



UNITED FOR A HEALTHY GULF

541 Julia Street, Suite 300, New Orleans, LA 70130
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9 December, 2014

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RE: Final Objection to SYK-MVK-2012-1240 Dam and Artificial Lake in Washington Parish with no specified purpose
AI# 194614

Dear Ms. Koepfel and Ms. Johnson,

I am writing on behalf of the Gulf Restoration Network (GRN), a diverse coalition of individual citizens and local, regional, and national organizations committed to uniting and empowering people to protect and restore the resources of the Gulf of Mexico. We have serious concerns about the application for a Section 404 permit (**MVN SYK-MVK-2012-1240**) submitted to the U.S. Army Corps of Engineers ("Corps"), and a Water Quality Certification (**AI # 194614**) submitted to the Louisiana Department of Environmental Quality ("LDEQ") by Huey Pierce c/o Randy Denmon.

Ignoring strenuous objections in years past, Huey Pierce is requesting a Section 404 permit for the construction of a dam within Washington Parish, LA, on behalf of the Washington Parish Reservoir Commission. The proposed project site would flood more than 3200 acres, of which many are residences, historic properties, and habitat for the **Gulf Sturgeon, Gopher Tortoise, and Louisiana Black Bear**; more than 1000 acres are wetland forest. We object to the issuance of this permit outright.

We hereby incorporate the previous comments to the scoping meetings of 2008 by reference. We hereby incorporate the January 2015 comments of the Sierra Club Delta Chapter, the Audubon Council, and the Nature Conservancy by reference.

We object to this application proceeding any further, until comments from years previous, concerning the project, are addressed.



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The Applicant has willfully stated that “the appropriate level of NEPA documentation has not yet been determined.” We feel this is disrespectful to the previous work and decisions of the Vicksburg District.

Due to the lack of acknowledgement of previous comments, this permit application should be denied outright.

Because previous comments from 2008 have not been acknowledged, much less addressed in the public notice, we feel that we may be commenting to no purpose in 2015.

Nevertheless, we remind the Reservoir District and the LDEQ of their duties under Louisiana Article IX:

§1. Natural Resources and Environment; Public Policy

Section 1. The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people. The legislature shall enact laws to implement this policy.

We remind the Reservoir District of the language of the incorporating statute:¹

§3087.191. Creation

There is hereby created a recreation and water conservation and reservoir district to be known as the "Washington Parish Reservoir District" for the purpose of creating, maintaining, and operating a single reservoir in Washington Parish as provided in this Part. For purposes of this Part, the term "reservoir" shall mean and include only a single lake or reservoir that has been created by the district or which the district has proposed to create in Washington Parish.

And the actions of the District must somehow thread the needle of these directives. We hope our comments can provide direction for the scope of an EIS for such a project, which is not currently contemplated by the applicant.

Given the previous decision of significant impact, this project should at least require an EIS and public hearings in locations convenient to the displaced residents.

The GRN opposes Huey Pierce’s request for a Section 404 permit and Water Quality Certification, and we ask that the Corps and LDEQ deny this request based on the following concerns:

¹ SENATE BILL NO. 278 BY SENATOR NEVERS AND REPRESENTATIVES RITCHIE AND STRAIN
<http://www.legis.la.gov/legis/ViewDocument.aspx?d=319043>



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Lack of project purpose

A project purpose is essential to the completeness of any such application. In order for the Corps and DEQ to make a decision in line with their public duties, the proposal to destroy wetlands and waters must have clearly defined economic benefits—Jobs numbers, average salaries, and property value projections.

The defining purpose of the Reservoir District is “recreation and water conservation.”²

The stated purpose of the application of Huey Pierce is “to provide additional supplies of potable and non-potable water, recharge underlying aquifers, provide recreation areas and economic development opportunities, and provide storage of flood waters that can be available for use during droughts.”

Furthermore, the applicant states that the water will have multiple uses, including “sustaining human life and the life of domestic animals; agricultural and industrial uses, which means processes designed to convert materials of lower value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric; mining and recovery of minerals; recreation and pleasure; prevention of salt water intrusion and other beneficial uses.”

The defining purpose of the Reservoir District and the statements of the applicant do not align. Given that there are many methods of attaining recreation and water conservation that allow the protection, conservation, and replenishment of the natural resources of the state, we request that the Reservoir District develop an alternative that allows its defining purpose to align with the Louisiana Constitution.

