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State of Louisiana  
DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF COASTAL RESTORATION AND MANAGEMENT

March 31, 2010

Dolan Dunn  
Chief, Planning, Environmental and Regulatory Division  
Dept. of the Army  
Galveston District, Corps of Engineers  
P. O. Box 1229  
Galveston, TX 77563-1229

RE: **C20090667**, Coastal Zone Consistency  
Galveston District, Corps of Engineers  
Direct Federal Action  
Feasibility Study and Draft Environmental Impact Statement for the Sabine-Neches Waterway Channel  
Improvement Project, **Cameron Parish, Louisiana**

Dear Mr. Dunn:

The above referenced project has been reviewed for consistency with the approved Louisiana Coastal Resource Program (LCRP) as required by Section 307 of the Coastal Zone Management Act of 1972, as amended. This office finds that the project, as proposed in the application, is conditionally consistent with the LCRP.

Pursuant to NOAA regulations on federal consistency at 15 CFR 930.4(a)(1), a conditional consistency concurrence must include the conditions which must be satisfied; an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies.

**Explanation of necessity:**

The Louisiana Department of Natural Resources (LDNR) Office of Coastal Management (OCM) has concluded, based on staff review and comments from the Louisiana Office of Coastal Protection and Restoration, the Louisiana Department of Wildlife and Fisheries, and other agencies, that the Draft Feasibility Study and Environmental Impact Statement for the Sabine-Neches Waterway Channel Improvement project is generally consistent with the LCRP provided that the conditions described herein are met. As outlined in our comment letter of March 12, 2010, the project as described lacks many significant details as to design features and locations, potential impacts, and the means by which these impacts will be avoided, reduced, minimized, and compensated for. This would include, but not be limited to, the topics of storm surge, bar channel deepening, salinity, borrow from Sabine Lake, mitigation plans and adequacy, and pipeline relocation. Further, the

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adequacy of completed and planned modeling of potential salinity changes, storm surge, and other impacts is of significant concern, and must be conducted in a way in which this State can have full confidence in the analytical results. Please note in particular that your response letter, dated March 19, 2010, does not constitute an adequate resolution to the issues described.

**Conditions:**

In order to be consistent, to the maximum extent practicable with the LCRP, the Corps of Engineers-Galveston District must prepare an additional consistency determination, which will be submitted to LDNR pursuant to 15 CFR 930 Subpart C, when this project has reached a point in the planning or design process where all project elements can be described in detail, but modifications may still be made if necessary to achieve full consistency with the LCRP. This will be no later than the time at which the draft Contract Plans and Specifications are circulated for internal Corps review. This subsequent consistency determination will include the draft Plans and Specifications as well as detailed information sufficient for the evaluation of all proposed actions for consistency with the LCRP and the Master Plan.

**Enforceable policies:**

Louisiana's State and Local Coastal Resources Management Act (SLCRMA) and the Louisiana Administrative Code (LAC) address the requirements for information necessary for the review of consistency determinations in several places. Relevant enforceable policies may be found in Coastal Use Guidelines in the Louisiana Administrative Code Title 43, Part 1:

**§701 F** Information regarding the following general factors shall be utilized by the permitting authority in evaluating whether the proposed use is in compliance with the guidelines:

1. type, nature, and location of use;
2. elevation, soil, and water conditions and flood and storm hazard characteristics of site;
3. techniques and materials used in construction, operation, and maintenance of use;
4. existing drainage patterns and water regimes of surrounding area including flow, circulation, quality, quantity, and salinity; and impacts on them;
5. availability of feasible alternative sites or methods of implementing the use;
6. designation of the area for certain uses as part of a local program;
7. economic need for use and extent of impacts of use on economy of locality;
8. extent of resulting public and private benefits;
9. extent of coastal water dependency of the use;
10. existence of necessary infrastructure to support the use and public costs resulting from use;
11. extent of impacts on existing and traditional uses of the area and on future uses for which the area is suited;
12. proximity to and extent of impacts on important natural features such as beaches, barrier islands, tidal passes, wildlife and aquatic habitats, and forest lands;

