

Association of Levee Boards of Louisiana

NEW ORLEANS DISTRICT SECTION 408 UPDATE

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TOPICS OF DISCUSSION

- Section 408s
- Complex Section 408s
- Revolutionizing USACE Civil Works
- Bipartisan Budget Act of 2018 (BBA 18)
- Compensatory Mitigation Needs
- Water Resources Development Act of 2018



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SECTION 408s

- Allows the Secretary of the Army to grant permission to alter public works projects
- The purpose of a Section 408 review is to ensure:
 - That the Congressionally-authorized benefits of a USACE project are not undermined by an alteration made by others
 - The alteration is not injurious to the public interest (e.g., flood risk management, coastal storm damage reduction, navigation).



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BENEFITS OF SECTION 408

- Allows local interests to alter existing projects without Congressional reauthorization
- Provides consistent approach to evaluate/document alterations
- Ensures projects continue to deliver authorized public benefits
- Ensures compatibility of new infrastructure with existing projects
- Ensures alterations do not have unintended negative impacts to the public



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STREAMLINING SECTION 408s

Guidance (EC 1165-2-220) updated 10 Sep 18 to streamline and clarify basic Section 408 requirements

- Delegates all decisions from HQ
- Refines activities that require Section 408s
- Process and Timelines
- Synchronization of Regulatory and 408s Programs
- Eliminates the 60% minimum design requirement



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DELEGATION OF DECISIONS

- Decision for the following Section 408 requests reside with the Division Commander:
 - Requires a Safety Assurance Review (SAR)
 - For the installation of hydropower facilities.
 - If the NFS will seek Section 221 credit
 - Affects an on-going USACE study
 - Changes how the USACE project will meet its authorized purpose
 - If NFS of proposed navigation alterations will seek federal assumption of maintenance under Section 204(f)
- Decisions for all other Section 408s reside with the District Commander
 - District Commander may further delegate authority to designees
- HQUSACE, Division and District Commanders retain have discretion to elevate decision-making authority based on unique or special circumstances



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ACTIONS THAT DON'T REQUIRE 408s ⁷

- EC refined applicability of Section 408 process
 - 408 not needed for NFS's O&M and repair activities
 - EC limits applicability of 408s in navigational servitude
 - 408 not needed if proposed activity occurs entirely on USACE real property and has Report of Availability or is part of USACE Project Master Plan



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OVERALL PROCESS AND TIMELINES

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Options

Categorical Permission

Single Phase
(one-time submittal)

Multi-Phase
(milestone submittals)

Basic Steps

Step 1: Completeness Determination
(30 days)

Step 2: USACE Review and Decision
(90 days*)

Step 3: Final Notification
(must be done within same 90 days*)

Step 4: Construction Oversight

*If decision goes beyond 120 days, Congressional reporting required



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SYNCHRONIZATION OF REGULATORY AND 408 PROGRAMS

Director of Civil Works 17 Aug 18 Memo outlined a three-phased plan to synchronize Regulatory and 408s Programs

Phase I

- Establishing a single point of contact for permitting
- One USACE Decision
- Linking Regulatory and 408 Programs databases at HQ level
- Developing District SOPs
- To be completed 2ndQ of FY2019

Phase II

- Initiate One Door to the Corps Permitting
- To be completed by 4thQ of FY2019

Phase III

- Assessment of Synchronization Measures
- To be completed by 4thQ of FY2020



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MVN's STREAMLINING EFFORTS

- Procedural Review Plan (27 Jun 16)
- Programmatic Environmental Assessment (3 Nov 17)
- Categorical Permissions (1 Oct 18)
- Implemented a Permits/Permissions Status Hotline (1-800-352-3412)
- Established One Decision Authority for Regulatory and Section 408



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STATUS OF MVN SECTION 408s

1,177 permit requests submitted to MVN this year

- 1,125 resulted in “Letters of No Objection” (LNOs)
 - Levee district permits
 - Waivers for work within 1,500’ of a levee

In accordance with new EC:

- 52 were deemed Section 408 permission requests
 - 25 of which were issued permissions
 - 27 are currently under review
- **Pre-application meetings remain paramount for efficiently expediting 408 decision making**



