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U.S. ARMY CORPS OF ENGINEERS

COUNCIL ON ENVIRONMENTAL QUALITY

**EMERGENCY ALTERNATIVE ARRANGEMENTS**

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**PREPARED BY:**

United States Army Corps of Engineers  
Mississippi Valley Division  
New Orleans District  
New Orleans, Louisiana

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Council on Environmental Quality (CEQ) Request for Emergency Alternative Arrangements under the National Environmental Policy Act, 40 CFR 1506.11

**Nature and Scope of the Emergency:**

On August 29, 2005, Hurricane Katrina caused major damage to the Federal and non-Federal flood control and hurricane storm damage reduction systems in Southeast Louisiana. This storm was followed by Hurricane Rita on September 24, 2005 which made landfall on the Louisiana, Texas state border, causing damage to hurricane storm damage reduction systems in southern Louisiana. Since the storms, the U.S. Army Corps of Engineers (USACE) has been working with state and local officials to restore the Federal and non-Federal flood control and hurricane and storm damage reduction projects and related works in the affected area. These efforts have been conducted mainly under the authority provided by Public Law 84-99 and, more recently, under the authority of Public Law 109-148, Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (3<sup>rd</sup> Supplemental) and Public Law 109-234, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (4<sup>th</sup> Supplemental) (project maps Appendix A). To date approximately one-third of the New Orleans population has returned to the area. Many residences and business are waiting to see positive improvements in the level of protection before returning to the area. A USACE goal of 2010 has been set for completion of much of the work that will raise the level of protection in the New Orleans area to a new standard and provide a level of security to residents and businesses that will allow and encourage them to return to the area.

**Need for Emergency Actions that require Alternative Arrangements:**

Alternative arrangements take the place of an Environmental Impact Statement for proposed actions with significant environmental effects that respond to the emergency. These proposed alternative arrangements will remain in effect until the analyses of the proposed actions outlined in the attached descriptions of the Individual Environmental Reports (IER) are completed.

Hurricanes Katrina and Rita weakened the existing storm damage reduction system in southern Louisiana. The USACE has made great progress to restore that system under the auspices of Task Force Guardian, whose charge was to repair and rehabilitate the existing system back to pre-Katrina conditions by June 1, 2006 for Jefferson, Orleans, St. Bernard, and Plaquemines Parishes. Work funded under the 3<sup>rd</sup> and 4<sup>th</sup> supplemental laws is considered imperative to reduce an imminent threat for several reasons. First, the existing system is still weakened from the back to back hurricanes. Second, the system does not meet an acceptable level of protection based upon new engineering criteria developed in the aftermath of the hurricanes. Third, the area has been devastated, physically and economically. Finally, many citizens of New Orleans are awaiting proposals and actions to lower the risk of floods and improve infrastructure to protect human health and safety before returning and rebuilding. To facilitate recovery, environmental issues must be addressed as quickly and as efficiently as possible.

USACE staff has preliminarily determined that significant impacts to the human environment could possibly occur if certain aspects of the proposed actions are built to meet USACE levee level of safety standards. Potential impacts would be primarily related to the loss of wetlands and impacts to a barrier island ecosystem.

### **Potential Impacts to the Human Environment**

The raising of the levees and floodwalls under the 4<sup>th</sup> Supplemental, construction of gated closure structures, improved protection along the IHNC, and making repairs to non-Federal levees has the potential for creating significant impacts to the human environment. To illustrate why we believe the 4<sup>th</sup> Supplemental projects may have potential impacts on the human environment we did a couple of quick investigations based upon limited information. As more data becomes known, we will be able to better determine which projects may have significant impacts if constructed.

Example 1: Because the majority of the projects Congress and the Administration authorized and funded under the 4<sup>th</sup> Supplemental already exist, alternatives are limited to enlarging the levees along the protected side, flood side, or a combination of the two for most areas of the hurricane levee system. Based upon a conservative footprint of a 1,000 foot wide levee equally divided on the flood side and protected side, we have estimated that the LPV project could impact 4,393 acres of wetlands and 5,482 acres of non-wetlands. Wetland impacts could include the destruction of bottomland hardwoods, swamps, freshwater marsh, and saltwater marsh.

