US Army Corps of Engineers®
New Orleans District

SCOPING REPORT

Louisiana Coastal Area (LCA), Modification of Davis Pond Diversion Ecosystem Restoration Feasibility Study

November 2009

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1.0 INTRODUCTION

The National Environmental Policy Act (NEPA) of 1969 established a nationwide policy to include in every recommendation or report on proposals for major Federal actions significantly affecting the environment, a detailed statement of the environmental impact of the proposed action. Such detailed statements are referred to as environmental impact statements (EIS).

The U.S. Army Corps of Engineers (USACE), New Orleans District (CEMVN) published a notice of intent (NOI) to prepare a draft supplemental EIS for the Louisiana Coastal Area (LCA) Modification of Davis Pond Diversion (MDPD) project in the *Federal Register* (volume 74, number 171) on September 4, 2009.

The purpose of the NOI is to announce the Corps' intention to prepare a draft supplemental EIS that addresses the MDPD project, which was identified in the LCA Ecosystem Restoration Plan as a near-term critical restoration project.

The NEPA provides for an early and open public process for determining the scope of issues, resources, impacts, and alternatives to be addressed in the supplemental EIS. This process is referred to as scoping. Scoping meeting announcements were advertised in two area newspapers leading up to the meeting date. The meeting was held on Tuesday, October 6, 2009, in Waggaman, Louisiana.

This scoping report outlines the project background and scoping process to date, and summarizes the key issues identified by members of the public during the initial scoping period. Section 5.0 of this report contains a detailed analysis of the comments received. The top five themes identified by members of the public include:

- Modify the Davis Pond Diversion operational plan to flow at maximum capacity to allow more freshwater into the basin.
- Pipe in sediment from Mississippi River or other borrow sites in basin.
- Redistribute freshwater flow to the east and west by constructing gaps in canal banks and channelization while using dredged material beneficially for marsh restoration.
- Modify the Davis Pond Diversion operational plan to include pulsing to mimic historic Mississippi River flooding conditions.

- Restore marsh and construct shoreline protection where Bayou Perot and other canals meet Lake Salvador.
- Narrow the main passes adjacent to the barrier islands to reduce saltwater intrusion.

2.0 STUDY AUTHORITY

The authorization for the MDPD study is the Water Resources Development Act of 2007, Section 7006 (e)(1)(D).

3.0 PROPOSED ACTION

The Davis Pond Freshwater Diversion project, constructed in 2002 in upper Barataria Basin, has a maximum operating capacity of 10,650 cfs. The structure has been operated as a salinity management feature, with freshwater introductions from the Mississippi River ranging from 1,000 cfs up to 10,650 cfs averaging 4,000 cfs, to this point in time, considerably less than half of the structure's capacity.

The MDPD feasibility study is designed to address coastal restoration problems and opportunities in the project area based on guidance from the LCA Ecosystem Restoration Study completed in 2004; specifically, to assess changes in the operation to increase ecosystem restoration outputs.

Construction of the Mississippi River levee has effectively stopped annual spring flooding that, in the past, had nourished the Barataria Basin with sediment, nutrients and freshwater.

Additional freshwater should improve biological productivity and help reverse the current trend of degradation, thus restoring wetland habitat.

The goal of this project is to reverse the trend of degradation in the southeast portion of the Barataria Basin to contribute to a sustainable coastal ecosystem that can support and protect the environment, economy and culture of southern Louisiana and the Nation.

Project objectives include:

- Maximizing the geographic extent of freshwater in the intermediate marsh to relieve salinity stress on the marsh.
- Use 1956 as a salinity target year for land and vegetation distribution and for land feature locations.
- Restore a transition from the freshwater and Gulf of Mexico systems with wide and gradual salinity zones that support a healthy, natural, and sustainable estuary and fisheries.
- Restore a transition from the freshwater and Gulf of Mexico systems with wide and gradual salinity transition zones with supporting vegetation to help buffer against large changes in salinity due to storm surges or droughts.
- Provide a more even distribution of freshwater across the Barataria Basin.

The overarching goal of the LCA Ecosystem Restoration Plan is to reverse the current trend of degradation of the coastal Louisiana ecosystem by maximizing the use of restoration strategies to reintroduce historic flows of water, nutrients, and sediment to coastal wetlands, and to maintain the structural integrity of the coastal ecosystem.

4.0 SCOPING PROCESS

NEPA affords all persons, organizations and government agencies the right to review and comment on proposed major Federal actions that are evaluated by a NEPA document. This is known as the "scoping process." The scoping process is the initial step in the preparation of the EIS and will help identify (1) the range of actions (project, procedural changes) (2) alternatives (both those to be rigorously explored and evaluated and those that may be eliminated), and (3) the range of environmental resources considered in the evaluation of environmental impacts.

A scoping meeting announcement requesting comments regarding the scope of the MDPD study was sent to Federal, state, and local agencies; and interested groups and individuals on September 16, 2009. The media advisory announcing the scoping meeting was provided to 262 media outlets. An advertisement for the public scoping meeting appeared in the following publications:

- *The Times-Picayune*, October 1, 4, & 6, 2009
- *St. Charles Herald Guide*, October 1, 2009
- *St. Bernard Voice,* October 2, 2009
- *Plaquemines Gazette,* October 6, 2009
- *NOLA.com,* September 18 – October 6, 2009

The public scoping meeting was held on:

Tuesday, October 6, 2009
Cytec's Tom Call Pavilion
10800 River Road
Waggaman, LA

The schedule for the scoping meeting was:

- 6:00 – 7:00 p.m. Open House
- 7:00 – 7:30 p.m. Presentations
- 7:30 – 8:00 p.m. Question and Answer Session
- 8:00 – 8:50 p.m. Open Forum for Comments
- 8:50 – 9:00 p.m. Wrap-up

The open house session provided attendees with an opportunity to visit a series of poster stations staffed by project team members and subject matter experts regarding the following topics: The LCA plan, the NEPA process and milestones, an overview of the study and its goals and objectives, as well as maps of the study area.

Following the open house, there was a brief presentation on the LCA project planned for the area and a description of the NEPA process. During this segment, the LCA Environmental Manager and both the USACE MVN Project Managers and the Louisiana Office of Coastal Protection and Restoration presented introductory remarks, including the agenda, purpose of the meeting, public involvement under NEPA, a brief history leading to the study, the scope of the analysis, and the intent to prepare a supplemental EIS for the MDPD project.

The question and answer portion focused on the explaining the study process and responding to general questions presented by meeting attendees. Following this portion scoping comments were accepted. Individuals were invited to present their verbal and/or written scoping comments to be recorded without interruption. This portion of the meeting continued until no further scoping comments were offered.

During the wrap-up, attendees were reminded to pick up self mailing comment cards, should they wish to submit additional comments at a later date, and to drop off the meeting evaluation forms at the registration table.

A transcript of comments made at the scoping meeting was prepared by a court reporter. This Scoping Report presents and summarizes the scoping comments expressed at the public scoping meeting, as well as all other scoping comments received during the comment period beginning September 4, 2009 and ending November 2, 2009. This Scoping Report indicates where in the supplemental EIS individual comments would likely be addressed. This Scoping Report will be provided to all scoping participants who provided their addresses, and will also be published on the www.nolaenvironmental.gov web site. A transcript of comments made at the scoping meeting was prepared by a certified court reporter. This transcript will also be available on the nolaenvironmental.gov web site.

5.0 SCOPING MEETING COMMENTS

Scoping comments document the public's concerns about the scope of the proposed course of action as well as identify significant resources and suggested alternatives. Scoping comments will be considered during the study process and in preparation of the draft SEIS. A total of 52 participants signed in for the scoping meeting in Waggaman, Louisiana.

A total of 31 multi-part comments were received during the comment period. Twenty individuals expressed comments at the scoping meeting, and 11 written comments were received during the comment period.

A scoping comment may contain several specific comments directed at multiple areas of concern. Hence, a single comment could potentially be generally addressed in multiple sections of the draft AEIS. A total of 80 specific comments were expressed.

The comments were categorized according to their applicability to the SEIS. SEIS categories include: Purpose and Need; Alternatives; Affected Environment; Environmental Consequences; and Consultation, Coordination, and Compliance with Regulations. An individual scoping

comment may be categorized under more than one EIS subject matter heading, but no one comment was assigned to more than three categories.

The following comments, including those received at the scoping meeting, are representative examples that were received during the comment period.

Purpose and Need

The most common comments received indicated great support for flow rate of the Davis Pond Freshwater Diversion.

- *"We support more freshwater."*
- *"We have got to push the saltwater out."*
- *"We believe that increased fresh water flow into the Barataria basin is an important component in the fight against coastal erosion."*

Alternatives

Marsh regeneration was a strong sentiment in this category.

- *"We need to reverse land loss by bringing in sediments from the Mississippi River. The most efficient way to do this is through long distance pipeline sediment to grade wetlands and ridges and barrier islands and then sustain them with the appropriately size small to medium freshwater diversions. Barataria Terrebonne National Estuary Program can support changes to the Davis Pond operational plan only if these changes will have a positive effect on the Barataria Basin."*

Reducing saltwater intrusion was also a concern.

- *"If you want to eliminate some of the salinity in the water, narrow the passes at and around Grand Isle."*
- *"I'm very much a proponent to see the opening up of this project and constant flow of ten thousand cubic feet per second through Davis Pond."*

Affected Environment

Most comments in the project area focused on coastal restoration and the water bodies that provide essential fish habitats.

- *"Our very way of life here in south Louisiana depends on the action of freshwater flowing through the basin. It's important for us to affect coastal restoration and stabilization by making sure that happens. It's clear, make it fresh."*
- *"What we can do is divert the river that used to be diverted and bring back some freshwater in areas that could be now marsh to build up and sustain our culture and our economy."*
- *"Our wildlife need freshwater, our people need freshwater and our businesses need freshwater, and I feel we need to utilize Davis Pond one hundred percent of what it was built for."*
- *"Proper operation of the current structure and its future modification to allow for more freshwater in the basin could enhance the freshwater habitat of the Barataria Basin,*

Some comments opposed the modification because of impacts to the fish habitats:

- *"The oyster is a very sensitive animal, and this project will the hurt the fisheries, and I think not enough studies have done to look at the long term impacts that these kinds of escalations in freshwater and how that will play with our fishery."*

Environmental Consequences

Several comments indicated the U.S. Army Corps of Engineers should consider the impacts to oyster beds and other marine fisheries:

- *"The oyster is a very sensitive animal, and this project will hurt the fisheries, and I think not enough studies have done to look at the long term impacts that these kinds of escalations in freshwater and how that will play with our fishery.",*
- *"This year for the last couple of years we're seeing less and less brown shrimp, more and more white shrimp in the basin."*

Respondents also indicated the importance of sediment on the environment:

- *"What we can do is divert the river that used to be diverted and bring back some freshwater in areas that could be now marsh to build up and sustain our culture and our economy."*

Some comments indicated concern erosion effects from the flow of water:

- *"Our fishermen butterflying in Bayou Perot have seen from the flow of that water when it was flowing heavy through there. It's blowing out marsh, it's not building it, and if you increase that flow you are going to blow out even more marsh."*

Some comments were also related to flooding issues.

