

Appendix I
Comments and Responses

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Comment Response Spreadsheet

Stephen Hartley Comment Email

NMFS Comment Letter

EPA Comment Letter

CPRAB Comment Letter

Restoration Systems Comment Letter

Wildlife Federation Comment Letter

| Date Received | Person | Comment (may be paraphrased or summarized) | Final Response |
|---------------|-------------------------|---|---|
| 10/16/2015 | Hartley, Stephen | Cost tables within the "WBV_HSDRRS_Mitigation_PIER37TIER1_PubRevEA_AppendicesD_H_Red.pdf" you do not account for any inflation on out years of the project. I do not feel that the true cost would stay the same over fifty years of monitoring. | Text in Appendix D above the referenced tables state that the cost estimates are based on the currently available information and would need to be revised in the future based on inflation and as additional information regarding the mitigation feature designs and construction schedule become available. |
| | | You do not address any other invasive species except for vegetation during monitoring. What about feral hog problems and deer eating the seedling? | All trees will be protected by tree tubes initially. To take into consideration possible future mortalities, trees would be planted on a 9x9 spacing resulting in 538 trees per acre. Success criteria only require survival of 269 of canopy species by year 4. In the event that monitoring reveals the project does not meet the identified vegetation success criteria, additional plantings would be conducted. If feral hogs are found to be a problem on the mitigation site, control of this species would be conducted until the trees become large enough to withstand this species presence. |
| | | How do you plan to monitor habitat changes? | Through regularly scheduled monitoring that would assess the success of the projects through random sampling. |
| | | I do not see within the report any geo-spatial mapping analyses and associated costs. | This long term monitoring plan is just the first phase of an overall plan that would also include monitoring of the augmentation features and the effects of the West Closure Complex Floodwall adjacent to the 404c area. The overall plan would establish a schedule for aerial imagery in compliance with the requirements of the 2009 Modification to the 1985 Clean Water Action Section 404(c) Final Determination for the Bayou aux Carpes. |
| 11/6/2015 | NMFS (Rick Hartman) | This section of the PIER provides general numbers and descriptions of fish dips to be placed in an existing rock dike to facilitate water and fishery movement between Lake Salvador and the adjacent wetlands. The exact number of openings to be provided and configuration is not provided. It is NMFS' understanding these openings are to be breaches in the rock dike to the elevation of the adjacent water bottom, not depressions in the rock. The final PIER should include approximate locations, numbers, and design of openings to be provided in the existing rock dike. | The design and number of fish dips are specified in section 2.2.1.1 of the TIER and have been coordinated with NMFS during design of the project. If the fish dips were installed such that their elevation was the same depth as the adjacent waterbody (Bayou Segnette), there would be significant risk that wave energy in the Bayou would result in the loss of material from within the mitigation project and a consequent loss of acreage required to meet the WBV HSDRRS mitigation obligation. A similar loss occurred due to the design of the fish dips originally installed at the geocrib on the Lake Salvador shoreline. An elevation of 0 ft NAVD88 would still allow for fisheries access without resulting in significant loss of fill material from within the project area. |
| | | Page 26, paragraph 6. Wording in this paragraph indicate emergent wetlands and open water within the WBV basin may be classified as EFH. The referenced habitat classifications in tidally-influenced portions of the WBV basin are designated as EFH for brown shrimp, white shrimp, and red drum. The NMFS recommends wording in this paragraph be revised to indicate the referenced habitats are classified as EFH. | Section 3.1 is describing the environmental setting in the WBV Basin as a whole. Section 3.2 contains a description of important resources in the project area and the impacts of the proposed action on these resources. Section 3.2.6. does state that the marsh projects (JL1B5 and JL1B4) and their borrow areas are EFH. |
| | | Page 27, Tables 4 and 5. These tables include Coastal Migratory Pelagics and Reef Fish. Neither species grouping has essential fish habitat designated in the proposed mitigation or WBV impact areas. As such, NMFS recommends they be deleted from inclusion in these tables and elsewhere in the document (page 43). | Section 3.1 describes the environmental setting in the WBV Basin as a whole. Section 3.2 contains a description of important resources in the project area and the impacts of the proposed action on these resources. Coastal Migratory Pelagics and Reef Fish will be removed from Section 3.2. |
| 11/10/2015 | EPA (Maria L. Martinez) | We ask that a plan and schedule be provided to EPA as soon as possible for completing any remaining augmentation project analyses and NEPA documentation. That plan could then be documented in the final EA for the mitigation features. | Acknowledged. The plan has been added to section 2.5.1 of the EA. A schedule has been provided by separate correspondence. |
| | | Similarly, we would like an update on the plans and schedule for developing the third outstanding element of the EPA requirements, the long-term monitoring plan. | The overall long term monitoring plan would be developed in concert with the NEPA document for the augmentation features and in coordination with the resource agencies and NFS. The overall plan would be included as an appendix to the NEPA document for those features and would incorporate the long term monitoring plan developed for the mitigation features. The EA would be released to the public in the fall of 2016. |
| | | Please provide EPA a plan for fulfilling all of the terms and conditions as specified in the May 28, 2009, EPA modification to the Bayou aux Carpes CWA Section 404 (c) determination. These conditions relate to mitigation features, augmentation features and long-term monitoring. | The TIER 1 EA is the first phase of the USACE's effort to fulfill the terms and conditions of the 2009 EPA modification to the Bayou aux Carpes Section 404c determination. An upcoming joint EA with the NPS will be prepared that will address the augmentation features and the long term monitoring plan specified in the final determination. The current schedule for this effort has public release of the joint EA occurring in the fall of 2016. |
| | | Of most significance is a request to add a discussion regarding how the Corps intends to fulfill its commitments to EPA during the time in which the project operation and maintenance responsibilities will largely be assumed by the non-federal sponsor. | The Corps will ensure fulfillment of the conditions set forth in the 2009 Modification. Additional details will be provided in the joint EA that will evaluate the augmentation features and long-term monitoring plan. |
| | | By way of review, the EPA requirements for addressing the unavoidable Bayou aux Carpes CWA 404(c) impacts from the post-Hurricane Katrina 100-year flood risk reduction upgrades were placed upon the Corps and those requirements continue throughout the life of the project. Therefore, it is expected that the long-term monitoring plan will provide details regarding those ongoing responsibilities for monitoring and adaptive management. However, it would be helpful to clarify those long-term monitoring and adaptive management roles and responsibilities within the current EA. | Concur. The overall long term monitoring plan would be coordinated with the resource agencies and NFS and provide details regarding the responsibilities for monitoring and adaptive management of the augmentation and mitigation. The first element of the overall long term monitoring plan is the long term monitoring plan for the mitigation projects. That plan has been updated to clarify the roles and responsibilities for long term monitoring and adaptive management features. |

