ROUTING SHEET FOR CIVIL WORKS CORRESPONDENCE*

Date Circulated

SUBJECT: **WRDA Implementation Guidance for Title VII – Sections 7001 – 7008, 7010 and 7011- Louisiana Coastal Area**

Staff Action Control (SAC)

SAC Suspense Date

Location of Electronic Version in "HQ Data01" Drive:

File Folder: CECW MVD-RIT

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File Name: LCA Title VII comp guidance 24 feb 09.doc

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Enclosed is implementation guidance for WRDA 2007 Title VII sections that are applicable to LCA. Implementation guidance for the other sections will continue to be provided under separate cover.

Routing / Coordination:

24 Feb 2009
Redican - Action Officer (4477)

2/26/09
Montvai – MVD RIT Deputy

7/9/09
Clark – Secretary – CECW-MVD

3/17
Rasgus – CECW-PB

Nee – CWCC-G

Signed 8 July 09 by Mr. Salt
(See OASA(cw) sign. under coord. tab)
OASA(CW) cleared for distribution

7/9/09
Brown – MVD-RIT / Plan. & Policy Chief

Roemhildt – CECW-ZE

Dornstauder – CECW-ZC

Stockton – CECW-ZB

* **After review, initial, or signature, please call the following person for pick up:**

Name: Joe Redican **Phone # 761-4523**

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To George,

Staff Act

SAC Su: 3/17/09

cc / Anne, Doug, Claudia

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Name: Joe Redican **Phone # 761-4523**

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF

CECW-MVD

JUL 10 2009

MEMORANDUM FOR COMMANDER, Mississippi Valley Division (CEMVD-PD)

SUBJECT: Implementation Guidance for Louisiana Coastal Area, Sections 7001 – 7008, and 7011 of Title VII of the Water Resources Development Act of 2007

1. General. Title VII of the Water Resources Development Act of 2007 (WRDA 07) authorizes the Secretary to carry out a program for ecosystem restoration for the Louisiana Coastal Area (LCA), Louisiana, substantially in accordance with the restoration plan set out in the Report of the Chief of Engineers, dated 31 January 2005 (Chief's Report). WRDA 2007 authorizes fifteen near-term features aimed at addressing the critical restoration needs of coastal Louisiana, with five of the features designated as critical restoration features. In addition, it authorizes demonstration projects, a beneficial use of dredged material program, project modifications, and a science and technology program. The fifteen near-term ecosystem restoration features, modifications of existing projects, demonstration projects, and beneficial use of dredged material projects are all subject to approval by the Assistant Secretary of the Army for Civil Works (ASA(CW)) of feasibility level of detail decision documents as provided for in the Chief's Report.

This implementation guidance addresses implementation of the restoration plan set out in the Chief's Report and sections 7001 – 7008, and 7011 of Title VII. Separate implementation guidance will be developed for other sections of Title VII, where necessary. A copy of WRDA 2007, Title VII is enclosed for information.

2. Section 7001 – Definitions. Definitions contained in Section 7001 are self explanatory.

3. Section 7002 - Comprehensive Plan. Section 7002 directs that the Secretary, in coordination with the Governor of Louisiana, to develop a comprehensive plan for protecting, preserving, and restoring the coastal Louisiana ecosystem.

Given the importance of and the extensive, ongoing efforts to implement the restoration plan authorized in Title VII, no work will be initiated to develop a comprehensive plan until such time as funds are appropriated. Once funds have been appropriated for the development of a comprehensive plan, additional implementation guidance will be provided. The restoration plan, as well as the efforts under the Louisiana Coastal Protection and Restoration study (LACPR) and the State's Master Plan, will be integrated into the development of the comprehensive plan. The comprehensive plan will establish a framework for a long-term, multi-faceted program directed at protecting, preserving, and restoring coastal Louisiana and will identify the role of other Federal and State agencies and programs in carrying out the comprehensive plan.

