

Volume IV

APPENDIX J:

Real Estate Plan

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Appendix J

REAL ESTATE PLAN

Small Diversion at Convent/Blind River

May 6, 2010

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1. Project Purpose:

This Real Estate Plan (REP) presents a preliminary plan for the acquisitions of lands, easements, relocations and rights-of-way necessary for construction and implementation of the project. This document is for planning purposes only and is subject to change.

The Small Diversion at Convent/Blind River restoration project was proposed to reverse the current decline of the southeast portion of the Maurepas Swamp and to prevent the transition of the Swamp into marsh and open water. Reversing this decline will help to develop a more sustainable wetland ecosystem, which can serve to protect the local environment, economy and culture.

The Diversion at Convent / Blind River restoration project suggests a small hydraulic diversion (3,000 cfs) from the Mississippi River at Romeville into Maurepas Swamp. The project will be for the restoration of the southeastern Maurepas Swamp. The objective of this project is to introduce freshwater, sediment, and nutrients into the southeast portion of the Maurepas Swamp to improve biological productivity that will facilitate organic deposition in the Swamp, and prevent further Swamp deterioration. The freshwater diversion will:

- Promote water distribution in the swamp
- Facilitate swamp building
- Establish hydroperiod fluctuation in the swamp
- Improve fish and wildlife in the swamp and in Blind River

2. Project Sponsor:

The non-Federal sponsor is the Coastal Protection and Restoration Authority of Louisiana (CPRA). However, the Office of Coastal Protection and Restoration (OCPR) is the implementing arm of CPRA, which has been given authority to acquire and hold these lands. As the non-Federal Sponsor, CPRA through OCPR must provide all real estate interests required for this proposed project construction, i.e., all lands, easements, right of way relocations, and any other interests, including suitable borrow and dredged or excavated material disposal areas (LERRDs). OCPR has indicated it would provide all lands, water bodies, and/or water bottoms that are owned, claimed, or controlled by the State of Louisiana. If it becomes necessary, OCPR having no "quick take" authority of its own, will partner with another public agency, such as the Pontchartrain Levee District (PLD), to acquire the lands needed for this project. The NFS feels confident in being able to meet the "public need" requirements of the quick take statutes of the State of Louisiana.

3. Project Location and Study Area:

The study area for this project is included as portions of the Mississippi River Deltaic Plain within coastal southeast Louisiana in the Lake Pontchartrain Basin. The

Lake Pontchartrain Basin and its four sub-basins are shown in Figure 1.1. The study area for this project is within the Upper Lake Pontchartrain Sub-basin, Subprovince 1 on Figure 1.2. The Upper Lake Pontchartrain Sub-basin includes Lake Maurepas, Maurepas Swamp, Blind River, and portions of the Amite River. Louisiana parishes in the study area include St. James and Ascension. The benefit area consists of the Maurepas Swamp and Blind River southwest of I-10.

The Project Area is located in St. James Parish in the vicinity of Romeville. It is bound on the north by Interstate Highway I-10 and the south by the St. James Canal and on the west by the St James Canal and the Old Tram Road extending south from Interstate Hwy I-10 to US Highway 61. The majority of the Project Area is comprised of land area reported to be approximately 35+/- square miles of Cypress Tupelo Gum Bottomland Swamp situated in the northern portion of St. James Parish, Louisiana.

The Maurepas Swamp is one of the largest remaining tracts of coastal freshwater swamp in Louisiana. The Blind River flows from St. James Parish, through Ascension Parish and St. John the Baptist Parish, and then discharges into Lake Maurepas.

