UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

October 21, 2011

U.S. Army Corps of Engineers
New Orleans District (CEMVN)
James A. Barlow, Jr., Ph.D
7400 Leake Avenue
New Orleans, LA 70188

Dear Dr. Barlow,

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) prepared by the U.S. Army Corps of Engineers (USACE). The Louisiana Department of Transportation and Development (LADOTD) is proposing to construct a new highway , the proposed LA 3241, between Interstate Highway 12 (I-12) and Bush, Louisiana in St. Tammany Parish.

EPA rates the DEIS as "**EC-2**" i.e., EPA has "Environmental Concerns and Requests Additional Information in the Final EIS (FEIS)". The EPA's Rating System Criteria can be found here: http://www.epa.gov/oecaerth/nepa/comments/ratings.html. Detailed comments are enclosed with this letter which more clearly identify our concerns and the informational needs requested for incorporation into the Final EIS (FEIS). Responses to comments should be placed in a dedicated section of the FEIS, or its appendices, and should include the specific location where the revision, if any, was made. If no revision was made, a clear explanation should be included.

EPA appreciates the opportunity to review the DEIS. Please send our office two copies of the FEIS and an internet link when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20004. Our classification will be published on the EPA website, www.epa.gov, according to our responsibility under Section 309 of the CAA to inform the public of our views on the proposed Federal action.

If you have any questions or concerns, please contact John MacFarlane of my staff at macfarlane.john@epa.gov or 214-665-7491 for assistance.

Sincerely,

Debra A. Griffin for

Rhonda Smith
Chief, Office of Planning and Coordination

Enclosure

DETAILED COMMENTS ON THE
U.S. ARMY CORPS OF ENGINEERS'
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE
I-12 to BUSH, LOUISIANA, PROPOSED HIGHWAY PROJECT
ST. TAMMANY PARISH, LOUISIANA

BACKGROUND: The Louisiana Department of Transportation and Development (LADOTD) proposes to construct a high-speed, four-lane arterial highway from the southern terminus of the current, modern four-lane arterial portion of Louisiana Highway (LA) 21 in Bush, Louisiana, to Interstate Highway 12 (I-12), a distance between 17.4 and 21 miles. Because the project proposes work in wetlands and structural crossings of various waterways in the project area, a Department of Army permit pursuant to section 404 of the Clean Water Act (CWA) is required before any construction activities.

The following comments are offered for your agency's consideration in completing the FEIS:

DETAILED COMMENTS

EXECUTIVE SUMMARY

Table ES-1 should include quantitative values, i.e., acres, feet, etc.

1.0 PROJECT PURPOSE AND NEED

The project's Purpose and Need should be well-established and well-justified. Section 1.4 states the project needs, but does not properly support or justify them. As written, some of the need statements may be flawed and not fully supported in the DEIS. Below are the stated project needs and an explanation of how they may be flawed or how they can be improved.

1. Fulfill the legislative mandate, Louisiana Revised Statute 47:820.2B(e).

   Impacts to the human and natural environment may preclude even a "legislatively mandated" project from being constructed if a national environmental standard is violated or significant environmental degradation occurs.

2. Provide a logical, direct, modern, high-speed, four-lane arterial to I-12 from the southern terminus of the current, modern, four-lane arterial portion of LA 21.

   This statement should be part of the purpose.

3. Divert traffic from Washington and northern St. Tammany Parishes onto a four-lane, modern, high-speed arterial to free capacity for local trips on segments of existing routes in southern suburban areas and reduce congestion during peak and some non-peak periods.

No through traffic data is included for analysis. An origin/destination study is necessary to improve the analysis as it would ascertain the underlying travel characteristics of the region of influence (ROI) and would help determine if there is a real need to separate local traffic from through traffic.

4. Support and enhance the existing and developing economic activities in Washington and northern St. Tammany Parishes that rely on the highway network to reach their markets by providing a travel time savings.

The EIS must demonstrate how the proposed project will enhance economic development. It must demonstrate how business investment and product movement is being adversely affected by the current transportation network or how it will improve with the proposed project. In addition, the analysis must demonstrate that the project would substantially increase employment and gross domestic product in the region and be a catalyst for growing the economies of the municipalities and parishes in the ROI.

The economic analysis in Section 4.11 does not substantiate the need for the project. The analysis confirms that there are only minor, insignificant beneficial impacts to employment, regional GDP, and real personal income for the ROI. In addition, the projected time savings are relatively minor, ranging from 4 to 23 minutes for Alternative P, the preferred of the LADOTD alternative. The analysis should prove that the travel time savings shown in Table 2-1 would enhance regional GDP, business investment, and product movement.