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| | | Another consideration with regard to monitoring is to incorporate the EPA requirement for annual aerial photography (or remote sensing imagery) into the mitigation EA. The collection and dissemination of the annual imagery should be incorporated into the section of the mitigation EA covering the monitoring schedule and responsibilities, as documented in Appendix D. The same should be done for the forthcoming NEPA documentation for the augmentation features. The requirement for annual aerial photography may be found in the 2009 "Modification to the 1985 Clean Water Act Section 404(c) Final Determination for Bayou aux Carpes." | Concur. Language committing to obtaining such photography has been added to appendix D with details on what type of imagery and when obtained to be presented in the overall long term monitoring plan that would include the augmentation features. |
| | | Finally, we suggest that consideration be afforded to describing in the mitigation EA any expected impacts from the planned construction activities upon an invasive species that does not seem to be mentioned in the assessment, namely the apple snail. It may be that the apple snail is so widely spread throughout the project area that no additional impacts are expected. However, we would suggest that the EA clarify your evaluation. | The apple snail has been found in the vicinity of the mitigation project areas, most notably in the 404c area. No research has been completed in the park to assess the damage the snails have caused to Park, but National Park Service staff have observed consumption of the apple snail by wildlife in the park, which may act to control the population to some extent. Construction of the proposed mitigation projects may increase the suitable habitat for the apple snail in the Park, but is not anticipated to cause an increase or decrease in the colonization of the Park by the apple snail. Spread of the apple snail occurs via the introduction of infested water or aquatic vegetation or by birds transporting them into the area. |
| 11/12/2015 | CPRAB | Projects JL1B5, JL15, and JL1B4 - Fresh Marsh: It is not clear why the rock armoring will be placed on one portion of the containment dike. This seems excessive and unnatural. | Rock will be installed/augmented adjacent to the Bayou Segnette Waterway and Lake Salvador for the JL15 and JL1B5 projects to protect them from erosive forces that could damage the projects. Both areas are high energy environments that could damage the projects and cause loss of acreage required to meet the mitigation requirement. |
| | | Projects JL1B5, JL15, and JL1B4 - Fresh Marsh: The eradication of nuisance/exotics from a created marsh platform is excessive and unnecessary. | Disagree. The need for invasive/nuisance species control has been coordinated with the resource agencies and could very well be needed. Regularly scheduled monitoring of the mitigation projects would determine the need for invasive/nuisance species control. Invasive/nuisance species control would only occur as needed to meet the success criteria specified in Appendix D. However, in order to assure such control gets done and is included in O&M budget calculations, these events have been listed in the monitoring tables. |
| | | Project JL14A - BLH-Wet: It appears that this project will fill approximately half of a deep borrow hole. There is limited description on how construction would be achieved and it is unclear how the material will be limited to only half of the borrow hole. What will prevent the material from sliding to the side not included in the project area? Will the entire borrow pit hole be filled? | No, the entire borrow pit will not be filled. To accommodate vegetative growth, the earthen fill will be accomplished in 3 "layers". Initial fill will be a silty sand quality fill extending upward from the bottom of the existing borrow pit to an elevation of approximately -4.0'. The next layer will be an approximate 5' to 6' layer of sandy clay; more suitable for vegetative growth. A final 1.5' to 2.5' layer of topsoil will be placed and dressed to our target elevation of approximately 3.0' to 3.5'. During the initial sand placement effort, a "sand fill" stability berm will be placed on the western limit of the 8.1 acre BLH-W footprint. With a 50' wide crown width and a conservatively stable outer side slope, this stability berm should assure the integrity of the BLH-W footprint. |
| | | Project JL14A - BLH-Wet: If the entire hole is to be filled and only a portion of it treated/planted, it can be reasonably assumed that invasives will colonize the new earth. It seems counterproductive to have an 8.1 acre mitigation area that is to remain free of invasives would be left next to an area that is a breeding ground for them. | The whole borrow pit will not be filled and invasive species control will occur on the 8.1 acres of BLH-Wet restoration. |
| | | The project boundary for the JL7 swamp mitigation area is not clearly defined. The locations of the gaps are shown, but the area of influence is not clear. | Map is being revised to include the area influenced by the gapping. |
| | | Sec. 2.4 - Data Gaps & Uncertainties: P. 15-16, Tropical Storms: If this risk is realized, what obligation (if any) does the sponsor have to restore or replace the mitigation features? Which sponsor (USACE or NFS) would bear the cost burden if restoration/replacement is warranted? | If the mitigation project is damaged significantly enough to cause the project to miss meeting its success criteria, thereby putting satisfaction of the mitigation requirement in jeopardy, additional actions would be necessary to ensure the mitigation requirement is fully satisfied. The NFS would be responsible for such actions. |
| | | Sec. 5.2 - Agency Coordination: p. 58, Recommendation 15: CPRA agrees with recommendation 15. If success criteria have not been met and therefore construction activities (subject to cost-sharing provisions) must continue, the project cannot be considered complete and therefore an NCC cannot be issued. | Comment noted. NCC would occur immediately after construction is complete, however, the Corps would continue to monitor the projects and conduct some activities until satisfaction of initial success criteria. Once initial success criteria are met, the NFS will assume monitoring responsibility. |
| | | Appendix D - Planting Guidelines, Monitoring Plan, and Success Criteria: The document should be much clearer in delineating which activities will be the responsibility of the NFS vs. those for which USACE is responsible. | Understood. Milestones for NCC and the NFS's assumption of monitoring once initial success criteria have been met have been added to the monitoring tables to more clearly delineate when the NFS will assume monitoring responsibility for the projects. |
| | | p. D-2: NCC should not be issued until success criteria are met. It is arbitrary to do so given that all OM&M is the responsibility of USACE until success criteria are met. | Comment noted. NCC would occur immediately after construction is complete, however, the Corps would continue to monitor the projects and conduct some activities until satisfaction of initial success criteria. Once initial success criteria are met, the NFS will assume monitoring responsibility. |
| | | P. D-8 & Table 7: Maintaining these mitigation sites at <5% exotics will be nearly impossible if they are surrounded by areas with seed sources. This is particularly concerning given the frequency of disturbance events in coastal LA. | This requirement is consistent with requirement made of approved mitigation banks. |
| | | Table 7, Fresh Marsh Topography, Criteria 4C: It is still unclear how functional marsh elevation range will be determined. The NFS should not be responsible for achieving a target settlement curve, as numerous variables during the design and construction phases, plus variation in the subsurface soils will all factor in to the final elevation of the marsh platform. If any elevation modifications are required to achieve this target, they should be performed by USACE, not the NFS. | Final target elevations would be achieved by pumping dredged material to an initial fill elevation using the intermediate sea level rise projections and historic subsidence rates in the project area over time. Settlement curves for the dredged material and disposal site substrates are also utilized to determine the initial fill elevations. The NFS will not be responsible for achieving target elevations. |

