



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVE
NEW ORLEANS, LA 70118-3651

July 1, 2021

Operations Manager
Completed Works

Mr. Tye Fitzgerald, Project Manager
Coastal Protection and Restoration
150 Terrace Avenue
Baton Rouge, Louisiana 70802

Section 408 Request Number: 408-MVN-2020-0024

Dear Mr. Fitzgerald,

The New Orleans District ("District") of the U.S. Army Corps of Engineers (USACE) has completed its evaluation of your request dated March 8, 2021, to construct the Grand Cheniere Ridge Marsh Creation Project (BA-0240), consisting of dredging within the Mississippi River and placing a temporary discharge pipe across the right descending Mississippi River levee and New Orleans to Venice-Non Federal 06A.3 levee (NOV-NF-06A.3), which is operated and maintained by the West Plaquemines Levee District, under Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408). This evaluation was performed consistent to Engineer Circular (EC) 1165-2-220.

By email dated February 25, 2021, the applicant was advised to modify certain portions of the proposal to comply with our standard criteria, and to submit additional information for our further review. Subsequently, by email dated April 6, 2021, the applicant submitted the necessary additional information which has been reviewed and approved.

Your request to construct the Grande Cheniere Ridge Marsh Creation project (BA-0240) in the Barataria Basin, by performing dredging within the Mississippi River, and by placing a temporary discharge pipe across the right descending Mississippi River levee, vicinity of second order levee station 1752+30, and across the Hurricane Storm Damage Risk Reduction System (HSDRRS) NOV-NF-06A.3 levee, vicinity of levee station 1519+87, near West Pointe a la Hache, Louisiana, in Plaquemines Parish, has been validated for use with the New Orleans District Categorical Permission letter dated August 30, 2018, subject to compliance with the terms and conditions below and attached.

a. In verifying authorization under this permission, USACE has relied in part on the information provided by the Requester and/or the Requester's Agent. If, subsequent to verifying authorization, such information proves to be false, incomplete, or inaccurate, this permission may be modified, suspended, or revoked, in whole or in part.

b. The Requester shall ensure that all structures, work, and activities authorized by this permission comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and permission and may result in a violation of the law, requiring restoration of the site or other remedial action.

c. The approved alteration work shall be accomplished and performed in accordance with the Section 408 request letter dated March 8, 2021, and the Department of the Army joint permit application (MVN-2014-02293-EG), accompanying drawings, and all other supporting documentation.

d. The pipeline does not encroach the NOV-NF-06A.2 alignment which ends at xy+3766917.80, 392164.18, Center Line (C/L) Station 217+48.62=Baseline Station (B/L) 1645+18.18 as shown on the enclosed plan sheet. All work must be east of this location.

e. All work within 1,500 feet of the Mississippi River levee is performed and completed while the stage of the Mississippi River is below elevation +15.0 feet on the Carrollton gage, at New Orleans, Louisiana. Information concerning current river stages may be obtained on our website at www.mvn.usace.army.mil.

f. The proposed work does not restrict the Levee District's maintenance operations or any potential flood fight activities at the levee, nor shall it obstruct or impede inspection access along the levee crown.

g. The Requester must perform and maintain the approved alteration (temporary pipeline) authorized by this permission in good condition and in conformance with the terms and conditions of this permission. The Requester is not relieved of this requirement if it abandons the alteration, although it may make a good faith transfer to a third party as described in condition "h" below. Should the Requester wish to cease to maintain the authorized work/activity or should it desire to abandon it without a good faith transfer, it must obtain a modification of this permission from the New Orleans District, Operations Division which may require restoration of the altered areas.

h. If the Requester sells the approved alteration (temporary pipeline) or any part thereof, which is the subject of this permission, the Requester must provide the New Orleans District, Operations Division with a copy of the permission and a letter noting the agreement to transfer the permission to the new owner, and the new owner's agreement to accept the permission and abide by all conditions of the permission. This letter must be signed by both parties.

i. Without documentation of a transfer or ownership on file with USACE, the Requester will be considered the owner and responsible party for the temporary pipeline.