Infiltration galleries, or “Ranney Wells,” are an example of one engineering strategy for water conservation that can avoid the impacts proposed by the applicant. *We request that the applicant develop a “Horizontal Collection” alternative to the surface reservoir.*

The State of Louisiana has a Scenic Rivers program to promote recreation upon its waters. *If recreation is the project purpose, then an alternative of protection, conservation, and replenishment of Washington Parish’s Scenic Rivers, like the West Pearl, Pushepatapa Creek, and Bogue Chitto, must be developed.*

² SENATE BILL NO. 278 BY SENATOR NEVERS AND REPRESENTATIVES RITCHIE AND STRAIN
<http://www.legis.la.gov/legis/ViewDocument.aspx?d=319043>



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We request that the Reservoir District withdraw its application and develop a recreation and water conservation project that allows for the protection, conservation, and replenishment of the natural resources of the state including air and water, and the healthful, scenic, historic, and esthetic quality of the environment.

If the purpose of the Reservoir District has been changed to economic development, we object, but even the economic benefits of the sale of water out of Washington Parish, which seems contradictory to the District's mission, must be explicitly stated and shown. If the project purpose is industrial water use, those economic benefits must be stated and shown so that the Corps and LDEQ can weigh the benefits against the serious impacts of the proposed project.

If the project has many purposes, the order of priority must be explained with an operational plan. Industrial water extraction obviously conflicts with the recreational and conservation purposes. The proper procedure would have been to produce a NOI to prepare an EIS, with a scoping comment period to evaluate the array of alternatives available, as was done previously.³

We question why the applicant has hidden the previous decisions regarding this project from public notice. The application states that "the appropriate level of NEPA documentation has not yet been determined." This statement contradicts a previous finding⁴. The impacts of this project have only increased, and become more significant, with time.

The applicant states that there is a need for aquifer recharge in the 2,800 foot sands, due to extractive use by local industry. The applicant has failed to describe how this dam achieves aquifer recharge for the 2,800 foot sands. The applicant has failed to summarize any operational plan that will ensure water conservation will be achieved despite extraction of reservoir water for industrial uses.

We ask the Corps and LDEQ for the opinion of USGS as to the location of the recharge area for the 2,800 foot sands beneath Washington Parish.

³ Notice of Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Potable Water Supply for Washington Parish Reservoir, Project Federal Register / Vol. 73, No. 61 / Friday, March 28, 2008
<http://www.spk.usace.army.mil/Portals/12/documents/regulatory/eis/200601050-NOI-fed-reg.pdf>

⁴ Letter from Anthony C Vesay, Colonel, Corps of Engineers, June 19th, 2007 to Mr Randy A Denmon.



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If we accept the changes to the Reservoir District's purpose as proposed, the current application is woefully incomplete. A new application, outlining the priority project purpose, operational plan, and mitigation plan, is the bare minimum required for the public to comment with any amount of substance on impacts to endangered species impacts to water supply, impacts to historic resources, impacts to persons living in the basin to be flooded, recreational plans, alternatives, and nearly every subject category that the Corps is requesting comment upon.

A new notice of intent to prepare an EIS should be prepared, with an array of horizontal collection and conservation-based alternatives, including a "no-action" alternative. All related documents, including the 2005 site selection study, the preliminary engineering report, the previous finding of potential significant impacts, the 2009 cultural resources survey, and the full transcript of the previous Bogalusa hearing on the Vicksburg Corps website. These documents are public and must be presented to the public.

We request public hearings in Bogalusa and Slidell in preparation of an EIS, based on the previous finding of significant environmental impact by the Vicksburg Corps, and significant public interest in the matter previously.



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Furthermore, we feel that the permit must be denied for the following reasons:

1. Lack of water dependence for many of the listed and conflicting purposes

The Corps should deny the permit, according to federal regulations.

2. Lack of analysis of foreseeable secondary impacts to wetlands

According to the current application, state and local roads must be relocated. Relocation of these roads will likely cause additional wetland impacts that are not listed or even contemplated in the application.

Indirect and Secondary impacts are elided from the application. The application is not complete. The Corps and LDEQ must deny the Permit.

3. Abysmal lack of mitigation plan

The applicant is aware of the pressing need for wetlands in the state of Louisiana. The defining purpose of the Reservoir District is recreation and water conservation. Toward this end, avoidance, minimization, mitigation of wetland impacts would seem to be required by the purpose of the Reservoir District, not to mention federal regulations. There are a lack of mitigation options on RIBITS, for this watershed. We question whether the elimination of an entire river, one that provides water for industrial use in Bogalusa,

The application is incomplete without a specific mitigation plan, especially in light of the lack of mitigation banking options in the watershed.

4. The previous analysis and hearing on this project must not be hidden from the public and agencies during the project review period.

We object to the willful disregard of the public's concerns regarding this project. The Corps must require the applicant to provide a written response to the concerns of the previous project.

LDEQ, as a resource agency in the state of Louisiana, must require the applicant to answer the "IT Questions" in regard to this project. Previous comments made in 2008 must be addressed in a substantial manner by the applicant.



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5. We object to the use of potable water for hydraulic fracturing.