- *"When you got more water coming from Davis Pond it piles up on top of us in Lafitte, Barataria, it just covers the road and with the simple south wind now and never used to come over the bulkhead for tropical storm.."*
- *"Flooding in the Lafitte area should be considered in the human environment."*

Consultation, Coordination, and Compliance with Regulations

A concern was raised that the Corps ensure coordination between various agencies regarding threatened and endangered species, fish and wildlife, and water quality certifications. For example, concerns were raised regarding the proposed action's impact on area wildlife. Pallid sturgeons, Gulf sturgeon, the bald eagle and colonial nesting waterbirds were mentioned as sensitive receptors in the area. Regarding the bald eagle:

- *"Disturbance may lead to nest abandonment, cracked and chilled eggs, and exposure of small young to the elements." Consult National Bald Eagle Management Guidelines to minimize potential impact."*

Table 1 displays the categorization of specific comments by EIS subject matter. The most comments were expressed regarding Alternatives followed by Affected Environment; Environmental Consequences; and Purpose and Need and Consultation, Coordination and Compliance with Regulations.

Table 1. Categorization of Scoping Comments by Draft EIS Subject Matter. PN = Purpose and Need, ALT = Alternatives, AE = Affected Environment, EC = Environmental Consequences, and CC = Consultation, Coordination, and Compliance with Regulations.

Source of Scoping Comment	PN	ALT	AE	EC	CC	Totals
Scoping Meeting	11	13	28	40	3	**95**
Scoping Comment Letters	0	1	17	11	0	**36**
Scoping Comment Cards	7	2	2	2	0	**6**
Totals	**18**	**16**	**47**	**53**	**3**	**137**

NOTE: A single scoping comment may be categorized under multiple DPEIS subject matter headings.

Table 2 summarizes each scoping comment and indicates by EIS subject matter, where an individual comment would likely be addressed in the draft EIS. EIS categories include: Purpose and Need for Action; Alternatives; Affected Environment; Environmental Consequences; and Consultation and Coordination. Compliance with Regulations (Federal, state and local environmental laws and regulations) is also included in this latter category. An individual scoping comment may be categorized under more than one EIS subject matter heading.

6.0 SCOPING PARTICIPANTS

Approximately 52 people attended the Davis Pond Diversion Modification project scoping meeting. These included, but were not limited to, private citizens, industry stakeholders, non-governmental organizations and political representatives. Names of those who signed in are listed below; names in bold indicate individuals who provided scoping comments:

October 6, 2009 – Waggaman

Amy Legaux	**Hugh Caffery**	Neal Chilee
Anne Henn	Jason Adriance	Nick Collin
Ben Weber	**Jeff Roux**	Perry Gisclair
Blake Chiasson	Jimmy Delery	Renee Sanders
Carolyn Schexnayder	John Lopez	**Robert Thibodaux**
Cathy Breaux	**John Tesvich**	Scott Hoffeld
Cathy Norman	Johnny Shaddingor	Shelly Tasty
David Muth	**Kerry St Pe**	**Simone Maloz**
Dean Blanchard	**King Millling**	**Steve Mathies**

Denise McKinney	Landry Cammdelle	Tammy Chiasson
Dennis Nuss	**Lonny Babin**	**Ted Falgout**
Dwayne Bourgeois	Marnie Winter	Tom Bernard
Dusty Pate	Mark Schexnayder	**Tracy Kahes**
Eugene Hickman	Matt Scollon	**Vickie Duffoure**
Frank Ellender	Michael Kernan	**Victoria Hickman**
Gilbert Schexnayder	Michael Metzger	**Wilber Collins**
Greggrey Tyrul	Michael Roberts	**Windell Curole**
Henri Boulet	Milton Robert	

Table 2. Modification to Davis Pond Diversion Feasibility Study-- Summary of Scoping Comments. This table categorizes scoping comments by EIS subject matter, which is where an individual comment would likely be addressed in the draft EIS. EIS categories include: PN = Purpose and Need; ALT = Alternatives; AE = Affected Environment, EC = Environmental Consequences; CC = Consultation, Coordination, and Compliance with Regulations (Federal, state, and local environmental laws and regulations) is also included in this latter category. An individual scoping comment may be categorized under more than one EIS subject matter heading. Transcripts of each oral comment provided at the Convent scoping meeting are in the Appendix. Copies of all written comments are provided in the Appendix.

PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
Scoping Meeting Comments						
1			X	X		*Mr. Dennis Nuss, St. Charles Parish Council, comments:* (1) Fishermen in the Des Allemands area are concerned that saltwater from Lake Salvador to the east is being pushed to the west into Lac des Allemands thus making Lac des Allemands more brackish.
2	X		X X	X X		*Mr. King Milling, Governor's Advisory Commission, comments:* (1) This area continues to subside, saltwater continues to intrude, and this area that used to be in many cases sweet water marshes have become brackish and then solvent and then dying. We have determined that we can redevelop, reconstitute a significant portion of this area, not as it was, in order to preserve those things which are unique to this state and preserve those economic issues which contribute not just to this state and region, but to the nation as a whole. (2) We have lost some 2300 square miles. Every town and every community is at risk. We have got to push the saltwater out. We have got to get the nutrients and sediments into the system so once again we can begin to offset this subsidence. We are working on large scale diversions as we speak. This is an initial step that means that we must be in a position to maximize the benefits that we can as we move forward.

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3			X	X		*Mr. Ted Falgout, Governor's Advisory Commission of Coastal Protection and Restoration, comments:* (1) We have all heard about and many of us have personally experienced the huge amount of land loss this basin is experiencing and the resulting impacts from the basin turning into open water.
			X	X		(2) We see the encroachment of the sea, greater hurricane impacts, extreme ranges of salinities resulting from the increased tidal action due to loss of basin frictions stemming from the land loss, and conversely we enjoy catching saltwater fish and brown shrimp just minutes from our homes and oysters in the middle of the basin.
			X	X		(3) Originally the diversion was proposed to connect Lac des Allemands to the river, but concerns raised by fisherman and cap owners caused decades of delay.
		X		X		(4) By no way do I profess that Davis Pond is the key to salvation of our basin, but every coastal restoration tool in our arsenal must be utilized at its maximum benefit if we expect to make any headway in this uphill battle. Because the basin is now mostly open water it's virtually impossible in my mind to get full benefit from Davis Pond under the target salinity scheme that we're currently managing by.
			X	X		(5) 20 years ago when the salinity spike and this basin were buffered by much more marsh than we have today, it probably was good idea to try to manage these target salinities, but unfortunately today we see saltwater in Lafitte during the southeastern and we see freshwater in Hackberry Bay during the north and it's virtually impossible to achieve a target salinity somewhere 20 miles from the source of freshwater in an open bathtub. It's understood that introducing more freshwater in the basin will have unavoidable impacts on current fisheries, but it's my belief that these impacts will be dwarfed by the long ecosystem benefits of the entire basin including its people and its fisheries. Freshwater habitat is the only habitat that has the ability to create hundreds of thousands of acres in marsh within just a few years without expensive mechanical sediment delivery techniques. By a relatively simple process called succession where freshwater plants live and die and matte up and grow and build flotant marsh we can build marsh. This is how we begin the process of reducing the extreme salinity fluctuations, increase our capacity to buffer storms and add sustainability to wildlife and fisheries habitat in our estuaries. We don't need to study this to death. We do not have luxury of waiting another decade for other projects to be implemented and come in like Myrtle Grove, like long distance sediment delivery, like Morganza to the Gulf or Donaldsonville to the Gulf.
4		X		X		*Mr. Reggie Dupre, Executive Director of the Terrebonne Levee and Conservation District, comments:* (1) There is no way that we ought to be even going through this congressional process of having to go through this feasibility study and the -- -- and having to go back to congress to modify the operations of Davis Pond. This ought to be a district commander's decision or maybe at least a division commander decision in Vicksburg. We support more freshwater and utilizing to the maximum extent possible.

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#	PN	ALT	AE	EC	CC	
5		X	X	X		*Henri Boulet, Director of Louisiana Highway 1 Coalition, comments:* (1) Creating significant wetlands will provide a greater storm protection to Louisiana Highway 308 north of Larose and the communities it traverses. The Davis Pond freshwater diversion project in St. Charles if modified to operate at full capacity represents a significant building block to restore wetlands on the east side of the Bayou Lafourche ridge. I can personally attest that Louisiana fishermen are adaptive, hard working and impacted fishermen will eventually respond by harvesting freshwater produce.
	X					(2) This is the most immediate economical and efficient tools we have at this time. So tonight I encourage the US Corps of Engineers to move ahead with necessary actions to achieve maximum ecosystem benefit from the Davis Pond investment. We need these benefits immediately.
6			X	X		*Mr. Steve Mathies, Executive Director of the Governor's Office of Coastal Protection and Restoration, comments:* (1) I want to remind everyone that this project was first designed just as a freshwater diversion and it was economically justified in stabilizing on the Isohalines production. We know it's going to change the ecosystem.
			X	X		(2) We already invested $120 million and using the structure better to maximize the ecosystem benefits is something that we highly encourage.
7			X	X		*Mr. Windell Curole, South Lafourche Levee District, comments:* (1) I have watched Terrebonne and Barataria Basin fall apart, and basically what we have is unlimited saltwater to the south, a subsiding basin inviting that saltwater in and all we have to combat it is the water in the river and six inches of rainfall but that's enough if we treat it correctly.
			X	X		(2) The federal process does not change as fast as the environment is changing and, that's why we're in this bind.
				X		(3) If we can take this Davis Pond and run it and see what it does and adjust it and change it around we have more chance and more - - the flexibility to run it the best way possible.
		X	X	X		(4) What we need is the state to say what it wants to be and what it wants to do and then take that action. The chance to have marsh and not open water is based on freshwater. The reason you don't see spartina marsh growing up north it's not because saltwater, it can grow in freshwater. I have got to go spend money to build marsh or put rocks to protect it and it's that simple.
8	X		X	X		*Mr. Lonny Babin, North Lafourche Levee District, comments:* (1) I am a stakeholder in this project. Here in Louisiana we are in a war to impede wave action and tidal flow, and if we can reduce that wave height and impede tidal flow we can find a way to save our coast. Succession growth of wetlands is the cheaper form of wetlands restoration there is. By the freshwater plants lifecycle we see the growth of marsh in these systems.
			X	X		(2) Our very way of life here in south Louisiana depends on the action of freshwater flowing through the basin. It's important for us to affect coastal restoration and stabilization by making sure that happens. It's clear, make it fresh.

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#	PN	ALT	AE	EC	CC	
9	X	X	X X	X X X		*Mr. Hugh Caffery, comments:* (1) I understand the goals are environment, culture and economy, and at least two of those go with saltwater intrusion. Environmentally are there complications of having these oyster leases go more north or more south, certainly, but with oyster leases going more north so do people, and our culture and economy can't afford saltwater intrusion, so for me two out of three wins. (2) It's now been 45 years. Humbling fact of history that 45 years ago they saw the need for this project and we have been studying and talking about it and finally we got it here and we won't open it up. (3) What we can do is divert the river that used to be diverted and bring back some freshwater in areas that could be now marsh to build up and sustain our culture and our economy. (4) I'm very much a proponent to see the opening up of this project and constant flow of ten thousand CFS through Davis Pond.
10	X	X				*Mr. Robert Thibodaux, Thibodaux Resident, comments:* (1) Our wildlife need freshwater, our people need freshwater and our businesses need freshwater, and I feel we need to utilize Davis Pond one hundred percent of what it was built for.
11	X				X X	*Mr. Dwayne Bourgeois comments:* (1) The point that I wanted to make is the same thing that most of us continue to pull our hair out about is that you know by the time that this process is finished, NEPA process, you will have another two years of operation done or under your belt on this system, and my suggestion is that whatever process you put in place to modify the operation of Davis Pond, you feed forward that data and have a plan to feed forward that data into your operation arrangements. (2) I can say that all of us in the levee business that's a constant, constant problem for us is the time it takes to get anything done.