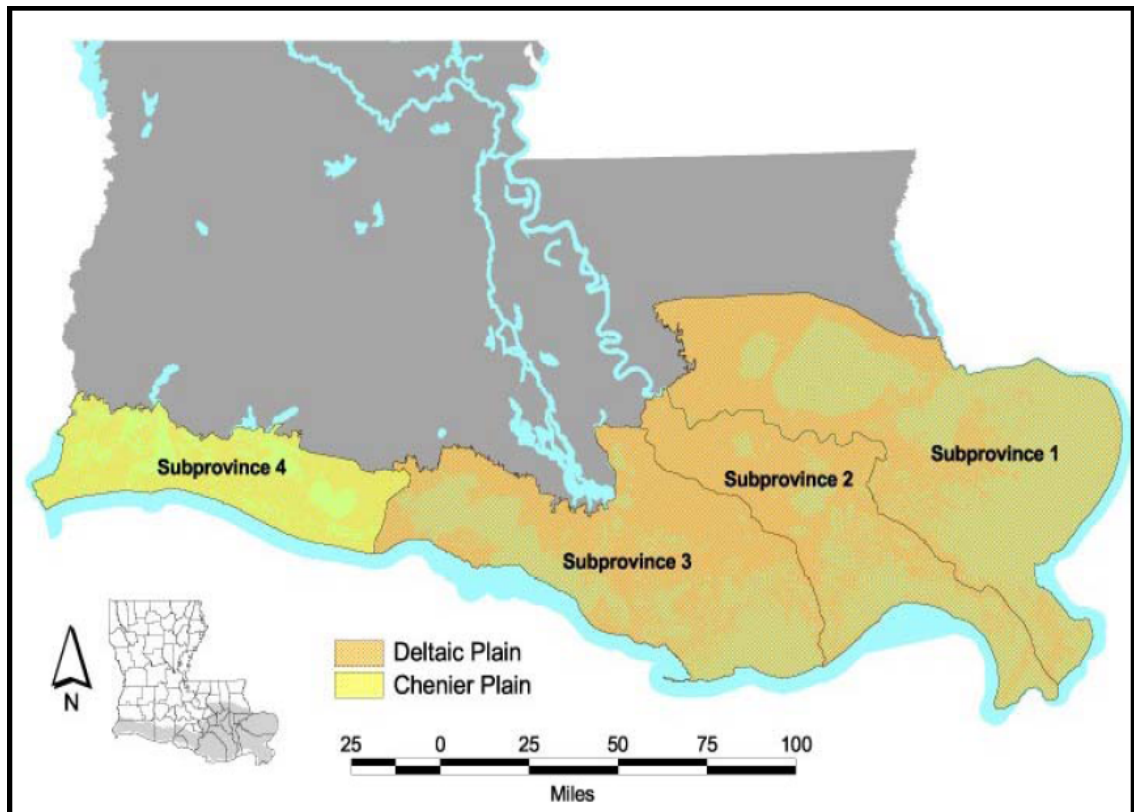


Figure 1.1: LCA Ecosystem Restoration Study, 2004

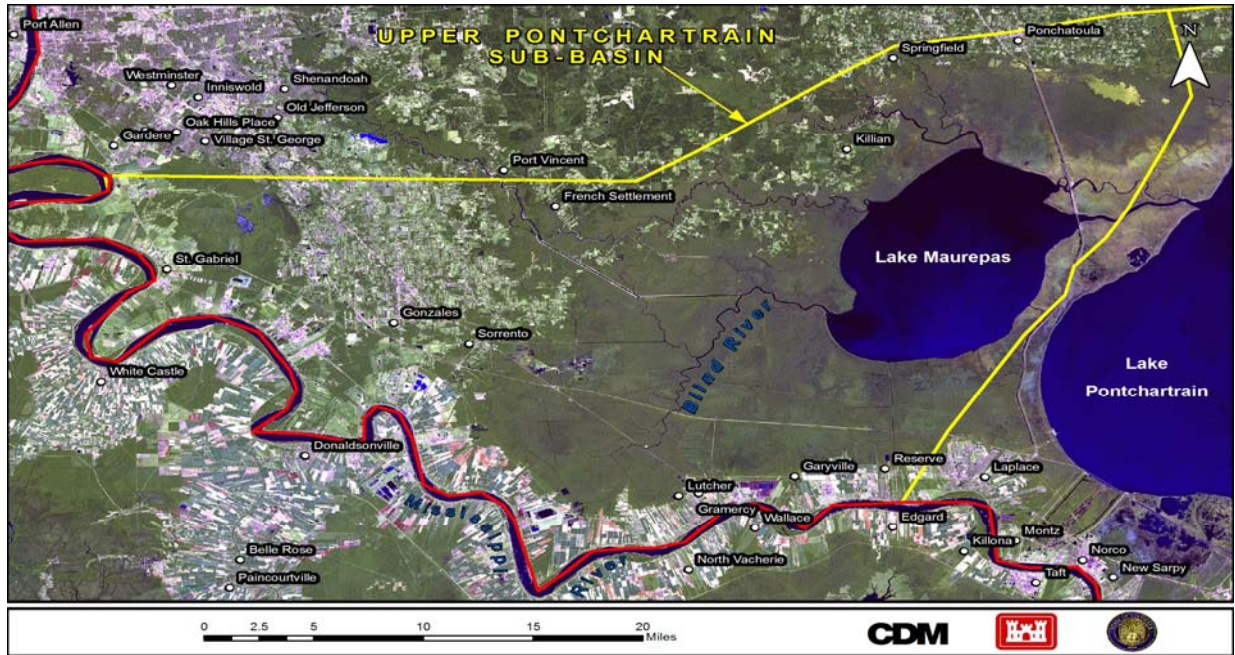


Figure 1.2: Upper Pontchartrain Sub-Basin



Figure 1-3: Project Area Map Change out

4. General Project Description:

The project intends to reverse the trend of degradation of the lands located in the southeastern portion of the Maurepas Swamp with the introduction of freshwater, sediments and nutrients, via a diversion canal. The project begins at the east bank of the Mississippi River. A transmission canal will transfer the diverted water approximately three miles from the diversion culvert facility to an existing drainage channel at the perimeter of the swamp. This canal is part of an interconnected network of man-made drainage channels along the south and west boundary of the distribution area, with several outfall channels discharging to the Blind River. The drainage channels are maintained by St. James Parish. These channels are large, varying in size from approximately 30 to 100 feet wide at the top, and vary in depth from 6 to 12 feet.

The reintroduction of freshwater into the swamp and the sediments and nutrients will approximate the natural historic flooding cycle, interrupted by the current levee system, and assist in rebuilding the wetlands at a rate greater than the subsidence rate.

