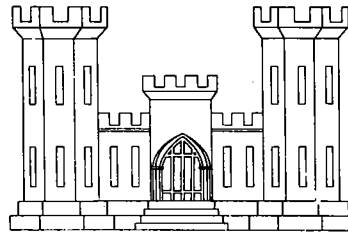


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FLOOD CONTROL  
MISSISSIPPI RIVER AND TRIBUTARIES  
MISSISSIPPI RIVER LEVEES

ITEM M-89.5-R  
CUTOFF LEVEE SETBACK

PLAQUEMINES PARISH, LOUISIANA  
RELOCATION OF FACILITIES  
DESIGN MEMORANDUM NO. 24



DEPARTMENT OF THE ARMY  
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS  
NEW ORLEANS, LOUISIANA

DECEMBER 1974

Serial No. 29

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LMVED-TD (NOD 20 Dec 74) 1st Ind

SUBJECT: Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-89,5-R, Cutoff Levee Setback, Orleans Parish, Louisiana, Relocation of Facilities, Design Memorandum No. 24

DA, Mississippi River Commission, Corps of Engineers, Vicksburg, Miss.  
39180 23 Jan 75

TO: District Engineer, New Orleans, ATTN: LMNED-MR

Design Memorandum No. 24 is approved subject to the following comment:

Attorney's Report. The October 1974 Attorney's Report is satisfactory in this case. However, in view of the numerous revisions to the 28 Aug 73, Attorney's Report, revised pages should have been substituted in lieu of the format used.

FOR THE PRESIDENT OF THE COMMISSION:

wd incl

  
ROBERT I. KAUFMAN  
Acting Chief, Engineering Division

CF:  
DAEN-CWE-B (quad)  
w 4 cy DM No. 24



DEPARTMENT OF THE ARMY  
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 60267  
NEW ORLEANS, LOUISIANA 70160

LMNED-MR


20 December 1974

SUBJECT: Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-89.5-R, Cutoff Levee Setback, Orleans Parish, Louisiana, Relocation of Facilities, Design Memorandum No. 24

President  
Mississippi River Commission  
ATTN: LMVED-TD

1. The subject design memorandum is submitted herewith for review in accordance with the provisions of ER 1110-2-1150 dated 19 June 1970.
2. Approval of the subject design memorandum is recommended.

1 Incl  
DM No. 24 (11 cys)

  
E. R. HEIBERG III  
Colonel, CE  
District Engineer

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES  
MISSISSIPPI RIVER LEVEES  
ITEM M-89.5-R  
CUTOFF LEVEE SETBACK  
ORLEANS PARISH, LOUISIANA  
RELOCATION OF FACILITIES  
DESIGN MEMORANDUM NO. 24

STATUS OF DESIGN MEMORANDUMS

<u>Design Memo No.</u>	<u>Title</u>	<u>Actual (A) or Scheduled (S) Submission Date</u>
1	Flood Control, Mississippi River and Tributaries, Item M-25.0-R, Buras Levee Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	23 Nov 70 (A)
2	Flood Control, Mississippi River and Tributaries, Item M-26.0-R, Upper Buras Levee Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	21 Jan 71 (A)
3	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-14.9-R, Commander Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	11 Jun 71 (A)
4	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-10.7-R, Venice Levee Enlargement and Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	6 Apr 71 (A)
5	Lower Red River - South Bank Red River Levees, Item R-117.0-R (1957 Mileage), Levee Enlargement, Rapides-Cotton Bayou Levee, Rapides Parish, Louisiana, Relocation of Facilities	22 Jan 71 (A)
6	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-31.3-R, Tropical Bend Levee Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	30 Mar 71 (A)
7	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-10.4-R, Lower Venice Levee Enlargement and Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	27 Aug 71 (A)

STATUS OF DESIGN MEMORANDUMS (cont'd)

<u>Design Memo No.</u>	<u>Title</u>	<u>Actual (A) or Scheduled (S) Submission Date</u>
8	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-18.9-R, Fort Jackson-Boothville Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	30 Nov 72 (A)
9	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-21.5-R, Childress Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	23 Sep 71 (A)
10	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-23.2-R, Buras-Triumph Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	31 May 73 (A)
11	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-55.3-R, Upper Junior Levee Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	21 Jun 71 (A)
12	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-51.0-L, Gravolet Levee Enlargement and Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	14 Sep 72 (A)
13	Flood Control, Mississippi River and Tributaries, Lower Red River - South Bank Red River Levees, Item R-123.5-R (1957 Mileage), Scott Home-Bertrand Levee Enlargement, Rapides Parish, Louisiana, Relocation of Facilities	15 Sep 72 (A)

STATUS OF DESIGN MEMORANDUMS (cont'd)

<u>Design Memo No.</u>	<u>Title</u>	<u>Actual (A) or Scheduled (S) Submission Date</u>
14	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-96.9-R, Amelia Street Levee, Jefferson Parish, Louisiana, Relocation of Facilities	31 Aug 71 (A)
15	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-41.7-R, Port Sulphur Levee Enlargement and Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	28 Jan 74 (A)
16	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-33.4-R, Nairn Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	Aug 75 (S)
17	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-37.7-R, Homeplace Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	5 Jan 73 (A)
18	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-57.7-R, Myrtle Grove Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	31 Jan 73 (A)
19	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-28.0-R, Empire Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	30 Aug 74 (A)

STATUS OF DESIGN MEMORANDUMS (cont'd)

<u>Design Memo No.</u>	<u>Title</u>	<u>Actual (A) or Scheduled (S) Submission Date</u>
20	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-49.5-R, Woodland Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	24 Aug 73 (A)
21	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-47.2-R, Nolan Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	29 Jun 73 (A)
22	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-45.0-R, Socola Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	28 Nov 72 (A)
23	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-75.0-L, Scarsdale Levee Setback, Plaquemines Parish, Louisiana, Relocation of Facilities	7 Dec 73 (A)
24	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-89.5-R, Cutoff Levee Setback, Orleans Parish, Louisiana, Relocation of Facilities	20 Dec 74 (A)
25	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-130.0-L, Gypsy Levee Setback, St. Charles Parish, Louisiana, Relocation of Facilities	Dec 74 (S)



STATUS OF DESIGN MEMORANDUMS (cont'd)

<u>Design Memo No.</u>	<u>Title</u>	<u>Actual (A) or Scheduled (S) Submission Date</u>
26	Flood Control, Mississippi River and Tributaries, Atchafalaya River Levees, Item A-31.3-L, Cross Bayou Levee Setback, Pointe Coupee Parish, Louisiana, Relocation of Facilities	8 Nov 74 (A)
27	Flood Control, Mississippi River and Tributaries, Mississippi River Levees, Item M-39.0-R, Freeport Levee Enlargement, Plaquemines Parish, Louisiana, Relocation of Facilities	Dec 74 (S)

TABLE OF CONTENTS

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
	PERTINENT DATA	A
1	PURPOSE OF DESIGN MEMORANDUM	1
2	PROJECT AUTHORIZATION	1
3	AUTHORITY FOR ACCOMPLISHING RELOCATIONS	1
4	DESCRIPTION OF EXISTING FACILITIES AFFECTED BY THE PROJECT	2
	a. Roads	2
	b. Utilities	2
5	OWNER'S COMPENSABLE INTEREST	5
	a. General	5
	b. Roads	6
	c. Utilities	6
6	FIELD RECONNAISSANCE AND INVESTIGATION	8
7	CRITERIA FOR RELOCATED FACILITIES	8
	a. Roads	8
	b. Utilities	9
8	DESCRIPTION OF PROPOSED RELOCATIONS	9
	a. Roads	9
	b. Utilities	10
9	PROCEDURE FOR ACCOMPLISHING RELOCATIONS	11
	a. Roads	11
	b. Utilities	12
10	ATTITUDE OF OWNERS	13
11	ESTIMATES OF COST	14
12	COMPARISON WITH PRIOR COST ESTIMATES	19
13	JUSTIFICATION FOR COST REVISION	20
14	RECOMMENDATIONS	20

TABLES

<u>No.</u>	<u>Title</u>	<u>Page</u>
1	PERTINENT DATA	C
2	ESTIMATE OF COST - CITY OF NEW ORLEANS DEPARTMENT OF STREETS	15
3	ESTIMATE OF COST - LOUISIANA POWER AND LIGHT COMPANY	16
4	ESTIMATE OF COST - SOUTH CENTRAL BELL TELEPHONE COMPANY	17
5	ESTIMATE OF COST - SEWERAGE AND WATER BOARD OF NEW ORLEANS	18

TABLE OF CONTENTS (cont'd)

PLATES

<u>No.</u>	<u>Title</u>
1	PROJECT MAP
2	PROJECT PLAN
3	PATTERSON DRIVE
4	EXISTING AND RELOCATED UTILITIES
5	TYPICAL SECTIONS
6	TYPICAL PIPE CROSSINGS

APPENDIXES

APPENDIX I	ATTORNEY'S REPORTS
APPENDIX II	DETAILED COST ESTIMATE, PATTERSON DRIVE
APPENDIX III	SUMMARY OF RELOCATION COSTS

PERTINENT DATA

Location:

The Cutoff Levee Setback, Item M-89.5-R, is located in Orleans Parish, Louisiana, on the west bank of the Mississippi River between levee stations 277+76.7 and 297+00 (approximate river mile 89.5 above the Head of Passes).

Purpose:

The purpose of the Flood Control, Mississippi River and Tributaries project is to increase MR&T grade and to increase freeboard on the main line Mississippi River levees, thereby increasing flood protection.

Authorization:

The Flood Control Act of 15 May 1928 (Public Law 391, 70th Congress), as amended, provides authorization for the project.

Local Assuring Agency:

The local assuring agency for the Cutoff Levee Setback is The Board of Levee Commissioners of the Orleans Levee District.

Description:

The Cutoff Levee Setback is a proposed improvement to a reach of the main line levee on the west bank of the Mississippi River in the city of New Orleans, Louisiana, at approximate river mile 89.5 above the Head of Passes. The proposed improvement consists of setting back a section of the levee and raising the levee grade to the design grade to achieve the design safety factor required by the MR&T project.

TABLE 1 - PERTINENT DATA

<u>Item No.</u>	<u>Owner</u>	<u>Description</u>	<u>Affected Length</u>	<u>Location</u>
A	<u>Facility across levee</u>			
F-1	Sewerage and Water Board of New Orleans	Relocate 12-inch-diameter forced sewer main	165 ft.	Plate 4
B.	<u>Facilities adjacent to levee</u>			
R-1	City of New Orleans Department of Streets	Relocate Patterson Drive	1,920 ft.	Plate 3
P-1	Louisiana Power and Light	Relocate 13.8kV powerline	2,350 ft.	Plate 4
T-1	South Central Bell Telephone	(a) Relocate telephone cable, 50 pr. (b) Relocate telephone cable, 26 pr. (c) Relocate telephone cable, 100 pr.	750 ft. 180 ft. 180 ft.	Plate 4 Plate 4 Plate 4
W-1	Sewerage and Water Board of New Orleans	Relocate 6-inch-diameter water main	1,850 ft.	Plate 4
S-1	Sewerage and Water Board of New Orleans	Relocate 8-inch-diameter sanitary sewerline	470 ft.	Plate 4
SD-1	City of New Orleans Department of Streets	Relocate 15-inch-diameter storm drain	120 ft.	Plate 3

1. PURPOSE OF DESIGN MEMORANDUM. The purpose of this design memorandum is to present the plans for the relocation and alteration of facilities which will be affected by the construction of item M-89.5-R, Cutoff Levee Setback, hereinafter referred to as the Cutoff reach. It is being submitted in compliance with Part 3, Section LXXIII, ER 1180-1-1, dated 1 December 1969, and DIVR 1110-2-1, dated 29 January 1968. It establishes the necessity for the relocation of the facilities and the legal obligation of the Federal Government and will provide the basis for accomplishing the relocations hereinafter described.

2. PROJECT AUTHORIZATION. Authority for construction of levee setbacks of main line Mississippi River levees is contained in the Flood Control Act of 15 May 1928 (P.L. 391, 70th Congress), as amended. Payment or reimbursement of costs to local cooperating agencies by the Federal Government for rights-of-way furnished, including necessary relocation or alteration of public roads, highways, railroads, public utilities, and pipelines is authorized by the Flood Control Act of 18 August 1941 (P.L. 228, 77th Congress, 1st Session), as amended by the Flood Control Act of 22 December 1944 (P.L. 534, 78th Congress, 2d Session).

3. AUTHORITY FOR ACCOMPLISHING RELOCATIONS. The authority for accomplishing the relocations necessitated by this project is provided by DIVR 1110-2-1. The legal obligations of the Federal Government regarding the affected facilities and the extent of authority for the relocations are as established in the attorney's reports which are attached as appendix I.

4. DESCRIPTION OF EXISTING FACILITIES AFFECTED BY THE PROJECT.

a. Roads. The City of New Orleans Department of Streets owns a two-lane, 20-foot wide, bituminous surfaced roadway aligned parallel and adjacent to the Mississippi River levee between stations 277+76 and 297+00 (plate 3, item R-1) known as Patterson Drive. Approximately 1,920 linear feet of roadway will be dislocated by the subject project. Patterson Drive has open ditch drainage with occasional culverts under the road to carry water away from the levee. The open ditches are supplemented by subsurface drainage near Bedford Drive in order to tie in to the subsurface drainage under Bedford Drive. This subsurface drainage will be treated as an integral part of Patterson Drive. Approximately 120 linear feet of 15-inch diameter storm drain will be dislocated between stations 282+40 and 283+60 (plate 3, item SD-1). Patterson Drive and the subsurface drainage are in good condition.

b. Utilities.

(1) Powerlines. Louisiana Power and Light Company, a Florida corporation domiciled at Tallahassee, Florida, owns a 13.8 kV powerline located adjacent to and on the riverside of Patterson Drive between stations 277+76 and 297+00 (plate 4, item P-1). Approximately 2,350 linear feet of this facility (69 percent of which is inside the existing levee right-of-way) will be dislocated by the subject project. This facility was installed in 1964 and is in good condition.

(2) Telephone cables. South Central Bell Telephone Company, a Delaware corporation domiciled at Wilmington, Delaware, owns and



operates several facilities which will be dislocated by the subject project. These facilities consist of aerial telephone cables located adjacent to and on the riverside of Patterson Drive between stations 289+80 and 297+00 (plate 4, item T-1). These facilities are in good condition and include:

(a) 750 linear feet of 50-pair, 22-gage cable between stations 289+80 and 295+85 (62 percent of this facility is inside the existing levee right-of-way) which was installed in 1961.

(b) 180 linear feet of 26-pair, 22-gage cable between stations 295+85 and 297+00 (100 percent of this facility is inside the existing levee right-of-way) which was installed in 1953.

(c) 180 linear feet of 100-pair, 26-gage cable between stations 295+85 and 297+00 (100 percent of this facility is inside the existing levee right-of-way) which was installed in 1972.

(3) Pipelines.

(a) Item W-1. Sewerage and Water Board of New Orleans owns a 6-inch diameter potable water main located adjacent to and on the landside of Patterson Drive between stations 277+76 and 297+00 (plate 4, item W-1). Approximately 1,850 linear feet of this line (100 percent of which is outside the existing levee right-of-way)

will be dislocated by the subject project. This facility was installed in 1936 as part of an 11,000 linear foot segment of water main. This facility is in good condition.

(b) Item S-1. Sewerage and Water Board of New Orleans owns an 8-inch diameter sanitary sewerline located under Patterson Drive between stations 287+75 and 291+90 (plate 4, item S-1). The outfall for this facility is an 8-inch diameter sewerline located under Woodland Place. Approximately 410 linear feet of pipe along Patterson Drive and 60 linear feet of pipe (100 percent of which is outside the existing levee right-of-way) along Woodland Place will be affected by the subject project. This facility was constructed in 1955 as part of a 1,100 linear foot segment of sewerline along Woodland Place and Patterson Drive. This facility is in good condition.

