Status of Lower Mississippi River Diversion Permit Applications

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Purpose

- Provide status of USACE evaluation of permit applications for Lower Mississippi River sediment/water diversions

USACE's Evolving Role - Permitting

- Transitioning from lead construction agency to regulatory/permitting agency

- Permits required for Mississippi River Diversions:
  - ► Department of the Army permit
  - ► Section 408 approval

Dept. of Army Permit Authority

- A Department of the Army permit will be required pursuant to:
  - Section 10 of the Rivers and Harbors act of 1899; and
  - Section 404 of the Clean Water Act
- Approval authority resides with the District Commander

Section 408 Authority

- 33 USC 408 provides authority that the Secretary of the Army may permit alteration to existing Corps projects if the alteration:
  - 1) Does not impair the usefulness of the project; and
  - 2) Is not injurious to the public interest
- Approval authority delegated to Chief of Engineers for Major Alterations
- The District cannot issue a Section 404/10 Permit Decision until Section 408 approval is obtained

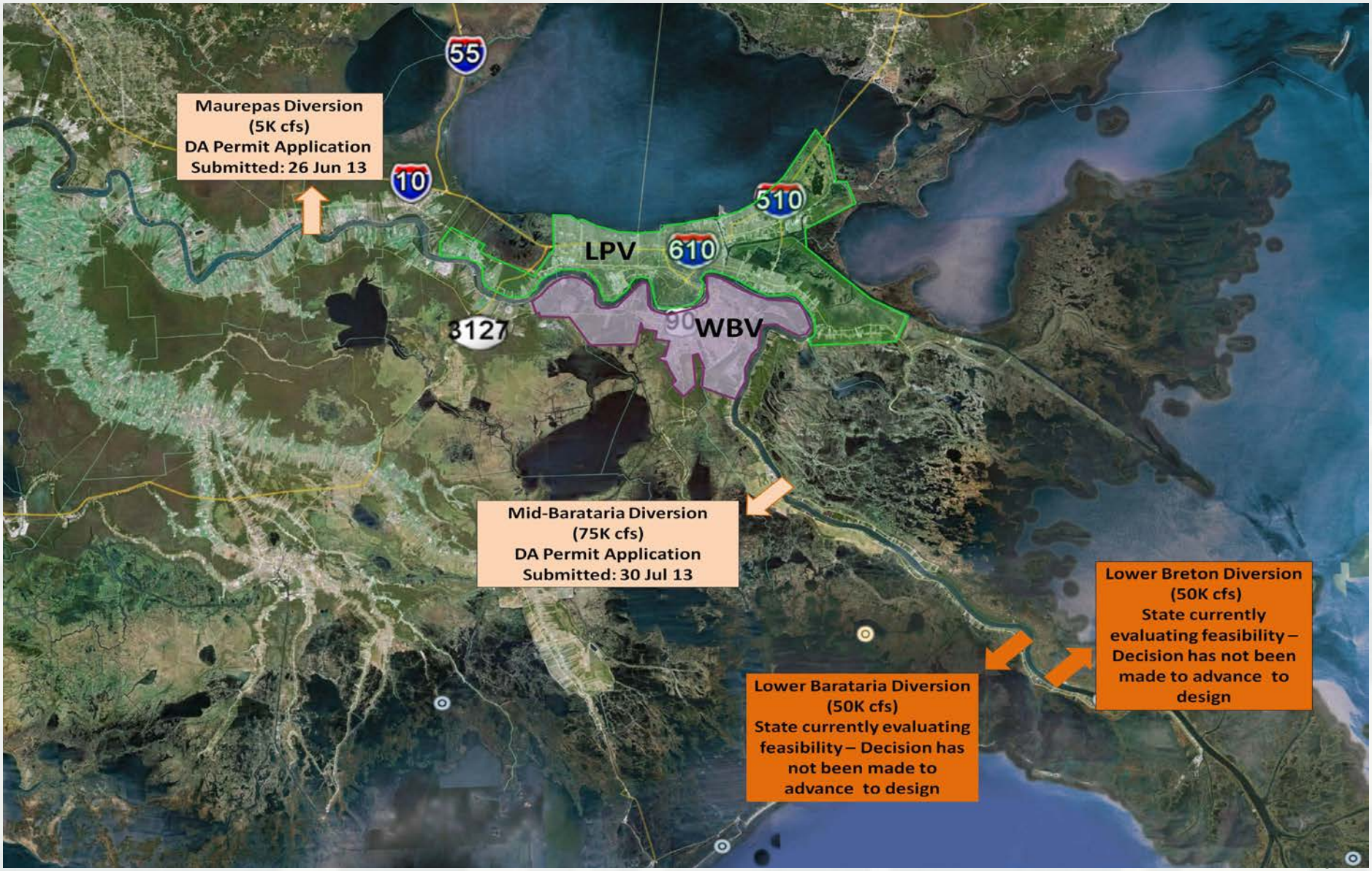
Section 408 Decision Making

- USACE Implementation Guidance dated 17 Nov 08
- Principles in USACE Decision Making: Lower Mississippi River Diversions (2 Aug 13)
- Overview of Applicant Requirements for Section 408 Request to Alter an Existing Federal Project Related to Proposed Lower Mississippi River Diversions (User's Guide)
- Section 408 Process Flow Chart for Major River Diversions

LMR Diversion Principles

- Consider All Costal Loss Mechanisms
- Balance Competing Uses of the River and River Resources
- Apply Sound Science
