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United States Senate

WASHINGTON, DC 20510

April 16, 2015

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VIA ELECTRONIC MAIL
IMMEDIATE ATTENTION REQUESTED

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
108 Army Pentagon
Room 3E446
Washington, DC 20310-0108

Lieutenant General Thomas Bostick
Commander General and Chief of Engineers,
U.S. Army Corps of Engineers
Corps Headquarters
441 G. Street, NW
Washington, DC 20314-1000

Dear Secretary Darcy and Lieutenant General Bostick:

As the U.S. Army Corps of Engineers (the "Corps") moves forward with leadership transitions and promotions in the coming months, I'd like to take this opportunity to ensure that you – as the two primary Corps leaders – continue strengthening your commitment to improve communication and issue resolution with non-Federal stakeholders who depend on the Corps to provide necessary flood protection, reliable navigation, and restored ecosystems. All of us in Louisiana appreciate the important work of the Corps and all of its many fine men and women. However, it's critical that Corps leadership understand there remain several significant Louisiana issues that need to be addressed and resolved in an expeditious manner. In light of those issues, I can't support the transition or promotion of new leadership until I know that a constructive approach will be taken to address and resolve these serious problems.

Below is a concise list of very important Corps issues I would like to see resolved to avoid any delay in your transition and promotion process. I, through my staff, have made the Corps aware of all of these items prior to this letter.

1) Future Levee Lifts for the Greater New Orleans HSDRRS

Issue: Levees along the HSDRRS are subsiding at an exponential rate and require levee lifts before MVN begins armoring activities in order to remain accredited under the NFIP and protect citizens against catastrophic flooding. WRRDA 14, Section 3017 gave the Corps authority to perform levee lifts to the system, but funding has not been provided to implement the section. The locals have financial resources to begin lifts on those levees in need of immediate attention, but would like work-in-kind credit.

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Request: Examine all Corps authorities and agreements to develop a solution that would allow state and local stakeholders to use funding to perform levee lifts and receive credit for their work either on the current project, credit towards the HSDRRS payback (#11), or another project within MVN.

2) Operations and Maintenance of Floodgates/Navigational Structure on Fuel-Taxed Inland Waterways

Issue: WRRDA 14, Section 2013 gave the Corps responsibility to operate and maintain structures along the HSDRRS that bisect the GIWW and cost-share the O&M with the local non-Federal sponsor. WRRDA Implementation Guidance has been issued, but opportunities to fund the O&M were ignored using FY15 Omnibus discretionary funding or inclusion in the FY16 President's Budget.

Request: Use any available FY15 funds to begin Corps O&M activities, provide a firm commitment to fund O&M activities in FY16 using available discretionary funding provided by Congress, or develop and implement a credit agreement with the state and/or locals sponsors to ensure any local funds used to cover the Federal share are given proper credit.

3) WRRDA Implementation Guidance for Port of Iberia (Section 6004 (a)(7))

Issue: WRRDA 14, Section 6004 (a)(7) removed incidental storm surge language under the WRDA 07 authorization; thus allowing for construction of the project plan in the original Chief's Report.

Request: Expediently issue a favorable implementation guidance that would allow for funds to be used to review the project and allow it to compete favorably for construction in future budget cycles.

4) Prioritization of Additional Hires within MVN Regulatory

Issue: MVN has experienced an increase in 404 permit applications over the past few years resulting in additional funds being allocated to MVN for the immediate hiring of several vacant positions. Filling those vacancies would help dramatically reduce the current permit workload, but internal MVN regulations, policies, and bureaucratic hurdles are hampering an efficient and effective hiring process.

Request: Remove any and all MVN regulations, policies, and bureaucratic hurdles that are hampering hiring process and ensure all necessary regulatory positions are filled within 120 days.

5) Payments and Credits Due Regarding OMRR&R for the Caernarvon and Davis Pond Freshwater Diversion Projects

Issue: The Corps is severely behind in making payments or providing credits for reimbursement of the Corps' 75% cost-share contractually due the State of Louisiana (State) for O&M expenses expended by the State on the Caernarvon and David Pond Freshwater Diversion Projects, including long-term estuary monitoring thereof.

According to the State's Caernarvon Project records, no payment has been provided for any monthly invoices submitted to the Corps for the Corps O&M cost-share since September 2012, amounting to an arrearage through August 2014 of ~\$937,000, minus 25% of the Corps' own project costs. Additionally, for the Davis Pond Project, the amount listed for the total cash and credit provided by the State toward the 25% non-Federal cost-share in the last Corps crediting letter received by the State, dated January 15, 2015, indicates no increase in that amount from the preceding crediting letters dated back to October 5, 2012, in spite of the fact that ~\$1,441,000 in credit requests have been submitted to the Corps between September 2012 and August 2014. Therefore, according to that Corps documentation, no credits have been afforded the State for Davis Pond Project O&M since September 2012.