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12						*Ms. Simone Maloz of Restore Retreat, comments:*
	X					(1) If you can't utilize an existing project properly, how are we ever going to be able to have something large scale?
		X	X	X		(2) Lack of freshwater to dying marshes and the lack of natural barriers make the basin more vulnerable than ever with Donaldsonville to the Gulf and Morganza to the Gulf hurricane protection system yet to be constructed. All are factors which need to be considered in the Supplemental Environmental Impact Statement. One evaluation should include the current and future project on the basis of its impact on the entire Barataria Basin.
		X	X	X		(3) Also included should be an examination of the area without the existing project, the area of the effects of the current project operation as it is now, future sea level rise should also be a consideration. Davis Pond could also enhance future projects such as the Tri Parish long distance sediment delivery project, a developing project which has substantial funds already dedicated.
				X		(4) Proper operation of the current structure and its future modification to allow for more freshwater in the basin could enhance the freshwater habitat of the Barataria Basin, create thousands of acres of flotant marsh to buffer from storms, reduce extreme salinity fluctuation. Help provide sustainability of wildlife and fishery habitat.
13						*Mr. Frank Ellender, ConocoPhillips, comments:*
		X				(1) We fully support maximizing the Davis Pond diversion project.
14						*Mr. John Tesvich, comments:*
	X					(1) I will be the first one I think tonight to speak against this proposal.
	X					(2) I see a problem here that this project was formed and we had a contract with the public, the congress approved it the state approved it and now we want to change - - we want to change our schematic and how we are going to operate this program.
			X	X		(3) Introducing unlimited amounts of freshwater into an estuary will - - can hurt the estuary and there are a lot of things that we don't know about that. We have vital estuaries here in Louisiana, and when we start introducing this large scale river water in our estuaries, guess what, right now we are isolated and it's controlled but we are bringing the millions of people in industrial waste, everything into other estuaries. The oyster is a very sensitive animal, and this project will the hurt the fisheries, and I think not enough studies have done to look at the long term impacts that these kinds of escalations in freshwater and how that will play with our fishery.
				X		(4) We displace our fisheries I think the state should be looking at that and make plans where we're going to be 50 and one hundred years from now.
Scoping Comment Cards						

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15		X		X X X		*Vickie Duffoure, Bayou Segnette Voters Association:* (1) You see the bright green grass, we didn't have that before Davis Pond, that just came back with Davis Pond, and then the other day I was talking to an avid hunter and fisher at the camp at Bayou Segnette, he said, this Davis Pond is really working. I have seen more rabbits, more deer, all kind of – the critters they hunt, and that tells me that the habitat is coming back. (2) A commercial crab fisherman who fished in Lake Salvador, Lake Cataouatche for the last 30 years said there is grass all in Lake Cataouatche. I was fishing in there, fishing crab, catching ten, fifteen boxes a day and when they stopped the water I had to pull my traps and move out. When the water runs we have fat crabs, it's good fishing. (3) So for the EIS I think that it needs to be examined of how you could adaptively manage this so that you could learn from it and it could be – if detrimental things start happening it could be corrected. I would like to say pulsing some way of introduction of sediment, through sediment mining and I think it's a good idea. Flooding in the Lafitte area should be considered in the human environment.

Table 2. Modification to Davis Pond Diversion Feasibility Study-- Summary of Scoping Comments. This table categorizes scoping comments by EIS subject matter, which is where an individual comment would likely be addressed in the draft EIS. EIS categories include: PN = Purpose and Need; ALT = Alternatives; AE = Affected Environment, EC = Environmental Consequences; CC = Consultation, Coordination, and Compliance with Regulations (Federal, state, and local environmental laws and regulations) is also included in this latter category. An individual scoping comment may be categorized under more than one EIS subject matter heading. Transcripts of each oral comment provided at the Convent scoping meeting are in the Appendix. Copies of all written comments are provided in the Appendix.

PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
16	X X	X	X X	X		*Mr. Kerry St. Pe Barataria Terrebonne Natural Estuary Program, comments:* (1) We believe that only modifications that truly benefit the human communities, fisheries and wetlands in the Barataria Basin as a whole should be seriously considered and implemented as part of this process. (2) Their agreement acknowledged that the Barataria Terrebonne system consisting of the area between the Mississippi River and the Atchafalaya River was both nationally significant and critically threatened. The Environmental Protection Agency on behalf of the US government pledge to elevate the status of this entire region to that of a national estuary. The State of Louisiana fulfilled its part of this pledge by convening hundreds of representatives from business and industry, universities and other education institutions, local governments, federal and state agencies and NGOs, farmers, agriculture and fisheries. This group of diverse stakeholders gathered in 1991 and spent five years and tens of thousands of hours to reach an agreement called the Comprehensive Conservation and Management Plan or CCMP. It was designed to restore and preserve the Barataria Terrebonne National Estuary. When the Davis Pond operational plan was written and salinity lines were drawn many of the stakeholders from the BTNEP management participated in the planning effort. Ever since this time the BTNEP has sat on the Davis Pond Advisory Committee and has participated fully. Stakeholders of the Barataria and Terrebonne Basin, including fishermen, these people are pursuing a way of life that is heavily impacted by the operations of Davis Pond. They have a right to expect stability in their industry, which is what Davis Pond was built to provide. Major changes in the operational plan will avoid those former agreements. (3) Some critics believe that Davis Pond is not being fully utilized and that perhaps an increase in the overall flow to the structure to maximize capacity throughout the year would push saline waters out to the Gulf and increase the area extent of wetlands and naturally build land. Davis Pond has not yet been implemented for entire year without having to stop for repairs guide levees or the weirs from the ponding area. Davis Pond diversion is not a land building structure and was not designed to function as one nor can it be changed into one. Davis Pond skims the water from the upper part of the water column. It is functioning as a freshwater diversion used for salinity control as intended. The sediments flowing through the Davis Pond Diversion are low in quantity and fine in texture. Most of the sediment will never travel outside of the ponding area. Nutrients present will be taken up by the exploding population of submerged and floating invasive plants within the ponding area and Lake Cataouatche. Floating freshwater marshes do not constitute a good trade for the practice and saline washes of the Barataria Basin. If we achieve higher flows and convert all of the Barataria Basin to a freshwater wetland system and that is followed by saltwater pushing north into the basin by hurricanes or sustained south winds what have we achieved in terms of restoration and community protection? Nothing. During Katrina and Rita the freshwater wetlands that formed in the delta were decimated by the storm surges from these hurricanes. Freshwater wetlands are notorious for providing little resistance against the onslaught of saltwater; whereas salt marshes do a far better job of surviving and diminishing saltwater storm surge. We need to reverse land loss by bringing in sediments from the Mississippi River. The most efficient way to do this is through long distance pipeline sediment to grade wetlands and ridges and barrier islands and then sustain them with the appropriately size small to medium to medium freshwater diversions When water quality improves, I would like to see the affected area, which was logged out at the turn of the 20th century, replanted with native cypress trees because the ecosystem should be managed as a wet/dry environment.

Table 2. Modification to Davis Pond Diversion Feasibility Study-- Summary of Scoping Comments. This table categorizes scoping comments by EIS subject matter, which is where an individual comment would likely be addressed in the draft EIS. EIS categories include: PN = Purpose and Need; ALT = Alternatives; AE = Affected Environment, EC = Environmental Consequences; CC = Consultation, Coordination, and Compliance with Regulations (Federal, state, and local environmental laws and regulations) is also included in this latter category. An individual scoping comment may be categorized under more than one EIS subject matter heading. Transcripts of each oral comment provided at the Convent scoping meeting are in the Appendix. Copies of all written comments are provided in the Appendix.

PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
						Mr. Kerry St. Pe comments continued:
						to medium freshwater diversions. Barataria Terrebonne National Estuary Program can support changes to the Davis Pond operational plan only if these changes will have a positive effect on the Barataria Basin. If we can enhance the Davis Pond structure to increase flow of water over and into adjacent wetlands, this will be beneficial to those wetlands that surround the area.
			X	X		(4) Dramatic changes to the operational plan that would maximize the flow and dramatically change the average salinity throughout the year at the five thousand line will have negative impacts on the oyster and shrimp industry and destroy salinity gradients that now exist in the Barataria Basin. The continuum represented by the salinity grading not only guarantees oyster and shrimp but a healthy diversity of animal and plant species tolerant of both salinity and freshwater fluctuation.
		X		X		(5) Adding freshwater can never solve this larger more important problem. Only through the addition of coarse sediments from the bottom of the Mississippi River through pipeline sediment delivery and in conjunction with appropriately placed small to medium diversions can we have any meaningful restoration of the Barataria Basin within our lifetime.
				X		(6) Any restoration tool that would completely change the way of life for a significant sector of our population would not be an agreement with BTNEP's stated objectives and goals as expressed in our CCMP.
						Mr. Wilber Collins of Golden Meadow submitted the following comments:
				X		(1) I have been an oyster fisherman for 60 years and everybody that I heard talking tonight besides John that I know gets a check from the government or the state or get a check from somebody, so y'all might be for this program but y'all get a check, but tomorrow morning I got to get up and go to work and fish oysters and if there is no oysters I can't feed my family.
17			X	X		(2) I have been there a long time and the '30s, '40s, I was there in the '50s and '60s when every dredge in the State of Louisiana and Texas was dredging the marsh to make pipelines, wells. Nobody cared about the marsh, everybody cared about that dollar that the oil companies was giving the state and everybody was getting good jobs and now the marsh is gone and y'all want to punish us for it by putting freshwater.
					X	(3) This process is too slow and needs to be sped up.

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PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
18		X	X X	X X		*Ms. Tracy Kahes, Louisiana Bayou Keeper, comments:* (1) We have seen grasses growing and we have seen cypress trees along Bayou Segnette. We have also seen increased flooding in our communities with increased water coming down the pipe since they finished that levee to the north of us, can't spread out, and when you got more water coming from Davis Pond it piles up on top of us in Lafitte, Barataria, it just covers the road and with the simple south wind now and never used to come over the bulkhead for tropical storm, so this is some problems with that. (2) There is going to be huge impacts to the fisheries. Our economy is based on that natural resource whether it's commercial fishing, whether it's charter captains, which is our members of our organization, both, people involved in tourism in the basin, all of their jobs are going to be impacted in one way or another, the whole livelihood of our community, and to just open that thin and just let water flow and believe that that is going build land I think is just totally unrealistic. I agree with Mr. St. Pe, we need to be doing dedicated slurring. Not just adding water that is not going to add sediment to anything. Our fishermen butterflying in Bayou Perot have seen from the flow of that water when it was flowing heavy through there. It's blowing out marsh, it's not building it, and if you increase that flow you are going to blow out even more marsh. I think it's a mistake to let go of all of that water into the basin. (3) The other thing that we're seeing is a change in the fishery. This year for the last couple of years we're seeing less and less brown shrimp, more and more white shrimp in the basin, which isn't a bad thing. We need to work something in where we start to diversify things and we consider everything instead of just opening the pipes that I believe will be a total disaster for our community.
19				X		*Mr. Jeff Roux, Ama Resident, submitted the following comments:* (1) I live in Ama, LA and I'm concerned about the diversion and the western tie-in. I ask the Corps to look at it as far as what the impact on the western tie-in will be if you increase the level to ten thousand.
20			X	X		*Wilbert Collins comments:* (1) When Davis Pond started a few years back we had a deal to put the five parts per thousand line at a certain place in Grand Bayou and Bayou going west. Now y'all want to change that, but, I mean, we were promised that line was going to stay there.
21	X X X					*By letter dated October 7, 2009, Mr. Anthony Boudreaux of South Central Industrial Association, comments:* (1) We would like to express our support of the modification of current operational plan for the Davis Pond Diversion project. (2) Our membership strongly believes the Davis Pond Diversion project represents a critical restoration tool for the region when properly utilized. (3) Modifying the current structure to provide more freshwater to the basin and enhance ecological benefits makes good business sense.