(c) Item F-1. Sewerage and Water Board of New Orleans owns one 12-inch diameter forced sewer main across the levee which will be dislocated by the project. This facility is located at station 288+20 (plate 4, item F-1). Approximately 165 linear feet of pipe (73 percent of which is in the existing levee right-of-way) will be dislocated by the project. This facility was constructed in 1953 as part of a 6,300 linear foot segment of forced sewer main and is in good condition.

5. OWNER'S COMPENSABLE INTEREST.

a. General. The Chief of Engineers has furnished the following additional instructions to supplement ENG CW-OC letter, 13 September 1966, subject: Relocation of Facilities Required for Future Modification of Mississippi River Levees:

"a. ENG CW-OC letter, 13 September 1966, 'Relocation of Facilities Required for Future Modification of Mississippi River Levees,' remains in effect. However, Attorney Reports accompanying subsequent relocation design memoranda brought to light a special situation which was not specifically foreseen and addressed in the ENG CW-OC letter and which, if disregarded, would result in a very questionable use of Federal project funds to relieve nongovernmental ownerships of expenses that they might lawfully be required to pay. In order to avoid such questionable use of Federal project funds through misunderstanding, the following is supplemental guidance for use in connection with the ENG CW-OC letter of 13 September 1966.

"b. When the existing project enjoys an enforceable right (now vested in the local governmental project sponsor) to have nongovernmental improvements relocated from the project right-of-way at the expense of the nongovernmental owner in the course of strengthening the existing levee along the present alignment, such relocation may not be performed at Federal project expense.

"c. In view of the ambiguities in the 13 September 1966 guidance, the position stated in this indorsement should be followed with respect to future commitments."

Accordingly, by LMNRE-A letter dated 22 December 1971, same subject, this District furnished to MRC a list of reaches which were considered to have been committed prior to receipt of the OCE supplemental guidance and which would not be in compliance with that guidance. The Cutoff reach was included as a non-committed reach. The attorney's reports, which consider the compensable interest of the owners of the facilities affected by the proposed work, in consonance with the promulgated requirements as discussed herein, are attached as appendix I.

b. Roads. The attorney's reports provide that the City of New Orleans Department of Streets has a compensable interest in Patterson Drive and in the right-of-way it occupies. In accordance with the provisions of the attorney's opinion, the Federal Government is authorized and obligated to reimburse the City of New Orleans Department of Streets for the relocation of Patterson Drive, as required by the Cutoff Levee Setback, including the cost of new right-of-way.

c. Utilities.

(1) Powerlines. The attorney's reports provide that Louisiana Power and Light Company has a compensable interest in the

right-of-way occupied by their facilities as exist outside the existing levee right-of-way, but not in that portion of their facilities within the existing levee right-of-way. In accordance with the provisions of the attorney's opinion, the Federal Government is authorized and obligated to reimburse Louisiana Power and Light Company for the relocation of that portion of their facilities having a compensable interest. Therefore, the powerlines will be relocated as required by the project subject to reimbursement by the Federal Government of approximately 31 percent of the relocation cost less depreciation and salvage value and plus removal cost as applicable.

(2) Telephone cables. The attorney's reports provide that South Central Bell Telephone Company has a compensable interest in the right-of-way occupied by their facilities as exist outside the existing levee right-of-way, but not in that portion of their facilities within the existing levee right-of-way. In accordance with the provisions of the attorney's opinion, the Federal Government is authorized and obligated to reimburse South Central Bell Telephone Company for the relocation of that portion of their facilities having a compensable interest. Therefore, the telephone cables will be relocated as required by the project subject to reimbursement by the Federal Government of approximately 18 percent of the relocation cost less depreciation and salvage value and plus removal cost as applicable.

(3) Pipelines. The attorney's reports provide that the Sewerage and Water Board of New Orleans has a compensable interest in their facilities. In accordance with the provisions of the attorney's opinion, the Federal Government is authorized and obligated to reimburse the Sewerage and Water Board of New Orleans for the relocation or alteration of their facilities. Therefore, items W-1, S-1 and F-1 will be relocated as required by the project subject to reimbursement by the Federal Government of all of the relocation cost less depreciation and salvage value and plus removal cost as applicable.

6. FIELD RECONNAISSANCE AND INVESTIGATION. Field surveys, field inspections, consultations, and correspondence with the affected facility owners and the Orleans Levee District provided the basic information from which this design memorandum and the proposed relocation plans were prepared. This work was accomplished principally by Mr. Vern I. Carrier and Mr. Robert L. Gunn of this District's Relocations Section.

7. CRITERIA FOR RELOCATED FACILITIES.

a. Roads. The design criteria for Patterson Drive (items R-1 and SD-1) will be in accordance with the General Specifications and Standard Plans for Street Paving and Temporary Surfacing of the City of New Orleans, Louisiana, adopted 28 November 1969. The design standards used for the proposed relocation of Patterson Drive are the typical design standards used by the City of New Orleans Department of Streets for residential streets. These design standards do not constitute a betterment in regard to the subject relocation.

b. Utilities. With the exception of item F-1 which will be relocated under the Government's levee contract and in accord with the owner's design standards, the owners of the interfering utilities will accomplish the design and relocation of their facilities to their individual criteria and in a manner which will eliminate interference with the project. This District will review the construction drawings for these relocations to insure that no betterments are involved. During construction and upon completion of construction, this District will inspect the relocation in the field to insure that no betterments are involved. If it is determined that an owner's criteria results in a betterment, that betterment will be discussed with the owner and disallowed by this District. This is in accord with paragraph 73-106 of ER 1180-1-1 which stipulates that "a substitute facility will be provided which will, as nearly as practicable, serve the owner in the same manner and reasonably as well as does the existing facility."

8. DESCRIPTION OF PROPOSED RELOCATIONS.

a. Roads. Patterson Drive (items R-1 and SD-1) will be relocated as required by the levee setback between stations 277+76 and 297+00. The relocated roadway will be constructed in a 50-foot wide right-of-way aligned parallel and adjacent to the proposed levee right-of-way (plate 2). The proposed alinement for Patterson Drive and the related relocation of the storm drain are shown on plate 3. The relocated roadway will contain two 10-foot wide lanes, bituminous surfaced, with 5-foot wide aggregate shoulders. Generally, runoff from the levee will be allowed to drain across the roadway to a shallow collection ditch

on the landside. A typical section showing the proposed road design is shown on plate 5. The total length of the relocated roadway will be approximately 1,880 linear feet.

b. Utilities.

(1) Powerlines. Item P-1, owned by Louisiana Power and Light Company, will be relocated to the riverside of the proposed road. It will be alined 17 feet on the riverside of the road centerline traverse just inside the proposed levee right-of-way as shown on plates 4 and 5. The total length of the relocated powerline will be approximately 2,000 linear feet.

(2) Telephone cables. Item T-1, owned by South Central Bell Telephone Company, will be relocated just inside the proposed levee R/W on the relocated power poles between stations 289+80 and 297+00 as shown on plates 4 and 5. The total length of the relocated telephone cables will be approximately 275 linear feet of 100-pair, 26-gage cable; 550 linear feet of 50-pair, 22-gage cable; and 275 linear feet of 26-pair, 22 gage cable.

(3) Pipelines.

(a) Item W-1. Item W-1, owned by the Sewerage and Water



Board of New Orleans, will be relocated to the landside of the proposed road approximately 3 feet inside the road right-of-way as shown on plates 4 and 5. The total length of the relocated water main will be approximately 1,750 linear feet.

(b) Item S-1. Item S-1, owned by the Sewerage and Water Board of New Orleans, will be relocated to the landside of the proposed road approximately 9 feet inside the road right-of-way as shown on plates 4 and 5. The total length of the relocated sewerline will be approximately 420 linear feet.

(c) Item F-1. Item F-1, owned by the Sewerage and Water Board of New Orleans, will be relocated to the proposed levee project requirements as shown on plate 6. The total length of the relocated forced sewer main will be approximately 165 linear feet.

#### 9. PROCEDURE FOR ACCOMPLISHING RELOCATIONS.

a. Roads. This District will prepare the detailed plans and specifications for the relocation of Patterson Drive (item R-1) and the 15-inch diameter storm drain (item SD-1) and will accomplish the relocations in accordance with this design memorandum and in conjunction with the levee setback construction contract. Based on authority granted by LMVED-TD (NOD 17 Aug 73) 1st Ind dated 12 September 1973,

subject: Flood Control, Mississippi River and Tributaries, Lower Mississippi Valley: Mississippi River, Item M-89.5-R, Cutoff Levee Setback, acquisition of the rights-of-way for the subject project was initiated in fiscal year 1974.

b. Utilities. The procedure to be followed in effecting the utility relocations necessitated by the Cutoff Levee Setback has been discussed with representatives of the Orleans Levee District and the facility owners and no difficulties are anticipated. Upon approval of related Real Property Appraisal Reports where applicable, the Orleans Levee District, as the local assuring agency, will be requested to accomplish the utility relocations described herein in accordance with this design memorandum and subject to reimbursement of allowable cost not to exceed a given dollar amount. The dollar limit provided will be based on the approved design memorandum; however, reimbursement will be based on actual cost (less depreciation and salvage and plus removal cost as applicable). Upon completion of the relocations for which reimbursements are to be made, the Orleans Levee District will furnish a reimbursement assembly to this District consisting of: a copy of any contracts (including plans and specifications) covering work performed by others or itemized billings for labor and materials if the work were performed by the owner, and a copy of all canceled checks covering related payments. Further, all records related to the reimbursement request will be subject to audit by the Government and original time cards or payrolls, material records, and accounts for all charges and

expenditures for which reimbursement will be claimed from the Government will be available at all reasonable times for Government inspection. Finally, as far as practicable, separate records will be maintained for all items and accounts constituting the basis of information from which the reimbursement assembly is prepared. An exception to this procedure will be the relocation of item F-1. In order to expedite levee construction, item F-1 will be relocated under the Government contract. Since the Government is responsible for the full relocation cost for item F-1 and since the owner has concurred in this preliminary plan, no difficulties are anticipated.

10. ATTITUDE OF OWNERS. Representatives of all owners having facilities affected by this project have indicated their willingness to cooperate in matters pertaining to the project. It is noted that the design criteria and relocation alignments presented herein have been coordinated with the affected owners. Representatives of the City of New Orleans Department of Streets and Louisiana Power and Light Company have had difficulties with local property owners concerning their relocation plans. Due to strong objections to relocating the power poles to the landside of Patterson Drive, Louisiana Power and Light Company proposed, and this District approved, an alignment 2 feet inside of the proposed levee right-of-way (see plate 5). The power poles, when relocated to this alignment, will not interfere with the project. Concerning objections to the proposed road relocation, representatives of the City of New Orleans Department of Streets and

representatives of this District assured the property owners that the relocation plans are based on current design standards. In response to the property owners' request that subsurface drainage be incorporated into the relocation plans in lieu of open ditch drainage, this District advised that this would be a betterment, the cost of which could not be borne by the Federal Government. The Street Department objected to bearing this cost and the request was denied. Controversy with the property owners is continuing at this time but the various facility owners are in agreement with this District on the relocation plans developed to date.

11. ESTIMATES OF COST. Estimates of cost for accomplishing the proposed relocations have been prepared in accordance with the policy set forth in ER 1180-1-1 and are generally based on plans for relocation as agreed to by the affected owners. These estimates are presented in tables 2 through 5. A summary of all relocation costs is presented in appendix III. Based on ECI 73-209.3, change 21, dated 20 February 1974, it was determined that a zero depreciation credit is appropriate to the relocation of items W-1 and F-1, since these relocations involve only small portions of the existing facilities and will not significantly alter the useful life of the existing facilities or of any principal segment of the existing facilities.

TABLE 2  
ESTIMATE OF COST

CITY OF NEW ORLEANS DEPARTMENT OF STREETS

DESCRIPTION	UNIT	QUANTITY	UNIT COST	AMOUNT
			\$	\$
Relocation of Patterson Drive	L.F.	1,880	36.20	68,060 <sup>1</sup>
Contingencies (25%+)				<u>16,940</u>
Subtotal				85,000
E&D (6%+)				5,000
S&A (6%+)				<u>5,000</u>
Subtotal				95,000
Right-of-way cost				<u>170,400<sup>2</sup></u>
Total				265,400

<sup>1</sup>For detailed cost estimate, see appendix II.

<sup>2</sup>Based on LMNRE final tract appraisals. Includes \$7,500 for Public Law 91-646 costs.

TABLE 3  
ESTIMATE OF COST

LOUISIANA POWER AND LIGHT COMPANY

DESCRIPTION	UNIT	QUANTITY	UNIT COST	AMOUNT
			\$	\$
Item P-1: Relocate 13.8 kV powerline	L.F.	2,000	4.80	9,600
Relocation cost				9,600
Less non-federal cost				<u>6,600<sup>1</sup></u>
Subtotal				3,000 <sup>2</sup>
Less betterments				0
Subtotal				<u>3,000</u>
Less depreciation				0 <sup>3</sup>
Subtotal				<u>3,000</u>
Less salvage				0 <sup>3</sup>
Subtotal				<u>3,000</u>
Plus removal costs				<u>1,100<sup>4</sup></u>
Subtotal				4,100
Contingencies (25%+)				900
Subtotal				<u>5,000</u>
E&D (6%+)				300
S&A (6%+)				300
Total				<u>5,600</u>

<sup>1</sup>Represents the applicable portion of the cost for relocating LP&L's facilities from within the existing levee right-of-way.

<sup>2</sup>Represents the applicable portion of the cost for relocating LP&L's facilities that are outside of the existing levee right-of-way.

<sup>3</sup>Existing materials will be reused.

<sup>4</sup>Represents the applicable portion of the cost for removing LP&L's facilities that are outside of the existing levee right-of-way.

TABLE 4  
ESTIMATE OF COST

SOUTH CENTRAL BELL TELEPHONE COMPANY

DESCRIPTION	UNIT	QUANTITY	UNIT COST	AMOUNT
			\$	\$
Item T-1: Relocate telephone cable				
100 pr, 26 ga	L.F.	275	2.20	605
50 pr, 22 ga.	L.F.	550	1.50	825
26 pr, 22 ga.	L.F.	275	1.00	275
Relocation cost				1,705
Less non-Federal cost				1,395 <sup>1</sup>
Subtotal				310 <sup>2</sup>
Less betterments				0
Subtotal				310
Less depreciation				120 <sup>3</sup>
Subtotal				190
Less salvage				0 <sup>4</sup>
Subtotal				190
Plus removal cost				280 <sup>5</sup>
Subtotal				470
Contingencies (25%+)				130
Subtotal				600
E&D (6%+)				50
S&A (6%+)				50
Total				700

<sup>1</sup>Represents the applicable portion of the cost for relocating South Central Bell's facilities from within the existing levee right-of-way.

<sup>2</sup>Represents the applicable portion of the cost for relocating South Central Bell's facilities that are outside of the existing levee right-of-way.

<sup>3</sup>Based on 32-year design life and average age of existing facilities of 17 years.

<sup>4</sup>Existing materials will be removed as junk.

<sup>5</sup>Represents the applicable portion of the cost for removing South Central Bell's facilities that are outside of the existing levee right-of-way.