- Reasonable Use of River Resources
- Evaluate State's Diversion Portfolio as a System
- Utilize Controlled Diversions
- Employ Diversion Adaptive Management
- Consider Mississippi River Commission Recommendations

Lower MS River Diversion Permits



Maurepas Diversion

- Small Mississippi River Diversion (≈5,000 cfs)
  - Purpose is to convey freshwater, nutrients, and sediments from the Mississippi River to restore the health and essential functions of Maurepas Swamp
- DA Permit application submitted by CPRA on 26 Jun 13
- Section 408 request submitted by CPRA on 8 Aug 13
- Engineering Design
  - New Orleans District reviewing CPRA engineering/design package
- NEPA Compliance
  - Public Notice for DA Permit issued on 22 Aug 13
  - Public comment period ended 21 Oct 13
  - Applicant notified of decision to prepare EIS on 21 May 14

Mid-Barataria Sediment Diversion

- Large Mississippi River Diversion (~75,000 cfs)
  - Goal: Divert sediment-laden water into Barataria Basin to build land
- DA Permit application submitted by CPRA on 30 Jul 13
- Section 408 request submitted by CPRA on 8 Aug 13
- Engineering Design
  - CPRA provided early engineering/design data on 19 Sep 13
  - New Orleans District continues discussions with State's Design Team
- NEPA Compliance
  - Notice of Intent published in Federal Register on 4 Oct 2013
  - Working with CPRA on Third-Party EIS Contract

Key Challenges Moving Forward

- Funding
- System-wide Operations & Impacts
- State of Science
- Unknowns

Funding

- Permit evaluations will be resource intensive due to project complexity.
- Lack of current dedicated funding stream
- Limited available Federal funds
- Section 214 funds to expedite review of permit applications