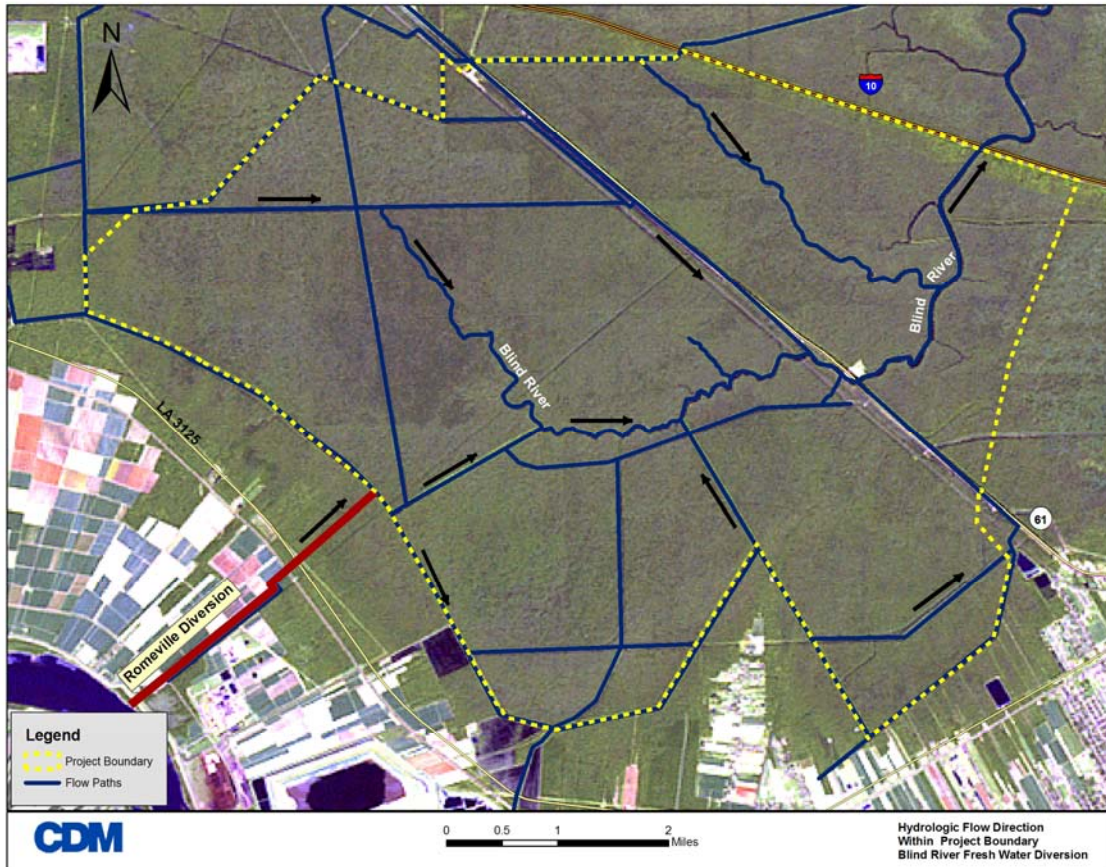


Figure 1.4: Alternative 2 – TSP

The Tentatively Selected Plan (TSP), depicted in Figure 1.4 would improve a total of 21,369 acres of bald cypress-tupelo swamp that are in various stages of deterioration. This TSP includes the construction of a 3,000 cfs diversion channel at Romeville, and has six major components: a diversion structure, a transmission canal, six control structures of various sizes, approximately 30 berm gaps, cross culverts at four locations along the U.S. Highway 61 corridor, and instrumentation.

Major elements of the construction include:

- **Diversion Structure**

The diversion culvert facility will divert freshwater from the Mississippi River, transfer it under the east levee through a box culvert, and discharge it into the transmission canal.

LA 44 (River Road) is adjacent to the levee, and the box culvert will be extended under the road and discharge into the transmission canal approximately 100 feet east of the road.

- **Transmission Canal**

The transmission canal will transfer the diverted water approximately three miles from the diversion culvert facility to an existing drainage channel at the perimeter of the swamp. Right-of-way for the canal will be 400 feet in width by 15,500 linear feet in length.

The transmission canal alignment crosses the Canadian National Railroad (CN RR) and LA 3125. These will be temporarily relocated during the term of construction.

- **Control Structures**

The project will use the existing drainage channels at the perimeter of the swamp to distribute the diverted flow throughout and into the swamp. Up to six (6) control structures will be installed at key locations in the existing channels to perform this function.

- **Berm Gaps**

When the existing drainage channels were excavated in the swamp, the excavated material was cast to one side of the channel forming spoil banks.

New 500-foot wide berm gaps will be excavated in the spoil banks at an approximate spacing of 2,500 feet on center. The gaps will be excavated to the elevation of the adjacent swamp natural ground elevations, and the spoil will be disposed behind the existing spoil banks. Based on current information these cuts all are constructed on property owned by the Louisiana Department of Wildlife and Fisheries (LDWF). Therefore, no acquisition of real estate interests will be necessary for this feature.

- **Cross Culverts at the Highway 61 Corridor**

New culvert crossings will be added under the KCS RR and U.S. HWY 61 at four locations. This will be accomplished within existing road and railroad right-of-ways.

5. LER:

It will be necessary to acquire (175 +/- acres) of land in fee for the transmission channel and related improvements. There is one private ownership for the diversion channel, Parkview Land Company, LLC, the sole owner being Mr. Rickey Roussel. Mr. Roussel currently farms the subject property with sugar cane. Additional property in the ownership of the State of Louisiana includes Louisiana Department of Wildlife & Fisheries, the Pontchartrain Levee District, and LADOTD. All rights of ways required to construct this project in ownership of the State are to be acquired with agreements between the various public agencies. Additionally the Parish of St. James will grant permission for use of the Parish canal system to assist in water distribution for the TSP.

Diversion Facility

The owner of the bature and land under the levee is Rickey Roussel, the same owner as that of the land needed for the transmission canal. The existing levee will be temporarily removed at the box culvert crossing. The dirt will be stockpiled near the site. This stockpile site will be between the levee and the temporary LA 44 relocation.

The temporary levee and the limits for the existing levee removal extend past the right-of-way requirements for the permanently installed facilities. Temporary work area easements will be required for the levee work.

LA 44 and LA 3125 Temporary Relocation

A 50 foot by 300 foot temporary ROW will be needed outside of our 500 foot acquired ROW in both directions of the existing roads. The duration for this easement will be for 24 months from the start of project.

CN RR Temporary Relocation

The proposed transmission canal will have a multi-cell concrete box culvert installed under the CN RR tracks by open-cut construction. The railroad will have to be temporarily relocated (shoofly) to accommodate the construction. The final design requirements have not yet been obtained from the railroad but general parameters have been defined. It is likely that the shoofly will have to be designed to maintain full operating speeds, resulting in a long shoofly layout. The existing railroad right-of-way is 100 feet wide, and the shoofly might be located totally in the existing right-of-way. For planning purposes, it is assumed that the shoofly will have to be at least partially outside of the right-of-way. Assume that the construction easement will be 4,600 feet long and 50 feet wide.

6. ESTATES:

It is important to note that the diversion of water from the Mississippi will be controlled to permit water to enter the swamp on a periodic release during dry conditions. The flow will be restricted and terminated during periods of severe rainfall

and cyclical high water events. The discharge is not intended to significantly raise water levels beyond the ordinary levels of the areas within the project area. The water released into the canal system during low water and dry periods will allow flows into the swamp during period that would ordinarily see minimal flow. Based on the hydraulic data, there is no indication of significant water level variations as a result of the project; therefore, flowage easements are not needed.

The non-federal sponsor has selected to acquire fee (excluding minerals) for the transmission channel rather than a channel easement to maintain control over access and maintenance of the project area during and after construction of the improvements. The value of a perpetual channel improvement easement is tantamount to fee value; therefore, it is in the agency's best interest to acquire fee (excluding minerals). Below is the language of the fee estate.

Fee Excluding Minerals
(With Restrictions on Use of the Surface)

(Standard Estate)

The fee simple title to (the land described in Schedule A) (Tracts Nos. ____, ____ and ____), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipe lines; excepting and excluding from the taking all (coal) (oil and gas) in and under said land and all appurtenant rights for the exploration, development, production and removal of said (coal) (oil and gas), but without the right to enter upon or over the surface of said land for the purpose of drilling and extracting therefrom said (coal) (oil and gas).