TABLE 5  
ESTIMATE OF COST

SEWERAGE AND WATER BOARD OF NEW ORLEANS

DESCRIPTION	UNIT	QUANTITY	UNIT COST	AMOUNT
			\$	\$
Item W-1: Relocate 6" diameter water main	L.F.	1,750	12.70	22,225
Item S-1: Relocate 8" diameter sewerline	L.F.	420	33.20	13,945
Item F-1: Relocate 12" diameter sewer force main	L.S.	Lump sum	7,130.00	<u>7,130</u>
Relocation cost				43,300
Less non-Federal cost				<u>0</u>
Subtotal				43,300
Less betterments				<u>0</u>
Subtotal				43,300
Less depreciation				<u>3,500<sup>1</sup></u>
Subtotal				39,800
Less salvage				<u>0<sup>2</sup></u>
Subtotal				39,800
Plus removal cost				<u>4,000</u>
Subtotal				43,800
Contingencies (25%+)				<u>11,600</u>
Subtotal				55,400
E&D (6%+)				3,650
S&A (6%+)				<u>3,650</u>
Total				62,700

<sup>1</sup>Depreciation based on average age of item S-1 and 75-year design life. Average age of item S-1 is 19 years. Zero depreciation credit for items W-1 and F-1 based on ECI 73-209.3.

<sup>2</sup>Existing valves and hydrants will be reused. Existing pipe will be removed as junk by levee contractor.



12. COMPARISON WITH PRIOR COST ESTIMATES. The current working estimate of cost is summarized under the uniform cost classification for comparison with the latest approved cost estimates. The latest approved cost estimate is the CYP-19 Detailed Project Schedule (PB-4a effective date of 1 July 1974) for the Mississippi River Levees project as approved 15 October 1974. Since the PB-4a contains the relocation cost estimates for the entire Mississippi River levees project under "Lands and Damages", the funds included for item M-89.5-R, Cutoff Levee Setback relocations, have been broken down as follows for a suitable comparison:

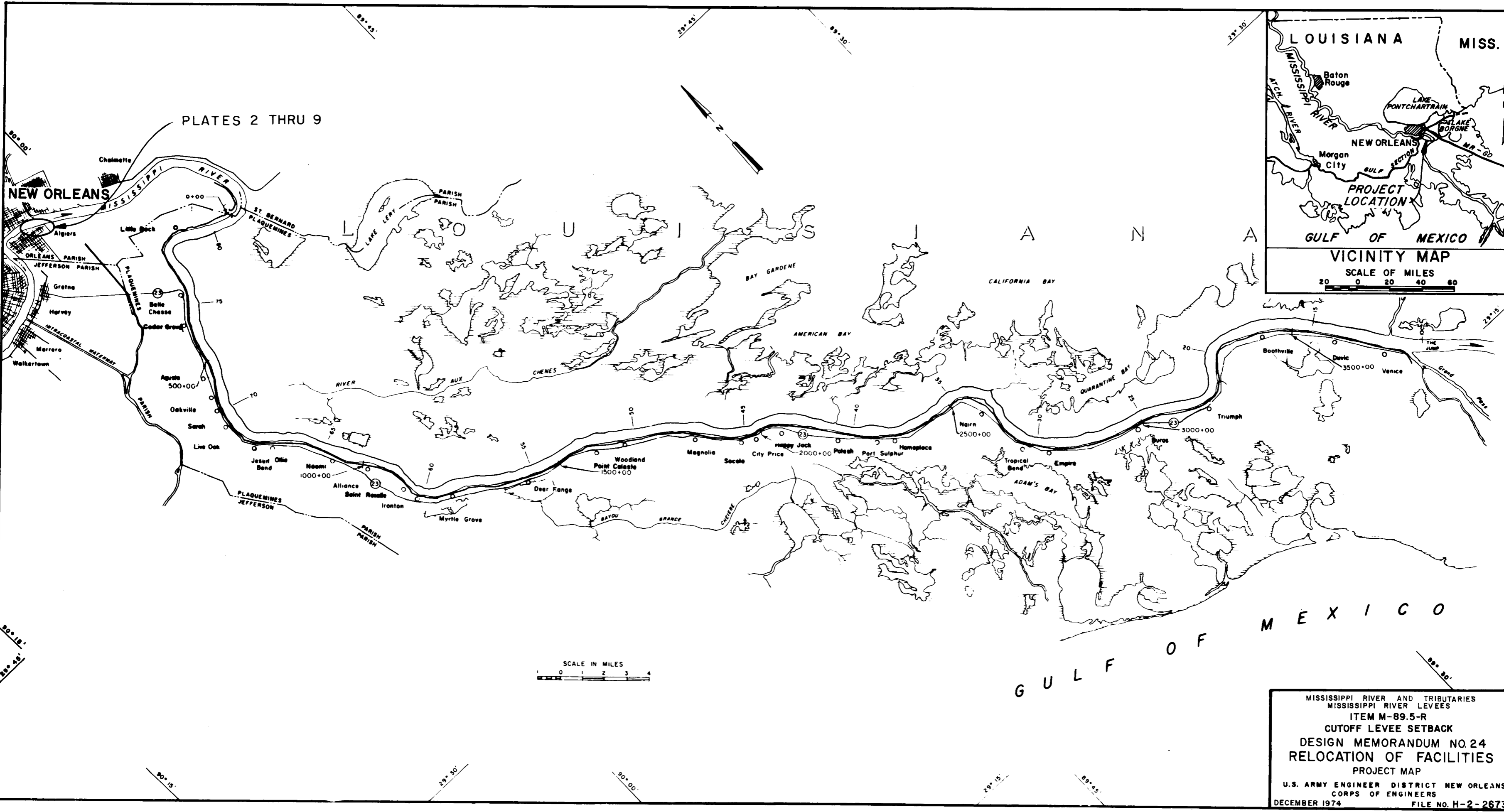
<u>Cost Acct. No.</u>	<u>Item</u>	<u>DM No. 24</u>	<u>PB-4a</u>	<u>Difference</u>
		(\$ thousands)	(\$ thousands)	(\$ thousands)
620 000 00R	Relocations			
	Cutoff, roads	255.4	108.2 <sup>1</sup>	<u>2</u>
	Cutoff, utilities	61.0	110.0	<u>2</u>
634 000 000	E&D	9.0	12.0	<u>2</u>
635 000 000	S&A	<u>9.0</u>	<u>6.0</u>	<u>2</u>
	Total	334.4	236.2	<u>2</u>

<sup>1</sup>Represents FY 75 funds. Acquisition of road right-of-way was initiated in FY 74 based on authority granted by LMVED-TD (NOD 17 Aug 73) 1st Ind dated 12 Sep 73 subject: Flood Control, Mississippi River and Tributaries, Lower Mississippi Valley: Mississippi River, Item M-89.5-R, Cutoff Levee Setback. \$162,900 was expended in FY 74 for acquisition of road right-of-way.

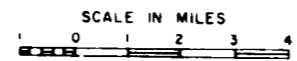
<sup>2</sup>Not applicable since PB-4a funds only FY 75 phase of the total program.

13. JUSTIFICATION FOR COST REVISION. The current working estimate is greater than the latest approved cost estimate since the PB-4a includes only FY 75 funds. The road right-of-way acquisition was initiated in FY 74 and \$162,900 was expended in FY 74. Considering the FY 75 and FY 74 funds, both the road and utility relocation cost estimates have been reduced. This is a result of determining that a proposed setback between stations 325+76 and 331+76 was not required.

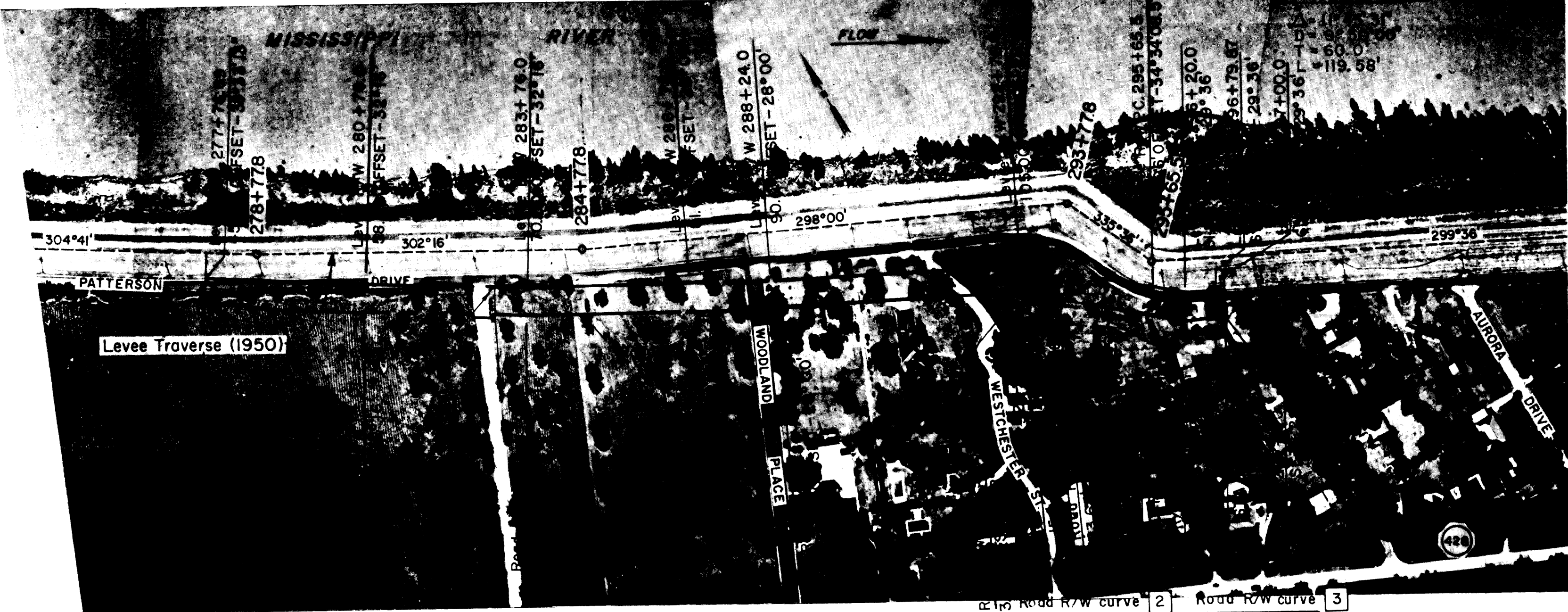
14. RECOMMENDATIONS. Recommend approval of this memorandum as the basis for accomplishing the relocation of Patterson Drive, storm drains, and forced sewer main in conjunction with the contract for levee construction, and as the basis for reimbursing the Orleans Levee District for the costs incurred in accomplishing the remaining utility relocations herein described.



PLATES 2 THRU 9



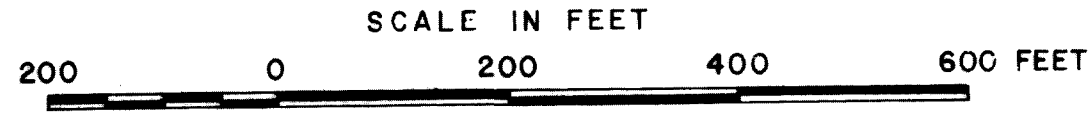
MISSISSIPPI RIVER AND TRIBUTARIES  
 MISSISSIPPI RIVER LEVEES  
 ITEM M-89.5-R  
 CUTOFF LEVEE SETBACK  
 DESIGN MEMORANDUM NO. 24  
 RELOCATION OF FACILITIES  
 PROJECT MAP  
 U.S. ARMY ENGINEER DISTRICT NEW ORLEANS  
 CORPS OF ENGINEERS  
 DECEMBER 1974  
 FILE NO. H-2-26737



Levee Traverse (1950)

Road R/W curve 2      Road R/W curve 3

$\Delta = 11^{\circ} 16' 52''$	$\Delta = 11^{\circ} 38' 14''$
$D = 14^{\circ} 42' 49''$	$D = 9^{\circ} 43' 52''$
$T = 38.46'$	$T = 60.0'$
$L = 76.67'$	$L = 119.59'$



NOTES:

POLYCONIC PROJECTION - 1927 NORTH AMERICAN DATUM.  
 CONTROLLED MOSAIC PREPARED FROM AERIAL PHOTOS  
 FLOWN 22 - 29 OCTOBER, 1966.  
 PHOTOGRAPHY REPRESENTS PRE-CAMILLE CONDITIONS.

MISSISSIPPI RIVER AND TRIBUTARIES  
 MISSISSIPPI RIVER LEVEES  
 ITEM M-89.5-R  
 CUTOFF LEVEE SETBACK  
 DESIGN MEMORANDUM NO. 24  
 RELOCATION OF FACILITIES  
 PROJECT PLAN  
 U. S. ARMY ENGINEER DISTRICT NEW ORLEANS  
 CORPS OF ENGINEERS  
 DECEMBER 1974      FILE NO. H-2-26737

MISSISSIPPI RIVER

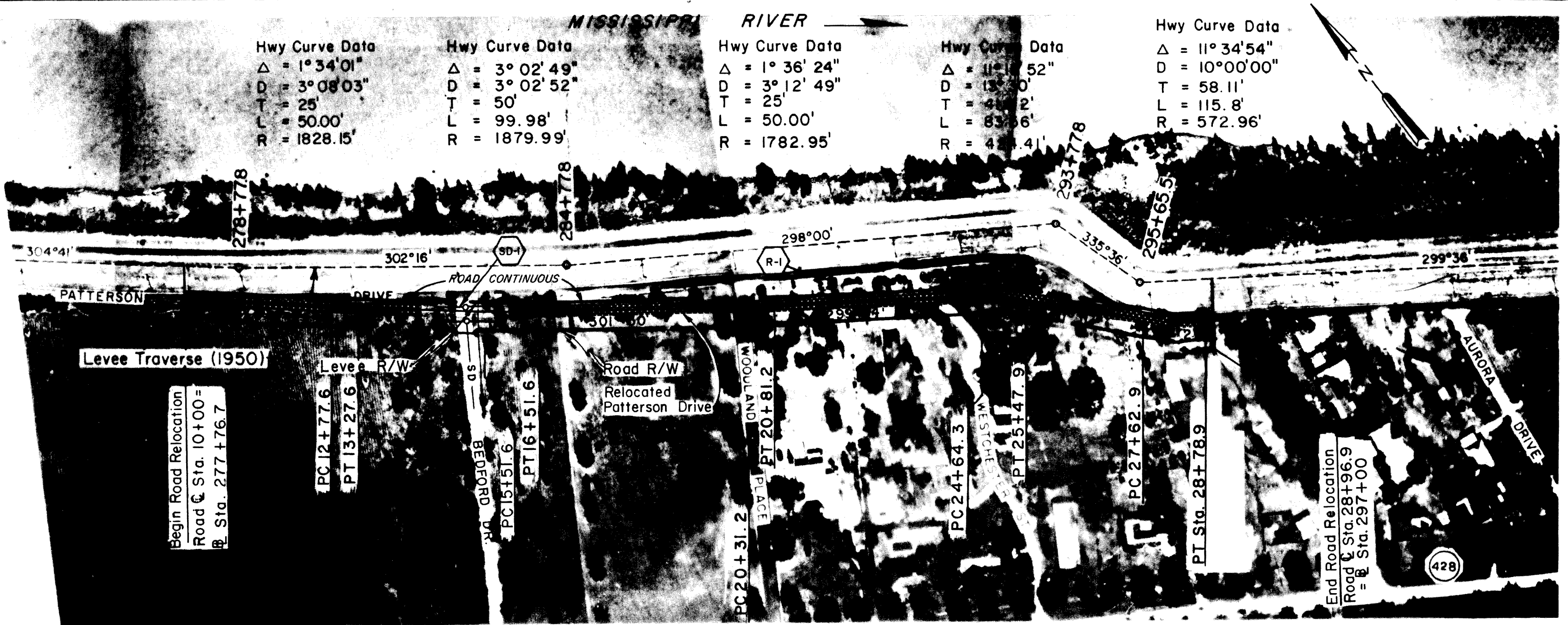
Hwy Curve Data  
 $\Delta = 1^{\circ} 34' 01''$   
 $D = 3^{\circ} 08' 03''$   
 $T = 25'$   
 $L = 50.00'$   
 $R = 1828.15'$

