



State of Louisiana

BOBBY JINDAL
GOVERNOR

September 7, 2012

Mr. Theodore A. Brown, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works
Headquarters
U.S. Army Corps of Engineers
CECW-P (SA)
7701 Telegraph Road
Alexandria, VA 22315-3860

Dear Mr. Brown:

The State of Louisiana through the Coastal Protection and Restoration Authority (CPRA) respectfully submits the following comments on the proposed report of the Chief of Engineers and report of the district engineer for the Mississippi River Gulf Outlet (MRGO) Ecosystem Restoration Plan.

First, we must put the MRGO project into historical context. The MRGO was built by the USACE as an alternative navigation channel from the Gulf of Mexico to the New Orleans area. The project was touted as an economic boon to the region. While we are not disputing the support for the project at the time, the projected benefits of the project were never realized. To the contrary, the channel resulted in extraordinary economic and environmental harm to the region. Recently, federal courts affirmed concerns that these impacts were largely attributable to federal actions/inaction. The MRGO has both caused chronic wetlands loss and impacts across hundreds of thousands of acres of our coast and the hurricane highway has been identified as the cause of acute losses to our coastal communities in hurricanes Katrina and Isaac. Louisiana communities are now at greater risk from storm surge impacts.

We commend the Corps for constructing the closure structure at the Bayou LaLoutre alignment of the MRGO, but much work remains until this vulnerability is fully addressed. Corps delays and unfounded legal interpretations associated with the MRGO restoration simply exacerbate and perpetuate the multiple disasters forced upon the St. Bernard, Plaquemines, Orleans and other basin communities. The state and parishes did not cause the problem and should not be held hostage for a cost share ransom.

As the CPRA has stated on numerous occasions, the restoration of the MRGO-impacted area is critical to the protection of our citizens and future of our state. Section 7013(a)(3)(A) of the Water Resources Development Act of 2007 (WRDA 2007) requires the U.S. Army Corps of Engineers to:

"Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the

Committee on Transportation and Infrastructure of the House of Representatives a final report on the deauthorization of the Mississippi River-Gulf outlet..."

Further, the 2007 law specifies that the final restoration plan:

"At a minimum, the report under subparagraph (A) shall include—

(i) a plan to physically modify the Mississippi River-Gulf Outlet and restore the areas affected by the navigation channel;

(ii) a plan to restore natural features of the ecosystem that will reduce or prevent damage from storm surge;

(iii) a plan to prevent the intrusion of saltwater into the waterway;

(iv) efforts to integrate the recommendations of the report with the program authorized under section 7003 and the analysis and design authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247) [the Louisiana Coastal

Protection and Restoration analysis and design to provide up to Category 5 protection for coastal Louisiana]; and

(v) consideration of—

(I) use of native vegetation; and

(II) diversions of fresh water to restore the Lake Borgne ecosystem."

This final restoration plan is well over four years past the deadline required under federal law. With the Corps' excruciatingly narrow interpretation of some water resource laws, it is difficult to understand the abject discretion exercised by the Corps that allowed a four-year delay in the release of this restoration plan and the protection of our citizens.

The implementation of this restoration plan would have reduced the storm surge entering lakes Borgne, Pontchartrain and Maurepas thereby saving the federal government hundreds of millions of dollars in disaster funds and preventing the widespread destruction to families, homes and businesses across lake communities in Louisiana as a result of Hurricane Isaac. Therefore, we remain eager supporters of the U.S. Army Corps of Engineers' (USACE or Corps) efforts to restore the area of Louisiana's coast that was affected by the MRGO navigation channel.

The MRGO Ecosystem Restoration Plan, as authorized in WRDA 2007, is a vital component of rehabilitating the natural system of coastal Louisiana that serves to protect the economic and energy security of both the state and nation, the safety of more than 2 million Louisiana residents, the ecological balance of the Gulf region, and the survival of a unique culture. Indeed, the CPRA, together with St. Bernard and Orleans parishes has already committed in excess of \$100 million to the construction of numerous features of the draft MRGO restoration plan. This

includes Biloxi Marsh restoration, oyster barrier reefs in the Lake Borgne rim, Orleans Land Bridge restoration/shoreline protection and Central Wetlands restoration.

The appropriate agencies of the State have reviewed the report and many of the recommendations included therein are generally consistent with State laws and policies. Additionally, they are in general agreement with the goals of the CPRA as set forth in the agency's annual plan and 2012 Comprehensive Master Plan for a Sustainable Coast. Nevertheless, we respectfully disagree with some of the recommendations outlined in the plan and with some policy positions of the USACE throughout plan development. Many of these concerns were conveyed in our March 5, 2011 correspondence and those concerns remain relevant today. We look forward to working alongside your agency and our other federal partners to address those concerns and accomplish the dual goals of ecosystem restoration and hurricane protection on Louisiana's coast.

