APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 28 June 2012

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: MVN-2012-01499-SA

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Louisiana County/parish/borough: Terrebonne City: Houma
Center coordinates of site (lat/long in degree decimal format): Lat. 29.552062° N. Long. 90.678321° W.
Universal Transverse Mercator:
Name of nearest waterbody: Bayou Grand Gaillou
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Bayou Grand Caillou
Name of watershed or Hydrologic Unit Code (HUC): 08090302 West Central Louisiana Coastal
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☐ Office (Desk) Determination. Date:
☐ Field Determination. Date(s): 28 June 2012

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☒ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: Bayou Grand Caillou is currently and was historically used to transport interstate and foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☒ TNWs, including territorial seas
      ☒ Wetlands adjacent to TNWs
      ☒ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: 2,400 linear feet: 2-10 width (ft) and/or N/A acres.
      Wetlands: 1.9 acres.

   c. **Limits (boundaries) of jurisdiction** based on: **1987 Delineation Manual**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: .

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[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**
   Identify TNW: **Bayou Grand Caillou**.

   Summarize rationale supporting determination: Bayou Grand Caillou is currently and was historically used to transport interstate and foreign commerce.

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent": The project wetlands are not seperated from Bayou Grand Caillou by uplands, dikes, berms or other similar features. These wetlands maintain hydrologic connectivity through 2 channels that flow directly into Bayou Grand Caillou..

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. **Characteristics of non-TNWs that flow directly or indirectly into TNW**

   (i) **General Area Conditions:**
   Watershed size: **Pick List**
   Drainage area: **Pick List**
   Average annual rainfall: inches
   Average annual snowfall: inches

   (ii) **Physical Characteristics:**
   (a) Relationship with TNW:
   ☐ Tributary flows directly into TNW.
   ☐ Tributary flows through **Pick List** tributaries before entering TNW.

   Project waters are **Pick List** river miles from TNW.
   Project waters are **Pick List** river miles from RPW.
   Project waters are **Pick List** aerial (straight) miles from TNW.
   Project waters are **Pick List** aerial (straight) miles from RPW.
   Project waters cross or serve as state boundaries. Explain:

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Identify flow route to TNW[5]: .
Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):
☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain: .

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: .
Presence of run/riffle/pool complexes. Explain: .
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Pick List**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime: .
Other information on duration and volume: .

Surface flow is: **Pick List.** Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank ☐ the presence of litter and debris
☐ changes in the character of soil ☐ destruction of terrestrial vegetation
☐ shelving ☐ the presence of wrack line
☐ vegetation matted down, bent, or absent ☐ sediment sorting
☐ leaf litter disturbed or washed away ☐ scour
☐ sediment deposition ☐ multiple observed or predicted flow events
☐ water staining ☐ abrupt change in plant community
☐ other (list):
☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by: ☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects ☐ survey to available datum;
☐ fine shell or debris deposits (foreshore) ☐ physical markings;
☐ physical markings/characteristics ☐ vegetation lines/changes in vegetation types.
☐ tidal gauges
☐ other (list):

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: .
Identify specific pollutants, if known: .

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[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
[6] A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7] Ibid.

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain: .
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List.**

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known: .

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately ( ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☒ TNWs: 1,050 linear feet 30 width (ft), Or, N/A acres.
   - ☒ Wetlands adjacent to TNWs: 1.9 acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: The unnamed tributaries of Bayou Grand Caillou are perennial based on observations by Corps Botanists.
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☒ Tributary waters: **1,350** linear feet **2-10** width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.[9]**
As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

[8]See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] **Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.***

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
- ☐ Tributary waters: linear feet width (ft).
- ☐ Other non-wetland waters: acres.
  - Identify type(s) of waters: .
- ☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- ☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- ☐ Lakes/ponds: acres.
- ☐ Other non-wetland waters: acres. List type of aquatic resource: .
- ☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Vicinity map, wetland delineation.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☒ U.S. Geological Survey Hydrologic Atlas: .
  - ☐ USGS NHD data.
  - ☒ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000 Houma.
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Terrebonne Parish NRCS Web Soil Survey.
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): 1998, 2004, 2005, 2008, 2010 DOQQ CIR.
  - or ☒ Other (Name & Date): Site photographs provided by consultant.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☒ Other information (please specify): Louisiana LIDAR.

