with OMB and the Congressional oversight committees, as one-time exceptions to policy specific to New Orleans following Hurricane Katrina.

1. For federally authorized and constructed projects that have been turned over to the non-federal sponsor, use FCCB funds at full federal expense to fund the acquisition of lands, easements, rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation.

Approved JBW Approved, w/Comments _____ Disapproved _____

2. For non-federal flood damage reduction projects, including pumps and pump stations, not active in the RIP, at full federal expense use FCCB funds, to 1) undertake permanent rehabilitation to pre-storm condition and 2) fund the acquisition of lands, easements, rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation.

Approved JBW Approved, w/Comments _____ Disapproved _____

3. For those segments of federally authorized projects not been officially "turned over" but for which the sponsors are performing operation and maintenance, use FCCB funds at full federal expense to 1) undertake permanent rehabilitation to pre-storm condition and 2) fund the acquisition of lands, easements, rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation.

Approved JBW Approved, w/Comments _____ Disapproved _____

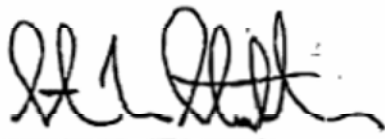
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4. For those segments of Federally authorized projects under active construction, use FCCE funds at full Federal expense to 1) undertake permanent rehabilitation to pre-storm condition and 2) fund the acquisition of lands, easements, rights-of-way, and disposal or borrow areas not owned or under the control of the non-federal sponsor, as well as the performance of relocations, that are needed for the rehabilitation.

Approved *JS* Approved, w/Comments Disapproved

b. For any recommended deviation that the ASA(CW) determines should not be administratively approved as an exception to policy, it is recommended the ASA(CW) pursue Congressional direction in the next emergency supplemental appropriations act related to Hurricane Katrina.


STEVEN L. STOCKTON
Acting Director of Civil Works

- 3 Encls
1. Project category chart & cost table
2. Project maps & list of contracts
3. Draft legislation