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4. Section 7003 - Priorities. Section 7003 provides that in carrying out the restoration plan set out in the Chief's Report, priority shall be given to: the five critical restoration features; any Mississippi River diversion project that will protect a major population area of the Pontchartrain, Pearl, Breton Sound, Barataria, or Terrebonne basins and produce environmental benefit to the coastal Louisiana ecosystem; any barrier island, or barrier shoreline project that will be carried out in conjunction with a Mississippi River diversion project and protect a major population area; any project that will reduce storm surge and prevent or reduce the risk of loss of human life and the risk to public safety; and a project to physically modify the Mississippi River-Gulf Outlet (MRGO) and to restore the areas affected by the MRGO in accordance with the comprehensive plan to be developed under section 7002(a) and consistent with sections 7006(c)(1)(A) and 7013.

a. The priorities listed in Section 7003 are generally consistent with the priorities of the restoration plan. In each report of a project to be implemented as part of the LCA ecosystem restoration plan, New Orleans District shall include a section that describes how the project is consistent with the priorities contained in section 7003 and the restoration plan. Priority projects shall be considered for implementation through the Corps budget process.

b. The 29 January 2008 Chief's Report for MRGO provides a plan for deauthorization and physical closure of the MRGO project, and based on the requirements of Section 7013 of WRDA 2007, was expanded to address ecosystem restoration. The plan for ecosystem restoration, inclusive of the considerations set forth in section 7013 of WRDA 2007, is preliminarily addressed in an addendum to the report of the district and division engineers dated June 2008 and will be further addressed in a supplement to the 29 January 2008 Chief's Report. This supplement will include an evaluation of ecosystem restoration measures, consideration of measures to reduce or prevent damages from storm surge, and will be provided to the Secretary and Congress. The recommendations included in the supplement will be used as a basis for implementing an ecosystem restoration plan under the authority of section 7013 of WRDA 2007. Further detailed implementation guidance for the MRGO deauthorization and closure plan will be addressed in separate implementation guidance for section 7013. In view of the ongoing MRGO ecosystem restoration evaluation being conducted pursuant to section 7013 of WRDA 2007, any measures identified within the LCA restoration plan for MRGO shall be held in abeyance pending completion of the evaluation.

5. Section 7004 - Task Force. Section 7004 establishes a Coastal Louisiana Ecosystem Protection and Restoration Task Force (Task Force), designates its membership, and establishes its duties. Duties include making recommendations to the Secretary regarding various ways to conserve, protect, restore, and maintain the coastal Louisiana ecosystem; financial matters relating to the participation of each agency on the Task Force; and the comprehensive plan to be developed pursuant to Section 7002 of WRDA 2007.

Currently, for both the Louisiana Coastal Protection and Restoration study and the Mississippi Coastal Improvements Program study, New Orleans District, Mobile District, Mississippi Valley Division (MVD) and South Atlantic Division have successfully engaged the regional representatives of the Federal and State agencies at Regional Working Group meetings throughout the study process. Also, the Corps' Headquarters has successfully engaged the Washington Level Federal Principals throughout the study process. Our experience has shown that these meetings have been an efficient and effective way to communicate and solicit input from the agencies. The Corps will continue to engage the Federal and State agencies through these groups for the Louisiana Coastal Area study. No effort will be undertaken to set up a Task Force unless funds are specifically appropriated for such work.

6. Section 7005 - Project Modifications. Section 7005(a) directs the Secretary to review each Federally authorized water resources project in the coastal Louisiana ecosystem (the area as defined by Section 7001(1) of WRDA 2007) under construction or completed as of 8 November 2007 to determine whether the project needs to be modified (i) to take into account the LCA ecosystem restoration plan, including projects conditionally authorized in section 7006(e), and the deauthorization of and the closure and ecosystem restoration plans for MRGO, or (ii) to contribute to the ecosystem restoration associated with the LCA ecosystem restoration plan and the MRGO closure and ecosystem restoration plan. In addition, section 7005(b) authorizes the Secretary to carry out modifications to these projects, subject to public notice and comment and reporting requirements. Section 7005(e) authorizes $10,000,000 to be appropriated to carry out section 7005.

a. Using $50,000 of funds budgeted and appropriated for the LCA program, the New Orleans District shall first prepare a list of potential water resource projects that could be modified and submitted to MVD and CECW-MVD for approval prior to initiating work on a project management plan (PMP). Upon approval of the list, the New Orleans District shall prepare a PMP for a study that will not exceed $10,000,000 ($5,000,000 Federal and $5,000,000 non-Federal). Approval of the PMP will rest with the District Engineer. While these costs are 100% Federally funded prior to the execution of the feasibility cost sharing agreement, once the feasibility cost sharing agreement is executed, the Federal costs to prepare the PMP, and negotiate the feasibility cost sharing agreement will be included in the study costs and shared with the non-Federal sponsor pursuant to the terms of the feasibility cost sharing agreement. If the funding needed to complete the PMP and execute a feasibility cost sharing agreement is in excess of $50,000, a request should be made to CECW-MVD for approval to expend additional funds.