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EO 13807 AND FAST-41

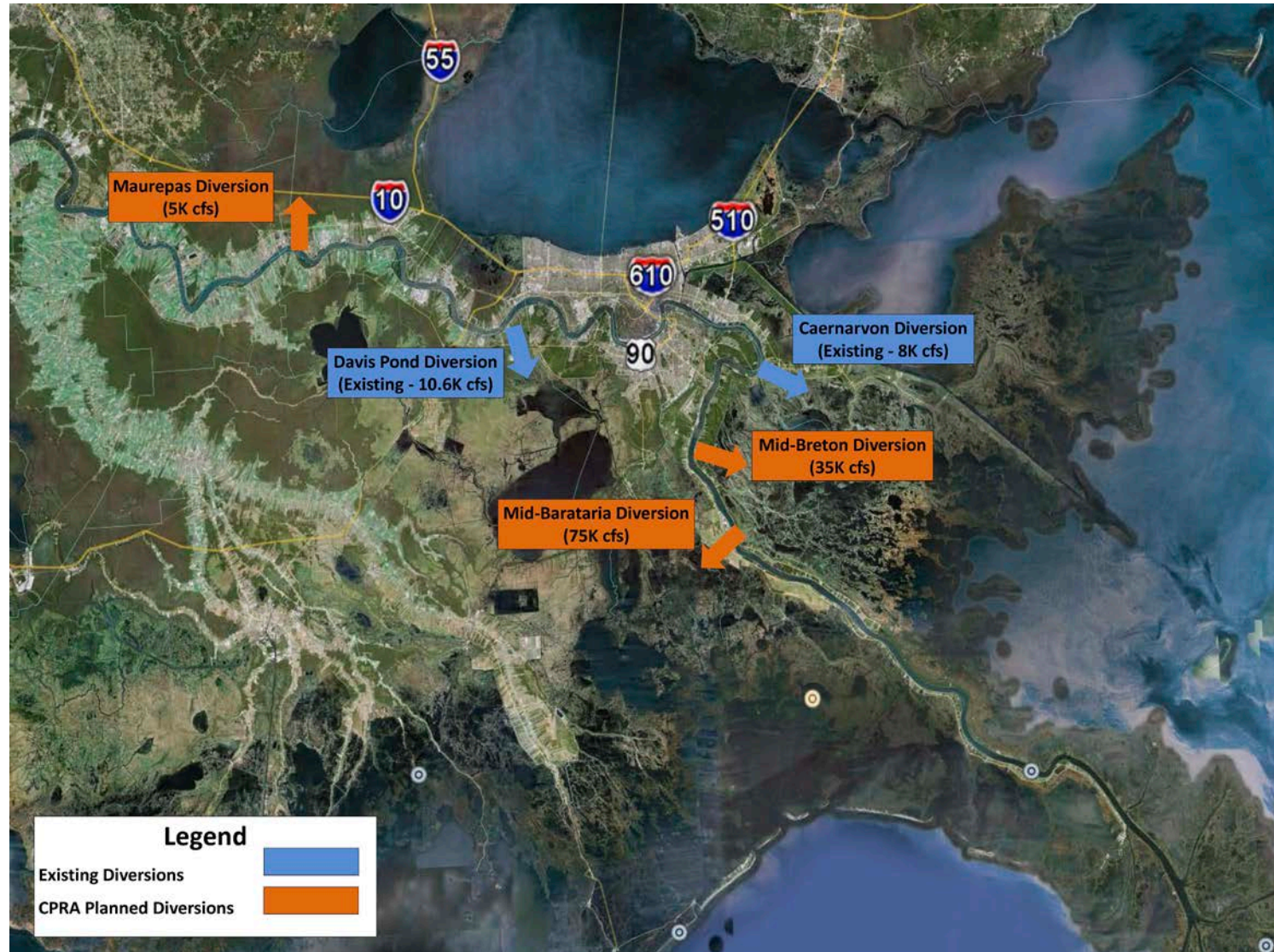
- Executive Order 13807 (dated 15 Aug 17)
 - 2-year goal for environmental reviews and decision making
 - One Federal Decision
 - Active collaboration amongst Federal agencies
- Title 41 of Fixing America's Surface Transportation Act (FAST-41) (dated 4 Dec 15; OMB/CEQ Guidance issued 13 Jan 17)
 - Increase timeliness, efficiency and transparency of Federal permit decision making
 - Standardizes interagency consultation and coordination
 - Establishes Federal Permitting Improvement Steering Council
 - Codifies use of Permitting Dashboard



