SESSION 32: IMPLEMENTATION OF LARGE-SCALE RIVER DIVERSIONS: STAKEHOLDERS’ PERSPECTIVES

National Conference on Ecosystem Restoration

Moderator: Brad Inman
US Army Corps of Engineers
New Orleans District

August 29, 2018
SESSION PRESENTATIONS

- Implementation of Large-Scale River Diversions: An Applicant’s Perspective - Bradley Barth (Coastal Protection and Restoration Authority)

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NCER CONFERENCE
COASTAL PROTECTION AND RESTORATION UPDATE

BRAD BARTH
LOUISIANA’S LAND LOSS

2,006 SQUARE MILES

LAND LOST  LAND GAINED

Gulf of Mexico

SINCE 1932
WHAT WE STAND TO LOSE

4,200 SQUARE MILES

LAND LOST  LAND GAINED
RECONNECTING THE RIVER

SEDIMENT WASTED

SEDIMENT STARVED WETLANDS

SEDIMENT WASTED

BOLD ACTION IS REQUIRED
SEDIMENT DIVERSIONS

- BUILD AND SUSTAIN LAND
- INCREASE NUTRIENTS AND SEDIMENT DEPOSITION TO SUSTAIN AND MAINTAIN WETLANDS

MINIMIZE DIVERTED WATER

MAXIMIZE DIVERTED SEDIMENT
RECONNECTING THE RIVER

MID-BRETON

MID-BARATARIA
PROJECT LOCATION

LOCATION
IRONTON, LOUISIANA

DESIGN FLOW
30,000 to 75,000

TASKS
- Funding E&D, Construction
- Permitting and Construction Approvals
- Environmental (EIS)
- Land Rights
- Engineering and Design
- Operations

PROJECT FEATURES
- Inlet, Conveyance Structure, Outlet
- Interior Drainage Pump Station
- Highway Modifications
- Rail Road Modifications

MID-BARATARIA SEDIMENT DIVERSION
PROJECT LOCATION

LOCATION
WILL’S POINT/BERTRANDVILLE, LA

FLOW
Est. 15,000 to 35,000

TASKS
• Funding E&D, Construction
• Permitting and Construction Approvals
• Environmental (EIS)
• Land Rights
• Engineering and Design
• Operations

PROJECT FEATURES
• Inlet, Conveyance Structure, Outlet
• Interior Drainage Pump Station
• Highway Modifications

MID-BRETON SEDIMENT DIVERSION
SECTION 214 AGREEMENT

• Contractual Agreement between the State of Louisiana and USACE

• Maybe executed prior to a permit application or 408 request

• Allows USACE to dedicate staff and resources to the applicant during the permitting and environmental review processes

• Large Scale Infrastructure Project ($0.5 - $1B), contract value on the order of $1M – $1.5M
SECTION 10/404 AND 408

Section 10/404 Permit Application
- Plans, access routes, impact areas
- Purpose and need
- Est. direct impacts
- Wetlands Impacts (if available)
- Alternatives (State of Louisiana Coastal Use Permit)

Section 408 Initiation Request
- Description/plans
- Acknowledgement on the need for a Section 10/404
- Requesting In-kind credit
- Use of federally-owned real property
- Acknowledgement “No objection” from local Sponsors
EIS Third Party Contractor (TPC)

- Applicant contracts and funds

- Applicant selection / contracting policies/laws, TPC selection, contracting, and USACE policies/regulations must be known

- USACE directs and manages

- Agreement necessary between all three parties to define roles, responsibilities, communications, and documentation
Mid-Barataria Sediment Diversion

Natural Resource Damage Assessment (NRDA)

- LATIG (NOAA, USDA, DOI, USEPA, State of Louisiana)

- Strategic Restoration Plan (SRP) Phase I / Environmental Assessment
  - Mid-Barataria Sediment Diversion

- Strategic Restoration Plan Phase II
  - Oil Pollution Act (OPA)
  - Environmental Impact Statement (EIS)
  - In-progress
COASTAL USE (LDNR), NAVIGATION, AND WETLANDS

- Section 10 (USACE Navigation)/404 (USACE Wetlands) and Coastal Use Permit (INDR CUP)
- Permit Public Notice and Comment
- Coastal Use Permit
- Coastal Use Permit Public Act Notice and Comment
- Coastal Use Permit Approval
- Section 10/404 Approval
- Project Implementation and Monitoring

NEPA COMPLIANCE

NATIONAL ENVIRONMENTAL POLICY ACT
- Solicitation of Views (2013)
- Notice of Intent for EIS
- Start EIS
- Public scoping meeting
- Draft EIS
- USACE (HQ/MVD) Approves Draft EIS for Release
- Public Comment on Draft EIS
- Final EIS
- Public Review on Final EIS
- Complete EIS (Record of Decision)