b. Subsequent to approval of the PMP, the District shall execute a feasibility cost sharing agreement with the non-Federal sponsor (50% Federal and 50% non-Federal) to complete a study to determine the advisability of potential modifications of existing water resource projects, in the interest of ecosystem restoration. The analysis shall be in

accordance with ER 1105-2-100 and shall include the timeline for and cost of the proposed modifications.

c. The study shall address whether proposed modifications can be implemented within the $10,000,000 authorization of appropriations limit. The District shall provide the decision document to MVD and CECW-MVD for policy review and coordination and approval by the ASA(CW), and if additional authorization is required, transmittal to Congress as appropriate.

d. Section 7005 specifies that the total amount of Federal funds authorized to be appropriated to carry out all work authorized under Section 7005 is $10,000,000. This amount is a total authorization of appropriations limit and applies to both study costs and the costs of all modifications to be undertaken pursuant to section 7005. Therefore, any activity that exceeds this limit may not be implemented under section 7005. Rather, specific Congressional authorization of the modification will be required. In addition, once the limit is reached, traditional Corps authorities will be used to study additional project modifications, unless an increase in the appropriations limit is authorized.

e. Prior to completing the report, the New Orleans District shall provide notice and an opportunity for pubic involvement and for comment on the report.

f. Before modifying the operation or feature of a project, the ASA(CW) shall submit the report describing the proposed modifications to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

g. The cost sharing for implementation of project modifications under this section will be 65% Federal and 35% non-Federal for construction and 100% non-Federal for OMRR&R, in accordance with standard ecosystem restoration cost sharing requirements.

7. Section 7006 - Construction.

a. Science and Technology. Section 7006(a) directs the Secretary to carry out a coastal Louisiana ecosystem Science and Technology (S&T) program, in accordance with the restoration plan, at a total cost of $100,000,000. Section 7006(a) establishes the purposes of the S&T program and authorizes the Secretary to establish working groups to assist in carrying out the S&T program. Section 7006(a) also authorizes the Secretary to enter into contracts or cooperative agreements with a consortium of academic institutions in Louisiana with scientific or engineering expertise in the restoration of aquatic and marine ecosystems for coastal restoration and enhancement through science and technology. Section 7006(a) further specifies that the Federal Advisory Committee Act does not apply to a working group established pursuant to section 7006.

i. The S&T program will be budgeted for as a part of the overall LCA Program. The S&T director and the LCA program manager will fully coordinate proposed budget requests to ensure that the programs are complimentary.

ii. Upon receipt of appropriations for the S&T program, the S&T program shall be established and managed by the S&T director, who shall report directly to the MVD Commander.

iii. The S&T director shall prepare an annual budget for the S&T program and shall submit it to the MVD Commander for approval. Prior to the approval by MVD, the annual budget and work plan shall be coordinated with the New Orleans District and CECW-MVD.

iv. The S&T program is authorized at a total cost of $100,000,000 and shall be cost shared at 65% Federal and 35% non-Federal. Section 902 of WRDA 1986 (allowing increases in project costs up to 20% for certain modifications) is not applicable to this programmatic limit.

v. Working groups may be established as necessary by the S&T director in consultation with the LCA program manager and approval by the Division Commander to carry out this subsection. The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to a working group established under Section 7006(a).

vi. The S&T director may continue to contract with a consortium of academic institutions in Louisiana with scientific or engineering expertise in the restoration of aquatic and marine ecosystems for coastal restoration and enhancement as appropriate.

b. Demonstration Projects. Section 7006(b) of WRDA 2007 authorizes the Secretary to carry out demonstration projects substantially in accordance with the restoration plan set out in the Chief's Report to resolve critical areas of scientific or technological uncertainty related to the implementation of the comprehensive plan.

i. Demonstration projects will be used to resolve the critical areas of scientific or technological uncertainty related to the implementation of the restoration plan and ultimately the comprehensive plan.