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MISSISSIPPI RIVER DIVERSIONS



USACE UNDER SCRUTINY

- USACE is a reliable world-class Federal engineering organization
 - However, our reputation as such is at risk
- USACE can/must do better on delivering projects
- USACE leadership has heard the frustration
- Revolutionizing USACE
 - All USACE leaders have been challenged to expand their critical/creative thinking of how to deliver
 - Better synchronizing HQUSACE functions to support Division and District project delivery
 - Need to be delivery oriented, not process oriented



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REVOLUTIONIZING USACE CIVIL WORKS

- Accelerating project delivery
 - Establish exigent mindset to execute
 - Execution of projects by NFS
 - Innovation
 - Streamline acquisition processes
 - Risk informed decision making
 - Delegation of authorities



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REVOLUTIONIZING USACE CIVIL WORKS

- Transform project financing and budgeting
 - Alternative financing tools
 - Increased funding flexibility
- Improve permitting and regulatory reform
 - Environmental reviews, permits, and permissions
 - Mitigation
 - Regulatory reform



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WHY REVOLUTIONIZE USACE

We can do better with our delivery

- Reduce the amount of time required to deliver projects
 - Focus on delivery instead of process
- Reduce uncertainty in the permitting process
- Develop new multi-year approach for budgeting
 - Address past/current funding challenges
- The Bipartisan Budget Act of 2018 provides a great opportunity to drive change



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BIPARTISAN BUDGET ACT of 2018 (BBA 18)

USACE FUNDING: \$17.3B

- **Investigations - \$135M**
 - \$75M for areas affected by major storms
- **Construction - \$15B**
 - \$10.4B for areas affected by major storms
 - \$4.5 B for areas NOT affected by major storms
 - \$50M for CAP
- **MR&T - \$770M**
 - \$370M in repairs since the last 2016 Flood Events
 - \$400M for currently authorized construction of flood & storm damage reduction projects
- **O&M Dredging - \$608M**
- **FCCE - \$810M**



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BIPARTISAN BUDGET ACT OF 2018

CONSTRUCTION SUPPLEMENTAL FUNDING

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Received full funding for construction of 5 risk reduction projects



