



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

November 30, 2020

Colonel Robert A. Hilliard
U.S. Army Corps of Engineers, Vicksburg District
ATTN: CEMVK-PPMD
4155 East Clay Street, Room 248
Vicksburg, Mississippi 39183

Dear Colonel Hilliard:

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act, the U.S. Environmental Protection Agency has reviewed the U.S. Army Corps of Engineers (USACE) Vicksburg District's Draft Supplemental Environmental Impact Statement (DSEIS) on the Yazoo Area Pump project (CEQ No. 2020205). The DSEIS is a supplement to the Final SEIS for the Yazoo Pumps Project issued in 2007 (2007 FSEIS).

The purpose of the Yazoo Pumps Project is to alleviate flooding in the Yazoo Backwater Area, an approximately 630,000-acre area situated between the Mississippi and Yazoo Rivers in west-central Mississippi. The EPA fully supports the purpose of the project to reduce flood damages in the Yazoo Backwater Area. The DSEIS provides information and analysis regarding a similar but different Yazoo Pumps Project than was previously analyzed. It also provides new information on the project's potential environmental impacts to wetlands, endangered species, fish and wildlife, water quality, downstream areas, and environmental justice populations. The proposed project involves a pumping station with a capacity of 14,000 cfs and a pump-on elevation of 87 feet NGVD. It will be newly located at Deer Creek.

EPA has determined that the proposed project is not subject to EPA's 2008 Final Determination. Importantly, the plan described in the 2020 DSEIS includes a number of key features that distinguish it from the Plans prohibited by EPA's 2008 Final Determination: (1) the 14,000 cfs pump will now be located near Deer Creek, approximately eight miles east of the Steele Bayou site at issue in the 2007 FSEIS; (2) the Steele Bayou flood control gate operations will maintain water levels between 68.5 and 70 feet; (3) the pump facility will use natural gas instead of diesel power and add a pump station and appurtenances; (4) the plan will involve the installation of thirty-four low flow wells adding 0.1-0.2 cfs to augment stream flows in multiple stream systems within the Big Sunflower-Steele Bayou watershed; and (5) a new adaptive management plan is included.

Also, EPA's 2008 Final Determination "prohibits, pursuant to section 404(c) of the CWA, the specification of the subject wetlands and other waters of the United States *as described in the FSEIS as a disposal site for the discharge of dredged or fill material for the purpose of construction of FSEIS Plans 3 through 7, and Modified Plan 6.*"¹ The text therefore limits the prohibition to those wetland and waters that were specifically described as the disposal site for the identified plans. Notably, Region 4's 2008 Recommendation Determination had recommended including "a prohibition encompassing a

¹ Final Determination p.73 (emphasis added).

six county area and ‘...any similar pump project...’).² EPA, however, explicitly rejected this geographic approach in the Final Determination by tying the scope of the veto to the identified FEIS plans themselves, explaining this change as a “modifi[cation]” and a “narrowing” of the scope of the RD to “underscore[] our sincere interest to work collaboratively with interested parties to consider alternative forms of flood protection.”³ The Agency concluded that the 2008 Final Determination “*only* prohibits the construction of FSEIS Plans 3 through 7 and Modified Plan 6.”⁴ Given the express decision of the Agency to narrowly tailor the Final Determination to the specific enumerated projects and the differences between those projects and the proposed project described by the Corps in the 2020 DSEIS, the proposed project is not prohibited by the Final Determination.

There are several areas where additional clarification may be required to meet the requirements of both Corps and EPA regulations under Section 404 of the Clean Water Act. The Corps’ analysis should reflect a similar degree of specificity as to the scope of Waters of the United States impacted and the scope, timing, and certainty of mitigation required to compensate for unavoidable impacts as would be required of a private party applying to the Corps for a 404 permit to undertake a similar project.

EPA is a cooperating agency on the proposed project and submitted scoping comments to USACE on June 16, 2020. We participated in two interagency meetings held on May 19, 2020 and May 29, 2020 respectively. At the USACE’s request, EPA also submitted comments regarding specific models that would be used to assess natural resources on June 12, 2020. Based on our review of the DSEIS and associated appendices, we are providing comments in the enclosure for your consideration.

EPA appreciates your coordination of the proposed project. If you have any further questions, you may contact Ntale Kajumba, Chief of the NEPA Section at (404) 562-9620 or kajumba.ntale@epa.gov.

Sincerely,

Mary S. Walker
Regional Administrator

Enclosure

² Final Determination Appendix 1 Response to Comments, p.20

³ *Id*

⁴ *Id.* (emphasis added).