MBSD

State of Louisiana

JEFF LANDRY
GOVERNOR

January 30, 2025

Confidential

Hand-delivered

Attn: Cullen A. Jones
Department of the Army
US Army Corps of Engineers
New Orleans District
7400 Leak Avenue
New Orleans, Louisiana 70118-3651

Re: CPRA – Mid-Barataria – US Diversion – (MVN-2012-02806-EOO-USACE Permit) – Local Floodplain Permitting

Dear Col. Jones:

I. Permit – Floodplain (NFIP)

The permittee is the Louisiana Coastal Protection and Restoration Authority. The permit number is MVN-2012-02806-EOO that was issued by the New Orleans District. The work was authorized until December 31, 2032.

There were three permits issued. A Section 10 permit of the Rivers and Harbors Act of 1899 – 33 USC 403; Section 404 the Clean Water Act – 33 USC 1344. The permit has special terms and conditions which Louisiana CPRA agreed to honor in return for the USACE's issuance of this permit. Specifically, the following condition is contained in the permit that you issued on December 19, 2022 that I have specific questions concerning floodplain permitting. The condition reads as follows:

> 20) Many local governing bodies have instituted laws and/or ordinances in order to regulate dredge and/or fill activities in floodplains to assure maintenance of floodwater storage capacity and avoid disruption of drainage patterns that may affect surrounding properties. The authorized project involves dredging and/or placement of fill, therefore, the permittee must contact the local municipal and/or parish governing body regarding potential impacts on floodplains and compliance of your proposed activities with local floodplain ordinances, regulations, or permits.

Based upon the USACE Records of Decision, 404 and 408 permits that were rendered in December 2022, the Record of Decision (404), Floodplain Values 7.1.9 addresses local

floodplain permitting. The USACE took questions from FEMA representative Charlie Cook, which is part of the comments. Cook asked if the USACE was requiring that CPRA had to comply with local floodplain permitting ordinances. There are four separate questions and responses concerning floodplain permitting. In consideration of the questions, the Record of Decision states that the comments were answered by the TIG and approved by the USACE. I attach for your review CPRA Bates Numbers 001-017, which records are taken from the 408 and 404 Records of Decision for the Mid-Barataria Diversion.

II. Questions

a. Is CPRA requested to obtain local floodplain permits pursuant to permit condition 20 prior to the start of construction?
b. Does the local permitting (NFIP) floodplain requirement apply to all parishes that are within the project area if they participate in the NFIP and have local floodplain ordinances?
c. Does the requirement to comply with local permitting floodplain ordinances apply to all parishes that are within the project area that do not participate in the NFIP but have local flood ordinances?

With kindest regards, I remain

Respectfully yours,

Gordon E. Dove, Chairman
CPRA
Enclosures
cc: Governor Jeff Landry: attn. Angelique Freel, Executive Legal Counsel w/encl
Glenn Ledet, CPRA, Executive Director w/encl

Mid-Barataria Sediment Diversion Project - Section 408 Permission Request of Coastal Protection and Restoration Authority of Louisiana

PART 1 OF 2

Summary of Findings/ROD to Appendix 3 (FEIS Appendix B)

Communities, or portions of communities, outside of federal levee systems such as those shown in Figure 3.20-3, currently experience a low-to-moderate frequency of short duration and shallow tidal (non-storm) flooding. Within the next 20 to 50 years, these communities are projected to experience tidal flooding with increasing frequency and duration due to the effects of subsidence and sea-level rise (See Section 3.4.1.1 Sea-Level Rise and Subsidence for additional information regarding rates of relative sea-level rise in the Project area). They are also at increased risk of storm-related flooding as compared to communities inside federal levee systems.

NOAA's Coastal Flood Hazard Composite tool (NOAA OCM 2020) depicts areas that are most prone to coastal flooding hazards, as measured by the number of mapped flood hazard zones an area falls within. The 10 mapped flood hazard zones considered in this composite score are the following:

- FEMA Flood Zone V (Coastal areas with a 1 percent or greater chance of flooding and an additional hazard associated with storm waves);
- FEMA Flood Zone A (Areas with a 1 percent annual chance of flooding);
- FEMA Flood Zone X (Areas with a 0.2 percent annual chance of flooding);
- NOAA-identified areas subject to high tide flooding;
- NOAA-identified three zones within potential sea-level rise inundation extents for 1 foot, 2 feet, and 3 feet above current Mean Higher High Water (each inundation extent is a separate zone); and
- NOAA/National Weather Service-identified three zones subject to storm surge by Category 1, 2 or 3 hurricanes (each hurricane category is a different zone).

