

June 15, 2020

**Submitted via email to YazooBackwater@usace.army.mil
Hard copy delivered to Vicksburg, MS office on June 15, 2020**

Major General R. Mark Toy
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U.S. Army Corps of Engineers
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Colonel Robert A. Hilliard
Commander, Vicksburg District
U.S. Army Corps of Engineers
ATTN: CEMVK-PPMD
4155 Clay Street, Room 248
Vicksburg, MS 39183

**Re: Notice of Intent to Prepare Supplemental Environmental Impact Statement for the
Yazoo Area Pump Project**

Dear Major General Toy and Colonel Hilliard:

On behalf of our millions of members and supporters, the 109 undersigned conservation, environmental, faith-based, and recreation organizations urge you to cease efforts to resurrect the Yazoo Backwater Pumping Plant Project in Mississippi. The U.S. Army Corps of Engineers (Corps) should instead prioritize proven, cost-effective solutions that will deliver immediate, effective, and sustainable benefits to the residents, businesses, and communities of the Yazoo backwater area while also restoring this ecologically critical region.

Alabama Rivers Alliance • American Rivers • Amigos De Bolsa Chica • Appalachian Mountain Advocates • Arthur R. Marshall Loxahatchee National Wildlife Refuge • Atchafalaya Basinkeeper • Audubon Florida • Audubon Louisiana • Audubon Mississippi • Audubon Texas • Breathe Easy Susquehanna County • Buffalo Creek Clean Water Partnership • Center for Biological Diversity • Chicago Group of the Sierra Club • Citizens Against Widening the Industrial Canal • Citizens Committee to Complete the Refuge • Clean Ocean Action • Coalition Against the Pilgrim Pipeline - NJ • Coalition to Restore Coastal Louisiana • Coast Action Group • Columbia River Crab Fisherman's Association • Committee on the Middle Fork Vermilion River • Common Ground Community Trust • Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces • Defenders of Wildlife • Earth Action, Inc. • Earthjustice • Earthworks • Eco-Justice Collaborative • Endangered Habitats League • Endangered Species Coalition • Environment New Jersey • Environmental Defenders of McHenry County • Environmental Policy Innovation Center • Environmental Protection Information Center • For Love of Water • Friends for Our Riverfront • Friends of Penobscot Bay • Friends of Pool 2 • Friends of the Earth • Friends of the Mississippi River • Friends of the Naticoke River • Friends of the Rivers of Virginia • Great Egg Harbor Watershed Association • Great Rivers Environmental Law Center • Great Rivers Habitat Alliance • Harpeth Conservancy • Healthy Gulf • Holy Cross Neighborhood Association • Hoosier Environmental Council • Illinois Council Trout Unlimited • Illinois Environmental Council • Illinois Stewardship Alliance • Iowa Natural Heritage Foundation • Izaak Walton League of America • Izaak

Walton League of America MN Division • Jackson Audubon Society • Kentucky Resources Council • Kentucky Waterways Alliance • League of Conservation Voters • Levees.org • Louisiana Audubon Council • Lower Mississippi River Foundation • Mattawoman Watershed Society • Metro East Green Alliance • Milwaukee Riverkeeper • Mississippi Chapter Sierra Club • Mississippi River Collaborative • Mississippi River Network • Mississippi Valley Traveler • Missouri Coalition for the Environment • National Advocacy Center of the Sisters of the Good Shepherd • National Audubon Society • National Latino Farmers & Ranchers Trade Association • Natural Heritage Institute • Natural Resources Defense Council • Newtown Creek Coalition • NH Energy Impacts on Health Study Group • Northwest Cook County Sierra Club Group • NY/NJ Baykeeper • Ocean Conservation Research • Ogeechee Riverkeeper • Operation HomeCare • OVEC-Ohio Valley Environmental Coalition • Pennsylvania Council of Churches • Piasa Palisades Group of the Sierra Club • Pine Woods Audubon Society • Pocono Heritage Land Trust • Prairie Rivers Network • Quapaw Canoe Company • Rachel Carson Council • Sanford-Oquaga Area Concerned Citizens • Seneca Lake Guardian • Sierra Club • Sierra Club, Illinois Chapter • Southern Environmental Law Center • SouthWings • Surfers Environmental Alliance • Surfrider Foundation • Tennessee Clean Water Network • Tennessee Environmental Council • The Lands Council • The River Project • The Wetlands Initiative • Tidewaters Gateway Partnership Inc. • Tualatin Riverkeepers • Valley Watch, Inc • Virginia Association for Biological Farming • Waterkeeper Alliance •

The George W. Bush Administration appropriately used the Environmental Protection Agency's (EPA) Clean Water Act 404(c) authority to veto the Yazoo Pumps in 2008 to protect up to 200,000 acres of hemispherically significant wetlands. These wetlands provide vital habitat for more than 450 species of fish and wildlife and protect local communities by intercepting tens of billions of gallons of floodwater. This veto also paved the way for new, long-term protections for tens of thousands of additional acres of wetlands in the Yazoo Backwater Area through conservation easements and other voluntary mechanisms.

