

August 23, 2004

**Comments on the PEIS and Draft LCA**

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Sent via email

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Re: Comments on Draft LCA Ecosystem Restoration Study (ERS) and  
Programmatic Environmental Impact Statement (PEIS)

Dear Mr. Axtman and Dr. Klein,

The Coalition to Restore Coastal Louisiana is pleased to offer these comments and suggestions to help sharpen the focus of the LCA to best advance the cause of restoring sustainable function and balance to the delta and chenier coast of coastal Louisiana—America's Wetland. CRCL is a non-profit organization dedicated to the restoration and stewardship of the waters, wetlands and barrier shorelines of coastal Louisiana and to the ecological, cultural and economic survival of that region. We support the development of a comprehensive coastal restoration and stewardship program and view the Louisiana Coastal Area study as the best current way to secure this great treasure. We also commend the efforts of all whose efforts have worked so hard on this plan. This has been a momentous effort under trying circumstances and we would like to make it clear up front that we appreciate those efforts. Nothing

this important is easy and our purpose in making these comments is to help maximize the effect of those efforts. Any frustrations or disappointments we express are intended to be constructive and are aimed at the institutional aspects of this endeavor and not with any of the individuals who have worked so hard on pulling this plan together.

Before getting into the meat of our comments I wanted to make it clear that we understand that the course of action suggested in the ERS and PEIS is subject to budgetary, timing, and policy guidance constraints that have compelled a shorter term and narrower focus than we believe is ultimately necessary. We understand that, but we do not accept the premise that we have anytime to spare in this effort to secure the survival of our natural, cultural and economic heritage. Indeed, the forces that made both the development and the acceptance of a true comprehensive plan impossible at this time are as revealing and worthy of our attention as anything actually presented in this draft plan.

Simply put, if our future depends on a process as unwieldy, as unresponsive, and untimely as this has proven to be then we are in deep trouble. It is apparent now that good stewardship and the public welfare are secondary concerns to a variety of institutional, policy and even political factors. We do not blame the framers of this draft for any of that, indeed we are in their debt for helping to show the limits of what the current way of doing business can achieve while at the same time producing a plan and a body of expertise that has some real value if aggressively pursued and expanded upon. That said we do not want our comments about the proposed plan to in any way suggest that we are happy with the scope, pace and manner in which the restoration of our coast is proceeding. We are not.

For ease of understanding we have divided our comments into two parts, a section on general comments that consider the broader scope and effect of the proposed plan and specific comments that draw attention to certain sections of the ERS and PEIS that we believe need closer attention.

**General Comments:** Overall we believe the plan suggested in the ERS and PEIS responds well to the guidance provided by the White House and the Office of Management and Budget. From that perspective there is much to like in this plan and we want to make that clear from the outset. Because our purpose here is to help clarify or improve the ERS and PEIS, many of our comments will focus on those things we believe need attention, but that should not be construed as our lack of support for the overall thrust of the ERS.

On the positive side, we are particularly pleased by the explicit inclusion of guiding principles (MR-78) which should help all concerned understand how this plan was crafted and how the hard choices that lie ahead will be handled.

We are also pleased by the “graduation” of several CWPPRA projects to the WRDA authorization process. We understand that there is no standard process for this, but we have long recognized that neither the LCA nor CWPPRA can reach their full potential unless more complex and costly projects can move from CWPPRA to some other authorizing vehicle for construction. This is a very important feature of this plan.

We also are pleased by the emphasis given to science, technology and adaptive management in the plan. Much hard work lies ahead to give real meaning to the more open and iterative process broached in this plan but the plan squarely recognizes this need and we commend the drafters for it.

That said, there are other aspects of the plan that we have concerns about. First, we are disappointed that this plan and the process that led to it appears to be quite distant from many of the most important aspects of the Coast 2050 plan and its more robust role for the public, that served as the reconnaissance report for this study. A quick look at the Coastwide Programmatic Recommendations in the Coast 2050 plan (Main Report pages 131-133) make clear that little progress has been made since 1998 to create the capacity for success in terms of outreach, inter-program coordination and both inter and intra agency communication. Prompt attention to those issues is a necessity not a luxury.

The one serious disagreement we have with the suggested features of the plan is the proposal for the "environmental restoration" of the Mississippi River Gulf Outlet. The proposed MRGO project (projected to cost \$107 million) is nothing more than a maintenance project. Some of the shoreline stabilization may be needed but it should not masquerade as an environment restoration project or substitute for definitive steps toward closing that channel as called for in the Coast 2050 plan and by the Louisiana Legislature, St. Bernard Parish, and the overwhelming sentiment of the public.