j. The Requester understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, the Requester will be required upon due notice from the Corps of Engineers, to remove, relocate or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

k. The approved alteration and related authorized activities shall not alter or change the alignment of the Mississippi River Levee, HSDRRS NOV-NF-06A.3 levee or other federal project features in any way. The approved alteration shall not restrict the operations and maintenance of any USACE projects, nor shall the work obstruct or impede access within the USACE projects. No problems associated with or related to the operation, maintenance, repair, replacement, or rehabilitation of any USACE project may be created as a result of the approved alteration.

l. The Requester shall be solely responsible, physically and financially, for the response, mitigation, repair, remediation and restoration, in a manner satisfactory to USACE, of any damage to the USACE projects or injury to the public interest.

m. Any modification to the approved plans and specification requires a submission of the documentation of the modification to the New Orleans District, Operations Division, for review and a determination of approval or denial of the requested modification. Significant changes, additions, and/or supplements to the approved scope of work for the approved alteration which alters the existing use and function of the approved alteration will require re-submission of a Section 408 permission application to USACE for re-evaluation under Section 408 prior to the commencement of any construction activities. The documentation must be stamped by a registered engineer and approved by USACE before the Requester's modification may commence.

n. Should changes occur in the location or section of the existing Levees, or other federal project features, and/or in the generally prevailing conditions in the vicinity, or in any maintenance be required in the future as determined solely with the discretion of USACE, the Requester shall make any USACE required changes to the approved alteration, as may be necessary to satisfactorily remedy the situation and the Requester shall bear all costs associated therewith.

o. Written notification to be provided by the Requester to the New Orleans District, Operations Division of the construction timeline for the Project shall include the

proposed start and end dates. You must notify the USACE New Orleans District 7 days before work/usage is started so that post-permission oversight can be performed by USACE. Additionally, the Requester shall notify the New Orleans District, Operations Division prior to commencement of construction of the approved alteration and upon completion of the alteration authorized herein.

p. Any damage to the Levees, batture, bank, and/or any other features of the affected federal projects, resulting from the construction, operation, maintenance, use, and/or existence of the approved alteration authorized herein shall be repaired at the Requester's sole expense.

q. In issuing this permission, the United States of America and USACE do not assume any liability for the following:

(1) Damages to the approved alteration/permitted work or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

(2) Damages to the approved alteration/permitted work or uses thereof as a result of current or future activities undertaken by or on behalf of USACE or the United States in the public interest.

(3) Damages to persons, property, approved alteration or to other permitted or unpermitted activities or structures caused by the work authorized by this permission letter.

(4) Design or construction deficiencies associated with the approved alteration/permitted work.

(5) Damage claims associated with any future modifications, suspension, or revocation of this permission letter.

r. It is the Requester's responsibility to coordinate with the Coastal Protection and Restoration Authority of Louisiana, West Plaquemines Levee District regarding any additional permits and/or permissions required for this work. Additionally, any permission granted hereby does not obviate Requester's requirement to obtain other federal, state, or local permits required by law, and no work shall commence until all necessary permits are required.

s. The Requester shall comply with all applicable Federal, state, and local environmental laws and regulations, including those relating to the release, storage and handling of hazardous substances and those relating to the prevention of and response to oil spills. In the event of any release or spill or threatened release, the Requester shall immediately notify the New Orleans District, Operations Division.

t. The Requester shall comply with the attached National Historic Preservation Act Standard Conditions.

u. The Requester must obtain a Department of the Army, Section 404 permit for compliance with Section 404 of the Clean Water Act prior to any construction on lands or waterways subject to Section 408 review.

v. The Requester must obtain a Department of the Army, Section 10 permit for compliance with Section 10 of the River and Harbors Act of 1899 prior to any construction on lands or waterways subject to Section 408 review.

w. The requester must obtain a Coastal Use Permit from the Department of Natural Resources, Office of Coastal Zone Management prior to initiating construction within the area subject to Section 408 review.

x. The requester must mark all structures to avoid being hazardous to navigation. The requester will notify the U.S. Coast Guard of the construction activity location and duration.

y. The requester must follow the attached Standard Manatee Conditions for In-water Activities.