The majority of the non-wetland protected side area that may be impacted is mostly developed property, so any levee enlargement along the protected side would likely involve impacts to residential structures and businesses. The 1,000 foot wide levee footprint is not specific to any one region or project. In some cases the additional right of way required to accommodate a 100-year levee may be minor while in other locations it may be significantly larger. During the alternative analysis phase, design plans will be advanced to a level where the actual impacts can be determined with a level of confidence.

Example 2: Based upon a conservative footprint of a 1,000 foot wide levee equally divided on the flood side and protected side, we have estimated that the WBV project could impact upwards of 1,328 acres of wetlands and 2,230 acres of non-wetlands. Wetland impacts could include the destruction of bottomland hardwoods and swamps. Much of the non-wetland protected side area is developed property, so any levee enlargement along the protected side would likely involve impacts to residential structures and businesses.

For both examples shown, unavoidable wetland impacts would be mitigated for as discussed in the following section. No mitigation is anticipated to be needed for the impacts to any uplands areas; however large numbers of residences and businesses may be impacted by the levee work. Some of these residences and businesses were destroyed by the flooding of the city, while others were left untouched. Private landowners would be fairly compensated (Fair Market Value), if the levee is expanded on to their property. As a standard practice for this type of work the USACE would complete a full

environmental investigation, Cultural Resource study, HTRW Phase 1 investigation along with any other investigation pertinent to the area. As stated previously no work would be completed prior to achieving compliance with all the environmental laws. Concurrence from the Louisiana State Historic Preservation Office would be required before any construction award is granted.

Engineer Regulation (ER) 200-2-2, Environmental Quality (33 CFR 230), Procedures for Implementing the National Environmental Policy Act (NEPA), paragraph 8, provides that district commanders may respond to emergency situations to prevent or reduce imminent risk of life, health, property, or severe economic losses in advance of compliance with the documentation and procedural requirements of NEPA. To date the New Orleans District Commander has issued three determinations of imminent threat (Appendix B). Paragraph 8 of the regulation states that NEPA documentation should be accomplished prior to initiation of emergency work if time constraints render this practicable; however, if appropriate, such documentation may be accomplished after completion of the emergency work. Paragraph 8 also states that, when possible, emergency actions considered major in scope with potentially significant environmental impacts shall be referred through the division commanders to HQUSACE for consultation with the CEQ about NEPA arrangements. Compliance with all non-NEPA Federal, state and local environmental statutes and regulations must be met prior to initiating construction activities.

**3<sup>rd</sup> Supplemental Authority and Funding Provided to Address the Emergency:**

No 3<sup>rd</sup> Supplemental Projects are being recommended for inclusion into the emergency alternative arrangements laid out in this document. However, a discussion of the 3<sup>rd</sup> Supplemental process and projects is warranted so that everyone has an understanding of how the environmental process for the 3<sup>rd</sup> Supplemental projects was completed and why 4<sup>th</sup> Supplemental projects require emergency alternative arrangements. The 3<sup>rd</sup> Supplemental directs the Secretary of the Army, through the Chief of Engineers to restore the flood damage reduction projects, hurricane and storm damage reduction projects, and related works by providing the level of protection for which they were designed at full Federal expense. The plan to repair, restore, and rehabilitate damaged hurricane protection projects was implemented with funds appropriated by Congress for Flood Control and Coastal Emergencies related to Hurricane Katrina in the area covered by the disaster declaration made by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, 88 Stat 143, as amended (42 U.S.C. sec. 121 et seq).

The majority of the work funded by the 3<sup>rd</sup> Supplemental relates to the repair, restoration, and rehabilitation at full Federal expense of the referenced Federal flood control and hurricane protection projects to the design level of protection on previously authorized Federal Hurricane Protection Projects. Those projects are: West Bank and Vicinity, New Orleans, Louisiana, Hurricane Protection Project (WBV); Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection Project (LPV); New Orleans to Venice, Louisiana Hurricane Protection Project (NOV); Larose to Golden Meadow, Louisiana, Hurricane Protection Project (LGM); and the Southeast Louisiana, Louisiana, Flood

Control Project (SELA). It is anticipated that approximately 104 construction contracts will be awarded by the USACE to complete the 3<sup>rd</sup> Supplemental mission.