In general, the existing subdivisions within these Barataria Basin communities have parcels that are subject to at least eight out of the 10 flood hazards listed above. These subdivisions are occupied by residences and non-residential campsites, and other properties with storage structures. These properties are subject to parish floodplain management regulations or other state or local regulations that prescribe standards for the purpose of flood damage prevention and reduction as further discussed in Section 3.20.3.2 Other Risk Reduction Measures; however, improvements on some properties may pre-date those regulations.

3.20.2.2 Storm Hazards

Hurricane intensity is measured on the Saffir-Simpson Scale and ranges from a Category 1 storm with winds above 74 MPH to a Category 5 storm with winds greater than 157 MPH (NOAA, NWS, and NHC 2017). In the Gulf of Mexico, tropical storms have wind speeds between 39 MPH and 73 MPH. From 1970 to 2010, an average of 6 hurricanes and 11 tropical storms per season impacted the Atlantic Ocean, Caribbean, and Gulf of Mexico (Blake et al. 2011). From 1855 to 2012, the center tracks of 66

than USACE standards, and maintained locally by Plaquemines Parish. Under Emergency Supplemental Appropriations Acts (Public Laws [PL]109-234 (2006) and 110-252 (2008)) for Flood Control and Coastal Emergencies, improvements to these 34 miles of levees and incorporation of these reaches into the NOV federal levee system were authorized. These levees within the Project area are at various stages of improvement; once completed, the levees will provide up to a 2 percent AEP (50-year) level of risk reduction.

The WBV Levees are located along the west bank of the Mississippi River within St. Charles, Jefferson, Orleans, and Plaquemines Parishes. The WBV extends from Ama in St. Charles Parish to Oakville in Plaquemines Parish. In 1986, as a result of flooding from Hurricane Juan, authorization was secured to build the West Bank Hurricane Protection Levee, which would provide hurricane protection from the City of Westwego to the west bank of the Harvey Canal. In 1996, the project was expanded to include the Lake Cataouatche Levee that would provide protection to Avondale, Bridge City, and Waggaman and also expand the "East of Harvey Canal" project to provide protection for Gretna, Harvey, Algiers, and Belle Chasse. In 2005, as part of the overall HSDRRS for southeast Louisiana that was funded after Hurricane Katrina, improvements were authorized to raise the level of risk reduction of the WBV. Improvements included more than 75 miles of levees that were raised, constructed, or repaired to reduce the risk of a 1 percent AEP (100-year) storm surge event. A 100-year storm is defined as a storm with a size and intensity that has a 1 percent chance of occurring in a given year, or 1 percent AEP. The WBV is maintained by the Southeast Louisiana Flood Protection Authority-West.

The LGM system, originally authorized in 1965, consists of approximately 43 miles of levees and floodwalls surrounding developed areas along the east and west banks of Bayou Lafourche. Approximately 22 miles of levee on the east side of Bayou Lafourche fall within the Project area, with elevations ranging from 16 feet at Golden Meadow to 8.5 feet at Larose. The LGM system is maintained by the South Lafourche Levee District.

The Grand Isle and Vicinity system consists of a 7.5-mile vegetated sand dune on the gulf side of the island, a jetty to stabilize the western end of the island at Caminada Pass, and an offshore breakwater system.

3.20.3.2 Other Risk Reduction Measures

Aside from the federal levee projects discussed in Section 3.20.3.1, communities such as Lafitte and Jean Lafitte in the Barataria Basin are located outside the federal levee system; however, a local system of disconnected levees provides some protection to these communities. For example, a 3-mile flood protection project was completed in 2020 that provides additional protection for the town of Jean Lafitte, and other floodwall protection and back levee improvements are proposed (CPRA 2020a). Additionally, Jefferson and Plaquemines Parishes have floodplain management ordinances that include requirements for new construction and substantial improvements that decrease the risk of flooding such as minimum elevation requirements for structures

on economic activity that would have occurred in that area, but would be instead converted to Project uses.