In addition to the delinquent payments and crediting, the USACE has long delayed its review and execution of an Amendment to the Davis Pond PCA that would allow the State, as Congressionally-authorized, to recover the costs related to oyster lease acquisitions for the David Pond project. As a result, there has been no close out of the construction costs for the project and a severe delay in crediting for oyster lease acquisitions that occurred over a decade ago.

Request: Make immediate payments or provide credits for all outstanding balances on the Davis Pond and Caernarvon Freshwater Diversion projects.

6) Southeast Louisiana (SELA) Project

Issue: Several 533(d) studies have languished for years and require funding to initiate a study, complete an ongoing study, or commence design for a completed report. Attempts by the Corps to resolve these issues have been outright ignored by OMB, particularly those project studies that have been completed and require funding to design.

Request: Use any available FY15 funds to begin design activities on those completed reports, provide a firm commitment to fund in FY16 using available discretionary funding provided by Congress, or include funding in the FY17 President's Budget Submission.

7) Helix Oil and Gas Permit MVN-2013-02952-ETT

Issue: The aforementioned permit application is currently awaiting approval within MVN, but has stalled due to several pending lawsuits. The State of Louisiana Department of Environmental Quality issued the water quality certification (WQC

140328-02) on March 19, 2015. Issuance of the 404 permit is the last remaining action needed to begin construction of the test well.

Request: Immediately approve and issue the 404 permit.

8) West Pearl River Navigation project Deauthorization and Divesture

Issue: The West Pearl River Navigation Project (WPRNP) project is located in Southeast Louisiana and was authorized by the River and Harbor Act of 1935 and completed in 1956. The project's purpose was to provide a navigation channel from the mouth of the West Pearl River to the town of Bogalusa to make it a sea port. The project components included channelization of the Pearl River, construction of 2 low head sills, one on the Pearl below Bogalusa and the other in the Bogue Chitto near Bush, La, a 40 mile parallel canal with 3 locks and a spillway placed in the canal between locks one and two. The land associated with this project consists of 662.7 acres in fee title and 2,987.06 acres of easements, together with any improvements thereon.

The WPRNP has completed its 50-year project life. Very little commercial traffic traversed the river during that time and the locks are too narrow for modern transportation industry standards. The navigation system is currently considered to be in 'caretaker status' by the Corps with an estimated annual Operations and Maintenance cost of \$200,000.

Deauthorizing and divesting the project would allow the Louisiana Department of Wildlife and Fisheries, in partnership with the U.S Fish and Wildlife Service, to remove the sills and restore the natural flow of these rivers to the Gulf of Mexico. Removing the sills would reduce flooding above the sill, improve fisheries habitat and provide for public safety and enhance access to public lands. There is broad local support from adjoining communities in St. Tammany and Washington Parish with officials and citizens advocating for restoring these rivers.

This project causes serious safety concerns in its current state:

http://www.nola.com/traffic/index.ssf/2015/03/pearl_river_boating_accident_1.html?ath=78da6a6c13550aa7d4e3c229281e4b25

Request: Immediately work with the Louisiana Department of Wildlife and Fisheries on a mutually-agreeable solution to deauthorize and divest the West Pearl Navigation project using Corps authorities and regulations. Provide a firm commitment to submit an actionable plan to my office by September 30, 2015.

9) Lower Mississippi River Management RESTORE Act proposal

Issue: A recent RESTORE proposal for Lower Mississippi River Management Program (LMRMP) was rejected by the Corps, but a revised proposal was submitted to the office of the Assistant Secretary of the Army – Civil Works on April 2, 2015. The goal of the Lower Mississippi River Management Program (LMRMP) is to create an integrated,

science-based management strategy for the LMR that results in sustaining and restoring wetlands in the ecosystem that is affected by current navigation and flood control systems, and in turn sustaining the LMR navigation and flood control systems through ecosystem restoration.

Request: Increase negotiations efforts between the Corps and the State to approve a mutually-acceptable proposal. Provide a firm commitment that a proposal will be completed by NLT June 30, 2015.

10) Bank Stabilization Along the Ouachita River

Issue: Several attempts have been made over the years to resolve bank stabilization issues along Ouachita River. WRRDA 14, Section 2009 gave the Corps authority to study and implement projects to address riverbank stabilization. To date, no implementation guidance has been issued. Locals also submitted a project request under Section 7001, only to have it rejected under the guise of "Corps does not perform work for a Single User".

Request: In 60 days, issue implementation guidance for Section 2009 that would allow for a viable path forward addressing bank stabilization on the Ouachita River. Immediately have officials from MVK work with the non-Federal sponsor to identify critical areas that are experiencing bank stabilization and develop small projects that would be consistent with WRRDA 14, Section 2009 for future Section 7001 submittal.

Thank you both for your attention to these matters. Understanding that expeditious resolution of these issues is the utmost priority, I have instructed my staff to work closely with your staff and provide them with any and all supporting documentation. Please do not hesitate to contact me on my cell at 504-256-2300.

Sincerely,



David Vitter
United States Senator