This letter, while not legally binding on the State as an obligation of future funds appropriated by the State Legislature, declares our support for the MRGO Ecosystem Restoration Plan as described in the draft reports dated June 2012, with cost sharing as required in applicable federal laws, including WRDA 2007 and the various post-Katrina Supplemental Congressional Enactments.

The State of Louisiana, through the CPRA, remains eager to serve as the non-Federal sponsor and has provided under separate cover a Letter of Intent to the New Orleans District Commander, Col. Ed Fleming, setting forth the State's support of the project. The CPRA has consistently maintained that the Congressional intent is for the MRGO Ecosystem Restoration Plan to be conducted at full Federal expense, pursuant to Sections 7012(b) and 7013 of the WRDA 2007. In fact, the Corps signed a Memorandum of Agreement on October 31, 2008 with the State pursuant to these same federal laws wherein the construction of the MRGO closure structure and the MRGO 3rd Supplemental ecosystem restoration measures were to be constructed at "full federal expense". The Corps cannot interpret the same exact provisions of law to require "full Federal expense" for the construction of the closure structure yet a \$1 billion state cost share for construction of restoration. The law simply does not distinguish between closure and restoration. Further, the USACE's threat to not pursue the MRGO restoration project is neither a viable legal option provided to the Corps under federal law nor consistent with aforementioned construction activities and legal positions taken by the Corps. Specifically, Section 7013(a)(4) of the WRDA 2007 states,

"The Secretary shall carry out a plan to close the Mississippi River-Gulf Outlet and restore and protect the ecosystem substantially in accordance with the plan required under paragraph (3), if the Secretary determines that the project is cost-effective, environmentally acceptable, and technically feasible."

In light of the clear congressional intent to require the USACE to carry out this important restoration project and to fully fund the implementation of this plan and the Corps' plan already determined to have met the cost, environmental and technical conditions, we again respectfully urge the Corps to quit playing legal games with the citizens of our state and expedite

construction of this project. As noted above, with over \$100 million in CPRA construction efforts committed to date, the State's commitment to this project could not be greater.

Furthermore, the State does not support the obligation of the non-Federal sponsor to provide land rights through fee simple title, as is described in the real estate plan of the MRGO Ecosystem Restoration Plan. First, "full Federal expense" would include real estate interests. Second, the State, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, U.S. Environmental Protection Agency, Natural Resources Conservation Service and the USACE have successfully completed ecosystem restoration projects through the Coastal Wetlands Planning, Protection, and Restoration Act program for more than 20 years using ecosystem restoration wetland creation estates, and the State believes this type of non-standard estate should be utilized for all USACE ecosystem restoration projects in coastal Louisiana. It is the State's position that we should work with coastal landowners to provide for project easements that are compatible with private sector beneficial uses of these coastal parcels rather than taking property from unwilling sellers and removing these lands from active commerce. As currently proposed, the draft plan would reduce domestic energy production and increase reliance on foreign energy sources. Land rights less than fee simple title are fully supported under the Corps' own real estate guidance. Acquiring land rights through fee simple title is inconsistent with the Louisiana's working coast, is not supported by the private landowners in the project area, and will significantly and unnecessarily increase the costs of the project. In particular, it is highly likely that the major landowners will provide the land rights necessary for carrying out the plan under conservation type easements at no cost to the USACE or the State, thus reducing the real estate costs for the project by at least \$50,000,000 to \$100,000,000 and preventing conflicts with private property owners.

The MRGO Ecosystem Restoration Plan represents a significant positive step toward restoring areas of coastal Louisiana adversely affected by the MRGO, but the State asserts that the extent of restoration is not proportionate with the full extent of ecological damage caused by the MRGO as required by law. The geographic scope of impacts caused by the MRGO far exceeds the areas identified for restoration in the federally identified plan. The extent of restoration proposed is limited to the vicinity of Lake Borgne and lacks a return to the natural state enjoyed prior to the construction of the channel. The State continues to recommend that additional features be included within the plan to more fully address ecosystem restoration of all areas impacted by the MRGO. The CPRA also requests that the USACE work closely with the State and St. Bernard Parish to appropriately sequence construction of projects, including the prioritization of those features in eastern St. Bernard Parish that net high-value return to the region.

An integral component of the restoration of areas adversely affected by the MRGO is the implementation of a freshwater and sediment diversion in the vicinity of Violet, Louisiana. The lack of an implementable diversion under the federally developed plan prevents restoration of historic salinity or land conditions in the study area, one of the main objectives of the project. Inclusion of an implementable diversion as part of this report would help ensure the sustainability of project features by providing significant wetland benefits and serving as a buffer to increasing salinity in the face of future sea level rise. For these reasons, the State supports the Corps' previous intent to include the diversion for construction under the authorization of the

MRGO Ecosystem Restoration Plan, and not through future study under Section 3083 of WRDA 2007 which will only delay implementation of this critical component. In addition, we continue to recommend the existing Violet Canal be more fully investigated as an appropriate location for the conveyance of freshwater for a potential diversion. Any effort to modify the canal or otherwise convey freshwater and sediment to the project area should be coordinated with St. Bernard Parish, including communications with the parish's Coastal Zone Advisory Committee.

