



6.0 ENVIRONMENTAL LAWS & COMPLIANCE (*NEPA REQUIRED)

Federal projects must comply with environmental laws, regulations, policies, rules, and guidance. The project delivery team coordinated with Federal and state resource agencies during planning for both the navigation dredging and disposal areas associated with the project. Compliance is achieved upon review of this report by appropriate agencies and the public, and with the signing of a Record of Decision by the Assistant Secretary of the Army for Civil Works.

6.1 Bald and Golden Eagle Protection Act of 1940 (Bald Eagles)

The Bald and Golden Eagle Protection Act of 1940 protects two eagle species. Bald eagles occur or occasionally occur in the project area. Based on a review of existing data and preliminary field surveys, the USACE finds that implementation of the TSP would have no effect on bald eagles.

6.2 Clean Air Act of 1972 (Air Quality)

The Clean Air Act of 1972 (CAA) sets goals and standards for the quality and purity of air. It requires the Environmental Protection Agency to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. The project area occurs in four parishes considered non-attainment status for NAAQS: East Baton Rouge Parish, West Baton Rouge Parish, Iberville Parish, and Ascension Parish. The Louisiana Department of Environmental Quality (DEQ) is required by the CAA and Louisiana Administrative Code, Title 33 to grant a general conformity determination for work. Coordination with DEQ is scheduled to begin during the public comment period.

6.3 Clean Water Act of 1972 – Section 401 (Water Quality)

The Clean Water Act of 1972 (CWA) sets and maintains goals and standards for water quality and purity. Section 401 requires a Water Quality Certification from the DEQ stating that a proposed project does not violate established effluent limitations and water quality standards. Section 401 correspondence and compliance is scheduled to begin during the public comment period.

6.4 Clean Water Act of 1972 – Section 404(b)(1) (Wetlands)

The USACE administers regulations under Section 404(b)(1) of the CWA, which establishes a program to regulate the discharge of dredged and fill material into waters of the U.S., including wetlands. A 404(b)(1) evaluation and public notice are scheduled to be released during the public comment period.



6.5 Coastal Zone Management Act of 1972 (Coastal Zone Development)

The Coastal Zone Management Act of 1972 is a partnership structure allowing states and the Federal Government to work together for the protection of U.S. coastal zones from environmentally harmful over-development. Coordination with the Louisiana Department of Natural Resources on a Coastal Zone Consistency Determination is scheduled to begin during the public comment period.

6.6 Endangered Species Act of 1973 (Threatened & Endangered Species)

The Endangered Species Act (ESA) of 1973 is designed to protect and recover threatened and endangered (T&E) species of fish, wildlife, and plants. The USACE is scheduled to begin coordination with the USFWS and the NMFS to ensure the protection of those T&E species under their respective jurisdictions during the public comment period. Based on review of existing data and current CEMVN maintenance operations, the USACE finds that implementation of the TSP is not anticipated to adversely affect any listed species or their critical habitat.

6.7 Colonial Nesting Water Birds

Based on a review of existing data and preliminary field surveys, the USACE finds that implementation of the TSP would have no impact on colonial nesting water birds. Standardized best management practices (BMPs) currently used by CEMVN would be followed in order to avoid impacts. Implementation of the proposed project would require compensatory mitigation for unavoidable project-induced potential impacts to colonial nesting water bird habitat.

6.8 Farmland Protection Policy Act of 1981 (Farmland)

The Farmland Protection Policy Act of 1981 (FPPA) is intended to minimize the impact of Federal programs on the unnecessary and irreversible conversion of farmland to nonagricultural uses. The project is not anticipated to impact farmlands.

6.9 Fish and Wildlife Coordination Act of 1934 (Fish & Wildlife)

The Fish and Wildlife Coordination Act of 1934 (FWCA) provides authority for USFWS involvement in evaluating impacts to fish and wildlife from proposed water resource development projects. It requires that fish and wildlife resources receive equal consideration to other project features. It requires Federal agencies that construct, license or permit water resource development projects to first consult with the USFWS, NMFS, and state resource agencies regarding the impacts on fish and wildlife resources and measures to mitigate these impacts. Section 2(b) requires the USFWS to produce a Coordination Act Report (FWCAR) that details existing fish and wildlife resources in a project area, potential impacts due to a proposed project, and recommendations for



a project. CEMVN has begun coordination with the USFWS and NMFS and a draft Coordination Act Report was received on October 11, 2016, and is appendicized as Appendix G.

