St. Bernard Parish Government

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4227 Fax (504) 278-4330
www.sbpg.net

**Guy McInnis**
***Parish President***

August 12, 2020

Mr. Brad Laborde
United States Army Corps of Engineers
New Orleans District
Attn: CEMVN–ODR–E
7400 Leake Avenue
New Orleans, Louisiana 70118

Re: Environmental Impact Statement for #MVN-2018-1120-EOO (Mid-Breton Sediment Diversion)

Dear Mr. Laborde:

St. Bernard Parish Government (SBPG) concurs with the United States Army Corps of Engineers (USACE) that the referenced project may "significantly impact the quality of the human environment" (USACE, 2020, p. 1). Please see the below comments, questions, and concerns from SBPG regarding *potentially significant issues* that should be taken into consideration during the upcoming Environmental Impact Statement (EIS) process.

1. ***SBPG is concerned that the operational regime is too ambiguous and has not been properly vetted by critical stakeholder groups***. The maximum discharge listed in the permit application is 75,000 CFS (USACE, 2019a, p. 2). Additionally, the maximum baseline flowrate is listed as 5,000 CFS and the "trigger" Mississippi River flowrate for opening the diversion at maximum capacity is listed as 450,000 CFS. However, the flowrates included in the Coastal Protection and Restoration Authority (CPRA) *Comprehensive Plan for a Sustainable Coast* (2017 State Master Plan) and adopted by the State Legislature were as follows: 35,000 CFS (maximum discharge); 2,500 CFS (baseline flowrate); and 600,000 CFS (maximum capacity trigger flowrate). The changes made in the permit application represent a significant increase in proposed cumulative discharge. Such changes (and associated projected increase in adverse impacts to the natural and human environment) have not been properly vetted by critical stakeholder groups.

2. ***SBPG is concerned that the operational regime will continue to evolve in a manner that exacerbates adverse impacts over time***. The gradual depletion of the Mississippi River sediment budget and CPRA's stated commitment to *adaptive management* may eventually result in the agency making substantial adjustments to the operational regime of the proposed project. CPRA has made similar adjustments to the operational regime of other diversion projects (such as the Caernarvon freshwater diversion) for decades, adversely impacting local fisheries while providing virtually no recourse for impacted stakeholder groups. SBPG is concerned that any initial required compensatory mitigation effort will fail to address future adverse impacts resulting from adaptive management and changes to the operational regime.

3. ***SBPG is concerned that nutrients and contaminants will adversely impact water quality throughout the Breton Basin***. The proposed project "would convey sediment, water, and nutrients into the Mid-Breton Basin…" (USACE, 2019a, p. 2). Such discharges will undoubtedly result in adverse impacts to aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, and water quality. The recent *Gulf of Mexico Freshwater Flooding in Louisiana, Mississippi, and Alabama* federal fishery disaster (declared in October 2019) adversely impacted water quality and caused over $500 million in economic damage throughout the northern Gulf Coast region.

4. ***SBPG is interested in learning more about the sediment-to-water ratio being delivered and how the proposed project is expected to perform compared to alternative methods of sediment delivery***. SBPG, CPRA, and other stakeholders have successfully engaged in largescale coastal restoration activities via dredging and the use of sediment pipelines. Diverting the Mississippi River for the purpose of delivering sediment will likely be less efficient and cost-effective compared to other proven methods of sediment delivery. Additionally, the drastic changes in salinity resulting from the proposed project will undoubtedly have adverse impacts to aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, and water quality throughout the Breton Basin.

5. ***SBPG is concerned that the land-building capacity of the proposed project is overstated and that the project will likely cause land loss and increase flood risk***. The permit application describes the purpose of the proposed project as being "an attempt to reduce coastal land loss and sustain surrounding wetlands" (USACE, 2019a, p. 1). However, the gradual depletion of the Mississippi River sediment budget has been well documented and increased periods of inundation have been found to adversely impact existing vegetation and contribute to land loss. Consequently, the Expert Panel on Diversion Planning and Implementation (convened by the Water Institute of the Gulf) previously expressed concerns regarding the possibility of the project causing land loss during at least the first ten years of operation (http://www.coastal.louisiana.gov/diversion-resources/).

