

7/6/07 Legal Committee Minutes

Present: Abril Sutherland, Stradford Goins, Stevan Spencer, Peggy Sembara, Cornelia Ullmann, Tonya Ozene, Kevin Wagner, Joe Kopec, Vic Landry, Gloria Just, Sara Mouledoux, Peck Hayne, John Whitney

Absent: George Losonsky

Meeting was called to order by Chair Abril Sutherland at 9:45 a.m.

Kevin Wagner of the Corps advised preliminary elevations are available now but the official announcement will come out in August. The wave models are being re-run for St. Bernard and New Orleans East. Newest elevations require larger footprint. There will be substantial cost impact for wetlands.

Orleans – Lakefront appears okay. Additional land by the Marina will be needed because the COE will replace I-walls with T-walls. This project will be 100% federal but the district will have to assist in acquiring additional land. I-10 is 3 to 4' low and will need to be raised. This will require coordination between the DOTD, Federal Highway Administration, COE, Wildlife & Fisheries, OLD and SLFPA-E.

Lake Borgne – 22 miles of levees will need to be raised 6-7' and this will be cost shared. The closing of MRGO will require a closure structure to keep salt water from coming into the channel. PS#8 will require raising of the ramp at the highway. The footprint will increase south to GIWW. Floodwalls to T-walls also require larger footprint. Lower St. Bernard area will involve buy out of approximately 15 homes and several businesses.

The Corps will stay within the right of way wherever possible.

Land acquisition is cost shared and includes value of real estate plus costs for mapping, title and appraisals. Executive director's salary can be pro-rated for time spent on land acquisition but NOT for engineering. Legal time can be charged as well. Borrow and dirt storage also cost shared.

Joe Kopec, Real Estate Project Manager, addressed land acquisitions and provided a handout.

Third Supplemental (restore to design elevation) – These projects are generally 100% federally funded with the exception of lands being acquired from political type agencies.

Fourth Supplemental – Project Cooperative Agreements spell out duties of federal government and local sponsors. Cost share for earthen levees and new flood walls. Local sponsor is responsible for obtaining right of way. Funding is 100% federal for repair of existing floodwalls.

Mr. Kopec explained the process for district and COE land acquisition. If work begins prior to execution of PCA, the work is at the risk of the district. The district cannot acquire less land than what the COE says is needed and credit is given only for land acquired that is needed. Tract ownership data (TOD) initially obtained "fast and dirty" to determine if there are title problems. COE will take TOD and ROW maps to show how ownership is affected. The Corps will alert the districts as soon as they know of any ownership issues. Appraisals needed to know what the value of the land is. Title evidence shows history of property; chain of title, liens and other easements. When appraisal is ordered, land owner must be invited. Once appraisal is completed, the Corps will review. It should be noted the COE will pay for two appraisals and will chose the appraisal they feel is appropriate. The COE will not average appraisal values. Appraised value must be offered to the land owner and negotiated from that point. The Corps will pay up to 50% over the appraised value but approval from the COE must be given first. Contract cannot be awarded until land is available. If unable to resolve with land owner, then next step is state court.

DOTD Real Estate has approved list for title and mapping companies.

Cemeteries, homes and businesses are project busters.

Levee Districts need to pay for relocation of utilities in new right of ways.

Item B – Discussion with committee, Cornelia Ullmann, Sara Mouledoux and Peck Hayne regarding rate increase for the Gordon Arata law firm . Committee members wanted to discuss with George Losonsky before making any recommendation.