Instead of working to drain these critical wetlands by resurrecting the already-vetoed \$440 million Yazoo Pumps, the Corps should prioritize the study and implementation of effective and environmentally sustainable solutions that can quickly provide lasting benefits for communities.

The SEIS Must Examine Effective, Environmentally Sustainable Flood Solutions

Mississippi Delta communities deserve effective, sustainable solutions for flood relief and long-term recovery that get people and property out of harm's way and protect the environment—not the vetoed Yazoo Pumps that will destroy the vital natural flood protection provided by the region's ecologically significant wetlands.

Sustainable flood solutions are being employed by communities across the country and include voluntary flood plain buyouts and relocations, flood-proofing infrastructure (including elevating homes, buildings and roads), purchasing wetland reserve and floodplain easements, and other flood-compatible land use changes. Many of these actions can be carried out under existing federal programs that are currently funded and available for use in the Yazoo Backwater Area,

including Federal Emergency Management Agency post-disaster recovery and pre-disaster mitigation programs and U.S. Department of Agriculture easement programs.

The Notice of Intent's stated refusal to consider these and other similar solutions, and to instead consider only the rejected Yazoo Pumps, violates the National Environmental Policy Act, which requires a rigorous exploration and objective evaluation of "all reasonable alternatives." 40 C.F.R. § 1502.14. The Corps is also required to consider non-structural, and practicable natural and nature-based solutions in the SEIS pursuant to the Water Resources Development Acts.

Our organizations call on the Corps to redirect the agency's limited resources to advancing the use of the non-structural and natural and nature-based approaches outlined in the attachment to these comments,¹ and to immediately suspend efforts to revive the Yazoo Pumps.

The SEIS Must Abandon Consideration of the Yazoo Pumps

The Notice of Intent describes a project whose structure, operation, and fundamental purpose are identical to the Yazoo Pumps project vetoed by EPA 12 years ago, a veto that was upheld by the U.S. Court of Appeals for the Fifth Circuit.² The Corps' effort to resurrect this project is an unprecedented action that undermines the critical Clean Water Act 404(c) authority, which provides a last line of defense against the most egregiously damaging projects.

EPA based its veto on the determination that the Yazoo Pumps would cause "unacceptable damage" to "some of the richest wetland and aquatic resources in the nation." The veto was based on the Corps' own determination that the project would drain at least 67,000 acres of wetlands; however, EPA and an independent hydrologic review found that the Pumps would likely damage up to 200,000 acres of ecologically significant wetlands—an area larger than all five boroughs of New York City or nearly five times the size of St. Louis, Missouri.

These ecologically rich wetlands provide vital habitat in the heart of the Mississippi River flyway that supports more than 450 species of birds, fish and wildlife. Many thousands of acres of these wetlands are located in National Forest and National Wildlife Refuge lands, state-owned conservation lands, lands enrolled in federal conservation programs, and lands purchased and restored as mitigation for previously constructed federal water projects—lands that taxpayer dollars have long paid to protect and manage for people and wildlife.

Although touted as providing flood control, the Yazoo Pumps are not designed to protect communities from flooding. This is clearly acknowledged by the Corps' 2007 conclusion that 80 percent of the project benefits come from draining wetlands to intensify industrial agricultural operations. A recent Corps analysis found that even under the best-case scenario, two-thirds of the backwater area—347,000 acres during the flood of 2019—would still flood with the Yazoo Pumps in place. Operating the Yazoo Pumps could also increase flooding downstream.

¹ This non-exhaustive list of alternatives to the Yazoo Pumps can also be accessed at https://s3.amazonaws.com/american-rivers-website/wp-content/uploads/2020/04/08094615/Yazoo-Alternatives_MER_FINAL.pdf.

² The 2008 Clean 404(c) Final Determination issued by the Environmental Protection Agency garnered overwhelming support, including from: the U.S. Fish and Wildlife Service; more than 120 conservation organizations; 540 independent scientists; the Society of Wetland Scientists; the Association of State Wetland Managers; a former EPA Administrator; four former EPA Assistant Administrators for Water; a former Deputy Assistant Secretary of the Army for Civil Works; and 99.9% of the 48,000 comments submitted during the veto process, including 90% of comments submitted by Mississippi residents.

