

**All Congregations Together * Alliance for Affordable Energy * American Rivers
Citizens Against Widening the Industrial Canal * Delta Chapter Sierra Club
Eastern St. Bernard Association * Environmental Defense Fund
Gulf Restoration Network * Holy Cross Neighborhood Association
Hope House * Levees.org * Louisiana Environmental Action Network
Louisiana ACORN * Lower 9th Ward Community Organization/ACORN
Lower 9th Ward Homeowners Association
Lower Mississippi Riverkeeper* National Wildlife Federation
New Orleans East Community Organization/ACORN * Ouachita Riverkeeper
Pax Christi New Orleans * Seabrook Area Community Organization/ACORN
St. Bernard Beautification Association
Surfrider Foundation, Central Gulf Coast Chapter
Upper Ninth Ward ACORN Group**

January 26, 2009

U.S. Army Corps of Engineers (PM-RP)
c/o Richard Boe
P.O. Box 60267
New Orleans, LA 70160-0267

**Re: Comments on the Draft Supplemental Environmental Impact Statement for the
Inner Harbor Navigation Canal Lock Replacement Project**

Dear Mr. Boe,

On behalf of our thousands of members and supporters in the Gulf States and millions of members and supporters across the nation, please accept these as official public comments on U.S. Army Corps of Engineers' Draft Supplemental Environmental Impact Statement (DSEIS) for the Inner Harbor Navigation Canal Lock Replacement Project. These comments are in addition to any comments that individual groups may be submitting separately. Based upon: 1) the environmental, social, health, cultural, economic and other impacts of the proposed expansion of the lock, 2) the failure of the Corps to comply with a 2007 ruling from U.S. District Court for the Eastern District of Louisiana (*Holy Cross v. U.S. Army Corps of Engineers*), 3) lack of economic justification for the project, and 4) the existence of much more pressing priorities for the community, including rebuilding, storm protection and environmental restoration, it is the strong conviction of the undersigned organizations and its members that the Corps should select the "no action" alternative and recommend that Congress deauthorize this project.

Project Background

This project seeks to replace the existing 640 ft. long / 75 ft. wide / 31.5 ft. deep lock in the Industrial Canal (in New Orleans) with a larger 1,200 ft. long / 110 ft. wide / 36 ft. deep lock. The canal connects the Mississippi River to the Gulf Intracoastal Waterway and the now-closed Mississippi River Gulf Outlet (MRGO). The 1956 Rivers and Harbors Act authorized a lock replacement when "economically justified by obsolescence

of the existing lock.” Over the course of the last 50 years, the Corps has proposed several other lock replacement locations, and has subsequently abandoned those alternatives due to similar concerns as those being put forth in these comments. In its 1997 Final Environmental Impact Statement and subsequent Record of Decision, the Corps proposed the current location for the lock replacement in the Lower 9th Ward, New Orleans, adjacent to the Holy Cross Neighborhood.

In 2003, the Gulf Restoration Network, Holy Cross Neighborhood Association, and Louisiana Environmental Action Network (represented by the Tulane Environmental Law Clinic) sued the Corps because, among other things, the 1997 Final Environmental Impact Statement failed to take a hard look at the environmental impacts of the project. The Court agreed that the Corps failed to take a hard look at the environmental impacts of the lock replacement project, suggested that the lock replacement project may no longer be in line with the Corps’ post-Katrina priorities, and enjoined the Corps from going forward with the project until it complied with the law. In response to the Court’s order, the Corps prepared the DSEIS, which still recommends replacing the lock, but again fails to take a hard look at the environmental impacts of the project, and thus is out of compliance with NEPA. Until such time as the Corps has adequately complied with NEPA, and all other applicable environmental laws and rules, the Corps should halt all construction of this project and not commit any further resources to project construction.

Unacceptable Public Safety and Environmental Impacts

This project will produce unacceptable public safety impacts. The DSEIS has failed to take a hard look at these impacts as the National Environmental Policy Act (NEPA) requires, and has failed to examine alternative locations for its proposed confined disposal facility. The Corps’ own testing acknowledges that some of the canal sediments are “acutely toxic to benthic organisms.” *See* DEIS at 135. Yet the Corps plans to put these toxic sediments in a so-called “confined disposal facility” built in wetlands bordering the South East side of the Gulf Intercoastal Waterway near the border of Orleans and St. Bernard Parishes—where the waters of Hurricane Katrina flooded the area up to 17 feet deep. The Corps also failed to determine what type of storm event the “confined disposal facility” will be built to withstand or whether the dikes of that facility would undermine the levees protecting the area.