13. the extent to which regional, state, and national interests are served including the national interest in resources and the siting of facilities in the coastal zone as identified in the coastal resources program;
14. proximity to, and extent of impacts on, special areas, particular areas, or other areas of particular concern of the state program or local programs;
15. likelihood of, and extent of impacts of, resulting secondary impacts and cumulative impacts;
16. proximity to and extent of impacts on public lands or works, or historic, recreational, or cultural resources;
17. extent of impacts on navigation, fishing, public access, and recreational opportunities;
18. extent of compatibility with natural and cultural setting;
19. extent of long term benefits or adverse impacts.

**G.** It is the policy of the coastal resources program to avoid the following adverse impacts. To this end, all uses and activities shall be planned, sited, designed, constructed, operated, and maintained to avoid to the maximum extent practicable significant:

2. adverse economic impacts on the locality of the use and affected governmental bodies;
4. alterations in the natural concentration of oxygen in coastal waters;
5. destruction or adverse alterations of streams, wetland, tidal passes, inshore waters and waterbottoms, beaches, dunes, barrier islands, and other natural biologically valuable areas or protective coastal features;
7. alterations of the natural temperature regime of coastal waters;
8. detrimental changes in existing salinity regimes;
10. adverse effects of cumulative impacts;
11. detrimental discharges of suspended solids into coastal waters, including turbidity resulting from dredging;
15. fostering of detrimental secondary impacts in undisturbed or biologically highly productive wetland areas;
16. adverse alteration or destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishery breeding or nursery areas, designated wildlife management or sanctuary areas, or forestlands;
17. adverse alteration or destruction of public parks, shoreline access points, public works, designated recreation areas, scenic rivers, or other areas of public use and concern;
18. adverse disruptions of coastal wildlife and fishery migratory patterns;
19. land loss, erosion, and subsidence;
20. increases in the potential for flood, hurricane and other storm damage, or increases in the likelihood that damage will occur from such hazards;

21. reduction in the long term biological productivity of the coastal ecosystem.

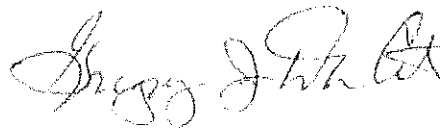
NOAA Regulations at 15 CFR 930.4(a)(2) state that the Federal agency shall modify its project proposal pursuant to the State agency's conditions. The Federal agency shall immediately notify the State agency if the State agency's conditions are not acceptable. Section 930.4(b) states that, if the requirements of §930.4(a)(1) through (3) are not met, all parties shall treat the State agency's conditional concurrence as an objection pursuant to §930 Subpart C.

Finally, pursuant to §930.63(e), your agency has the opportunity to appeal this conditional concurrence/objection to the Secretary of Commerce within 30 days after receipt of this conditional concurrence/objection.

OCM appreciates the opportunities provided by the Galveston District to review this important project. OCM is fully aware of the importance of navigation to this state and the nation and is committed to working together to enable the project to be completed in a manner which does not adversely affect the coastal resources of the state. We anticipate that our participation in future work by the Interagency Coordination Team (ICT) will identify those specific issues which will require detailed assessment by the Corps prior to our final review for consistency with the LCRP.

If you should have any questions on this matter, please contact me at (225) 342-5052.

Sincerely yours,



Gregory J. DuCote  
Administrator  
Interagency Affairs/Field Services Division

GJD/JDH/bgm

cc: David Frugé, OCPR  
Kyle Balkum, LDWF  
Dave Butler, LDWF  
Darryl Clark, USFWS  
Janelle Stokes, COE, Galveston

Rickey Brouillette, OCPR  
Keith Lovell, OCM  
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