Comite Diversion **\$340M**



East Baton Rouge Flood Control **\$255M**



West Shore Lake Pontchartrain **\$760M**



Carrollton Floodwall **\$15-30M**

Grand Isle **\$15M**

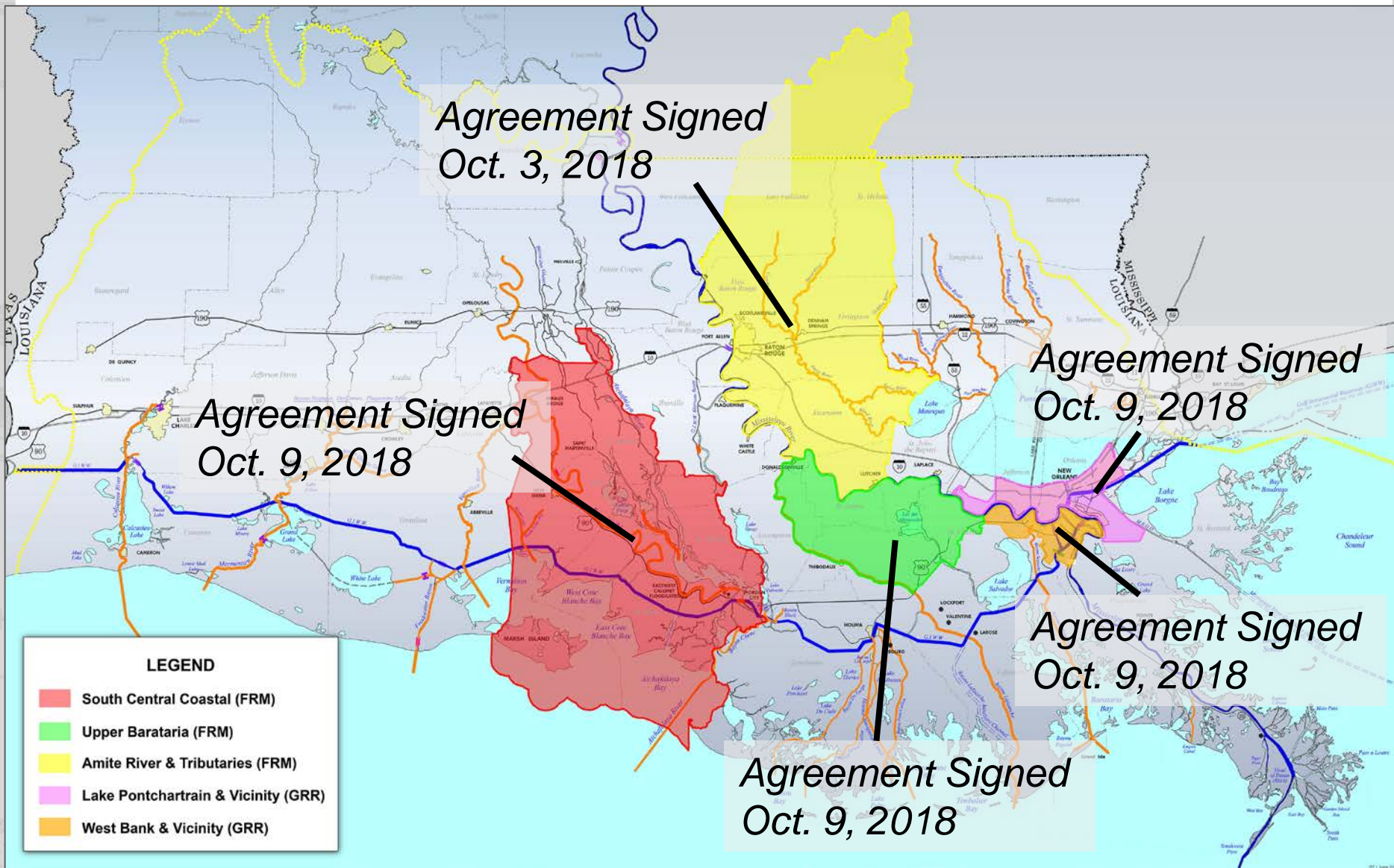


- **\$1.388B** in long-term flood damage risk reduction
- **\$58.2M** for Mississippi River and Tributaries levee work