6. ***SBPG is concerned that the natural and human environment (including the local economy) cannot sustain the further loss of productive habitat.*** It has been estimated that the proposed project would adversely impact approximately 7,500 acres of jurisdictional wetlands and waters (USACE, 2019a, p. 2). However, given the ambiguity of the proposed operational regime and potential for future adjustments (adaptive management), the number of estimated acres impacted seems understated. A modeling report recently commissioned by the USACE Engineer Research and Development Center (ERDC) concluded that:

> [...] diversion-induced inundation results in a reduction in plant productivity, which induces an acceleration of land loss. Significant uncertainty exists with respect to the response of the existing wetland vegetation to diversion-induced inundation. (Brown et al., 2019, p. iii)

Such findings illustrate the potential for cascading adverse impacts throughout the Breton Basin and highlight the level of risk and uncertainty surrounding the proposed project.

7. ***SBPG is concerned that an additional source of freshwater entering the Breton Basin will place southeast Louisiana in a constant state of environmental and economic crisis that exceeds federal, state, and local capacity and resources.*** Acute influxes of freshwater from the Bonnet Carre' Spillway and the persistent flow of freshwater from Mardi Gras Pass (MGP) and other crevasses on the east bank of the Mississippi River already pose serious threats to the sustainability of aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, and water quality in the Breton Basin. The adverse impacts associated with these sources of freshwater have been well documented. Prior to 2008, the Bonnet Carre' Spillway had only been opened eight times (1937, 1945, 1950, 1973, 1975, 1979, 1983, and 1997) (USACE, 2019b). The spillway has since been opened six times, including an unprecedented two openings for a record number of days (123) in 2019 (USACE, 2019b).

The 2019 Bonnet Carre' Spillway openings severely impacted fish and wildlife and caused harmful algae blooms throughout the northern Gulf Coast region. In June 2019, the governors of Louisiana, Mississippi and Alabama formally requested a federal fishery disaster declaration from the United States Secretary of Commerce. The Secretary granted the request (Gulf of Mexico Freshwater Flooding in Louisiana, Mississippi, and Alabama) in October 2019 (National Oceanic and Atmospheric Administration, 2019a).

The State of Louisiana has estimated that at least $258,462,169 in economic damages occurred as a result of the federal fishery disaster. This preliminary assessment is based on biological samples, trip ticket data, and industry surveys, but does not include the residual economic losses that will occur during subsequent years. For example: the *eastern oyster*, an immobile shellfish that depends upon ideal salinity, will likely take three years to recover. Other commercially significant fisheries that were impacted include shrimp, crabs, and finfish. Finally, the *bottlenose dolphin*, an ecologically significant and freshwater-sensitive species, became the subject of an ongoing National Oceanic and Atmospheric Administration (NOAA) *unusual mortality event* on the

northern Gulf Coast during the federal fishery disaster (NOAA, 2019b). The cumulative preliminary economic damage estimates in the three impacted states (LA, MS, AL) have now exceeded $500 million. However, Congress only approved $88,301,898 in recovery funds and as of this writing, zero disaster relief had been administered to impacted stakeholder groups.

According to the United States Global Change Research Program's (2018) *Fourth National Climate Assessment*, "the severity of compound events—the coupling of surge, discharge from rivers, and heavy precipitation—has increased…" and "warmer air temperatures have increased the probability of heavy precipitation events…" in the United States (329). The frequency and duration of Mississippi River flood events and Bonnet Carre' Spillway openings are therefore expected to increase going forward. This prospect alone threatens the ecological and economic sustainability of southeast Louisiana.