B. ADDITIONAL COMMENTS TO SUPPORT JD: This basis form documents Bayou Grand Caillou (TNW), its tributaries (RPWs), and its associated wetlands (wetlandS adjacent to a TNW).

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Mr. Joel Caldwell	File Number: MVN-2012-01499-SA	Date: JUL 17 2012
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact: Rob Heffner (504-862-1288)
Chief, Surveillance & Enforcement Section
U.S. Army Corps of Engineers
P.O. Box 60627
New Orleans, LA 70160

If you only have questions regarding the appeal process you may also contact: Administrative Appeals Review Officer
USACE – Mississippi Valley Division
P.O. Box 80
Vicksburg, MS 39181-0080
(601) 634-5820

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

Appendix C

Eight Step Decision Making Process

Note: The 8 step decision making process is included in the PDF version of this document

TERREBONNE PARISH SCHOOL BOARD
ENVIRONMENTAL ASSESSMENT (EA)
GRAND CAILLOU ELEMENTARY SCHOOL BUILDING "C"
REQUEST FOR AN IMPROVED/CHANGE OF LOCATED/RECONSTRUCTION

Date: 07/16/2012
Prepared by: June R. Griffin, CFM, FEMA, Environmental
Request for: Improved Project - A/I Database #: 1542; FEMA-DR-LA: 1786/1792
Applicant: Terrebonne Parish School Board
Project Title: Grand Caillou Elementary School
FIPS #: 109-06FB6-00; PWs #: 5518 & 1416
Proposed Location – 2161 Grand Caillou Road, Houma, Louisiana
Latitude 29.55185 Longitude -90.67953

Floodplain Review:

Terrebonne Parish enrolled in the National Flood Insurance Program (NFIP), 11/20/70.Current site is located within a Zone "AE", EL 13 North American Vertical Datum (NAVD); per Preliminary Digital Flood Insurance Rate Map 22109C0450 E, dated 06.30.2008. Proposed site is located within a Zone "AE", EL 10 NAVD; per Preliminary Digital Flood Insurance Rate Map 22109C0275 E, dated 06.30.2008. As of the release date of Digital Flood Insurance Rate Maps (DFIRMs), unobligated FEMA Public Assistance grants for new construction and substantial improvements are to be built in accordance with a minimum base flood elevation (bfe) as established by the Preliminary DFIRM per Louisiana Flood Recovery Guidance dated 2-11-08. In compliance with EO 11988, an EA 8-Step Process, showing considered alternatives, was completed and is attached or on file. Applicant is required to coordinate with the local floodplain administrator regarding floodplain permit(s) prior to the start of any activities. All coordination pertaining to these permit(s) should be documented to the local floodplain administrator and copies provided to LA GOHSEP and FEMA as part of the permanent project files. Per 44 CFR 9.11 (d)(9), for the replacement of building contents, materials and equipment, where possible, disaster-proofing of the building and/or elimination of such future losses should occur by relocation of those building contents, materials and equipment outside or above the base floodplain. A Cumulative Initial Public Notice was published on 10/21/08-11/02/08.

Scope of Work (SOW):

The project is a request for an Improved Project. Terrebonne Parish School Board (Grand Caillou Elementary) is requesting approval to construct a new elementary school facility with similar functions, capacity and size as the existing structure, but at a different location. Any increase in square footage will be due to appropriate codes and standard requirements.

EXECUTIVE ORDER 11988 – FLOODPLAIN MANAGEMENT

EIGHT-STEP DECISION MAKING PROCESS [EA]

Executive Order 11988 (Floodplain Management) requires federal Agencies "to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of the floodplain and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative." FEMA's implementing regulations are at 44 CFR Part 9, which includes an Eight Step decision making process for compliance with this part.

This Eight Step Process is applied to the proposed Grand Caillou Elementary School. The proposed project area is within the 100-year floodplain. The steps in this decision making process is as follows.

Step 1: Determine if the Proposed Action is Located in the Base Floodplain

The proposed action involves the relocation/ reconstruction of the Terrebonne Parish School Board's Grand Caillou Elementary School Building C, which is located within the 100 year floodplain. The current location of the Terrebonne Parish School Grand Caillou Elementary School is located within an "AE" Zone, EL 13, per Preliminary Digital Flood Insurance Rate Map (DFIRM) Panel #: 22109C0450 E, dated, 06/30/08.