Table 2. Modification to Davis Pond Diversion Feasibility Study-- Summary of Scoping Comments. This table categorizes scoping comments by EIS subject matter, which is where an individual comment would likely be addressed in the draft EIS. EIS categories include: PN = Purpose and Need; ALT = Alternatives; AE = Affected Environment, EC = Environmental Consequences; CC = Consultation, Coordination, and Compliance with Regulations (Federal, state, and local environmental laws and regulations) is also included in this latter category. An individual scoping comment may be categorized under more than one EIS subject matter heading. Transcripts of each oral comment provided at the Convent scoping meeting are in the Appendix. Copies of all written comments are provided in the Appendix.

PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
22			X	X		*By letter dated October 23, 2009, John D. Werner of the Little Lake Duck Club comments:* (1) We are located at the center of some of the worst coastal erosion in the State and have watched thousands of acres be replaced by open water. We believe that increased fresh water flow into the Barataria basin is an important component in the fight against coastal erosion and wholeheartedly support anything you can do to increase the flow of the Davis Pond Diversion.
23			X X	 X		*By letter dated November 2, 2009, Terri King, Manager Gulf Coast Operations, ConocoPhillips, comments:* (1) ConocoPhillips supports the proposed revision of the project plan for the Davis Pond Diversion. We support this and any effort to increase the influx of freshwater into the northern portions of the Barataria-Terrebonne estuary. (2) We believe that it is in the best interest of the long-term viability of Louisiana's coastal marshes that the proposed change to the operational plan be approved and implemented.
Scoping Comment Cards						
24		X	X	X		*Eugene Hickman, Commercial Fisherman comments*: (1) If Davis Pond project goes to full capacity year round, Lafitte, all Lafitte's fishermen will be flooded away. (2) If you want to eliminate some of the salinity in the water, narrow the passes at and around Grand Isle.
25		X	X	X		*Victoria Hickman, Commercial Fisherman, comments:* (1) People are facing a disaster trying to play God with mother nature. Stop the fresh water diversion. Go to Grand Isle and narrow the passes.
26		X		X		*By letter via e-mail dated November 2, 2009, Timothy Allen, General Manager of Apache Louisiana Minerals LLC comments:* (1) We support the modification of the operation plan for this structure so that it can be utilized to its fullest capacity to reduce salinities and increase wetland creation and habitat quality.
27	X		X			*By letter dated October 29, 2009, U.S. Senator Mary Landrieu comments:* (1) This letter does not advocate for the uncontrolled operation of the current Davis Pond structure. Rather, it requests the development of a reasonable, responsible scope for the feasibility study of modifying the operational plan to meet the changing needs of our coast.

Table 2. Modification to Davis Pond Diversion Feasibility Study-- Summary of Scoping Comments. This table categorizes scoping comments by EIS subject matter, which is where an individual comment would likely be addressed in the draft EIS. EIS categories include: PN = Purpose and Need; ALT = Alternatives; AE = Affected Environment, EC = Environmental Consequences; CC = Consultation, Coordination, and Compliance with Regulations (Federal, state, and local environmental laws and regulations) is also included in this latter category. An individual scoping comment may be categorized under more than one EIS subject matter heading. Transcripts of each oral comment provided at the Convent scoping meeting are in the Appendix. Copies of all written comments are provided in the Appendix.

PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
28			X X X X X X X	X X X X X X X		*By letter dated October 27, 2009, Miles Croom, Assistant Regional Administrator, National Marine Fisheries Service comments:* (1) Aquatic and tidally influenced wetland habitats in portions of the study areas are designated as essential fish habitat (EFH) for post-larval and juvenile life stages of brown shrimp, white shrimp, red drum, and Gulf stone crab. Fishery management plans for these species have been developed by the Gulf of Mexico Fishery Management Council. (2) In addition to being designated as EFH, water bodies and wetlands in the study area provide nursery and foraging habitats supportive of a variety of economically important marine fishery species, such as striped mullet, Atlantic croaker, gulf menhaden, spotted and sand sea trout, southern flounder, black drum, and blue crab. (3) National Marine Fisheries Service recommends the Supplemental Environmental Impact Statements include separate sections titled "Essential Fish Habitat" and "Marine Fishery Resources" that identify the EFH and fisheries resources of the study area and describe the potential impacts and benefits to those resources that could be caused by various activities to be described and evaluated in the documents. Potential direct adverse impacts of project implementation could result from diverted waters changing isohalines in receiving basins, thereby altering distribution patterns for those fishery species or life stages that are less tolerant of fresh water conditions. If changing isohalines cause fishery species to move to habitats providing less protection from predation or less supportive in terms of growth and survival, reduced fishery production of that species could result. (4) Some researches have suggested that high nutrient levels in river diversions can lead to organic matter decomposition in affected soils and root mat decomposition. If actions being evaluated or proposed under this study would lead to increased levels of nutrients reaching project area marshes and water bodies, the SEISs should evaluate the potential for increased susceptibility of those wetlands to erosion during storm events, as well as the potential for the creation of anoxic water conditions in the area affected by the diversions. (5) Potential direct beneficial effects could result from providing nutrients supportive of plankton and plant growth, both vital components of the aquatic food web. The nutrients also could help support plant growth and reduce wetland loss rates. The SEISs should evaluate such potential benefits of river diversions in light of predicted future sea level rise rates. (6) The EFH and marine fishery resources sections of the documents also should describe and quantify the potential impacts and benefits of the proposed activities on EFH sub-categories (e.g., marsh, marsh edge, mud bottoms, submerged aquatic vegetation, and estuarine water column). The SEISs should evaluate alternatives to any activities that would result in an adverse impact to those resources to determine if there are less damaging methods to achieve the same result.

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PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
29			X			*By letter dated October 24, 2009, James F. Boggs, Supervisor, LA Field Office, US Fish and Wildlife Service comments:* (1) The proposed action would increase wetland restoration in the Barataria Basin
	X		X			(2) Redistribute flow: Wetlands to the east and west of the diversion would benefit from additional freshwater input by providing increased nutrient and suspended sediment and providing the added benefit of water movement and flow-through the upper basin. The Service recognizes there are limited opportunities to redistributing flows east or west of the outfall, but supports the redistribution of flows provided it would not detrimentally affect existing habitats. One potential measure could include constructing a gap in the Cypress Lumber Canal at the West Guide levee and dredging that canal to the west and constructing gaps along the southern levee to encourage water flow in those areas. Another potential measure would encourage flows through the marsh south of the Gulf Intracoastal Waterway rather than through the open water of bayous Perot and Rigolettes by restricting the connection between Lake Salvador and Bayou Perot and by constructing additional gaps and plug as needed.
	X		X			(3) Long-term Operation and Maintenance of the ponding area: The Service suggests managing the natural crevasse splay to enhance flows across the ponding area by dredging appropriate areas and using the dredged material beneficially to create, restore, or enhance marsh within the basin or surrounding areas of need.
			X	X		(4) Pulsing and Marsh Restoration: Historically, wetlands in the Barataria Basin were nourished by the fresh water, sediments, and nutrients delivered via overbank flooding of the Mississippi River and through its many distributary channels such as Bayou Lafourche, Bayou Barataria, and Bayou Grand Cheniere. As the flow of fresh water and sediments from the Mississippi River was restricted by flood protection levees and the closure of those distributaries, the basin began to gradually deteriorate from saltwater intrusion, subsidence, wave action, and sediment deprivation. The Service encourages pulsing to mimic historic conditions.
	X		X			(5) The Corps should evaluate and document the proposed project's effects on fish and wildlife resources and threatened and endangered species and their critical habitat. The proposed project would be located in an area where colonial nesting water birds may be present. Until a new, comprehensive coast-wide survey is conducted to determine the location of newly-established nesting colonies, we recommend that a qualified biologist inspect the proposed work site for the presence of undocumented nesting colonies during the nesting season.
			X			(7) The project-area forested wetlands may provide nesting habitat for the bald eagle. On-site personnel should be informed of the possible presence of nesting bald eagles within the project boundary, and should identify, avoid, and immediately report any such nests to this office.

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PEIS Section Where Comment Addressed						SCOPING COMMENT
#	PN	ALT	AE	EC	CC	
30			X X	X X		*By letter dated November 20, 2009, John A. Tesvich, President of the Louisiana Oyster Dealers & Growers Association, comments:* (1) This letter is (to) voice our opposition to any suggested modification of the Davis Pond Diversion (DPD) operational plan that would measurable(sic) change the projected salinities in Barataria Bay. It is our fear that any changes to the current management plan, especially if flows were to be increased, will cause additional negative impacts to oyster growers with leases in Barataria Bay. (2) It is quite obvious that operating the diversion at high output levels, without management controls based on salinities, would cause most of Barataria Bay to be altogether overly fresh for oyster cultivation. This would cause a great economic impact to oyster growers working the bay.

A follow-up meeting was held on November 2, 2009, with the oyster industry to explain that the reason for the scoping meeting was to accept alternative plans to study. The Corps wanted to clarify the alternative to modify the Davis Pond project operational plan to flow at maximum capacity to allow more freshwater into the basin would be studied; however, it's too early in the process to know if it would be the selected plan.

APPENDIX A

Scoping Comment Cards

Louisiana Coastal Area
Modification to Davis Pond Freshwater Diversion
Feasibility Study and Environmental Impact Statement
Public Scoping Comment

Comments: If Davis Pond Project goes to full capacity year Round, Lafitte, all Lafittes ~~[illegible]~~ fisherman will be Flooded Away. If you want to eliminate some of the salinity in the water do something that won't take 1000 years to see results. Narrow the passes at and around Grand Isle where the salt water is coming from the way it use to be years ago. There will be immediate results

Name Eugene Hickman **Affiliation** Commercial fisherman
Street _ **Phone** _
City, St Zip _ **Fax** _
E-mail _

www.mvn.usace.army.mil **www.nolaenvironmental.gov**

Comments must be postmarked by Nov. 2, 2009

Louisiana Coastal Area
Modification to Davis Pond Freshwater Diversion
Feasibility Study and Environmental Impact Statement
Public Scoping Comment

Comments: People are facing a disaster trying to play God with mother nature. What happens to Lafitte? The people — the homes — the natural habitat? Major changes, by man, will cause devastation not only to the environment but to a way of life that is almost on the verge of extinction. Stop the fresh-water diversion. Go to Grand Isle and narrow up the passes.

Name Victoria Hickman **Affiliation** Commercial fisherwoman
Street _ **Phone** _
City, St Zip _ **Fax** _
E-mail _

www.mvn.usace.army.mil **www.nolaenvironmental.gov**

Comments must be postmarked by Nov. 2, 2009

APPENDIX B.

Scoping Comment Letters

APACHE LOUISIANA MINERALS LLC

POST OFFICE BOX 206 / HOUMA, LOUISIANA 70361-0206

Apache CORPORATION

TEL (985) 879-3528
FAX (985) 876-5267

November 2, 2009

Via Email: Michael.T.Brown@usace.army.mil

Mr. Michael Brown
U.S. Army Corps of Engineers
CEMVN-PM-RP
P.O. Box 60267
New Orleans, LA 70160-0267

Re: Modification of Davis Pond Diversion Feasibility Study

Dear Mr. Brown:

Apache Louisiana Minerals LLC (Apache) is a large coastal landowner in south Louisiana with property located in Lafourche, Plaquemines and Terrebonne Parishes. Apache and its predecessors have initiated surface maintenance programs as early as 1959 in order to combat saltwater intrusion and reduce erosion. We have seen first-hand the rapid deterioration of our marshes over the years and encourage any efforts to preserve and replenish these fragile wetlands. We would like to submit the following comments as part of the scoping process for the *Modification of Davis Pond Diversion Feasibility Study*.

