UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

November 3, 2000

Colonel Robert Crear
U.S. Army Corps of Engineers
Vicksburg District
Attention: CEMVK-PP-PQ (King)
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Subject: Yazoo Backwater Area Draft Reformulation Report (DRR) and Draft Supplement No. 1 to the 1982 Yazoo Area Pump Project Final Environmental Impact Statement (DSEIS), Mississippi and Alabama; CEQ #000317

Dear Colonel Crear:

In accordance with our responsibilities under Section 309 of the Clean Air Act and Section 102 (2)(C) of the National Environmental Policy Act (NEPA), as well as Section 404 of the Clean Water Act (CWA), the Environmental Protection Agency (EPA), Region 4, has reviewed the subject document. This DRR/DSEIS is an evaluation of the environmental consequences of implementing a plan with the project purpose of flood damage reduction for row crop agricultural lands and for rural and urban structures in the Yazoo Backwater Area (Lower Yazoo Basin). Specifically, the recommended plan includes construction of a pumping station at Steele Bayou (14,000 cubic feet per second capacity) with a currently stated pump operation elevation of 87 feet NGVD, efforts to reestablish bottomland hardwood forests on lands below the pump elevation, and modifications to the operation of Steele Bayou structure to maintain water levels between 70 - 73 feet NGVD (when practicable) during low water periods.

EPA understands the need to address flooding issues in the Yazoo Backwater Area, and is fully committed to working with the Corps of Engineers (Corps) and the local sponsors to develop a project that addresses local needs and protects environmental resources. During the reformulation planning process, EPA repeatedly met to discuss the complex water quality and quantity management issues of the Lower Yazoo Basin with the Corps' Vicksburg District and Mississippi Valley Division, as well as the regional and headquarters offices of the U.S. Fish and Wildlife Service, Natural Resources Conservation Service, and the Federal Emergency Management Agency. Additionally, EPA provided grants to researchers at Virginia Tech University and the U.S. Geological Survey to develop a non-structural reforestation alternative which would meet project objectives. The results of these grants are described in a technical report ("An Approach for Evaluating Non-structural Actions with Application to the Yazoo

Backwater Area," Leonard Shabman and Laura Zepp, Virginia Tech University, February, 2000). This non-structural alternative provides for a more sustainable and more diversified approach to floodplain management in the Lower Yazoo River Basin. Our staffs met on February 11, 2000, to discuss the results of this technical report and to provide the Corps with an opportunity to ask questions of the principal authors. Despite these efforts at inter-agency coordination with the Corps, this non-structural alternative was not considered in detail in the DRR/DSEIS as a practicable alternative. We believe strongly that a comprehensive non-structural alternative for the Lower Yazoo River Basin, whether it is one described in the referenced report or another variation, needs to be given full consideration and not summarily rejected by the Corps.

In addition to a description of the Shabman and Zepp technical evaluation of a non-structural alternative, EPA has included in the attached review an outline of a conceptual plan for alternative investments in the Lower Yazoo River Basin, called the "Lower Yazoo River Basin Economic and Environmental Restoration Initiative" (also called an alternative investment proposal). This alternative investment proposal was developed recognizing the very real needs of the local people for flood protection and economic opportunity. The alternative investment proposal incorporates nonstructural measures along with some additional needs and priorities of the region as identified in the President's "Delta Initiative." As the Shabman and Zepp research demonstrated, reforestation is an economically superior approach for the very frequently flooded lands of the Yazoo Backwater area, as compared with enhancing row crop production. This alternative investment proposal would provide the "infrastructure" needed for local people to get the greatest economic advantage from this land use conversion by providing financial assistance (conservation easement payments) and technical assistance for landowners wishing to reforest. Additionally, this approach would support expanding recreational use of this land, promotional advertising about these reforestation opportunities, and addressing transportation needs. Flood damage reduction would be focused specifically on at-risk structures, roads and other infrastructure. Importantly, public health and environmental improvements are included in the proposal, such as, water and sewer infrastructure improvement projects, and investments in children's health efforts.

EPA has made considerable effort to talk to knowledgeable people in the area to develop an appropriate alternative investment proposal for the Yazoo Backwater Area. This dialogue is an on-going process, and we will seek out additional recommendations and opportunities for making refinements to this proposal. EPA acknowledges that the proposed actions will require a multi-agency approach. This alternative investment proposal clearly demonstrates the viability of an alternative investment strategy similar in magnitude and investment to that of the pump project, that also achieves the project purpose of flood damage reduction. Of critical importance to the EPA, this alternative investment proposal goes further by providing important environmental and water quality benefits consistent with the requirements of the Clean Water Act. By increasing the acreage of forested wetlands, suspended sediments and nutrients will be trapped and removed from the water column, flood storage will be provided and the base flows of the rivers will be augmented. This will improve the water quality of the impaired waterways in the Basin, and enhance downstream water quality (e.g. reducing the hypoxia problem in the Gulf of Mexico). Moreover it will contribute to the reduction of nonpoint source pollution and foster habitat

restoration programs. In addition, the proposal will also provide for superior economic and public health benefits to the local citizens. The heart of this approach is the reforestation of wetland areas, which is clearly in the Corps' mission. As demonstrated by the Wetland Reserve Program, there is significant interest by landowners in committing their lands to reforestation if the economic return is favorable. The alternative investment proposal builds on the momentum of such existing programs to further accomplish multiple benefits throughout this Basin.