The MRGO Ecosystem Restoration Plan relies almost entirely on sediment sources within Lake Borgne to construct marsh and swamp restoration features. The State emphasizes the significant need to maximize the use of sediment sources from outside the system. Therefore, it is the recommendation of the State that the use of sediment from the Mississippi River to construct restoration features be re-evaluated and maximized to the greatest extent practicable. This project presents the Corps with yet another opportunity to extract sediment from the river system while reducing the command's overall dredging costs and improving the reliability of authorized river drafts. Considering the significant amount of sediment required to construct these features, and the additional amount of sediment that will be required for renourishment in future years to ensure sustainability, it is short sighted to only look at taking borrow from Lake Borgne. Utilization of sediment from the Mississippi River would re-establish the historic relationship between the river and the marsh while ensuring a more sustainable restoration project and providing greater ecosystem services over a longer period of time.

Please note that Section 7013 of WRDA 2007 required the completion of this report in May of 2008. We are anxious for the Corps to move this project toward construction as soon as possible. Additionally, as evidence of its support, the State has already committed tens of millions of dollars for the construction of efforts to restore this region consistent with the draft plan. This includes projects for restoration and shoreline protection of the New Orleans East Landbridge, oyster barrier reefs in the Lake Borgne region, Central Wetlands restoration, and Biloxi Marsh restoration, as well as partnership with the Corps via the October 31, 2008 Memorandum of Agreement for construction of the MRGO Closure Structure and the 3rd Supplemental Ecosystem Restoration Measures. The State of Louisiana and the CPRA appreciate your consideration of these comments. We whole-heartedly endorse this and other USACE efforts to restore Louisiana's coastal ecosystem, and we look forward to working with the USACE on the implementation of these important projects.

Respectfully,



Garret Graves, Chairman

Coastal Protection and Restoration Authority of Louisiana



BOBBY JINDAL
GOVERNOR

State of Louisiana

ROBERT J. BARHAM
SECRETARY

DEPARTMENT OF WILDLIFE AND FISHERIES
OFFICE OF WILDLIFE

JIMMY L. ANTHONY
ASSISTANT SECRETARY

September 4, 2012

Mr. Theodore A. Brown, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works
United States Army Corps of Engineers
441 G Street NW
Washington, D.C. 20314-1000

RE: *Notice: Mississippi River Gulf Outlet Ecosystem Restoration Plan (FEIS)*
Applicant: U.S. Army Corps of Engineers-Civil Works
Notice Date: July 27, 2012

Dear Mr. Brown:

The professional staff of the Louisiana Department of Wildlife and Fisheries (LDWF) has reviewed the above referenced report on the Mississippi River Gulf Outlet Ecosystem Restoration Plan. Based upon this review, the following has been determined:

Borrow Sites:

We understand the economic and logistical constraints due to the amount of marsh creation and borrow usage, but in the sediment starved systems such as Lake Borgne external borrow sources are preferred. We would like the U.S. Army Corps of Engineers (USACE) to continue to investigate all possible alternatives that may be more economically feasible with new advances in technology as the restoration progresses. Economically viable external sources of dredge material are preferred over the present proposed borrow plan.

We understand the geographic and logistical constraints placed on borrow sites but would suggest restricting borrow to not more than 15 feet below the existing mud line. However, the proposed pilot studies on the first borrow pits and the proposed monitoring may show that deeper borrow pits may not pose a significant hypoxia threat.

We would also like a buffer of at least 500ft to be placed around existing hard bottom and oyster leases to offset impacts and to allow oysters resources to supply oyster spat and provide ecological services for the rest of the system. Some of the borrow areas could possibly be shifted into the un-leased areas to provide the necessary buffer.

Prior to initiation of construction activities that may impact oyster leases, USACE shall contact LDWF biologist Chris Davis (225-765-2642 or rcdavis@wlf.la.gov) to ensure that the appropriate oyster lease holders have been notified and measures to minimize impacts to oyster reef have been taken.

Some of the borrow sites are on the primary Public Oyster Seed Grounds which are managed by LDWF. All of these sites are subject to LDWF permit restrictions on any dredge work performed there. Please contact Christy McDonough (225-765-2386) for additional information.