We know from experience that only fresh water introduction can slow the northward migration of the sea. We support the modification of the operation plan for this structure so that it can be utilized to its fullest capacity to reduce salinities and increase wetland creation and habitat quality. Although this is a significant change from the current operational criteria, it is the only way to halt or hopefully reverse the deterioration occurring in this basin. Undoubtedly, the benefits derived through maximizing the project's restoration potential will far outweigh any negative impacts. It is inexcusable to not put as much fresh water into the basin as the Davis Pond structure and the river will allow.

We appreciate the opportunity to offer our comments on this issue. We ask that the COE address this plan modification with the greatest sense of urgency and make the tough decisions needed to protect our communities and combat wetland loss. Thank you.

Sincerely,
APACHE LOUISIANA MINERALS LLC

Timothy J. Allen, PLS
General Manager

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Edison Chouest Offshore, L.L.C.

Henri Boulet
Executive Director

October 6, 2009

Michael Brown, CEMVN-PM-RP
P.O. Box 60267
New Orleans, LA 70160-0267

Re: Comments on Modification of Davis Pond Diversion

Good evening. Thank you for the opportunity to speak tonight.

My name is Henri Boulet, and I am the Executive Director of the Louisiana Highway 1 Coalition, a coalition with a mission of improving highway infrastructure along the Bayou Lafourche Energy Corridor to the Gulf Coast in Lafourche Parish. The Bayou Lafourche Energy Corridor utilizes two critical highways providing access to our coast; LA 1 on the west side of the Bayou Lafourche, and LA Highway 308 on the east side of Bayou Lafourche. These highways jointly host over 1,200 eighteen wheel trucks per day bringing down vital supplies to America's busiest intermodal energy port, Port Fourchon, as well as to Louisiana's only inhabited barrier island of Grand Isle. The LA 1 Coalition is presenting comments tonight because a modified operation of Davis Pond creating significant wetlands will provide a greater storm protection to Louisiana Highway 308 north of Larose and the communities it traverses. This is an area that does not currently have significant 100-year protection from flood threats posed by major hurricanes. Simply put, the existing Davis Pond Freshwater Diversion in St. Charles Parish, if modified to operate at full capacity, represents a significant building block to restore wetlands on the east side of the Bayou Lafourche ridge.

Growing up as a shrimper in the summer and fall, and as a trapper and crawfish farmer in the winter and spring, I realize a modified Davis Pond allowing for more freshwater in the basin will change the fisheries. I can personally attest that Louisiana fishermen are adaptive, hard working, and impacted fishermen will eventually respond by harvesting fresh water produce. Don't get me wrong, the changes will be challenging, but these impacts are minute compared to our communities not embracing the most efficient mechanism we have to restore health to these once flourishing freshwater wetlands. And with our state and federal governments near-term budget outlooks, this is the most immediate, economical, and efficient tool we have at this time.

So tonight I ask the Corps of Engineers to determine what are the necessary actions to achieve maximum ecosystem benefit from the Davis Pond investment. I would expect that modifying the limitations of delivered freshwater to the Barataria Basin, upwards, is the logical answer to creating thousands of acres of marsh to buffer both the communities aligning Louisiana Highway 308 and our highway itself from future storm inundations. We need these benefits immediately. There is too much at stake for our community's greater survival to do anything else!

Sincerely, Henri Boulet

Henri Boulet

P.O. Box 2048-NSU • Thibodaux, Louisiana 70310 • Phone: (985) 448-4485 • Fax: (985) 448-4486
Email: HENRI.BOULET@NICHOLLS.EDU • WWW.LA1COALITION.ORG

BTNEP
BARATARIA-TERREBONNE NATIONAL ESTUARY PROGRAM

August 31, 2009

Tomma K. Barnes, MVN
Project Manager
U.S. Army Corps of Engineers,
New Orleans District

RE: Modification of Davis Pond Diversion Operational Plan

The purpose of this letter is to state the interests of the Barataria-Terrebonne National Estuary Program (BTNEP) and the BTNEP Management Conference in the outcome of the modification of the operation plan for Davis Pond Diversion during the National Environmental Policy Act (NEPA) scoping process. We believe that only those modifications that truly benefit the human communities, fisheries, and wetlands in the Barataria basin as a whole should be seriously considered and implemented as part of this process.

The Barataria-Terrebonne National Estuary Program is one of only 28 National Estuary Programs (NEP) in the United States. We are a congressionally mandated restoration program funded through Section 320 of the Clean Water Act and the State of Louisiana.. The state-sponsoring agency is the Louisiana Universities Marine Consortium (LUMCON).

The BTNEP was created in 1990 by an historic agreement between the State of Louisiana and the United States of America. That agreement acknowledged that the Barataria and Terrebonne systems, consisting of the area between the Mississippi and Atchafalaya rivers, were both of national significance and critically threatened. The Environmental Protection Agency, on behalf of the U. S. government, pledged to elevate the status of this entire region to that of a National Estuary. The State of Louisiana fulfilled its part of this pledge by convening hundreds of representatives from business and industry, universities and other educational institutions, local governments, federal and state agencies, NGOs, farmers, agriculture, and fisheries. This group of diverse stakeholders gathered in 1991 and worked over the next 5 years to develop a comprehensive plan to restore and preserve the newly designated Barataria-Terrebonne National Estuary.

BTNEP has been a participant in the design and implementation of the Davis Pond operational plan since it was first created. When the Davis Pond operational plan was written and the salinity lines were drawn, many of the stakeholders from the BTNEP Management Conference participated in that planning effort. Ever since this time, the BTNEP has sat on the Davis Pond Advisory Committee and has participated fully in issues surrounding the diversion.

The Davis Pond operational plan is an agreement with the stakeholders of the Barataria and Terrebonne basins, including fishermen. These people are pursuing a way of life that is heavily impacted by the operations of Davis Pond diversion. They have a right to expect

NICHOLLS STATE UNIVERSITY CAMPUS • P.O. BOX 2663 • THIBODAUX, LA 70310
Phone:985.447.0868 • Fax:985.447.0870 • Toll Free:1.800.259.0869 • WWW.BTNEP.ORG

stability in their industry which is what Davis Pond (DP) was built to provide. If the operational plan is dramatically changed, it would be a considerable change to the agreement in which these stakeholders participated. Major changes in the operational plan will void these formal agreements.

The operation of DP has recently come under scrutiny as an improperly managed structure. Some critics believe that Davis Pond is not being fully utilized and that perhaps an increase in the overall flow through the structure to maximum capacity throughout the year would push saline waters out to the Gulf, increase the aerial extent of wetlands, and actually build land. Interestingly enough, the Davis Pond operational plan has not yet been implemented for an entire year without having to stop for repairs of guide levees or the weirs from the ponding area. Nevertheless, we are here today to consider changes to the current operational plan.

The Davis Pond diversion is not a land-building structure and was not designed to function as one nor can it be changed into one. Davis Pond skims water from the upper part of the water column in the Mississippi River. As a result, it is functioning as a freshwater diversion used for salinity control as intended. No amount of water diverted through the structure will create land in any meaningful way or deliver nutrients and sediment south of Lake Cataouatche or Lake Salvador to the Bayou Perot and Rigolets area, the areas of Barataria Basin in critical need of nourishment and rebuilding. High flows will only deliver more fresh water further south, disrupting the salinity gradient and the diversity of plant and animal species that thrive in the brackish to saline gradient. Sustained high water flows will ultimately change the vegetation in the estuary to a fresh vegetation type. This has the potential for causing more harm than good.

This brings us to a fundamental question: What are we going to trade for higher flows through the Davis Pond diversion? Some of the critics of the current operational plan claim that if freshwater flow is maximized, then more sediments and nutrients will be delivered to critical areas of the Barataria Basin, while pushing out harmful salty water. If maximum flows are maintained through Davis Pond throughout the year, then undoubtedly more fresh water will be delivered. This increased quantity of freshwater, according to models funded by the National Estuary Program, could freshen all of the lower part of Barataria to the north side of Grand Isle. However, there would be little else in return. The sediments flowing through the Davis Pond diversion are low in quantity and fine in texture. Most of this sediment will never travel outside of the ponding area. Nutrients present in this same diverted water will be taken up by the exploding population of submerged and floating invasive aquatic plants within the ponding area and Lake Cataouatche. Floating freshwater marshes do not constitute a good trade for the brackish and saline marshes of the Barataria Basin

Saltwater intrusion is only a symptom of the larger problem of the loss of our coastal landscape. Focusing on the symptom by diverting more water will cause other unintended problems. If we achieve the goal of higher flows and convert all of the Barataria Basin to a freshwater wetland system and that is followed by saltwater pushed north into the basin by a hurricane or sustained south wind, what have we achieved in terms of restoration and community protection? Nothing.

During Katrina and Rita, the freshwater wetlands that formed at the Caernarvon diversion and Wax Lake Delta were decimated by the saltwater storm surge of these storms. Fresh water wetlands are notorious for providing little resistance against the onslaught of salt water; whereas

salt marshes do a far better job of surviving and diminishing saltwater storm surge. The larger problem is land loss. We need to reverse land loss by bringing in sediments from the Mississippi River bottom. The most efficient way to do this is through long distance pipeline sediment delivery to create wetlands and ridges, and then sustain them with appropriately sized small to medium freshwater diversions.

In closing, the BTNEP can support changes to the Davis Pond operational plan only if these changes will have a positive effect on the Barataria Basin. If somehow, we can enhance the outfall of the Davis Pont structure to increase flow of water into adjacent wetlands; this would be beneficial to those wetlands that surround the outfall area. However, dramatic changes to the operational plan that would maximize the flow and dramatically change the average salinity throughout the year at the 5 ppt line will have negative effects on the oyster and shrimp industry, and destroy the salinity gradient that now exists in the Barataria Basin. The continuum represented by the salinity gradient not only guarantees oyster and shrimp but a healthy diversity of animal and plant species tolerant of both salinity and fresh water fluctuations in this estuarine system. Over freshening of the system can only lead to a monoculture of fresh vegetation that will destabilize the landscape with regard to species diversity and community protection for human beings in this area.

Salinity is only the symptom of the larger problem of land loss. Adding only fresh water can never solve this larger, more important problem. Only through the addition of coarse sediments from the bottom of the Mississippi River through pipeline sediment delivery in conjunction with appropriately placed small to medium diversions can we have any meaningful restoration of the Barataria basin within our lifetimes. A restoration plan that has any reasonable chance of being implemented is not one that can be merely engineered. Success depends on more than engineering. It is imperative to the success of this restoration effort that our communities and our culture be considered. Restoration of a system as complex as the Barataria Terrebonne system must take into consideration all of the suggestions and opinions and uses of all stakeholders in the area. The BTNEP certainly agrees that a restoration project must adhere to established engineering and scientific principles, but in a democracy it must also be acceptable to the majority of stakeholders if it has even a chance of being implemented. Any restoration tool that would completely change a way of life for a significant sector of our population would not be in agreement with the BTNEP's stated objectives and goals as expressed in our approved CCMP.

Thank you for this opportunity to offer you these comments.

