



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
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NEW ORLEANS LA 70118-3651

Programs and Project Management Division
Projects and Restoration Branch

Mr. Gordon E. Dove
Chairman
Coastal Protection and Restoration Authority
Board of Louisiana
Capitol Annex, Suite 138
1051 North Third Street
Baton Rouge, LA 70802

Dear Mr. Dove:

On December 19, 2022, the Coastal Protection and Restoration Authority (CPRA) received a Department of Army (DA) permit from the U.S. Army Corps of Engineers (USACE) to construct the Mid-Barataria Sediment Diversion (MBSD) on the right descending bank of the Mississippi River at river mile 60.7 and in the vicinity of the town of Ironton, in Plaquemines Parish, Louisiana. USACE approval allowed for construction and operation of a sediment diversion structure capable of a maximum flow of 75,000 cubic feet per second based on Mississippi River conditions. MBSD was authorized by USACE under Section 404 of the Clean Water Act, and Sections 10 and 14 of the Rivers and Harbors Act of 1899, and was based on an assessment documented in the Final Environmental Impact Statement published on September 23, 2022 (see 87 FR 58083, 2022), in the Memorandum for Record of Pending Permit Decisions signed on November 8, 2022 and in the Summary of Findings and Record of Decision signed on December 19, 2022.

When it accepted the DA permit on December 19, 2022, CPRA agreed to comply with the permit's terms and conditions, which include the requirements that construction will occur in accordance with the 140 pages of drawings attached to the permit. If CPRA wishes to construct the structure in a manner that deviates from the permit requirements, a modification to the current DA permit would be necessary. In evaluating whether to authorize any modification of the current permit, USACE would apply the same standards (e.g., the Section 404(b)(1) guidelines and a public interest review, see 33 CFR Parts 320 - 332) used to evaluate whether to grant the permit originally. To start that process, CPRA would need to submit a Joint Permit Application for a modification to the Louisiana Department of Energy and Natural Resources. At that point, USACE would determine next steps, such as further information requirements and a preliminary assessment of whether a supplemental Environmental Impact Statement may be required.

Note that the Mississippi Valley Division's approval letter for MBSD alterations to USACE projects pursuant to 33 USC 408 (Section 408) was made in reliance on information CPRA provided. In addition to other requirements, the Section 408 permission requires that the structure be operated in accordance with the Monitoring and Adaptive Management Plan which identifies baseline and operational monitoring of key environmental parameters, MBSD performance measures, and triggers for management changes.

The Mississippi Valley Division, at its sole discretion, may reevaluate its decision to issue this permission at any time circumstances warrant, which may result in a determination that it is appropriate or necessary to modify or revoke the Section 408 permission. Circumstances that could require a reevaluation include, but are not limited to the following:

- a. failure to comply with the terms and conditions of the permission;
- b. the information provided proves to have been inaccurate or incomplete; or
- c. significant new information surfaces which was not considered in reaching the original decision that the activity would not impair the usefulness of the USACE project and would not be injurious to the public interest.

Additionally, if CPRA wishes to change the design(s) of the alterations to the USACE projects, such changes would also need Mississippi Valley Division Section 408 modification/approval.

If you have any questions, please contact Mr. Durund F. Elzey, Deputy District Engineer for Programs and Project Management, at Durund.Elzey@usace.army.mil or (504) 862-2204.

Sincerely,



Cullen A. Jones, P.E., PMP
Colonel, U.S. Army
Commanding