z. The requester must comply with the following procedures to avoid and minimize adverse effects to pallid sturgeon while using a cutterhead dredge: 1.) The cutterhead shall remain completely buried in the bottom material during dredging operations. If pumping water through the cutterhead is necessary to dislodge material or to clean the pumps or cutterhead, etc., the pumping rate should be reduced to the lowest rate possible until the cutterhead is at mid-depth, where the pumping rate can then be increased; 2.) During dredging, the pumping rates should be reduced to the slowest speed feasible while the cutterhead is descending to the channel bottom.

aa. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

bb. The applicant will, at his or her expense, install and maintain any safety light, signals, and signs prescribed by the United States Coast Guard, through regulations or otherwise, on authorized facilities or on equipment used in performing work under the authorization.

cc. If the proposed project involves the use of floating construction equipment (barge mounted cranes, barge mounted pile driving equipment, floating dredge equipment, dredge discharge pipelines, etc.) in the waterway, the applicant is advised to notify the appropriate Captain of the Port so that a Notice to Mariners, if required, may be provided about one month before you plan to start work. Contact information for

the local Captain of the Port's offices may be located at <https://homeport.uscg.mil> under "port directory". In addition, a copy of your permit approval and drawings should be mailed to the Commander, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, Room 1230, New Orleans, Louisiana 70130, or emailed to D08-DGDDistrict-DPW@uscg.mil. Telephone inquiries can be directed to the Eighth Coast Guard District, Waterways Management at (504) 671-2330.

For any questions regarding your Section 408 request, please contact Amy Powell, Operations Manager for Completed Works or Albert Terry, Assistant Operations Manager for Completed Works of my office at 504-862-2241 or 504-862-2311, respectively.