4.13.4.2.2 Population

Construction activities under the Applicant's Preferred Alternative would result in negligible impacts on population in the Project area. The construction of the proposed Project would require a workforce of approximately 1,300 individuals, on average over the 5-year construction period. Nearly 75 percent of workers across all industries in Plaquemines Parish between 2002 and 2015 commuted from other areas (U.S. Census Bureau 2019a). As such, most construction workers (skilled and specialized) would likely reside outside of the proposed Project area and commute into the Project site. Census commuter flows data suggests that most workers from outside Plaquemines Parish commute from Jefferson and Orleans Parishes (U.S. Census Bureau 2018). Some workers on the proposed Project could be drawn from outside the state to reside temporarily in the Project area. Given the relatively small number of workers (less than 1 percent) compared to the 10-parish Project area (1.2 million), this would represent a negligible increase in population.

4.13.4.2.3 Housing and Property Values

Construction of the proposed Project would have minor, short-term, adverse indirect impacts on the value of housing and properties located within 0.5-mile of the construction footprint. Minor to moderate, temporary, adverse direct construction impacts would occur on lands within the construction footprint. Adjacent lands, including nearby residences and businesses, would also have impacts from construction noise and dust, and traffic congestion along LA 23 and other local roads due to construction trucks and construction worker vehicles. In Ironton, noise generated from pile driving is expected to attenuate to levels that meet the recommended hourly L_{eq} for residential land (67 dBA), which is the sound level established for annoyance by USEPA (FHWA 2006). Pile driving would occur periodically over about 2.5 years.

These minor to moderate construction-related impacts could cause minor, short-term, adverse indirect impacts on property values for residential and commercial properties as properties affected by traffic disruptions, noise, and dust could be considered less desirable during and immediately following the construction period (Siethoff and Kockelman 2002, Downs 1992). Areas within the proposed Project construction footprint would be permanently altered once the proposed Project is built. As discussed in Section 4.18 Land Use and Land Cover, the upland portion of the construction footprint would impact a mix of agricultural (which may be actively tilled or fallow land), forested, developed, and open land. This would affect areas within a floodplain district that allows certain uses, including industrial uses, subject to approval. The transition from private ownership to governmental ownership would result in removal from the tax base, resulting in minor, permanent, adverse impacts on assessed property values in the parish.

resources, and are discussed in detail in Section 4.6 Wetland Resources and Waters of the U.S.

No buildings are currently present within the footprint of the proposed diversion complex. However, portions of LA-23, the NOGC Railroad, and the MR&T and NOV-NFL Levees, as well as existing utilities within the Project area, would be modified or relocated. The closest residences are in Ironton, about 0.5 mile south-southeast of the proposed diversion complex. As described in Chapter 3, Section 3.18.3 in Land Use and Land Cover, the portion of the diversion complex located in Jefferson Parish would be on land zoned as unrestricted rural, while the portion located in Plaquemines Parish would be within a floodplain district that allows certain uses, including industrial, subject to approval. It is expected that re-zoning of the site would not be required.

Direct impacts would occur on lands where active construction occurs as well as any exclusion areas established by the installation of safety fencing. Minor, temporary adverse, indirect impacts could occur on adjacent lands, including nearby residences and businesses, from construction noise and dust; disturbance or removal of lawns, trees, landscaped shrubs, or similar vegetation; and the relocation of existing infrastructure within the Project area. Use of open water within the Mississippi River and Barataria Basin associated with construction of the diversion complex and auxiliary structures would include minor increases in water-based traffic and minor reductions in access for commercial and recreational users when Project vessels are in transit through these waterbodies. These minor, adverse impacts would be temporary, occurring over the 5-year construction period, and intermittent, based on the expected number and frequency of construction vessels, as described in Section 4.21 Navigation. Impacts on recreational and commercial use of the river and basin are described in Sections 4.16 Recreation and Tourism and Section 4.21 Navigation, respectively.