With regard to EPA's review of the Corps' recommended plan as described in the DRR/DSEIS, we are concerned that large-scale environmental impacts would result from construction of the recommended plan. Given the extensive anticipated impacts to wetlands and other waters of the United States, a fundamental objective of the DRR/DSEIS is to determine whether the recommended plan is in compliance with Section 404 of the CWA, including the requirements of Section 404(b)(1). The DRR/DSEIS does not adequately assess those impacts or examine alternatives, such as the Shabman and Zepp non-structural technical evaluation, that would avoid and minimize impacts to wetlands in the project area. From the evidence presented, EPA is convinced that implementation of the recommended plan will result in substantial and unacceptable adverse environmental consequences. We are also concerned that the Corps has greatly underestimated and discounted the extent of adverse wetland impacts. The sheer size of the resources impacted by the project-more than 200,000 acres of wetlands, including some of the most valuable bottomland hardwoods in the region-raises concerns about significant degradation of the aquatic ecosystem. This action could undermine the Administration's goal of achieving an annual net gain of 100,000 acres of wetlands per year by 2005.

Moreover, we believe that the proposed mitigation for wetland impacts is inadequate, and there is legitimate concern that mitigation may not be carried out. Both the failure to identify specific mitigation lands in the project area and the current backlog of unmet mitigation for other Corps projects in the Lower Mississippi River Basin (totaling in the thousands of acres) cast doubt on the entire mitigation process. Based on our review, the information in the DRR/DSEIS with regards to mitigation is insufficient to demonstrate Section 404 compliance and does not meet the informational requirements of Section 404(b)(1). Notwithstanding the insufficient amount of information presented, the limited available data has lead us to the conclusion that the proposed alternative, even if fully discussed, would not satisfy the substantive requirements of Section 404(b)(1). These concerns are further heightened by the fact that the anticipated aquatic impacts would be largely avoidable with the implementation of the non-structural approach discussed above.

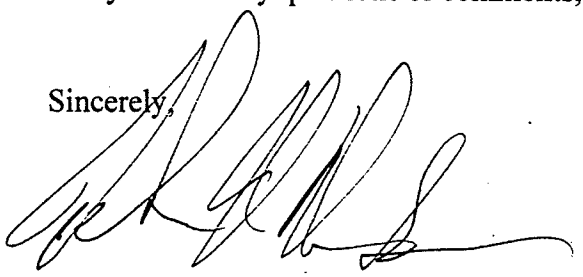
In addition, we have serious technical concerns about the methods used in the DRR/DSEIS to estimate the benefits and costs of the recommended alternative. Specifically, an independent evaluation of the Corps' economics analysis found that the Corps' values on agricultural benefits have been overestimated by $144 million. Finally, there are inadequate information, confusing documentation, and a number of inconsistencies throughout the DRR/DSEIS, which do not provide the public and decision-makers with sufficient information to meet the purposes of NEPA.

Based upon our review, we have rated the DRR/DSEIS as "EU-3" (Environmentally Unsatisfactory - Inadequate), in accordance with EPA's national rating system (an explanation of which is enclosed). The "EU" rating is based primarily on our conclusion that the proposed alternative, will result in adverse impacts to over 200,000 acres of wetlands in the Mississippi River floodplain, cause water quality impairment, and further degrade already impaired waters. These potential adverse environmental impacts are of sufficient magnitude that we believe the action must not proceed as currently described. The "3" portion of the rating means that the DRR/DSEIS should be formally revised and resubmitted for public comment to address the lack of information regarding potential alternatives, the scope of environmental impacts, and the potential wetlands mitigation measures.

We are committed to working with the Corps to resolve our concerns and assist in developing a project which provides appropriate flood damage reduction measures and minimizes adverse environmental impacts. Please be advised, however, that we consider this matter a candidate for referral to the Council on Environmental Quality if EPA's concerns are not adequately resolved. Furthermore, given the potential magnitude and severity of environmental impacts that could result from the recommended plan, we also consider this matter a candidate for further action under Section 404(c) of the Clean Water Act to restrict the discharge of fill material.

Detailed comments on these concerns, and other aspects of the project are provided as an enclosure to this letter. EPA is committed to working with you and the local sponsors to resolve our concerns, and we are hopeful that you will agree to address those concerns so that further action on our part will not be required. If you have any questions or comments, please contact me at (404) 562-8357.

Sincerely,



John H. Hankinson, Jr.
Regional Administrator

Enclosures

cc: Brigadier General Edwin J. Arnold, Jr., Commander MS Valley Division; J. Charles Fox, Assistant Administrator, EPA; Sam Hamilton, Regional Director, FWS; George Frampton, CEQ