ii. Using funds budgeted and appropriated for the LCA program, not to exceed $50,000, the LCA S&T director shall prepare a scope of study and list of demonstration projects that would resolve critical areas of scientific, technical, or engineering uncertainty while providing meaningful restoration benefits whenever possible. This scope and list shall be coordinated with MVD and CECW-MVD for approval prior to initiating work on a project management plan (PMP). Upon approval of the scope of study and list of projects, the New Orleans District shall prepare a PMP for a study that shall not exceed $10,000,000 ($5,000,000 Federal and $5,000,000 non-

Federal). Approval of the PMP will rest with the District Engineer. While these costs are 100% Federally funded prior to the execution of the feasibility cost sharing agreement, once the feasibility cost sharing agreement is executed, the Federal costs to prepare the PMP and negotiate the feasibility cost sharing agreement will be included in the study costs and shared with the non-Federal sponsor pursuant to the terms of the feasibility cost sharing agreement. If funding to complete the PMP and execute a feasibility cost sharing agreement would be in excess of $50,000 a request should be made to CECW-MVD for approval to expend additional funds.

iii. Subsequent to approval of the PMP, the New Orleans District shall execute a feasibility cost sharing agreement with the non-Federal sponsor (50% Federal and 50% non-Federal) to complete a study or studies, in accordance with ER 1105-2-100, to recommend implementation of demonstration projects that will resolve critical areas of scientific, technical, or engineering uncertainty while providing meaningful restoration benefits whenever possible. The District shall provide the decision document to MVD and CECW-MVD for policy review and coordination as well as approval by the ASA(CW).

iv. In accordance with the restoration plan, $95,000,000 is available to implement demonstration projects with the total cost of any single demonstration project not to exceed $25,000,000. Implementation of the demonstration projects shall be cost shared 65% Federal and 35% non-Federal. Implementation of a demonstration project includes monitoring and assessment as well as dismantling of the projects as necessary. If it is determined through the study process that the demonstration projects would continue to provide long term benefits even after completion of the monitoring and assessment, the OMRR&R would be a 100% non-Federal cost.

c. Initial Projects. Section 7006(c) of WRDA 2007 authorizes the Secretary to carry out five specifically named near-term projects substantially in accordance with restoration plan set out in the Chief's Report. Section 7006(c)(1) authorizes the MRGO environmental restoration at a total cost of $105,300,000; Small Diversion at Hope Canal at a total cost of $68,600,000; the Barataria basin barrier shoreline restoration at a total cost of $242,600,000; Small Bayou Lafourche reintroduction at a total cost of $135,500,000; and the Medium Diversion at Myrtle Grove with dedicated dredging at a total cost of $278,300,000.

i. The 29 January 2008 Chief's Report for MRGO provides a plan for the deauthorization and physical closure of the MRGO project, and based on the requirements of Section 7013 of WRDA 2007, was expanded to address ecosystem restoration. The plan for ecosystem restoration, inclusive of the considerations set forth in section 7013 of WRDA 2007, is preliminarily addressed in an addendum to the report of the district and division engineers dated June 2008 and will be further addressed in a supplement to the 29 January 2008 Chief's Report. This supplement will include an evaluation of ecosystem restoration measures, including considerations of measures to

reduce or prevent damages from storm surge, and will be provided to the Secretary and Congress. The recommendations included in the supplement will be used as a basis for implementing an ecosystem restoration plan under the authority of section 7013 of WRDA 2007. Further detailed implementation guidance for the MRGO deauthorization and closure plan will be addressed in separate implementation guidance for Section 7013. In view of the ongoing MRGO ecosystem restoration evaluation being conducted pursuant section 7013 of WRDA 2007, any measures identified within the LCA restoration plan for MRGO shall be held in abeyance pending completion of the evaluation.

ii. Using funds budgeted and appropriated for the LCA, New Orleans District shall prepare a PMP and execute a feasibility cost sharing agreement to prepare a feasibility level of detail decision document in accordance with ER 1105-2-100 to support implementation of each of the four projects other than MRGO listed in Section 7006(c)(1). While these costs are 100% Federally funded prior to the execution of the feasibility cost sharing agreement, once the feasibility cost sharing agreement is executed, the Federal costs to prepare the PMP and negotiate the feasibility cost sharing agreement will be included in the study costs and shared with the non-Federal sponsor pursuant to the terms of the feasibility cost sharing agreement. This decision document will examine modifications to the projects necessary to address impacts of Hurricanes Katrina and Rita as well and additional changes necessary to ensure consistency with the project authorized by Section 7013 of WRDA 2007. Any of these modifications will be integrated, to the greatest extent practicable, with the study of comprehensive hurricane protection authorized by Title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247), known as the Louisiana Coastal Protection and Restoration (LACPR) study.

