

American Rivers * American Sportsmen Against Poachers * America's WETLAND Foundation
Atchafalaya Basinkeeper * Audubon Louisiana * Audubon Mississippi
Backcountry Hunters & Anglers * Baton Rouge Audubon Society * Capital City Kayaks
Coalition to Restore Coastal Louisiana* Coast Group of the Mississippi Chapter of the Sierra Club
Collins & Associates * Commission on Stewardship of the Environment * Crystal Seas Oysters
Delta Chapter of the Sierra Club * Dr. Wagner's Honey Island Swamp Tours
East Ascension Sportsman's League * Environmental Defense Fund * Florida Wildlife Federation
Friends of Black Bayou, Inc. * Great Egg Harbor Watershed Association
Gulf Islands Conservancy, Inc. * Gulf Restoration Network
Historic Ocean Springs Saltwater Fly Fishing Club * Holy Cross Neighborhood Association
Honey Island Kayak Tours * Jackson Audubon Society * Kentucky Resources Council
Land Trust for Louisiana * League of Women Voters – Jackson Area * Levees.org
Lost Lands Tours, LLC * Louisiana Audubon Council * Louisiana Interchurch Conference
Louisiana Wildlife Federation * Minnesota Division Izaak Walton League of America
Mississippi Chapter of the Sierra Club * Mississippi Commercial Fisheries United
Mississippi Wildlife Federation * National Audubon Society * National Wildlife Federation
New Orleans Chamber of Commerce * New Orleans Group of the Sierra Club
North Gulfport Community Land Trust * On Wings of Care, Inc. * Orleans Audubon Society
Pearl River Eco-Tours * Pearl Riverkeeper * Rapides Wildlife Association
South Mississippi Kayak Club * SouthWings, LLC
The Center for Sustainable Engagement and Development * The Episcopal Diocese of Louisiana
Tierra Resources LLC * Town of Abita Springs * Wayfarer Environmental Technologies, LLC

September 5, 2018

Via Email and U.S. Mail

Board of Directors
Rankin-Hinds Pearl River Flood & Drainage Control District
P.O. Box 320790
Flowood, MS 39232

**Re: Integrated Draft Feasibility and Environmental Impact Statement; Pearl River Basin, MS,
Federal Flood Risk Management Project, Hinds and Rankin Counties, MS**

Dear Board of Directors,

The 56 undersigned businesses, and organizations representing millions of members and supporters from across the country, write to express our pledge to protect the Pearl River by objecting to an ill-conceived, destructive civil works project locally known as “One Lake”. Several of these organizations will also be submitting additional comments on the project.

This current proposal involves dredging and widening 10-miles of the Pearl River and building a dam to create a 1,900-acre lake under the guise of providing dubious flood control benefits for the metropolitan

area of Jackson, Mississippi. This project poses serious threats to the ecology of Mississippi, Louisiana, and the Gulf of Mexico as well as to local and downstream communities and the region's economy.

We express our staunch opposition to this proposal as part of the public review and comment period underway for the Integrated Draft Feasibility Study and Environmental Impact Statement (DEIS) for this project, which is formally known as the Pearl River Basin, Mississippi, Federal Flood Risk Management Project, Hinds and Rankin Counties, MS. As the local sponsor, the Rankin-Hinds Pearl River Flood and Drainage Control District (Drainage District) has selected One Lake as its preferred alternative, as reflected in the DEIS.

The DEIS is fundamentally flawed and appears to be strongly biased towards the highly controversial One Lake plan. The DEIS ignores and downplays adverse impacts to environmental and public health and safety. The DEIS also lacks the technical detail necessary to fully grasp the project's many direct, indirect, and cumulative impacts over the immediate and long-term. The DEIS also ignores highly practicable alternatives that could both protect the public and the environment. Additionally, the process used to develop this DEIS has not followed all required federal laws and has failed to meaningfully engage the public and concerned stakeholders.

