

29 Aug 84

P.01

DAEN-CWM-A



DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314

REPLY TO
ATTENTION OF:

DAEN-CWP-G

MEMORANDUM FOR THE ASSISTANT SECRETARY OF THE (CIVIL WORKS)

SUBJECT: Lake Pontchartrain Hurricane Protection Project, Louisiana -
INFORMATION MEMORANDUM

I am furnishing you, as indicated in my memorandum of 24 November 1982, a comparison of the post authorization changes involved in adopting the high level plan, and my views on whether or not to use the Chief's discretionary authority in this case. The comparison and the recently printed Draft of Report/DEIS are inclosed. In accordance with your memorandum of 17 November 1982, the report documents will not be released for public coordination pending your review and further guidance. Also inclosed is fiscal year 1983 budgetary information.

I recognize that the authority to modify projects involves an important delegation of authority derived from Congress. Accordingly, in past cases, I have considered it necessary as a legal matter to bring modifications to the attention of Congress for specific authorization when such changes involve (a) A material alteration of the function of the project, such as the deletion or addition of a project purpose when not otherwise authorized by law; (b) A material change in the scope of the authorized plan of improvement; or (c) A change in legal relationships, such as requirements of local cooperation. In applying these factors to the present case and considering them on balance, it is my view that the high level plan may be undertaken under my discretionary authority as Chief of Engineers. This opinion is based on the following factors, which I regard as compelling:

- a. There is no change in project purposes. The purpose of the project is to protect lives and property along the shore areas of Lake Pontchartrain, and in particular those densely populated areas immediately south of the lake. The high level levee construction plan will accomplish this purpose without a decrease in the level of protection by providing flood protection against the Standard Project Hurricane.

To: Col Yore - LMVD - 2pg P
From: Col Myers

DAEN-CWP-G

SUBJECT: Lake Pontchartrain Hurricane Protection Project, Louisiana -
INFORMATION MEMORANDUM

b. The modified construction plan will not materially alter the scope of the authorized plan of improvement. The high level levee plan will cost less to complete (\$628 million vs. \$743 million) and will reduce the potential for catastrophic flooding earlier than the originally conceived barrier construction plan. The principal change in the plan is that the barrier at the Rigolets and Chef Menteur Pass will be deleted. The high level levees will follow the original levee alignment and will not involve substantially greater land acquisition or displacement of homes and businesses. While the levee heights will in fact be raised, this elevation is not considered substantial when viewed in relation to the levee raising planned to occur under any circumstances in connection with the overall barrier construction plan.

c. The high level levee plan will not involve a change in legal relationships. Local interests are required to provide lands, easements, rights-of-way, and relocations normally associated with flood protection projects, and to otherwise contribute in cash or equivalent an amount sufficient to bring their share to 30 percent of the total construction cost of the improvements. This requirement is applied equally to the high level levee plan.

I urge you to give the matter highest priority, and provide me your further guidance so that we may continue to process the decision documents on this important project.

3 Incl
As stated

J. K. BRATTON
Lieutenant General, USA
Chief of Engineers

Arnolds

*Bette Hill
if needed
- Hill*

*no approval
me from
SEC*

*Don't need to
process PAC
to Congress*

D R A F T

MEMORANDUM FOR THE ACTING ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

SUBJECT: Lake Pontchartrain Hurricane Protection Project, Louisiana -
Information Memorandum

PURPOSE

I am furnishing you this update on the reevaluation of the subject project, and my views on proceeding with construction of a certain element of the high level plan in FY 1985.

DISCUSSION

As you will recall, the issues associated with GAO review of the subject project were resolved to the satisfaction of Mr. Gianelli in October 1983, and he allowed us at that time to proceed with processing the drafts of the subject EIS and reevaluation report, which he had previously reviewed. These draft documents were submitted to EPA and released for coordination on 15 December 1983. The 60-day period allowed for public review and comment on the documents expired on 28 February 1984. In response to comments received, the District Engineer held a public hearing in New Orleans on 12 April 1984 to allow for additional public input. That meeting was followed by additional coordination with the U.S. Fish and Wildlife Service, and the final EIS and Reevaluation Report were submitted to the Division Engineer on 8 August 1984.

We are now reviewing copies of the final EIS and Reevaluation Report along with a draft of a Post-Authorization Change (PAC) Notification Report prepared for transmittal to Congress subsequent to report approval. Our review is being conducted concurrently with that of the Lower Mississippi Valley Division. This will allow for completion of the review process and filing of the final EIS with EPA before the end of FY 1984. It will also allow for signing a Record of Decision on the high level plan during the first quarter of FY 1985.

As I previously stated in my memorandum for ASA(CW) dated 31 March 1983, it is my view that the high level plan may be undertaken under my discretionary authority as Chief of Engineers. However, in accordance with my established policy on approving changes to uncompleted authorized projects, I intend upon signing the Record of Decision to forward the PAC Notification Report to the appropriate Congressional Committees. This will satisfy the need to fully inform Congress of the changes to the project prior to undertaking construction of any element of the high level plan. Congress was also informed of the impending changes to the project in both the FY 84 and FY 85 budgets. However, it should be noted that the total project cost estimate being used with the FY 86 budget is approximately \$100 million more than was presented to Congress in FY 85 as the anticipated cost of the high level plan. This is the difference in comparing an incremental estimate based on 1 Oct 83 price level and a full funding estimate based on future inflation through 1990.

added

The Citrus Lakefront Levee, I.H.N.C. to Paris Road, Foreshore Protection is an element of the subject project scheduled for award in January 1985, subsequent to anticipated approval of the Reevaluation Report and notification to Congress

of the PAC. Foreshore work in this area was required for both the barrier and high level plans, only the scope of work varies. Rights-of-way for construction of the Citrus Lakefront Levee Foreshore Protection as an element of the barrier plan were requested in May 1983. At that time, the local assurers (Orleans Levee District) requested that the foreshore protection be accomplished only one time and to the high level plan of protection. Plans and specifications consistent with requirements of the high level plan have been completed and should be approved in September 1984. The Orleans Levee District has agreed to provide the required rights-of-way in October 1984.

Orderly transition of construction work from the barrier plan to the high level plan beginning with construction of the Citrus Lakefront Levee, I.H.N.C. to Paris Road Foreshore Protection can be accomplished in FY 1985, and will require a total Federal program of \$15.1 million. To continue with an efficient progression of work, the FY 1986 program would total \$25 million. Future requirements are for FY 87, \$30 million; FY 88, \$40 million; FY 89, \$50 million; and FY 90, \$70 million.

I plan to pursue the transition of work effort in FY 1985 and ask for your full support of the related program and funding levels.

CHIEF OF ENGINEERS