NEPA and other environmental compliance has been completed for these projects as part of a variety of Environmental Impact Statements and Environmental Assessments that were written in the past when the projects were authorized and funded. No additional significant impacts are anticipated to occur as the result of the repair, restoration, and rehabilitation of these projects. It should be noted that some new environmental compliance investigations have been required due to project changes that occur as a result of alignment shifts, right of way expansions, need for additional borrow, etc.

The 3<sup>rd</sup> Supplemental arguably provided funding for the repair to design elevations of existing non-Federal levees in Jefferson, Orleans, St. Bernard, and Plaquemines Parishes. Damage Survey Reports were completed and two levees systems were selected for further investigation. The Grand Isle Back Levee, Jefferson Parish and the Plaquemines Parish East Bank Back Levee were selected based upon the level of damage, amount of funding available and local government requests for assistance. .

#### **4<sup>th</sup> Supplemental Authority and Funding Provided to Address the Emergency:**

The 4<sup>th</sup> Supplemental directs the Secretary of the Army, through the Chief of Engineers to raise levee and floodwalls heights and otherwise improve the existing 186 miles of levees and floodwalls for the LPV and WBV projects to provide a level of protection necessary for landowners to participate in the National Flood Insurance Program. Authorization and funds were also provided for the construction of pumps and closure structures at the 17th Street, Orleans, and London Avenue Canals, to improve the level protection at the Inner Harbor Navigational Canal. Funds were allocated to reduce the risks of storm surge and storm damage to the greater New Orleans metropolitan area by restoring the surrounding wetlands and for developing a comprehensive plan, at full Federal expense, to study deauthorization of deep draft navigation on the Mississippi River Gulf Outlet. Additional funds were provided to complete the storm proofing of non-Federal interior pump stations, replace or modify and incorporate certain non-Federal levees in Plaquemines Parish into the existing New Orleans to Venice hurricane protection system, and to complete repairs, modifications, and improvement to non-Federal levees and associated protection measures in Terrebonne Parish. It is anticipated that approximately 77 construction contracts will be awarded by the USACE to complete the 4<sup>th</sup> Supplemental mission. The USACE is proposing that this emergency alternative arrangement only be implemented for the LPV and WBV projects as they relate to the hurricane protection authorizations (100 – year levee and floodwall, selective armoring, IHNC closure structures, Outfall closure structures/pump stations) that were funded under the 4<sup>th</sup> Supplemental. All other projects (MRGO Deep Draft Study, Plaquemines Non-Federal Levee, Terrebonne Non-Federal Levee, Wetlands Restorations Projects, etc) would follow the normal USACE NEPA processes.

The planned work will be implemented with funds appropriated by Congress for Flood Control and Coastal Emergencies related to Hurricane Katrina in the area covered by the disaster declaration made by the President under the Robert T. Stafford Disaster Relief

and Emergency Assistance Act, P.L. 93-288, 88 Stat 143, as amended (42 U.S.C. sec. 121 et seq).

Significant impacts to the human environment could occur as a result of some of these proposed actions. Direct impacts to wetlands, residences, and businesses may occur as a result. Loss of homes and businesses due to larger levee and floodwall footprints is possible. At this time no NEPA investigations or any other environmental compliance has been completed for the work funded by the 4<sup>th</sup> Supplemental.

**Duration:**

Emergency flood control and hurricane storm damage reduction proposed activities may be subject to alternative arrangements by deferring compliance with established NEPA documentation requirements, if it is determined that a risk to life, health, property, or severe economic loss is imminent, and that the proposed actions will have significant effects.

Imminent risk to life, health or property can be defined as subjective and statistically supported via evaluation of how quickly a threat scenario can develop; how likely that threat is to develop in a given geographical location; and how likely it is that the threat will produce catastrophic consequences to life and property. Implicit in the timing aspect could be considerations of time or season or known cyclical activities.