The proposed site is located within an "AE" Zone, EL 10, per Preliminary Digital Flood Insurance Rate Map (DFIRM) Panel #: 22109C0275 E, dated, 06/30/08. The floodplain in relation to the community and the proposed location for the Terrebonne Parish Grand Caillou Elementary School are depicted on Figures 11 & 12 of the Environmental Assessment.

Step 2: Early Public Notice (Preliminary Notice)

FEMA has an obligation to provide adequate information to enable the public to have impact on the decision outcome for all action having the potential to affect, adversely, or be affected by floodplains or wetlands that it proposes. FEMA shall provide the public with adequate information and opportunity for review and comment at the earliest possible time and throughout the decision-making process; and upon completion of this process, provide the public with an accounting of its final decision (see §44 CFR 9.12). A Cumulative Initial Public Notice was published in statewide newspapers from 10/21/08-11/02/08.

Step 3: Identify and Evaluate Alternatives to Locating in the Base Floodplain.

Alternative 1: No Action – The original building is located within the 100-year (1% annual chance) floodplain. The No Action Alternative is not a practicable alternative, because it would leave the original building in a damaged, unsafe, and unusable within the floodplain.

Alternative 2: Relocation outside the 100 yr floodplain – This alternative is not considered practicable. There is no practicable location outside of the 100-yr floodplain that can feasibly serve the Houma/Dulac communities.

Alternative 3: Reconstruction to pre-disaster condition with mitigation at its present location is a practicable alternative; it would restore the damaged facility back to its pre-disaster function and capacity. Reconstructing the facility at its current location would require mitigation against a Base Flood Elevation of 13 ft. NAVD. Although, practicable, the applicant has proposed relocating the school facility due to repetitive storm damage in its current location and population shift away from the more susceptible current location to the proposed site. Reconstruction to pre-disaster condition at its present location would continue to expose the facility to the flood hazard with the risk possibly lessened with mitigation measures. The natural floodplain would continue to be impacted by the development and impede ground water recharge and affect natural moderation of floods.

Alternative 4: Relocation *to* proposed site - The proposed Change of Location/Reconstruction of the new Grand Caillou Elementary School Building is located within the 100-year (1% annual chance) floodplain. Relocating the facility to the proposed site will require mitigation against a Base Flood Elevation of 10 ft. NAVD. The relocation to another floodplain is considered most practicable for the following reasons: (a) The new site requires mitigation against a lower Base Flood Elevation than the original site. (b) Per the preliminary DFIRM, there is no practicable location outside of the 100-yr floodplain that can serve the intended Houma/Dulac communities. (c) Population shifts from the Dulac community to the Houma metro area demand school services.

Step 4: Identify Impacts of Proposed Action Associated With Occupancy or Modification of the Floodplain.

Alternative 3: Relocation *(Proposed Alternative)* – The proposed Change of Location/Reconstruction of the new Grand Caillou Elementary School Building will still have risk associated with its location in a 100 yr floodplain. This new location is however locating in an area with a lower Base Flood Elevation than the pre-existing site. The risk will also need to be lessened with mitigation measures. The natural floodplain will be impacted on the project site the development and impede ground water recharge and affect natural moderation of floods. These impacts are expected to be mitigated through the implementation of a storm water pollution plan and proper drainage. The impact is expected to be minor given the location's surrounding urban environment.

Step 5: Design or Modify the Proposed Action to Minimize Threats to Life and Property and Preserve its Natural and Beneficial Floodplain Values

New construction must be compliant with 44 CFR 9 minimization standard and current codes and standards. The Terrebonne Parish Grand Caillou Elementary School Board is required to coordinate with the local floodplain administrator regarding floodplain permit(s) prior to the start of any activities. The applicant is responsible for obtaining all required permits, including if

needed, a Clean Water Act Section 401 permit and a Storm Water Pollution Plan from the Department of Environmental Quality.

Step 6: Re-evaluate the Proposed Action

The proposed Change of Location/Reconstruction of the new Grand Caillou Elementary School Building will have risk associated with its location in a 100 year floodplain. This new location is however located in an area with a lower Base Flood Elevation than the pre-existing site. The risk will need to be lessened with mitigation measures. The natural floodplain will be impacted on the project site the development and impede ground water recharge and affect natural moderation of floods. These impacts are expected to be mitigated through the implementation of a storm water pollution plan and proper drainage. The impact is expected to be minor given the location's surrounding urban environment. The relocation to another floodplain is considered practicable for the following reasons: (a) The new site requires mitigation against a lower Base Flood Elevation than the original site. (b) Per the preliminary DFIRM, there is no practicable location outside of the 100-yr floodplain that can serve the intended Houma/Dulac communities. (c) Population shifts from the Dulac community to the Houma metro area demand school services.