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| | | P. D-13, Fresh Marsh Baseline Monitoring: Planting is not in initial mitigation activity for these sites. | Text has been revised. |
| | | P. D-19, Monitoring Schedule and Responsibilities: Local Sponsor should not be responsible for the correction of any topographic inadequacies; these are entirely based on initial E&D & construction. This also goes back to criterion 4C, referencing functional marsh elevation range, which is unclear. | Understood. Modification of elevation would be a construction or adaptive management cost. |
| | | Table 8: There are invasive removal events scheduled for ever year from 1-20 and every 5 years thereafter. It should be clarified that this is a hypothetical schedule/budget as it is not known if these treatments will be necessary. If it is thought to be necessary, this mitigation plan needs reconsideration. | Regularly scheduled monitoring of the mitigation projects would determine the need for invasive/nuisance species control. Invasive/nuisance species control would only occur as needed to meet the success criteria specified in Appendix D. However, in order to assure such control gets done and is figured into the O&M budget, these events have been listed in the monitoring tables. |
| | | Table 9: This should be included in Table 8, as feature JL1B4 is directly adjacent to JL1B5 and will presumably be constructed as one cell. | Comment noted. Although JL1B4 and JL1B5 will be constructed together, they mitigate for different impacts. JL1B4 mitigates for impacts to JLNHPP fresh marsh while JL1B5 and JL15 mitigate for general impacts to fresh marsh. That is why the JL1B5 and JL15 are grouped together and JL1B4 is separate. |
| | | Table 10: Initial plantings and turning the project over to the NFS are both scheduled for year 3. It is not appropriate to turn the project over to the NFS until success criteria have been met for several consecutive years. | Comment noted. Once initial success criteria have been met, if the project is maintained correctly, the project should continue to meet its intermediate and long term success criteria. However, if, after meeting initial success criteria, the mitigation fails to meet its intermediate and/or long-term ecological success criteria, the USACE would consult with other agencies and the NFS to determine whether operational changes would be sufficient to achieve ecological success criteria. If, instead, structural changes are deemed necessary to achieve ecological success, the USACE would implement appropriate contingency management measures in accordance with the contingency plan and subject to cost sharing requirements, availability of funding, and current budgetary and other guidance. |
| | | Appendix E - Contingency Management Plan:" It should be noted that should Actions 2 or 3 be required, they would occur at the expense of USACE (cost shared) rather than exclusively by the NFS, as these actions would be required to remedy issues that were caused by faulty E&D/construction. | Actions 2 and 3 in the Contingency Management Plan would be additional construction phase activities and would be cost shared as such. |
| | | Table 7: BLH-Wet Restoration, Native Veg section, Criteria 2C: Average cover 60% hrd mast, 40% sft mast trees per acre. They should remove the word cover. Cover makes it sound like they are talking about canopy cover, but it should be referring to the percentage of surviving trees that are hard mast vs soft mast. | Concur. Text has been revised. |
| 11/12/2015 | Restoration Systems LLC (George Howard) | PIER 37/TIER should have considered a mitigation bank credit purchase alternative because mitigation bank credits will be available in the basin in the near future | Disagree. During plan formulation and evaluation, no approved banks in the watershed had fresh/intermediate marsh credits approved by the Louisiana Department of Natural Resources to mitigate for coastal zone impacts available for purchase. This is still the case at of the signing of the FONSI. There is no guarantee that any proposed bank will be approved and likewise no guaranteed timeline for any approval,, which makes such an alternative completely speculative. As such, the purchase of mitigation bank credits in a watershed without an approved bank for that habitat type is not a reasonable alternative that warranted further consideration. |
| | | PIER 37/TIER should have considered a mitigation bank credit purchase alternative because the Corps/EPA 2008 compensatory mitigation rule established a preference for mitigation bank credits | The Corps considered reasonable alternatives that existed during the time this plan was under consideration. The factors that favor mitigation bank credits for permissess under the 2008 Rule do not favor mitigation banks over Corps-constructed projects. Consequently, the preferential hierarchy of the 2008 Rule is not applicable in this instance. |
| | | PIER 37/TIER improperly limits mitigation alternatives to those within the boundaries of JLNHPP | That is incorrect. PIER 37 looked at all reasonable alternatives within the watershed for mitigating the general fresh marsh impacts from the WBV HSDRRS construction. Evaluation of all reasonable alternatives resulted in the selection of the project on Jean Lafitte. Please see sections 2.3 and 2.4.2 of PIER 37. |
| | | PIER 37/TIER should have given priority to a mitigation bank credit purchase because mitigation banks such as Jesuit Bend will be consistent with the Master Plan due to its planned use of borrow from the MS River | Disagree. NEPA requires consideration of all reasonable alternatives. During plan formulation and evaluation, no approved banks in the watershed had fresh/intermediate marsh credits approved by the Louisiana Department of Natural Resources to mitigate for coastal zone impacts available for purchase. This is still the case at the signing of the FONSI. There is no guarantee that any proposed bank will be approved and no guaranteed timeline for any approval, which makes such an alternative speculative. As such, the purchase of mitigation bank credits in a watershed without an approved bank for that habitat type is not a reasonable alternative that warranted further consideration. |