Compounding matters, the Bohemia Spillway and MGP *Hydrocoast* program monitors indicated that the Mississippi River was discharging into local waterways at a rate of approximately 45,000 CFS as of June 2019 (Lake Pontchartrain Basin Foundation, 2019). Consequently, the influence of the river at MGP has drastically reduced salinity in local waterways and devastated oyster productivity in once prolific harvest areas such as Black Bay. The ongoing adverse impacts associated with influxes of freshwater into the Breton Basin have already exceeded federal, state, and local capacity and resources, as evidenced by the stalled 2019 federal fishery disaster recovery. The persistent threat of similar events exists absent the existence of the proposed project.

8. ***SBPG is concerned that the proposed project poses an existential threat to dolphins in the Breton Basin***. The USACE has identified the *West India manatee* as a marine mammal that is "not likely" to be adversely impacted by the proposed project (USACE, 2019a, p. 4). Congress also recently waived the Marine Mammal Protection Act (MMPA) in order to exclude adverse impacts on the bottlenose dolphin from consideration during the permitting process. This decision was made in 2018 based on an earlier version of the operational regime that is substantially different from what was ultimately included in the CPRA's permit application (please refer to #1 above).

   SBPG urges the USACE to request that the applicant provide an analysis of anticipated adverse impacts to the bottlenose dolphin in order to better inform Congress and the public regarding the impacts of largescale sediment diversions on marine mammals. Additionally, SBPG urges the USACE to request that Congress reconsider the 2018 MMPA waiver based on the operational regime included in CPRA's permit application and a wide range of potential future adaptive management scenarios.

9. ***SBPG is concerned that the proposed project will damage or destroy the very natural resources and economic functions that federal, state, and local officials have been tasked with restoring in the aftermath of the Deepwater Horizon event***. The USACE has stated that the "destruction or alteration" of at least 7,530 acres of Essential Fish Habitat (EFH) may occur as a result of the proposed project (USACE, 2019a, p. 4).

Additionally, the USACE identified six Federally listed endangered or threatened species "that the proposed project could impact" (USACE, 2019a, p. 4). Other species that are likely to be impacted include: *white* and *brown shrimp*; *red drum*; *dog snapper*; *lane snapper*; *grey snapper*; *bonnet heat shark*; *Atlantic sharpnose shark*; *blacknose shark*; *American Oyster*; *Atlantic croaker*; *Gulf Menhaden*; *Spotted Seatrout*; *Sand Seatrout*; *Black Drum*, *Southern Flounder*; *Blue Crab*; *Striped Mullet*; and *mackerel*.

In Louisiana, coastal communities and the seafood industry are closely intertwined. Commercial oyster, shrimp, and crab fisheries in the state have a combined annual economic impact of approximately $2 billion and account for over 22,000 jobs (State of Louisiana, 2019). The economic functionality of Louisiana's seafood industry also has national implications. Over 890 million pounds of seafood were landed in Louisiana during 2017 (second only to Alaska) (National Marine Fisheries Service, 2018). The state is responsible for producing 70% of all oysters and 40% of all blue crabs in the United States (State of Louisiana, 2019), and 25% of all seafood consumed in the country is harvested from Louisiana (Jones, 2015).

Although the commercial finfish industry in southeast Louisiana is relatively small compared to other coastal regions, recreational fishing is a critical component of the local economy. Please refer to the below regional recreational license data summary.

*Summary of Recreational Licenses in the Pontchartrain Basin, 2017* (Source: LDWF)

| | Total Licenses | Basic Fish/Salt | Crb/Shr/Oys |
|---|---|---|---|
| *Jefferson* | 63,281 | 51,449 | 1,125 |
| *Orleans* | 25,691 | 20,101 | 319 |
| *St. Bernard* | 7,999 | 6,771 | 129 |
| *St. Charles* | 11,884 | 9,907 | 288 |
| *St. Tammany* | 49,349 | 38,928 | 1,073 |
| *Tangipahoa* | 21,402 | 17,049 | 410 |
| **TOTAL:** | **179,606** | **144,205** | **3,344** |

Like recreational fishing, the charter fishing industry is a critical component of the local economy. Please refer to the below regional charter fishing license data summary.