4.18.3.3 Other Alternatives

All action alternatives would have a similar construction footprint as that of the Applicant's Preferred Alternative, except for the width of the intake and conveyance channels. The 50,000 cfs Alternatives would require a narrower intake and conveyance channel width, as compared to the 75,000 cfs Alternatives, while the 150,000 cfs Alternatives would require the widest intake and conveyance channel widths. The direct and indirect impacts from construction of these other action alternatives on land use and land cover would be a mix of temporary and short-term, moderate, adverse impacts as compared to the No Action Alternative, and similar to those described above for the Applicant's Preferred Alternative. The conversion of agricultural, open land, forest land, and wetlands to developed land would be a direct, moderate, permanent impact on land use and land cover in the Project area. Incremental impacts on land use from the construction of terraces would be negligible, as compared to the Applicant's Preferred Alternative. Therefore, all three terrace alternatives, as compared to the No Action Alternative would cause the same construction impacts as described above for the Applicant's Preferred Alternative.

behalf of USACE and the LA TIG), as well as from the perspective of the LA TIG's Restoration Plan (on behalf of the LA TIG).

With respect to comments on the Draft EIS (including the proposed Project, content and analysis of the Draft EIS, NEPA process, and all related matters), in accordance with the Cooperating Agency MOU, USACE acted as the Lead Agency in developing responses. The LA TIG (in accordance with the Cooperating Agency MOU and State MOU) assisted in reviewing Draft EIS-related comments and in developing responses.

With respect to the LA TIG's Restoration Plan (or other Trustee restoration planning) and OPA, comments were reviewed and responses developed by the LA TIG. To the extent restoration planning or OPA-related comments overlapped with NEPA issues or content of the EIS, USACE provided input with respect to those matters. USACE did not provide substantive input regarding OPA or other Trustee restoration planning, other than reviewing for style and language consistency with the responses to comments on the EIS. Content in responses that discuss the LA TIG's Restoration Plan, OPA, or other Trustee Planning states only the views of the LA TIG.

USACE has reviewed all comments (including studies cited in the comments) submitted during the public review period and will consider all comments regarding the proposed Project, the Draft EIS and Final EIS (including content, analysis, and impacts), the NEPA and permitting processes, and any related matters in its Section 10/404 permitting and Section 408 permission decisions. Similarly, the LA TIG has reviewed and considered all comments as they relate to NEPA and the LA TIG's potential decision(s) on the LA TIG's Restoration Plan (and impacts associated therewith).

3.0 OPPORTUNITY FOR PUBLIC COMMENT

A Notice of Availability (NOA) for the Draft EIS was published in the Federal Register on March 5, 2021. The LA TIG issued a separate Federal Register public notice and related information on its website and elsewhere announcing the availability of its Restoration Plan. The NOAs encouraged all interested persons and organizations to review the Draft EIS and LA TIG's Restoration Plan and to submit any comments regarding the proposed MBSD Project, the Draft EIS, and/or LA TIG's Restoration Plan as explained below. The Public NOA of the Draft EIS and LA TIG's Restoration Plan and notification of the public meetings was emailed out to all individuals and stakeholders on the Project mailing list and advertised in the New Orleans Advocate on March 5th, 2021 and the Plaquemines Gazette on March 9th, 2021. Additional details regarding the public meetings were advertised in the New Orleans Advocate on March 21st and 28th, 2021 and the Plaquemines Gazette on March 23rd and 30th, 2021. Portions of the public notice were translated to Spanish and Vietnamese.

The initial 60-day public review and comment period established by the NOAs for the Draft EIS and LA TIG's Restoration Plan began on March 5, 2021 and was proposed to end on May 4, 2021. However, the 60-day public comment period was extended by an additional 30 days (for a total of 90 days) to June 3, 2021. All

5.2 Overview of Comments Received

Over the 90-day public comment period, the USACE and the LA TIG received approximately 40,699 comment submissions provided in the following ways: via email to CEMVN; through DOI's Planning, Environment and Public Comment (PEPC) database (https://parkplanning.nps.gov/MBSD); submitted in writing or orally during any of the virtual public meetings held on April 6, 7, and 8, 2021; and via voicemail at a toll-free phone number (1-866-211-9205). Forty-three comments were received in either Spanish, Vietnamese, or Khmer and were translated into English.

Of the 40,699 comment submissions, 39,903 (98 percent) included nearly identical (form) letters signed by different individuals. Approximately 796 (2 percent) of comment submissions were unique letters from individuals or organizations/agencies. Only 1,396 (3.4 percent) of the comment submissions were from commenters that gave Louisiana addresses. The remaining comments were from people residing in other U.S. states and U.S. territories, four were from other countries, and three did not provide location information. Individual commenters identified an affiliation in 44 of the comment submissions. These affiliations included businesses, churches and religious groups, civic groups, government agencies, non-governmental organizations, and university or professional societies.