The Corps also failed to identify the geology of the soils beneath the canal, the proposed lock replacement location, the adjacent levees and adjacent neighborhood. Without doing so, the Corps cannot know whether dredging and deepening the canal might undermine the levees by allowing water to flow underneath the levees, causing them to collapse. Additionally, the Corps has failed to state whether or not the levees along the Industrial Canal are designed to accommodate a wider, deeper canal. A wider, deeper canal would have greater water pressure and exert more force on the levees during a storm event. Without addressing the levee engineering and whether or not it takes into account this lock replacement project, the Corps could be placing the residents of the Lower 9th Ward, Holy Cross, and Bywater neighborhoods in grave danger.

In the DSEIS, the Corps acknowledges that in order to expand the lock, it will destroy 244 acres of wetlands, and classifies these wetlands as 'low-value' wetlands due to the

types of vegetation that the wetlands support. However, given their location and the services they provide, these wetlands are greatly undervalued, and thus the destruction is not warranted, and the mitigation that the Corps proposes is inadequate. The Corps fails to take into account the vital flood and storm mitigation services that these wetlands provide, as they are urban wetlands that protect New Orleans East, the Lower 9th Ward, and St. Bernard Parish from flooding events and hurricane storm surge. As a result of undervaluing these wetlands, the Corps' DSEIS fails to take into account the true environmental and public safety impacts and costs of the lock expansion and thus the DSEIS must be considered inadequate and insufficient in complying with NEPA.

Fails Corps Economic Justification Requirements

The Corps has not presented a convincing case that this project might be economically justified using traditional Corps methods of measuring costs and benefits. Over the last few years, as traffic has continued to decline, the case has been getting weaker and weaker. The Corps' analysis was scrutinized in a December 2007 report, *Failure to Hold Water*, authored by Dr. Robert Stearns on behalf of Citizens Against Widening the Industrial Canal. Dr. Stearns found that the project would not be justified unless both the levels of barge traffic and average delays at the existing lock increased dramatically (and unrealistically) in the future. By applying more realistic projections based on historical trends in traffic, Dr. Stearns concluded that the project's benefit-cost ratio would be at the most 0.40, far below the level of 1.00 where project benefits are at least high enough to equal project costs.

This conclusion was made before the recommended closure of the Mississippi River Gulf Outlet (MRGO) Channel. Now even the Corps admits that traffic does not warrant a deep draft lock. The remaining justification relies even more on a significant reversal of the 20-year downward trend in barge traffic (see accompanying figure). Actual traffic levels in 2007 were significantly lower than traffic forecasts that the Corps made in 2005, and the gap between Corps traffic forecasts and actual traffic levels widened even more in 2008. Yet the Corps has been unable to identify any "discernible new trend ... that might call into question the assumptions of the forecast" and has concluded that "no major reanalysis is warranted." Of course, none of this matters to the Corps by its own admission, because a replacement lock has been authorized, the so-called "No Action Alternative" has been eliminated from further evaluation.

Regrettably, the mistakes in the Corps' analysis have been compounded by a failure to provide an accurate description of the current cost-sharing arrangements for the project. The DSEIS references the cost-sharing arrangement as described in the Corps' 1997 evaluation of this project and fails to mention that the cost shares were subsequently revised to place a greater burden on the general taxpayer and less on the local sponsor (the Port of New Orleans). As the taxpayer's burden increases, the need for a reliable justification of the project becomes even more critical.

According to a more recent analysis by Dr. Stearns, unless current levels of traffic and delays increase, the benefit/cost ratio has actually fallen to 0.30 -- that is, it would only return 30 cents to every dollar invested. Dr. Stearns concludes that "the 2008 SEIS falls far short of being an objective evaluation of project alternatives. Its primary purpose

seems to be to justify a fundamentally flawed decision to continue to construct a replacement lock.” Dr. Stearns’ analysis has been submitted for the record in this proceeding and is incorporated by reference as part of these comments, as well.