Our organizations strongly oppose the highly destructive Yazoo Pumps, which will cost federal taxpayers more than \$440 million to construct and millions more each year to operate and maintain based on current estimates. The entire burden of this project falls on federal taxpayers, as there is no local cost share for this project.

Conclusion

Our organizations call on the Corps to abandon its efforts to resurrect the incredibly destructive and costly Yazoo Pumps. The Corps should instead prioritize effective and environmentally sustainable non-structural and natural and nature-based solutions that will provide multiple, lasting benefits to Mississippi Delta communities while protecting and restoring the region's rich natural resources. Please contact Maisah Khan (mkhan@1mississippi.org) for any follow-up regarding this letter.

Sincerely,

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ATTACHMENT: Alternatives to the Yazoo Backwater Pumping Plant

Numerous federal programs are currently funded, accepting proposals, and available to reduce flood risks and increase resilience in the Yazoo Backwater Area (YBWA) in Mississippi.³ These programs fund non-structural measures and restoration of natural infrastructure to provide critical protections for communities and businesses—with no adverse environmental impacts.

Note: The following is intended to provide a more detailed discussion of programs that should be examined as alternatives in the Corps' SEIS; this does not serve as an exhaustive list of options that are available.

1. Post-Disaster Recovery Programs (FEMA, USDA, HUD)

Post-disaster recovery programs are available to areas covered by a Presidential disaster declaration. These programs compensate homeowners and others for voluntarily moving out of harm's way, elevating damaged homes and business, and improving essential community infrastructure. These measures reduce flood risks and emergency response costs, create safer and healthier communities, and support economic development. These programs are available to reduce flood risks in the YBWA as a result of the 2019 Presidential disaster declaration that covered the YBWA floods of 2019.⁴

- **FEMA Hazard Mitigation Grant Program (HMGP):** The HMGP provides grants to state and local governments in areas covered by a Presidential disaster declaration. These grants can be used to purchase flood-damaged properties from willing sellers at pre-flood values and preserve the land as open space, or to elevate structures. Any structure in the 100-year floodplain (*i.e.*, a Special Flood Hazard Area) valued at up to \$276,000 automatically qualifies for a FEMA-funded buy-out, and any structure in a Special Hazard Area valued at up to \$175,000 automatically qualifies for a FEMA-funded elevation. Other structures may also qualify if a benefit-cost analysis shows that a buy-out or elevation would be cost-effective.
- **USDA Community Facilities Grant Program:** The Community Facilities Grant Program provides grants to rural communities with up to 20,000 residents in areas covered by a Presidential disaster declaration. Grants can be on more than 100 types of projects, including the purchase, construction, or improvement of essential community facilities. Essential community facilities include such things as health care facilities, town halls, courthouses, community centers, fairgrounds, police and fire departments, libraries, museums, and food banks.
- **HUD Community Development Block Grants – Disaster Recovery (CDBG-DR):** Congress could also appropriate monies to fund CDBG-DR grants for the YBWA. CDBG-DR grants supplement FEMA disaster recovery funds to help cities, counties, and states recover from Presidentially-declared disasters, especially in low-income communities. Activities funded through these flexible grants must meet one of three

³ The YBWA is the only area that would be drained by the Yazoo Pumps, and as a result is the only area that could receive any type of flood damage reduction benefits from the Yazoo Pumps.

⁴ The YBWA is subject to the April 23, 2019 [Federal Disaster Declaration 4429](#), which made FEMA's Hazard Mitigation Grant Program and USDA's Community Facilities Grant Program available to address [damage in the YBWA resulting from the 2019 flood](#). Multiple amendments were made to that declaration, with the last amendment on September 20, 2019.

national objectives: benefit persons of low-and-moderate-income; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

2. Pre-Disaster Mitigation Programs (FEMA)

The Federal Emergency Management Agency pre-disaster mitigation programs provide grants to communities to carry out pre-disaster mitigation measures that reduce loss of life and property damage from floods, minimize flood disaster disruption, and allow more rapid recovery when flooding does occur. On average, \$1 spent on hazard mitigation through a federally funded mitigation grant saves \$6 in future disaster costs. Federal grants provide \$7 in benefits for each \$1 invested in riverine flood mitigation. These programs are available to communities in the YBWA.