5.3 Comment Response Process

USACE and the LA TIG worked together to review, sort, and respond to comments received on the Draft EIS and the LA TIG's Restoration Plan. Comments were first sorted into groups by topic and issue, consistent with the range of topics addressed in the Draft EIS and the LA TIG's Restoration Plan. To facilitate preparation of responses, USACE and the LA TIG then drafted 'concern statements' to represent multiple similar comments on a topic and to summarize unique comments and lengthy comments; these concern statements were later reviewed against the original comments to ensure all comments were captured. USACE and the LA TIG then prepared responses to the concern statements. The USACE and LA TIG ensured consideration of the original text from each comment when preparing the response. The comment response process was designed to ensure consideration of and appropriate responses to all comments received.

Attachment 1 Summary Concern Statements and Responses of this appendix provides a list of the issues and concerns identified in the comments and the USACE and LA TIG's responses. All public comments and responses are included in full in Attachment 2 Public Comments and Responses of this appendix, organized in alphabetical order by last name.

Table 1. Topics Identified in Public Comments	
Agency Correspondence Process	Commercial Fisheries
Affected Environment/Existing Conditions	Environmental Justice
EIS App A: Permit Application (Section 10/404) and 408 Permissions Request	Recreation/Tourism

Table 1. Topics Identified in Public Comments	
Aquatic Resources	Oysters (Commercial Fisheries) Stewardship and Mitigation Measures
Marine Mammals	Brown Shrimp, Crabs and Finfish (commercial fisheries) Stewardship and Mitigation Measures
Threatened & Endangered Species	Recreational and Subsistence Use Stewardship and Mitigation Measures
Socioeconomics	Property acquisition Stewardship and Mitigation Measures
	Environmental Justice Stewardship and Mitigation Measures

5.4 Organization of Comments and Responses in this Appendix

Public comments and responses are provided in two formats in Attachment 1 and 2 of this appendix:

- **Attachment 1 Summary Concern Statements and Responses:** Attachment 1 Summary Concern Statements and Responses of this appendix organizes the concern statements and issues identified in the comment letters by topic area corresponding to EIS subject areas and contains responses to each of those concern statements. The summary concerns along with USACE and LA TIG responses are organized by the topics identified in the comment letters and shown in Table 1 above. Readers may search by topic area to view the concerns raised by the public comments and the USACE and TIG responses.

- **Attachment 2 Public Comments and Responses:** Each commenter's verbatim comment is provided along with the USACE and LA TIG response in Attachment 2 Public Comments and Responses. The attachment is organized alphabetically by commenters' last names. Comments that were submitted by agencies or organizations (identified by those comments submitted with formal signatures or letterheads) are identified by the agency or organization name rather than an individual's name. A table of contents at the beginning of Attachment 1 gives page numbers for each commenter's last name or agency/organization name for ease of reference. In the case of form letters that are substantially alike, one copy of the form letter is included, and each individual or agency/organization who sent it is included in the table of contents. Form letters that were substantively modified by the commenter are included as separate, unique comment letters.

CH11000 – Project Background

Concern ID: 62008	**The commenter expressed concern that the DWH oil spill and development are causing the Gulf Coast ecosystem that sustains us to collapse.**
Response ID: 16165	The concerns raised by the commenter were considered in the Draft EIS. Chapter 3, Section 3.1.4 Overview and History of the Project area provides an overview of the adverse impacts that the DWH oil spill and development have had on wetland habitat in the Project area.