Sincerely,

Kerry M. St. Pé

Kerry M. St. Pé, Program Director,
Barataria-Terrebonne National Estuary Program

P.O. Box 2048-NSU · Thibodaux, Louisiana 70310 · (985) 448-4485 · Fax (985) 448-4486
Email: simone.maloz@nicholls.edu · www.restoreorretreat.org

October 28, 2009

Michael Brown, CEMVN-PM-RP
P.O. Box 60267
New Orleans, LA 70160-0267

Re: Modification to Davis Pond Scoping Comments

Dear Mr. Brown:

Restore or Retreat (ROR) is a regional coastal advocacy organization located within the Barataria and Terrebonne Basins. ROR's mission is to aggressively implement large-scale, sustainable restoration solutions for an area which includes the greatest land loss in the nation. The existing Davis Pond Freshwater Diversion in St. Charles Parish represents a building block in our mission to develop the concept of a large scale diversion off the Mississippi River, and it is for that reason we became involved with the project several years ago.

The original purpose of the Davis Pond Freshwater Diversion was to maintain salinity gradients in the central portion of the basin. Obviously, much has changed since its original authorization in the 60's and following authorizations in the 70's, 80's, and 90's, and even since the project's substantial completion in 2002. This project now provides one of the sole freshwater sources to a starved basin. With little to no barrier between it and the encroaching Gulf of Mexico, the project's importance and impact to the basin has also been greatly magnified and extends across the entire basin, including as far south as Grand Isle and in northern portions of the basin that now experience coastal flooding. Lack of freshwater to dying marshes and the lack of natural barriers make the basin more vulnerable than ever, with Donaldsonville to the Gulf and Morganza to the Gulf Hurricane Protection systems yet to be constructed. All are factors which need to be addressed in the supplemental environmental impact statement.

The primary purpose of the modification is to increase wetland creation and restoration outputs, evaluate feasibility and determine reasonable alternatives. One evaluation should include the current and future project on the basis of its effect on the entire Barataria Basin. Resources may move within the basin as a result of the project, but will not necessarily be lost completely – this should weigh heavily in the analysis. Also included should be an examination of the area <u>without</u> the existing project, the area with the effects of the current project operation (average annual or expected), and the modified operation all using the same approaches and models. Finally, future sea-level rise should also be a consideration.

There are also new factors that should be considered which did not influence the original project. The Modification to Davis Pond study sets a significant precedent for future projects to test our ability to adaptively manage existing and future restoration projects, like the proposed Myrtle Grove Freshwater Diversion Project. Davis Pond could also enhance future projects, such as the tri-parish long distance delivery of sediment pipeline, a developing project with substantial state and federal funds already dedicated.

In conclusion, we are not advocating for the "uncontrolled" use of the current Davis Pond structure, but for the proper operation of the current structure and its future operational modification based on adaptive management, which would allow for more freshwater in the basin and would enhance the freshwater habitat in the Barataria Basin, create thousands of acres of floatant marsh to buffer from storms, reduce extreme salinity fluctuations, help to provide sustainability of wildlife and fisheries habitat, augment future projects, and set a proper precedent of our ability to adaptively manage future projects.

Thank you for the opportunity to comment on this important project, and we look forward to its advancement. If you have any questions or need more information, please do not hesitate to contact our office at (985) 448-4485.

Sincerely,
Restore or Retreat, Inc.

Simone Theriot Maloz

Simone Theriot Maloz
Executive Director

MARY L. LANDRIEU
LOUISIANA

United States Senate

WASHINGTON, DC 20510-1804

October 29, 2009

Mr. Michael Brown
CEMVN-PM-RP
New Orleans District
U.S. Army Corps of Engineers
P.O. Box 60267
New Orleans, LA 70160

Dear Mr. Brown:

Thank you for soliciting the input of affected stakeholders engaged with the Davis Pond Fresh Water Diversion in St. Charles Parish during the current public comment period. As the comments demonstrate, Louisiana's constantly changing, working coast has multiple uses that we as leaders must carefully consider in our decision making process.

Originally authorized by the Flood Control Act of 1965 (reauthorized in 1974, 1986, 1996 and 2007), the Davis Pond freshwater diversion structure was not substantially completed until 2002 and has a history largely emblematic of the cumbersome processes that inhibit many important coastal restoration projects across Louisiana. The 2007 congressional authorization language, however, envisions a new future for this project by proposing, for the first time, a feasibility study of modifications to the current operational plan to allow for better adaptive management.

Over the 40 plus years that have passed since the initial authorization of Davis Pond, our coastline has changed dramatically. I sincerely hope the Corps follows Congressional intent in thoroughly and expeditiously reviewing the current operational plan while carefully considering modifications that will make more efficient and effective use of the over $120 million invested to date in this project.

This letter does not advocate for the uncontrolled operation of the current Davis Pond structure. Rather, it requests the development of a reasonable, responsible scope for the feasibility study of modifying the operational plan to meet the changing needs of our coast. What that plan will look like and how it will be implemented will be decided in conjunction with a variety of coastal stakeholders, but I hope the Corps takes advantage of this opportunity to

facilitate that debate and support the need for innovative solutions to our dynamic coastal restoration challenges.

I remain optimistic about the future of coastal Louisiana and the ability of Federal, State and local entities to coordinate efforts on behalf of our coast. It is imperative that we work together to address these complex issues, and I look forward to the Army Corps' continued collaboration going forward.

With warm regards, I am

Sincerely,

Mary L. Landrieu
United States Senator

MLL:jwk

United States Department of the Interior

FISH AND WILDLIFE SERVICE
646 Cajundome Blvd.
Suite 400
Lafayette, Louisiana 70506

October 24, 2009

Colonel Alvin B. Lee
District Engineer
U.S. Army Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160-0267

Dear Colonel Lee:

The U.S. Fish and Wildlife Service (Service) has reviewed the September 4, 2009, Notice of intent to prepare a supplemental environmental impact statement (EIS) for the Louisiana Coastal Area (LCA)—Louisiana, Modification of Davis Pond Diversion Project (DOI Reference: ER 09/0992). This supplemental EIS will be tiered off the programmatic final EIS for the LCA—Louisiana, Ecosystem Restoration Study, November 2004 and the final EIS for the LCA—Louisiana, Freshwater Diversion to Barataria and Breton Sound Basins Study, September 1984. The Water Resources Development Act of 2007 (WRDA 2007) authorized fifteen projects under the LCA program. The authority includes requirements for comprehensive planning, program governance, implementation, and other program components. Specifically, Section 7006 (c) (1) (D) instructs the Secretary of the Army via the U.S. Army Corps of Engineers (Corps) to carry out the Modification of Davis Pond Freshwater Diversion Structure at a total cost of $64,200,000. The following comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The proposed action would increase wetland restoration in the Barataria Basin. The objective of the project modification is to maximize the use of the existing diversion structure for the purpose of decreasing wetland loss and increasing habitat quality. Alternative restoration measures include changing the structure's operational plan to flow on average at maximum capacity (i.e., 5,000 cubic feet per second [cfs]) and to include pulsing (i.e., fully opening the structure's gates during a rise in the Mississippi river to maximize suspended sediment delivery). Other possible alternatives include physical land modifications to diver water to areas that currently do not receive diversion flows, marsh restoration, and measures to increase native vegetation and submerged aquatic vegetation.

In response to the above objective, the Service would like to include the following measures for consideration and evaluation.

Redistribute flow - Currently most of the Davis Pond diversion waters flow through existing channels and into large open water areas such as Lake Cataouatche and Lake Salvador, thus moving the freshwater directly south rather than through surrounding wetlands. Though much of the upper basin is fresh, wetlands to the east and west of the diversion would benefit from additional freshwater input by providing increased nutrient and suspended sediment and providing the added benefit of water movement and flow-through the upper basin. Additionally, by moving diversion water through

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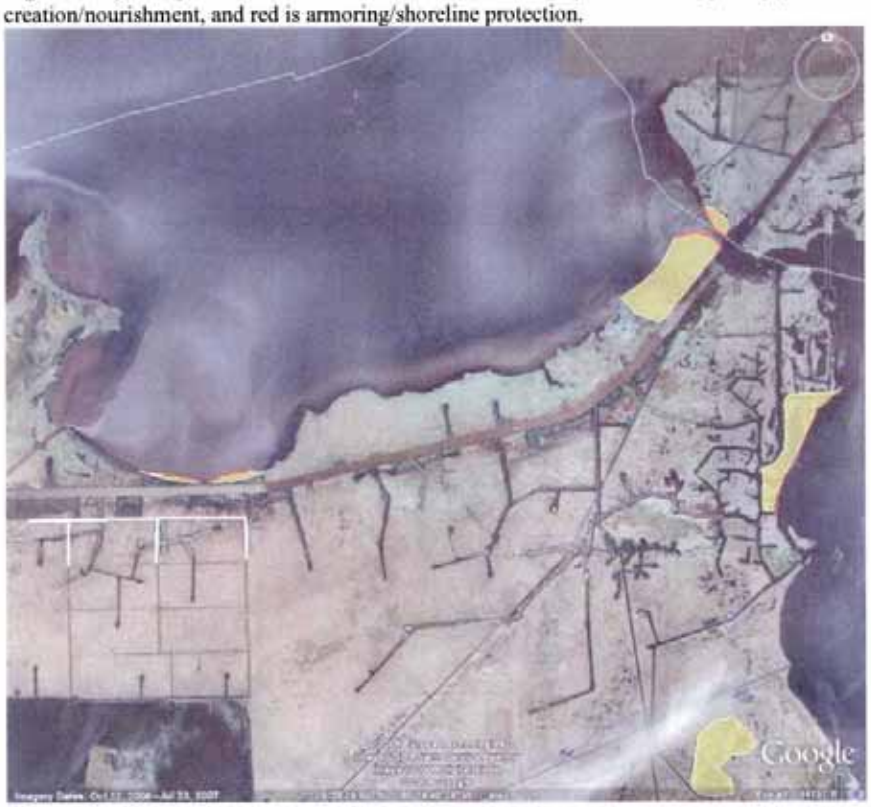
surrounding wetlands, rather than flowing more directly into open water, the nutrients would enhance wetlands rather increase the potential for eutrophic conditions in those open water areas. The Service recognizes there are limited opportunities to redistributing flows east or west of the outfall, but supports the redistribution of flows provided it would not detrimentally effect existing habitats. One potential measure could include constructing a gap in the Cypress Lumber Canal at the West Guide levee and dredging that canal to the west and constructing gaps along the southern levee to encourage water flow in those areas (Figure 1). Another potential measure would encourage flows through the marsh south of the Gulf Intracoastal Waterway (GIWW) rather than through the open waters of bayous Perot and Rigolettes by restricting the connection between Lake Salvador and Bayou Perot and by constructing additional gaps and plug as needed (Figure 2).

Figure 1. Deepening (white) and gapping (red) the Cypress Lumber Canal and marsh creation using dredged material (yellow).

Figure 2. Hydrologic restoration in the GIWW area. White depicts canal deepening, yellow is marsh creation/nourishment, and red is armoring/shoreline protection.