6.10 Magnuson-Stevens Fishery Conservation and Management Act of 1976 and Magnuson-Stevens Act Reauthorization of 2006 (Essential Fish Habitat)

The Magnuson-Stevens Fishery Conservation and Management Act of 1976 and the Magnuson-Stevens Act Reauthorization of 2006 govern marine fisheries management in the U.S. Essential Fish Habitat (EFH) does not intersect the proposed project alignment or the disposal area in the near term. The USACE is scheduled to begin coordination with the NMFS on impacts (if any) that the TSP may have on EFH during the public comment period.

6.11 Marine Mammal Protection Act of 1972 (Marine Mammals)

The Marine Mammal Protection Act of 1972 protects whales, dolphins, sea lions, seals, manatees, and other species of marine mammals. The USACE finds the TSP would have no effect on marine mammals that may occasionally be found in the area. To avoid “takings” of the West Indian manatee and ensure compliance with the law, USACE commits that 1) all construction staff will be educated about the laws and manatees, 2) a search for manatees in work areas would be conducted before construction, and 3) appropriate best management practices to avoid or minimize potential entrapment of manatees during construction would be implemented.

6.12 Migratory Bird Treaty Act of 1918 & Migratory Bird Conservation Act of 1929 (Migratory Birds)

The Migratory Bird Treaty Act of 1918 and Migratory Bird Conservation Act of 1929 laws protect migratory birds and their habitat. Many important habitats in the area provide migratory bird shelter, nesting, feeding, and roosting habitat. USFWS recommendations and best management practices would be followed to avoid impacts to any protected birds.

6.13 National Historic Preservation Act of 1966 (Cultural and Historic Resources)

In compliance with Section 106 of the National Historic Preservation Act of 1966 and 36 CFR Part 800, Federal agencies must take into account the effects of their actions on historic properties and afford the Advisory Council on Historic Properties (ACHP) a reasonable opportunity to comment on such undertakings. Historic properties include any prehistoric or historic district, site, building, structure, or object that is included in, or eligible for inclusion in, the National Register of Historic Places. A Federal agency shall consult with any Indian tribe that attaches religious and cultural significance to such properties. Agencies shall afford the State Historic Preservation Officer (SHPO) and Indian tribes a reasonable opportunity to comment before decisions are made.



Section 106 consultation with the SHPO and Indian tribes is scheduled to begin during the public review period.

6.13.1 Tribal Consultation (Tribal Interests)

In partial fulfillment of EO 13175 (“Consultation and Coordination With Indian Tribal Governments”), NEPA, Section 106 of the National Historic Preservation Act and 36 CFR Part 800, consultation is scheduled to begin with the following Federally-recognized Tribes: Alabama-Coushatta Tribe of Texas, Caddo Nation of Oklahoma, Chitimacha Tribe of Louisiana, Choctaw Nation of Oklahoma, Coushatta Tribe of Louisiana, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians, Quapaw Tribe of Oklahoma, Seminole Nation of Oklahoma, Seminole Tribe of Florida, and Tunica-Biloxi Tribe of Louisiana during the public comment period.

6.14 Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984

The discharge of dredged material into waters of the United States is regulated under the Clean Water Act (CWA). In the absence of a known Hazardous, Toxic, and Radioactive Waste (HTRW) concern, the proposed action would not qualify for an HTRW investigation.

The USACE Engineer Regulation, ER 1165-2-132, Hazardous, Toxic, and Radioactive Waste (HTRW) for Civil Works Projects, states that dredged material and sediments beneath navigable waters proposed for dredging qualify as HTRW only if they are within the boundaries of a site designated by the EPA or a state for a response action (either a removal or a remedial action) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or if they are a part of a National Priority List (NPL) site under CERCLA (NPL is also known as "Superfund").

Dredged material and sediments beneath the navigable waters proposed for dredging shall be tested and evaluated for their suitability for disposal in accordance with the appropriate guidelines and criteria adopted pursuant to Section 404 of the Clean Water Act and/or Section 103 of the Marine Protection Research and Sanctuaries Act (MPRSA) and supplemented by the Corps of Engineers Management Strategy for Disposal of Dredged Material: Containment Testing and Controls (or its appropriate updated version) as cited in Title 33 Code of Federal Regulations, Section 336.1.

