

**CONSOLIDATED DRAINAGE DISTRICT #1**  
*Mississippi County, MO*

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November 21, 2013

Mr. Danny Ward  
Project Management Branch  
167 N. Main, Room B-202  
Memphis, TN 38103-1894

Via Email: [daniel.d.ward@usace.army.mil](mailto:daniel.d.ward@usace.army.mil)

RE: Draft Environmental Impact Statement for St. Johns Bayou-New Madrid Floodway Project

Dear Mr. Ward:

Thank you for the opportunity to comment upon the Draft Environmental Impact Statement for the St. Johns Bayou-New Madrid Floodway Project (hereafter, “DEIS”). Our interest in this project and having a detailed environmental impact statement as well as a final plan is very strong. This is because we, as Consolidated Drainage District #1, operate the drainage system in a large part of Mississippi County within the Birds Point New Madrid Spillway. As you know through various public meetings in the area, we have many questions that remain unanswered about this project. In order to help you in your work, we are taking this opportunity to provide some of those concerns in writing.

The project as outlined in the EIS has as its purpose, “*to accomplish the will of Congress for flood risk management in Southeast Missouri. The statutory authority for and requirement to act in this case direct USACE to reduce the likelihood and adverse effects—on agricultural and urban lands—of backwater flooding in the New Madrid Floodway and flooding due to the impounding of waters in St. Johns Bayou Basin (currently) and the New Madrid Floodway (in the future)*” (DEIS, p. iv).

Among the questions we have concerning the DEIS is the degree to which the proposed plan goes well beyond the scope of this purpose to include environmental goals that, if implemented as stated here, would be adverse to farming in particular. Alternatively, they may simply be competing goals and we wonder how you will prioritize when they come into conflict. Let us be clear: we are not averse to stewarding the land and seeing to it that it is well taken care of. We are, however, voicing our concerns with issues arising out of management procedures that would interfere with the natural farming operations in the Birds Point New Madrid Spillway, which are part of the stated goals of flood risk management in the area.

Moreover, we believe this project could interfere with the management of the drainage system that enables agricultural use of the land and that could potentially decrease the tax base of both Mississippi and New Madrid County, making it more difficult to support adequate maintenance of the levees as required by local interests in current congressional flood control legislation. The enumerated list is not exhaustive. Other concerns have been expressed in public meetings on these issues, but we include our chief concerns here.

1. Page 296 of the EIS, under 7.2.2, states:

*Gages would be installed at three locations; (1) upstream of the existing St. Johns Bayou outlet structure; (2) upstream of the proposed Mud Ditch outlet structure; and (3) at Big Oak Tree State Park. These gages would monitor daily interior sump elevations. The readings would serve three main purposes.*

- 1. Assist the project sponsor to make decisions on when to open and close outlet structure gates, open and close structure at Big Oak Tree State Park, and when to operate the pumping stations.*
- 2. Provide daily water level information, via the Internet, that is necessary for tract- specific mitigation monitoring.*
- 3. Provide and record daily water level information that would be used to determine how the project area responds to the action. Data from the three proposed gage would be compared to the Mississippi River gage at New Madrid, to show the hydrological effect of the proposed action on conditions in the New Madrid Floodway. Since gates are already installed in the St. Johns Bayou outlet structure, a H+H simulation would have to be conducted to determine the effects of pumping operations in St. Johns Bayou Basin.*

Please clarify for us what you envision “assist” means in this section, i.e., what form of assistance will you provide? Do you mean to simply provide data, or do you intend the US Army Corps of Engineers to be part of the decision itself? How involved do you expect the Corps to be in the decision-making process of the project sponsor? Along with these very important questions explain the following:

- How will you account for the needs of the farmers in determining when and if to open various gates? Please answer this with reference to specific gates since the topography of the area is not uniform, nor does it flood uniformly.
- In addition to the needs of the farmers, how will the needs of the various towns and villages be addressed in making these decisions?
- Please directly reference the harvesting and planting seasons in your plan, as well as climatic factors such as rainy periods versus dry periods.
- Please describe where an outlet structure exists in Big Oak State Park. We would like to see this on a map, if at all possible, and we would like to have it described with a more detailed analysis of the hydrology of the park. Particularly, please explicitly state where the water comes from in the natural bayou located there.