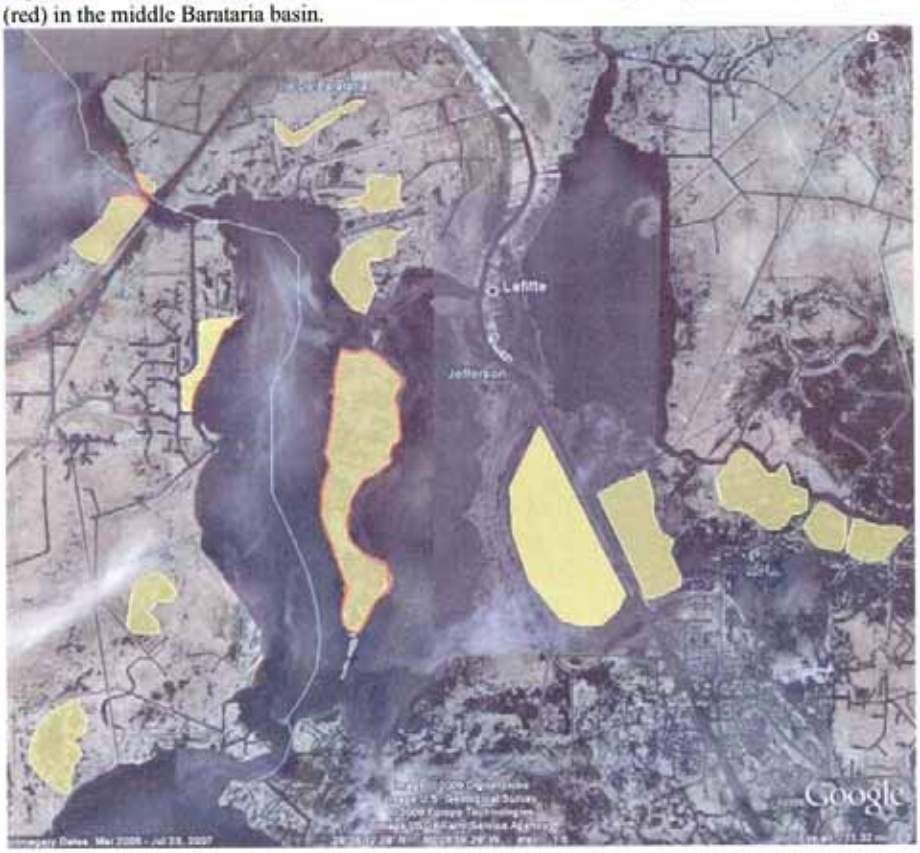


Long-term Operation and Maintenance (O&M) of the ponding area – As the Davis Pond ponding area naturally fills in, the sedimentation management of the outfall area would be needed to achieve full benefits of the diversion. The Service suggest managing the natural crevasse splay to enhance flows across the ponding area by dredging appropriate areas and using the dredged material beneficially to create, restore, or enhance marsh within the basin or surrounding areas of need.

Pulsing and Marsh Restoration - Historically, wetlands in the Barataria Basin were nourished by the fresh water, sediments, and nutrients delivered via overbank flooding of the Mississippi River and through its many distributary channels such as Bayou Lafourche, Bayou Barataria, and Bayou Grand Cheniere. As the flow of fresh water and sediments from the Mississippi River was restricted by flood protection levees and the closure of those distributaries, the basin began to gradually deteriorate from saltwater intrusion, subsidence, wave action, and sediment deprivation. Historically, Bayou Perot, and the longer, narrower Bayou Dupont-Bayou Barataria-Bayou Villars channels provided limited hydrologic connection between the upper and lower basin. The hydrologic connections between the upper and lower Barataria Basin are much greater today, due to the Barataria Bay Waterway, Bayou Segnette Waterway, Harvey Cutoff, and substantial erosion and interior marsh loss along Bayous Perot and Rigolettes. The frequency of high salinity events has also increased in the Barataria Basin (Swenson and

Turner 1998), probably as a result of the increased tidal connectivity. The Service encourages pulsing to mimic historic conditions. In addition the Service recommends restoring and/or nourishing marsh in the mid-basin area to re-establish historic hydrologic connections and using the diversion influence to help sustain those marshes (Figure 1, 2, and 3).

Figure 3. Potential marsh creation and/or marsh nourishment sites (yellow) and shoreline protection (red) in the middle Barataria basin.



This public notice indicates the Corps' intent to coordinate with the Service to conserve, protect, and restore fish and wildlife resources as addressed under the January 22, 2003, Partnership Agreement for Water Resources and Fish and Wildlife and with the Service and NMFS regarding threatened and endangered species. In addition the Corps should evaluate and document the proposed projects effects on fish and wildlife resources and threatened and endangered species and their critical habitat.
One endangered species of concern to this project area is the pallid sturgeon (*Scaphirhynchus albus*). The pallid sturgeon is found in the Mississippi within Louisiana and is adapted to large, free-flowing, turbid rivers with a diverse assemblage of physical characteristics that are in a constant state of change. Detailed habitat requirements of this fish are not known, but it is believed to spawn in Louisiana. Habitat loss through river channelization and dams has adversely affected this species throughout its

range. Entrainment issues associated with diversion structures off the Mississippi River is a potential effect that should be addressed during project planning. Should the proposed project directly or indirectly affect the pallid sturgeon or its habitat, further consultation with this office will be necessary.

The proposed project would be located in an area where colonial nesting waterbirds may be present. Colonies may be present that are not currently listed in the database maintained by the Louisiana Department of Wildlife and Fisheries. That database is updated primarily by monitoring the colony sites that were previously surveyed during the 1980s. Until a new, comprehensive coast-wide survey is conducted to determine the location of newly-established nesting colonies, we recommend that a qualified biologist inspect the proposed work site for the presence of undocumented nesting colonies during the nesting season. For colonies containing nesting wading birds (i.e., herons, egrets, night-herons, ibis, and roseate spoonbills), anhingas, and/or cormorants, all activity occurring within 1,000 feet of a rookery should be restricted to the non-nesting period, depending on the species present. In addition, we recommend that on-site contract personnel be informed of the need to identify colonial nesting birds and their nests, and should avoid affecting them during the breeding season (i.e., the time period outside the activity window).

The project-area forested wetlands may provide nesting habitat for the bald eagle (*Haliaeetus leucocephalus*), which was officially removed from the List of Endangered and Threatened Species on August 8, 2007. Bald eagles nest in Louisiana from October through mid-May. Eagles typically nest in mature trees (e.g., bald cypress, sycamore, willow, etc.) near fresh to intermediate marshes or open water in the southeastern Parishes. Areas with high numbers of nests include the north shore of Lake Pontchartrain and the Lake Salvador area. Major threats to this species include habitat alteration, human disturbance, and environmental contaminants (i.e., organochlorine pesticides and lead).

Breeding bald eagles occupy "territories" that they will typically defend against intrusion by other eagles, and that they likely return to each year. A territory may include one or more alternate nests that are built and maintained by the eagles, but which may not be used for nesting in a given year. Potential nest trees within a nesting territory may, therefore, provide important alternative bald eagle nest sites. In forested areas, bald eagles often select the tallest trees with limbs strong enough to support a nest that may weigh more than 1,000 pounds. Most nests are located in the upper 30 feet of the tree; the cone-shaped nest may be 6 to 8 feet in diameter and 6 to 8 feet from top to bottom. Nest sites typically include at least one perch with a clear view of the water or area where the eagles usually forage. Shoreline trees or snags located near large waterbodies provide the visibility and accessibility needed to locate aquatic prey. Bald eagles are vulnerable to disturbance during courtship, nest building, egg laying, incubation, and brooding. Disturbance during this critical period may lead to nest abandonment, cracked and chilled eggs, and exposure of small young to the elements. Human activity near a nest late in the nesting cycle may also cause flightless birds to jump from the nest tree, thus reducing their chance of survival.

Although the bald eagle has been removed from the List of Endangered and Threatened Species, it continues to be protected under the MBTA and the BGEPA. The Service developed the National Bald Eagle Management (NBEM) Guidelines to provide landowners, land managers, and others with information and recommendations to minimize potential project impacts to bald eagles, particularly where such impacts may constitute "disturbance," which is prohibited by the BGEPA. A copy of the NBEM Guidelines is available at:
http://www.fws.gov/southeast/es/baldeagle/NationalBaldEagleManagementGuidelines.pdf. Those guidelines recommend: (1) maintaining a specified distance between the activity and the nest (buffer area); (2) maintaining natural areas (preferably forested) between the activity and nest trees (landscape

buffers); and (3) avoiding certain activities during the breeding season. On-site personnel should be informed of the possible presence of nesting bald eagles within the project boundary, and should identify, avoid, and immediately report any such nests to this office. If a bald eagle nest is discovered within or adjacent to the proposed project area, then an evaluation must be performed to determine whether the project is likely to disturb nesting bald eagles. That evaluation may be conducted on-line at: http://www.fws.gov/southeast/es/baldeagle. Following completion of the evaluation, that website will provide a determination of whether additional consultation is necessary. The Division of Migratory Birds for the Southeast Region of the Service (phone: 404/679-7051, e-mail: SEmigratorybirds@fws.gov) has the lead role in conducting such consultations. Should you need further assistance interpreting the guidelines or performing an on-line project evaluation, please contact this office.

We appreciate the opportunity to review the Notice of Intent and to provide comments in the planning stages of the proposed project. If you or your staff have further questions regarding the above letter or would like to meet and discuss our recommendations, please contact Catherine Breaux of this office at (504) 862-2689.

Sincerely,

James F. Boggs
Supervisor
Louisiana Field Office

cc: Fish and Wildlife Service, Atlanta, GA (AES)
Environmental Protection Agency, Dallas, TX
FWS, BAP & HC (ERT), Arlington, VA
DOI, OEPC, Washington, D.C. (Attn: Loretta Sutton)
FWS, Atlanta, GA (ES/PP; Attn: Richard Warner)
LA Dept. of Wildlife and Fisheries, Baton Rouge, LA
LA Dept. of Natural Resources (CMD), Baton Rouge, LA
National Marine Fisheries Service, Baton Rouge, LA
OCPR, Baton Rouge, LA

ConocoPhillips

Terri King
Gulf Coast BU
Manager Gulf Coast Operations
P. O. Box 2197
Houston, TX 77079
832-486-3993

November 2, 2009

Michael Brown, CEMVN-PM-RP
P.O. Box 60267
New Orleans, LA 70160-0267
(504) 862-1570, (504) 862-2088 (fax)
michael.t.brown@usace.army.mil

RE: Davis Pond Diversion
Consideration of revisions to operational plan to maximize restoration potential

Dear Mr. Brown,

ConocoPhillips supports the proposed revision of the project plan for the Davis Pond Diversion. We support this and any effort to increase the influx of fresh water into the northern portions of the Barataria-Terrebonne estuary.

Prior to the construction of the Mississippi River levee system, the Barataria-Terrebonne estuary received massive flows of fresh water from the annual flood cycle of the Mississippi River. The absence of this freshwater and sediment has been repeatedly cited as the single largest contributor to the loss of Louisiana's coastal wetlands.

The project's current focus on maintaining saltwater gradients in the estuary is counterproductive to the more important goal of nourishing and enhancing Louisiana's coastal wetlands. We believe that it is in the best interest of the inhabitants of South Louisiana, the wildlife and fish of the Barataria Basin, and of the long-term viability of Louisiana's coastal marshes that the proposed change to the operational plan be approved and implemented.