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| | | The NPS Director's Order #77 does not require mitigation to occur within the JLNHPP and it does not change the preference for mitigation bank credits established by the 2008 Mitigation Rule. | NPS Director's Order #77 does require mitigation for impacts incurred to the Park to occur "on lands managed by the NPS, with the following recommended priority order: 1) within the same wetland system as the impacted wetland; 2) within the same watershed; or 3) in another watershed within the same NPS unit. If no practicable restoration sites can be found within this location sequence, then sites in other NPS units within the Region may be considered". The NPS would not have allowed modification of their lands without the expectation that compliance with their policies would occur. The mitigation project for JLNHPP marsh impacts is consistent with the environmental design commitments made in IERS 15.a FONSI approved 4/21/2011. The factors that favor mitigation bank credits for permissess under the 2008 Rule do not favor mitigation banks over Corps-constructed projects. Consequently, the preferential hierarchy of the 2008 Rule is not applicable in this instance. |
| | | PIER 37/TIER's failure to consider a mitigation bank credit purchase alternative violates the NEPA. | Disagree. NEPA requires consideration of all reasonable alternatives. During plan formulation and evaluation, no approved banks in the watershed had fresh/intermediate marsh credits approved by the Louisiana Department of Natural Resouces to mitigate for coastal zone impacts available for purchase. This is still the case at the signing of the FONSI. There is no guarantee that any proposed bank will be approved and no guaranteed timeline for any approval, which makes such an alternative speculative. As such, the purchase of mitigation bank credits in a watershed without an approved bank for that habitat type is not a reasonable alternative that warranted further consideration. |
| 11/13/2015 | National Wildlife Federation (David Muth) | We question the location of the borrow site in Lake Cataouatche to fill Yankee Pond (JL 184 and JL 185). In general, in a collapsing delta, long term sustainability and best practices require that fill material be obtained from outside the system or from a sustainable, renewable source. In this case, the material should be pumped from the river. This could be accomplished either by running a pipeline down the Bayou Segnette Waterway or by pumping into barges in Westwego and transporting to the site. Alternatively, the Davis Pond Freshwater Diversion could be operated to increase sediment delivery to the Lake Cataouatche system in sufficient quantities to offset the removal of the borrow from the lake bottom. | Comment noted. This project mitigates for damages incurred from construction of the HSDRRS in the WBV Basin and as such replaces the functions and values of the impacted habitat type in the same basin. The project does not fall under an ecosystem restoration authority and is limited in scope to only replacing the lost functions and values of the impacted habitat type. The cost for additional benefits over and above those achieved by replacing the functions and values of the impacted habitat cannot be justified under the current authority. Pumping material from the river would double the pumping distance for dredged material resulting in the need for multiple booster pumps and require the project to jack and bore under at least 4 roads and a railroad. These additional actions would more than double the cost for dredged material delivery and result in significant delays to the project while negotiations with numerous land owners for access between the river and Bayou Segnette were completed. |
| | | The Yankee Pond project has two components, one to compensate 3.2 AAHUs of fresh marsh damage within the Preserve, and another to compensate 65.92 AAHUs from outside the park. In order to make the project viable, containment must be put in place where Yankee Pond abuts the Bayou Segnette Waterway. | Please see section 2.2.1.1 of the PIER 37, TIER 1. Containment dikes will be utilized during construction to contain dredged material. All dikes would be degraded approximately one year after construction once the area has settled and dewatered except for the dike adjacent to Bayou Segnette, which would be armored to protect the project from wave action in Bayou Segnette. |

Behrens, Elizabeth MVN

From: Hartley, Stephen <hartleys@usgs.gov>
Sent: Friday, October 16, 2015 8:37 AM
To: Behrens, Elizabeth MVN
Cc: Pate, Dusty
Subject: [EXTERNAL] Re: Jean Lafitte NHP & Preserve WBV HSDRRS Mitigation Notice of Availability

I have a couple of comments about the mitigation document. In cost tables within the "WBV_HSDRRS_Mitigation_PIER37TIER1_PubRevEA_AppendicesD_H_Red.pdf" you do not account for any inflation on out years of the project. I do not feel that the true cost would stay the same over fifty years of monitoring. Also, you do not address any other invasive species except for vegetation during monitoring. What about feral hog problems and deer eating the seedling? How do you plan to monitor habitat changes? I do not see within the report any geo-spatial mapping analyses and associated costs.

On Thu, Oct 15, 2015 at 4:27 PM, Pate, Dusty <haigler_pate@nps.gov <mailto:haigler_pate@nps.gov> > wrote:

Greetings,

Please see the attached notice of availability.

We apologize if this message duplicates a hard copy mailing you've received, and for the slight delay in sending this email notice.

Note that the official public comment period for this project ends November 12, 2015. However, in light of our delay with this message, we will accept comments for an additional two days if you find you need the extra time.

Thank you,

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Haigler "Dusty" Pate
Natural Resource Program Manager
Jean Lafitte National Historical Park and Preserve
504 382-4937 cell

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Thanks,
Steve Hartley
USGS - BRD - WARC
Wetland and Aquatic Research Center
700 Cajundome Blvd.
Lafayette, LA 70506



UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office

263 13th Avenue South

St. Petersburg, Florida 33701-5505

<http://sero.nmfs.noaa.gov>

November 6, 2015 F/SER46/RH;jk
225/389-0508

Ms. Joan Exnicios, Chief
Environmental Planning Branch
New Orleans District, U.S. Army Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160-0267

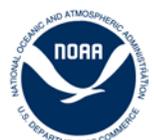
Dear Ms. Exnicios:

NOAA's National Marine Fisheries Service (NMFS) has received the draft Programmatic Individual Environmental Report (PIER) 37, TIER 1 prepared by the New Orleans District (NOD) and the U.S. National Park Service (Service). The PIER 37 Tier 1 document provides analysis of recommended compensatory mitigation measures to offset impacts associated with construction of the West Bank and Vicinity (WBV) Hurricane Storm Damage and Risk Reduction System (HSDRRS). The proposed action would compensate for impacts to fresh marsh, swamp and bottomland hardwood habitats on the Jean Lafitte National Historical Park and Preserve, the Environmental Protection Agency's 404c area, as well as fresh marsh in the WBV basin.

Staff of the NMFS have reviewed the PIER 37 document and concurs with the recommended mitigation plan to offset impacts to the habitats identified above. To offset impacts to tidally influenced fresh marsh, the NOD and Service propose to create 108 acres of fresh marsh in Yankee Pond and enhance the productivity of 55 acres of wetlands in Lake Salvador. It should be noted the previous creation of 55 acres of wetlands in Lake Salvador is being credited as mitigation to offset WBV HSDRRS impacts. While NMFS supports the proposed mitigation activities, we have the following recommended revisions to information provided in the PIER:

Page 12, paragraphs 1-2. This section of the PIER provides general numbers and descriptions of fish dips to be placed in an existing rock dike to facilitate water and fishery movement between Lake Salvador and the adjacent wetlands. The exact number of openings to be provided and configuration is not provided. It is NMFS' understanding these openings are to be breaches in the rock dike to the elevation of the adjacent water bottom, not depressions in the rock. The final PIER should include approximate locations, numbers, and design of openings to be provided in the existing rock dike.

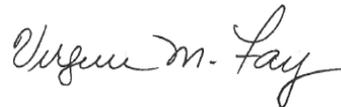
Page 26, paragraph 6. Wording in this paragraph indicate emergent wetlands and open water within the WBV basin may be classified as EFH. The referenced habitat classifications in tidally-influenced portions of the WBV basin are designated as EFH for brown shrimp, white shrimp, and red drum. The NMFS recommends wording in this paragraph be revised to indicate the referenced habitats are classified as EFH.



Page 27, Tables 4 and 5. These tables include Coastal Migratory Pelagics and Reef Fish. Neither species grouping has essential fish habitat designated in the proposed mitigation or WBV impact areas. As such, NMFS recommends they be deleted from inclusion in these tables and elsewhere in the document (page 43).

We appreciate the opportunity to review and comment on the draft PIER 37, Tier 1 document. If you have questions concerning comments and recommendations included above, please contact Richard Hartman at (225) 389-0508, extension 203 or richard.hartman@noaa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Virginia M. Fay".