We are also dissatisfied with the degree of attention afforded the chenier coast of southwestern Louisiana. While we certainly concur with the need to focus attention on the areas of our coast that are vanishing the fastest and that pose the greatest threat to population and commercial centers, the lack of any meaningful identifiable actions for the chenier coast is deeply troubling. We support the need for hydrologic modeling for the region but there is no mention of progress or the need for action on such issues as salinity control on the Calcasieu Ship Channel or the maintenance of fresh water flows on the Sabine River even though these were clearly identified in the Coast 2050 plan as priority matters. (Coast 2050, Main Report page 117). There is also little recognition of the need to coordinate activities affecting our coast that are under the jurisdiction of the Corps' Galveston District and Southwestern Division. The purpose of such coordination is not just to prevent bad things from happening, but to broaden the field of expertise available to us. An example of how such experience could be shared might be seen in the Galveston District's experience with suction

dredging and pipeline conveyance of sediments. Their experience could help inform the development of sediment management practices under the LCA in ways that help move the concept of pipeline conveyance from the “demonstration” category into the everyday tool box for coastal restoration. In short, with respect to the chenier coast this plan can only be called a missed opportunity.

Finally, even though the need for better integration of the various regulatory programs (federal, state and local) into the restoration effort has been noted repeatedly in the past as being essential to a more comprehensive and efficient restoration effort, the draft plan does not adequately deal with that need. Planning, protection and restoration are pieces of the same picture, or at least they need to be. At this date, it is clear that those programs do not protect what needs to be protected well enough, do not provide clear and timely responses to persons seeking permits, and certainly do not encourage actions that could contribute to the survival and sustainability of our coast. There is no better proof of how critical this need is than the recent court decision in the case of **Pontchartrain Levee District v St. Charles Airline Lands, Inc.** In that case, which involved the construction of a Corps of Engineers hurricane protection levee, the Court of Appeals upheld a takings claim on the basis that the issuance of a permit from the Army Corps of Engineers (99% according to the trial court) and the State was so certain as to make the fact that permits had not been obtained (or even sought) irrelevant to the establishment of the measure of loss in a takings claim. In short, takings jurisprudence in Louisiana now assumes that no development proposal is so incompatible with wetland protection, coastal restoration, or water quality protection to render it unpermissible. The Coalition does not agree with that conclusion and hopes that the Louisiana Supreme Court will take a more informed view but the fact remains that the manner in which all projects and programs are conducted matters. It matters a lot. In our opinion cross-program coordination is not adequately dealt with in this plan.

### **Specific Comments**

*Scope of the Study.* According to the ERS the study area for this plan is bounded by the legally defined coastal zone. This excludes much of the Atchafalaya River from the study area. This is not acceptable to us and indeed it is not was conveyed to the public in the most recent round of scoping meetings. At a minimum we believe the study area should include the Atchafalaya and the entire Pontchartrain Basin. Both of these areas are inseparable from our coastal area and are vital to any type of plan that purports to be comprehensive. They are each vital to the planning and management for water quantity and water quality. This is a serious shortcoming and a retrenchment from what was described to the public. Indeed we must ask why these regions have been excluded from the study area.

Beyond the geographic scope of the plan we are concerned with the limited nature of its programmatic scope. Specifically, there seems to be no recognition of the federally funded and locally partnered comprehensive plans that have been prepared for the Barataria-Terrebonne National Estuary Program and the Pontchartrain Basin. Indeed the portion of the ERS that describes the history of coastal restoration efforts (MR-15, PDEIS 1-39) does not even mention the Pontchartrain program administered by the Lake Pontchartrain Basin Foundation. Unless these efforts are fully recognized and included it is inevitable that the result will be duplication, lost time, confusion, and additional expense. Indeed some of those things have already occurred.

We also note that the listing of other existing programs on MR-16 fails to mention the NOAA Community Based Habitat Restoration program (which the Coalition and DNR are both partners in) and mentions the Cooperate Wetland Restoration Partnership, which unfortunately has not yet been set up for Louisiana.

*Science and Technology Program* As noted earlier we are very pleased that the need for a robust and engaged science and technology program is essential to the planning, implementing and accounting for the restoration program set forth in the ERS and PEIS. However, we have some concerns about the manner in which the program will be administered and whether it will actually achieve the goal of bringing the best science and technology to the table to better inform and ultimately expedite the key decisions that have to be made to save our coast. For example, it is unclear how the peer review process will work in the context of this effort. In the academic world it commonly takes at least 2 years of data collection and a writing, reviewing and publishing schedule that can take up to 5 years. We desperately need peer review but not that kind of peer review.

This gets to the issue of making the integration of agency procedures with those of academic and the private sector real. This is no small matter and it will not be made easier by the fact that there are cultures in each sector that have to be dealt with in addition to the purely administrative aspect. At this point, we can't say that the plan gives us confidence that those things have been adequately dealt with.

We are also concerned that the plan calls for the Science and Technology office to be headed by the Corps of Engineers. While there is probably no perfect host for this office we have serious reservations about the ability of the Corps to either identify or engage the various pools of expertise in the broader state and federal family of agencies, academe or the private sector. We would suggest that strong consideration be given to having an agency other than the Corps, perhaps even at the state or academic level, coordinate this activity. In some ways, it would seem an ideal task for the White House Office on Science and Technology Policy to consider.