BIPARTISAN BUDGET ACT OF 2018

INVESTIGATION SUPPLEMENTAL FUNDING

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BBA 18 INDUSTRY DAY

Held November 16, 2018, in Baton Rouge

- Attendance:
 - 400 in-person
 - 1,200 live-streamed

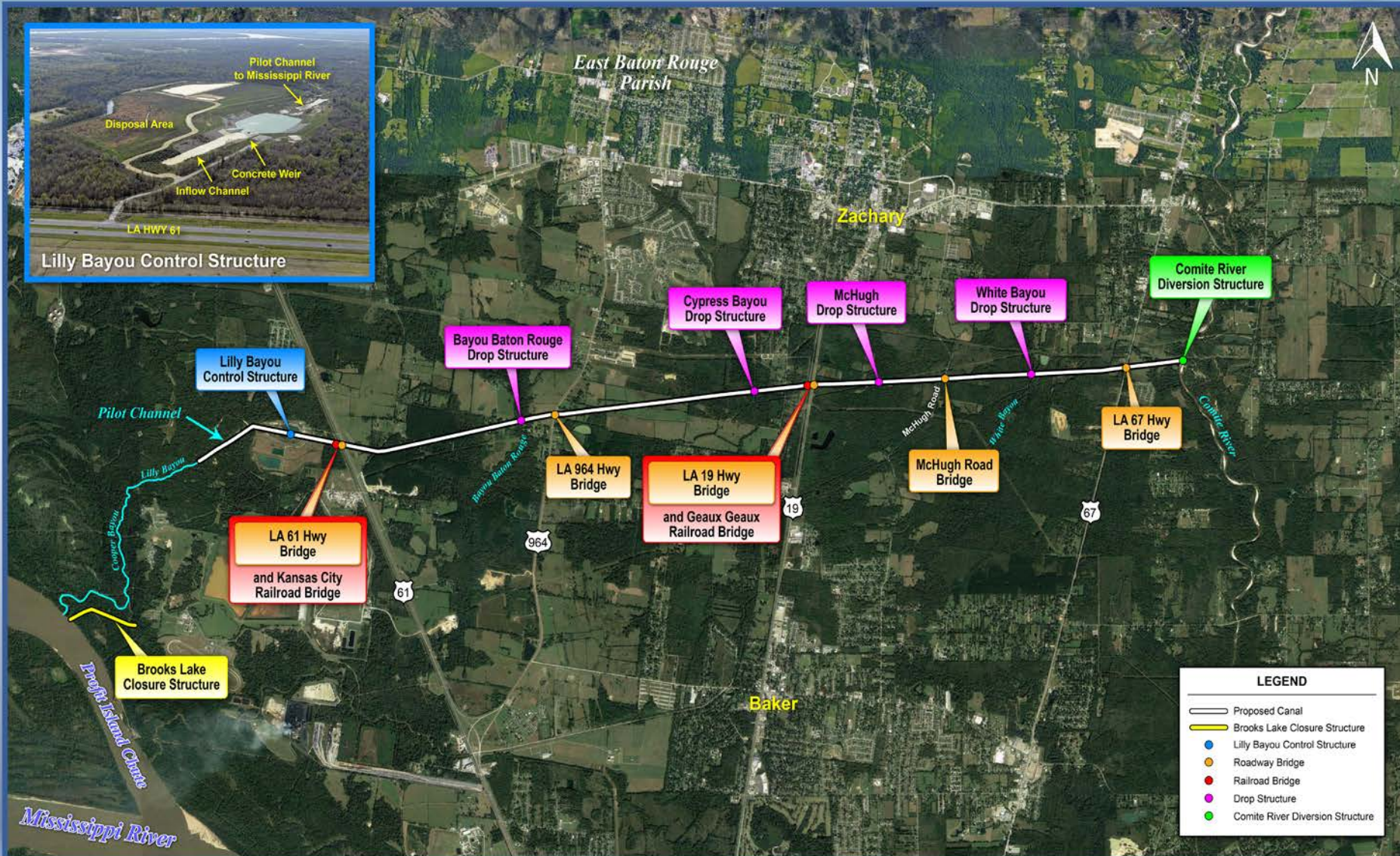


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Comite River Diversion Project



COMITE RIVER DIVERSION CURRENT FOCUS

MVN and local sponsor conduct a site visit to assess proposed BLH mitigation site (Oct 17, 2018)



MVN and LaDOT provide Louisiana State Task Force on the Comite River Diversion update of Comite River Diversion Project (Nov 7, 2018)