EPA recommends the Purpose and Need statements be re-evaluated and thoroughly defined, justified, documented, and established so as to justify why significant adverse environmental impacts identified in the document are acceptable.

3.0 AFFECTED ENVIRONMENT

3.3 Water Resources

The DEIS effectively assesses watersheds, groundwater, and impaired waters. However, this section should also characterize waterways, which include rivers, streams, and tributaries. Depending on the alternative, there are 25-35 stream or river crossings. EPA recommends that all waterways affected by the proposed project be characterized by constancy of flow (ephemeral, intermittent, perennial), ordinary high water mark (OHWM), and acreage within right of way (ROW). It would also be advantageous to include the relative health of the waterway, which would include an evaluation of riffle/pool complexes, erosion, headcutting, and sinuosity.

3.4.4.4 Sensitive and Protected Sites, Mossy Hill Mitigation Bank

Description of location of Mossy Hill should be revised to state that it is adjacent to the Bayou Lacombe Mitigation Bank, not the Talisheek Pine Wetlands Mitigation Bank.

3.6 Air Quality

3.6.2 Climate and Greenhouse Gases

By statutes, Executive Orders, and agency policies, the Federal government is committed to the goals of energy conservation, reducing energy use, and eliminating or reducing greenhouse gas (GHG) emissions. Due to the proposed project's long-term utility, EPA recommends the Final EIS (FEIS) include a more detailed discussion of GHG emissions and climate change. For guidance, please see CEQ's "Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions" dated February 18, 2010.

By removing up to approximately 600 acres of southern pine forests and other vegetation, a natural carbon sink is also being removed. According to some studies, a mature evergreen forest can sequester 6,000 pounds of carbon per acre per year.[1] The FEIS should include an analysis of the natural carbon removal process that would be lost if the proposed project is constructed and how that would contribute to the overall greenhouse gas emissions for the life of the project.

3.9 Traffic and Transportation

The EIS should assess the effectiveness of transportation improvements such as bypasses, intersection improvements (interchanges), signalization improvements, and/or improving the existing infrastructure/upgrading existing roadways as a way to address the congestion problems at issue. While such actions would not address all elements of the basic project purpose, this analysis would provide the public and decision makers with information to support a more informed decision on this project. In addition, no through traffic data is included for analysis. An origin/destination study is necessary to improve the analysis as it would ascertain the underlying travel characteristics of the ROI and would help determine if there is a real need to separate local traffic from through traffic.

4.0 ENVIRONMENTAL CONSEQUENCES

4.2 Land Use

In Chapter 3, land use is classified into 14 categories. However, Tables 4-2 through 4-5 only classify the affected land use into the 'developed' category. The area of directly affected land use should be calculated by multiplying the alternative length by the ROW width. For example, Alternative B/O affects 590 acres (19.5 miles x 250 ft) of land, thus, would include impacts to more than 'developed' land. In fact, according to the map on page 3-6, Alternative B/O would also affect 'barren land', 'mixed forest', and 'forested wetlands', among several others. Direct impacts to land use should be revised for each alternative to include the entire roadway footprint and its impacts to land use types.

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[1] Johnsen, Kurt, et. al. "Carbon sequestration and southern pine forests." *Journal of Forestry* (2001). Online.

4.3 Water Resources

This section should include impacts to streams and tributaries. Data should include name of waterway, acres and linear feet of impacts, type of structure (culvert, bridge), and if there will be a channel modification. Indirect impacts should also be included.

4.4 Ecological Resources

4.4.2 Sensitive Terrestrial and Aquatic Habitats

The proposed project has significant adverse impacts to pine flatwoods, longleaf pine savannah, bayhead swamp, and slash pine-pondcypress/hardwood forest communities. These communities are listed as state rare and/or imperiled natural communities. EPA recommends impacts to S2 (imperiled) and S3 (rare) state ranked natural communities be mitigated. EPA suggests LADOTD contact the Louisiana Department of Wildlife and Fisheries' Natural Heritage Program to discuss appropriate mitigation measures. In addition, Tables 4-23 through 4-30 should include the state rank for each community type.

