

State of Louisiana

Parish of St. Charles

**ASSIGNMENT OF FLOOD CLOSURE STRUCTURE  
OPERATION AND MAINTENANCE  
WBV-75**

This ASSIGNMENT is made on this 20<sup>th</sup> day of November, 2015 by and between the State of Louisiana, through the Coastal Protection and Restoration Authority (herein referred to as "Assignor"), and \_\_\_\_\_, Parish of St. Charles, Louisiana (herein referred to as "Assignee").

WHEREAS, on or about June 21, 2011, Assignor, through its predecessor, the Office of Coastal Protection and Restoration, executed a certain Flood Closure Structure Construction and Maintenance Agreement (herein sometimes referred to as "Agreement") with BNSF Railway Company (herein sometimes referred to as "Railway") for the purpose of constructing, operating and maintaining a hurricane protection floodgate and appurtenances for the West Bank and Vicinity New Orleans, Louisiana Hurricane protection project, WBV-75, Western Tie-In Railroad Crossing at BNSF Railroad, St. Charles Parish, Louisiana (herein sometimes referred to as "C&M Agreement"), and pursuant to its statutory authorization under La. R.S. 49:214.6.1(A)(2) acquired certain immovable property interests or rights of use required for the levee, floorwall and/or flood gate work on the West Bank and Vicinity, New Orleans, Louisiana Hurricane Project, WBV-75, Western Tie-In BNSF Railroad Crossing, St. Charles Parish, Louisiana (herein sometimes referred to as "Project"), more particularly described in the Exhibits A-1 and A-2, attached hereto; and

WHEREAS, in conjunction with said C&M Agreement, on or about June 21, 2011, Assignor and Railway entered into an Easement Agreement entitled Easement Agreement for West Bank and Vicinity, Louisiana Project, St. Charles Parish, Louisiana, WBV-75, Western Tie-In Railroad Crossing at BNSF Railway (herein sometimes referred to as "Easement Agreement"), a copy of which was recorded in the Conveyance Records of St. Charles Parish on July 18, 2011, in Book Number 759, Page 481, Entry Number 371600; and

WHEREAS the Project included installing railroad flood gates across Railroad's property more particularly described in said C&M Agreement, and depicted on Exhibits A-1 and A-2, attached hereto; and

WHEREAS, the flood gates have been constructed in accordance with said C&M Agreement; and

WHEREAS, the C&M Agreement sets forth the terms and conditions under which the flood gates will be operated and maintained; and

WHEREAS, pursuant to Article V, Section 13(b) of the C&M Agreement and La. R.S. 38:101(C), the responsibility for the maintenance and operation of the hurricane protection system of said Project shall be assumed by St. Charles Parish; and

WHEREAS, CPRA desires to assign to St. Charles Parish all of its rights under such C&M Agreement and Easement Agreement;

NOW THEREFORE, for and in consideration of the obligations contained herein and in that certain Project Partnership Agreement entered into between Assignor and the United States Army Corps of Engineers dated November 6, 2008, and in accordance with La. R.S. 38:101(C), Assignor has assigned, transferred, and conveyed and by these present does hereby assign, transfer, and convey unto Assignee all of Assignor's rights, title and interest in, to and under the C&M Agreement and the Easement Agreement.

Assignee hereby assumes all of Assignor's duties and obligations under said Agreement, including but not limited to the operation and maintenance of said Project.

Assignee agrees to adhere to the Standards Closure Structure Operation as enumerated in Exhibit I to the original Agreement, and attached hereto as Exhibit B.

This Assignment is subject to the rights of any third parties in the Property, including the Union Pacific Railroad Company, under that certain Use and Management Agreement dated September 1, 2000, affecting Railroad's property. In accordance with Article V(20) of the Agreement, Union Pacific Railroad Company, shall be a third party beneficiary of this Assignment.

This Assignment shall be binding upon the Parties and shall inure to the benefit of Assignee and its successors, transferees and assigns.

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THIS DONE, PASSED AND SIGNED by Assignor on this 20<sup>th</sup> day of November, 2015 in Baton Rouge, Louisiana, in the presence of the undersigned competent witnesses, who have hereunto signed their names, together with me, Notary Public, after due reading of the whole.

Witnesses:

[Signature]  
Print Name: Elizabeth P. Shoeneff

[Signature]  
Print Name: Sam Martin

Assignor:

[Signature]  
Kyle Graham, Executive Director  
Coastal Protection and  
Restoration Authority

[Signature]  
Notary Public  
Name: Richelle N. Moore  
Notary Identification No.: 30641  
My commission expires: at death

**Accepted by the St. Charles Parish, Louisiana.**

Accepted on this 4<sup>th</sup> day of November, 2015 in Hahnville, Louisiana, in the presence of the undersigned competent witnesses, who have accepted and signed their names, together with me, Notary Public, after due reading of the whole.