Historically, the normal process followed by the USACE has been to complete environmental investigations prior to a project being authorized and funded by Congress and the Administration. This process has typically required a year to complete environmental assessments and approximately four years for an Environmental Impact Statement (EIS). Prior to any feasibility studies, funding and authorization was granted under the 4<sup>th</sup> Supplemental which, has made environmental compliance a primary factor in developing project schedules for the authorized work. The USACE environmental team in New Orleans looked at the authorized work and came to the conclusion that four to six EISs would be required to adequately evaluate the projects authorized by the Administration. Aggressive schedules were developed that would allow for EISs to be completed in 14 months once sufficient design information was available to evaluate the reasonable alternatives. Issues with completing the EISs include a lack of design information due to ongoing modeling efforts required to establish a new FEMA 100-year flood elevation for landowners to participate in the National Flood Insurance Program and the authorization to construct several new major structures such as, three new closure structures in navigable waterways and three new closure structures/pump stations at outfall canals in Orleans Parish. The construction of the new projects has the potential to be controversial, require extensive environmental investigations, and could possibly require long design times. A supplemental EIS (Lake Pontchartrain and Vicinity Hurricane Protection Project) completed under expedited schedules that included the new projects discussed above, would impact the construction schedule for other segments of the project that have relatively minor issues.

If the USACE were to follow a systematic environmental approach to investigating all the work authorized under the 4<sup>th</sup> Supplemental projects, a single EIS would be completed that integrated all the impacts and evaluation together. This would tie all the 4<sup>th</sup> Supplemental projects to the completion date of the Record of Decision (ROD), as such, no work on any of the projects could start until the ROD was executed.

Because this work is deemed an emergency by the USACE and the completion of the work is critical to the future of New Orleans, an alternative arrangement process to NEPA was developed that would allow for proposed actions to be evaluated and decisions to be made on how to proceed with portions of the overall system that have independent utility for reducing the risk of flooding in particular areas prior to completing a system-wide analysis. This allows for a system wide environmental study to be completed, while still moving segments ahead to construction at a pace fitting the nature of the emergency.

Several criteria cited in the above definition are important in determining if there is an imminent threat to the New Orleans Metropolitan area. The first is “subjective” which allows a decision to be based on sound reasoning. The second and third are “statistically supported evaluation” and “how likely that threat is to develop in a given geographical location.” During the past five hurricane seasons, Southeast Louisiana has had 15 tropical storms or hurricanes pass within 300 miles of the city (three in 2002, two in 2003, three in 2004, five in 2005, and two in 2006). This represents an average of over three storms per hurricane season. The National Oceanic and Atmospheric Administration (NOAA) National Hurricane Center has reported for the past several years that we have entered a period of more active hurricane seasons. The most recent outlook (issued December 8, 2006 by the Colorado State University Hurricane Center) calls for an active 2007 season, with 14 named storms, seven hurricanes of which three may become major hurricanes. The Center further predicts that there is a 40 percent chance of a Category 3-5 hurricane making landfall in the Gulf of Mexico during the 2007 hurricane season. This is an increase from last year’s prediction of a 30 percent chance of a major hurricane making landfall in the Gulf of Mexico.

The next key phrase is “how likely the threat will produce catastrophic consequences to life and improved property”. Assessment of the state of hurricane and storm damage reduction system in the New Orleans metropolitan area following Hurricane Katrina revealed that the existing level of protection, even for areas not damaged by Hurricane Katrina, was generally less than that associated with the one percent chance of flooding for a given year (the “100-year level of protection”). The absence of such protection would normally result in the system being deemed “not certified” for purposes of the national flood insurance program. However, in the case of the New Orleans metro area following Hurricane Katrina, the Federal Emergency Management Agency (FEMA) determined that it was appropriate to consider the system as “certified” for purposes of the national flood insurance program given the commitment of the Administration and Congress to expeditiously restore the system to a level consistent with “100-year protection”.

This determination by FEMA is critical to the overall prospects for the restoration and redevelopment of the New Orleans area economy. In the absence of certified hurricane protection works, flood insurance would not be available to area residents and commercial interests at an affordable level. As a consequence, area redevelopment would be stifled.