iii. The feasibility level of detail decision document will be provided to MVD and CECW-MVD for policy review and completion of a Director of Civil Works Report and Draft Record of Decision (ROD). The Director of Civil Works Report and the draft ROD will be transmitted to the ASA(CW) for review and approval.

iv. To meet the requirements of Section 7006(c)(3) of WRDA 2007 for preparation of Construction Reports, prior to the initiation of construction, the ASA(CW) approved feasibility level of detail decision documents will be provided to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

v. Preparation of feasibility level of detail decision documents will be costs shared 50% Federal and 50% non-Federal and implementation of the resultant ecosystem restoration projects shall be cost shared 65% Federal and 35% non-Federal with OMRR&R to be a 100% non-Federal responsibility.

vi. Pursuant to Section 7006(c)(4), costs of projects implemented under Section 7006(c)(1) are limited to 150% of the costs cited for each project in Section 7006(c)(1). Section 902 of WRDA 1986 does not apply to projects in this subsection.

d. Beneficial Use of Dredged Material. Implementation Guidance for Section 7006(d) has been addressed under separate implementation guidance dated 19 December 2008.

e. Additional Projects. Section 7006(e) of WRDA 2007 authorizes the Secretary to carry out additional projects referred to in the restoration plan. Section 7006(e)(1) authorizes the Land Bridge between Caillou Lake and the Gulf of Mexico project at a total cost of $56,300,000; the Gulf Shoreline at Point Au Fer Island project at a total cost of $43,400,000; the Modification of Caernarvon Diversion project at a total cost of $20,700,000; and the Modification of Davis Pond Diversion project at a total cost of $64,200,000; if the Secretary determines that such projects are feasible.

i. The New Orleans District and the State of Louisiana executed a feasibility cost sharing agreement on 5 June 2009 for preparation of a report for these projects. Using funds budgeted and appropriated for the LCA program, the New Orleans District shall continue with preparing a feasibility level of detail decision document in accordance with ER 1105-2-100 to support implementation of the four projects listed in Section 7006(e)(1). The feasibility reports shall be provided to MVD and CECW-MVD for policy review and coordination and approval by the ASA(CW).

ii. New Orleans District, in coordination with the non-Federal sponsor, should evaluate the schedule to determine if these reports will be completed in time to allow the ASA(CW) to submit them to the committees by 31 December 2009. The results of the evaluation should be submitted to MVD and CECW-MVD, for review and coordination with the ASA(CW). Every effort should be made to complete and submit these reports to Congress at the soonest possible time. It is noted, however, that the authorization to implement these projects is contingent on the Secretary determining that the projects are feasible, not on having a completed report by any particular date.

iii. Preparation of all feasibility studies under Section 7006(e) shall be cost shared 50% Federal and 50% non-Federal, and implementation of the resultant ecosystem restoration projects shall be cost shared 65% Federal and 35% non-Federal with OMRR&R to be a 100% non-Federal responsibility.

iv. Subject to a determination by the Secretary that the projects are feasible, projects identified in Section 7006(e)(1) are authorized for implementation. In accordance with the Principles and Guidelines and ER 1105-2-100, a project is considered feasible if the alternative is feasible from technical, environmental, economic, financial, political, legal, institutional, and social perspectives.

f. Projects Subject to Reports. Section 7006(e)(3)(A) authorizes implementation of six named projects if a favorable report of the Chief of Engineers is completed no later than 31 December 2010. The projects are the Multipurpose Operation of Houma Navigation Lock project at a total cost of $18,100,000; the Terrebonne Basin Barrier Shoreline Restoration project at a total cost of $124,600,000; the Small Diversion at Convent/Blind River project at a total cost of $88,000,000; the Amite River Diversion Canal Modification project at a total cost of $5,600,000; the Medium Diversion at White's Ditch at a total cost of $86,100,000; and the Convey Atchafalaya River Water to Northern Terrebonne Marshes project at a total cost of $221,200,000.

i. The New Orleans District and the State of Louisiana executed a feasibility cost sharing agreement on 7 November 2008 for preparation of a report for these projects. Using funds budgeted and appropriated for the LCA program, the New Orleans District shall continue with preparing a feasibility report in accordance with ER 1105-2-100 to support implementation of the six projects listed in Section 7006(e)(3)(A). The District shall provide the feasibility report to MVD and CECW-MVD for policy review and completion of a Report of the Chief of Engineers.

ii. Preparation of the feasibility study under Section 7006(e)(3)(A) shall be costs shared 50% Federal and 50% non-Federal, and implementation of these projects shall be cost shared 65% Federal and 35% non-Federal, with OMRR&R a 100% non-Federal responsibility.