Witnesses:

[Signature]  
Print Name: Aneadra Coleman

[Signature]  
Print Name: Tiffany Clark

Assignee:

[Signature]  
[Name and Title]  
St. Charles Parish Government

Sworn to and ascribed before me this 4<sup>th</sup> day of Nov., 2015, in Hahnville, St. Charles Parish, Louisiana.

[Signature]  
Notary Public  
Name: Lois Kin...  
Notary Identification No.: 58825  
My commission expires: at death

**FLOOD CLOSURE STRUCTURE  
CONSTRUCTION AND MAINTENANCE AGREEMENT**

**EXHIBIT A-1  
PROPERTY DESCRIPTION**

**PARCEL NO. 71-10**

A certain portion of ground located in Louisa Plantation, Section 29, T13S, R21E, Southeastern District of Louisiana, West of the Mississippi River, St. Charles Parish, Louisiana, being part of the Southern Pacific Railroad right of way, designated as Parcel 71-10 and described as follows:

Commence from the intersection of the southerly right of way line of the Union Pacific Railroad and the line between Sections 28 and 29 said point having coordinates of X=3,601,667.52 Y=521,802.81 and go South 05°12'41" East along the line between Sections 28 and 29 a distance of 982.14 feet; thence go South 14°13'20" East a distance of 1162.73 feet; thence go South 14°04'33" East a distance of 1017.94 feet to the northerly right of way line of the Southern Pacific Railroad, the POINT OF BEGINNING. Thence go North 63°53'19" East along the northerly right of way line of the Southern Pacific Railroad a distance of 395.05 feet; thence go South 14°16'14" East a distance of 102.17 feet to the southerly right of way line of the Southern Pacific Railroad; thence go South 63°53'19" West along the southerly right of way line of the Southern Pacific Railroad a distance of 395.40 feet; thence go North 14°04'33" West a distance of 102.25 feet to the POINT OF BEGINNING.

All as shown on the WBV-70 through WBV-77 Lake Cataouatche Levee Western Tie-In right of way plans by Dufrene Surveying & Engineering Inc. dated April 14, 2011, revised June 3, 2011 and containing 0.9073 acres.

**PARCEL NO. 71-11**

A certain portion of ground located in Louisa Plantation, Section 29, T13S, R21E, Southeastern District of Louisiana, West of the Mississippi River, St. Charles Parish, Louisiana, being part of the Southern Pacific Railroad right of way, designated as Parcel 71-11 and described as follows:

Commence from the intersection of the southerly right of way line of the Union Pacific Railroad and the line between Sections 28 and 29 said point having coordinates of X=3,601,667.52 Y=521,802.81 and go South 05°12'41" East along the line between Sections 28 and 29 a distance of 982.14 feet; thence go South 14°13'20" East a distance of 1162.73 feet; thence go South 14°04'33" East a distance of 1017.94 feet to the northerly right of way line of the Southern Pacific Railroad; thence go North 63°53'19" East along the northerly right of way line of the Southern Pacific Railroad a distance of 395.05 feet to the POINT OF BEGINNING. Thence go North 63°53'19" East along the northerly right of way line of the Southern Pacific Railroad a distance of 92.75 feet; thence go South 15°21'45" East a distance of 101.79 feet to the southerly right of way line of the Southern Pacific Railroad; thence go South 63°53'19" West along the southerly right of way line of the Southern Pacific Railroad a distance of 94.73 feet; thence go North 14°16'14" West a distance of 102.17 feet to the POINT OF BEGINNING.

All as shown on the WBV-70 through WBV-77 Lake Cataouatche Levee Western Tie-In right of way plans by Dufrene Surveying & Engineering Inc. dated April 14, 2011, revised June 3, 2011 and containing 0.2152 acres.