Oyster reefs:

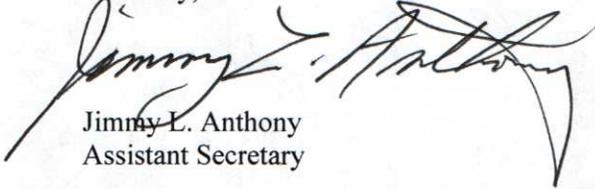
Created oyster reefs proposed in this project are currently located on the Public Seed Grounds; LDWF supports creation of these structures in the Seed Grounds provided they are placed appropriately. Please coordinate with Patrick Banks-LDWF Oyster Program Manager (225-765-2370) for placement of reef material on the seed grounds.

Shoreline protection features:

All shoreline protection features shall include fish dips to allow marsh access. Please consult with LWDF and resource agencies to determine the number and location of fish dips during the Coastal Use Permit process. LDWF prefers implementing more natural shoreline protection structures including shell material. Material with a large surface area provides more habitat than vertical walls. Use of sheet piles should be restricted to those places where no other material will work.

The Louisiana Department of Wildlife and Fisheries submits these recommendations to the U.S. Army Corps of Engineers in accordance with provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.). Please do not hesitate to contact Fishery Habitat Section biologist Robert Bourgeois at 225-765-0765 should you need further assistance.

Sincerely,



Jimmy L. Anthony
Assistant Secretary

rb/cd



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



AUG 30 2012

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PEP/NRM

ER 12/543

Mr. Theodore A. Brown, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works
U.S. Army Corps of Engineers
CECW-P (SA)
7701 Telegraph Road
Alexandria, VA 22315-3860

Dear Mr. Brown:

The U.S. Department of the Interior (Department) has reviewed the U.S. Army Corps of Engineers (Corps) Final Environmental Impact Statement (FEIS), Feasibility Study Report (FS), and the Chief of Engineers Report for the Mississippi River-Gulf Outlet (MRGO) Ecosystem Restoration Plan (Plan). The MRGO Plan is being developed as a supplement to the June 2008 MRGO Deep-Draft De-Authorization Report and is intended to fully meet the requirements of Section 7013 of the Water Resources Development Act (WRDA) of 2007. This FS has resulted in a Chief of Engineers Report containing a recommended Plan, which has been conditionally authorized for construction by WRDA 2007. The Plan addresses systematic ecosystem restoration and protection of the Lake Borgne ecosystem and areas affected by the former MRGO navigation channel, and will include consideration of measures to reduce or prevent damage from storm surge. The following comments on the Chief of Engineers Report are provided in accordance with provisions of the Fish and Wildlife Coordination Act (FWCA; 48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) while our comments on the FEIS and FS are provided in accordance with provisions of the FWCA and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The Federally Identified Plan (FIP) would restore approximately 10,318 acres of cypress swamp, 14,123 acres of fresh and intermediate marsh, 32,511 acres of brackish marsh, 466 acres of saline marsh, 54 acres of ridge habitat, and 71 miles of shoreline protection. Project features include swamp and marsh restoration and nourishment, shoreline protection, a freshwater diversion at Violet, and restoring part of the existing subsided ridge on the south bank of Bayou La Loutre.

Due to uncertainties associated with the timing and availability of funding, the Corps has revised the construction sequence so that only those features that are sustainable without the implementation of any other feature (such as a diversion) are recommended for construction at this time. A tiered implementation approach has been developed based on that criteria as well as the inclusion of operation and maintenance activities. A description of the tiered approach is as follows:

- Tier 1 includes features that have been developed to a feasibility level of detail and are not dependent on a freshwater diversion. Tier 1 features are recommended for construction.
- Tier 2 includes features with feasibility level detail that are dependent upon salinity¹ conditions but may be sustainable without the implementation of a freshwater diversion. If future conditions and further analysis indicate that favorable conditions for ecological success and long term sustainability exist, then these projects may be constructed.
- Tier 1 and Tier 2 features are recommended for construction through the WRDA 2007 Section 7013 authority upon the identification of a non-Federal sponsor.
- Tier 3a includes further study of the Violet, Louisiana Freshwater Diversion under the WRDA 2007 Section 3083 authority.
- Tier 3b includes any features that are dependent on freshwater diversion, and features in Tier 2 that future conditions and further analyses indicate are not sustainable. Subsequent to the completion of Tier 3a, Tier 3b features would be constructed through the WRDA 2007 Section 7013 authority upon the identification of a non-Federal sponsor.

General Comments

Many of the Department's previous comments on the Draft Feasibility Study Report and Draft Environmental Impact Statement have been adequately addressed. However, the issue of MRGO impacts to Breton Island has not been addressed.

Breton Island is a National Wildlife Refuge (NWR), managed by the U.S. Fish and Wildlife Service (FWS) and is of national importance. The importance of Breton Island NWR is clear not only as America's second oldest refuge (established in 1904) but also because the island provides tremendous benefits to nesting colonial seabirds (including the largest sandwich and royal terns colonies in North America), wintering migratory birds, wintering piping plover critical habitat, and other shorebird habitat. Restoration of this island habitat will have benefits on a scale that cannot be realized anywhere else on the coast.