Sincerely,

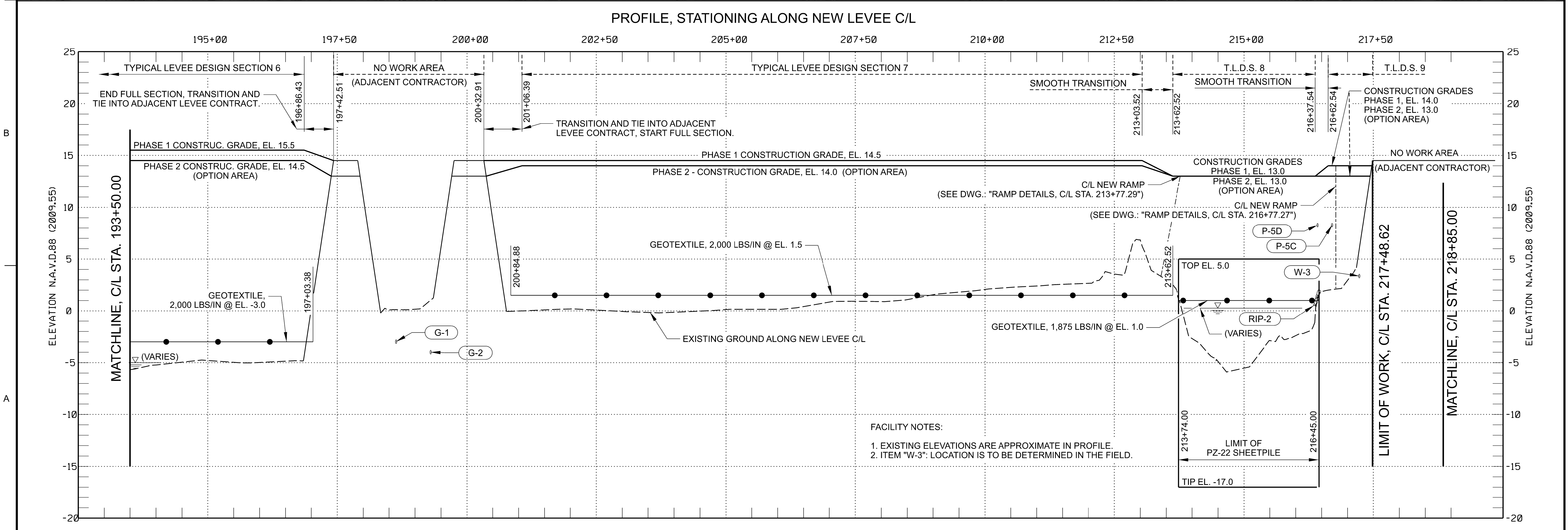
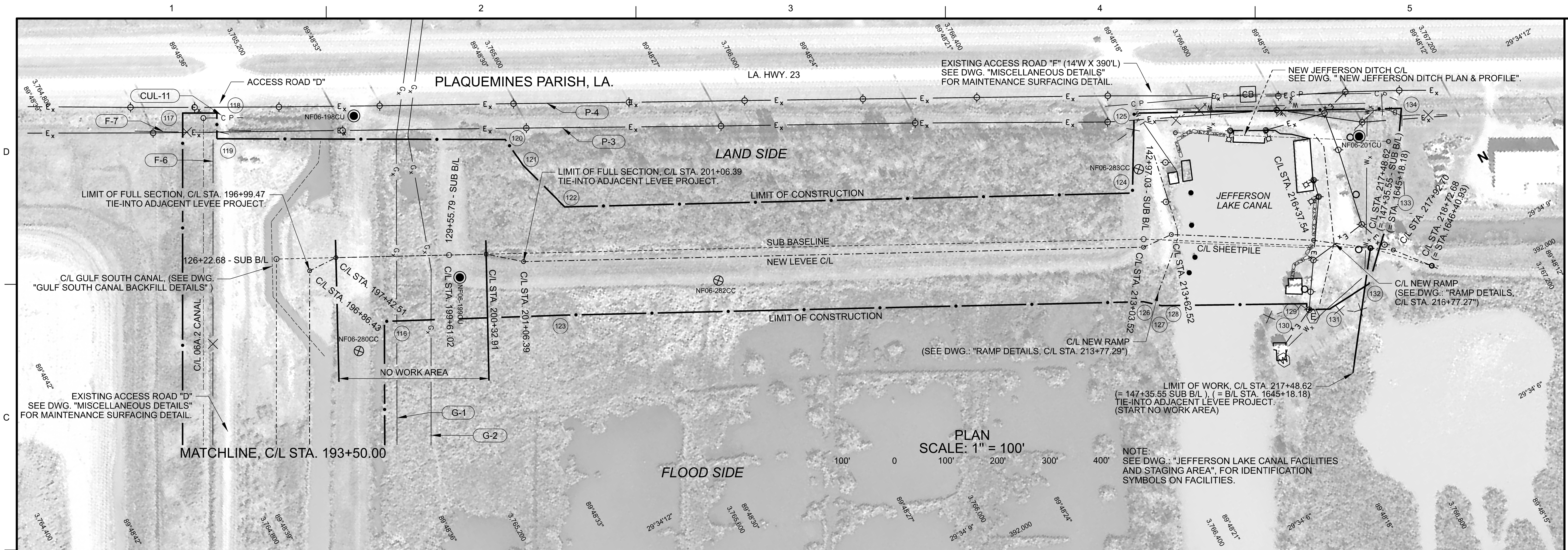
Michael F. Park
Chief, Operations Division
New Orleans District
U.S. Army Corps of Engineers

Enclosures

cc (w/enclosures):

Mr. Ignacio Harrouch
Chief Operations
Coastal Restoration and Protection Authority
150 Terrace Avenue
Baton Rouge, Louisiana 70802

Mr. Kirk Lepine, Parish President
Plaquemines Parish Government
333 F. Edward Hebert Boulevard
Building 100
Belle Chasse, Louisiana 70037



FACILITY NOTES:
 1. EXISTING ELEVATIONS ARE APPROXIMATE IN PROFILE.
 2. ITEM "W-3": LOCATION IS TO BE DETERMINED IN THE FIELD.

 US Army Corps of Engineers NEW ORLEANS DISTRICT	
DATE	APPR
DESCRIPTION	MARK
DATE	APPR
DESCRIPTION	MARK
DATE	APPR
DESCRIPTION	MARK

DATE: 28 OCT 2020	DESIGNED BY: B. LAMAR	CONTRACT NO.: W91298-21-C-0002
SOLUTION NO.: W91298-21-C-0002	CUS BY: L.H.L.	FILE NUMBER: H-8-47972
PROJECT: NEW ORLEANS DISTRICT	LAUREN H. HATTEN, P.E.	ANSI D: H-8-47972-20-COR-DEN
NEW ORLEANS DISTRICT	LAUREN H. HATTEN, P.E.	
NEW ORLEANS, LOUISIANA	LAUREN H. HATTEN, P.E.	