FLOOD CLOSURE STRUCTURE  
CONSTRUCTION AND MAINTENANCE AGREEMENT

EXHIBIT A-2  
PROPERTY DESCRIPTION (PICTURE)

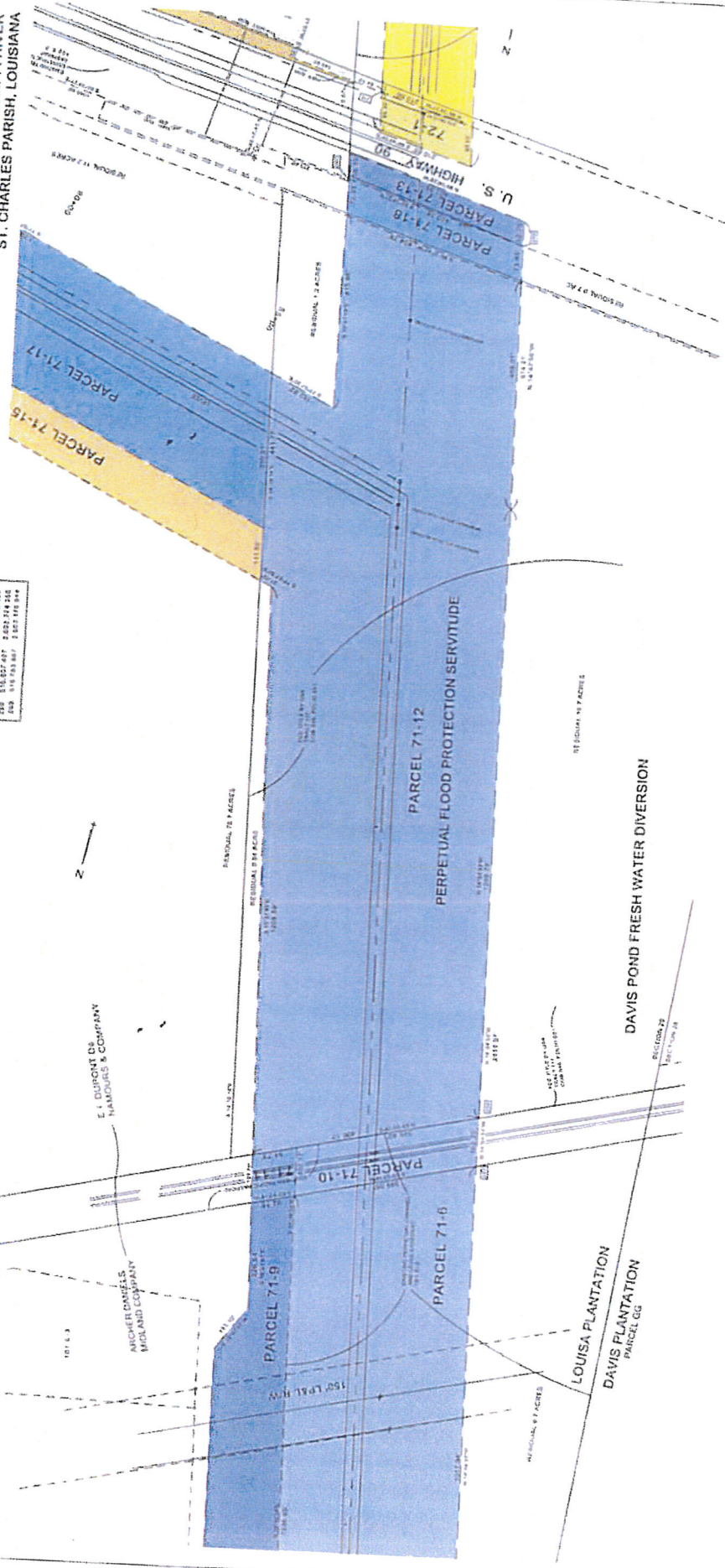


T 13 S R 21 E  
 SOUTHEASTERN DISTRICT OF LOUISIANA  
 WEST OF THE MISSISSIPPI RIVER  
 ST. CHARLES PARISH, LOUISIANA

PARCEL NO.	ACRES
71-9	107.63
71-10	150.00
71-11	107.63
71-12	107.63
71-13	107.63
71-14	107.63
71-15	107.63
71-16	107.63
71-17	107.63
71-18	107.63
71-19	107.63
71-20	107.63
71-21	107.63
71-22	107.63
71-23	107.63
71-24	107.63
71-25	107.63
71-26	107.63
71-27	107.63
71-28	107.63
71-29	107.63
71-30	107.63
71-31	107.63
71-32	107.63
71-33	107.63
71-34	107.63
71-35	107.63
71-36	107.63
71-37	107.63
71-38	107.63
71-39	107.63
71-40	107.63
71-41	107.63
71-42	107.63
71-43	107.63
71-44	107.63
71-45	107.63
71-46	107.63
71-47	107.63
71-48	107.63
71-49	107.63
71-50	107.63