An additional 9 acres are estimated to be needed for detours at the levee, LA Highway 44, LA Highway 3125, and the Canadian National Railroad. Dimensions of the actual temporary easements will be defined in the final design phase. A temporary work area easement will be acquired for a 24 month period over areas needed for detours. The language of the easement follows:

Temporary Work Area Easement

(Standard Estate)

A temporary easement and right-of-way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____ and _____), for a period not to exceed _____, beginning with date possession of the land is granted to the United States, for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the _____ Project,

together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

These are the anticipated estates for the construction and implementation of the project, however, it should be noted that this is a planning document and the necessary estates are subject to change dependant upon project needs.

7. Sponsor Land Acquisition Experience:

The Non-Federal sponsor for this project is the Coastal Protection and Restoration Authority of Louisiana (CPRA), through the Office of Coastal Protection and Restoration. As the non-federal sponsor, CPRA must provide all real estate interests required for the project, i.e., all lands, easements, rights-of-way, relocations, and any other interest, including suitable borrow and dredged or excavated material disposal areas (LERRDs).

The Non-Federal Sponsor is assessed to be fully capable to perform all acquisition activities associated with this project. The Sponsor has the capability to acquire and hold real estate as well as the ability to contract for real estate services to supplement its staff in order to meet project schedules. However, it must be recognized herein that CPRA is the non-federal sponsor for all New Orleans District coastal restoration projects and all hurricane risk reduction projects. Therefore, if all LCA projects and several hurricane risk reduction projects are authorized for construction under concurrent schedules, there is a possibility that CPRA may not be able to accomplish LER acquisition due to the massive amount of work required for such an undertaking. If that were the case, it is possible that CPRA may request that the Federal Government accomplish acquisition of LER on their behalf.

The Assessment of the Non-Federal Sponsor's Real Estate Acquisition Capabilities is attached as Exhibit II.

8. Utility Relocations:

A. Entergy Louisiana, LLC

1. La. Hwy. 44 - approximate station 5+56.
230 kV Aerial Transmission Line.
2. Canadian National Railroad - approximate station 20+75.
230 kV Aerial Transmission Line.
3. La. Hwy. 3125 - approximate station 99+75.
115 kV Aerial Transmission Line.

B. Verizon Communications, Inc.

1. 24 F Count Fiber Optic Cable.

C. Level 3 Communications, LLC

1. 96 F Count Primary Fiber Optic Cable.
2. 170 F Count Primary Fiber Optic Cable.

D. AT&T Corp.

1. La. Hwy. 44 - approximate station 5+56.
One or Two Overhead Telecommunication Cables.
2. Canadian National Railroad - approximate station 21+40.
Overhead Telecommunication Cable.
3. La. Hwy. 3125 - approximate station 99+75.
One or Two Overhead Telecommunication Cables.

E. St. James Parish Government

1. La. Hwy. 44 approximate station 5+56.
One buried water pipeline.
2. La. Hwy. 3125 - approximate station 99+75.
One buried water pipeline.

F. PL Olefins LLC

1. Near Canadian National Railroad
One 6-inch Steel Ethylene Pipeline.
2. Approximate Stations 62+00 to 82+00
One 6-inch Steel Ethylene Pipeline.
3. Approximately 200 feet East of La. 3125
One 6-inch Steel Ethylene Pipeline.

G. Williams Gas Marketing, Inc.

1. Approximate Station 63+25
One 12-inch Steel Natural Gas Pipeline.

H. Gulf South Pipeline Company, LP

1. Approximate Station 63+50
One 18-inch Abandoned Steel Natural Gas Pipeline.
2. Approximate Station 63+75
One 18-inch Steel Natural Gas Pipeline.

- I. **Texas Brine Company, LLC**
 - 1. Approximate Station 63+50
One 14-inch Steel Brine Pipeline.
 - 2. Approximate Station 63+75
One 14-inch Steel Brine Pipeline.
- J. **Marathon Pipe Line LLC**
 - 1. Near Kansas City Southern Railroad and Highway 61
One 20-inch Steel Pipeline.
- K. **Air Liquide America L.P.**
 - 1. Near Kansas City Southern Railroad and Highway 61
One 12-inch Steel Nitrogen Pipeline.
 - 2. Near Kansas City Southern Railroad and Highway 61
One 12-inch Steel Oxygen Pipeline.
- L. **Sorrento Pipeline Company, LLC**
 - 1. Near Kansas City Southern Railroad and Highway 61
One 8-inch Steel Pipeline.
- M. **American Midstream (MIDLA), LLC**
 - 1. Near Kansas City Southern Railroad and Highway 61
One Pipeline.

An Attorney's Preliminary Investigation and Report of Compensable Interest was completed for the utility/facility relocations. The facilities affected by the project lay in areas where neither the Government, the local sponsor, nor another governmental body owns any right-of-way that is superior to that of the facility owners. These facilities, or portions thereof, are entitled to replacement by substitute facilities that will as nearly as practicable serve them in the same manner and reasonably as well as did the existing facilities. Anything provided over and above such construction at increased cost, unless required solely as a result of the relocation, must be considered a betterment and the payment of the cost thereof must be borne by the facility owner.

Should the facilities be relocated in new right-of-way outside of the project right-of-way, as part of the consideration of having its facilities relocated at project expense, the facility owner will have to release its rights to its old right-of-way. Should the facilities relocate within the new Project right of way, it will have to do so such that it will not interfere with the construction, operation and maintenance of the project, and the facility owner will have to subordinate its right of way to that of the Project.

Under the authorization for the Louisiana Coastal Area Program, the furnishing of lands, easements, rights-of-way and improvements for this project, including the relocation or alteration of interfering facilities, is an obligation of the local interests.

9. Public Law 91- 646 and Acquisition Schedule:

All acquisitions of private property for this project will be done in accordance with the provisions of Public Law 91- 646, as amended. All areas impacted by construction are vacant; the project will not displace any persons, businesses or farms. It is the responsibility of the Non-Federal Sponsor to acquire the land, easements, and right of way for this project.