4.4.2 Wetlands

The DEIS effectively assesses the direct and indirect wetland impacts that could occur with any of the four alternative highway alignments reviewed in detail. Based on this analysis, EPA concurs with the U.S. Army Corps of Engineers (USACE) finding that Alternative Q is the least environmentally damaging practicable alternative (LEDPA), pursuant to the Clean Water Act Section 404(b)(1) Guidelines. Once a LEDPA is identified, the remaining wetland impacts must be minimized and offset such that the adverse effects of the proposed project do not cause or contribute to significant degradation of waters of the United States. In the case of this proposed highway, even the LEDPA has the potential for significant adverse impacts to wetlands. Thus, extensive minimization and mitigation measures will be needed to avoid significant degradation of aquatic resources. Once impacts have been avoided, minimized, and offset to the maximum extent practicable, the USACE will need to determine whether remaining environmental risks are justified in light of any transportation benefits that are projected to accrue from construction of this proposed highway. These matters are discussed in greater detail below.

As noted above, Alternative Q appears to be the least environmentally damaging alternative. A substantial portion of Alternative Q would be built on an existing hydrologic barrier, and much of the direct and indirect wetland impacts would affect intensively managed pine areas. Alternative Q has the lowest overall direct wetland impact of all four build options (including Alternatives B/O, J, and P). Alternative Q would result in the lowest amount of direct wetland impacts to forested wetlands, pine savannah, and bayhead or hardwood flats. Alternative P has less direct impact to pine flatwoods than Alternative Q. This difference, however, is offset by the fact that the impacts of Alternative P are to less intensively managed pine flatwoods, whereas Alternative Q would affect intensively managed areas, which presumably have less wetland functional value on an acre-by-acre basis.

Alternative Q is also the least damaging of the four routes in terms of indirect wetland impacts to pine savannah and bayhead or hardwood flats. Alternative P would have less indirect impact to pine flatwoods than Alternative Q. Here again, however, the flatwood areas indirectly impacted by Alternative P are likely to be of higher functional value than the more intensively managed flatwoods that would be impacted by Alternative Q. Moreover, Alternative P would result in greater indirect impacts to slash pine/pond cypress flats, bayhead or hardwood flats, and pine savannah, which also tend to be of higher ecological value than intensively managed pine flatwoods. While estimated hydrologic impacts for Alternative P are below those for Alternative Q in some categories, this analysis should be balanced against the fact that Alternative P would be a new hydrologic barrier on substantially more miles of land. Thus, there appears to be a greater overall risk of adverse indirect hydrologic impacts for Alternative P. This is consistent with the analysis in Appendix G, which ranks Alternative Q as posing the least risk to natural channel systems due to factors summarized below:

"This alternative includes the least number of major structure crossings (25 crossings) and only three bridge crossings. Much of the alignment also follows existing roadway and railroad alignments. Thus, many of the structures for this alternative will be replacements of existing structure crossings."

In sum, we concur with the finding in Appendix G, which ranks Alternative Q as the most environmentally favorable route, considering both the direct and indirect wetland impacts of all four proposed highway alignments.

4.11 Socioeconomics

4.11.3 Summary of Build Alternatives

The Functional Replacement Program first mentioned on page 4-94 should be defined and explained.

EPA recommends the FEIS include a map and table which identify displacements per alternative and if those displacements occur in a census tract containing minority and/or low-income populations. Please cite if the acquisitions of property, including homes and businesses, will adhere to Title VIII of the Civil Rights Act of 1968, Title VI of the Civil Rights Act of 1964, and the Housing and Urban Development Amendment Act of 1974. Relocation assistance should be in accordance with all federal and state laws. Relocation benefits and assistance are available to persons without regard to race, color, religion, national origin, sex, age, or handicap.

4.12 Environmental Justice

Environmental Justice

Although this project will have significant impact on wetlands, the DEIS reveals that the proposed project will not disproportionately and adversely impact low-income and minority communities in this area of St. Tammany Parish in eastern Louisiana. The project may "foster economic development and enhanced quality of life" in the affected area; however the research

provided shows that the economic benefit for the area will be positive, but it will be extremely small (at the high point of direct benefit of the construction project, the local economy will benefit by only 0.14%). The analysis of negative affects (loss of wetlands and pine forests) does not show that low-income or minority residents will be appreciably affected. Although St. Tammany Parish on the whole has a smaller percentage of minority residents (15.9% compared with the State's 35.4%), or residents below the poverty line (11.2% compared with Louisiana's 18.8%), two census tracts do have higher percentages of minority and low-income residents. However, those census tracts are not expected to be impacted by highway construction.

Tribal Considerations

The DEIS showed no efforts to provide information to or conduct consultation with any Native Americans tribes. Louisiana has four federally recognized tribes and state-recognized tribes and descendants of many of the tribes that inhabited Louisiana long ago that still live in the state. The project area was inhabited by the Acolapissa, who eventually diminished by the end of the 1700's. The Choctaw Indians also lived in the area until the early 1800's, when they were forced to move to Oklahoma on the "Trail of Tears." As of the 2010 U.S. Census, 0.5% of the population of St. Tammany Parish is American Indian. EPA recommends that the applicant consult with the Choctaw Nation of Oklahoma (P.0. Box 1210, Durant, OK 74702-1210) about this project to learn if they have comments or recommendations to offer about this DEIS and to include consultation information in the FEIS.

