National Association of Wetland Managers

"Dedicated to the Protection and Restoration of the Nation's Wetlands"

August 1, 2023

Mike Renacker
ATTN: CEMVK-PPMD
U.S. Army Corps of Engineers
Vicksburg District
4155 East Clay Street, Room 248
Vicksburg, MS 39183

Submitted via: YazooBackwater@usace.army.mil

Re: Notice of intent to prepare a draft environmental impact statement for the Yazoo Backwater Area water management project, Sharkey, Yazoo, Washington, and Issaquena, and Humphrey Counties, Mississippi.

Dear Mr. Renacker:

The National Association of Wetland Managers (NAWM) submits the following comments in response to the above referenced notice of intent (NOI).

NAWM (formerly The Association of State Wetland Managers) is a national 501(c)(3) professional organization established in 1983, with a mission to build capacity for state and tribal members and foster collaboration among the wetland community of practice by encouraging the application of sound science to wetland management and policy, promoting the protection and restoration of wetlands and related aquatic resources, and providing training and education for members and the general public.

NAWM wishes to affirm that we support the U.S. Army Corps of Engineers' (Corps) plans to conduct an analysis of the proposed Yazoo Backwater Area water management project under the National Environmental Policy Act (NEPA) through the development of an Environmental Impact Statement (EIS). We feel it is important that projects of this magnitude are fully vetted in order to assure that the public is informed of the environmental consequences of projects proposed and funded by the federal government. This analysis should include the environmental trade-offs for the project's proposed benefits, including cost analysis, and a full review of the potential alternatives which could be employed to meet the basic project purpose.

It is important to note that prior NEPA analyses in the form of an EIS and Supplemental Environmental Impact Statement (SEIS) have been conducted for this project by the Corps and that the U.S. Environmental Protection Agency (EPA) has prohibited the specification of the aquatic resources, which are the subject of the project, to be used for the discharge of dredge or fill material. EPA's final determination under Section 404(c) of the Clean Water Act (CWA) was based on the significant impact which the prior project proposal would have had on fisheries and wildlife resources within the Yazoo Backwater Area. The Agency also concluded that "derivatives of the prohibited projects that involve only small modifications to the operational features or location of these proposals would also likely result in unacceptable adverse effects and would generate a similar level of concern and review by EPA." Therefore, it would seem, that a significant amount of information needs to be vetted in the proposed Draft Environmental Impact Statement (DEIS) to demonstrate how the change in operational elevations of the Steele Bayou water control structure and the significant increase in pump volume remove the concerns that were raised, and were the basis for, the final determination issued by EPA.

The goal of NEPA is to inform the public of the predicted impacts of a proposed federal project. In order to comply with NEPA it is essential that the proposed DEIS analyze the full suite of potential actions, which could be undertaken to meet the basic project purpose and not just be a means to support the preferred alternative weighed against a "no action" alternative. These alternatives could include actions, both structural and non-structural, within the Yazoo and Mississippi watershed(s) to provide flood flow augmentation at source locations to help control hydraulic volumes and help to limit pressure on the existing levee and water control structures as well as reduce Yazoo and Mississippi mainstem peak volumes. Practices such as porous pavement, parking area runoff storage, wetlands creation, green roofs, underground storage facilities, rain gardens all could be part of a holistic "green infrastructure" watershed plan which can help to add resiliency to flood events within the basin. Infrastructure modifications such as roadway elevation, culvert replacement, dwelling elevations and similar actions can help to minimize community impacts as well and should be considered as part of an overall Yazoo Backwater Area flood resiliency plan. These alternatives, which are less damaging to aquatic resources, need to be carefully analyzed in the DEIS and need to be part of an overall cost benefit analysis for the project so that costs, impacts and potential flood reduction benefits can be compared.

The Corps cites the 1928 Flood Control Act (FCA) as the initiation of structural efforts to reduce flooding within the lower Mississippi River valley and the inception of the authorization to move forward with the proposed project. However, significant scientific knowledge regarding the hydrologic dynamics of flooding within the Mississippi drainage has been gained over the last 95 years. It is essential that the Corps undertake a thorough review of current data and methods for addressing flood events by examining root causes and incorporating source reduction efforts as part of the strategy for a wholistic approach to increasing flood resiliency within the Yazoo Backwater Area and minimize peak flow volume and duration. Efforts by the Corps along the Missouri River, a tributary to the Mississippi, to reduce flooding effects have included reconnection of the riparian zones by removing/redesigning historical structural controls to allow for natural river hydrologic dynamics to help mitigate flooding. Projects like this may serve as a guide to help identify other alternatives which meet the project purpose but have less environmental impact and reduced costs than the preferred one selected.

The proposed DEIS should also address how the preferred alternative not only minimizes the concerns identified as the basis for EPA's Final Determination but how the proposed project complies with Executive Order (EO) 11988 "Protection of wetlands". Section 1(a) of EO 11988 directs that each agency "shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands" and Section 2(a)(2) states "that the proposed action includes all practicable measures to minimize harm to wetlands". The proposed DEIS should address how the preferred alternative complies with this EO and its directives.

NAWM appreciates the efforts that the Corps has undertaken to work collaboratively with their federal partners by having EPA and the U.S. Fish and Wildlife Service (FWS) be part of project review and planning. It is our opinion that additional federal partners such as the Federal Emergency Management Agency (FEMA) and the U.S. Department of Housing and Urban Development (HUD) could assist in project alternative development, planning and analysis. Considering the magnitude of the project and associated issues these agencies are conspicuous by their absence as partners. They could bring a wealth of information and resources to contribute to project planning and implementation, including significant experience with flood planning and prevention for communities, to help guide alternative development and analysis during the NEPA process.