- **FEMA Pre-Disaster Mitigation Grant Program:** The Pre-Disaster Mitigation (PDM) program⁵ provides funding to states, tribes, and local governments to reduce overall risk to the population and structures from future hazard events while also reducing reliance on federal funding to recover from future disasters. The PDM program covers up to 75% of eligible activity costs, but small and impoverished communities may be eligible for coverage of up to 90% of eligible costs.
- **FEMA Flood Mitigation Assistance Program:** The Flood Mitigation Assistance (FMA) Program provides funding to states, tribes, and local governments to reduce or eliminate the risk of repetitive flood damage to buildings and structures insured under the National Flood Insurance Program. FMA funding may cover up to 100% of costs to address severe repetitive loss properties and up to 90% of costs to address repetitive loss properties. Other activities are funded up to 75%.
- **FEMA Floodplain Management Training:** To more successfully administer the above and other disaster assistance and mitigation programs, FEMA provides free workshops for elected officials and community administrators. Trainings include information on the National Flood Insurance Program, including its history, standards, regulations and administration; floodplain mapping; flood hazard mitigation; and floodplain management for environmental benefits. FEMA can also provide additional trainings, if requested by local officials, in the YBWA through its Integrated Emergency Management Course.
- **Floodplain Management Certification and Continuing Education Programs:** The Association of State Floodplain Managers (ASFPM) offers a Certified Floodplain Management program for public and private sector professionals that compliments the FEMA floodplain management trainings. The ASFPM seeks to promote education, policies and activities that mitigate current and future losses, costs and human suffering caused by flooding, and to protect the natural and beneficial functions of floodplains - all without causing adverse impacts. Anyone can join ASFPM and take the CFM exam for

⁵ The PDM program is transitioning into the Building Resilient Infrastructure and Communities (BRIC) program established by the Disaster Recovery Reform Act of 2018. The BRIC program will be funded through a 6% equivalency set-aside of all disaster expenditures from the Disaster Relief Fund. This should significantly increase the amount of funding available for pre-disaster mitigation efforts.

a nominal fee. ASFPM members and Certified Floodplain Managers© have access to unique resources that can help their communities more effectively administer FEMA programs, reduce flood insurance rates and minimize flood damages.

3. Wetland Reserve and Floodplain Easement Programs (USDA)

The Wetland Reserve Easement and Floodplain Easement Programs provide direct payments to landowners to place conservation easements on wetland and floodplain lands, and also pay to restore the enrolled lands to avoid future flood risks and increase resilience. Many lands in the YBWA are eligible for enrollment in these programs.

Wetlands reduce flood and storm risks for communities, improve water quality, and provide vital wildlife habitat. A single acre of wetland can store one million gallons of floodwater. Enrolling cropped wetlands in the Wetland Reserve Easement Program reduces the costs of commodity, federal crop insurance, and noninsured crop disaster assistance programs. Protecting and restoring floodplain wetlands can significantly lower federal flood insurance rates for communities participating in the National Flood Insurance Program Community Rating System. Restoring lands enrolled in these programs creates jobs, and the restored wetlands help purify water supplies, reduce nutrient loading into streams and rivers, and recharge groundwater supplies. By providing vital wildlife habitat, restored wetlands also help support a vibrant outdoor economy. In 2011, state residents and nonresidents spent \$2.63 billion on wildlife recreation in Mississippi.⁶ Restoring bottomland hardwood wetlands in the YBWA is a priority for achieving the forest bird population goals for the Lower Mississippi Valley Joint Venture.

- **USDA Wetland Reserve Easement Program:** Cropped and forested lands can be enrolled in the Wetland Reserve Easement Program. Enrolled lands are taken out of agricultural production and restored to wetlands. Enrollment provides direct payments to landowners, currently up to \$3,100 per acre. USDA also pays to restore the enrolled lands. Landowners can make additional profits by selling or leasing the land for hunting, fishing, or other uses compatible with maintaining the restoration. Landowners may also be eligible for a tax deduction.
- **USDA Floodplain Easement Program:** Both cropland and residential properties may be enrolled in the USDA Floodplain Easement program. Cropped lands are taken out of agricultural production and restored. Structures located within the area of a floodplain easement are demolished and removed, or relocated outside of the affected floodplain, and the lands are then restored. Enrollment provides direct payments to landowners, currently up to \$3,100 per acre. USDA pays to restore the enrolled lands. USDA also pays the costs of demolishing and removing, or relocating structures out of the affected floodplain. Landowners can make additional profits by selling or leasing the land for hunting, fishing, or other uses compatible with maintaining the restoration. Landowners may also be eligible for a tax deduction.

⁶ [U.S. Fish and Wildlife Service, 2011 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, Table 47.](#)