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

c:
NOD, Boe
FWS, Lafayette, Walther
EPA, Dallas, Keeler, Gutierrez
LA DNR, Consistency, Haydel
F/SER46, Swafford
F/SER, Silverman
Files



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

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

November 10, 2015

Ms. Joan Exnicios
ATTN: Ms. Elizabeth Behrens
U.S. Army Corps of Engineers
New Orleans District
Regional Planning and Environment Division South
CEMVD-PDN-CEP
P.O. Box 60267
New Orleans, LA 70160-0267

Dear Ms. Behrens:

We have completed our review of the joint U.S. Army Corps of Engineers and National Park Service draft Environmental Assessment (EA) for the Jean Lafitte National Historical Park and Preserve (JLNHPP) mitigation features for the post-Hurricane Katrina 100-year flood risk reduction upgrades that are being implemented as part of the West Bank and Vicinity Hurricane and Storm Damage Risk Reduction System Project. This assessment (PIER #37, TIER 1) covers projects designed to mitigate for unavoidable habitat impacts to both the flood side and the protected side of the levees within and near the Barataria Unit of JLNHPP and an area of the JLNHPP known as the Bayou aux Carpes Clean Water Act (CWA) Section 404(c) area. The wetland impacts covered by this draft EA consist of a small but significant sub-set of the project total, which are categorized as: 1) general fresh marsh; 2) Park fresh marsh, swamp and wet bottomland hardwood; and 3) 404(c) swamp and wet bottomland hardwood.

As part of the Corps' interagency team for this project, EPA has followed the development of this set of mitigation features and we support the project designs being proposed in the draft EA, along with the recommendations contained in the July 9, 2015, draft U.S. Fish and Wildlife Service Coordination Act Report and the "Planting Guidelines, Monitoring Plan, and Success Criteria" that are attached to the draft EA. We also have a few recommendations for the final EA and request a response clarifying the Corps' plans for completing the requirements as stipulated in the 2009 EPA "Modification to the 1985 Clean Water Act Section 404(c) Final Determination for Bayou aux Carpes"
(http://www.nolaenvironmental.gov/nola_public_data/projects/usace_levee/docs/original/IER12BayouauxCarpes404cFDMod5-2009hr.pdf).

With regard to those EPA requirements, please reference the July 27, 2009, letter from the Corps to EPA (http://www.nolaenvironmental.gov/nola_public_data/projects/usace_levee/docs/original/LeeLetterShapiroJul2009.pdf) reaffirming the commitment of the Corps to "plan, design, ensure full funding, implement and monitor all mitigation, augmentation and monitoring measures that are described in the May 28, 2009, Modification to the 1985 Clean Water Act Section 404 (c) Final Determination for Bayou aux Carpes, subject to the availability of appropriated funds." A number of factors have understandably delayed the final designs for those features and the documentation in this draft EA describes the alternative planning and ecological evaluations to support the mitigation features for the Bayou aux

Carpes site. As stated above, we support that work and agree with the mitigation project selection. However, we are concerned that this draft EA is limited only to the mitigation features.

Although similar unexpected delays have impacted work on the augmentation features, we believe that analyses of those features have progressed such that further delays in the National Environmental Policy Act (National Environmental Policy Act) reviews may not be necessary. It is our understanding that all field data gathering, hydrologic and hydraulic modeling, as well as all other ecological studies for both the mitigation features and the augmentation features have been completed and that the members of the interagency team have achieved consensus on those features. Accordingly, we ask that a plan and schedule be provided to EPA as soon as possible for completing any remaining augmentation project analyses and NEPA documentation. That plan could then be documented in the final EA for the mitigation features.

Similarly, we would like an update on the plans and schedule for developing the third outstanding element of the EPA requirements, the long-term monitoring plan. As with the mitigation and augmentation features, the long-term monitoring plan should be coordinated with the natural resources agencies and approved by EPA. Although we agree that the long-term monitoring plan development depends upon finalizing the mitigation and augmentation plans, it would seem that a schedule for completing the monitoring plan could now be provided.

Accordingly, please provide EPA a plan for fulfilling all of the terms and conditions as specified in the May 28, 2009, EPA modification to the Bayou aux Carpes CWA Section 404 (c) determination. These conditions relate to mitigation features, augmentation features and long-term monitoring.

With regard to the documentation in the subject draft EA, we have several recommendations. Of most significance is a request to add a discussion regarding how the Corps intends to fulfill its commitments to EPA during the time in which the project operation and maintenance responsibilities will largely be assumed by the non-federal sponsor. By way of review, the EPA requirements for addressing the unavoidable Bayou aux Carpes CWA 404(c) impacts from the post-Hurricane Katrina 100-year flood risk reduction upgrades were placed upon the Corps and those requirements continue throughout the life of the project. Therefore, it is expected that the long-term monitoring plan will provide details regarding those ongoing responsibilities for monitoring and adaptive management. However, it would be helpful to clarify those long-term monitoring and adaptive management roles and responsibilities within the current EA.

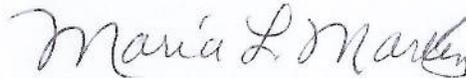
Another consideration with regard to monitoring is to incorporate the EPA requirement for annual aerial photography (or remote sensing imagery) into the mitigation EA. The collection and dissemination of the annual imagery should be incorporated into the section of the mitigation EA covering the monitoring schedule and responsibilities, as documented in Appendix D. The same should be done for the forthcoming NEPA documentation for the augmentation features. The requirement for annual aerial photography may be found in the 2009 "Modification to the 1985 Clean Water Act Section 404(c) Final Determination for Bayou aux Carpes."

Finally, we suggest that consideration be afforded to describing in the mitigation EA any expected impacts from the planned construction activities upon an invasive species that does not seem to be mentioned in the assessment, namely the apple snail. It may be that the apple snail is so widely spread throughout the project area that no additional impacts are expected. However, we would suggest that the EA clarify your evaluation.

In summary, we fully support the Corps' exhaustive efforts to fully and most effectively provide mitigation for wetland impacts within and near the JLNHPP and the Bayou aux Carpes CWA Section 404 (c) site. The mitigation projects described in the draft EA appropriately reflect a high degree of concern for mitigating within the same habitat type and for providing mitigation as close as practical to the location of the unavoidable adverse impacts whenever possible. We appreciate the extra efforts of your colleagues and of our partners with the National Park Service to involve us throughout the mitigation planning process.

We look forward to your response clarifying the outstanding requirements with regard to mitigation, augmentation and long-term monitoring for the Bayou aux Carpes CWA Section 404 (c) site. If you have any questions, please feel free to call Barbara Keeler at 214-665-6698 or Raul Gutierrez at 504-862-2371.

Sincerely yours,

A handwritten signature in cursive script that reads "Maria L. Martinez".