Subject to project approval and funding, the acquisition processes will begin after the Project Partnering Agreement (PPA) is signed. This start date has not been yet determined. Permits and agreements (Grants of Particular Use) to satisfy the Public Agencies i.e.; Louisiana Department of Wildlife & Fisheries, Pontchartrain Levee District, LADOTD, and St James Parish will typically require lengthy time frames and should be initiated as early in the schedule as possible. In addition, the agreement and construction of the C N RR "Shoofly" will require an extended time consideration and should begin as soon as possible to avoid project delays.

<u>Task</u>	<u>Task Duration</u>
Obtain title information	60 days
Obtain mapping information	60 days
Obtain appraisals	90 days
Negotiate & issue right-of-entry	90 days
Highway Agreements for Detours and Crossings	120 days
<u>Task</u>	<u>Task Duration</u>
Utility Agreements	90 days
Railroad Agreements	270 days

These time frames assume amicable acquisitions, if condemnation proceedings are necessary, 12 – 16 months will be added to the schedule.

Time is allowed for the State agencies to enter into a Letter Agreement and then issue a "Grant of Particular Use" to the Federal Government.

10. Acquisition Costs:

The estimated total Real Estate costs are \$2,587,000.00. Real Estate costs have been outlined in the Chart of Accounts found in Exhibit II.

11. Landowner Attitude:

Owner contact, to date, has been limited. However conversations with the primary private landowner on the project, Mr. Rickey Roussel, have been positive. While we were unable to provide project specifics, Mr. Roussel granted permission to field crews to conduct exploratory studies for the project on several occasions and is aware of the potential of a project in this area. Additionally adjacent property owners in the area feel the restoration of the swamp for recreational activities is a positive element to the area.

12. Environmental Issues:

Phase I Environmental Site Assessment (ESA) was conducted on the study area in accordance with ER 1165-2-132. Based upon the information reviewed, no recognized environmental concerns were identified within southeastern Maurepas Swamp, the Blind River, or the proposed Romeville diversion route that would be expected to impact the subject property.

13. State / Federal Lands and Projects in the Plan Area:

Portions of the project benefit area include lands within the Maurepas Swamp Wildlife Management Area. This land is owned by the Louisiana Department of Wildlife and Fisheries (LDWF). Initial estimates, provided by LDWF, indicate holdings in excess of 15,000 acres. No Federal lands were found in the project area.

The following federal and state projects are located in the vicinity of the subject project:

Mississippi River, Baton Rouge to the Gulf of Mexico - The Mississippi River, Baton Rouge to the Gulf of Mexico project currently provides a 45-foot deep draft channel between Baton Rouge and the Gulf of Mexico.

Mississippi River and Tributaries Project (MR&T) - The Mississippi River and Tributaries (MR&T) Project is a comprehensive project for flood control on the Lower Mississippi River below Cape Girardeau, Missouri.

LCA Small Diversion at Hope Canal - The LCA Small Diversion at Hope Canal is located east of the Convent/Blind River project, and this project is included in the Louisiana Coastal Area, Louisiana Report of the Chief of Engineers, dated 31 January 2005 in a list of five priority projects for implementation approval. The feasibility study is underway.

14. Timber / Mineral / Row Crop Activity:

TIMBER

The majority of the project area which contains timber is owned by the Louisiana Department of Wildlife and Fisheries. The area is designated as the Maurepas Wildlife Management Area (WMA). The timber is mostly cypress which is prevalent in swamps.

Timber harvesting is not customary in this area especially now that the area is a wildlife management area. The project is intended to benefit this habitat.

MINERALS

Data from the LDNR Strategic Online Natural Resources Information System (SONRIS) indicate that the southeastern Maurepas Swamp has undergone extensive oil and gas exploration activities, most of which occurred in the early to mid-twentieth century. Exploration efforts have occurred primarily to the north and south of the study area, with the north experiencing more concentrated activities. Based on data from SONRIS, 16 wells are within close proximity of the study area: twelve are abandoned, three are active, and one has an expired permit. Of these, only two wells are located within the project area and both are plugged and abandoned.

The portion of the Maurepas Swamp that is part of the project is owned by the Louisiana Department of Wildlife and Fisheries (LDWF). The LDWF acquired most of this property through a donation from the Richard King Mellon Foundation, a foundation whose focus is conservation of the environment. The outer boundaries of the WMA were acquired from private landowners. Because LDWF did not acquire mineral rights in the WMA, the underlying mineral rights holders could seek to utilize the surface of the WMA to drill and extract subsurface minerals. Such activities in the swamp are regulated under several state and Federal laws to minimize adverse environmental impacts.

The LDWF has established procedures for granting permits for exploratory activities on its WMAs. Below is a list of requirements from the LDWF.

The LDWF requires a request for permit be submitted in writing. A "Conditions of Letter of Permission to Conduct Seismic Activity in the State of Louisiana" form must be signed by the company proposing exploration. If the LDWF grants the permit in accordance with regulations, there are still other actions that must be taken prior to beginning exploration. The seismic company must request a Natural Heritage review and submit a Notification of Beginning of Seismic Exploration form. In addition, the company must hold a public meeting. Below are some additional requirements and restrictions that are typical for LDWF owned and managed areas:

1. Compensatory mitigation is required to offset unavoidable wetland impacts.
2. No activities will be allowed on emergent islands or vegetated wetlands.
3. The company must work closely with LDWF in conducting operations with the purpose of minimizing any adverse effects and protecting and preserving the fish, birds, animals and other wildlife, including reefs and oyster beds, in the area.
4. A compliance inspector, with proper qualifications acceptable to W&F will be funded by Grantee/Lessee to ensure that the geophysical provisions are met and to provide a weekly e-mail status report to LDWF and a final report of project activities.
5. All transportation equipment will require approval of LDWF prior to use.
6. The seismic project shall be supervised by a seismic agent or other LDWF representative.

In addition to these regulations in place by the LDWF, any activity in the marshes (wetlands) are regulated by Section 404 of the Clean Water Act under the purview of the USACE.

Exploratory activities, if permitted, could have some localized adverse impacts on the project benefits area. However, it is our opinion that exploration would be highly unlikely given that there are no active wells within the project area, despite past exploration activities, and that the major mineral interest owner is a conservation foundation. In the event that mineral owners on the perimeter of the WMA obtained permits to explore for oil and/or gas, it is our opinion at this time that LDWF management practices and the applicable state and Federal regulatory processes are adequate to safeguard the project's benefits.