The proposed dredge material disposal areas have historically been associated with oil and gas exploration. A review of state and national environmental and natural resources databases revealed the presence of numerous active, inactive, plugged and abandoned oil and gas wells, injection wells, and oil and gas pipelines within the proposed project area. Although they are not considered to be HTRW concerns, they are considered to be Recognized Environmental Conditions that shall be avoided during construction.



Dredge slurry was collected directly from the discharge lines of dustpan dredges performing maintenance on all maintained Deep Draft Crossings during Fiscal Year 2016. The solid and liquid fractions of the slurry were analyzed individually for the presence of EPA priority pollutants including metals, pesticides, PCBs, and semi-volatile organic compounds. Metals were common to both fractions, and were detected at or below background levels in the Mississippi River. Chlordane pesticides and hydrocarbon exhaust products were detected infrequently in the solid samples, but at levels generally at or below 1 part per billion. All contaminant detects in dredge slurry were below regulatory water quality criteria and ecological screening values, and dredging of the crossings is not expected to have a negative impact on human health or the environment.

Based upon a review of the NPL, CERCLA, and environmental databases, contaminant sampling data, the probability of encountering HTRW in connection with this project is low. No portion of the project area proposed for dredging and disposal is included in the NPL. The proposed construction and beneficial use-disposal action does not qualify for further HTRW investigation.

Numerous oil and gas pipelines, oil and gas well-heads (active, inactive, and plugged and abandoned), and oil and gas pipelines and related facilities are located within or near the footprint of the project areas. Care must be taken to avoid impacts to pipelines or oil and gas wells during construction of all features.

6.15 Executive Order 11514, Protection and Enhancement of Environmental Quality

Executive Order (EO) 11514 directs Federal agencies to "initiate measures needed to direct their policies, plans, and programs so as to meet national environmental goals." The TSP complies with EO 11514.

6.16 Executive Order 11988, Floodplain Management

EO 11988 requires a Federal agency, when taking an action, to avoid short- and long-term adverse effects associated with the occupancy and the modification of a floodplain. The agency must avoid direct and indirect support of floodplain development whenever floodplain siting is involved. In addition, the agency must minimize potential harm to or in the floodplain and explain why the action is proposed. Additional floodplain management guidelines for EO 11988 were provided in 1978 by the Water Resources Council. The project is compliant with the order.

6.17 Executive Order 11990, Protection of Wetlands

EO 11990, Protection of Wetlands, directs Federal agencies to avoid to the extent possible, long and short-term adverse impacts associated with the destruction or modification of wetlands, and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. Implementing the TSP requires compensatory mitigation for unavoidable impacts that



will require replacing or providing substitute resources. The annual beneficial use of dredged material into open water during river maintenance will result in approximately 528 acres of marsh and permanent impacts to wetlands will not occur. No impacts were identified for open water dredging and disposal that would require mitigation.

6.18 Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

EO 12898 requires agencies to make achieving environmental justice (EJ) part of their missions by identifying and addressing disproportionately high and adverse human health or environmental effects of programs, policies and activities on minority and low-income populations. Potential EJ issues were considered in planning and determined as not applicable due to the isolated nature of the project-related impacts.

6.19 Executive Order 13112, Invasive Species

EO 13112 requires agencies to prevent the introduction of invasive species; provide for their control; and minimize their economic, ecological and human health impacts. The TSP is consistent with the EO to the extent practicable and permitted by law and subject to the availability of appropriations, and within Administration budgetary limits. Relevant programs and authorities to prevent invasive species introductions would be used during construction. The USACE will not authorize, fund, or carry out actions likely to cause or promote the introduction or spread of invasive species unless it has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm; and that all feasible and prudent measures to minimize risk of harm would be taken in conjunction with the actions.

6.20 Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds

EO 13186 requires agencies to take actions to further implement the Migratory Bird Treaty Act. The TSP has been evaluated for effects on migratory birds, with emphasis on species of concern. Habitats in the project area provide migratory bird shelter, nesting, feeding and roosting habitat. The TSP would increase the availability of shelter and feeding habitat.

6.21 Land and Water Conservation Act of 1965

The Land and Water Conservation Act of 1965 established a fund from which Congress can make appropriations for outdoor recreation. The USACE must coordinate with the Secretary of the Interior to insure that no property acquired or developed with assistance from this Act will be converted to other purposes other than outdoor recreation uses. CEMVN is scheduled to begin coordination with USFWS and LDWF to ensure the beneficial use of dredge material on Pass a



Loutre Wildlife Management Area and Delta National Wildlife Refuge is consistent with the planning objectives of each area.