Our objection to One Lake is based on the following:

Devastating Environmental Impacts

Recognized as one of the most intact river systems in the southeast U.S., the Pearl River supports a vast diversity of birds, fish and wildlife, and their habitats. One Lake puts these prized resources in jeopardy.

The proposal involves dredging 25 million cubic yards of sediment from a 10-mile stretch of the Pearl River and building a dam to create a 1,900-acre lake (i.e. impoundment) under the veil of flood control. It would completely destroy over 2,500 acres of wildlife habitat, including at least 1,500 acres of vitally important bottomland hardwood wetlands and floodplain habitat that also provides natural flood protection for local communities. Additional habitat losses from indirect impacts are also highly likely. The dredged sediments would be used to construct new levees, raise existing levees, and build up surrounding lands. These efforts will create new developable land that could put more homes, businesses, and property at risk of flooding.

Hundreds of species of fish and wildlife would be impacted, including several listed and at risk species. The proposed project would wipe out or damage thousands of acres of habitat for several federally threatened species including the Gulf sturgeon, Ringed sawback turtle, Wood stork, and Northern long-eared bat, as well as other important habitats that support birds, fish and other wildlife. The DEIS nevertheless contends that the project will have minimal impacts to fish and wildlife based in part on many un- or poorly substantiated statements on wildlife findings. The DEIS even fails to include readily available current population data on species such as the Ringed sawback turtle and Gulf sturgeon. Much more study must be done to properly assess the full extent of the harm to fish and wildlife from the proposed project. This includes properly conducting fish and wildlife surveys in the study area as well as within the Pearl River basin above the project (i.e. near and around the existing Ross Barnett Reservoir) and 200-miles downstream below the proposed dam in order to properly quantify the project's anticipated wildlife impacts.

In addition, as the Gulf of Mexico's fourth largest source of freshwater east of the Mississippi River, the Pearl River is a key artery to sustain the health and productivity of Mississippi Sound, Lake Borgne, and the Gulf. More than 200 miles of the Pearl flow south below the proposed dam. Changes in flow,

especially in June–October during seasonal low flow periods, could alter water quality and coastal salinities, affect sediment transport, and increase saltwater intrusion upriver. Altered flows threaten the health and productivity of additional downstream habitats that support an array of fish, birds, and wildlife. This includes over 125,000 acres of existing - and mostly public - conservation lands, such as Bogue Chitto National Wildlife Refuge, Pearl River Wildlife Management Area, and Hancock County Coastal Preserve; these areas depend on sediment and freshwater brought downstream by the Pearl.

Altered flows are expected to have serious economic repercussions too. This includes the regional nature-based tourism operators and the seafood industry, where the already struggling oyster sector relies on a well-balanced mix of fresh-salt water to ensure oyster survival and harvest. The Louisiana Oyster Task Force and the Mississippi Governor's Oyster Council have identified insufficient freshwater flows from the Pearl River to coastal waters as a major threat to oyster production in both states. Both the State of Louisiana and Mississippi Commission on Marine Resources have cited concerns about One Lake's threat to oyster production by passing unanimous resolutions against the project. Also at risk is the ecological success of many multi-million dollar restoration projects in coastal Mississippi and Louisiana as part of the 2010 Deepwater Horizon recovery effort and in plans to restore the Mississippi River Delta.

Also more than one hundred downstream industrial users and municipalities in Mississippi, and eight in Louisiana, depend on a reliable flow of freshwater from the Pearl River to meet their environmental permit discharge limits. Less freshwater flowing down river is expected to make it difficult for these permit holders to stay in compliance, which could lead to increased costs for installing new water treatment technologies in order to stay in compliance. Such users include sewage treatment plants for Jackson, Bogalusa and Pearl River as well as Georgia-Pacific and International Paper.

Serious Public Health Risks

One Lake would directly impact at least three contaminated sites, a former creosote wood treatment facility and two unpermitted landfills. There are at least five other highly contaminated properties within or near the project area, including a hazardous waste site identified for federal Superfund cleanup.