8. Section 7007 - Non-Federal Cost Share.

a. Credit. Section 7007(a) directs the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970, toward the non-Federal share of the cost of a study or project authorized in Title VII, the cost of work carried out by a non-Federal sponsor before the date of execution of the agreement for a study or project.

i. By its terms, section 7007(a) authorizes credit for non-Federal work carried out *before* execution of the applicable agreement but not for work *after* execution of the agreement. Given Section 7007(a)'s specific provision of crediting authority, its crediting limitations apply to design and construction of projects authorized in Title VII, instead of the more general credit provisions in section 2003 of WRDA 2007.

ii. Section 7007(a) provides for credit for planning efforts by the non-Federal sponsor before execution of a feasibility cost sharing agreement. In accordance with example 4 in Appendix B of Engineering Circular (EC) 1165-2-208, the non-Federal sponsor is eligible for such credit toward its share of study costs as long as an in-kind Memorandum of Understanding (MOU) is executed prior to the non-Federal sponsor undertaking such planning efforts. In addition, section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)) provides authority to afford credit for

planning efforts carried by the non-Federal sponsor following execution of a feasibility cost sharing agreement.

iii. EC 1165-2-208 provides direction regarding the requirement for an executed in-kind MOU prior to the non-Federal sponsor undertaking work in those cases where the applicable feasibility cost sharing agreement, design agreement, or project partnership agreement has not been executed yet. In addition, this EC shall be followed in determining eligibility of such work for credit. The actual value of any work shall be determined in accordance of the terms of the applicable feasibility cost sharing agreement, design agreement, or project partnership agreement.

b. Sources of Funds. Section 7007(b) states that the non-Federal interest may use and the Secretary shall accept funds provided by a Federal agency under any other Federal program to satisfy, in whole or in part, the non-Federal share of the cost of the study or project if the Federal agency providing the funds determines that the funds are authorized to be used to carry out the study or project.

Funds provided under another Federal program can be used toward the non-Federal cost share if the non-Federal sponsor provides a letter from the relevant Federal agency that approves use of those funds toward satisfying the items of local cooperation for the project. Such an analysis should be undertaken as part of the required self certification. This same policy applies to the use of other Federal program funds by the local sponsor to acquire Lands, Easements, Relocations, Right-of-ways and Disposals (LERRDs) required for the project. In other words, such funds may not be used to acquire LERRDs unless specifically approved in writing for that purpose by the Federal Agency which administers those funds.

c. Non-Governmental Organizations. - Section 7007(c) allows nongovernmental organizations to contribute all or a portion of the required non-Federal share of the cost of a project authorized in Title VII. Funding from Nongovernmental organizations will be provided to the Corps through the non-Federal sponsor to meet the cost sharing requirements as outlined in the specific project partnership agreement.

d. Treatment of Credits Between Projects. Section 7007(d) indicates that any credit provided under Section 7007 of WRDA 2007 toward the non-Federal share of cost of a Title VII study or project may be applied toward the non-Federal share of any other study or project under Title VII. By its terms, section 7007 deals only with credit for non-Federal work before execution of the applicable agreement. In addition, "excess credit" for eligible work undertaken by a non-Federal sponsor under section 7007(a) will be applied only toward another study or project authorized in Title VII that involves the same sponsor. In addition, "excess" study credit will be applied only toward the required non-Federal cash contribution for another study, and "excess" project (i.e., design and construction) credit will be applied only toward the required non-Federal cash

contribution for another project. Further guidance on Section 7007(d) will be provided in separate implementation guidance.

e. Periodic Monitoring. Section 7007(e) requires the Secretary to monitor non-Federal contributions to ensure that such contributions equal the non-Federal share of a title VII study or project during each 5-year period beginning on the date of the commencement of the first study or project under Title VII. Each study or project will be monitored and managed for all non-Federal contributions so that those contributions equal the non-Federal share.