Step 7: Findings and Public Explanation (Final Notification)

National Environmental Policy Act (NEPA) Environmental Assessment (EA) has been drafted to determine if the reconstruction of the Terrebonne Parish Grand Caillou Elementary School, as described, will have the potential for significant adverse effects on the quality of the human and natural environment. The results of the investigation are being used to make a decision whether to initiate preparation of an Environmental Impact Statement or to prepare a Finding of No Significant Impact. The availability of the Draft EA will be published _____ in the local newspaper, The Courier announcing the availability of the Draft EA for public review at the Terrebonne Parish Main Library at 151 Library Drive, Houma, LA 70360, (hours are Mon.-Thur. 9 a.m. - 9 p.m., Fri. - Sat. 9 a.m. – 6 p. m., Sun. – 2 p.m. – 6 p.m.). A 15 day comment period will commence on the day of publication and on _____.

After evaluating alternatives, including impacts and mitigation opportunities FEMA has determined that the proposed project is the most practicable alternative. The No Action Alternative would leave the building in a damaged and unsafe condition, which poses health and safety issues.

Step 8: Implement the Action

Mitigation measures as outlined in 44 CFR 9.11(d) must be applied to this facility. Any other permits required must be secured prior to construction.

Appendix D

Public Notice

FEMA PUBLIC NOTICE OF AVAILABILITY
DRAFT ENVIRONMENTAL ASSESSMENT AND
DRAFT FINDING OF NO SIGNIFICANT IMPACT
FOR
REPLACEMENT AND RELOCATION
OF THE ELEMENTARY SCHOOL BUILDING C/GRAND CAILLOU MIDDLE SCHOOL
TERREBONNE, LOUISIANA

Interested parties are hereby notified that the Federal Emergency Management Agency (FEMA) has prepared an Environmental Assessment (EA) for a proposed replacement and relocation of the Grand Caillou Middle School, elementary school building "C", 6741 Grand Caillou Road, Dulac, LA. The original structure was damaged by high winds and floodwaters of hurricanes Gustav and Ike. Grand Caillou Middle School and the federally funded elementary school building "C" replacement structure will be built at 2161 Grand Caillou Road, Houma, Louisiana, and will serve a similar function, with increased capacity. Additional square footage will be to meet current codes and standards.

Terrebonne Parish School Board seeks federal grant funds for this action, eligible for repairs or replacement under a Presidential Disaster Declaration signed on September 2, 2008 (FEMA-1786-DR-LA). Per the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*), and associated environmental statutes, a Draft EA has been prepared to evaluate the action's potential impacts on the human and natural environment. The Draft EA summarizes the purpose and need, alternative site analysis, affected environment, and potential environmental consequences associated with the proposed action.

The Draft EA and Draft Finding of No Significant Impact (FONSI) are available for public review at the Terrebonne Parish Library at 151 Library Drive, Houma, Louisiana 70360. Additionally, a public notice regarding the proposed action will be published for five (5) consecutive days in The Courier: August 13, 2012 through August 17, 2012. The comment period will be fifteen (15) days, beginning August 13, 2012 and concluding on August 27, 2012. Written comments on the Draft EA or related matters can be faxed to FEMA's Louisiana Recovery Office at (504) 762-2323; or mailed to FEMA Louisiana Recovery Office, 1 Seine Court, New Orleans, Louisiana 70114. The Draft EA and Draft FONSI can be viewed and downloaded from FEMA's website: http://www.fema.gov/plan/ehp/envdocuments/ea-region6.shtm.

Based on FEMA's findings to date, no significant adverse environmental effects are anticipated. However, if FEMA receives new information that results in a change from no adverse effects then FEMA would revise the findings and issue a second public notice allowing time for additional comments.

If no substantive comments are received, the Draft EA and associated Draft Finding of No Significant Impact (FONSI) will become final and this initial Public Notice will also serve as the final Public Notice. Substantive comments will be addressed as appropriate in the final documents.