Hwy Curve Data  
 $\Delta = 3^{\circ} 02' 49''$   
 $D = 3^{\circ} 02' 52''$   
 $T = 50'$   
 $L = 99.98'$   
 $R = 1879.99'$

Hwy Curve Data  
 $\Delta = 1^{\circ} 36' 24''$   
 $D = 3^{\circ} 12' 49''$   
 $T = 25'$   
 $L = 50.00'$   
 $R = 1782.95'$

Hwy Curve Data  
 $\Delta = 11^{\circ} 17' 52''$   
 $D = 13^{\circ} 30'$   
 $T = 41.2'$   
 $L = 83.86'$   
 $R = 421.41'$

Hwy Curve Data  
 $\Delta = 11^{\circ} 34' 54''$   
 $D = 10^{\circ} 00' 00''$   
 $T = 58.11'$   
 $L = 115.8'$   
 $R = 572.96'$



Levee Traverse (1950)

Begin Road Relocation  
 Road C Sta. 10+00 =  
 R Sta. 277+76.7

PC 12+77.6  
 PT 13+27.6

SD  
 BEDFORD DR.  
 PC 15+51.6  
 PT 16+51.6

Road R/W  
 Relocated  
 Patterson Drive

PC 20+31.2  
 WOOLAND PLACE  
 PT 20+81.2

PC 24+64.3  
 WESTCHESTER

PT 25+47.9

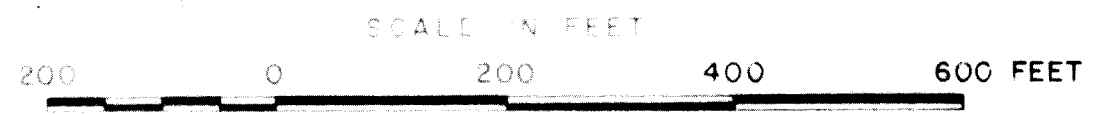
PC 27+62.9

PT Sta. 28+78.9

End Road Relocation  
 Road C Sta. 28+96.9  
 = R Sta. 297+00

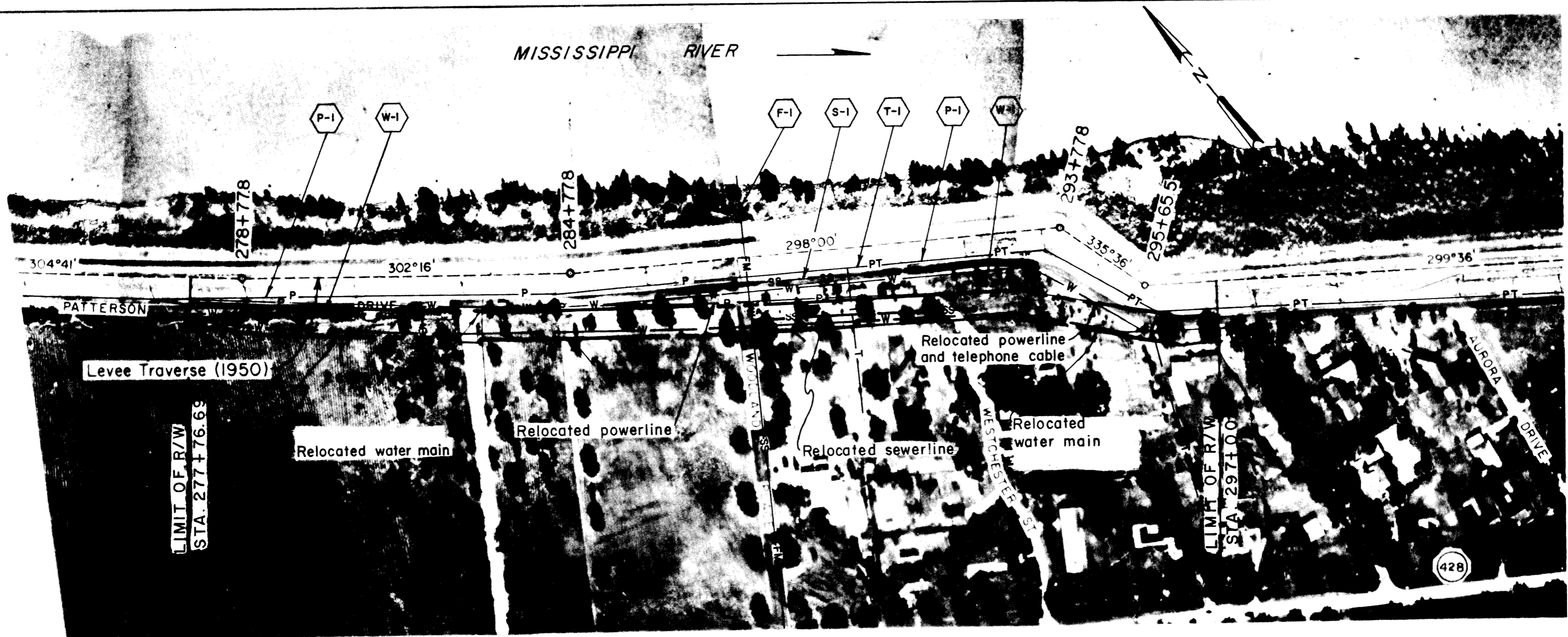
428

ITEM NO	DESCRIPTION	STATION	OWNER	DISPOSITION
R-1	Patterson Drive	277+76 to 297+00	New Orleans Department of Streets	Relocate
SD-1	Storm Drain	282+40 to 283+60	New Orleans Department of Streets	Relocate



NOTES  
 POLYCONIC PROJECTION - 1927 NORTH AMERICAN DATUM.  
 CONTROLLED MOSAIC PREPARED FROM AERIAL PHOTOS  
 FLOWN 22 - 29 OCTOBER, 1966.  
 PHOTOGRAPHY REPRESENTS PRE-CAMILLE CONDITIONS.

MISSISSIPPI RIVER AND TRIBUTARIES  
 MISSISSIPPI RIVER LEVEES  
 ITEM M-89.5-R  
 CUTOFF LEVEE SETBACK  
**DESIGN MEMORANDUM NO. 24**  
**RELOCATION OF FACILITIES**  
 PATTERSON DRIVE  
 U. S. ARMY ENGINEER DISTRICT NEW ORLEANS  
 CORPS OF ENGINEERS  
 DECEMBER 1974 FILE NO. H-2-26737

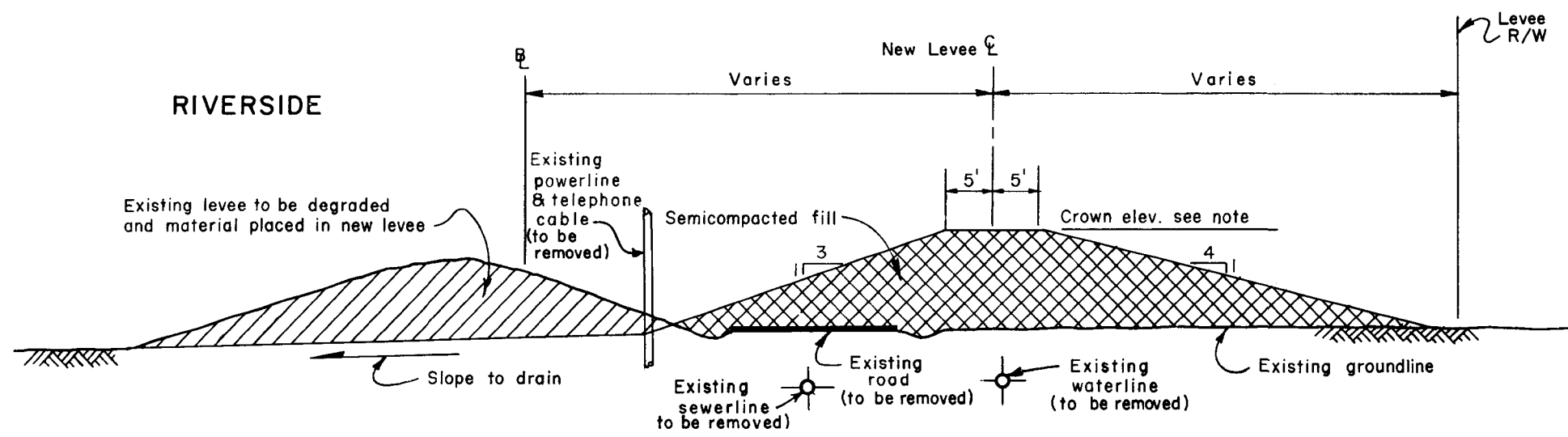


ITEM NO.	DESCRIPTION	STATION	OWNER	DISPOSITION
P-1	Powerline	277+76 to 297+00	La. Power & Light	Relocate
W-1	Water Main	277+76 to 297+00	S.&W.B. of N.O.	Relocate
F-1	Forced Sewer Main	288+20	S.&W.B. of N.O.	Relocate
S-1	Sanitary Sewerline	287+75 to 291+90	S.&W.B. of N.O.	Relocate
T-1	Telephone Cable	289+80 to 297+00	South Central Bell	Relocate



NOTES:  
 POLYCONIC PROJECTION - 1927 NORTH AMERICAN DATUM.  
 CONTROLLED MOSAIC PREPARED FROM AERIAL PHOTOS  
 FLOWN 22 - 29 OCTOBER, 1966.  
 PHOTOGRAPHY REPRESENTS PRE-CAMILLE CONDITIONS.

MISSISSIPPI RIVER AND TRIBUTARIES  
 MISSISSIPPI RIVER LEVEES  
**ITEM M-89.5-R**  
 CUTOFF LEVEE SETBACK  
 DESIGN MEMORANDUM NO.24  
**RELOCATION OF FACILITIES**  
 EXISTING AND RELOCATED UTILITIES  
 U. S. ARMY ENGINEER DISTRICT NEW ORLEANS  
 CORPS OF ENGINEERS  
 DECEMBER 1974 FILE NO. H-2-26737

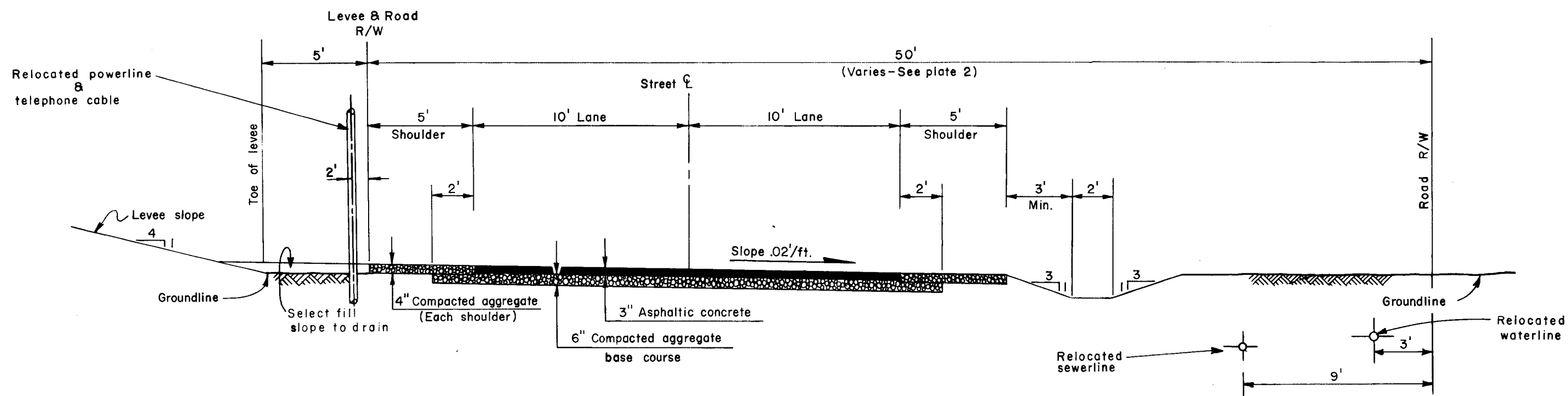


**TYPICAL LEVEE SECTION**

NOT TO SCALE  
 For limits of existing facilities,  
 see plate 4

**NOTE:**

Elevations crown of levee shall be:  
 Sta. 277+76 to Sta. 294+00 El. 21.9  
 Sta. 294+00 to Sta. 295+00 Transition  
 Sta. 295+00 to Sta. 296+76 El. 21.7