Significant delays in completing the work required to achieve protection from the one percent chance storm event would expose the New Orleans metropolitan area to two threats. The first of these threats would be additional exposure to the one percent chance storm event. Damages to the metropolitan area from such an event, reflecting post-Katrina conditions, are estimated to be approximately \$51 billion exclusive of infrastructure damages. The second threat, and arguably one of an equal or perhaps even greater level than that associated with additional exposure to the 100-year storm event, is the severe economic condition the area is in. It is critical to the redevelopment of the area that the people feel secure with the level of protection being built.

The last phrase of significance is “known cyclical activities.” As every day passes as we move toward another hurricane season, the threat to life and property increases without adequate storm surge protection. In this post Katrina world, updated engineering data shows that much of the existing hurricane protection system only offers a 25 –year level of risk reduction for most of the New Orleans area. As many as 60,000 FEMA trailers are still being utilized in the metropolitan area, thus people and property are more susceptible to storm damages than they would be if living in a more permanent residence. Most of Jefferson and St. Charles Parishes and some parts of Orleans and St. Bernard Parishes have been repopulated by residents returning to the area after completing repairs to their structures.

### **Stakeholder Coordination**

Coordination with Federal and State resource agencies is ongoing as we move forward with the implementation of this mission. Numerous meetings, phone calls, e-mails, etc. have occurred regarding the 3<sup>rd</sup> and 4<sup>th</sup> Supplemental projects with the Federal and state resource agencies. The U.S. Fish and Wildlife Service, National Marine Fisheries Service (NOAA), and the Environmental Protection Agency have reviewed the USACE proposal for Emergency Alternative Arrangements and have agreed to the concept of implementing the arrangements for the hurricane protection related to 4<sup>th</sup> Supplemental projects. Agency comments have been incorporated into this document. The USACE alternative arrangements requires that environmental compliance for all environmental laws (Threatened & Endangered Species Act, National Historic Preservation Act, Coastal Zone Management Act, etc) be completed prior to the award of any construction contracts or the acquisition of property. Federal and state resource agencies regulating non-NEPA related laws were not actively involved in the review; however the agencies have been briefed on the position the USACE is taking in regards to this matter.

Project staffs are routinely engaged in a variety of public meetings, local governmental meetings, media interviews, etc., to ensure local stakeholders know what is going on



regarding these projects. Stakeholder involvement during analysis of the proposed actions and reasonable alternatives is critical to good decision making.

### **Potential Mitigation**

While every effort will be made to avoid and minimize the impacts that will result from the proposed actions, it is entirely possible that some unavoidable significant impacts will occur as a result of the USACE actions as we carry out the mission assigned to us.

Impacts to freshwater and saltwater marshes, swamps, bottom land hardwoods, upland forests, residences and business are likely to occur. Mitigation for unavoidable impacts would be completed in areas close to where the impacts occurred, as is USACE policy. Mitigation plans would be developed early in the process in cooperation with Federal, state agencies, and public stakeholders.

### **Cumulative Impacts**

The 3<sup>rd</sup> and 4<sup>th</sup> Supplementals have authorized and funded an unprecedented amount of work for the New Orleans metropolitan area. The potential cumulative impacts as well as the potential for additional Federal funding for a Category 5 hurricane protection system are one of the highest priority tasks to be evaluated during the design phase for this proposed work. Under the proposed alternative arrangement process, cumulative impacts would be evaluated by an interagency group of Federal and state agencies along with interested stakeholders. The process would be to evaluate the cumulative impacts for each proposed action as a part of the IER, with each new IER building off previous reports, adding any new information that becomes available. Ultimately, a Comprehensive Environmental Document would be written that would combine all the environmental documents into a comprehensive evaluation of the past, present, and future cumulative impacts of the proposed actions and tie together the mitigation plans developed and being implemented.