In 2010, the Corps Tentatively Selected Plan (TSP) did not include actions to ameliorate impacts to Breton Island NWR citing insufficient nexus to MRGO effects, the Lake Borgne ecosystem, or storm surge damage risk reduction. However in 2009 (released in 2010), a peer-reviewed study was conducted by the U.S. Geological Survey (USGS) (Lavoie, D, ed., 2009) demonstrating there were long-term impacts to Breton Island NWR as a result of the MRGO channel. The USGS report indicated that by digging the MRGO channel, the Corps inadvertently disrupted sand transport processes that naturally would have "fed" Breton Island NWR beaches. The Corps states, "[T]he impact to the islands from the MRGO, if any, is difficult to quantify with any degree of certainty...." (Britsch 2008). Given the uncertainty of the available science, further study is necessary to determine the impacts of the channel on Breton Island NWR.

From May 2010 through June 2012, the FWS provided six FWCA Reports and Recommendations (dated May 19, 2010; June 16, 2010; July 16, 2010; February 2012; March 13, 2012; and June 7, 2012) repeating its concerns and recommendation to include a Breton Island feature to ameliorate the areal loss of Breton Island due to the construction and maintenance of the MRGO channel. The Department believes that the restoration goals

¹ Average annual salinity: fresh marsh: <1.1 parts per thousand (ppt); intermediate marsh: <4.1 ppt; brackish marsh: <8.3 ppt, swamp <2 ppt average during the growing season

maintenance of the MRGO channel. The Department believes that the restoration goals authorized by Section 7013 of WRDA 2007 contain the appropriate authority to rectify potential impacts to the Breton Island NWR.

The Corps indicated within the FS and FEIS that further study of the impacts of the MRGO channel on Breton Island is needed, but has not committed to that study or to rectifying the issue in the study's recommendations nor the Chief of Engineers Report. The Department is seeking a deeper commitment from the Corps to resolving this issue and addressing our outstanding FWCA recommendation.

Specific Comments on the proposed Chief of Engineers Report

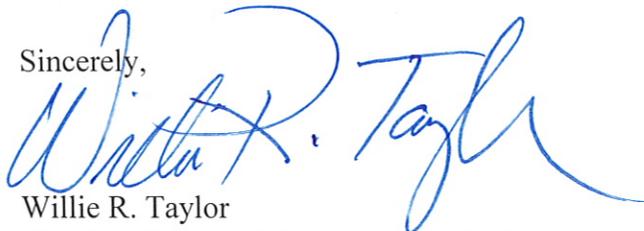
Pages 2 through 3, Section 4.b. description of the FIP; restoration of MRGO impacts to Breton Island NWR is not mentioned. For the reasons stated above, the Department recommends the Corps include language in the Chief of Engineers Report committing to conducting a feasibility study on the Breton Island NWR. The study should resolve the scientific uncertainty about the factors contributing to erosion on Breton Island NWR. If the study concludes that the MRGO has impacted Breton Island NWR, then a recommendation for construction of a Breton Island NWR feature should be included under the 7013 authority. If the study concludes the channel did not impact the island, then a recommendation for a Breton Island feature should be pursued under other existing authorities or under a new authority.

The FWS and the Corps New Orleans District have a long positive history of close collaboration that has resulted in many beneficial coastal Louisiana efforts. We note and commend the Corps on their previous efforts with Breton Island where coordination with the FWS resulted in the 2000 Coastal America Award in Partnership for a Breton Island Restoration Project. The FWS looks forward to continued coordination in addressing the vital habitat for our Federal resources on Breton Island NWR.

The Department believes that inclusion of the above recommendation in the Chief of Engineers Report will fully address our FWCA Breton Island recommendation and agree that, once a cost-share partner is established, the Plan would help restore the Lake Borgne ecosystem and the areas affected by the MRGO navigation channel. If project features are changed significantly or are not implemented within one year of our Endangered Species Act consultation letter (September 13, 2011), we recommend that the Corps reinstate coordination with the FWS to ensure that the proposed project would not adversely affect any Federally listed threatened or endangered species or their critical habitat.

We appreciate the opportunity to provide comments. If you have any questions regarding our comments, please contact Ms. Catherine Breaux, FWS, at (504) 862-2689 or email Catherine_Breaux@fws.gov.

Sincerely,



Willie R. Taylor
Director, Office of Environmental Policy
and Compliance

Literature Cited

Britsch, L.D., 2008. Expert Report of Louis Del Britsch III. Robinson v. United States, Civil Action No. 06-2268, E.D. La. U.S. Army Corps of Engineers. New Orleans, LA.

Lavoie, D., ed., 2009, Sand resources, regional geology, and coastal processes of the Chandeleur Islands coastal system—an evaluation of the Breton National Wildlife Refuge: U.S. Geological Survey Scientific Investigations Report 2009—5252, 180 p.