NEW ORLEANS TO VENICE, LOUISIANA
 NOV-NF-W-06A.2, FIRST LIFT LEVEE AND
 DRAINAGE CANAL RELOCATION PROJECT
 POINTE CELESTE TO WEST POINTE A LA HACHE
 LEVEE PLAN AND PROFILE
 PLAQUEMINES PARISH, LOUISIANA

SHEET IDENTIFICATION
C-09

Attachment B

National Historic Preservation Act Standard Conditions

For any Section 408 permission, the requester is responsible for the actions of his contractors, subcontractors, and agents.

The USACE requires that the Requester:

- 1) Ensure that their agents understand that failure to comply with any project-specific conditions placed on their Section 408 Permission could jeopardize USACE approvals;
 - 2) Notify USACE as soon as possible of any change to the approved scope of work;
- a) **Discovery of Previously Unknown Archaeological Remains and Artifacts.** If you discover any previously unknown historic, cultural, or archeological remains (e.g., pot sherds, arrow points, historic foundations, broad collections of historic ceramics, etc.) while accomplishing the activity authorized by this permission, you must immediately notify your Operations Division (OD) contacts at USACE, who will in turn contact Planning Division (PD) staff. The requester will not proceed with work in the area of the discovery until USACE PD completes consultation with the Louisiana State Historic Preservation Officer, and others, as appropriate.
- b) **Discovery of Human Burial Sites.** If human bone or unmarked grave(s) are discovered to be present in the project area, compliance with the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 et seq.) is required. Upon discovery, the requester or their agent shall notify the local law enforcement agency within twenty-four hours of the discovery. The Requester or their agent shall also notify USACE and the Louisiana Division of Archaeology within seventy-two hours of the discovery. Discoveries of unmarked graves, burials, human remains, or items of cultural patrimony on Federal or Tribal lands shall be subject to the Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act. USACE PD will complete the necessary consultation to allow the activity that is receiving the permission to proceed.



STANDARD MANATEE CONDITIONS FOR IN-WATER ACTIVITIES

During in-water work in areas that potentially support manatees all personnel associated with the project should be instructed about the potential presence of manatees, manatee speed zones, and the need to avoid collisions with and injury to manatees. All personnel should be advised that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. Additionally, personnel should be instructed not to attempt to feed or otherwise interact with the animal, although passively taking pictures or video would be acceptable.

All on-site personnel are responsible for observing water-related activities for the presence of manatee(s). We recommend the following to minimize potential impacts to manatees in areas of their potential presence:

- All work, equipment, and vessel operation should cease if a manatee is spotted within a 50-foot radius (buffer zone) of the active work area. Once the manatee has left the buffer zone on its own accord (manatees must not be herded or harassed into leaving), or after 30 minutes have passed without additional sightings of manatee(s) in the buffer zone, in-water work can resume under careful observation for manatee(s).
- If a manatee(s) is sighted in or near the project area, all vessels associated with the project should operate at “no wake/idle” speeds within the construction area and at all times while in waters where the draft of the vessel provides less than a four-foot clearance from the bottom. Vessels should follow routes of deep water whenever possible.
- If used, siltation or turbidity barriers should be properly secured, made of material in which manatees cannot become entangled, and be monitored to avoid manatee entrapment or impeding their movement.
- Temporary signs concerning manatees should be posted prior to and during all in-water project activities and removed upon completion. Each vessel involved in construction activities should display at the vessel control station or in a prominent location, visible to all employees operating the vessel, a temporary sign at least 8½ " X 11" reading language similar to the following: “CAUTION BOATERS: MANATEE AREA/ IDLE SPEED IS REQUIRED IN CONSRUCTION AREA AND WHERE THERE IS LESS THAN FOUR FOOT BOTTOM CLEARANCE WHEN MANATEE IS PRESENT”. A second temporary sign measuring 8½ " X 11" should be posted at a location prominently visible to all personnel engaged in water-related activities and should read language similar to the following: “CAUTION: MANATEE AREA/ EQUIPMENT MUST BE SHUTDOWN IMMEDIATELY IF A MANATEE COMES WITHIN 50 FEET OF OPERATION”.
- Collisions with, injury to, or sightings of manatees should be immediately reported to the Service’s Louisiana Ecological Services Office (337/291-3100) and the Louisiana Department of Wildlife and Fisheries, Natural Heritage Program (225/765-2821). Please provide the nature of the call (i.e., report of an incident, manatee sighting, etc.); time of incident/sighting; and the approximate location, including the latitude and longitude coordinates, if possible.