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WEST SHORE LAKE PONTCHARTRAIN CURRENT FOCUS



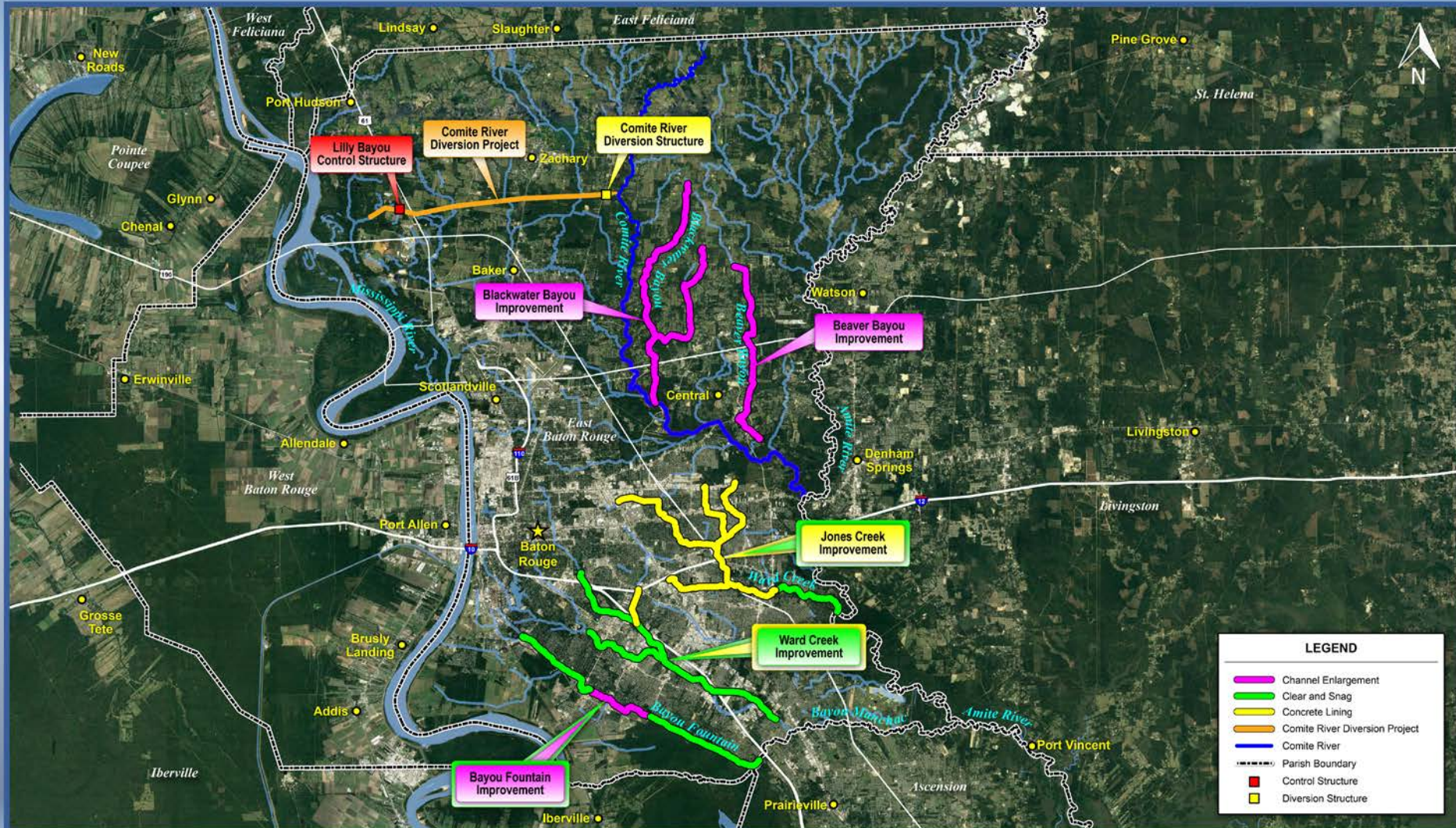
USACE Project Manager provides status of Project at a Local Governmental Meeting in Gramercy on Oct 29, 2018.

MVN Team Members Conduct Site Visit in St. James Parish to Discuss the Installation of Flap Valves on Culverts along Highway 3125 (Nov 2, 2018).





East Baton Rouge Flood Risk Mgmt



EAST BATON ROUGE CURRENT FOCUS

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Crews Surveying Bayou Fountain at College Drive near the Upstream Limits of the EBR Project (Nov 5, 2018).



Surveying Bayou Fountain at Bluebonnet Blvd (Nov 5, 2018).