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

REPLY TO
ATTENTION OF

Mississippi Valley Division
Regional Integration Team

OCT - 3 2012

Mr. Willie R, Taylor
Director, Office of Environmental Policy and Compliance
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Taylor:

This is in response to your letter dated August 30, 2012, providing comments on the feasibility study, environmental impact statement and proposed report of the Chief of Engineers on the Mississippi River Gulf Outlet Ecosystem Restoration Plan. Specifically, the U.S. Department of the Interior, U.S. Fish and Wildlife Service (USFWS), is requesting the addition of language to the proposed Report of the Chief of Engineers regarding a study of Breton Island.

The U.S. Army Corps of Engineers is very appreciative of the collaborative participation of the USFWS in the MRGO study and development of ecosystem restoration plans for the area. We have modified the Report of the Chief of Engineers to incorporate the following language:

Along with Tier 3 features, a need was identified for further study in collaboration with the U.S. Fish and Wildlife Service to investigate erosion of Breton Island National Wildlife Refuge under existing authorities. The study is not linked to salinity conditions in the estuary or the Violet Diversion but is an important part of addressing the needs of the coastal system. This effort would build upon previous work with the Service to identify restoration needs and plans for the Nation's second oldest refuge.

We believe the inclusion of this language is needed to highlight the importance of the Breton Island National Wildlife Refuge to coastal Louisiana and the nation. Please contact Ms. Beth Marlowe of my staff for more detailed information regarding the resolution of your comment. She can be reached at (202) 761-0297.

Sincerely,

Theodore A. Brown, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works

From: [Matusiak, Mark HQ02](#)
To: [Marlowe, Beth A HQ02](#)
Subject: FYI on MRGO (UNCLASSIFIED)
Date: Friday, August 31, 2012 11:27:02 AM

Classification: UNCLASSIFIED

Caveats: NONE

I got a call from the USFWS field office in Mississippi saying the they would have no comments to submit on the MRGO S & A.

Mark Matusiak
Office of Water Project Review
Planning and Policy Division
HQUSACE
Mark.Matusiak@usace.army.mil
(202) 761-4700

Classification: UNCLASSIFIED

Caveats: NONE



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701

August 15, 2012 F/SER46/RH:jk
225/389-0508

Mr. Theodore A. Brown, P.E.
Headquarters
U.S. Army Corps of Engineers
CECW-P (SA)
7701 Telegraph Road
Alexandria, Virginia 22315-3860

Dear Mr. Brown:

NOAA's National Marine Fisheries Service (NMFS) has received the Final Environmental Impact Statement (FEIS), the Final Feasibility Report, and the proposed Chief of Engineers Report for the Mississippi River-Gulf Outlet (MRGO) Ecosystem Restoration Plan. The FEIS evaluates environmental impacts associated with the implementation of a number of restoration measures to remediate environmental damage caused by the construction of the Mississippi River-Gulf Outlet (MRGO) in Louisiana. As described in the FEIS, the Tentatively Selected Plan (TSP) includes dredging and fill replacement to restore more than 57,000 acres of wetlands in existing open water areas. The TSP also includes 71 miles of shoreline protection and implementation of a fresh water diversion near Violet, Louisiana. The Chief of Engineers Report recommends no future action be taken on this project due to the lack of a willing non-federal sponsor.

By letter dated February 11, 2011, NMFS provided comments on the Draft Environmental Impact Statement. Included in that letter were five essential fish habitat (EFH) Conservation Recommendations in partial fulfillment of our coordination responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, P.L. 104-297). To summarize, those EFH Conservation Recommendations requested: 1) specific details for each restoration feature be provided to NMFS for review and comment during the preliminary engineering and design (PED) stage; 2) borrow pits be limited in depth unless adaptive management indicate deeper pits would have little impact on water quality; 3) the monitoring and adaptive management plan include monitoring of benthic communities and dissolved oxygen levels within borrow areas in Lake Borgne; 4) retention dikes constructed for marsh creation be gapped or degraded within three years of construction; and 5) shoreline protection features include 25-ft wide gaps to provide for fisheries ingress and egress every 1,000 linear feet.

A March 20, 2012, letter from Ms. Joan Exnicios (CEMVN) provided a response to those five EFH Conservation Recommendations and described how each had been addressed. To summarize that response: 1) CEMVN would provide NMFS detailed design documents during the PED stage; 2) three borrow pits would be constructed in Lake Borgne with different designs



and adaptive management would be used to would to determine future borrow pit design; 3) pre- and post-construction water quality monitoring, based on United States Geological Survey guidelines, would be undertaken at seven locations in and adjacent to Lake Borgne for a period of 10 years; 4) CEMVN agreed to breach and degrade retention dikes within three years of their use; and 5) CEMVN agreed to include 25-ft wide gaps in shoreline protection features every 1,000 linear feet. Based on that response, and revisions made to appropriate sections of the FEIS to include these commitments, NMFS has determined our concerns regarding potential project impacts to EFH and associated marine fishery resources have been adequately addressed. This satisfies the consultation procedures outlined in 50 CFR Section 600.920, the regulation to implement the EFH provisions of the Magnuson-Stevens Act.