Risk to project benefits from future activities within the WMA will continue to be evaluated during the public comment period. Approaches that may be considered for further managing risk to project benefits include the acquisition of additional real property interests and the prescribing and enforcing of additional state regulations to prevent encroachments or obstructions in the project benefits area. Acquisition or subordination of mineral rights may be considered as part of this process.

ROW CROP

A portion of the land, on which the TSP is located, is currently in row crop cultivation for sugarcane. It is assumed that landowners would be allowed to harvest mature crops prior to construction of the plan. In that instance, compensation would be for the impact of the easement on the value of the property. The highest and best use for this land is determined to be for industrial use; therefore, no compensation for row crop will be included in the acquisition costs.

15. Induced Flooding:

Hydraulic analysis completed in support of the Blind Fresh Water Diversion Project was reviewed to determine if the project will increase water surface elevations outside of the project area. Multiple simulations were performed for existing conditions and with project conditions.

The diversion of water from the Mississippi will be controlled to permit water to enter the swamp on a periodic release during dry conditions. The flow will be restricted and terminated during periods of severe rainfall and cyclic high water events. The discharge is not intended to significantly raise water levels beyond the ordinary levels of the areas within the project area. The water released into the canal system during low water and dry periods will allow flows into the swamp during periods that would ordinarily see minimal flow.

Based on the hydraulic data, there is no indication of significant water level variations as a result of the project; therefore, flowage easements are not needed.

For additional hydrologic analysis please refer to Section 3.9.3, “ Integrated Feasibility Study and Environmental Impact Statement for the LCA Small Diversion at Convent/Blind River,” Real Estate Requirements, located in the engineering report.

16. Zoning Ordinances:

No zoning ordinances will be enacted in lieu of construction of this project.

17. Relocation Assistance Benefits:

The project does not displace residential, commercial or industrial facilities. Therefore, the provisions of Title II of Public Law 91-646, as amended are not applicable.

18. Navigation Servitude:

Derived from the Commerce Clause of the U.S. Constitution, article 1, section 8, clause 3, the navigation servitude is the dominant right of the United States to use, control and regulate navigable waters and submerged lands. The applicability of the navigation servitude depends on both legal and factual determinations. If the legal determination supports assertion of the navigation servitude, then the second step is to determine the geographical area over which the servitude can be asserted. In tidal areas, the servitude extends to all lands below the mean high water mark, whereas in non-tidal areas, the servitude extends to all lands within the bed and banks of a navigable stream that lie below the ordinary high water mark.

There are no lands being acquired for this project which, would fall in this classification.

19. Acquisition Prior to PPA:

The non-federal sponsor is the author of this REP and is fully aware of the risks associated with acquisition of real estate rights prior to signing a Project Partnership Agreement.

20. Non-Federal Sponsor Owned LER:

The non-federal sponsor does not own any LER in the project area.

This report has been prepared by the undersigned in accordance with Chapter 12 of the ER405-1-12.

Prepared By:

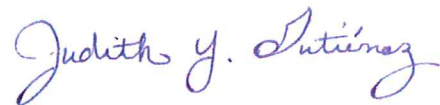


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Judith Y. Gutierrez
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Exhibit I
Non-Federal Sponsor's Capability Assessment

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**ASSESSMENT OF NON-FEDERAL SPONSOR'S
REAL ESTATE ACQUISITION CAPABILITY
Coastal Protection Restoration Authority (CPRA)
through the
Office of Coastal Protection and Restoration (OCPR)**

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? **YES**
- b. Does the sponsor have the power of eminent domain for this project? **YES - But limited to expropriation.**
- c. Does the sponsor have "quick-take" authority for this project? **NO - Although the sponsor does not have quick take authority, if this should be needed for the project, the sponsor may partner with a Levee District or Parish Government who has this authority (Act 225 RS38:301.1 and Act 320) if they agree.**
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? **NO**
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? **Unknown**

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate requirements of Federal projects including P.L. 91-646, as amended? **NO**
- b. If the answer to II.a. is "yes," has a reasonable plan been developed to provide such training? **N/A**
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? **YES**
- d. Is the sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the project schedule?
The office of OCPR is staffed with 3 Land Specialists and one Manager. Given current and projected workload, the in-house staff is not sufficient to accomplish acquisition of realty interests for this project.
- e. Can the sponsor obtain contractor support, if required in a timely fashion? **Unknown, no schedule has been drafted. Contracting typically takes 12 to 18 months.**

- f. Will the sponsor likely request USACE assistance in acquiring real estate?
Yes it is likely, but ultimately depends on the responsibilities as agreed upon in the PPA yet to be developed.

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? **YES**
- b. Has the sponsor approved the project/real estate schedule/milestones?

"A detailed schedule will be developed when the final ROW is determined. Normally, an estimate of one year is allowed to acquire ROW for a project." Once project designs are finalized, the sponsor will be requested to provide an acquisition schedule.

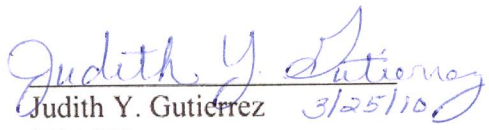
IV. Overall Assessment:

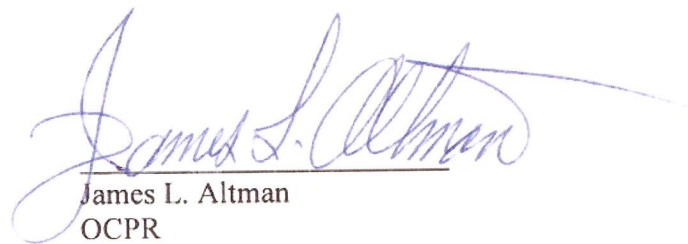
- a. Has the sponsor performed satisfactorily on other USACE projects? **YES**
- b. With regard to this project, the sponsor is anticipated to be: highly capable/fully capable/moderately capable/marginally capable/insufficiently capable.
Fully capable

V. Coordination:

- a. Has this assessment been coordinated with the sponsor?
YES
- b. Does the sponsor concur with this assessment?
YES