# Proposed Emergency Alternative Arrangements:

It is the intent of the U.S. Army Corps of Engineers (USACE), Mississippi Valley Division, New Orleans District (CEMVN) to follow a systematic planning effort that investigates the proposed actions funded and authorized under the authority of Public Law 109-148, Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (3rd Supplemental) and Public Law 109-234, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (4th Supplemental). These Proposed Alternative Arrangements have been coordinated with the U.S. Fish and Wildlife Service, NOAA National Marine Fisheries Service, Environmental Protection Agency, Advisory Council on Historic Preservation, and DHS/Federal Emergency Management Agency, Louisiana Department of Wildlife and Fisheries, Louisiana Department of Natural Resources, and Louisiana Department of Environmental Quality. Agencies are supportive of this process and recognize that it is critical that the repair and improvement of existing hurricane protection projects be completed in a timely manner. The alternative NEPA arrangements proposed by USACE will not result in a lesser quality or level of environmental detail than currently required by CEQ's NEPA regulations. The difference between the proposed alternative arrangements and compliance with the typical NEPA process relates to the timing of the analysis of the individual components of actions enhancing flood protection for the greater New Orleans area in the Individual Environmental Reports (IER) and the manner in which cumulative effects will be analyzed. The cumulative effects would be evaluated as a part of each IER, with each new IER building off previous reports, adding any new information that becomes available. Ultimately, the full cumulative effects analysis will be presented in a Comprehensive Environmental Document (CED).

In order to meet the needs of the people of Southern Louisiana in a timely manner that is appropriate to the level of imminent threat, CEMVN proposes to achieve compliance with the National Environmental Policy Act (NEPA) by using the following Emergency Alternative Arrangements.

1. CEMVN will place a public notice of the approved NEPA Alternative Arrangements in the Federal Register along with a description of the proposed actions that would be covered in the Individual Environmental Reports (IER) and the Comprehensive Environmental Document (CED). Additionally, CEMVN will place a copy of the public notice in local newspapers and in a newspaper with national distribution.

## 2. Scoping Process:

A: CEMVN will host a series of public scoping meetings in the New Orleans metropolitan area to gather public comments on the proposed actions. There will be a thirty-day comment period following the public meetings. Additional scoping meetings may be conducted in other locales in the United States if deemed necessary.

B: CEMVN will place an ad in local newspapers and in a newspaper with national distribution explaining each proposed action that will be analyzed in the IERs and asking

for written comments to be mailed, faxed, or e-mailed to a point of contact at CEMVN. The information for each proposed action will also be mailed and/mailed to all interested stakeholders, including state and federal resource agencies. Comments will be compiled and e-mailed to appropriate Federal and state agencies for coordination. There will be a thirty-day comment period each time an ad is placed.

C: Web Site - CEMVN will establish and maintain a web page that provides details for each IER and any other proposed actions being investigated or projects that are being constructed in the area. The web page will contain a description of the Alternative Arrangements CEMVN is following to achieve NEPA compliance. The web site will contain updated information on each USACE proposed action that is being proposed and constructed. Information will be shared with the US Geological Survey GIS for the Gulf web site to allow for easier access by the interagency teams and interested stakeholders. The GIS for the Gulf web site is a collaborative activity between the US Geological Survey, the Department of Homeland Security, and the National Geospatial-Intelligence Agency, in response to hurricanes Katrina and Rita.

D: Interagency environmental teams will be established for each IER. Federal and state agency, local governmental, and tribal staff will play an integral part in the project planning and alternative analysis. Interagency teams would be integrated with CEMVN Project Delivery Teams to assist in the planning of each proposed actions and to describe the potential direct and indirect impacts of each proposed action that will be used in the development of any needed mitigation plans. Team members will be provided with new information concerning the proposed action as quickly as possible in order to allow for the expedient review and analysis of each proposed action. Teams would rely heavily upon hydrologic models and the best engineering judgment of CEMVN Engineering Divisions staff to develop plans and appropriate mitigation.

E: CEMVN will hold monthly meetings with agencies to keep them informed of overall developments and allow CEMVN to gain agency feedback. All proposed work would be closely coordinated with the ongoing Federal and state efforts to design a coastal restoration and protection plan.

F: CEMVN will host monthly public meetings to keep the stakeholders advised of IER developments. Public will be able to provide verbal comment during the meetings and written comments after each meeting. Meetings will be advertised at least one week prior to meeting. Meetings times and locations will be selected to accommodate public availability.