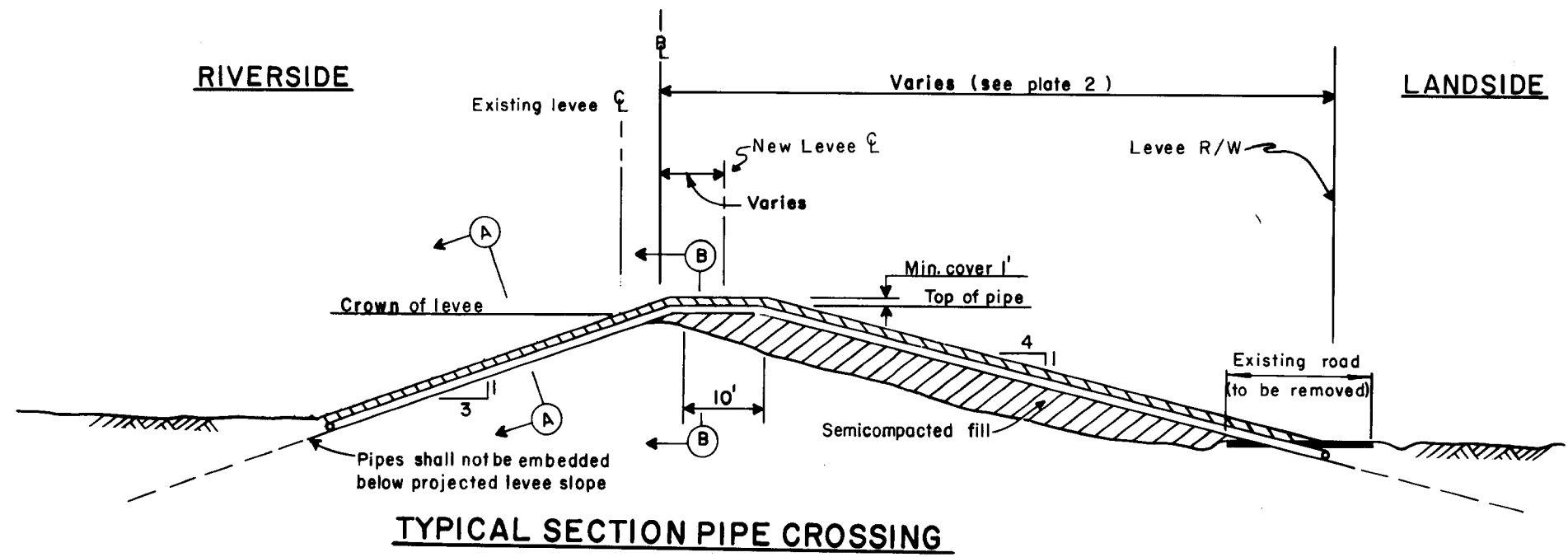


**TYPICAL SECTION - PATTERSON DRIVE**

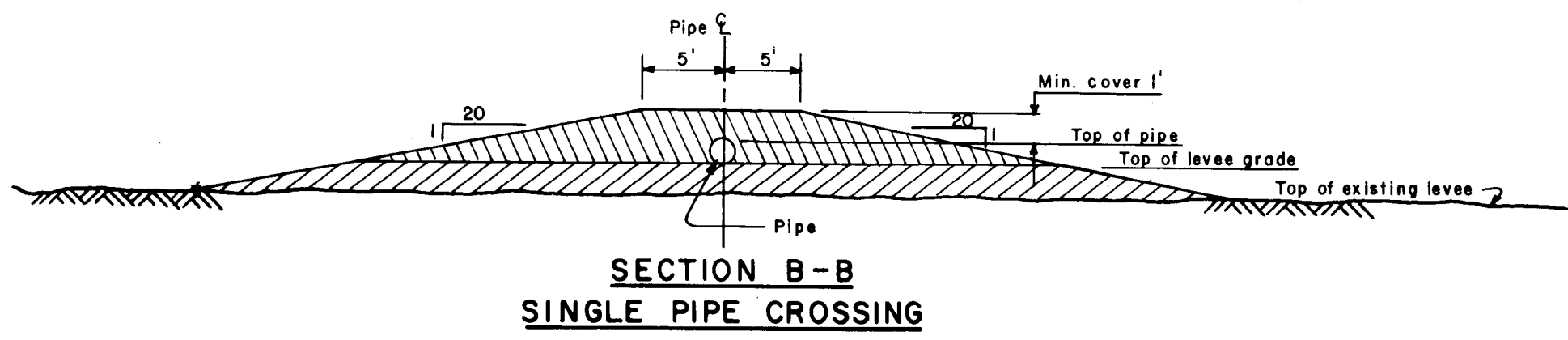
NOT TO SCALE

For limits of relocated facilities,  
 see plate 4

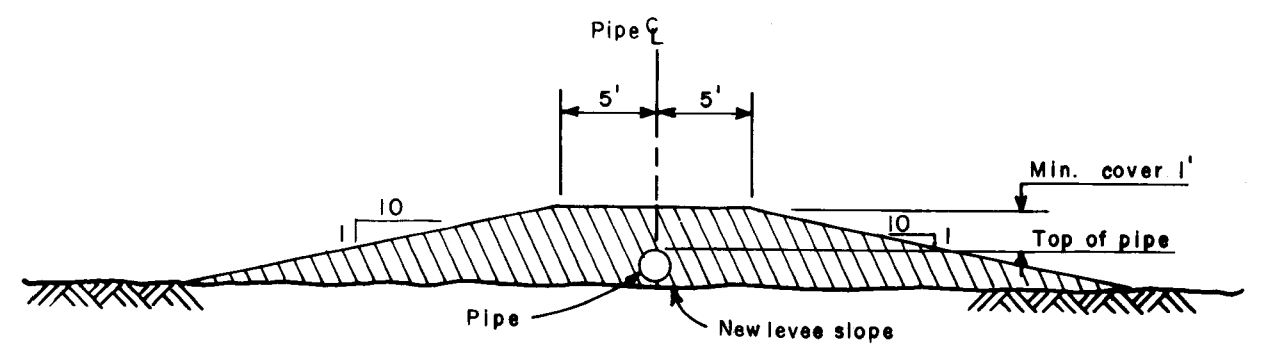
MISSISSIPPI RIVER AND TRIBUTARIES  
 MISSISSIPPI RIVER LEVEES  
 ITEM M-89.5-R  
 CUTOFF LEVEE SETBACK  
 DESIGN MEMORANDUM NO.24  
 RELOCATION OF FACILITIES  
 TYPICAL SECTIONS  
 U. S. ARMY ENGINEER DISTRICT, NEW ORLEANS  
 CORPS OF ENGINEERS  
 DECEMBER 1974 FILE NO. H-2-26737



**TYPICAL SECTION PIPE CROSSING**



**SECTION B-B  
SINGLE PIPE CROSSING**



**SECTION A-A  
SINGLE OR MULTIPLE CROSSINGS**

NOT TO SCALE

MISSISSIPPI RIVER AND TRIBUTARIES  
 MISSISSIPPI RIVER LEVEES  
 ITEM M-89.5-R  
 CUTOFF LEVEE SETBACK  
 DESIGN MEMORANDUM NO. 24  
 RELOCATION OF FACILITIES  
 TYPICAL PIPE CROSSINGS  
 U.S. ARMY ENGINEER DISTRICT NEW ORLEANS  
 CORPS OF ENGINEERS  
 DECEMBER 1974 FILE NO. H-2-26737



FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES  
MISSISSIPPI RIVER LEVEES  
ITEM M-89.5-R  
CUTOFF LEVEE SETBACK  
ORLEANS PARISH, LOUISIANA  
RELOCATION OF FACILITIES  
DESIGN MEMORANDUM NO. 24

APPENDIX I  
ATTORNEY'S REPORTS

ATTORNEY'S OPINION AND REPORT OF  
COMPENSABLE INTEREST

CUTOFF LEVEE SETBACK  
Item M-89.5-R

This report is written to revise attorney's report dated 28 August 1973, title as above.

Subject report is revised as follows since it has been determined that the levee setback between stations 325+76 and 331+76 is not required; therefore, no relocation of facilities will be required between the aforementioned stations:

- a. Page 1, item b. Delete entire item.
- b. Page 1, item c. Delete the words "2", "and F-2" and "and 329+60, respectively, all".
- c. Page 1, item e. Delete the word "Two" and capitalize the letter "a" in the word "aerial".
- d. Page 1, item g. Delete the entire item.
- e. Page 1, 8 lines from bottom of page. Delete the words "drawings 1 and 2 of 2,".
- f. Pages 9, 10, 11, and 12, item b. Delete entire item.
- g. Page 16, item e. Delete paragraph "The statement made....  
...streets. To repeat:".
- h. Page 19, item f. Delete the words ";and between station 325+76 and station 331+76".
- i. Page 25 and 26, item g. Delete entire item.
- j. Page 1, item a. After the words "item R-1," add the words ", and a 15-inch-diameter storm drain between stations 282+40 and 283+60, designated as item SD-1, all".
- k. Page 8, item a. Add the following after the last paragraph:

Item SD-1, 15-inch-diameter storm drain, is part of the structure of Patterson Drive used to drain water from the Drive. It is maintained and controlled by the "Sewerage and Water Board of New Orleans" which is operated and controlled by the City of New Orleans. LSA - R.S. 33:4055.

Therefore, ER 1180-1-1, Dec 69, 73-703 and the last two (2) paragraphs on page 8 apply to item SD-1.

Dated this 10th day of October 1974.

A handwritten signature in cursive script, appearing to read "Chester C. Nolan", is written over a horizontal line.

CHESTER C. NOLAN

Attorney

U. S. Army Engineer District  
New Orleans

August 1973

ATTORNEY'S REPORT

SUBJECT: Attorney's Investigation and Report covering the following facilities which will be dislocated by CUTOFF LEVEE SETBACK, ITEM M-89.5-R:

- a. Patterson Drive, located adjacent to the existing levee, designated as item R-1, owned by the City of New Orleans Street Department
- b. A 10-inch diameter gas main, designated as item G-1, and a 4-inch diameter gas main, designated as item G-2, located in Patterson Drive, and a 2-inch diameter pipe, designated as item G-3, located in Blair Street, all owned by New Orleans Public Service, Inc.
- c. An 8-inch diameter sewerline adjacent to Patterson Drive, designated as item S-1, and 2 12-inch diameter sewer force mains, designated as items F-1 and F-2 at stations 288+20 and 329+60, respectively, all owned by the New Orleans Sewerage and Water Board.
- d. A 6-inch diameter domestic water main adjacent to Patterson Drive, designated as item W-1, owned by the New Orleans Sewerage and Water Board.
- e. Two aerial cables adjacent to Patterson Drive, designated as item T-1, owned by South Central Bell Telephone Company.
- f. Powerlines designated as item P-1, adjacent to Patterson Drive, owned by Louisiana Power and Light Company.
- g. Three 10-inch diameter pipelines crossing the levee at right angles between station 327+65 and station 328+25, designated as item U-1, owned by United Gas Pipe Line Company.

such above items being shown on Map File No. H-8-26102, drawings 1 and 2 of 2, Right-of-Way, Cutoff Levee Setback, Item M-89.5-R, Mississippi River Levees, Orleans Levee District, Corps of Engineers, U. S. Army, Office of the District Engineer, New Orleans, Louisiana.

All pursuant to authority of DIVR 1110-2-1, 29 January 1968, and Flood Control Act of 15 May 1928, Public Law 70-391, Ch. 569, 45 Stat. 534, Title 33, Sections 702a - 702m, U.S.C.A., as supplemented and amended.

TO: District Engineer  
U. S. Army Engineer District, New Orleans  
New Orleans, Louisiana

An investigation and report, in accordance with DIVR 1110-2-2 and ER 1180-1-1, Section 73, Part 2, 73-203 and 73-204, 1 Dec 69, of the legal obligations of the Government regarding affected facilities and determination of compensable interest of the owners of the above captioned facilities, is hereby submitted by the undersigned, RALPH E. HALLIBURTON, an attorney licensed to practice law in the State of Louisiana, of the Real Estate Division of the U. S. Army Engineer District, New Orleans.

#### LEGAL OBLIGATION

Authority for subject levee setback is set forth in caption, and the relocation of the interfering facilities is authorized in accordance with DIVR 1110-2-1, 29 January 1968, page 2, at 4a, which provides:

"4. Authorization. a. Levee Setbacks, Main Line Mississippi River Levees. (1) Authority for construction of levee setbacks of main line Mississippi River Levees is contained in the Act of 15 May 1928 (PL 391, 70th Congress) as amended. Payment or reimbursement of costs to local cooperating agencies for rights-of-way furnished, including necessary relocation or alteration of public roads, highways, railroads, public utilities, and pipelines is authorized by the Flood Control Act of 18 August 1941 (PL 228, 77th Congress, 1st Session), as amended by the Flood Control Act of 22 December 1944 (PL 534, 78th Congress 2d Session).

(2) In those cases where the local cooperating agency is not financially able to arrange for relocation or alteration of interfering facilities, subject to reimbursement of costs, the District Engineer is authorized to enter into a contract with the facility owner, subject to the requirements of ER 1180-1-1. The authority to enter into such contractual arrangements with facility owners is also applicable to subparas b, c, and d below."

#### COMPENSABLE INTEREST OF OWNERS

By reference to LMNRE-A letter dated 22 December 1971; subject: Relocation of Facilities Required for Future Modification of Mississippi River Levees (this district's reply to LMVED-TD/LMVRE letter dated 21 October 1971, subject as above), which explained the nature of commitments made in regard to the subject project, this item is considered not committed.

Hence, in this report the owner's entitlement to payment or reimbursement for dislocated facilities or improvements must be based solely on his or its compensable interest, without benefit of relief from other regulations or statutes.

Here follows report on the compensable interest of the owners of the respective facilities to be dislocated as identified and in the order set forth in caption.

a.  
COMPENSABLE INTEREST  
OF  
CITY OF NEW ORLEANS  
IN  
PATTERSON DRIVE

The City of New Orleans holds, in trust for the public, fee title, not merely an easement or servitude to its streets, and it may, pursuant to statutory authority cited below, upon a two-thirds vote of the city council, revoke the destination or dedication of such property and sell at private sale, exchange or otherwise convey to the United States, the State of Louisiana or any department or agency of either, such property needed for public use. See L.R.S. 52:2 and L.R.S. 33:4717 below.

R.S. 33: 4717

"§4717. Sale of municipal or parish property no longer needed for public use

Wherever, in the opinion of the governing authority of any parish or municipality, any real property, owned by such parish or municipality, including streets, sidewalks, buildings, or any other property, dedicated to public use, shall no longer be needed or necessary for the public use to which it was originally destined or dedicated, and which property is needed for public buildings, public utilities or any other public use, by the United States of America, or the State of Louisiana, or any department or agency of either, or any parish or municipality, the governing authority of such parish or municipality shall have the power and authority, upon a two-thirds vote of the members present thereof, to revoke the destination or dedication of such property, and to sell at private sale to the United States of America, the State of Louisiana, or any department, or agency thereof, or any other parish or municipality, by which such property shall be needed for public buildings, public utilities, or other public use. The ordinance authorizing the revocation of the destination or revocation of the dedication and the sale, at private sale, or the exchange, of such property shall set forth the price, consideration and terms of such sale; and, upon the adoption of such ordinance by such two-thirds vote, the governing authority, through its duly authorized officer, shall have the power to convey title to such property, as therein set forth. Added Acts 1957, No. 4, § 1."

R.S. 52:2

"§ 2. Donations to United States for certain purposes; officers making donations

The state or any state agency or subdivision may donate or convey to the United States any lands, movable or immovable property, rights of way, or servitudes which they may own or acquire, for use by the United States in connection with:

- (1) The improvement and maintenance of the navigation of natural waterways;
- (2) The construction, improvement, and maintenance of artificial navigable waterways, river and harbor works;
- (3) Flood control works;
- (4) Airports, flying fields, landing fields, parks, forest preserves, canals, irrigation districts, hospitals, agricultural experiment and research stations, military posts and for any military purposes.

In the case of property owned by Louisiana or any state board, commission, department or agency, the transfer or conveyance shall be performed jointly by the governor and the register of the state land office, with the consent and approval of the lieutenant governor or the attorney general. The commission council or other governing body of a municipality shall transfer or convey property owned by a municipality. In the case of a parish, the parish governing authority shall transfer or convey the property, and in the case of any other subdivision of the state the governing body shall transfer the property.

Amended by Acts 1968, No. 433, § 1."

Title of the City of New Orleans in its streets has been repeatedly recognized by the Louisiana Supreme Court, together with its right to alienate such interest therein, as discussed and cited hereafter.

Ordinarily, in the absence of statutory authority, property forming part of the public domain is inalienable. However, the property herein considered, municipal streets, is susceptible of a valid alienation by the City of New Orleans, the City of New Orleans having been granted express legislative authority to sell or change the destination of any street, side-walk or other property which is no longer necessary for the public use to which it was originally destined. Act No. 159 of 1912, Sec. 8(1), as amended by Act 378 of 1948, of the "Old City Charter," cited with approval in City of New Orleans v. Louisiana Society, etc., (1956), 229 La. 246, 85 So. 2d 503. See also Schernbeck v. City of New Orleans, 154 La. 676, 98 So. 84; State ex rel. Porterie v. Housing Authority of New Orleans, 190 La. 710, 182 So. 725, and similar controlling cases cited in said City of New Orleans v. Louisiana Society. The current Home Rule Charter of the City of New Orleans, effective May 1, 1954, was adopted pursuant to Article 14,

Section 22, Constitution of 1921, as amended by Act 551 of 1950. Under the new Home Rule Charter, Art. II, Section 2-101. Powers. (1), the City of New Orleans retained all the rights, powers, privileges and authority had under the law of Louisiana at the time of its adoption.

The right of the City of New Orleans to sell a public street, as considered in Schernbeck v. City of New Orleans, (1923) 154 La. 676, 678, 98 So. 84, was stated as follows:

"The first question presented for our consideration involves the right of the city to sell a public street.

"The power to sell a public street was first conferred upon the city of New Orleans by Act No. 93 of 1904, but this act limited the exercise of the power to streets of not more than 200 feet in length. The City Charter, Act No. 159 of 1912, Section 8, removed this limitation. Section 8 of the charter was amended and re-enacted by Act No. 21 of the Extra Session of 1917, by Act No. 29 of the Regular Session of 1918, and by Act No. 93, Extra Session of 1921. In all of the acts mentioned there is a specific grant of power to the city of New Orleans to sell a street when it is no longer necessary for the public use to which it was originally destined.