Maria L. Martinez
Chief,
Wetlands Section

cc: Horst Greczmiel, CEQ
Lance Hatten, NPS
Dusty Pate, NPS
Ann Campbell, EPA
John Goodin, EPA
Clay Miller, EPA
David Walther, USFWS
Angela Trahan, USFWS

General: CPRA appreciates USACE revising the document to account for many of the comments we made on earlier drafts.

Main Document (Joint NPS EA)

Comments on specific projects:

Projects JL1B5, JL15, and JL1B4 - Fresh Marsh

" It is not clear why the rock armoring will be placed on one portion of the containment dike. This seems excessive and unnatural.

" The eradication of nuisance/exotics from a created marsh platform is excessive and unnecessary.

Project JL14A - BLH-Wet

" It appears that this project will fill approximately half of a deep borrow hole. There is limited description on how construction would be achieved and it is unclear how the material will be limited to only half of the borrow hole. What will prevent the material from sliding to the side not included in the project area? Will the entire borrow pit hole be filled?

" If the entire hole is to be filled and only a portion of it treated/planted, it can be reasonably assumed that invasives will colonize the new earth. It seems counterproductive to have an 8.1 acre mitigation area that is to remain free of invasives would be left next to an area that is a breeding ground for them.

Comments on other components of main document:

Sec. 2.4 - Data Gaps & Uncertainties

" P. 15-16, Tropical Storms: If this risk is realized, what obligation (if any) does the sponsor have to restore or replace the mitigation features? Which sponsor (USACE or NFS) would bear the cost burden if restoration/replacement is warranted?

Sec. 5.2 - Agency Coordination

" p. 58, Recommendation 15: CPRA agrees with recommendation 15. If success criteria have not been met and therefore construction activities (subject to cost-sharing provisions) must continue, the project cannot be considered complete and therefore an NCC cannot be issued.

Appendix D - Planting Guidelines, Monitoring Plan, and Success Criteria

General: The document should be much clearer in delineating which activities will be the responsibility of the NFS vs. those for which USACE is responsible

" p. D-2: NCC should not be issued until success criteria are met. It is arbitrary to do so given that all OM&M is the responsibility of USACE until success criteria are met.

" P. D-8 & Table 7: Maintaining these mitigation sites at <5% eotic s will be nearly impossible if they are surrounded by areas with seed sources. This is particularly concerning given the frequency of disturbance events in coastal LA.

" Table 7, Fresh Marsh Topography, Criteria 4C: It is still unclear how functional marsh elevation range will be determined. The NFS should not be responsible for achieving a target settlement curve, as numerous variables during the design and construction phases, plus variation in the subsurface soils will all factor in to the final elevation of the marsh platform. If any elevation modifications are required to achieve this target, they should be performed by USACE, not the NFS.

" P. D-13, Fresh Marsh Baseline Monitoring: Planting is not in initial mitigation activity for these sites.

" P. D-19, Monitoring Schedule and Responsibilities: Local Sponsor should not be responsible for the correction of any topographic inadequacies; these are entirely based on initial E&D & construction. This also goes back to criterion 4C, referencing functional marsh elevation range, which is unclear.

" Table 8: There are invasive removal events scheduled for ever year from 1-20 and every 5 years thereafter. It should be clarified that this is a hypothetical schedule/budget as it is not known if these treatments will be necessary. If it is thought to be necessary, this mitigation plan needs reconsideration.

" Table 9: This should be included in Table 8, as feature JL1B4 is directly adjacent to JL1B5 and will presumably be constructed as one cell.

" Table 10: Initial plantings and turning the project over to the NFS are both scheduled for year 3. It is not appropriate to turn the project over to the NFS until success criteria have been met for several consecutive years.

Appendix E - Contingency Management Plan

" It should be noted that should Actions 2 or 3 be required, they would occur at the expense of USACE (cost shared) rather than exclusively by the NFS, as these actions would be required to remedy issues that were caused by faulty E&D/construction.

Behrens, Elizabeth MVN

From: Pate, Dusty <haigler_pate@nps.gov>
Sent: Thursday, November 12, 2015 4:15 PM
To: Behrens, Elizabeth MVN
Cc: Hughes, Guy; Williams, Eric MVN; Stiles, Sandra E MVN
Subject: Re: [EXTERNAL] Fwd: Question on National Park Service and Caddo Nation consultation (UNCLASSIFIED)

Two additional CPRA comments:

1. The project boundary for the JL7 swamp mitigation area is not clearly defined. The locations of the gaps are shown, but the area of influence is not clear. .
2. Table 7: BLH-Wet Restoration, Native Veg section, Criteria 2C: Average cover 60% hrd mast, 40% sft mast trees per acre. They should remove the word cover. Cover makes it sound like they are talking about canopy cover, but it should be referring to the percentage of surviving trees that are hard mast vs soft mast.

On Thu, Nov 12, 2015 at 2:48 PM, Pate, Dusty <haigler_pate@nps.gov <mailto:haigler_pate@nps.gov> > wrote:

And, there's a set from George Howard of Restoration Systems. You may already have it. If not, see the attached.

Nothing yet on the 401(b)(1) notice.

I'll update you tomorrow morning if anything else comes in.

On Thu, Nov 12, 2015 at 11:42 AM, Pate, Dusty <haigler_pate@nps.gov <mailto:haigler_pate@nps.gov> > wrote:

Hey Libby,

I spoke with Jami Hammond this morning, and we should be able to sign a FONSI on or around December 2 if we have a draft ready to go by the 20th. I think getting it drafted will be the challenging part. Do you have anything written up at this point that I could use for the "front matter?"

There is a set of comments from CPRA (Chris Allen) in the system (I've attached them), and you should have seen my message to Alisha Renfro of NWF. So far, it seems like many of the comments are directed your way.

Thanks,

Dusty

On Tue, Nov 10, 2015 at 2:22 PM, Behrens, Elizabeth MVN <Elizabeth.H.Behrens@usace.army.mil <mailto:Elizabeth.H.Behrens@usace.army.mil> > wrote:

Classification: UNCLASSIFIED
Caveats: NONE



November 12, 2015

Via Electronic Filing and Electronic Mail

Ms. Elizabeth Behrens
elizabeth.h.behrens@usace.army.mil
CEMVN-PDN-CEP
P.O. Box 60267
New Orleans, Louisiana 70160-0267

Re: Comments in Response to Jean Lafitte National Historical Park and Preserve (JELA) Mitigation Features, Jefferson Parish, Louisiana – Programmatic Individual Environmental Report (PIER) #37, TIER 1

Dear Ms. Behrens:

Restoration Systems, LLC appreciates the opportunity to comment on the U.S. Army Corps of Engineers (the “Corps”) and the National Park Service’s (“NPS”) Jean Lafitte Historical Park and Preserve Mitigation Features Environmental Assessment and National Historic Preservation Act Assessment of Effects, West Bank and Vicinity Hurricane and Storm Damage Risk Reduction System Mitigation, Programmatic Individual Environmental Report #37 (“PIER #37”). As a leading environmental restoration and mitigation banking firm, Restoration Systems is committed to restoring and protecting our nation’s land and water; however, as discussed below, we have concerns regarding PIER #37, which fails to consider and give priority to credits from mitigation banks as required by the National Environmental Policy Act, 42 U.S.C. §§ 4321, *et seq.* (“NEPA”) and the final compensatory mitigation rule issued by the Corps and the Environmental Protection Agency (“EPA”) in April 2008.