In fact, a report¹ commissioned as part of DEIS Appendix C acknowledges that most of these sites serve as an existing source of hazardous pollution and as such, pose significant immediate threats to the public health, safety, and welfare of local residents and downstream communities. These alarming findings demand the highest urgency from local, state, and federal authorities to take swift and aggressive action to protect public health.

Further, despite recognizing that these sites would require cleanup, the DEIS actually minimizes their public health threats and fails to include a plan to safeguard public health. The DEIS's \$8 million dollar estimate to perform all necessary remediation of these sites is completely unrealistic in light of the scope and scale of the pollution that is chronicled.

The project also proposes to dredge 25 million cubic yards of sediment from the Pearl River Basin that will be used for levees and land building. In addition to the existing hazardous waste sites, this activity will occur in a highly disturbed urban-rural corridor that has many sources of point and non-point pollution. However, the DEIS fails to acknowledge or evaluate the potential threats to public and

¹ Allen Engineering and Science (Sept 2014). *Environmental Evaluation of Hazardous, Toxic, and Radiological Waste (HTRW) Sites* (Project No. 14120). Ridgeland, MS: Mendrop Engineering Resources.

environmental health from digging, transporting, and redistributing these sediments. The Drainage District should perform extensive public and ecological health-related sampling, both in the project area and downstream, before any further consideration is given to this project. At minimum, such testing and analysis would include water (i.e. Pearl River and tributaries, groundwater, drinking water, discharge permit holders), soils and air quality.

Study Gaps, Incomplete Science and Unanswered Questions

This DEIS is being prepared under Section 211 of the Water Resources Development Act (WRDA) of 1996, which does not waive any laws or planning requirements. As the local sponsor, the Drainage District is required to comply with all federal laws and planning requirements as if the DEIS was being developed by the U.S. Army Corps of Engineers (Corps).

"Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA."² Accordingly, the DEIS must be based on "high quality" science and information, and Drainage District/Corps must "insure professional integrity, including scientific integrity, of the discussions and analysis in environmental impact statements."³ Importantly, if information that is essential for making a reasoned choice among alternatives is not available, the Drainage District/Corps **must** obtain that information unless the costs of doing so would be "exorbitant."⁴

An EIS must utilize "quantified or detailed information" when analyzing impacts.⁵ The DEIS may not rely "on conclusory statements unsupported by data, authorities, or explanatory information."⁶ Accordingly, the DEIS must supply supporting data and authorities, and explain how and why it has drawn the conclusion it has reached.

It is clear that these standards have not been met in this DEIS. Notably, the U.S. Fish & Wildlife Service⁷ made a striking conclusion in their assessment of the DEIS, that the Drainage District should be required to produce a second draft DEIS that would provide "greater details regarding plan formulation, design, operation, mitigation, and adaptive management" before the project advances.

Indeed, the DEIS is rife with significant omissions that are discussed in the other sections of these comments. In addition, during the 2013 scoping process to develop this DEIS, many stakeholders, including environmental groups and state resource agencies, urged the Drainage District to take a comprehensive look at the project's true footprint, which would include the 200-mile stretch of the

² 40 C.F.R. § 1500.1(b).

³ 40 C.F.R. § 1502.24 ("Agencies shall insure professional integrity, including scientific integrity, of the discussions and analysis in environmental impact statements"); *Earth Island Inst. v. U.S. Forest Service*, 442 F.3d 1147, 1159-60 (9th Cir. 2006) (quoting 40 CFR §1502.24).

⁴ 40 C.F.R. § 1502.22. During the November 9, 2015 Public Meeting on the DEIS (in Eastpoint, FL), a representative of the Corps advised the public that the Corps would not research a public comment on a technical issue unless the comment was accompanied by data and analysis that demonstrates the point made. This demonstrates a severe misunderstanding of the rules that govern preparation of an EIS. As noted above, the Corps (not the public) must obtain information that is essential for making a reasoned choice among alternatives. It is also the Corps responsibility to prepare the EIS in a manner that complies with NEPA, and that includes obtaining and providing important information on alternatives and possible impacts.