Additional comments on the "Potentially Significant Issues" identified in the NOI to prepare a DEIS for the Yazoo Backwater Area water management project:

Wetlands:

The NOI states that the preferred alternative would result in no conversion of wetlands to non-wetlands but that some functional loss is anticipated. The DEIS should thoroughly vet the type and extent of functional loss anticipated by the proposed project and how the current preferred alternative has avoided the approximately 43.6 acres of direct impact from the original proposal.

A key element in analyzing impacts will be to identify the extent of jurisdictional waters located in, and affected by, the project. It is important to note that EPA's Final Determination identified a potential for as much as 24,000 acres of wetlands which may have been impacted but were not evaluated in the prior FEIS. In order to assess the ecological effects resulting from the project and identify potential mitigatory actions, the aerial extent, type, function and potential impacts on all aquatic resources should be thoroughly examined in the DEIS. It is anticipated that the Corps will work with their federal partners to identify and agree upon resource extent and impact prior to publishing the DEIS.

Considering the value of the aquatic resource proposed to be impacted it is essential that all mitigative efforts occur within the effected watershed (i.e., Yazoo Backwater Area) and should comply with the 2008 Mitigation rule promulgated by the Corps and EPA. The proposal should include the development of a robust monitoring protocol, identifying benchmarks of success, to assure that functional uplift has occurred to replace those lost and/or compromised by the project. Part of the plan should address site protection mechanisms and financial assurance methods. The plan should not be speculative in nature and should have letters of commitment by lands owners willing to sell and/or restrict their land for use as mitigation locations. Locations should be identified and obtained in contiguous "blocks" so as not to "piecemeal" resource replacement and bifurcate system functions. It is also important when assessing functional loss and proposed uplift as a result of mitigation efforts to use a consistent, replicable methodology.

This allows for the comparison of "apples to apples" and helps to identify key indicators to include in a monitoring protocol.

Downstream Effects:

It is unclear in the NOI if the proposal anticipates a single 25,000 cfs pump or multiple ones since "pumps" are referenced in this section of the NOI and this should be clarified. Within the DEIS, a thorough hydrologic analysis of the effects needs to be vetted. For example, how will the additional volume of water within the mainstem affect downstream communities and resources? Considering that the pumping periods would coincide with critical highwater events where small elevations in flood stage may have significant lateral effects, this kind of event could overburden existing flood protection structures. Nutrient loading and other potential contaminant sources should also be assessed, and the potential effects modeled as a result of pumping volumes. The overloading of natural downstream systems by exceeding their capacity to uptake and/or immobilize contaminants is another concern, including the transport of these constituents to the Gulf and exacerbating hypoxic areas. All of these potential negative impacts and more need to be analyzed within the DEIS. A simple volume analysis at the Vicksburg gage would be insufficient to make the no-effect determination therefore more rigor should be devoted to supporting this opinion.

Aquatics:

NAWM encourages a deeper analysis of the effects to aquatic species beyond the hypoxic zones created by levees and the Steele Bayou gate elevation management. Hydrologic cycling and elevations play important parts in the lifecycle of many aquatic species. This also affects species which are not aquatic as part of their lifecycle but may be water dependent and rely on specific hydrologic regimes for survival. Considering that the Yazoo backwater area and the wetland system types occurring there, e.g., bottomland hardwood wetlands, are located in the lower Mississippi, its tributaries and associated floodplains, it is vital that any analysis conducted include multiple species types and focus especially on identified species of concern. The World Wildlife Fund has designated the lower Mississippi as a Global 200 ecoregion and is one of the most critical areas for biodiversity preservation. Bottomland hardwood wetlands have also been identified by Mississippi's 2005 Comprehensive Wildlife Conservation Strategy as important habitat for 33 species of greatest conservation needs. These species, given the value of the aquatic resource, need to be included in any assessment of anticipated impacts resulting from the implementation of the preferred alternative and compared against other alternatives identified. An analysis of the 25,000 cfs pump operation and the impacts of entrapment and entrainment on aquatic species should also be evaluated. Should potential impacts be identified, pump design and operational modifications need to be considered in order to minimize these effects and included in the DEIS.

Environmental Justice:

We appreciate the inclusion of addressing impacts to and concerns of disadvantaged communities in the DEIS and in particular the planned engagement with the communities. It is important to remember that this engagement needs to be conducted in such a manner that it is both accessible and understandable to the community. This should not merely be an exercise in informing impacted communities on the preferred alternative but needs to be a meaningful engagement on the issues and those alternatives which can be undertaken to address those issues. This will allow community members to provide an informed and meaningful response to the proposed project. As stated before, it would be beneficial to seek assistance from FEMA and

HUD during this process and in the development of potential alternatives to address the concerns of affected disadvantaged communities as well as provide resources which could be used to implement alternative solutions. Once meaningful engagement has occurred, the information garnered should be used to identify additional alternatives which may meet the project purpose and address community needs; these can then be vetted during the proposed DEIS development.

In conclusion, this proposed Notice of Intent to prepare a Draft Environmental Impact Statement is an important step in understanding the impacts and benefits of the proposed Yazoo Backwater Area water management project. We appreciate the opportunity to comment on the NOI and would like to request that we are included in the scoping process for DEIS development. Given our role at a national scale on aquatic resource management issues it would be beneficial to have our perspective and experience to help inform the Corps NEPA analysis. The contact for scoping is Jeff Lapp, our Senior Science Policy Advisor, and he can be reached via email at jeff@nawm.org.

NAWM appreciates the opportunity to comment on this matter. While these comments have been prepared with input from the NAWM Board of Directors, they do not necessarily represent the individual views of all our members. Please contact me should you wish to further discuss these comments.

Sincerely,

Marla J. Stelk, Executive Director

Cc: NAWM Board of Directors