CH12000 – Compliance with Other Laws, Regulations & Executive Orders

Concern ID: 62192	**Commenter states that CPRA should coordinate with the local floodplain administrators to obtain any needed local permits.**
Response ID: 15741	CPRA would be responsible for coordinating as needed with the appropriate floodplain administrator(s) regarding any necessary permits prior to Project commencement if the Project is approved by USACE and funded by the LA TIG.
Concern ID: 62193	**A commenter asked why permits were granted for construction of residential homes if there was knowledge of a forthcoming diversion, and why these applicants were not made aware of the diversion when applying for permits.**
Response ID: 15742	The USACE is evaluating whether to grant the State of Louisiana's (through CPRA) requested DA Section 10/404/408 permits for the proposed Project. Without those permits, the Project cannot proceed. The LA TIG cannot speak on behalf of the local permitting agency and their consideration of potential future projects in granting residential construction permits. The LA TIG has no authority over decisions regarding the construction or permitting of residential homes.
Concern ID: 62197	**Commenter asked what the justification was for the waiver of the Endangered Species Act (ESA).**
Response ID: 15744	No waiver of the Endangered Species Act was granted for this proposed Project. USACE initiated formal ESA Section 7 consultation with NMFS on February 24, 2021 and USFWS on July 2, 2021, including submission of a Biological Assessment to each of the Services which analyzes the potential impacts to ESA-listed species. This Biological Assessment, as well as the agencies' response in the form of a Biological Opinion, can be found in Appendix O (Biological Assessment and Biological Opinion) of the Final EIS.

Alternatives Matrix of the EIS for further details on why these alternatives were not carried forward for further evaluation in the EIS.

Details specific to marsh creation alternatives and the reasons for elimination from detailed analysis in the EIS can be found in Chapter 2, Section 2.3 Step 1: Evaluation of Functional Alternatives. As described in Section 2.3.5 Large-Scale Marsh Creation, a marsh creation (dredge) alternative does not meet the purpose and need for the proposed Project; such an alternative does not deliver enough fresh water, nutrients, and fine sediments to sustain adjacent wetlands beyond the marsh creation area and over time would require periodic lifts and maintenance through placement of additional dredged material. Additional information related to the marsh creation alternative and reasons for elimination have been added to Section 2.3.5 for the Final EIS.

Additional detail can be found in the LA TIG's Restoration Plan explaining the LA TIG's evaluation of a range of alternatives and its identification of a Preferred Alternative (sediment diversion with variable flow up to 75,000 cfs). The LA TIG believes that the Preferred Alternative provides the right balance in terms of the likely benefits the Project would achieve and the risks related to collateral injury for its NRDA decision. This evaluation was completed by the LA TIG for its restoration planning efforts. USACE did not participate in that process.

CPRA and the LA TIG are pursuing multiple dredge-based restoration projects in Barataria Basin and throughout coastal Louisiana (for example, the Spanish Pass Ridge and Marsh Creation Project). More details can be found in Louisiana's Coastal Master Plan and on the LA TIG's web page (see https://la-dwh.com/restoration-plans/).

Concern ID: 62220

The Project would inundate access roads and properties, some of which are newly built infrastructure projects.

Response ID: 15755

Draft EIS Chapter 4, Section 4.13.5.1 (Socioeconomics, Economy, Employment, Business, and Industrial Activity, Flooding and Storm Hazards) and 4.20.4.2 Public Health and Safety, Operational Impacts, Floodplains and Tidal Flooding discussed the increased flooding impacts outside of federal levee systems, including road inundation and infrastructure damage, potentially caused by the operation of the diversion. CPRA has developed a comprehensive inventory of potentially affected properties and CPRA's land services planning is progressing to enable CPRA to mitigate for increased water levels caused by the proposed Project. CPRA's mitigation and stewardship measures would take the form of: (1) monitoring and adaptive management of operations, (2) structural mitigation (for example, elevating public roadways, utility upgrades, water control structures, or other structural measures to partially offset additional inundation), (3) paying landowners for a Project servitude, and/or (4) providing landowners with funds to elevate their homes and other structures on private properties. These mitigation and stewardship measures are described in the Final Mitigation and Stewardship Plan, Appendix R1 to the Final EIS.

Structural measures in the Mitigation and Stewardship Plan are not included in CPRA's MBSD DA permit application, and if a permit is approved, would not be authorized under the DA permit. Many of these structural measures would require DA and/or other permits prior to installation. Such permits are not guaranteed and would take time for USACE and other regulating agencies to process.

Correspondence ID:59
FEMA

Charles Cook

please ensure that you are in coordination with the local floodplain administrators to obtain any needed local permits.

Concern ID: 62192

Commenter states that CPRA should coordinate with the local floodplain administrators to obtain any needed local permits.

Response ID: 15741

CPRA would be responsible for coordinating as needed with the appropriate floodplain administrator(s) regarding any necessary permits prior to Project commencement if the Project is approved by USACE and funded by the LA TIG.