"Act No. 93, Extra Session of 1921, is, in part, as follows:

"'1. To order the ditching, filling, opening, widening, and paving of the public streets, and regulate the grade thereof, and, by a two thirds vote to sell or change the destination of any street, sidewalk or other property which is no longer necessary for the public use to which it was originally destined,'" etc.

The power conferred by the several acts mentioned has been recognized and enforced by this court as a proper legislative grant of power. State ex rel. Ruddock Orleans Cypress Co. v. Knop, Sheriff, 147 La. 1057, 86 South. 493."

The right, first conferred upon the City of New Orleans, by Act 93 of 1904 of the Louisiana Legislature, to sell a public street, pointed out in Schernbeck v. New Orleans, and approved by later decision of the Court, has been maintained and continued by subsequent legislation.

The right, as viewed by the Louisiana Courts, of the City to sell that which it holds in trust for the public being a legislative grant of authority, is reflected by Justice Hamiter, (concurring in part and dissenting in part) in City of New Orleans v. Louisiana Society, 229 La. 246 (1955), 85 So. 2d 503 (on Rehearing, page 513):

"I agree that the title to the property involved herein /public square\_ is vested in the City of New Orleans; that



Section 8(1) of the City Charter provides specific legislative authority for the sale of City property no longer necessary for public use ---." [Emphasis supplied]

And in Schernbeck v. New Orleans, supra, at pages 679 and 680 the court, relative to vacation of streets, further stated:

"The opening or realignment or sale of streets are matters within the sound discretion of the commission council, functioning as the executive officers of the city.

"Act 93 of 1921 authorizes the sale of city streets when they cease to be necessary for public use. It does not prescribe the manner in which the sale shall be made nor does it require that the whole street be sold at one time, or that it be adjudicated to one buyer. The governing principle of the power to sell streets and to vacate streets is the same.

"A city may, under its statutory power to vacate streets, vacate only a portion of the streets.' Brown v. San Francisco, 124 Cal. 274, 57 Pac. 82; State ex rel Ruddock, Orleans Cypress Co. v. Knop, 147 La. 1066, 86 South. 493."

My information is that Patterson Drive, as an earlier river road or street, and now in its modern form has been in place and in use by the people of New Orleans for well over 100 years without formal conveyance or acquisition.

In almost every instance, in the City of New Orleans, public streets are acquired by dedication, and not by purchase. Speaking of dedication of property to the public use, the court said in City of New Orleans v. Louisiana Society, 85 So. 2d, at pages 505 and 506:

"Although there is no record acquisition of this public square by the City of New Orleans, we are firmly convinced and necessarily conclude, that the title to said public square became vested in the City of New Orleans as a public property by dedication in 1836. It manifested its acceptance of the dedication by virtue of its recognition, use and maintenance of the property as a public park for a period of over 100 years until the present.

In the early case of President, Recorder and Trustees of City of Cincinnati v. Lessee of White, 1832, 6 Pet. 431, 8 L.Ed. 452, the Supreme Court of the United States announced the principle that dedications of use were valid without the necessity of a grant for charitable, religious and public grantee to whom a fee could be conveyed, recognizing that such dedications constitute the "leaving open" of property for common and public use and for the convenience and accommodation of the inhabitants

of a municipality. The court therein also pronounced the doctrine that there is no particular form necessary to a dedication of land to public use. All that is required is the assent of the owner of the land, and the fact of its being used for the purposes intended.

In the case of Pickett v. Bronw, 18 La. Ann. 560, we held:

'\* \* \* the dedication of property for public uses may be inferred from facts and circumstances, which leave no reasonable doubt upon the mind of the intention of the owner to make such a disposition, \* \* \*.'

See also New Orleans & C. R. Co. v. Town on Carrollton, 3 La. Ann. 282; Town of Carrollton v. Jones, 7 La. Ann. 233; and Municipality No. 2 v. Palfrey, 7 La. Ann. 497.

In Saulet v. City of New Orleans, 1855, 10 La. Ann. 81, we said:

'According to the principles \* \* \*, on which dedications to the public use have been supported, without any grant or deed, it must either appear that the ground has been used with the assent of the owner for public purposes which, in their nature, exclude the idea of private ownership, and for such a length of time, that the public accommodation and private rights would be seriously affected by the interruption of that use, \* \* \*.'

Likewise, in City of Shreveport v. Walpole, 22 La. Ann. 526, we said (Syllabus):

'No deed or act of conveyance is necessary to dedicate land or rights in immovable property to the public. Nor is any particular form necessary to the dedication of land to the public use. All that is required is the assent of the owner of the land, and the fact that it is being used for the purposes intended. \* \* \*.'

In addition to the foregoing, attention is called to the following from ER1180-1-1, Dec 69, 73-703, allowing relocation of any structure or facility owned by an agency of government (state, county(parish), city or town) at the cost of the United States:

"73-703 Relocation of Facilities Owned by Governmental Agencies. Under the provisions of Section 111 of 72 Stat. 303, as amended by Section 309 of 79 Stat. 1094 (33 U.S.C. 633), the Chief of Engineers may, in civil works projects, protect, alter, reconstruct, relocate or replace, any structure or facility owned by an agency of Government (state, county, city or town or any legally created subdivision thereof) and utilized in the performance of a Government function. This law applies

particularly to public structures and facilities such as schools, fire stations, etc., which will be treated separately from relocation of municipal facilities in kind pursuant to Part 6 of this section."

In view of the foregoing, together with other information in the matter obtained by and for my use herein, it is my opinion that the City of New Orleans, Department of Streets, has an established compensable interest in Patterson Drive, described on page 1 as item a, to be dislocated in part by subject levee setback, and that the relocation or alteration thereof shall be borne by the Federal Government.

Special attention is called to the necessity of compliance, in any act of divestiture or surrender of a right or title, by the City of New Orleans, with the requirements of L.R.S. 33:4717, set out above in full. That is, such act is to be by formal conveyance, or similar act of transfer, authorized by appropriate ordinance adopted by a two-thirds vote of the City Council.

b.  
COMPENSABLE INTEREST  
OF  
NEW ORLEANS PUBLIC SERVICE INC.  
317 BARONNE STREET  
P. O. BOX 60340  
NEW ORLEANS, LOUISIANA 70160

New Orleans Public Service Inc., a Louisiana corporation, is a privately owned utility company, L.R.S. 45:301, engaged in the sale and distribution, through pipelines, of natural gas. Its rates and operations are regulated by the City of New Orleans. Subject 10" gas pipeline is the primary source of gas supply for the Algiers section of the city. The 4" gas pipeline supplies the area downriver from the proposed levee setback. The 2" gas pipeline, located in Blair Street, serves the immediate area. Any domestic or foreign corporation created for the piping and marketing of natural gas for the purpose of supplying the public with natural gas, as does New Orleans Public Service Inc., may expropriate needed property pursuant to L.R.S. 19:2 (7).

By letter dated 15 May 1973, New Orleans Public Service Inc., James S. Janssen, Manager Gas Engineering Division, advised the Engineering Division of the New Orleans District that that corporation had, and had not, secured permission for the installation of its facilities, as the letter states, in part:

"We obtained approvals from the Streets Department, City of New Orleans as well as from the Sewerage and Water Board of New Orleans; no servitudes were obtained from adjacent property owners. We also obtained Project Permits from the Louisiana Department of Highways for the installation of our gas facilities in the highway right-of-way as follows:

1. Serial No. 13649 - August 8, 1967. Installation of 10" Gas Pipeline in Patterson Drive.

2. Serial No. 33371 - March 21, 1956. Installation of 4" Gas Pipeline in Patterson Drive."

Louisiana Revised Statutes, Title 48, "Roads, Bridges and Ferries," Section 381, (L.R.S. 48:381) under Part XVI. Utilities and Facilities, of chapter 1, State Department of Highways, provides, in part:

"§ 381. Use and occupancy of highways

A. When not inconsistent with the purposes of state highways, the director may issue permits of convenience and necessity for the use and occupancy of the right of way of state highways as follows:

(1) For the installation, operation and maintenance of underground pipes, conduits, or cables along or across the highways for the purpose of transporting or conveying fluids, telephone or telegraph messages, gases, or electric current for any purpose.

(2) For the installation, operation and maintenance of overhead cables, conduits, or wires, together with appropriate supporting structures, for the transmission of telephone or telegraph messages or electric current for any purpose.

(3) For the erection, operation, and maintenance of structures crossing the highway, over or beneath the traveled surface for the purpose of providing trans-communication for vehicles, pedestrians, cattle, or railway rolling stock.

All such installations shall be in accordance with the best modern practice and national underwriting standards and shall be so maintained. Permits shall be issued only to owners of the facility and shall be nonexclusive. Installations which will interfere with the proper operation and maintenance of highways are expressly prohibited.

No installation may be made except upon the explicit condition that the owner thereof shall, at no cost to the department, remove or relocate the facility when that is necessary to permit the widening, relocation, or other improvement of the highway, when so ordered by the director."

L.R.S. 33:401, covering municipalities governed by a mayor and aldermen, particularly at Sec 401. A (12) provides the following authority:

§ 401. Powers of mayor and aldermen; ordinances authorized

A. The mayor and board of aldermen of every municipality shall have the care, management, and control of the municipality and its property and finances. They shall have power:

\* \* \* \* \*

(12) To grant to any person the use of the streets, alleys, and public grounds for the purpose of laying gas, water, sewer, or steam pipes, conduits for electric light, to be used in furnishing or supplying the municipality and inhabitants or any person or corporation, with gas, water, sewerage, steam, or hot air for heating purposes, or light, but a franchise, right of way, or privilege of any character whatever, shall not be granted for a longer period than sixty years, and such privilege shall not be exclusive.

Amended by Acts 1972, No. 189, § 1.

\* \* \* \* \*

The New Orleans "Home Rule Charter," referred to above, in this report covering "a. Patterson Drive" provides similar authority to the New Orleans mayor and councilmen, not unlike L.R.S. 33:821, for municipalities operating under the commissioners and city Managers form of government, and L.R.S. 33:4401, which permits the governing authorities of all municipalities with a population not exceeding 25,000 to grant franchise for use of its streets, etc..

The permissions obtained, as related by New Orleans Public Service Inc., above, were required, dependent on the location of its facility, from different permitters, i.e., City or State. Inasmuch as subject relocations are not for the improvement of the highway or streets, but for levee purposes, the usually required agreement of a permittee such as this utility corporation that it relocate at its expense, when necessary for permitters purposes, is not applicable under the guideline commonly accepted and used in circumstances similar to subject levee setback, i.e.,

If a utility is located on privately-owned fee lands, but within the right-of-way of a public street or highway under permit from the municipality or the Highway Department, and must be relocated to accomodate levee construction--instead of ordered to be removed for the convenience of the street or highway--then the utility is located on privately-owned fee lands despite its location within street or highway right-of-way limits. If, however, the utility is located within the existing levee right-of-way limits, then it must be considered that the utility occupies the existing levee or the existing levee right-of-way at the sufferance of the public and, therefore, it would not be considered to have a compensable interest in its right-of-way.

No servitudes were obtained from the owners of private property adjacent to subject streets, Patterson Drive and Blair Street, as is stated in the partly-quoted letter of 15 May 1973, above, from New Orleans Public Service Inc. None are required from the owners of the property adjacent to these streets, inasmuch as subject facilities are located in the respective streets, the fee title thereto being in the City of New Orleans, and from which the utility corporation has obtained consent to so locate its lines. It therefore has a vested real right in its rights of way inasmuch as, should its right be challenged, contrary to its permit agreement, having the right of expropriation, it might envoke the "Doctrine of Unopposed Occupancy" and retain its interest. See St. Julian v. Morgan's Louisiana & T.R. Co., 35 La. Ann. 924, Gumble v. New Orleans Terminal Company, 186, La. 882, Tate v. Town of Ville Platte, 44 So. 2 d 360, Humble Pipeline Company v. Wm. T. Burton, 253 La. 166, 217 So. 2 d 188 (1968) and Webster Sand, Gravel & Construction Co. v. Vicksburg, Shreveport & Pacific Railway Company, 129 Louisiana Reports 1096, 57 Southern 529 (1912).

In accordance with the foregoing, and concisely stated, New Orleans Public Service Inc. owns and operates the facilities listed on page 1, item b., as a public utility. It has a compensable interest in the rights-of-way occupied by the interfering facilities where such rights-of-way fall outside of the existing levee right-of-way. Therefore, the acquisitions of these facilities and their rights-of-way are to be handled as a relocation and the cost, (with the exception of the cost of any part which may now be situated within the existing levee right-of-way as to which, relocation would be at the utility's expense) shall be borne by the Federal Government.

c. and d.  
COMPENSABLE INTEREST  
OF  
NEW ORLEANS SEWERAGE AND WATER BOARD  
(SEWERAGE & WATER BOARD OF NEW ORLEANS)  
CITY HALL - CIVIC CENTER  
NEW ORLEANS, LOUISIANA 70112

Article 14 of the Louisiana Constitution 1921, as amended, makes provision for the legislature to enact laws respecting parochial and municipal affairs. Sections 20 et seq. of such article 14 authorizes special measures which the legislature may provide for the City of New Orleans particularly.

The statutory law for the State of Louisiana covering municipalities and parishes is contained in Louisiana Revised Statutes Annotated, 1950, as amended, under title 33. Chapters 8, 9, and 10 of such title 33, covers water supply, (LSA-R.S. 33:3811-3836); sewerage disposed, (LSA-R.S. 33:3831-4092); and public utilities (LSA-R.S. 33:4161-4511), respectively. Part III of such chapter 9, Sections 4071-4092, covers, separately for the City of New Orleans, the creation and organization of that City's public water system, its public sewerage system, and its drainage system, in which it is provided that those systems shall be constructed, controlled, maintained and operated by a "Sewerage and Water Board." See LSA-R.S. 33:4071, the creative section, which had its beginning, or earliest source as Act 6 of 1899, Ex. Sess., and reflects the amendments of Act 111 of 1902, Act 36 of 1934, 2nd Ex. Sess., Act 229 of 1936, Act 352 of 1950 and Act 361 of 1954. Section 4078 (LSA-R.S. 33:4078), gives the City of New Orleans the right of expropriation and other property rights when convenient or necessary for the acquisition of any property for its sewerage, water and drainage systems. It provides:

"§ 4078. Expropriation of necessary property; servitudes; restriction on use and disposition of property

Whenever it becomes necessary to expropriate any property convenient or necessary for the sewerage, water or drainage systems, the city attorney, or the special counsel of the board, on the request on the board, shall institute expropriation proceedings in the name of the city. The title to all the public works constructed by the board, and to all the property acquired by the board shall be vested in the city of New Orleans. The board may expropriate any property in the parish of Plaquemines, St. Bernard, Jefferson and St. Charles that it may find convenient and necessary for the proper execution of the powers granted to it, and may extend its works in the said parishes for the benefit of the city of New Orleans, and have jurisdiction and authority in such parishes over the works therein situated. Should the board exercise the authority to acquire by negotiation or expropriation property in any of the four parishes aforementioned for the purpose of installing or constructing intake lines to the Mississippi river, water plants and appurtenances, or water mains, the water boards or water districts having jurisdiction of the preparation and distribution of the public water supply in the respective parishes in which said installation or construction shall be located, shall have the right to purchase from the board, and the board shall be obligated to sell to them, reasonable amounts of water passing through the facilities thus created at cost of the water to the board. However, such sales shall be confined exclusively to said water authorities. Further, should the board acquire title to property or servitudes in order to install water mains through any of the aforementioned parishes to the confines of the parish of Orleans, such area will be available to the respective parish authorities to be used as a public roadway, provided, said roadway shall not be so used as to cause damage to the installations of the board. The board may acquire in the name of the city of New Orleans servitudes necessary in the conduct of its business. The city of New Orleans shall not sell, exchange, utilize or dispose of any streets wherein are located any of the facilities and utilities of the board without prior written consent of the board. As amended Acts 1952, No. 262, § 1; Acts 1956, No. 426, § 1."

