



MRGO Must Go Coalition Comments and Recommendations: U.S. Army Corps of Engineers MRGO Ecosystem Restoration Plan Feasibility Report and Environmental Impact Statement (EIS)

Introduction

The Mississippi River Gulf Outlet (MRGO) Feasibility Report describes the impact of the federal navigation channel to over 600,000 acres (940 square miles) of coastal habitats and recommends 58,000 acres of restored wetland habitat. The urgency of restoration in the MRGO ecosystem is undisputed. Despite a 180-day timeline for this restoration plan, the citizens of Greater New Orleans have waited over four years. Meanwhile, the ecosystem continues to deteriorate and communities continue their struggle to recover from decimating storm surge caused in part by the MRGO. The proposed Chief's Report contains a recommendation of "no further action" on MRGO restoration due to a cost share dispute. This is unacceptable. Furthermore, it does not reflect congressional intent expressed in Section 7013 of the Water Resources Development Act (WRDA) of 2007 and it would appear to be a legally impermissible determination. The MRGO Must GO Coalition, representing 17 local organizations and national NGOs, interprets cost share as 100% federal for construction. Due to the high level of importance and large-scale undertaking of implementation, we call on all parties to work together to move restoration forward utilizing all available resources. It is now seven years since Hurricane Katrina, MRGO ecosystem restoration is long overdue.

At a project level, moving Violet Diversion to Tier 3 implementation without feasibility level of design significantly reduces the quality of the report and delays a key directive from Congress to restore the natural features of the ecosystem. We urge the diversion to move forward expeditiously.

We also urge strong consideration of the additional project recommendations laid out in this document. Doing so will greatly enhance the comprehensiveness of this report and lead to the sustainable ecosystem that this restoration effort requires and deserves.

General Background

The decades of destruction caused by the Mississippi River Gulf Outlet, including massive bank erosion and impacts to over 600,000 acres of coastal habitat that surrounds the Greater New Orleans area, left the Greater New Orleans area extremely vulnerable to storm surges and waves. In the wake of the deadly, catastrophic of Hurricane Katrina, Congress called for closure and restoration along the Mississippi River Gulf Outlet passing, long-awaited legislation that intended to see the ecosystem restored. In Section 7013 of the Water Resources and Development Act of 2007, Congress directed the Army Corps to develop and construct:

- i) a plan to physically modify the Mississippi River-Gulf Outlet and restore the areas affected by the navigation channel;
- ii) a plan to restore natural features of the ecosystem that will reduce or prevent damage from storm surge;
- iii) a plan to prevent the intrusion of saltwater into the waterway;
- iv) efforts to integrate the recommendations of the report with the program authorized under section 7003 and the analysis and design authorized by title I of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2247); and
- v) consideration of—

- (I) use of native vegetation; and
- (II) diversions of fresh water to restore the Lake Borgne ecosystem.

Congress gave the Corps 180 days to complete the restoration plan – a May 2008 deadline. This deadline demonstrates the urgency of the restoration, yet we are well over 4 years behind deadline and facing an incomprehensible recommendation of “no further action” on Section 7013 due to a policy dispute over cost share (see below). This is an unjustifiable recommendation from the Army Corps that is an affront to victims of MRGO and to Congress who clearly intended for the Army Corps to prepare a plan that would then be used to fix the extreme damage caused to the ecosystem by the now de-authorized federal navigation channel. We remind the Army Corps, and all parties involved, that comprehensive, sustainable restoration of the ecosystem surrounding the Greater New Orleans area is critical to the future of the region – the people, the economy, and the ecosystem. For instance, MRGO ecosystem restoration will aid in adaptation to sea level rise and restores critical landscape features that protect the area from storm surges and waves. It deserves utmost prioritization by the Army Corps.

Congressional Direction

The proposed Chief’s report recommends “no further action.” In our view, a Corps recommendation of “no further action” due to a cost-share dispute is not a legally permissible determination under Section 7013, and therefore, expressly violates the statutory obligation required by the Corps under Section 7013(a).

Section 7013(a)(3)(A) makes it clear that the Secretary “shall submit” to the authorizing committees of Congress a report that includes, among other things, “a plan to physically modify the Mississippi River-Gulf Outlet and restore the areas affected by the navigation channel.” The Corps developed the plan and paid 100% of the costs. The Corps has also completed several MRGO restoration projects without a cost share agreement. The very next section of 7013 instructs the Secretary to carry out the plan. Section 7013(a)(4) requires the Secretary to “carry out a plan to close the Mississippi River- Gulf Outlet and restore and protect the ecosystem substantially in accordance with the plan required under paragraph (3), if the Secretary determines that the project is cost-effective, environmentally acceptable, and technically feasible”.

Congress authorized the plan for construction with implementation to proceed so long as the Secretary finds the plan to be 1) cost-effective, 2) environmentally acceptable, and 3) technically feasible. These three criteria have no relation to cost-share arrangements. A project may be “cost-effective” irrespective of whether it is a 100% federally funded or subject to 65-35% construction cost share. Thus, Section 7013(a) does not authorize a recommendation of “no further action” that is not based on one of these three explicit criteria. Simply put, the Corps is not legally permitted to stall implementation of the restoration plan based on a policy disagreement between the Corps and the State over cost-share arrangements.