Correspondence ID:3967
FEMA

Charlie Cook
This is Charlie Cook with FEMA Floodplain Management. My only comment is to make sure you are working with the local floodplain administrator to make sure that any pertinent local permits are obtained in relation to this project. Thanks. Take care. Bye.

Concern ID: 62192

Commenter states that CPRA should coordinate with the local floodplain administrators to obtain any needed local permits.

Response ID: 15741

CPRA would be responsible for coordinating as needed with the appropriate floodplain administrator(s) regarding any necessary permits prior to Project commencement if the Project is approved by USACE and funded by the LA TIG.

Correspondence ID:31968
FEMA

Charlie Cook
Good morning, regarding this project from USACE, please ensure that you are working with the local floodplain administrator to obtain any needed local floodplain permits.

Concern ID: 62192

Commenter states that CPRA should coordinate with the local floodplain administrators to obtain any needed local permits.

Response ID: 15741

CPRA would be responsible for coordinating as needed with the appropriate floodplain administrator(s) regarding any necessary permits prior to Project commencement if the Project is approved by USACE and funded by the LA TIG.

MEMORANDUM FOR RECORD ON PENDING PERMIT DECISIONS (ROD)

SUBJECT: Department of the Army Clean Water Act (Section 404) and Rivers and Harbors Act (Section 10) Review and Statement of Findings for the Above-Referenced Standard Individual Permit Application

This document constitutes the Clean Water Act (CWA) Section 404(b)(1) Guidelines Evaluation, Public Interest Review, and Statement of Findings for the subject application. These reviews utilize information documented in the Final Environmental Impact Statement (EIS) published in the Federal Register on September 23, 2022 (87 FR 58083, 2022[1]). Agency coordination and consultation and compliance with relevant environmental laws such as the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the National Historic Preservation Act, Section 106, and Essential Fish Habitat (EFH) consultation under the Magnuson-Stevens Fishery Management Act, are outlined below.

1.0 INTRODUCTION AND OVERVIEW

Information about the proposal subject to one or more of the United States Army Corps of Engineers' (USACE's or the Corps') regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 10 and findings are documented in Section 11 of this memorandum.

1.1 Applicant Name

Coastal Protection and Restoration Authority of Louisiana (CPRA, applicant)

1.2 Activity location

On the right descending bank of the Mississippi River at river mile (RM) 60.7 in the vicinity of the town of Ironton, Plaquemines Parish, Louisiana.

[1] https://www.federalregister.gov/documents/2022/09/23/2022-20646/environmental-impact-statements-notice-of-availability

	the Lower Lafitte and Goose Bayou polder upgrades relative to MBSD operation is uncertain.

***Information summarized from CPRA's August 22, 2022 "Mitigation and Stewardship Plan for the Mid-Barataria Sediment Diversion Project".**

7.1.9 Floodplain Values:

This section will discuss floodplain values with respect to their benefits to the adjacent built/human environment.

Floodplains are generally low-lying areas found adjacent to rivers and/or tidal waterbodies that experience flooding during high water events. Floodplains help support diverse and productive ecosystems. Their productivity makes them attractive to humans that wish to develop in and adjacent to them. Development in and adjacent to floodplains leads to an increased risk to flood hazards that are discussed above and in Section 4.20 of the Final EIS. The importance of floodplains and risks to developing in and near them results in laws and regulations. Specifically, Jefferson and Plaquemines Parishes have floodplain management ordinances that include requirements for new construction and substantial improvements that decrease the risk of flooding such as minimum elevation requirements for structures Plaquemines Parish Ord. No. 08-211; Jefferson Parish Ord. No. 25457). Similarly, local land use decisions, such as zoning, can affect flood risk faced by homeowners and businesses. The Louisiana Department of Natural Resources (LDNR) Coastal Use Permitting (CUP) process is guided towards making development in the Coastal Zone accomplished by the greatest benefit and the least amount of damage. Similarly, USACE administers Section 404 of the Clean Water Act which establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands.

To balance overall risk and development, Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) provides the majority of residential flood insurance in the United States. FEMA generates flood insurance rate maps (FIRM) for communities that opt to join the program. Section 3.20.2.1 Floodplains in the Final EIS describes the FIRM zones for the Project area. Much of the Project area falls in Zone A, VE, or AE, meaning they are Special Flood Hazard Areas (SFHA) within the 100-year floodplain. Property owners within SFHAs must purchase flood insurance as a condition of receiving federally backed mortgages.