Representatives of the Oil and Gas industry (LOGA) have stated that potable water sources will not be used for hydraulic fracturing “at all cost.”⁵

Hydraulic fracturing is an extremely wasteful method of drilling that was once tightly regulated. The process for the Tuscaloosa Marine Shale seems especially wasteful, and uses many millions of gallons of water—TMS operators have proposed up to 12 million gallons for one well⁶. Much, or all, of this water must be disposed of using deep well injection, creating additional threats to the Southern Hills Aquifer, as each well casing is drilled through the sole potable water source.

The Reservoir District cannot extract water for hydraulic fracturing from the water cycle and follow its stated purpose of water conservation for the Southern Hills Aquifer. The Reservoir District cannot extract water for hydraulic fracturing from the water cycle and follow the Louisiana Constitution Article IX.

LDEQ cannot follow its constitutional duties according to Article IX and the Save Ourselves decision without a full analysis of the potential benefits and costs of developing a reservoir for hydraulic fracturing.

We request that the restrictions on this water from use for hydraulic fracturing be written as enforceable conditions of any permit issued for this project.

6. Enormity of the impacts to wetlands, water, and wildlife, in the basin and downstream

Data provided by the Louisiana Department of Wildlife & Fisheries (LDWF) identified a number of freshwater fish species of concern that are known to occur in Washington and St Tammany Parishes. Of these 11 species, 9 are bottom-oriented species which make them directly susceptible to habitat alteration and modification of sediment supply typically associated with dam construction.

The report also lists several species of freshwater mussels as inhabiting one tributary creek within the proposed project site. The mussel and fish species are imperiled due to habitat alteration and loss in other parts of their range, thus should be considered sensitive to drastic changes in habitat in the region of the proposed reservoir as well. Construction of the proposed reservoir will flood numerous small tributaries and headwaters, which are preferred habitats required for maintenance of viable populations of these species.

⁵ Statement of Don Briggs to Society of Environmental Journalists, 24th Annual Conference, Sept 4th, 2014.

⁶ LDWF Scenic Rivers applications 902, 906, and others



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Construction of the dam will alter sediment delivery to downstream reaches of Boga Lusa Creek as well as prevent migratory behaviors of fishes. Interruption of sediment supply will degrade or eliminate critical downstream habitats.

The physical barrier caused by the dam will limit movement of migratory and other highly mobile fish species, which affects productivity of a river's fisheries by eliminating migration routes to spawning habitat and other essential fish behaviors.

Flow alteration effects of the proposed project could pose serious locally significant impacts to downstream wildlife and fisheries in the Bottomland Forest complex of the adjacent West Pearl River, a Scenic River and Outstanding Natural Resource Water.

While the full impacts of the proposed project on downstream floodplain and in-channel wildlife communities cannot be assessed at this time, GRN strongly urges a thorough and complete analysis of such aspects of this project before it is approved

In their letters of October 11, 2004 and March 27, 2006 (attached) to the U.S. Army Corps of Engineers, the LDWF provided a list of rare, threatened and endangered species anticipated to be significantly impacted by the proposed water supply reservoir.

As GRN's mission is to unite and empower the people of the Gulf Coast to protect our natural resources, we concur with the concerns and issues raised in those letters and request they be included in the scoping process.



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Summary

In conclusion, representatives of the Reservoir District have had a decade to align their purpose with the Louisiana Constitution and federal regulations; this application represents the continuing refusal to consider both engineering solutions and conservation alternatives that would align their recreation and water conservation purpose with the state Constitution and regulations.

The Corps must take the mandates of the Clean Water Act and related federal regulations seriously. LDEQ must take its duties under the Constitution Article IX and the Save Our Selves decision seriously, and request for an array of recreation and water conservation alternatives from the applicant.

The applicant has contradicted previous statements from the Vicksburg Corps, has not been clear about the project purpose, has not shown that several of the listed, contradictory purposes are water-dependent, has not shown a lack of practicable alternatives, has not assessed any type of impacts, and has only vaguely described any plan for compensatory mitigation. The applicant has omitted many of the previous concerns and discussion in its application, including the Vicksburg Corps' previous determination of significant impact. We feel this is behavior unbecoming of a public body. We request denial of this permit.

In order to keep us and the public properly informed, we request notification of approvals/denials/changes to the Section 404 permit and Water Quality Certification request, as well as an Environmental Assessment that quantitatively evaluates direct, indirect, secondary, and cumulative impacts.

We look forward to a written response.

For a healthy Gulf,
[sent via e-mail]

A handwritten signature in black ink, appearing to read "Scott Eustis".

Scott Eustis, M.S., Coastal Wetland Specialist

Cc: Matt Rota, Water Resources Program Director
Michelle Hall, Tulane Environmental Law Clinic
Raul Gutierrez, U.S. EPA, Region 6