Prepared By:


Judith Y. Gutierrez 3/25/10
USACE
Chief, Appraisal. & Planning Branch


James L. Altman
OCPR
Land Manager

Approved-By:

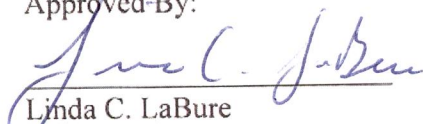

Linda C. LaBure
Chief, Real Estate Division

Exhibit II

Chart of Accounts

		AMOUNT	CONTINGENCY	PROJECT
			ROUNDED	COST
				\$2,587,000
TOTAL PROJECT COSTS		2,069,900	517,480	2,587,380
LANDS AND DAMAGES		2,069,900	517,480	2,587,380
	CONTINGENCY PROJECT COST			
ACQUISITIONS				
BY GOVERNMENT	0	0	0	
BY LOCAL SPONSOR (LS)	12,000	3,000	15,000	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	3,000	750	3,750	
CONDEMNATIONS				
BY GOVERNMENT	0	0	0	
BY LS	0	0	0	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	0	0	0	
APPRAISAL				
BY GOVT (IN HOUSE)	0	0	0	
BY GOVT (CONTRACT)	0	0	0	
BY LS	12,000	3,000	15,000	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	3,000	750	3,750	
PL 91-646 ASSISTANCE				
BY GOVERNMENT	0	0	0	
BY LS	0	0	0	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	0	0	0	
TEMPORARY PERMITS/LICENSES/RIGHTS-OF-ENTRY				
BY GOVERNMENT	0	0	0	
BY LS	0	0	0	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	0	0	0	
OTHER	0	0	0	
DAMAGE CLAIMS	0	0	0	
UTILITY RELOCATIONS (see note below)	50,000	12,500	62,500	
REAL ESTATE PAYMENTS				
LAND PAYMENTS				
BY GOVERNMENT	0	0	0	
BY LS	1,875,900	468,980	2,344,880	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	0	0	0	
PL 91-646 ASSISTANCE PAYMENTS				
BY GOVERNMENT	0	0	0	
BY LS	0	0	0	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	0	0	0	
DAMAGE PAYMENTS				
BY GOVERNMENT	0	0	0	
BY LS	114,000	28,500	142,500	
BY GOVT ON BEHALF OF LS	0	0	0	
REVIEW OF LS	0	0	0	
OTHER	0	0	0	
LERRD CREDITING				
ADMINISTRATIVE COSTS		0	0	

Utility relocation expenses are to negotiate the agreements to make the vertical adjustments on pipelines crossing the channel six(6), AT&T lines at Hwy 44 and Hwy 3125, a fiberoptic cable at the CNRR, the CNRR shoofly, LDOTD detours, a levee off-set, Overhead power lines, water and gas lines at the highways, etc..

Exhibit III

Quality Control Plan Checklist

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Quality Control Plan Checklist

Real Estate Plans

And other similar Feasibility-Level Real Estate Planning Documents

ER 405-1-12, Section 12-16, Real Estate Handbook, 1 May 1998

A Real Estate Plan (REP) is prepared in support of a decision document for full-Federal or cost shared specifically authorized or continuing authority projects. It identifies and describes lands, easements and rights-of-way (LER) required for the construction, operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) of a proposed project including requirements for mitigation, relocations, borrow material, and dredged or excavated material disposal. It also identifies and describes facility/utility relocations, LER value, and the acquisition process. The REP does not just cover LER to be acquired by the non-Federal sponsor (NFS) or Government. The report covers all LER needed for the project, including LER already owned by the NFS, Federal Government, or other public entities, or subject to the navigation servitude.

The REP must contain a detailed discussion of the following 20 topics, as set out in Section 12-16 of the ER, including sufficient description of the rationale supporting each conclusion presented. If a topic is not applicable to the project, this should be stated in the REP. The pages of a REP should be numbered.

PROJECT Convent/Blind River Small Diversion Canal

REPORT TITLE Real Estate Plan

Date of Report March 16, 2010

Date of REP December 25, 2009

1. **Purpose of the REP.** √
 - a. Describe the purpose of the REP in relation to the project document that it supports.
 - b. Describe the project for the Real Estate reviewer.
 - c. Describe any previous REPs for the project.

2. **Describe LER.** √
 - a. Account for all lands, easements, and rights-of-way underlying and required for the construction, OMRR&R of the project, including mitigation, relocations, borrow material and dredged or excavated material disposal, whether or not it will need to be acquired or will be credited to the NFS.

- b. Provide description of total LER required for each project purpose and feature.
- c. Include LER already owned by the Government, the NFS and within the navigation servitude.
- d. Show acreage, estates, number of tracts and ownerships, and estimated value.
- e. Break down total acreage into fee and the various types and durations of easements.
- f. Break down acreage by Government, NFS, other public entity, and private ownership, and lands within the navigation servitude.

3. **NFS-Owned LER.**

- a. Describe NFS-owned acreage and interest and whether or not it is sufficient and available for project requirements.
- b. Discuss any crediting issues and describe NFS views on such issues.

4. Include any proposed **Non-Standard Estates.**

- a. Use Standard Estates where possible.
- b. Non-standard estates must be approved by HQ to assure they meet DOJ standards for use in condemnations.
- c. Provide justification for use of the proposed non-standard estates.
- d. Request approval of the non-standard estates as part of document approval.
- e. If the document is to be approved at MSC level, the District must seek approval of the non-standard estate by separate request to HQ. This should be stated in the REP.
- f. Exception to HQ approval is District Chiefs of RE approval of non-standard estate if it serves intended project purposed, substantially conforms with and does not materially deviate from the standard estates found in the RE Handbook, and does not increase cost or potential liability to the Government. A copy of this approval should be included in the REP. (See Section 12-10c. of RE 405-1-12)
- g. Although estates are discussed generally in topic 2, it is a good idea to also state in this section which standard estates are to be acquired and attach a copy as an appendix. The duration of any temporary estates should be stated.

5. **Existing Federal Projects.**

- a. Discuss whether there is any existing Federal project that lies fully or partially within LER required for the project.
- b. Describe the existing project, all previously-provided interests that are to be included in the current project, and identify the sponsor.
- c. Interest in land provided as an item of local cooperation for a previous Federal project is not eligible for credit.
- d. Additional interest in the same land is eligible for credit.