3. CEMVN will actively involve the Federal and state agencies and local governmental, tribal, and the public in mitigation planning for unavoidable impacts at the onset of the planning process. Quantitative analysis of the acreages, by habitat type that is determined to be potentially impacted directly or indirectly by each reasonable alternative will be prepared. Proposed action and mitigation plans will be based upon existing methodologies utilized for water resource planning. It is CEMVN's intent to implement compensatory mitigation as early as possible in the process once unavoidable impacts are

determined. All mitigation activities will be consistent with standards and polices established in the Clean Water Act Section 404 and the appropriate USACE polices and regulations governing this activity.

4. Prior to any decision to proceed, CEMVN will complete an IER that documents the process followed by the USACE, the preferred and reasonable alternative identified, the alternatives analysis that has been performed, an analysis of the direct and indirect impacts of the proposed action, an initial description of the cumulative impacts of this proposal, an initial mitigation plan, and any interim decisions made by the USACE. Each IER would identify areas where data was incomplete, unavailable, and areas of potential controversy. Alternatives analysis will be based upon a geographic segment of the area that is large enough to encompass any impacts directly and indirectly attributable to the proposed action.

5. The IER's will be posted on the USACE CEMVN Alternative NEPA Arrangement web page for a 30-day public review and comment period. A notice of availability will be mailed/e-mailed out to interested parties advising them of the availability of the IER for review in addition to placing a notice in newspapers and other media and sharing the IER's during the monthly stakeholder meetings.

6. Public meetings would be held specific to each IER if requested by the stakeholders involved in the review process. An IER addendum responding to comments received during the public review and comment period would be completed and published for a 30-day public review period. Notice will be provided in newspapers and other media, posted on web site, and a notice of availability will mailed/e-mailed out to interested parties.

No sooner than 30 days after publication of the IER addendum, or an IER in the event no comments or requests for meetings are received during the public review and comment period, the District Commander will issue a decision describing how USACE will proceed.

7. At a time when sufficient information is available CEMVN will produce a draft comprehensive environmental document (CED) that will address the work completed and the work remaining to be completed. The purpose of the draft CED will be to document the work done by the USACE on a system wide scale and analyze the relationship of the proposed actions covered in the IERs with other reasonably foreseeable projects. The CED will incorporate the IERs by reference. The draft CED will include a discussion of how the individual IER's are integrated into a systematic planning effort, provide an analysis of the overall cumulative impacts, analyze a final mitigation plan, and identify any new information associated with long term operations and maintenance of the approved actions analyzed in the IERs. Draft CED will include an analysis of the any indirect impacts due to altered hydrology or induced development that resulted from the actions taken by the USACE. Additionally, the draft CED would contain updated information for any IER, or IER addendum that had incomplete or unavailable data at the time the District Commander made a decision on how to proceed.

8. The draft CED will be posted on the USACE web page for a 60-day public review period. A notice of availability will be posted on the web site, mailed/e-mailed out to interested parties advising them of the availability of the draft CED for review in addition to placing a notice in newspapers and other media. Public meetings would be held during the review period if requested by the stakeholders involved in the process.

9. Upon completion of the 60-day review period all comments will be appropriately addressed in a final CED. The final CED will be published for a 30-day public review period. Notice will be provided in newspapers and other media, posted on web site, and a notice of availability will mailed/e-mailed out to interested parties.

No sooner than 30-days after publication of the final CED, the District Commander will issue a decision describing how CEMVN will proceed. Decision will be made available to stakeholders by posting to web site, mailing/e-mailing notices of availability, ads in newspapers and news releases to other media such as radio and television stations.

The USACE will continue to obtain concurrence, permits, and any other authorizations necessary to be in compliance with all other environmental laws prior to the initiation of any proposed actions. This includes but is not limited to complying with Section 7 of the Endangered Species Act, the National Historic Preservation Act, the Clean Water Act, the Coastal Zone Management Act, and the Magnuson-Stevens Act.

Prepared by CEMVN Environmental Branch staff. POC is Gib Owen CEMVN  
Environmental Branch 504 862-1337 or via e-mail at  
mvnenvironmental@mvn02.usace.army.mil  
Mailing address for Mr. Owen is:  
U.S Army Corps of Engineers  
P.O. Box 60267  
PM-RS, Rm: 363  
New Orleans, Louisiana 70160