U.S. Army Corps of Engineers
New Orleans District
Section 408
Standard Terms and Conditions

LIMITS OF THE AUTHORIZATION

1. This permission only authorizes you, the requester, to undertake the activity described herein under the authority provided in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 USC 408). This permission does not obviate the need to obtain other federal, state, or local authorizations required by law. This permission does not grant any property rights or exclusive privileges, and you must have appropriate real estate instruments in place prior to construction and/or installation.
2. The time limit for completing the work authorized end on (5 years for the date of 408 permission). If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
3. Without prior written approval of the USACE, you must neither transfer nor assign this permission nor sublet the premises or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this permission. Failure to comply with this condition will constitute noncompliance for which the permission may be revoked immediately by USACE.
4. The requester understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or an authorized representative, said work will cause unreasonable conditions and/or obstruction of USACE project authorized design, the requester will be required upon due notice from the USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim can be made against the United States on account of any such removal or alteration.

INDEMNIFICATION AND HOLD HARMLESS

5. The United States will in no case be liable for:
 - a. Any damage or injury to the structures or work authorized by this permission that may be caused or result from future operations undertaken by the United States, and no claim or right to compensation will accrue from any damage; or
 - b. Damage claims associated with any future modification, suspension, or revocation of this permission.

6. The United States will not be responsible for damages or injuries which may arise from or be incident to the construction, maintenance, and use of the project requested by you, nor for damages to the property or injuries to your officers, agents, servants, or employees, or others who may be on your premises or project work areas of the federal project(s) rights-of-way. By accepting this permission, you hereby agree to fully defend, **indemnify** and **hold harmless** the United States and USACE from any and all such claims, subject to any limitations in law.
7. Any damage to the water resources development project or other portions of any federal project(s) resulting from your activities must be repaired at your expense.

REEVALUATION OF PERMISSION

8. The determination that the activity authorized by this permission would not impair the usefulness of the federal project and would not be injurious to the public interest was made in reliance on the information you provided.
9. This office, at its sole discretion, may reevaluate its decision to issue this permission at any time circumstances warrant, which may result in a determination that it is appropriate or necessary to modify or revoke this permission. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permission;
 - b. The information provided in support of your application for permission proves to have been inaccurate or incomplete; or
 - c. Significant new information surfaces which this office did not consider in reaching the original decision that the activity would not impair the usefulness of the water resources development project and would not be injurious to the public interest.

CONDUCT OF WORK UNDER THIS PERMISSION

10. You are responsible for implementing any requirements for mitigation, reasonable and prudent alternatives, or other conditions or requirements imposed as a result of environmental compliance.
11. Work/usage allowed under this permission must proceed in a manner that avoids interference with inspection, operation, and maintenance of the federal project.
12. In the event of any deficiency in the design or construction of the requested activity, you are solely responsible for taking remedial action to correct the deficiency.
13. The right is reserved to the USACE to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purpose, to make inspections, to operate and/or to make any other use of the

lands as may be necessary in connection with government purposes, and you will have no claim for damages on account thereof against the United States or any officer, agent or employee thereof.

14. You must provide copied of pertinent design, construction, and/or usage submittal/documents. USACE may request that survey and photographic documentation of the alteration work and the impacted project area be provided before, during, and after construction and/or installation.
15. You may be required to perform an inspection of the federal project with the USACE, prior to your use of the structure, to document existing conditions.
16. USACE shall not be responsible for the technical sufficiency of the alteration design nor for the construction and/or installation work.
17. You must submit a copy of "as-built" drawings within 60 days of completion of work showing the new work as it relates to identifiable features of the federal project.