In accordance with the above and pursuant to the Home Rule Charter adopted by the City of New Orleans, amending its charter of 1912 through 1950, as provided by Art. 14, Section 22, Louisiana Constitution, 1921, as amended, the City of New Orleans Sewerage and Water Board is the owner of and has a compensable interest in the facilities and improvements described in items c. and d., page 1, of this Report.

It is understood that most, if not all, of the levee boards of the State of Louisiana, in the absence of conclusive reported case law on the matter See St. Landry Parish School Board v. Board of Commissioners of the Atchafalaya Basin Levee District, 130 So. 2d 692 (Court of Appeal, 1961), 242 La. 285,



136 So. 2d 44, (Supreme Court of Louisiana, Dec 1961, reh. den Jan. 1962) - remanding the case, seeking Declaratory Judgment, to the trial court for further proceedings as directed, but reported no further<sup>7</sup> make no payment to another state government body for lands and improvements thereon used or destroyed for levee or levee drainage purposes, (but that they would, and do, make payment, not to exceed the assessed value of the preceding year, under Article XVI, Section 6, Louisiana Constitution, 1921, as amended, when such property belongs to a private owner) on the authority of rulings to that effect of the Louisiana Attorney General, reported at pages 424 and 427 of "The Reports and Opinions of the Attorney General 1944-1946," declaring that Article 16, Section 6 of the Constitution contemplates that other governmental agencies are expected to bear, without compensation, a portion of the burden of levee construction. (Emphasis supplied)

Authority for the construction of Levee Setbacks, Main Line Mississippi River Levees, as contained in DIVR 1110-2-1, 29 January 1968, page 2, at 4a therein, providing for payment or reimbursement, by the Government, of costs to local cooperating agencies for rights of way furnished, including necessary relocation or alteration of public roads, highways, railroads, public utilities and pipelines, has been hereinabove set forth at length on page 2 of this Report treating of the compensable interest of the City of New Orleans in item a, of the caption, page 1, described as Patterson Drive. Such DIVR 1110-2-1, 29 January 1968, is likewise applicable to subject items c. and d. belonging to the Sewerage and Water Board of the City of New Orleans, as is ER 1180-1-1, Dec 69, 73-703, set forth on page 7 hereof, making provision for payment by the Government for the protection, alteration, reconstruction, relocation or replacement of any structures or facilities owned by an agency of Government (state, county, city or town or any legally created subdivision thereof) and utilized in the performance of a Government function.

In view of the foregoing, it is my opinion that the Sewerage and Water Board of the City of New Orleans, has an established compensable interest in items c. and d., described on page 1, which are to be dislocated by subject levee setback, and that the cost of the relocation or alteration thereof shall be borne by the Federal Government.

Special attention, the same as regards item a. above, is called to the necessity of compliance, in any act of divestiture or surrender of a right or title, by the City of New Orleans, with the requirements of L.R.S. 33:4717, set out above in full. That is, such act is to be by formal conveyance, or similar act of transfer, authorized by appropriate ordinance adopted by a two-thirds vote of the City Council.



highways, navigable waters, or the drainage or natural servitudes of the land over which the right of way may be exercised. No company, operating under the provisions of this Section, shall contract with the owners of land or with any other corporation for the right to erect and maintain any telephone, telegraph or other line for transmission of intelligence over its lands, privileges or servitudes, to the exclusion of the lines of other companies operating under the provisions of this section."

The statement made above, at page 11, relative to the compensable interest of New Orleans Public Service Inc. in its facilities described in caption on page 1, item b., is applicable to the interest of South Central Bell Telephone Company and the location of its facilities within the levee right-of-way and in or across streets. To repeat:

If a utility is located on privately-owned fee lands, but within the right-of-way of a public street or highway under permit from the municipality or the Highway Department, and must be relocated to accomodate levee construction--instead of ordered to be removed for the convenience of the street or highway--then the utility is located on privately-owned fee lands despite its location within street or highway right-of-way limits. If, however, the utility is located within the existing levee right-of-way limits, then it must be considered that the utility occupies the existing levee or the existing levee right-of-way at the sufferance of the public and, therefore, it would not be considered to have a compensable interest in its right-of-way.

In this instance South Central Bell Telephone Company's facilities in or across streets or roads - - on privately-owned fee land - - are being dislocated, not for street or highway convenience or needs but for levee purposes.

As indicated in the above statement, because the levee right-of-way is public, no private interest opposed to the public's use thereof may be acquired. The occupancy of any part of the levee right-of-way "at the sufferance of the public" prevents anyone, including utility companies from acquiring a compensable interest in the levee portion used as its right-of-way. See Louisiana Civil Code, articles 453, 454 and 455 which declare, respectively, in part, what things are public, and the use of which is allowed to all members of the nation; that things which are for the common use of a city or other place, as streets and public squares, are likewise public things; and, lastly, that the use of the banks of navigable rivers or streams, although owned by the possessor of the adjacent lands, is public.

And not also, THE article, article 665 of the Louisiana Civil Code, which, by such statutory law, imposes a servitude for levee purposes (as well as other public or common works) on the land of adjacent proprietors on the shores of navigable rivers. Here quoted, it reads:

"Art. 665. Legal public servitudes

Art. 665. Servitudes imposed for the public or common utility, relate to the space which is to be left for the public use by the adjacent proprietors on the shores of navigable rivers, and for the making and repairing of levees, roads and other public or common works.

All that relates to this kind of servitude is determined by laws or particular regulations."

South Central Bell has previously furnished this office certificates of the Secretary of State, State of Louisiana, dated 19 August 1970, showing that South Central Bell Telephone Company, a Delaware Corporation, had filed copy of its Articles of Incorporation in his office and had qualified to do business in the State of Louisiana.

No fee land or servitudes (easements) appear to have been acquired by negotiation and purchase, or by expropriation, in this area by the telephone company, and none, as will be explained hereafter, are required. Telephone companies have the right of eminent domain, L.R.S. 19:2 and 45:781, but the latter statute which appears in full hereinabove, expressly provides that (the company) "... shall not impede the full use of the highways, navigable waters, or the drainage or natural servitudes of the land over which the right-of-way may be exercised..." R.S. 45:781.

For the area outside of the levee right-of-way, in, on or over which it cannot obtain a vested real right adverse to the public, South Central Bell Telephone Co., being a corporation with the right of eminent domain, would be deemed to possess a vested right in the right-of-way to be relocated, even without conventional negotiation for and acquisition of such required servitudes, as was decreed in a long line of decisions by the Louisiana Supreme Court, of which the following are examples. See St. Julian vs. Morgan's Louisiana & T. R. Co., 35th La. Ann. 924, Gumbel vs. New Orleans Terminal Company, 186 La. 882, 183 So. 212, Tate vs. Town of Ville Platte, 44 So. 2d 360. In Tremont & G. R. Co. vs. Louisiana & A. R. Co., 128 La. 299, 54 So. 826, it was pointed out that in order that the public shall have the services of public utility corporations and that there shall be no interruption in their services a prescriptive period has been placed upon their expropriation proceedings whereby the owner is barred from objecting. In Gumbel vs. New Orleans Terminal it was held a proper exercise of the judicial function, and not judicial legislation, for the Courts to decide that, when a corporation has the right of eminent domain, the landowner waives his right to insist that the creation and exercise of the servitude be preceded by an expropriation proceeding and estops himself from asserting the right and restricts himself to a claim for damages or compensation when he fails to object to the actual exercise of a servitude for a purpose of public

utility across his property, the Courts thereby applying laws as to eminent domain as pertinent instead of those as to servitudes. The rights by which the present telephone facilities, wherever located on, over or across privately owned lands, are not such as may be terminated at the will of any private owner, same having long since been constructed with visible notice that it is claiming a servitude of right-of-way and without opposition of landowner. Tate vs. Town of Ville Platte (1950) declares that application of the doctrine of acquisition of servitude by unopposed use for public purpose, is not dependent on lapse of any specific prescriptive period, and even a brief period of occupancy and use of property by public utility, with knowledge, consent or acquiescence of landowner, will suffice to effectuate such doctrine in favor of a utility. Further, Tate vs. Ville Platte held that the rule that servitudes could only be acquired by written authorization by owner does not apply to one who claims servitude, having power of eminent domain and having actually used property with acquiescence of owner. And, continuing, that where owner, Tate, not only acquiesced in town's pipeline running on his property for many months without making objection thereto, but also gave verbal permission for it to be constructed, town using pipeline for distribution of natural gas acquired servitude although there was no written authorization by the owner, since town had right to exercise power of eminent domain. The Comptroller General's Decision B-134242, December 24, 1937, is in harmony with the above Louisiana holdings.

Hence, in the areas involving any facilities belonging to South Central Bell Telephone Company, similar to the next discussed Louisiana Power & Light Company, if they be situated over, on or under land not constituting the levees, then such telephone company, a public utility, will have acquired a compensable interest by virtue of permit, grant, unopposed use (coupled with such utility company's right of expropriation), but if they be situated within a levee right-of-way the telephone company cannot be deemed to possess a compensable interest and could, except that this is a non-committed item, have been paid or reimbursed for its relocation by virtue of Congressional authority, Sec 2 of the Flood Control Act of 1938, which, as in all such cases of Federal payment dependent upon such Act, would not have included the cost of the new right-of-way as is provided in ER 1180-1-1, 1 Dec 69, Part 7 - Relocations and Alterations Made Pursuant to Special Statutory Authority, which makes the following provisions for public utilities lacking compensable interest:

"73-701 Lack of Compensable Interest - Civil Works. Where a public utility will be destroyed or damaged due to operation of a civil works project and relocation or alteration of the facility is required to continue service to the public, the Government may assume the cost of relocating or altering the facility (but not the cost for a new right-of-way) when, in fact, the utility owner is not presently vested with a compensable interest in the existing right-of-way. Negotiations with utility owners in

accordance with the foregoing is authorized under Section 2, Flood Control Act of 1938, (52 Stat. 1215; 33 U.S.C. 701-c). (See Comp. Gen. Decision B-134242, 24 Dec 1957)."

Based upon the foregoing, similar to Louisiana Power & Light Company below, the South Central Bell Telephone Company has a compensable interest in its easements (servitudes) EXCEPT within the levee right-of-way and the United States, subject to what is said relative to locations in levee rights-of-way, is authorized to pay for such alterations or relocations. Relocation of facilities within any part of levee right-of-way must be at expense of South Central Bell Telephone Company.

In conclusion, and to summarize:

In accordance with the foregoing, South Central Bell Telephone Company owns and operates the facilities listed on page 1, item e., as a public utility. It has a compensable interest in the rights-of-way occupied by the interfering facilities where such rights-of-way fall outside of the existing levee right-of-way. Therefore, the acquisitions of these facilities and their rights-of-way are to be handled as a relocation and the cost, (with the exception of the cost of any part which may now be situated within the existing levee right-of-way as to which, relocation shall be at the utility's expense) shall be borne by the Federal Government.

f.  
COMPENSABLE INTEREST  
OF  
LOUISIANA POWER & LIGHT COMPANY  
1001 VIRGIL STREET, GRETN, LOUISIANA 70053

Louisiana Power & Light Company, a part of Middle South Utilities System, is a Florida corporation, domiciled at Tallahassee (P.O. Box 866, Tallahassee, Florida 33502). By letter of 23 September 1970 Louisiana Power & Light Company, 1001 Virgil Street, Gretna, Louisiana 70053, through its Assistant Right of Way Agent, Donald E. Kern, furnished this office copy of a Certificate of Qualification and Good Standing, dated 7 September 1967, issued by Wade O. Martin, Secretary of State of the State of Louisiana. By further letter of 14 December 1972 the company's division operating superintendent, C. K. Ohlmeyer, furnished this District its drawings showing Louisiana Power & Light Company's facilities between stations 277+76 and 296+76.0; and between station 325+76 and station 331+76. According to our own Map File No. H-8-26102, which has had reproduced thereon the location of Louisiana Power & Light Company's facilities, as submitted with such letter of 14 December 1972, just as in the

situation with regard to the location of the facilities of South Central Bell Telephone Company, reported above, the powerlines owned by Louisiana Power & Light Company, within the area of this levee setback, Item M-89.5-R, are not only adjacent to and across Patterson Drive but are, to a relatively great extent, located within the existing levee right-of-way.

The same situation exists with regard to the non-purchase of rights-of-way by Louisiana Power & Light Company as is described above respecting the right-of-way for the telephone company. However, again, a corporation having the right of eminent domain, as does Louisiana Power & Light Company - see Louisiana Revised Statutes, Title 19, Sec. 2(9), LRS 19:2 (9), (Electricity) - more extensively discussed below, together with the cited legal authorities applicable thereto, acquires a vested real interest in its right-of-way by consent or unopposed use. This is the situation here, as just stated, as to e. above, absent purchased right-of-way servitudes (easements). Further, except in this non-committed item, wherever its line right-of-way crosses or is located within the existing levee right-of-way or on actual batture, where in neither location may it acquire a vested right and compensable interest, relief may be might have been granted it for the cost of relocation by the following ER 1180-T-1, 1 Dec 69, Part 7-Relocation and Alterations Made Pursuant to Special Statutory Authority:

73-701 Lack of Compensable Interests - Civil Works. Where a public utility will be destroyed or damaged due to operation of a civil works project and relocation or alteration of the facility is required to continue service to the public, the Government may assume the cost of relocating or altering the facility (but not the cost for a new right-of-way) when, in fact, the utility owner is not presently vested with a compensable interest in the existing right-of-way. Negotiations with utility owners in accordance with the foregoing is authorized under Section 2, Flood Control Act of 1938, (52 Stat. 1215; 33 U.S.C. 701 c-1). (See Comp. Gen. Decision B-134242, 24 Dec 1957). [Emphasis supplied.]

Louisiana Power & Light Company, as is customarily the practice of public utility companies in Louisiana, secures, at most, mere permits and not easements or rights-of-way servitudes from the landowners for the installation of its facilities. Such permits, when obtained, are usually not recorded. However, a permit, even if recorded, would only be evidence of consent. The rule of law being that a permit or license is only a personal, revocable and unassignable privilege conferred either by writing or parole to do one or more acts on land without possessing any interest therein. 33 Am. Jur.398. The furnishing of recording data relative to this company's acquisition of right-of-way is, therefore, necessarily omitted. A comprehensive study hereof, however, indicates that such conventional acquisition is not required in order to vest the required limited interest in the utility company.

Besides the often cited cases of St. Julian v. Morgan's Louisiana & T. R. Co.,

35 La. Ann. 924, Gumble v. New Orleans Terminal Company, 186 La. 882, and Tate v. Town of Ville Platte, 44 So. 2d 360, now Hornbook law to those familiar with the Civil Code, revised statutes and jurisprudence of Louisiana, applicable to servitudes (easements) in Louisiana, to the effect that a right-of-way may be acquired without purchase or expropriation by a corporation possessing the right to expropriate (eminent domain), under the now styled "Doctrine of Unopposed Occupancy," two additional, quite informative, cases are appropriate to include herein, in part. The first, Humble Pipe Line Company v. Wm. T. Burton, 253, La. 166, 217 So. 2d 188 (1968), Supreme Court of Louisiana, Rehearing denied, describes the nature and extent of ownership of a servitude (easement) as recognized in Louisiana under its laws, viz:

"Herein, (the Court relates) plaintiff did not buy or pray for ownership of defendant's land. There was no sale (West's LSA-C.C. Art. 2439) or transfer of ownership (West's LSA-C.C. Art. 488); Cf. 27 Am. Jur. Eminent Domain, Sec. 279, pp. 68-69. 'The part of an estate upon which a servitude is exercised, does not cease to belong to the owner of the estate; he who has the servitude has no right of ownership in the part, but only the right of using it.' West's LSA-C.C. Art. 658. The Court of Appeal remarked, '\*\*\*it is clear to us that there is a residual value left in the property.' Therefore, defendant's ownership became imperfect (West's LSA-C.C. Art. 490), and plaintiff acquired a right-of-way -- a servitude imposed by law (West's LSA-CC Art. 664 et seq); Cf. Tennessee Gas Transmission Co. v Violet Trapping Co., 248 La. 49, 176 So. 2d 425.

