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

June 20, 2013

Ms. Joan Exnicios
Regional Planning and Environment Division South
Environmental Planning Branch
New Orleans District
U.S. Army Corps of Engineers
P.O. Box 60267
New Orleans, LA 70160-0267

Dear Ms. Exnicios,

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 Final Revised Programmatic Environmental Impact Statement (FRPEIS) prepared by the U.S. Army Corps of Engineers (USACE). The USACE proposes to make changes and improvements in the planning, design, construction, operation, and maintenance of the Morganza to the Gulf hurricane and storm damage risk reduction system project to prevent future disasters to the greatest extent possible.

EPA provided comments to the Draft RPEIS in a letter dated February 19, 2013. EPA rated the Draft RPEIS as "EO-2" i.e., EPA has "Environmental Objections and Requests Additional Information" due to potential significant adverse impacts to environmental justice communities, tribal communities, and coastal wetlands. These significant adverse impacts include the direct, indirect, and cumulative effects of the proposed project. EPA believes that most of our comments were adequately addressed, however, we do have additional comments below which should be addressed in the Record of Decision (ROD) document.

In response to comments made by EPA and others, the FRPEIS assesses and discloses potential adverse environmental and socioeconomic impacts due to relative sea level rise (RSLR) and increased frequency of closure of gates and water control structures in the proposed levee system. The FRPEIS acknowledges that under some RSLR scenarios, increased closure frequency could result in significant impacts to wetlands, fisheries, water quality, and navigation. With respect to the "constructible" features of the levee system, the FRPEIS includes a quantification of potential indirect impacts to wetlands from increased closure frequencies, along with compensatory mitigation to offset such impacts. In light of these potentially significant indirect impacts, we would not concur with the conclusion (on page 6-5 and elsewhere in the FRPEIS) that this proposed levee could combine with Federal, state, and local coastal restoration efforts to produce a net beneficial effect on wetlands.

The potential for increased frequency of gate and structure closure remains a major unresolved issue. As noted on page 75 of the Final Post Authorization Change Report, the

Houma Navigation Canal floodgate could be closed 354-365 days per year by 2085 (at intermediate to high RSLR rates). Assuming similarly significant increases in closure frequency would occur at other gates and structures, the Morganza to the Gulf levee would in effect gradually convert to a closed system, contrary to its design intent. Such a closed or nearly-closed system could significantly disrupt hydrology; degrade water quality in enclosed bayous, canals, and other water bodies; block fishery ingress and egress; and greatly reduce navigational access to the Gulf from enclosed communities. These are potentially profound long-term impacts for which no solution has been identified - beyond speculation regarding ways the levee system might be modified in the future to address this issue. Thus, construction of the Morganza to the Gulf levee system could reduce flood risk, while creating a new set of challenges in the future. Going forward, the USACE should carefully review this issue, while identifying and assessing ways to avoid and minimize the potential environmental and socioeconomic impacts of increased frequency of gate and structure closure.

The environmental justice assessment for the FRPEIS is much improved. The USACE performed an environmental justice assessment of the protective aspects of the alternatives and construction activities. Buy-outs, in relation to levee construction, are discussed with regards to potential impacts to environmental justice communities. The communities of Isle de Jean Charles, Gibson, Bayou Dularge, Dulac, and Cocodrie are more specifically analyzed and identified (with the exception of Cocodrie) as having high minority and/or low-income populations. Although a detailed description of the buy-out plan is not in the FRPEIS, there is additional text clarifying the process and explaining that these details would be documented in supplemental NEPA documents during the Pre-Construction, Engineering and Design (PED) phase. In addition, environmental justice information and analysis was included in the alternatives discussion and in the mitigation measures discussion. However, there remain some issues related to environmental justice and coordination with state-recognized tribes.

- The FRPEIS should provide documentation of formal contact with state-recognized tribes and local officials and their responses. An official letter from the USACE would be preferred over a telephone call or a discussion at a public meeting.

- The FRPEIS should provide additional documentation as to why the community of Isle de Jean Charles was not included within the proposed levee system given the increased costs for the 1% AEP outlined in this FRPEIS.

- Page 5-51 states "[f]or this reason, and in response to a recommendation from the U.S. Environmental Protection Agency (EPA) Region 6, additional analysis of the project area was conducted at the census block level for race and ethnicity, and at the census tract level for income and poverty level. Personal communication with Sharon Osowski, EPA Region 6, on March 1, 2013 confirmed this approach and level of analysis." The second sentence is redundant and should either be removed or replaced with the following, "Personal communication with Dr. Osowski, EPA Region 6, on March 1, 2013 included a discussion of different environmental justice assessment methods." This statement more accurately reflects our discussion with the USACE regarding environmental justice assessment methods.

- The document indicates that Tribes were identified and Federally-recognized Tribes were formally contacted for consultation under E.O. 13175 and coordination under the National Historic Preservation Act. The FRPEIS should provide documentation of the Tribes responses and how their concerns were addressed.

EPA believes that the USACE has responded adequately to our indirect and cumulative impacts comments, but has not effectively translated the amended language throughout the entire document. We point to Table 6-4 starting on page 6-59 where it states that this project, combined with other projects, would have net beneficial effects to wetlands, hydrology, water quality, fisheries, and threatened/endangered species. We realize that under some scenarios this could be true; however, the public must be made aware that under other scenarios, there could be significant adverse impacts to those resources. Thus, to ensure the public is aware of the long-term direct, indirect, and cumulative impacts of the project, EPA recommends the following statement be included in the ROD: "Under some future relative sea level rise scenarios, increased frequency of closure of the system's gates and water control structures could result in significant adverse impacts to wetlands, hydrology, fisheries, water quality, threatened/endangered species, and navigation".

We recommend the USACE make a commitment to formally contact the Isle de Jean Charles Band of Biloxi-Chitimacha-Choctaw Indians, the Point au Chien Indian Tribe, and the United Houma Nation, and address any concerns they may have regarding the proposed project. These are tribal communities with minority and financially disadvantaged populations. As such, individual attention should be paid to these communities. Letters of correspondence should be made available to the public and EPA to document these coordination efforts.

EPA appreciates the opportunity to review the FRPEIS. If you have any questions or concerns, please contact me at 214-665-8126 or John MacFarlane of my staff at or 214-665-7491 or macfarlane.john@epa.gov for assistance.

Sincerely,

Debra A. Griffin

Debra A. Griffin
Associate Director
Compliance Assurance and
Enforcement Division