FEMA recently implemented changes to its insurance risk rating system under the NFIP, which has resulted in premium changes for the majority of policyholders. These revisions, called Risk Rating 2.0, are the first update to NFIP risk ratings in over four decades. The aim of Risk Rating 2.0 is to create premiums that are more equitably

distributed across policyholders as well as to improve the communication of flood risk for individual properties and current or prospective policyholders.

Under Risk Rating 2.0, insurance rates are not defined by the FIRM zone the property is in and instead are based on a variety of property specific measures. As of 2022, the average NFIP policy premium in Louisiana was $675 per year (in 2019 dollars). Pre-Risk Rating 2.0, premiums for NFIP flood insurance policies vary based on FIRM flood zone, ranging from approximately $500 per year in Zone X (outside 100-year flood) to over $3,000 per year in Zone VE (areas closest to the shoreline at base flood elevation [BFE] levels subject to wave action, high-velocity flow, and erosion during the 100-year flood). As of 2022, the majority (61 percent) of NFIP policies in Louisiana were in FIRM Zone X, with another 31 percent in Zone AE. Less than 1 percent of policies are in the highest risk zones.

FEMA anticipates that approximately 85 percent of policyholders will experience increases in policy premiums under Risk Rating 2.0. Plaquemines Parish is the only parish in the study area where over 10 percent of existing policies are anticipated to increase by over $20 per month.

The proposed Project features that would be located in Plaquemines Parish include the proposed Project diversion complex, auxiliary features including LA 23 and NOGC railroad modifications, the outfall transition feature, the Outfall South marsh creation areas, a portion of the Outfall North marsh creation area, and a portion of the barge access channels in the basin (see Figure 2.8-1 Construction Footprint in Chapter 2). These facilities would be located in the floodplain district, which comprises areas that are prone to periodic or occasional inundation and that are not within publicly owned hurricane protection levees or pump drainage systems. Certain residential, commercial, and industrial uses that meet building and sanitary codes are allowed in the district; other uses are allowed subject to approval.

The proposed Project features that would be located in Jefferson Parish include a portion of the Outfall North marsh creation area and a portion of the barge access channels in the basin. These areas are currently zoned as unrestricted rural and located within the floodplain.

Approximately 793 acres of the 100-year floodplain are proposed to be altered by the proposed construction footprint. Floodplain alteration caused by construction of the portion of the Project within and outside the levee system is not expected to alter floodplain values. Because both the existing level of drainage and federal flood risk reduction would be maintained, there is no anticipated change to the FEMA FIRM

designation or base flood elevations due to the construction of the diversion. However, as noted, under Risk Rating 2.0, flood insurance rates are no longer based on the FIRM designation.

During project operations, the floodplains within the Project area would continue to be subject to storm and non-storm-related flooding. Water levels within the Barataria Basin are projected to follow an upward trend over the next 50 years due to sea-level rise and an increased tidal influence farther north in the basin associated with sea-level rise and land loss. Due to Project operations, increased water levels are expected to increase the frequency and severity of tidal flooding, especially in the first 3 decades of operation. Whether flood insurance rates may change under FEMA's Risk Rating 2.0 due to diversion operation is uncertain.

Cumulatively, floodplain alteration from construction of the MBSD Project action alternatives combined with the construction of these reasonably foreseeable projects could continue to stress floodplain values. Ecological restoration and coastal restoration projects are expected to enhance floodplain values long term.

7.1.10 Land Use:

The Project area includes all or portions of the following parishes: Ascension, Assumption, Lafourche, Jefferson, Orleans, Plaquemines, St. Charles, St. John the Baptist, St. James, and St. Bernard. While these parishes are characterized by a variety of land types, 45.1 percent of the Project area is open water, 25.7 percent is emergent herbaceous wetlands, 12.0 percent is woody wetlands, 6.5 percent is a mix of agricultural (cultivated crops) or open land (including pasture, hay, and shrub/scrub), 5.1 percent is developed (high, low, medium intensity and open space, as well as barren land), and 0.2 percent is upland forest land (deciduous, evergreen, and mixed forest). Table 3.18-1 in Section 3.18 of the Final EIS (Land Use Land Cover) summarizes the percentage of each land use type within the Project area based on the 2019 National Land Cover Dataset.