Because the Corps and NPS have not yet initiated construction on its proposed mitigation measures (or even provided a schedule for when such activities will be initiated), there is sufficient time to consider other alternatives, such as credits from mitigation banks that will be available in the near future. It is entirely feasible that credits from mitigation banks within the watershed will be available in the near future, and it is inappropriate for the Corps and NPS to not evaluate and consider these alternatives.

Restoration Systems has more than fifty (50) mitigation banks and turn-key restoration sites in nine states, including Louisiana. In particular, Restoration Systems is proposing a mitigation bank in Plaquemines Parish (“Jesuit Bend Mitigation Bank”). The proposed Jesuit Bend Mitigation Bank is a Restoration Systems-owned, 338-acre former marsh and cypress-tupelo swamp that has converted to open water over the last century. Restoration Systems and our financial partner and dredging contractor, Great Lakes Dredge and Dock, have implemented

a Phase One project that will restore 247.4 acres from open water to fresh-to-intermediate marsh through re-establishment, enhancement, and rehabilitation of like-kind resources. When approved, this mitigation bank will provide mitigation credits for marsh impacts across the entire Deltaic Plain of coastal Louisiana, including those impacts associated with PIER #37.

1. The final compensatory mitigation rule established a preference for mitigation bank credits.

In April 2008, the Corps and EPA issued a final rule for compensatory mitigation for losses of aquatic resources. 73 Fed. Reg. 19,594 (Apr. 10, 2008) (the “Final Rule”). The Final Rule was designed to create a uniform set of rules and create equal standards for all forms of compensatory mitigation. To reduce risk and uncertainty and help ensure that the required compensation is provided, the Final Rule established a preference hierarchy for mitigation replacing the on-site preference. Under the Final Rule, the most preferred option is mitigation bank credits. Mitigation banks are the first priority because they involve the least risk and provide the opportunity to perform aggregate mitigation for damage done to aquatic resources in a watershed. Mitigation banks are also preferred because they decrease enforcement and monitoring costs and typically provide mitigation before the wetland impacts occur. The District Engineer may only override this preference in limited circumstances, and such a decision must be documented. Permittee-responsible mitigation is the least preferred option, with three possible circumstances: (1) conducted under a watershed approach, (2) on-site and in kind, and (3) off-site/out-of-kind. While on-site/in-kind mitigation approaches continue to be evaluated, the Final Rule acknowledges that there are circumstances where off-site or out-of-kind compensatory mitigation may be more beneficial for a watershed.

2. PIER #37 improperly limits compensatory mitigation opportunities to within the boundaries of Jean Lafitte National Historical Park and Preserve.

PIER #37 identifies the plan for mitigating impacts to fresh marsh, swamp, dry bottomland hardwoods and wet bottomland hardwoods caused as a result of the construction of the West Bank and Vicinity (“WBV”) Hurricane and Storm Damage Risk Reduction System (“HSDRRS”). Consistent with Section 2036 of the Water Resources Development Act (“WRDA”) of 2007 and standards and policies set forth in 33 C.F.R. Part 332, compensatory mitigation was formulated to occur within the same watershed or hydrologic basin as the impacts and to replace the functions and services of each habitat type in-kind. However, PIER #37 also provides that impacts within Jean Lafitte National Historical Park and Preserve (“JELA”) and Bayou aux Carpes Clean Water Act Section 404c area (the “404c Area”) would be mitigated within the boundaries of JELA and/or the 404c Area. Specifically, PIER #37 provides:

Impacts to JELA would be mitigated within the boundaries of JELA as per NPS Director’s Order 77-1 requiring impacts occurring on a National Park (Park) to be mitigated on lands managed by the NPS, with the following recommended priority order: 1) within the same wetland system as the impacted wetland; 2) within the same watershed; or 3) in another watershed within the same NPS unit. Additionally, all unavoidable adverse impacts to the 404(c) would be mitigated within that area and/or on JELA as committed to by the CEMVN District

Commander in his November 4, 2008 letter to the Regional Administrator for EPA Region 6 (see Appendix H). This commitment was also cited in EPA's May 27, 2009 Final Determination for the modification of the Section 404(c) determination for Bayou aux Carpes.

PIER #37, p. 8. PIER #37 further provides:

All of these projects would be constructed within or directly adjacent to JELA. Since finalization of the modeling to determine the benefits produced by the JL1B5 and JL15 projects has not been completed, there is a possibility that these projects would not fully satisfy the general fresh marsh mitigation requirement. If finalization of the modeling effort for these projects concludes that they do not meet the whole general fresh marsh mitigation requirement, then any outstanding portion of that requirement would be fulfilled at a mitigation bank through purchase of in kind credits.

PIER #37, pp. 9-10. With respect to fresh marsh habitat, only 3.03 average annual habitat units ("AAHUs") were impacted within JELA and the 404C Area; impacts to 65.92 AAHUs of fresh marsh occurred *outside* of JELA and the 404C Area.

The mitigation proposed by the Corps and NPS is inconsistent with the Final Rule, which establishes a preference for credits from mitigation banks. This is the precise situation that the Final Rule attempted to address by replacing the preference for on-site mitigation with mitigation bank credits. As recognized by the Final Rule, mitigation banks are the preferred alternative because, among other reasons, off-site compensatory mitigation may be more beneficial for a watershed.

With respect to addressing fresh marsh impacts associated with WBV HSDRRS, mitigation banks within the watershed, such as Jesuit Bend Mitigation Bank, must be given priority. Unlike the mitigation proposed in PIER #37, Jesuit Bend Mitigation Bank is consistent with the Master Plan in that it involves dredging sediment from a permitted borrow area in the Mississippi River and will restore fresh marsh and cypress-tupelo swamp that has converted to open water over the last century. Jesuit Bend will have approximately 62 AAHUs for compensatory mitigation for fresh marsh impacts available in January 2015.