We might not feel so compelled to suggest this but quite frankly we can't tell what the purposes of the Science and Technology Coordination Board and Science Advisory Boards are, and what one does that the other could not do. Regardless of the functions and duties of these boards we believe that the chair of those boards should not be an employee of the Corps, or any other federal or state agency. It is clear from the history of the LCA effort that the engagement of the broader science and technical community works best when it is being organized and coordinated by someone outside of the principle planning and implementing agencies. We fully understand the need for the Corps and the other agencies to retain the ultimate decision making authority and the responsibility for all federal funds and nothing we are suggesting should be taken to urge any abdication of those duties and responsibilities.

*Public Engagement* At the end of the day no plan can succeed if it is neither understood nor supported by the public. This is particularly true when the very survival of their homes, communities, and heritage are at stake. Simply put, the degree of public engagement in the LCA effort to date is no where close to what is needed and we suspect it is one of the reasons for the delay and truncation of the LCA over the past year. Given the aggressive schedule that was being pursued, we understand that something had to give but as we now see cutting public engagement comes with a price. We strongly urge that all future work on the LCA—near term and otherwise—begin with the public and include all relevant sectors of the public throughout. This will not be easy and it will not by itself guarantee success. But it is the right thing to do. The Coalition would be delighted to be of any assistance we can be on that score.

*Hope Canal* Both the ERS and the PEIS call for a "small" diversion into the Maurepas Swamps (MR-163 and DPEIS S-11). We disagree with this characterization. First, this area needs more than a small diversion and second what is being proposed is more of a hydrologic rehabilitation or freshwater reintroduction than a "diversion" (a term that suggests that the water actually belongs someplace else). The use of the term "small" adds no meaningful technical understanding to this project and could be used to preclude more expansive thinking about how this project could be designed and operated if a less limited view of how existing highway infrastructure might facilitate or constrict this project. We suggest a better name for the project would be "Freshwater reintroduction into Maurepas Swamp."

*Bayou Lafourche Project* As noted above in regard to the Hope Canal project, both the ERS and the PEIS call for a "small" reintroduction of river water into Bayou Lafourche (MR-171 and DPEIS S-11). In this instance we commend the drafters for calling this a reintroduction and not a diversion. However, we object to the characterization of this project as small. It should be designed, constructed, and operated to achieve the maximum benefit possible and ascribing the word small to it diminishes both its potential and the public's

expectations for might have been possible. It might turn out to be small but that should not be our objective.

*MRGO/Pontchartrain* Beyond the general concerns we expressed about the MRGO project above we have several specific concerns that we want to raise. While we are pleased to see both the ERS and the PEIS acknowledge the profound negative impacts this channel has had on the areas adjacent to it we believe the discussion of the environmental impacts does not go far enough. Most notably we believe there is abundant evidence of the systemic impacts the MRGO has had on the broader ecology of the Pontchartrain Basin, most notably in the Lake Maurepas and northwestern portions of Lake Pontchartrain. Neither the portion of the PEIS dealing with salinity regimes (DPEIS 4-21 to 4-29) or the vegetation resources (DPEIS 4-33 to 4-35) seem to acknowledge either the extent of this injury or the potential for dealing with it through modifications of the MRGO. We specifically believe the losses of swamp forest in the LaBranche wetlands are deserving of greater attention. At the end of the day, the problems attributable to the MRGO are not as localized as the PEIS suggests and the proposed actions do nothing to address the systemic and ongoing stresses caused by the salinity introduced by the MRGO. The proposed action certainly will not result in hydrologic restoration as stated on MR-105.

*Long Term Studies* The executive summary of the ERS (page xii) describes five major initiatives that will require more detailed study. These include a Mississippi River Hydrodynamic Model (with three components, including the third delta, the lower delta, and the upper Atchafalaya basin studies), the Chenier Plain Freshwater Management and Allocation Reassessment Study, and the Acadiana Bay Estuarine Restoration Study. Interestingly, the Main Report (MR-177) does not describe any of those studies in the discussion of the critical features of the plan. We trust this is an oversight but we urge a more expansive discussion in the ERS Main Report.

*Historic and Cultural Resources* We fully appreciate that assessing and describing historic and cultural resources is one of the hardest parts about preparing an environmental impact statement we could not help but notice that the section of the PEIS describing those resources (DPEIS 3-66 to 3-69) seems to remarkably bland and incomplete. For an area as large as coastal Louisiana and for which culture is such a defining characteristic of our communities and our economies we believe a richer treatment is desirable. Much work has been done in this field through the Barataria Terrebonne National Estuary Program, the Pontchartrain Comprehensive Management Program, and a variety of university, tourism, and folklife programs that could be tapped into. There are also such recent books as *Bayou Farewell* (Tidwell), *Holding Back the Sea* (Hollowell) and *Saving Louisiana* (Streever) that could be consulted of guidance.

In conclusion, we would again like to thank you for considering these comments. We would be happy to discuss them with you. After all, at the end of the day we are rowers in the same boat.

Sincerely yours,

Mark Davis  
Executive Director