2. On p. 302-303, in section 7.4.1, the DEIS states:

*“The greatest impact to wetlands would result from shifts between subclasses caused by a change in the 5-year floodplain from before to after implementation of the proposed action. Riverine subclasses would likely shift to flats, for example. Adaptive floodwater management, if needed, could counter this phenomenon, contributing to the success of wetlands mitigation, by*

maintaining flood waters at greater depths for longer durations. For example, the tentatively selected plan calls for lowering the elevation at which pumping occurs from 289.5 feet, during the November 15 to February 28 periods, to 288 feet on March 1. Alternatively, the elevation could be maintained at 289.5 feet until March 15 or 30, or the elevation could be increased to 285 or 286 feet during the April 16 to May 30 timeframe.”

We are particularly concerned with the language underlined above. Maintaining floodwater at 285 feet till May 30th would, in our experience, mean that all farming operations would have to stop until late into the planting season. As you point out earlier in the DEIS on p. 7, corn must be planted by late April or early May in order to obtain the best yield. Again, we need a clearer explanation of how this adaptive floodwater management system supports the agricultural needs of the farmers in the floodway, as well as a better understanding of how this system would protect the local towns and villages.

Specifically, we ask that you address these questions:

- How does the proposed adaptive flood management system promote the goals of protecting agricultural lands from adverse effects of flooding if pumps will not be activated until May 30<sup>th</sup> on elevations of 285 or 286 feet?
- With specific reference to both corn and winter wheat, what would the effects on farming be of maintaining water on an elevation of 285 feet till May 30<sup>th</sup>?
- Under what circumstances would you choose not to activate the pumps until May 30<sup>th</sup>?
- What role would local interests play in making such decisions? As described here, it would appear that drainage decisions would no longer be made locally but rather would be made by the Corps. We ask you to explain why the historical power to make these decisions is being removed from local interests? Please point us to the statutory authority to do this as well as explaining how you plan on consulting with local interests under the proposed adaptive management plan.

3. In section 7.4.4, on p. 304, the DEIS states:

“Adaptive flood water management may also be used to address deficits in habitat for fish spawning and rearing. Flood water retention in St Johns Bayou Basin and in the New Madrid Floodway could enhance spawning and rearing. For example, a spawning and rearing pool could be created in St. Johns Bayou Basin or in the New Madrid Floodway by retaining flood waters at the 284-foot elevation for a period of 21 days sometime between March 1 and June 30. Gate and pumping operations could be adjusted according to rainfall, the level of the Mississippi River, and other relevant factors to increase beneficial habitat for fish and contribute to the achievement of ecological success.”

Once again, we are concerned specifically with the underlined language. We understand this to mean that you will maintain full ditches for a 21 day period during the spring at times when you determine that it will be beneficial to create habitat for specific fish species. Please answer the following questions:

- How does farming fit into this plan?
- If you were to create a spawning and rearing pool in the New Madrid Floodway, as described here, water would have to be retained at the 284-elevation during the spring

months when we often experience a great deal of rain. Keeping in mind that the period you have specifically referenced is March 1 through June 30, which is prime planting time and is also a time when winter wheat is harvested, where do you expect rainwater to go so that farm operations can continue? If the ditches are already full, what is the plan for drainage of rainwater?