⁵ *Neighbors of Cuddy Mountain v. U. S. Forest Service*, 137 F.3d 1372, 1379 (9th Cir. 1998); *Ecology Center v. Castaneda*, 574 F.3d 652, 666 (9th Cir. 2009) (requiring "quantified or detailed data"); *Natural Resources Defense Council v. Callaway*, 524 F.2d 79, 87 (2^d Cir. 1975).

⁶ *Id.*

⁷ U.S. Department of the Interior Fish & Wildlife Service (Lafayette, LA). Letter to: Michael E. Goff (President, Headwaters, Inc., PO Box 2836, Ridgeland, MS). 2018 Aug 16.

Pearl River basin below the proposed dam as well as the State of Louisiana, Mississippi Sound, Lake Borgne, and the Gulf of Mexico. The DEIS study area, however, remains limited to the project footprint, ending just south of the project site.

This is a serious omission given the dramatic scale and scope of potential environmental impacts from One Lake. The study area must be expanded to reflect its geographic reach and more rigorous, science-based analyses and hydrologic modeling of downstream impacts are vital to assess downstream issues.

Another serious failure of the DEIS is that it does not give any consideration to the existing Ross Barnett Reservoir and Spillway located just seven miles upstream of the proposal, nor how these two projects would be managed or operated in conjunction with one another. Specifically the Ross Barnett Reservoir is appropriately managed in such a way to release floodwaters from the upper Pearl River Basin through the Jackson metro area without either back flooding urban creeks, or overtopping existing levees. Therefore, modeling upstream of the proposal is essential as well.

Clearly, the DEIS is technically unfeasible and scientifically unsound, and much more due diligence is needed to provide the level of detail and rigorous analyses essential to satisfy scrutiny by the public, concerned stakeholders, and resource agencies. The multitude of outstanding questions must be answered before One Lake receives any further attention.

Inadequate Alternatives Analysis and Questionable Costs

Since the 500-year flood of record in 1979, several plans to address flooding from the Pearl River have been introduced for the Jackson metropolitan area. Almost four decades later, no plan has yet been implemented.

Flood control plans developed before 1996 emphasized improvements to existing levees, raising buildings and homes, or buying out properties with historical flooding problems. In 1996, a local businessman proposed the first of several plans to dam the Pearl River south of Jackson, with the well-publicized goal of creating developable waterfront property along with questionable flood control benefits. One Lake is the latest iteration of this original idea, which is the Drainage District's locally preferred option and according to the DEIS, is the best alternative to address flooding issues.

However, the DEIS ignores or downplays these previous reports and analyses and fails to evaluate a full range of reasonable alternatives as required by the National Environmental Policy Act (NEPA). The DEIS instead appears to have been written for the purpose of justifying the One Lake alternative.

For example, a Mississippi Legislative PEER Report⁸ determined, "A Comprehensive Levee Plan would be less expensive than a lake plan." The levee option reviewed in the PEER report did not include pumps yet the DEIS added them to Alternative B (Levee Plan) without any technical or science-based rationale. By doing so, this added significant cost to the levees-only option and resulted in the One Lake alternative appearing to be more cost-effective. Furthermore, the PEER report determined that the flood control plans proposed before 1996 offered less costly options that would better address flooding concerns.

The DEIS also fails to consider the highly practicable solution of utilizing floodplain restoration either alone or in combination with common sense measures like targeted flood proofing and relocations, and

⁸ Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) Report for the Mississippi Legislature (2010 Oct 12). *A Review of Flood Control Options for the Jackson Metropolitan Area, 1979-2010* (PEER Report #540). Jackson, MS: The Mississippi Legislature PEER Committee.

levee setbacks. The absence of a meaningful evaluation of this type of alternative renders the DEIS inadequate.