6. **Federally-Owned Lands**

- a. Discuss whether there is any Federally owned land included within the LER required for the project.
- b. Describe the acreage and interest owned by the Government.
- c. Provide description of the views of the local agency representatives toward use of the land for the project and issues raised by the requirement for this land.

7. **Navigation Servitude.**

- a. Identify LER required for the project that lies below the Ordinary High Water Mark, or Mean High Water Mark, as the case may be, of a navigable watercourse.
- b. Discuss whether navigation servitude is available
- c. Will it be exercised for project purposes? Discuss why or why not.
- d. Lands over which the navigation servitude is exercised are not to be acquired nor eligible for credit for a Federal navigation or flood control project or other project to which a navigation nexus can be shown.
- e. See paragraph 12-7 of ER 405-1-12.

8. **Map**

- a. An aid to understanding
- b. Clearly depicting project area and tracts required, including existing LER, LER to be acquired, and lands within the navigation servitude.
- c. Depicts significant utilities and facilities to be relocated, any known or potential HTRW lands.

9. **Induced Flooding** can create a requirement for real estate acquisition.

- a. Discuss whether there will be flooding induced by the construction and OMRR&R of the project.
- b. If reasonably anticipated, describe nature, extent and whether additional acquisition of LER must or should occur.
- c. Physical Takings Analysis (separate from the REP) must be done if significant induced flooding anticipated considering depth, frequency, duration, and extent of induced flooding.
- d. Summarize findings of Takings Analysis in REP. Does it rise to the level of a taking for which just compensation is owed?

10. **Baseline Cost Estimate** as described in paragraph 12-18.

- a. Provides information for the project cost estimates.
- b. Gross Appraisal includes the fair market value of all lands required for project construction and OMRR&R.
- c. PL 91-646 costs
- d. Incidental acquisition costs
- e. Incremental real estate costs discussed/supported.
- f. Is Gross Appraisal current? Does Gross Appraisal need to be updated due to changes in project LER requirements or time since report was prepared?

11. **Relocation Assistance Benefits** Anticipated. _____

- a. Number of persons, farms, and businesses to be displaced and estimated cost of moving and reestablishment.
- b. Availability of replacement housing for owners/tenants
- c. Need for Last Resort Housing benefits
- d. Real Estate closing costs
- e. See current 49 CFR Part 24

12. **Mineral Activity**. _____

- a. Description of present or anticipated mineral activity in vicinity that may affect construction, OMRR&R of project.
- b. Recommendation, including rationale, regarding acquisition of mineral rights or interest, including oil or gas.
- c. Discuss other surface or subsurface interests/timber harvesting activity
- d. Discuss effect of outstanding 3rd party mineral interests.
- e. Does estate properly address mineral rights in relation to the project?

13. **NFS Assessment** _____

- a. Assessment of legal and professional capability and experience to acquire and provide LER for construction, OMRR&R of the Project.
- b. Condemnation authority
- c. Quick-take capability
- d. NFS advised of URA requirements
- e. NFS advised of requirements for documenting expenses for credit.
- f. If proposed that Government will acquire project LER on behalf of NFS, fully explain the reasons for the Government performing work.
- g. A copy of the signed and dated Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability (Appendix 12-E) is attached to the REP.

14. **Zoning** in Lieu of Acquisition _____

- a. Discuss type and intended purpose
- b. Determine whether the proposed zoning proposal would amount to a taking for which compensation will be due.

15. **Schedule** _____

- a. Reasonable and detailed Schedule of land acquisition milestones, including LER certification.
- b. Dates mutually agreed upon by Real Estate, PM, and NFS. _____

16. **Facility or Utility Relocations** _____

- a. Describe the relocations, identity of owners, purpose of facilities/utilities, whether owners have compensable real property interest.
- b. A synopsis of the findings of the Preliminary Attorney's Investigation and Report of Compensable Interest is included in the REP as well as statements required by Sections 12-17c.(5) and (6).

- c. Erroneous determinations can affect the accuracy of the project cost estimate and can confuse Congressional authorization.
- d. Eligibility for substitute facility
 - 1. Project impact
 - 2. Compensable interest
 - 3. Public utility or facility
 - 4. Duty to replace
 - 5. Fair market value too difficult to determine or its application would result in an injustice to the landowner or the public.
- e. See Sections 12-8, 12-17, and 12-22 of ER 405-1-12.

17. **HTRW** and Other Environmental Considerations _____

- a. Discussion the impacts on the Real Estate acquisition process and LER value estimate due to known or suspected presence of contaminants.
- b. Status of District's investigation of contaminants.
- c. Are contaminants regulated under CERCLA, other statues, or State law?
- d. Is clean-up or other response required of non-CERCLA regulated material?
- e. If cost share, who is responsible for performing and paying cost of work?
- f. Status of NEPA and NHPA compliances
- g. See ER 1165-2-132, Hazardous, Toxic, and Radioactive Waste (HTRW) Guidance for Civil Works Projects.

18. **Landowner Attitude.** _____

- a. Is there support, apathy, or opposition toward the project?
- b. Discuss any landowner concerns on issues such as condemnation, willing seller provisions, estates, acreages, etc.?

19. A statement that the **NFS has been notified in writing about the risks of acquiring LER before the execution of the PPA.** If not applicable, so state.

20. **Other Relevant Real Estate Issues.** Anything material to the understanding of the RE aspects of the project. _____

A copy of the completed Checklist is attached to the REP. √

I have prepared and thoroughly reviewed the REP and all information, as required by Section 12-16 of ER 405-1-12, is contained in the Plan.



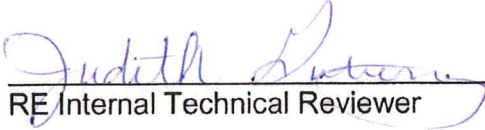
Preparer

4/13/2010

Date

A copy of the Real Estate Internal Technical Review Guide for Civil Works Decision

Documents is attached and signed by me as the Reviewer



RE Internal Technical Reviewer

4/21/10

Date

The REP has been signed and dated by the Preparer and the District Chief of Real Estate. √