- If the goal, here, is only to protect particular fish species regardless of the risk to farming, please indicate how this goal comports with the scope of the project outlined in the project summary of the DEIS and does not go beyond it.
4. Please specifically state where the mitigating lands are through out this DEIS. In particular, we are interested in knowing more about which of those lands are taxable and which are not. We believe that most of the mitigating lands are coming from taxable lands. This will mean a decrease in the tax base of the area, which affects the ability of local interests to contribute to the maintenance of levee system. Please address how a decrease in the tax base will affect levee maintenance in the area as well as how the Corps intends to make-up the loss of dollars in light of the enlarged management role they intend to play in the proposed adaptive management project.
  5. If our understanding of how the mitigating lands will affect the tax base is incorrect, please provide documentation demonstrating that no tax dollars will be lost in your economic analysis of the project.
  6. Regarding the pumping costs for both Bayou Basin and the St. John's Project, we ask that you provide a more explicit explanation of who will pay those costs in your economic analysis of both projects.
  7. Please provide an explanation for why the pumps for Bayou Basin have been downsized in the current proposal relative to past proposals. In addition, please provide an analysis of how those pumps at 1000 cfps, substantially smaller than those maintained in the spillway (which are 1500 cfps) will be adequate to drain the water from Bayou Basin.
  8. On pages 46-47, the DEIS states:

*“For the winter period (i.e., 15 November to 28/29 February), flood waters would naturally inundate the New Madrid Floodway to a maximum flood elevation objective [sic] of 289.5 feet (MS 115 = 34 feet). This elevation is approximately 0.5 feet below flood stage, which corresponds to the elevation of area roads. Therefore, roads would remain open. During this period, the proposed gravity outlet structure would be closed at an elevation of 288 feet (MS 115 = 32.5 feet). Pumps would be turned on when the interior sump elevation reached 289.5 feet. Pumps would be turned off at an interior sump elevation of 288.5 feet. In the event that the Mississippi River elevation fell below the interior sump elevation, pumps would be turned off and gates would be opened to allow for gravity drainage.*

*“During waterfowl season (i.e., 1 December – 31 January), gates would be closed to impound interior runoff. However, dependent on river stages, flood waters would still be allowed to inundate the Floodway up to an elevation of 289.5 feet (MS-115 = 34 feet).”*

This suggests to us that you intend to flood the spillway during the winter months on a regular basis. Please explain how this will, once again, protect farming operations particularly given that there is often winter wheat in the fields you intend to have inundated.

Recently the US Supreme Court decided in a case, *Arkansas Game and Fish v. US* (568 U.S. \_\_\_\_), that the federal government is not automatically immune when it repetitively floods an area and causes economic losses. Please explain how your plan avoids any liability for economic losses induced by repetitive flooding, particularly if farmers in the area sustain crop losses as a result. Do you plan to compensate for crop losses that occur when you flood the area in order to preserve endangered species habitat?

9. Throughout the EIS there are references to lands being returned to their “natural state”. Please answer the following questions:

- Indicate in the EIS how you have determined what flora and fauna were on the lands prior to the building of the spillway and the settlement of the lands by farmers and other landowners who developed the area in the 19<sup>th</sup> century. Please make *specific reference* to the *areas you intend to “return to their natural state”* and not simply refer to the entire area of Mississippi and New Madrid County. The area has, historically, had some marked differences and we would like to see a clearer explanation for what you propose to do in specific locations.
- How will you acquire the lands that will be returned to their natural state? You indicate on p. 250 that L. Bock of the St. John’s Levee and Drainage District has previously identified willing sellers. How will you pay for this? What are the current market values of the specific lands you intend to use? What is the proposed budget for purchasing privately owned land? If the owners of the land prove unwilling to sell, how will you proceed?

10. In addition to these issues, we are well aware of the important role the Birds Point New Madrid floodway plays in the flood control system along the Mississippi River. Please provide a more detailed explanation of how the floodway will be operated with the Bayou Basin and St. Johns Project in place. Such operations have dramatic environmental consequences not only to the land but also to the Mississippi River. We would like to have a better idea of what you perceive those consequences and impacts to be, and how they comport with scope of this project, i.e., to reduce flood risk in southeast Missouri.

Once again, we thank you for the opportunity to ask questions and express our concerns about this project. Please let us know if you have any questions or need us to clarify any of our concerns.

Sincerely,



John D. Story  
President