Unacceptable Community Health Impacts

The Ninth Ward neighborhoods that are adjacent to both sides of the Industrial Canal include New Orleans East, Seabrook, Gentilly, Upper 9th Ward/St. Claude, Bywater, Lower 9th Ward and Holy Cross. Many community organizations in these neighborhoods have been heavily involved in post-Katrina planning and rebuilding, and share a vision for the Ninth Ward of solid community residential neighborhoods, with appropriate parks, schools, hospitals, wetlands, and small businesses. More than a thousand of individuals have put all of their resources into returning and re-establishing their lives in these communities. Both private and public rebuilding projects (including projects by Global Green, ACORN, and Brad Pitt and Angelina Jolie’s Make It Right Housing Project) have restored thousands of homes and could use assistance, **not the disruption** that a major expansion of the Industrial Lock would entail.

The Industrial Canal area is no longer the industrial outpost that it once was when it was first utilized in the 18th century as a shipping lane. This is in part due to the recent post-Katrina closure of the Mississippi River Gulf Outlet, which is steering shipping business out of the canal and onto the Mississippi River.

The neighborhoods adjacent to the Industrial Canal are overwhelmingly African-American, and would be exposed to a disproportionate level of increased contaminants as a result of an Industrial Lock expansion. These citizens have already felt the brunt of environmental justice issues when the Corps’ engineering failed and cost over a thousand lives when Hurricane Katrina’s storm surge hit. Because of these environmental justice issues, this project should not go forward.

Air Pollution: The dust and particulate matter that would be created from an Industrial Lock expansion would be excessive, and would impact neighborhoods from the Mississippi River to Lake Pontchartrain, for at least a decade. New Orleans residents already have among the highest asthma rates in the country, and the humid air of the Gulf Coast region exacerbate the effects of particulate matter inhalation, now found to be linked with congestive heart failure.

Noise Pollution: The noise pollution from current routine industrial activities on the Industrial Canal already affects residents at night in the Ninth Ward. The noise from a lock expansion would increase from dawn till dusk, further adversely impacting local residents, including students who are within a half mile of the proposed project location. This noise will further debilitate the lives of families who are already stressed from the traumas of Hurricane Katrina.

Further, the expansion of the canal will almost certainly lead to the development of more industrial businesses that will further pollute air, water and land. This will impair the redevelopment of the communities that are now working so hard to return since the aftermath of Hurricane Katrina.

Community Re-building, Storm Protection and Wetlands Restoration Needs

The massive expenditures on this unnecessary and unjustified project will, practically speaking, preclude other investments that are much more critical to the future health of the region. Authorized but not-yet-funded coastal restoration projects and projects to protect coastal residents should be prioritized over spending \$1.3 billion on an unnecessary lock expansion. A recent analysis by a coalition of national and local conservation organizations recommended spending \$1.58 billion on several authorized, ready-to-go construction projects that would restore the health, safety, and resilience of coastal communities by rebuilding and restoring coastal wetlands and assisting communities with reducing their exposure to flood risks.

These projects include spending over the next two years: \$660 million on Beneficial Use of Dredge Sediment, \$300 million on Storm-Proofing & Elevating Homes, \$120 million on Coastal Wetland Planning, Protection, and Restoration Act (Breaux Act), \$55 million on Central Wetlands Restoration, \$130 million on Mississippi River Reintroduction into B. Lafourche, and \$65 million on the Myrtle Grove Sediment Diversion. All of these projects are un-met needs of the community, which the region needs to survive and flourish. The need to fund these projects is a stark contrast to the notion of spending \$1.3 billion on the proposed lock expansion.

Conclusion

The Inner Harbor Navigation Canal Lock Replacement Project proposal does not meet the needs of the Greater New Orleans and South Louisiana coastal community, fails the most basic economic tests, and takes away vital federal resources that are needed to address fundamental safety issues of the region. Our organizations, whose members live, work, go to school and play in the communities that would be impacted by this construction, oppose the Industrial Lock Expansion, recommend the “no action” alternative and recommend that Congress deauthorize the project.

Thank you for taking these comments into consideration.

Sincerely,

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