"A servitude has been designated in our Civil Code as a 'charge' laid on an estate (West's LSA-C.C. Art. 647) and an 'accessory' to an estate (West's LSA-C.C. Art. 652); it is provided in West's LSA-C.C. Art. 655 that, 'One of the characteristics of a servitude is, that it does not oblige the owner of the estate subject to it to do anything, but to abstain from doing a particular thing, or to permit a certain thing to be done on his estate.' Article 665 of West's LSA-C.C., relating to servitudes imposed for the public utility, further provides that 'All that relates to this kind of servitude is determined by laws or particular regulations.'

" 'Under the express provisions of the Louisiana Civil Code, as well as by the established jurisprudence of the State, a road established by public usage, [but distinguishable from a dedicated street in the city of New Orleans by virtue of special legislative authority, as is shown above respecting item a. herein] or even by appropriation and maintenance by public authority, does not carry with it the fee ownership of the property, but creates, at best, only a right of passage or servitude over the land. Civil Code Articles 658, 765; Fuselier v. Police Jury of Parish of Iberia, 109 La. 551, 33 So. 597; Paret v. Louisiana Highway Commission, 178 La. 454, 151 So. 768; Goree v. Mid-States Oil Corporation, 205 La. 988, 18 So. 2d 591; Spier v. Barnhill, La. App., 168 So. 2d 479.' Fontenot v. Texaco, Inc., D.C., 271 F. Supp. 753. [Explanation in brackets above supplied, R.E.H.]



" '\*\*\* If an easement is given then no estate at all passes, but only a right of user.\*\*\*' Consolidated School District No. 102, Washington County v. Walter, 243 Minn. 159, 66 N. W. 2d 881, 53 A.L.R. 2d 218.

"A civil law servitude has been compared with the 'easement' of common law. The followign statements found in American Jurisprudence are pertinent:

" 'The Term "easement" has been variously defined. An easement has been said to be a privilege which the owner of one tenement has a right to enjoy over the tenement of another. It has also been defined as a right which one person has to use the land of another for a specific purpose not inconsistent with a general property in the owner, or as a servitude imposed as a burden on land.\*\*\*

" 'A "servitude" is the term used in the civil law to express the idea conveyed by the word "easement" in the common law, and may be defined as a right of the owner of one parcel of land, by reason of his ownership, to use the land of another for a special purpose of his own, not inconsistent with the general property in the owner.' 25 Am. Jur. 2d Easements and Licenses, Sec. 1, pp. 416-417.

" 'An easement is always distict<sup>n</sup> from the right to occupy and enjoy the land itself. It gives no title to the land on which it is imposed, and confers no right to participate in the profits arising therefrom. It is not an estate in land, nor is it "land" itself. An easement is, however, property or an interest in land. It is an incorporeal right or hereditament to which corporeal property is rendered subject.\*\*\*

" 'An easement is not<sup>n</sup> a lien or an equity. However, an easement which materially affects or interferes with the full use or enjoyment of the land which a vendor has contracted to sell has been held to constitute an encumbrance within the meaning of the rule requiring the vendor of realty to convey a good or marketable title free and clear of encumbrances.' 25 Am. Jur. 2d Easements and Licenses, Sec. 2, pp. 417-418. See Louis Pizitz Dry Goods Co. v. Penney, 241 Ala. 602, 4 So. 2d 167." [Emphasis supplied]

The second, Webster Sand, Gravel & Construction Co. v. Vicksburg, Shreveport & Pacific Railway Company, 129 Louisiana Reports 1096, 57 Southern 529 (1912) Rehearing denied, points out that purchasers of immovable property, save in cases of fraud and certain others, exceptional in character, are affected only by adverse titles and incumbrances which are spread upon the public records. It then goes on to point out ~~such~~ such requirement does not hold in the case of a railway company, which, with the consent or acquiescence of the owner, has built a public service road upon his land, is of the exceptional character referred to in the above paragraph; and it is now well settled that, in such case, ~~th~~ though the consent or acquiescence of the owner of the land be not spread upon the public records, neither he nor those who claim under him can recover the land, free of the servitude so acquired by the railway company, or interfere with

such company in its operation of the road so built; the remedy being an action in damages for the value of the land occupied as a right-of-way for the road and for injury to the adjacent land, citing *McCutcher v. Texas & P. Ry. Co.*, 118 La. 436 (and authorities there cited pp. 438, 439), 43 South. 42; *Taylor v. N. O. Terminal Co.*, 126 La. 420, 52 South. 562, 139 Am. St. Rep. 537; *John T. Moore P. Co. v. Morgan's La. & Tex R. & S. Co.*, 126 La. 872, 53 South 22. Railroads, under Louisiana Revised Statutes, Title 19, Section 2, (3), L.R.S. 19:2 (3), have the right of eminent domain (expropriation). As is stated hereinabove, natural gas pipelines are given such right by LA. Rev Stat. 19:2 (7), and electric utility companies are given such power by L.R.S. 19:2 (9).

The reason given by the court for not requiring the evidence of the railroad's title to be acquired from the owner in conventional manner and RECORDED in the public conveyance records as notice to the world (third persons) was stated as follows:

"The decisions in the cases thus cited are predicated, in part, upon the idea that, where a railway company, having the power of eminent domain, is already in possession of property which it may expropriate, if dispossessed, it would be a vain thing to eject it; to which is added the further consideration that the owner, by consenting to, or acquiescing in, the construction of the road, and its operation for, perhaps, a series of years, has created a situation affecting the rights of the railway company, of the public at large, and of particular individuals, which he ought not to be allowed, altogether, to ignore."  
/Emphasis supplied/

As is said above, in *Humble v. Burton*, "an easement is, however, property or an interest in land. It is an incorporeal right or hereditament to which corporeal property is rendered subject.\*\*\*" /Emphasis supplied/  
And, in accordance with the long line of Louisiana cases, and cases cited therein, referred to above, and the particular cases of *St. Julian v. Morgan*, *Gumble v. New Orleans*, and *Tate v. Ville Platte*, also cited, as well as the partly quoted-from cases of *Humble v. Burton* and *Webster v. Vicksburg S. & P. Ry.*, the latter holding expressly that the railroad's ownership of its right-of-way, though no reference to it whatever appeared of record, was a recognized and valid right, it is my opinion that by operation of law, and to give it name, by the "Doctrine of Unopposed Occupancy," LOUISIANA POWER AND LIGHT COMPANY does own its right-of-way, and does have a compensable interest therein, and to its improvements and facilities thereon, in the reach extending from the indicated stations and along and across the road shown in caption of this Report EXCEPT such parts(s) as may be located within the existing levee right-of-way, and that alteration or relocation of that not so excepted, as is required to prevent interference with project, should be performed at Federal expense.

For such portion, if any, of Louisiana Power & Light Company's facilities and improvements as may be situated within the existing levee right-of-way,

and by reason thereof lacks compensable interest, except that this item is considered not committed, and the following ER deemed no longer applicable, the required alteration or relocation might have been performed at the expense (not, however, to include the cost of a new right-of-way at such points) of the United States, in order to continue service to the public, under the special statutory relief provided by Section 2 of the Flood Control Act of 1938, the cited authority for the ER 1180-1-1, Part 7, 73-701, quoted above.

Consequently, relocation, if any there be, of its facilities which are situated within the levee right-of-way, in view of this item's non-committed status, will be the obligation of the utility company.

The statement next made, in conclusion of these discussions of Louisiana Power & Light Company facilities, is considered to be here apposite, as it is above respecting South Central Bell Telephone Company, i.e., a situation where the boundaries of the public highway, as distinct from the public levee right-of-way, may not be readily apparent. Its application will be dependent upon the physical facts in each case. For example, the possible problem:

If a utility is located on privately-owned fee lands, but within the right-of-way of a public highway, under permit of the Highway Department or New Orleans Street Department, and must be relocated to accomodate levee construction--instead of ordered to be removed for the convenience of the Streets or Highway Department--then the utility is considered located on privately-owned lands, despite its location within the highway right-of-way limits. If, however, the utility is located within the existing levee right-of-way limits, then it must be considered that the utility occupies the existing levee or the existing levee right-of-way at the sufferance to the public and, therefore, it would not be considered to have a compensable interest in its right-of-way.

In accordance with the foregoing, and to summarize, Louisiana Power & Light Company owns and operates the facilities listed on page 1, item f., as a public utility. It has a compensable interest in the rights-of-way occupied by the interfering facilities where such rights-of-way fall outside of the existing levee right-of-way. Therefore, the acquisitions of these facilities and their rights-of-way are to be handled as a relocation and the cost, (with the exception of the cost of any part which may now be situated within the existing levee right-of-way as to which, relocation would be at the utility's expense) shall be borne by the Federal Government.

g.  
COMPENSABLE INTEREST  
OF  
UNITED GAS PIPE LINE COMPANY  
(H.W. JOHNSON, GENERAL SUPERINTENDENT, RIGHT OF WAY)  
1525 FAIRFIELD AVENUE, P.O. BOX 1407, SHREVEPORT, LA. 71102

United Gas Pipe Line Company is a Delaware corporation qualified to do business in the State of Louisiana. It is a public utility company as defined by Louisiana Revised Statutes Title 45, Public Utilities and Carriers, Chapter 5, Pipe Lines, Part II, Natural Gas Pipe Lines, Sections 301-303 (LRS 45:301-303). It has the right of eminent domain (expropriation, condemnation) pursuant to LRS 19:2 (7).

Its three 10" pipelines at the location of Cutoff Levee Setback, Item M-89.5-R, described as item g. of caption on page 1 hereof, carry gas from the Barataria area and other fields to New Orleans. Approximately one-fourth of New Orleans' gas supply flows through subject lines. As required by Louisiana statutes, (LRS 45:301) United Gas operates under the supervision of the Louisiana Public Service Commission, and a portion of the natural gas transported through these lines is sold at rates presently being regulated by the Federal Power Commission.

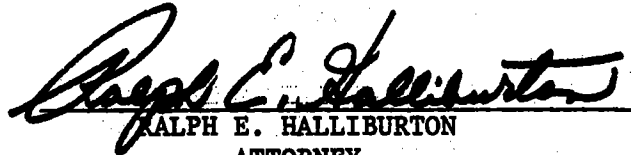
United Gas Pipe Line Company purchased the right-of-way used for its subject facilities from Salvatore De Battista on 2 May 1947. The deed therefor is recorded in Book 551, page 449, Conveyance Records of Orleans Parish, Louisiana. It, therefore, has a compensable interest in its identified pipelines and to the right-of-way upon which same are situated EXCEPT within the existing levee right-of-way or actual batture, which being public (La. Civil Code Articles 453, 454, 455 and 665; and Article XVI Sec. 6, Louisiana Constitution, 1921. See also Boyce Cottonseed Oil Mfg. Co. v. Board of Commissioners of Red River, Atchafalaya and Bayou Boeuf Levee District 160 La. 727, 734, 107 So. 506, 508 (1926); Dickson v. Board of Commissioners of Caddo Levee District et al, 210 La. 121, 26So 2d 474 (1946); and General Box Company v. United States of America, 351 U.S. 159 (1956)). As indicated earlier in this report, any facilities located in levee rights-of-way or batture, are in place solely at the sufferance of the public; no private interest adverse to the public may be acquired, resulting in such permitted or suffered owner having no compensable interest as to such located facilities.

Except for the fact that this levee setback is a non-committed item, United Gas, like the other privately owned public utilities companies reported on herein, might be granted relief for the cost of relocating its lines now situated within the existing levee right-of-way or within the area actually constituting "batture,"

i.e. that part of the river bed which is uncovered at time of low water, but is covered annually at time of ordinary high water, under the provisions of ER 1180-1-1, 1 Dec 69, Part 7 - Relocations and Alterations Made Pursuant to Special Statutory Authority, 73-701 Lack of Compensable Interest-Civil Works which has as its basis Section 2 of the Flood Control Act of 1938 (52 Stat. 1215; 33 U.S.C. 701C-1).

In accordance with the foregoing, briefly stated, United Gas Pipe Line Company owns and operates the facilities listed on page 1, item g., as a public utility. It has a compensable interest in the rights-of-way occupied by the interfering facilities where such rights-of-way fall outside of the existing levee right-of-way or actual batture. Therefore, the acquisitions of these facilities and their rights-of-way are to be handled as a relocation and the cost, (with the exception of the cost of any part which may now be situated within the existing levee right-of-way or actual batture, as to which, relocation would be at the utility's expense) shall be borne by the Federal Government.

New Orleans, Louisiana  
28 August 1973



RALPH E. HALLIBURTON  
ATTORNEY  
U.S. ARMY ENGINEER DISTRICT, NEW ORLEANS  
NEW ORLEANS, LOUISIANA

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES  
MISSISSIPPI RIVER LEVEES  
ITEM M-89.5-R  
CUTOFF LEVEE SETBACK  
ORLEANS PARISH, LOUISIANA  
RELOCATION OF FACILITIES  
DESIGN MEMORANDUM NO. 24

APPENDIX II  
DETAILED COST ESTIMATE  
PATTERSON DRIVE

APPENDIX II  
 DETAILED COST ESTIMATE  
 CITY OF NEW ORLEANS DEPARTMENT OF STREETS  
 PATTERSON DRIVE

DESCRIPTION	UNIT	QUANTITY	UNIT COST	AMOUNT
			\$	\$
Site preparation	L.S.	Lump sum	2,500.00	2,500
Unclassified excavation	cu.yd.	2,500	2.00	5,000
Embankment	cu.yd.	4,600	3.50	16,100
Aggregate for base course	cu.yd.	1,050	12.00	12,600
Sand for base course	cu.yd.	550	12.00	6,600
Aggregate surface course for shoulders	cu.yd.	200	12.00	2,400
Asphaltic concrete (binder & wearing course)	tons	690	20.00	13,800
Relocate 15-inch-diameter storm drain	L.S.	Lump sum	7,560.00	7,560
Signs & barricades	L.S.	Lump sum	1,500.00	<u>1,500</u>
Relocation cost				68,060
Contingencies(25%)				<u>16,940</u>
Subtotal				85,000
E&D (6%+)				5,000
S&A (6%+)				<u>5,000</u>
Subtotal				95,000
Right-of-way cost				<u>170,400</u>
Total				265,400

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES  
MISSISSIPPI RIVER LEVEES  
ITEM M-89.5-R  
CUTOFF LEVEE SETBACK  
ORLEANS PARISH, LOUISIANA  
RELOCATION OF FACILITIES  
DESIGN MEMORANDUM NO. 24

APPENDIX III  
SUMMARY OF RELOCATION COSTS



APPENDIX III  
SUMMARY OF RELOCATION COSTS

<u>Item</u>	<u>Total Est. Cost</u> \$
Roads	255,400
Relocation Cost	(85,000)
Right-of-way	(170,400)
Utilities	61,000
Louisiana Power and Light	(5,000)
South Central Bell	(600)
Sewerage and Water Board of New Orleans	<u>(55,400)</u>
Subtotal--Relocations	316,400
E&D (6%+)	9,000
S&A (6%+)	<u>9,000</u>
Total	334,400