We understand that pursuant to ER 1105-2-100 the Corps normally would not put forward a recommendation for further action without the requisite level of commitment from its local cost-share partner. However, in this case, the specific provisions of a congressional statute, to wit, Section 7013, mandate certain actions by the Corps in terms of preparing and implementing a plan take precedence over a Corps regulation. Instead, under the circumstances present, the Corps’ report should describe the cost-share policy disagreement, the reasons for the State’s position and the reasons for the Corps’ position with the request that the authorizing committees of Congress identified in Section 7013(a)(3)(A) or the appropriations committees resolve this matter.

Cost Share

Each day, the MRGO ecosystem further deteriorates and communities remain at risk. We must avoid further delay. The MRGO Must GO Coalition interprets the congressional intent in WRDA 2007 to be 100% federal cost share for construction. Given the extent and urgency of the restoration needs, however, we call on the State of Louisiana, the Corps, and potentially other federal agencies to work together to identify all available funding sources and ensure restoration moves forward in a timely manner. Ceasing action on restoration of the MRGO ecosystem is unacceptable. The call by Congress for restoration of the ecosystem and protection of communities clearly transcends a policy dispute on cost share. All parties involved should be present to work, first and foremost, to ensure timely implementation of comprehensive MRGO ecosystem restoration, as mandated by Congress.

Violet Diversion

The decision to recommend Violet Diversion for future study under a separate authority is to the detriment of the comprehensiveness and sustainability of the Corps Report. Throughout the planning process and in the Corps' Draft Report, Violet Diversion was a fundamental project scheduled for the early phase of implementation. The majority of marsh creation, marsh nourishment, and swamp creation features (such as the highly visible and strongly supported Bayou Bienvenue Triangle project) depend on river reintroduction. The diversion project will allow for salinity control, sediment delivery to the Central Wetlands area, and better adaptation to sea-level rise by helping maintain favorable salinity conditions for fish, wildlife, vegetation, and living shoreline features, as well as, providing sediment and nutrients that can enhance marsh accretion rates.

The State of Louisiana recognizes the necessity for the Violet Diversion and as a keystone project for immediate implementation through the Louisiana Coastal Master Plan because of its importance in sustaining the surrounding wetlands. The Master Plan, which concurs with both our Coalition's recommendation and the Southeast Louisiana Flood Protection Authority-East's recommendation of the diversion location in the existing Violet Canal, enjoys support from St. Bernard Parish as well as the public. The Corps should expeditiously move the diversion forward to pre-engineering design and construction to support a comprehensive, sustainable restoration effort in the area. Implementation of Violet Diversion should move in tandem with early-phased projects in this report, as it was scheduled for implementation in the draft report. The States of Louisiana and Mississippi are both on record as being willing to cost share for the Violet diversion.

Additional Recommendations

The project tiers are based on the performance of projects with or without the Violet diversion being operational. The report also suggests projects may be moved from different tier levels based on future conditions. However, the report does not define the criteria for changing project tiering levels (priority) nor does the plan suggest a means to capture the needed information. Monitoring is generally lacking throughout. We recommend that the process and criteria for moving from one tier to the next during implementation be clearly detailed.

Also, the area seaward of the rock dam should have some additional small projects to enhance restoration. The west spoil bank of the MRGO buried small channels or bayous that could be easily restored by dredging new, small meandering channels across the spoil bank. Salinity has increased dramatically below the rock dam and these channels should moderate salinity below the rock dam.

Additionally, the MRGO Must Go Coalition submitted twelve major recommendations to the Army Corps in response to the Draft Report (please refer [here](#)). Over 25,000 public comments were submitted to support the Coalition's recommendations. Regrettably, no adequate response was provided by the Army Corps regarding our recommendations and the majority of the recommendations are not addressed in the final plan, including restoration of regional oyster barrier reefs in the Biloxi Marsh and a baseline ecological study to inform restoration of the Central Wetlands Unit. As pre-planning and design work moves forward, we urge continued consideration of relevant recommendations put forth by our coalition of coastal science and policy experts as well we community leaders.

We are pleased to see features such as Bayou la Loutre Ridge and bankline reclamation moving forward. We are also pleased to see the use of Mississippi River sediment in the Bayou Bienvenue Triangle area and we encourage even greater use of river sediment for restoration. Also of note, nineteen projects listed in the Final Report are also addressed to some extent in the 2012 Louisiana Coastal Master Plan. We encourage the Army Corps to prioritize those projects as they enjoy strong and widespread support in the science, policy, and public spheres.

Closing

Our Coalition is pleased to see MRGO Feasibility Report and EIS come to completion on several important aspects of MRGO ecosystem restoration. We remain strongly committed to restoration of the MRGO ecosystem and will continue to advocate while providing our scientific, policy, outreach, and community expertise to all in the planning and implementation efforts that lie ahead. We call on the Army Corps to commit to comprehensive restoration of the MRGO ecosystem that reflects the unprecedented damage brought by the MRGO and an implementation timeline that reflects the urgency of providing protection to the communities at risk each hurricane season.

Signed:

American Rivers

Citizens Against Widening the Industrial Canal

Coalition to Restore Coastal Louisiana

Environmental Defense Fund

Global Green

Gulf Restoration Network

Holy Cross Neighborhood Association

Lake Pontchartrain Basin Foundation

Levees.org

Louisiana Environmental Action Network

Louisiana Wildlife Federation

Lower Mississippi Riverkeeper

Lower Ninth Ward Center for Sustainable Engagement and Development

Mary Queen of Vietnam CDC

National Audubon Society

National Wildlife Federation

Sierra Club – Delta Chapter