We appreciate your efforts to cooperatively address our concerns and recommendations on this large ecosystem restoration project. We look forward to coordinating further with CEMVN in the future if additional planning and evaluation activities are proposed.

Sincerely,



Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

c:
CEMVN, Exnicios
EPA, Dallas, Keeler
FWS, Lafayette, Walther
LA DNR, Consistency, Lovell
F/SER46, Swafford
F/SER4, Rolfes, Dale
Files

From: [Bee, Patricia L HQ02](#)
To: [Matusiak, Mark HQ02](#)
Cc: [Marlowe, Beth A HQ02](#)
Subject: FW: Mississippi River Gulf Outlet (UNCLASSIFIED)
Date: Thursday, September 06, 2012 12:16:40 PM

Classification: UNCLASSIFIED
Caveats: NONE

Response from NOAA.

-----Original Message-----

From: Adam Brame [<mailto:adam.brame@noaa.gov>]
Sent: Thursday, September 06, 2012 12:00 PM
To: Bee, Patricia L HQ02
Subject: Mississippi River Gulf Outlet

Ms. Bee,

This is in response to an email you sent to David Bernhart. I briefly reviewed the final EIS for the subject project and have no comments to add beyond what was written in our ESA Section 7 biological opinion that was issued to the USACE on May 4, 2012.

Best regards,
Adam

--

Adam Brame
National Marine Fisheries Service
NOAA Southeast Regional Office
Protected Resources Division
263 13th Ave. South
St. Petersburg, FL 33701
ph: (727) 209-5958
fax: (727) 824-5309

Classification: UNCLASSIFIED
Caveats: NONE

From: [Bee, Patricia L HQ02](#)
To: [Matusiak, Mark HQ02](#)
Cc: [Marlowe, Beth A HQ02](#)
Subject: FW: Mississippi River Gulf Outlet (UNCLASSIFIED)
Date: Wednesday, September 05, 2012 5:16:37 PM

Classification: UNCLASSIFIED
Caveats: NONE

Response from USCG.

-----Original Message-----

From: Brandon.J.Sullivan@uscg.mil [<mailto:Brandon.J.Sullivan@uscg.mil>]
Sent: Wednesday, September 05, 2012 1:25 PM
To: Bee, Patricia L HQ02; Wendt, Timothy CDR
Subject: RE: Mississippi River Gulf Outlet (UNCLASSIFIED)

I did review and had not additional input.

Thanks,

Sully

LCDR Brandon J. Sullivan (Sully)
Waterways Division Chief
Sector New Orleans
200 Hendee ST
New Orleans, LA 70114

(W) 504-365-2281
(F) 504-365-2287

Classification: UNCLASSIFIED
Caveats: NONE



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

August 28, 2012

Colonel Edward R. Fleming
District Commander
U.S. Army Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160-0267

Dear Colonel Fleming:

In accordance with the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, Environmental Protection Agency (EPA) Region 6 has completed its review of the Corps of Engineers (COE) Final Environmental Impact Statements (FEIS) for the Mississippi River Gulf Outlet (MRGO) Ecosystem Restoration Plan. The plan was developed in response to Section 7013 of the Water Resources Development Act (WRDA) of 2007, which directed the COE to conduct a comprehensive ecosystem restoration study to restore the Lake Borgne ecosystem and the areas affected by the MRGO navigation channel.

EPA Region 6 provided comments on the Draft EIS (DEIS) dated February 14, 2011. EPA rated the DEIS as "EC-2", i.e., Environmental Concerns to the Proposed Actions and Requested Additional Information. EPA is pleased that the FEIS includes additional analysis of the proposed action to address our concerns. We have enclosed additional detailed comments for your consideration and incorporation into the Record of Decision Document.

Thank you for the opportunity to comment on the FEIS. If you have any questions about the 309 Review Process, please contact Michael Jansky, of my staff, at (214) 665-7451 or by e-mail at jansky.michael@epa.gov.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Rhonda Smith", with a long horizontal flourish extending to the right.