*Summary of Charter Fishing Licenses in the Pontchartrain Basin, 2017* (Source: LDWF)

| | Charter 6 | Charter 6+ |
|---|---|---|
| *Jefferson* | 202 | 3 |
| *Orleans* | 34 | 0 |
| *St. Bernard* | 24 | 0 |
| *St. Charles* | 20 | 1 |
| *St. Tammany* | 81 | 0 |
| *Tangipahoa* | 11 | 0 |
| **TOTAL:** | **372** | **4** |

One of the stated purposes of the proposed project is to "create, preserve, restore, and sustain wetlands to counteract the effects of natural and man-made disturbances, such as the Deepwater Horizon oil spill" (USACE, 2020). SBPG finds the destruction or alteration of thousands of acres of EFH that support the aforementioned ecologically and economically significant species to be counterproductive. Furthermore, as described above (please refer to #7), the commercial and recreational fishing industries have yet to recover from other natural and anthropogenic disturbances that have occurred since the Deepwater Horizon event, including the 2019 federal fishery disaster.

10. ***SBPG is concerned that properly mitigating the adverse impacts associated with the proposed project is not feasible and that litigation may cause CPRA and other stakeholder groups to exhaust valuable time and resources***. The proposed project will adversely impact over 100,000 acres of State of Louisiana water bottoms currently being leased by commercial oyster harvesters. The USACE "requires compensatory mitigation to offset unavoidable impacts to jurisdictional wetlands and other aquatic resources" (USACE, 2020). The process by which the State of Louisiana acquires oyster leases and compensates harvesters is outlined in the *Oyster Lease Acquisition and Compensation Program* (OLACP) (LA Revised Statute 56:432.1).

    Historically, the OLACP has only been invoked to acquire approximately 4,000 acres of oyster leases over a period of fifteen years. In such instances, the cost of each biological assessment ranged from $25,000 to $300,000 and the cost of each lease appraisal ranged from $17,000 to $70,000. The State of Louisiana has historically compensated leaseholders at a rate of $50 to $100 per acre (CPRA Board Presentation, 7/15/20). Fairly compensating thousands of impacted oyster harvesters in the manner described above seems infeasible given the amount of time and resources involved. This will likely precipitate a prolonged litigation process that is detrimental to all parties.

11. ***SBPG is concerned that the proposed project may do irreparable harm to cultural resources, employment and income, property values, tax revenue, community cohesion, and recreation in eastern St. Bernard Parish***. St. Bernard Parish is home to thriving commercial and recreational fishing industries and is proud of its many historic fishing communities, including: Delacroix, Reggio, Woodlake, Yscloskey, Hopedale, and Shell Beach. St. Bernard Parish was subjected to the worst natural disaster in US history (Hurricane Katrina, 2005) and the worst human-caused environmental catastrophe in US history (Deepwater Horizon event, 2010) in a matter of five years. The aforementioned fishing communities were particularly devastated during both events and continue to recover. SBPG is concerned that the risk and uncertainty associated with the proposed project now pose existential threats to cultural resources, employment and income, property values, tax revenue, community cohesion, and recreation in communities that have existed in coastal St. Bernard Parish since the 18$^{th}$ century. Consequently, the St. Bernard Parish Council has passed a number of resolutions since 2008 confirming the parish's firm stance against largescale sediment diversions.

12. ***SBPG is concerned that the proposed project may disproportionately impact cultural resources, employment and income, property values, tax revenue, community cohesion, and recreation among minorities, those living in poverty, and minority- and woman-owned businesses***. St. Bernard Parish has a population of 47,244. The parish has become increasingly diverse since Hurricane Katrina (2005), with 24% of the population now identifying as Black or African-American and 10% identifying as Hispanic or Latino. Unfortunately, more than 20% of the parish's population was living in poverty as of 2019. St. Bernard is also home to a thriving business community that relies on natural resources and related industries. The parish is proud to have 1,217 minority-owned firms and 1,200 woman-owned firms among its 3,665 businesses. (United States Census Bureau, 2019)