4.18 Cumulative Impacts

EPA recommends the FEIS include temporal and geographic boundaries for analyzing the cumulative impacts on all resources of concern. Please refer to the Council on Environmental Quality's "Considering Cumulative Effects Under the National Environmental Policy Act" for assistance with identifying temporal and geographic boundaries and identifying past, present, and reasonably foreseeable future projects to include in the analysis.

4.21 Mitigation Summary

4.21.2 Minimization

4.21.2.2 – Water Resources - The DEIS describes best management practices (BMPs) that would be utilized as part of the Louisiana Pollutant Discharge Elimination System (LPDES) General Permit for Construction. BMPs are standard operating procedures for complying with LPDES permits; thus, cannot be claimed as mitigation for proposed project impacts.

4.21.2.5 – Air Quality - BMPs are also discussed for minimizing impacts to air quality. However, these BMPs are usually offered as standard operating procedures for complying with the Clean Air Act. Thus, these BMPs cannot be claimed as mitigation for proposed project impacts.

4.21.2.9 – Children's Environmental Health and Safety Risks - The DEIS describes mitigation measures to be applied for work areas near Fifth Ward Junior High School if

Alternative B/O is selected. These measures to protect children are standard operating procedures for construction worksites near schools and other places where children congregate; thus, cannot be claimed as mitigation for proposed project impacts. The FEIS should also include provisions that signs will also be installed in other languages for children who may have limited English proficiency.

4.21.3 Compensation

4.21.3.1 – Wetlands - The DEIS correctly states that with appropriate and practicable avoidance, minimization, and compensatory mitigation measures, significant degradation of aquatic resources could be prevented. Yet far more detail on the proposed compensatory mitigation would be needed to support such a finding in this case, given the extent of potential direct, indirect, and cumulative wetland impacts. The preliminary compensatory mitigation credit need estimates shown in Table 4-57 account for both direct and indirect impacts, and clearly indicate that a substantial amount of wetland restoration would be needed to effectively offset unavoidable wetland impacts. However, EPA would need to review the details of a proposed mitigation plan before we could concur with a finding that unavoidable adverse wetland impacts would be effectively offset and the risk of significant degradation of aquatic resource has been addressed, consistent with the Clean Water Act Section 404(b)(1) Guidelines.

According to the 2008 Department of Defense and EPA regulations regarding compensatory mitigation for losses of aquatic resources, a final mitigation plan must be approved by the District Engineer prior to issuance of a permit in this case. This mitigation plan must address mitigation objectives, performance standards, monitoring, long-term management, financial assurances, and other factors critical to the success of compensatory mitigation projects. The detail of such a mitigation plan should be commensurate with the magnitude of the potential adverse wetland impacts from this proposed project. Pursuant to the 2008 compensatory mitigation regulations, the public should have an opportunity to review information regarding the amount, type, and location of the proposed compensatory mitigation, again in a level of detail commensurate with the scope and scale of the potential adverse impacts. Such public notice would provide Federal agencies, state and local government, and the public an opportunity to provide timely input on the proposed compensatory mitigation, while also providing the USACE additional information needed to determine whether the proposed project is in the public interest.

4.21.3.1 – Vegetation - As stated above, EPA recommends impacts to S2 (imperiled) and S3 (rare) state ranked natural communities be mitigated. LADOTD should initiate coordination with LDWF's Natural Heritage Program.

4.21.3.2 – Socioeconomics - To provide uniform and equitable treatment for persons whose property is acquired for public use, Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amended it in 1987. This law is called the Uniform Act. As an owner of real property that is being acquired for a state or federally funded project, it is that landowners' right to be fairly compensated. In the Socioeconomic section, relocation assistance is being claimed as compensatory mitigation; however, fair compensation for acquisition of property is required under the law and cannot be claimed as mitigation for project related displacements.

5.0 CONSULTATION AND COORDINATION

5.2 Environmental Compliance

Section 5.2.5 Clean Air Act

This section indicates that project emission levels were calculated for volatile organic compounds (VOCs) to compare with the established VOC *de minimis* level (50 tons/year) for serious ozone nonattainment areas. Please incorporate a comparison of NO_x emission levels to *de minimis* as well, since both pollutants are precursor compounds to ozone formation.