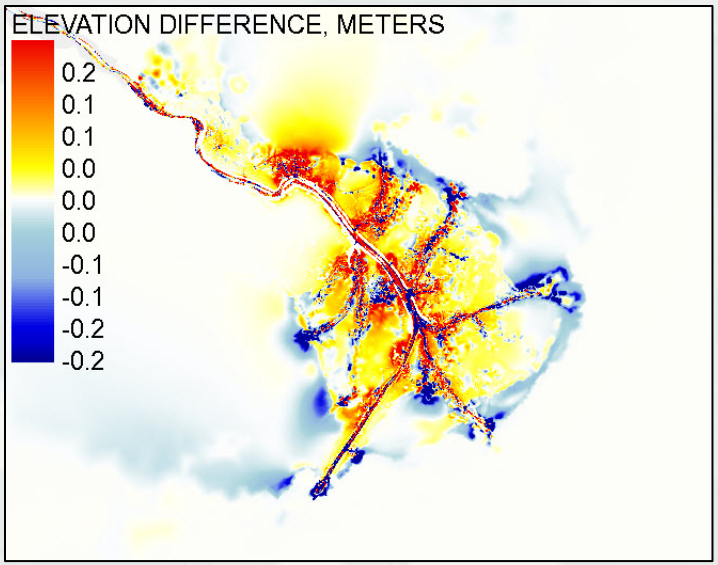
System-wide Operations & Impacts

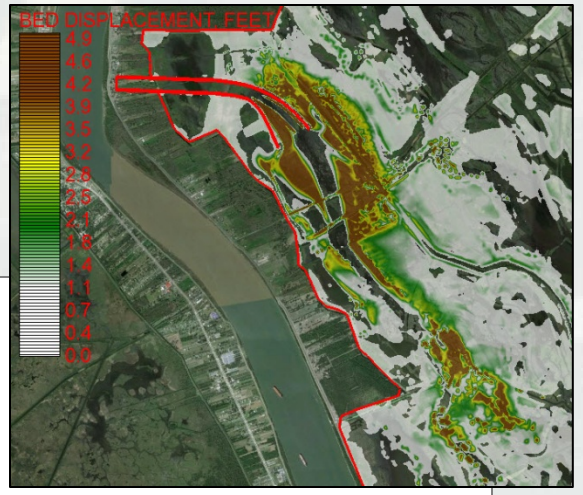
- State Portfolio of Diversion Projects
- Reasonably Foreseeable Future Action
  - Need to understand what will come online in the future
- How does Applicant plan to operate diversions as a system?
- Need to understand the system-wide impacts

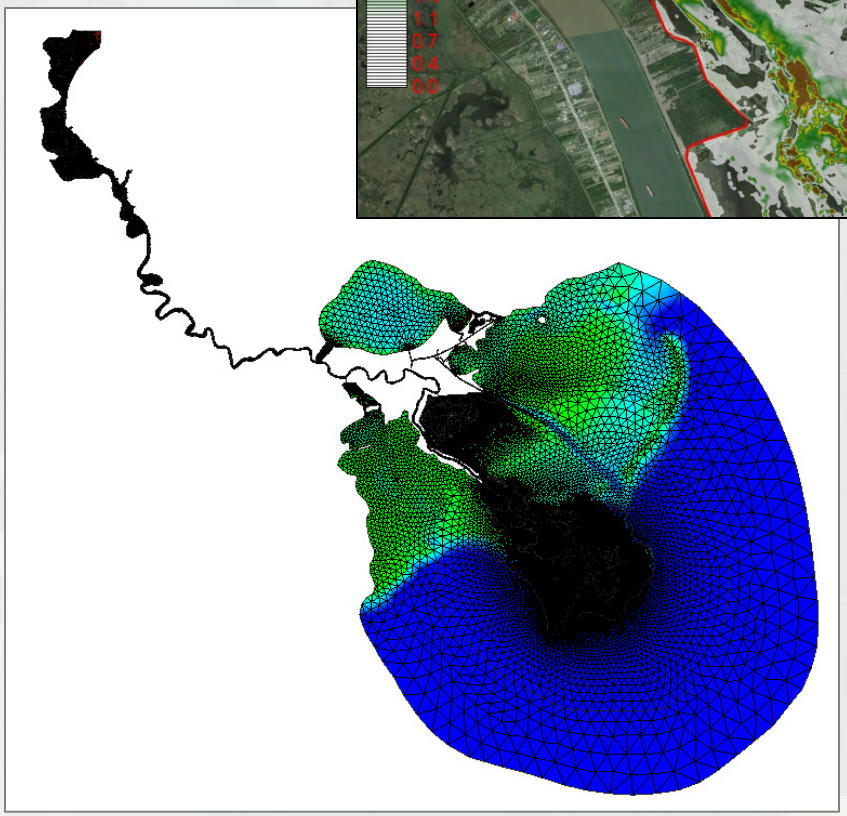
Available Science

- Science is evolving
- Augmented by:
  - LCA 6 feasibility studies (Dec 10)
  - Subsequent LCA 6 PED efforts
  - LCA Myrtle Grove Study (prior to study suspension)
  - Ongoing LCA Mississippi River Hydrodynamic Modeling/Delta Management Study
  - Other projects and programs

Mississippi River Hydro Modeling







Unknowns

Alternatives to Diversions

- Dedicated Dredging
- Beneficial Use of Dredged Sediments
- Marsh Creation/Nourishment
- Shoreline Restoration
- Oyster Reef/Living Shorelines

Lessons Learned

- Effective Communication early and often
- Managing stakeholders expectations
- Funding
- Applicant's priorities