13. ***SBPG would like the EIS to address the legacy of environmental and economic harm inflicted on St. Bernard Parish as the result of failed public infrastructure projects and other government interventions***. St. Bernard Parish has been subjected to a century of failed public infrastructure projects and other government interventions that resulted in significant adverse environmental and economic impacts: a) the *Crevasse* (1927); b) construction of the Mississippi River Gulf Outlet (1956); c) levee failures during Hurricane Betsy (1965); d) the Caernarvon freshwater diversion (1991); and e) levee failures during Hurricane Katrina (2005). In each instance, stakeholder groups were never fully compensated for their losses. Consequently, St. Bernard Parish residents are very skeptical of largescale infrastructure projects that involve a high degree of risk and uncertainty.

A references page has been included on page 8. Thank you for your time and consideration.

Sincerely,

Guy McInnis
Parish President
St. Bernard Parish Government

## References


Brown, G. L., McAlpin, J. N., Pevey, K. C., & Luong, P. V. (2019). Mississippi River Hydrodynamic and Delta Management Study: Delta Management Modeling. Retrieved from https://erdc-library.erdc.dren.mil/jspui/bitstream/11681/32446/1/ERDC-CHL%20TR-19-2.pdf

Jones, S. (2015). Top 5 Industries in Louisiana: Which Parts of the Economy Are Strongest? Retrieved from https://www.newsmax.com/FastFeatures/industries-louisiana-economy/2015/04/08/id/637289/

Lake Pontchartrain Basin Foundation. (2019). Pontchartrain Basin Hydrocoast Maps. Retrieved from https://saveourlake.org/lpbf-programs/coastal/hydrocoast-maps/pontchartrain-basin/

LDWF. (2016). 2016 Oyster Stock Assessment of the Public Oyster Areas of Louisiana. Retrieved from http://www.wlf.louisiana.gov/sites/default/files/pdf/page/37756-stock-assessments/2016oysterstockassessment.pdf

National Marine Fisheries Service. (2018). Fisheries of the United States, 2017. Retrieved from https://www.fisheries.noaa.gov/feature-story/ fisheries-united-states-2017

NOAA. (2017a). Magnuson-Stevens Fishery Conservation and Management Act. Retrieved from https://www.fisheries.noaa.gov/resource/document/magnusonstevens-fishery-conservation-and-management-act

NOAA. (2017b). Frequent Questions—Fishery Disaster Assistance. Retrieved from https://www.fisheries.noaa.gov/insight/frequent-questions-fishery-disasterassistance

NOAA. (2019a). Fishery Disaster Determinations. Retrieved from https://www.fisheries.noaa.gov/national/funding-and-financial-services/fisherydisaster-determinations

NOAA. (2019b). Marine Mammal Unusual Mortality Events. Retrieved from https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-unusual-mortality-events

State of Louisiana. (2019). Louisiana Seafood. Retrieved from https://www.louisianaseafood.com/industry

United States Census Bureau. (2019). Quickfacts: St. Bernard Parish, Louisiana. Retrieved from https://www.census.gov/quickfacts/stbernardparishlouisiana

United States Global Change Research Program. (2018). Fourth National Climate Assessment. Retrieved from https://www.globalchange.gov/nca4

USACE. (2019a). Joint Public Notice for the Mid-Breton Diversion Permit Application. Retrieved from https://www.mvn.usace.army.mil/Portals/56/docs/regulatory/publicnotices/2018_01120_PNall.pdf?ver=2019-03-18-181511-553

USACE. (2019b). Spillway Operation Information. Retrieved from https://www.mvn.usace.army.mil/Missions/Mississippi-River-Flood-Control/Bonnet-Carre-Spillway-Overview/Spillway-Operation-Information/

USACE. (2020). Joint Public Notice for the Mid-Breton Diversion EIS. Retrieved from https://www.mvn.usace.army.mil/Missions/Regulatory/Permits/Mid-Breton-Sediment-Diversion-EIS/