New Orleans District shall monitor non-Federal contributions for studies and projects under Title VII of WRDA 2007 and shall manage studies and projects to ensure that actual non-Federal contributions are in accordance with cost sharing requirements outlined in Title VII. In full coordination with the non-Federal sponsor, New Orleans District shall develop and implement plans for monitoring and managing Federal and non-Federal contributions and costs under Sections 7007(e)(1) and 7007(e)(2) and provide a yearly update on the status of the monitoring to MVD and CECW-MVD.

f. Audits. Section 7007(f) specifies that non-Federal credits for land, easements, rights-of-way, relocations, and disposal areas (including land value and incidental costs), and the cost of work provided under Section 7007, shall be subject to audit by the Secretary.

New Orleans District and the non-Federal sponsor for studies and projects under Title VII shall maintain appropriate records of credits and contributions to ensure accurate accounting and compliance with cost sharing provisions. In full coordination with the non-Federal sponsor, the New Orleans District shall develop and implement plans for audits. This plan shall be provided to MVD for review and approval. The audits shall be subject to review by CECW-MVD and ASA(CW).

9. Section 7008 - Project Justification. Section 7008 authorizes the Secretary, in carrying out the restoration plan as recommended in the 31 January 2005 report of the Chief of Engineers, or any other activity intended to protect, conserve, and restore the coastal Louisiana ecosystem (the area as defined by Section 7001 of WRDA 2007), to determine that the project or activity is justified by the environmental benefits derived to coastal Louisiana.

a. If New Orleans District determines that a project identified in the restoration plan is justified based on environmental benefits (national ecosystem restoration – NER) and is cost effective, then the calculation of additional national economic development (NED) benefits are not required to justify the project.

b. Any project, or separable element thereof, under Title VII of WRDA 2007 that is not predominantly related to the protection, preservation, and restoration of the coastal Louisiana ecosystem is required to show economic justification. Therefore, in all reports for projects identified in the restoration plan, New Orleans District shall demonstrate whether implementation of that project is predominantly related to the protection, preservation, and restoration of the coastal Louisiana ecosystem.

c. This section does not preclude New Orleans District from evaluating both NER and NED benefits for projects authorized in Title VII.

d. New Orleans District's responsibility to follow normal Corps plan formulation principles; conduct cost-effectiveness analysis, incremental analysis, and optimization of NER and/or NED benefits; and comply with the National Environmental Policy Act are unaffected by Section 7008 of WRDA 2007.

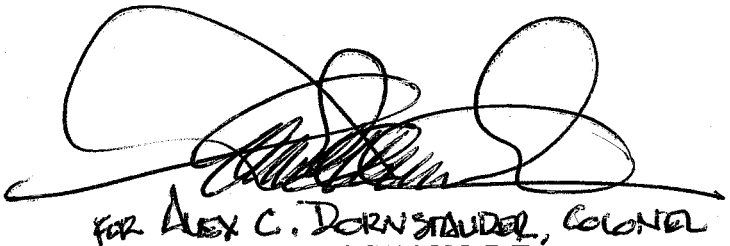
e. The information for project justification should be presented to MVD and CECW-MVD at the feasibility scoping meetings and alternative formulation briefings for each of the features of the restoration plan.

10. Section 7011 - Reporting. Section 7011 of WRDA 2007 requires the Secretary to submit a report to the House Committee on Transportation and Infrastructure and the Senate Environment and Public Works Committee not later than six years after date of enactment of WRDA 2007. The report shall include a description of the projects authorized and undertaken under Title VII; the construction status of the projects; the cost to date and the expected final cost of each project undertaken under Title VII; and the benefits and environmental impacts of the projects.

a. Using funds budgeted and appropriated for the LCA program, New Orleans District shall prepare a report that includes a description of the authorized projects; the construction status of the projects; the cost to date and the expected final cost of the projects; and the benefits and environmental impacts of the projects.

b. The draft report shall be submitted to MVD and CECW-MVD by January 2013 for review and coordination prior to completing the final report and subsequent review and approval by the ASA(CW). The ASA(CW) will then look to submit the final report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate by 7 November 2013.

FOR THE COMMANDER:



Encl

STEVEN L. STOCKTON, P.E.
Director of Civil Works