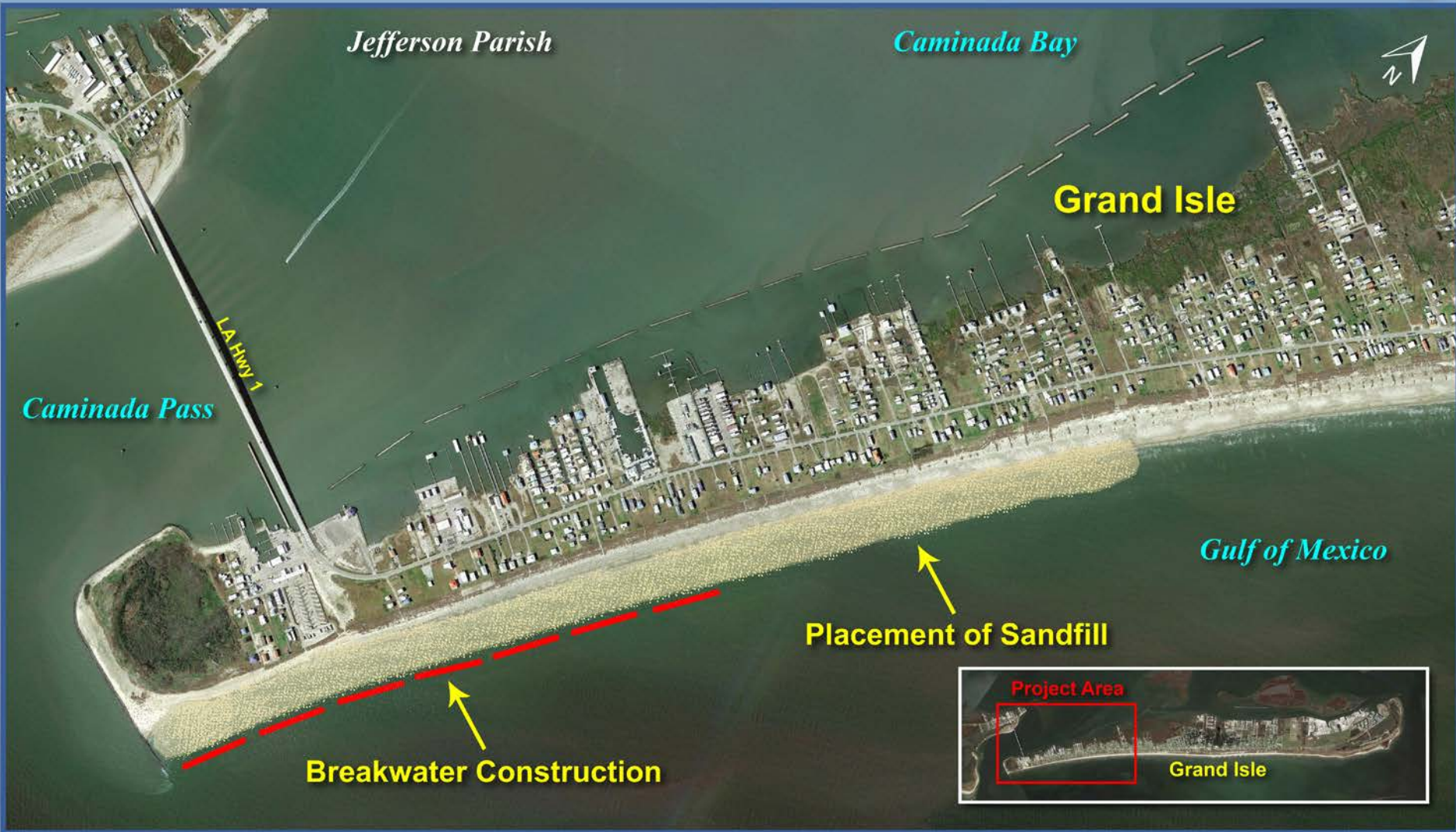


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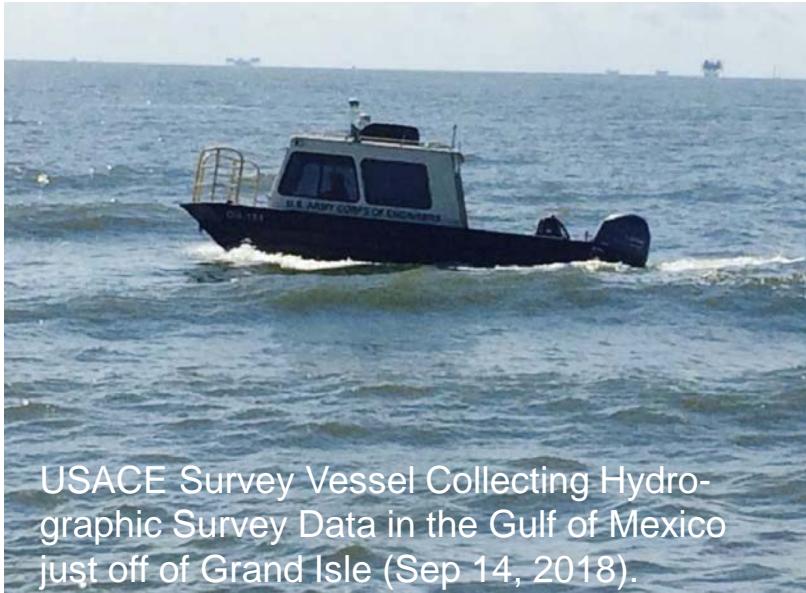