ARCHER DANIELS  
 MIDLAND COMPANY

E. CLAYTON DA  
 NARDON & COMPANY



PARCEL	OWNER	ACREAGE	AREA	RECORD
71-9	NOT USED			RECORD
71-10	ARCHER DANIELS MIDLAND COMPANY	150.00 ACRES	0.5073 ACRES	REC. 71-2
71-11	ARCHER DANIELS MIDLAND COMPANY	107.63 ACRES	0.2192 ACRES	SEE 71-2
71-12	UNITED STATES OF AMERICA	107.63 ACRES	2.1034 ACRES	13 ACRES & 17 ACRES
71-13	E. CLAYTON DA NARDON & COMPANY	107.63 ACRES	0.4407 ACRES	HIGHWAY 90
71-16	E. CLAYTON DA NARDON & COMPANY	107.63 ACRES	0.4407 ACRES	SEE 71-8

REVISED AND 2 2011  
 WBV-70 THROUGH 77  
 LAKE CATAO AT THE LEVEE  
 WESTERN TIE-IN  
 WEST BANK AND  
 HURRICANE PROTECTION PROJECT  
 JEFFERSON PARISH, LA  
 RIGHT OF WAY PLAN  
 SUPREME ENGINEERING INC.  
 APRIL 16, 2011  
 1 4222 1



**FLOOD CLOSURE STRUCTURE  
CONSTRUCTION AND MAINTENANCE AGREEMENT**

**EXHIBIT I  
STANDARDS FOR CLOSURE STRUCTURE OPERATION**

**CLOSURE:**

Generally.

The Closure Structure will be closed by OCPR when the National Weather Service (the "NWS") has issued a hurricane warning for the Greater New Orleans ("GNO") area and wind speeds in New Orleans reach 39 MPH (34 knots) as determined by the NWS at [www.weather.gov](http://www.weather.gov). However, closure will not occur earlier than H-24, nor later than H-12, both as defined below. The OCPR or its designee will coordinate its efforts with Owner as detailed in the standards set forth below. All notifications to Owner shall be by telephone to each of the following contacts:

BNSF Railway Joint Corridor Manager Desk:	(281) 350-7231
BNSF Railway Service Interruption Desk:	(817) 234-2350
BNSF Manager Structures:	(817) 807-8600

Timeline for Closure of Closure Structure

- H-72 "H-72", or landfall minus 72 hours, occurs when the NWS issues an advisory for a Saffir-Simpson category 1 or above hurricane ("Hurricane Event") that depicts the potential 1-3 day landfall track area on the shores of Louisiana between Morgan City and Slidell. H-72 indicates that a Hurricane Event has the potential of affecting the GNO area within 72 hours. At H-72, OCPR will notify Owner of Closure Structure closure preparations, and will begin to monitor predicted wind speeds in New Orleans, Louisiana.
- H-48 "H-48", or landfall minus 48 hours, occurs when the NWS issues a hurricane watch for the GNO area. At H-48, OCPR will notify Owner and update the status of Closure Structure preparations and operations with regard to wind speed.
- H-24 "H-24", or landfall minus 24 hours, occurs when the NWS issues a hurricane warning for the GNO area. At H-24, the closure of the Closure Structure is imminent and may be ordered by OCPR at any time between H-24 and H-12 (landfall minus 12 hours). Closure of the Closure Structure will be ordered shortly after the NWS predicts that wind speeds in New Orleans will reach 39 MPH (34 knots), after H-24. OCPR will notify Owner when it appears that H-24 is likely to occur shortly. OCPR will provide at least three hour's notice to Owner prior to ordering closure, and will notify Owner when the instruction to close the gate is issued. OCPR may give the 3-hour notice as early as H-27, if a storm is moving fast enough to have predicted wind speeds in New Orleans of 39 MPH (34 knots) at H-24.

**REOPENING:**

The Closure Structure shall be reopened by OCPR immediately upon the satisfaction of the following criteria (the "Reopening Conditions"):

- (i) The eye of the storm has passed the GNO area;
- (ii) According to the NWS, wind speeds at the Closure Structure are below 39 MPH (34 knots);  
and

(iii) The water level at the Closure Structure is below the gate sill.

If the Closure Structure is not reopened immediately upon satisfaction of the Reopening Conditions, the Owner may provide notice to OCPR and take immediate action to reopen the Closure Structure and resume operations. Such notification shall be by telephone to the following contacts:

OCPR Incident Commander  
OCPR Operations Coordinator

(225) 342-3969 (O) or (985) 709-1099 (C)  
(225) 342-4525 (O) or (504) 432-7741 (C)