Rhonda Smith
Chief, Office of Planning and
Coordination 6ENXP

Enclosure:

cc: USFWS, Lafayette, LA
NMFS, Baton Rouge, LA
OCPR, Baton Rouge, LA

**DETAILED COMMENTS
ON THE
U.S. ARMY CORPS OF ENGINEERS
MISSISSIPPI RIVER GULF OUTLET ECOSYSTEM RESTORATION PLAN
FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)**

General Comment

Our comment letter on the Draft EIS (DEIS) dated, February 14, 2011, emphasized strong EPA support for the restoration of areas adversely affected by the MRGO. EPA believes that high priority elements of this plan be implemented as quickly as possible. In that regard, EPA asks that the COE consider designating restoration of the Bayou Bienvenue Triangle as a "Tier 1" priority. This project is currently listed as "Tier 2", with construction being postponed until environmental conditions (particularly salinities) are suitable to support cypress restoration. Restoration of this area could be done in phases, beginning with marsh restoration in the near term and then incorporating cypress planting when suitable conditions have been established. EPA believes a phased approach could expedite the significant benefits this project would bring to the local community.

While EPA supports expeditious implementation of portions of this plan, we continue to recommend further review of the trade-offs associated with large-scale "internal" sediment mining for wetland restoration. The practice of internal mining does not address the sediment deficit caused by disruption of deltaic processes. Although more costly, the use of "external" sediments (particularly from the Mississippi River) does help address the underlying sediment deficit and is a more ecologically appropriate restoration strategy in the long term. The additional cost of bringing sediments from the river should be balanced against the added ecological value of importing external sediments.

EPA also recommends that the Corps further assess the potential adverse impacts of rock shoreline protection. We fully understand the value of targeted use of shoreline protection in strategic locations. Nevertheless, the large-scale application of this technique could create lengthy artificial hydrologic barriers similar in effect to spoil banks, which could cause indirect adverse impacts to wetlands due to changes in hydrology. Given the scope of the proposed rock shoreline protection, EPA believes it is appropriate and practical to more fully evaluate the potential environmental downsides of this technique, while also continuing to look for environmentally preferable alternatives.

The issues raised above should not necessarily delay implementation of priority components of the MRGO Ecosystem Restoration Plan, as there will be ample opportunity to reevaluate these matters during the multi-year implementation process. Indeed, in addition to funding, it appears the question of cost sharing between the Federal government and a non-Federal sponsor is the primary barrier to implementation of this restoration plan. Given the importance of this restoration effort, EPA encourages the interested parties to seek resolution of this matter as quickly as possible. If you wish to discuss technical aspects of these comments, please contact John Ettinger at (504) 862-1119 or by e-mail at ettinger.john@epa.gov

Air Quality

EPA at this time would like to supplement its air quality comments provided on the Draft EIS. While we recognize that the impacts are temporary in nature, the estimated emissions of certain pollutants, in particular Nitrous Oxides (NO_x), Carbon Monoxide (CO) and Particulate Matter (PM), emitted from construction-related activities, are significant. To further reduce these air quality impacts, EPA recommends that the following mitigation measures be included in the MRGO Restoration Plan. Our recommendations are as follows:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate at active and inactive sites during workdays, weekends, holidays, and windy conditions;
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions; and
- Prevent spillage when hauling material and operating non-earthmoving equipment and limit speeds to 15 miles per hour. Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Plan construction scheduling to minimize vehicle trips;
- Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections;
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed;
- If practicable, utilize new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project construction equipment to the maximum extent feasible;
- Lacking availability of non-road construction equipment that meets Tier 4 engine standards, the responsible agency should commit to using EPA-verified particulate traps, oxidation catalysts and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site; and
- Consider alternative fuels and energy sources such as natural gas and electricity (plug-in or battery).

Administrative controls:

- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking;
- Develop a construction traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips; and
- Identify sensitive receptors in the project area, such as children, elderly, and infirmed, and specify the means by which impacts to these populations will be minimized (e.g. locate construction equipment and staging zones away from sensitive receptors and building air intakes).

From: [Bee, Patricia L HQ02](#)
To: [Matusiak, Mark HQ02](#)
Cc: [Marlowe, Beth A HQ02](#)
Subject: FW: Mississippi River Gulf Outlet (UNCLASSIFIED)
Date: Thursday, September 06, 2012 8:38:33 AM

Classification: UNCLASSIFIED
Caveats: NONE

Mark- Response from NRCS.

-----Original Message-----

From: Guillory, Charles - NRCS, Alexandria, LA [<mailto:charles.guillory@la.usda.gov>]
Sent: Wednesday, September 05, 2012 10:08 PM
To: Bee, Patricia L HQ02
Cc: Lindsey, Michael - NRCS, Alexandria, LA
Subject: RE: Mississippi River Gulf Outlet (UNCLASSIFIED)

Trish,

We do not have any additional comments or recommendations to add to the report. The report addresses all the resource concerns.

Charles Guillory
State Soils Scientist
USDA - NRCS
3737 Government Street
Alexandria, Louisiana 71302
Office: 318-473-7789

Cell: 318-880-7407

email: charles.guillory@la.usda.gov <<mailto:charles.guillory@la.usda.gov>>

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