Grand Isle & Vicinity - Proposed Work

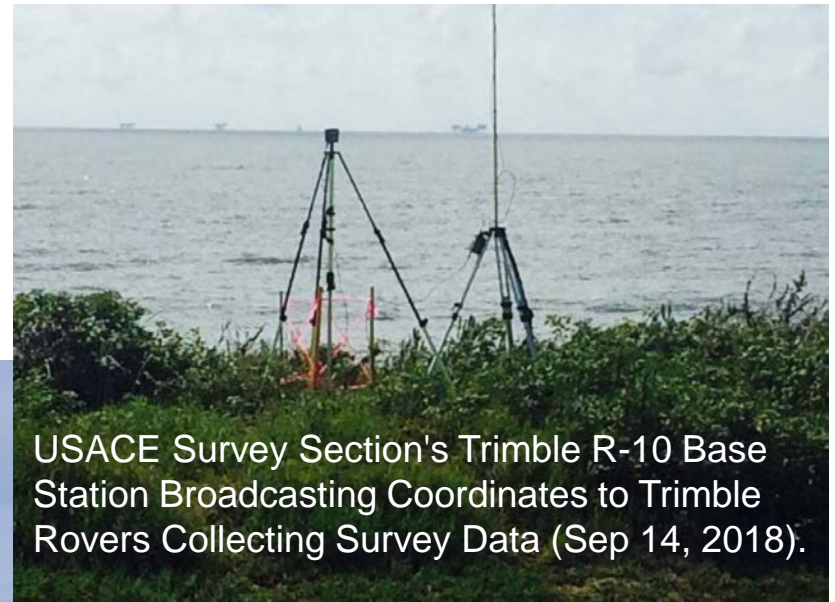


GRAND ISLE CURRENT FOCUS

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USACE Survey Vessel Collecting Hydrographic Survey Data in the Gulf of Mexico just off of Grand Isle (Sep 14, 2018).



USACE Survey Section's Trimble R-10 Base Station Broadcasting Coordinates to Trimble Rovers Collecting Survey Data (Sep 14, 2018).



USACE Survey Member Collecting low water line along the beach, Grand Isle (Sep 14, 2018).



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NEW ORLEANS DISTRICT – CARROLLTON PHASE III

PROJECT MAP



CARROLLTON PHASE III

CURRENT FOCUS

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Estimated Mitigation Needs and Deadline for Completion

Project Name	Habitat Type	AAHUs Needed*	Minimum Acres Needed**	Applicable Basin	Mitigation Project Completion
Comite	BLH-Wet	453	690	Lake Pontch	Spring 2021
East Baton Rouge	BLH-Wet	383	430	Lake Pontch	Spring 2023
Westshore Lake Pontchartrain	BLH-Wet	99	150	Lake Pontch	Spring 2024
	Swamp	1,090	2,020	Lake Pontch	
West Bank and Vicinity (HSDRRS)	BLH-Wet	72	110	Barataria	Summer 2020
	Swamp	135	250	Barataria	
New Orleans to Venice	BLH-Wet	140	215	Barataria	Fall 2023
	Swamp	34	63	Barataria	
	Marsh	159	500	Barataria/Deltaic	
Total		2,565	4,428		

Note: Estimated mitigation needs and project completion dates may be subject to change as designs are refined and impacts quantified.

*AAHU (Average Annual Habitat Unit) is a numerical value representing the quality of a habitat.

**Acres and credits may be obtained in increments.



COMPENSATORY MITIGATION INDUSTRY DAY

SEPTEMBER 2018

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Early communication to exchange ideas, discuss challenges and opportunities, conduct market research and to provide the industry adequate time to analyze capacity and prepare for upcoming solicitations

- Reached out to the industry and community via multiple media outlets to attend Industry Day on 7 Sep 18 at the New Orleans District
- The event was well attended with close to 100 participants
- Provided presentations
 - ▶ Mitigation - Estimated mitigation needs, habitat types, applicable basins and estimated project completion dates
 - ▶ Regulatory - Process, methods and timeline for mitigation bank review and approval
 - ▶ Contracting - Steps for Request for Proposal, Technical Acceptability of the Offeror (Bank), acquisition and contracting steps for construction of mitigation projects
- Questions/ideas were received by 31 Oct 18
- Responses to submittals will be provided in Jan 2019



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WRDA 18 PROVISIONS

- Sec. 1102 - Study of the Future of the Corps
- Sec. 1105 - Non-Federal Engagement and Review
- Sec. 1115 - Property Acquisition
- Sec. 1123 - Certain Levee Improvements
- Sec. 1153 - Construction of Water Resources Development Projects by Non-Federal Interests
- Sec. 1211 - Corps Flood Policy Within Urban Areas

Link to WRDA 2018:

<https://transportation.house.gov/wrda-2018/>



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CLOSING REMARKS



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