Sincerely,

Terri King

Post-it® Fax Note 7671	Date	# of pages ▶
To Michael Brown	From Terri King	
Co./Dept. CEMVN-PM-RP	Co. ConocoPhillips	
Phone # 504-862-1570	Phone # 832-486-3993	
Fax # 504-862-2088	Fax # 832-486-2236	

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

October 27, 2009 F/SER46/RH:jk
225/389-0508

Mr. Michael Brown
CEMVN-PM-RP
New Orleans District, Corps of Engineers
Department of the Army
Post Office Box 60267
New Orleans, Louisiana 70160-0267

Dear Dr. Klein:

NOAA's National Marine Fisheries Service (NMFS) has received the public scoping meeting notices advertising the intent of the U.S. Army Corps of Engineers (COE) to undertake feasibility studies and prepare supplemental environmental impact statements (SEIS) to evaluate modifications to both the Davis Pond and Caernarvon diversions from the Mississippi River. The SEISs will be tiered off a programmatic EIS for the Louisiana Coastal Area Ecosystem Restoration Study completed in November 2004. The COE has requested the public and natural resource agencies provide recommendations on: 1) the environmental problems and needs that should be addressed in the document; 2) the important resources in the project area; and, 3) reasonable restoration alternatives to be considered in the feasibility studies and SEISs.

Aquatic and tidally influenced wetland habitats in portions of the study areas are designated as essential fish habitat (EFH) for postlarval and juvenile life stages of brown shrimp, white shrimp, red drum, and Gulf stone crab. Fishery management plans for these species have been developed by the Gulf of Mexico Fishery Management Council (GMFMC). Detailed information on federally-managed fisheries and their EFH is provided in the 2005 generic amendment of the FMPs for the Gulf of Mexico prepared by the GMFMC. The generic amendment was prepared as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, P.L. 104-297).

In addition to being designated as EFH for the brown shrimp, white shrimp, red drum and Gulf stone crab, water bodies and wetlands in the study area provide nursery and foraging habitats supportive of a variety of economically important marine fishery species, such as striped mullet, Atlantic croaker, gulf menhaden, spotted and sand seatrout, southern flounder, black drum, and blue crab. Some of these species also serve as prey for other fish species managed under the Magnuson-Stevens Act by the GMFMC (e.g., mackerels, snappers, and groupers) and highly migratory species managed by NMFS (e.g., billfishes and sharks).

NMFS recommends the SEISs include separate sections titled "Essential Fish Habitat" and "Marine Fishery Resources" that identify the EFH and fisheries resources of the study area and describe the potential impacts and benefits to those resources that could be caused by various activities to be described and evaluated in the documents. Potential direct adverse impacts of project implementation could result from diverted waters changing isohalines in receiving basins, thereby altering distribution patterns for those fishery species or life stages that are less tolerant of fresh

water conditions. If changing isohalines cause fishery species to move to habitats providing less protection from predation or less supportive in terms of growth and survival, reduced fishery production of that species could result.

Recently, some researchers have suggested that high nutrient levels in river diversions can lead to organic matter decomposition in affected soils and root mat decomposition[1]. As root mats decompose, the marshes expected to benefit from river diversion become more susceptible to erosion during infrequent high energy storm events. Also, NMFS would be concerned if nutrients in diverted waters caused extremely rapid algae growth, which could lead to reduced oxygen levels in waters as the algae population dies and decomposes. Reduced oxygen could lead to fish kills, reduced productivity, and/or fishery avoidance of areas affected by such water quality problems. If actions being evaluated or proposed under this study would lead to increased levels of nutrients reaching project area marshes and water bodies, the SEISs should evaluate the potential for increased susceptibility of those wetlands to erosion during storm events, as well as the potential for the creation of anoxic water conditions in the areas affected by these diversions.

Potential direct beneficial effects could result from providing nutrients supportive of plankton and plant growth, both vital components of the aquatic food web. The nutrients also could help support plant growth and reduce wetland loss rates. Sediment suspended in diverted waters also could help offset subsidence and lead to greater sustainability of wetlands in close proximity to the diversion sites. The SEISs should evaluate such potential benefits of river diversions in light of predicted future sea level rise rates.

The EFH and marine fishery resources sections of the documents also should describe and quantify the potential impacts and benefits of the proposed activities on EFH sub-categories (e.g., marsh, marsh edge, mud bottoms, submerged aquatic vegetation, and estuarine water column). The SEISs should evaluate alternatives to any activities that would result in an adverse impact to those resources to determine if there are less damaging methods to achieve the same result. The overall net benefits of the projects on wetland habitats supportive of marine fishery resources should not preclude efforts to avoid or minimize negative impacts of some alternatives on those resources.

We appreciate the opportunity to identify resources that should be evaluated in the SEISs, and to recommend alternatives and issues to be addressed. If you have any questions regarding comments and recommendations provided herein, please contact Mr. Richard Hartman of our Louisiana Habitat Conservation Division office at (225) 389-0508, ext 203.

Sincerely,

for Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

[1] Schwarzenski, C.M., T.W. Doyle, B. Fry and T.G. Hargis. 2008 Biogeochemical response of organic-rich freshwater marshes in the Louisiana delta plain to chronic river water influx. Biogeochemistry 90:49-63.

LITTLE LAKE CLUB

October 23, 2009

Mr. Mike Brown, CEMN-PM-RP
Environmental Manager
U.S. Army Corp of Engineers
P.O. Box 60267
New Orleans, LA 70160-0267

Re: Modification of Davis Pond Diversion

Dear Mr. Brown:

I understand that you are seeking public comment in regard to a proposed modification of the Davis Pond Diversion. I am the President of the Little Lake Duck Club, which holds long-term leases on 12,500 acres on the Barataria land bridge approximately seven miles southwest of Lafitte, Louisiana. We are located at the center of some of the worst coastal erosion in the State and have watched thousands of acres be replaced by open water. We believe that increased fresh water flow into the Barataria basin is an important component in the fight against coastal erosion and wholeheartedly support anything you can do to increase the flow of the Davis Pond Diversion.

Please feel free to call me at my office, 504-586-5265, if you have any questions or need any further support.

Very truly yours,

John D. Werner
President

JDW\plm
cc: Tomma Barnes

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SCIA
SOUTH CENTRAL INDUSTRIAL ASSOCIATION
Active Voice for Regional Industry

Tony Boudreaux
President
Superior Labor Services

Tony Alford
Executive Vice President
ASLR/Alford Services

Kirk Meche
Vice President
Gulf Island Fabrication

Steve Becnel
Secretary
J. Ray Mc Dermott, Inc

Charles Theriot
Treasurer
Charles Theriot, CPA

Donald A. Hingle II
Past President
Whitney Bank

Kenneth Smith
Advisor
T. Baker Smith, Inc

Dionne Chouest
Director
Edison Chouest Offshore

Ted Falgout
Director
Port Fourchon

Jane Arnette
SCIA
Executive Director

President's Council

Otis T. Logue (decd) – Energy Service International
Kerry Chauvin – Gulf Island Fabrication
Frances Richard – John Deere Thibodaux
Daniel B. Cannon – Valerus Compression Services
Bobby Barthel – Gulf Island Marine
Leland Robichaux (decd) – Oil States
Neal Suard – Suard Companies
Chet Morrison – Chet Morrison Contractors
Kenneth Smith – T. Baker Smith, Inc.
Don Hingle – Whitney Bank

October 7, 2009

Mr. Michael Brown
CEMVN-PM-RP
P.O. Box 60267
New Orleans, LA 70160-0267

Re: Modification of Davis Pond Feasibility Study

Dear Mr. Brown,

South Central Industrial Association (SCIA) is a multi-parish industrial organization composed of over 200 member companies representing over 40, 000 employees; committed to the communities we serve. We would like to express our support of the modification of current operational plan for the Davis Pond Freshwater Diversion project.

Our membership strongly believes the Davis Pond Freshwater Diversion in St. Charles Parish represents a significant public investment within the Barataria Basin and a critical restoration tool for the region when properly utilized. This modification study will define our future ability to adaptively manage existing and future projects, which undoubtedly change after the lengthy process to authorize, fund and construct. Modifying the current structure to provide more freshwater to the basin and enhance ecological benefits to adapt to the ever-changing ecosystem makes good business sense.

In conclusion, our organization supports the proper utilization of the current Davis Pond structure and future modification of its operational plan. Thank you for your time and consideration in this matter, as it directly affects the prosperous industries of South Louisiana.

Sincerely,

Tony Boudreaux

Anthony "Tony" Boudreaux
SCIA President

CC: SCIA Board of Directors

P.O. Box 2143 ▪ Houma, LA 70361-2143
Phone: (985) 851-2201 ▪ Fax: (985) 851-2202 ▪ Email: scindustrial@bellsouth.net
www.sciaonline.net

Louisiana Oyster Dealers & Growers Assn.
P.O. BOX 1597 COVINGTON, LOUISIANA 70434

November 20, 2009

Michael Brown
CEMVN-PM-RP
P.O. Box 60267
New Orleans, LA 70160-0267

Dear Sir:

The Louisiana Oyster Dealers and Growers Association (LODGA) represents oyster growers and dealers throughout Louisiana. LODGA supports coastal restoration and believes it to be of critical importance to the future existence of our industry. We also support fresh water diversions to control salinities within our estuaries. Preventing saltwater intrusion will benefit fresh and brackish vegetation in the upper estuary and can also serve to enhance the productivity of the fisheries and wildlife that depend on the estuary as well.

This letter is voice our opposition to any suggested modification of the Davis Pond Diversion (DPD) operational plan that would measurable change the projected salinities in Barataria Bay. LODGA and the greater Louisiana oyster industry are very concerned about the potential impacts of changing the operational schedule for the DPD. The La. oyster industry had worked closely with state and federal agencies and other stakeholders in the Barataria Basin, during the development of the current DPD management plan. As such, the original appropriation for the DPD included funds for relocating oyster leases that were determined to be in an area of significant detrimental impact for cultivating oysters. That program, in fact, was very successful and about 9000 acres of oyster leases were bought out or relocated. It is our fear that any changes to the current management plan, especially if flows were to be increased, will cause additional negative impacts to oyster growers with leases in Barataria Bay.

The DPD was designed for controlling salinity within the Barataria Basin, and its current management plan reflects that. To suggest that the structure be operated in a manner other than what it was designed to do is illogical and irresponsible. Furthermore, we see nothing to substantiate that overly freshening the Barataria Estuary will have any measurable impact in aiding coastal restoration. The experience with the Caernarvon Diversion, which has been in operation for about eighteen years, proves that there is little or no benefit in overly freshening what has been traditionally a brackish to saltwater marsh area. In fact, at a recent public meeting concerning the operation of the Caernarvon Diversion, the landowners in the outfall area were all against the operation of the structure at high output levels, saying that the operation of the structure has ruined their land.

The commercial harvesting of oysters within Barataria Bay began the early 1800's. Oyster leases have existed within the bay since the early 1900's when oyster leasing was introduced in Louisiana. Optimal salinities for growing oysters range from 10 to 25 ppt, although they can tolerate salinities as low as 5 ppt for limited intervals. It takes about two years to grow oysters to market size. If the salinity drops to less than 5 ppt for more than a few days during the two year period the oyster crop is lost.

It is quite obvious that operating the diversion at high output levels, without management controls based on salinities, would cause most of Barataria Bay to be altogether overly fresh for oyster cultivation. This would cause a great economic impact to oyster growers working the bay. We ask the Corps of Engineers to ensure that the current planned isohalines, which were established by the planners and stakeholders during the development of the DPD, are not substantially shifted, if any changes to the flow management scheme or outflow design are being considered.

It is apparent that there are some people advocating to "let the river go", believing that more is always better, without regard for the socio-economic cost to stakeholders in the estuary, and even though it may take centuries to see any measurable gains. We maintain that type of "experiment" would be irresponsible, and has already proven to be ineffective with the experience at Caernarvon. Any suggested changes that are to considered for DPD should only be brought forth with clearly defined goals and clearly defined impact studies, and the means to measure each.

Thank you for the opportunity to comment on this matter, and we would appreciate your thoughtful consideration of our concerns.

Sincerely Yours,

John A. Tesvich

John A. Tesvich, President