A flood control project for the Pearl River Basin was authorized under Section 3104 of the Water Resources Development Act (WRDA) of 2007, which requires that the plan be “environmentally acceptable and technically feasible”. When taking into consideration the U.S. Fish & Wildlife Service’s letter (referenced in the previous section) that found One Lake to be “the most environmental damaging plan” considered in the DEIS, the Drainage District clearly has failed to thoroughly evaluate all possible flood control alternatives. Additional options would include non-structural approaches and the use of natural infrastructure.

Finally, as stated in the DEIS, many of its cost projections rely on numerous assumptions or unknowns. Costs that are totally absent from or appear significantly underestimated in the DEIS budget projections include mitigation plans, hazardous/toxic site remediation, contaminated sediment testing and water sampling, and relocating infrastructure (i.e. roads, bridges, railroad lines, utilities). These economic discrepancies signal that the true costs of One Lake will likely well exceed the estimated construction and annual maintenance cost of \$345 million and \$13.9 million, respectively.

These poorly substantiated economics and unaccounted costs are unacceptable given the size and scope of One Lake. These irresponsible economics are even more outrageous when considering the proposal has been – and is expected to remain – funded solely at taxpayers’ expense.

Disregard for Federal Law and Lack of Transparency

To reiterate, the DEIS is being conducted under Section 211 of the WRDA of 1996, which directs the Drainage District to comply with all federal environmental laws and planning requirements in the same manner as if the Corps were preparing this study. However, the DEIS is missing crucial information that is required to be prepared for this project. This includes, the Fish and Wildlife Coordination Act Report, a Biological Opinion (in response to the Biological Report that was released late into the public comment period), and Independent External Peer Review Report. The absence of these critical documents has prevented the public and concerned stakeholders from fully assessing – and commenting on - the true extent of One Lake’s impacts. As such, our businesses and organizations have requested the Corps Mississippi Valley Division to take over this review process and restart the comment period when all necessary documents are made publicly available. A copy of this request is attached.

The Drainage District also has been delinquent in promoting purposeful public participation in the decision-making process for this DEIS. Such failures include:

- No official notice in the Federal Register nor any communications to those who filed scoping comments in 2013, impacted local/downstream communities or states, or other concerned stakeholders.
- A very short 45-day public comment period, which was poorly re-noticed when it was extended in response to the release of the required Biological Assessment.
- A website that does not prominently list the comment deadline or provide direction to the public for making comments, and obligating the public to request receipt of the DEIS documents. Given widespread feedback from stakeholders who have attempted to navigate the website and have yet to receive responses to their requests to obtain a copy of the DEIS documents, many technical issues remain. This has stymied public input.

- Poorly noticed and organized public meetings that were designed to suppress public input, such as having no signage, withholding meeting details until well into the comment period, and failing to incorporate an audience-based Question-&-Answer component, which ignored current and past requests from the 2013 scoping process.

In summary, we reiterate our opposition to One Lake based on the devastating environmental harm, community impacts, and economic consequences it poses. The current DEIS is woefully inadequate – it makes countless unsubstantiated assertions, lacks technical detail, requires extensive environmental sampling, and demands more rigorous modeling of immediate and up/downstream impacts – all of which is essential for proper review by the public, concerned stakeholders and communities, and natural resource agencies. The DEIS process has failed to engage the public in a timely and sufficient manner, and it does not comply with federal laws. Please contact Jill Mastrototaro at Audubon Mississippi (jmastrototaro@audubon.org) if you have any questions or need additional information.

Sincerely,

American Rivers

American Sportsmen Against Poachers

America's WETLAND Foundation

Atchafalaya Basinkeeper

Audubon Louisiana

Audubon Mississippi

Backcountry Hunters & Anglers

Baton Rouge Audubon Society

Capital City Kayaks

Coalition to Restore Coastal Louisiana

Coast Group of the Mississippi Chapter of the Sierra Club

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South Mississippi Kayak Club

SouthWings, LLC

The Center for Sustainable Engagement and Development

The Episcopal Diocese of Louisiana

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Town of Abita Springs

Wayfarer Environmental Technologies, LLC

Cc: Major General Richard G. Kaiser, Commander, USACE Mississippi Valley Division