Unlike Jesuit Bend Mitigation Bank, the mitigation proposed within PIER #37 involves converting a portion of Yankee Pond by dredging sediment from Lake Cataouatche, not the Mississippi River or any other river. Further, as recognized by PIER #37, "[o]ptions to accomplish the mitigation within JELA were limited because much of the area is already high quality marsh, swamp and [wet bottomland hardwoods]." PIER #37, pp. 8-9. Moreover, although the mitigation will be funded at full federal expense, it is not certain that there will be sufficient funding to ensure that the mitigation is completed in a timely manner and any impacts associated with WBV HSDRRS will be sufficiently mitigated.

For the reasons discussed above and to be consistent with the Final Rule, the Corps is required to give priority to credits from mitigation banks, such as Jesuit Bend Mitigation Bank, with respect to fresh marsh compensatory mitigation.

3. NPS Director's Order #77-1 may not, nor was it intended to, change existing law.

The Corps and NPS rely on NPS Director's Order #77-1 to justify limiting compensatory mitigation to within the boundaries of JELA. Director's Order 77-1, which became effective on October 30, 2002, not only pre-dates the Final Rule, but also does not address whether compensatory mitigation must occur within lands managed by NPS. Rather, the National Park Service Procedural Manual #77-1: Wetland Protection, provides:

Wetland compensation sites must be on lands managed by the NPS, with the following recommended priority order: 1) within the same wetland system as the impacted wetland; 2) within the same watershed; or 3) in another watershed within the same NPS unit. If no practicable restoration sites can be found within this location sequence, then sites in other NPS units within the Region may be considered.

NPS Procedural Manual #77-1, p. 18. NPS Director's Order #77-1 and NPS Procedure Manual #77-1 are merely guidance documents intended to provide NPS managers and staff comprehensive guidance on Service-wide policy and required or recommended practices and procedures." NPS Director's Order #1. Director's Order #77-1 is not and cannot be a mandate. Guidance documents, such as Director's Order #77-1 and NPS Procedure Manual #77-1, are nonbinding interpretive statements that merely attempt to explain policies or the meaning of a controlling statute or rule. The Final Rule establishes a preference for compensatory mitigation to first come from mitigation banks, and Director's Order #77-1 may not, nor was it intended to, change the law by creating a requirement that compensatory mitigation must occur on lands managed by NPS. Furthermore, with respect to fresh marsh habitat, only 3.03 average annual habitat units ("AAHUs") was impacted within JELA and the 404C Area; impacts to 65.92 AAHUs of fresh marsh are occurring *outside* of JELA and the 404C Area. If NPS insists on compensatory mitigation occurring within the boundaries of JELA, this mitigation should be limited to the 3.03 AAHUs of fresh marsh impacted within JELA's boundaries; priority for compensatory mitigation for the remaining 65.92 AAHUs must be given to mitigation banks.

4. Failure to consider compensatory mitigation from mitigation banks violates the National Environmental Policy Act.

Not only are the Corps and NPS required to prioritize credits from mitigation banks, the failure of PIER #37 to evaluate this alternative is in violation of NEPA. Pursuant to NEPA, an agency must "rigorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14(a)-(c). Although an agency is not required to consider speculative alternatives, it is required to consider reasonable and feasible alternatives. Compensatory mitigation from mitigation banks is not only reasonable, feasible and consistent with policy objectives for management of the area, it is required to be given priority pursuant to the Final Rule. Because

the Corps and NPS failed to consider this reasonable alternative, PIER #37 must be supplemented to include considerations of this alternative.

We appreciate the opportunity to provide these comments and respectfully request that the Corps and NPS: (i) supplement PIER #37 to consider the alternative of compensatory mitigation from mitigation banks, including mitigation banks, such as Jesuit Bend Mitigation Bank, that will have available credits in the near future; (ii) with respect to compensatory mitigation for impacts to 65.92 AAHUs of fresh marsh outside the boundaries of JELA, select as its preferred alternative credits from Jesuit Bend Mitigation Bank.

Sincerely,

RESTORATION SYSTEMS, LLC

George Howard

cc: [list]



NATIONAL WILDLIFE FEDERATION

NEW ORLEANS OFFICE
3801 Canal Street, Suite 325
New Orleans, Louisiana 70119

November 13, 2015

Stan Austin, Southeast Region Regional Director, National Park Service
Colonel Richard L. Hansen, Commander, New Orleans District, Corps of Engineers

Attn: Elizabeth Behrens

Re:

Jean Lafitte National Historical Park and Preserve
Mitigation Features
Environmental Assessment and National Historic Preservation Act
Assessment of Effects
WBV- HSDRRS Mitigation
Jefferson Parish, Louisiana
PIER #37, TIER 1

Dear Sirs:

We write today in partial support of the mitigation plan to compensate for damages to public resources in the Barataria Preserve Unit, as outlined in the above referenced document. Specifically, we support backfilling borrow areas to reestablish swamp and bottomland hardwood (JL14A); gapping artificial hydrological barriers to reestablish sheet flow in impounded and semi-impounded swamps (JL7); gapping barriers to increase hydrological connections and movement of estuarine organisms (JL15); and using dredged material to fill a failed agricultural impoundment to marsh level (JL 184 and JL 185). All are actions which advance both the purposes of compensatory mitigation and the mission of the National Park Service to reestablish naturally functioning ecosystems.

However, we question the location of the borrow site in Lake Cataouatche to fill Yankee Pond (JL 184 and JL 185). In general, in a collapsing delta, long term sustainability and best practices require that fill material be obtained from outside the system or from a sustainable, renewable source. In this case, the material should be pumped from the river. This could be accomplished either by running a pipeline down the Bayou Segnette Waterway or by pumping into barges in Westwego and transporting to the site. Alternatively, the Davis Pond Freshwater Diversion could be operated to increase sediment delivery to the Lake Cataouatche system in sufficient quantities to offset the removal of the borrow from the lake bottom.

The Yankee Pond project has two components, one to compensate 3.2 AAHUs of fresh marsh damage within the Preserve, and another to compensate 65.92 AAHUs from outside the park. In

order to make the project viable, containment must be put in place where Yankee Pond abuts the Bayou Segnette Waterway. The waterway is a Federal navigation project that has led to high rates of erosion along its banks, which destroyed the former hydrologic barrier between the waterway and Yankee Pond. The Corps should build the containment berm and place sufficient material on the inside perimeter of the berm to satisfy the in-park AAHU requirement, then obtain the remainder of the needed dredge material from the river, or find a more sustainable alternative. Completing containment at Yankee Pond repairs the bank integrity of the Segnette Waterway, can satisfy the in-park fresh marsh mitigation need, and provide a future site for beneficial use in the event of future maintenance dredging.

Thank you for the opportunity to comment.

Sincerely,

David P. Muth
Director
Gulf Restoration Program
National Wildlife Federation
3801 Canal Street, Suite 325
New Orleans, Louisiana 70119
504.348-3518
504.872-5993 cell
muthd@nwf.org