REQUEST TO ALTER A FEDERAL PROJECT OR PROJECT WITH FEDERAL INTEREST NO DIRECT PUBLIC INVOLVEMENT

- 408 Request
- 60% Plans and Specifications Review
  - District – PDT
  - Agency Technical Review (ATR)
  - IEPR-SAR Review
- USACE (HQ/MVD) Preliminary 408 Approval
- Record of Decision (408)
- 408 Approval
- 408 Construction Oversight
Mid-Barataria Sediment Diversion placed on Federal Permitting Dashboard (FAST-41)

**MOU ANNOUNCEMENT**

“The State is committed to developing the Project in an environmentally sound manner and in compliance with all applicable federal, state, and local laws and ordinances.”

**USACE ANNOUNCEMENT**

Anticipated permit decision date moved up from October 2022 to November 2020
SCOPING MEETINGS

| July 20 | July 26 |

SCOPING PERIOD CLOSED SEPTEMBER 5, 2017

OVER 800 COMMENTS

OVER 100
COMMENTS FROM OUTSIDE OF LOUISIANA

OVER 500
INDIVIDUAL (FORM) LETTERS

OVER 40
“AFFILIATIONS” WITHIN COMMENTS

www.coastal.la.gov
EIS PROGRESS

IMPACT ANALYSES

- Aesthetic and Visual Resources
- Air Quality
- Aquatic Resources
- Commercial Fisheries (industry impacts)
- Cultural Resources
- Environmental Justice (EJ)
- Essential Fish Habitat (EFH)
- Groundwater
- Land Use
- Marine Mammals
- Navigation (deep draft and tows)

- Noise
- Oil and gas resources
- Prime Farmland
- Public Safety (Flood Risk Reduction)
- Recreation (including fishing)
- Soils/Sediment (River and Basin)
- Socioeconomic (population, tax revenue, housing, etc.)
- Storm Surge/Flooding
- Threatened and Endangered Species (T&E)
- Water Quality (salinity/nutrients)
- Wetlands and Waters of the U.S.
CURRENT PROJECT ACTIVITY

EIS UNDERWAY FEBRUARY 2017

PUBLIC SCOPING MEETINGS HELD JULY 20, 25, 27

ENGINEERING AND DESIGN SOLICITATION POSTED

AECOM SELECTED LEAD ENGINEER AND DESIGNER

AECOM BEGINS WORK

CMAR RFQ AD POSTED

MID-BARATARIA  MID-BRETON

www.coastal.la.gov
CURRENT PROJECT ACTIVITY

STANTEC SELECTED LEAD ENGINEER AND DESIGNER

CPP UPDATED TO REFLECT NOV 2020 PERMIT DECISION

2018
JAN FEB MAR APR MAY JUN

COMPLETED 1ST 408 REVIEW SOIL BORING PLAN

STANTEC BEGINS WORK

MID-BARATARIA  MID-BRETON
THANK YOU

@LOUISIANACPRA

SUBSCRIBE

@LOUISIANACPRA

BRAD BARTH | BRAD.BARTH@LA.GOV
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SUMMARY

• Administration and Congress are serious about Regulatory Reform

• USACE must strive to meet the goals and intent of EO 13807 and FAST-41 of streamlining our processes to provide more efficient, effective, and timely decisions
   Early and continual collaboration, coordination and alignment, in a more transparent environment, is critical
   Be prepared to challenge laws, policies, and procedures

• USACE must initiate change from within, before others act on our behalf
FIXING AMERICA’S SURFACE TRANSPORTATION ACT
TITLE 41 (FAST-41)

► Intended to increase timeliness, efficiency and transparency of Federal Agency permit reviews and authorizations
► Targets infrastructure projects, with an emphasis on transportation projects
► Establishes new procedures standardizing interagency consultation and coordination
► Establishes Federal Permitting Improvement Steering Council (FPISC)
► Establishes the position of Chief Environmental Review and Permitting Officer (CERPO) in each environmental agency
► Expands scope of projects for which reviews will be accelerated
► Codifies use of Permitting Dashboard to track review timelines
EXECUTIVE ORDER 13807

- Establishes a **2-year goal for completing environmental reviews and decision making** (Section 2.h)
  - 2-year goal begins with Notice of Intent

- **Requires active collaboration** among Federal agencies and greater coordination efforts (4.a.i)

- Federal agency decisions in **one Record of Decision (ROD)** (5.b.ii)
  - Also known as One Federal Decision (OFD)

- **Dispute resolution** between Federal agencies may be resolved by CEQ (5.e.ii)
  - Similar to FAST-41 dispute resolution, but with CEQ instead for NEPA matters
### Lessons Learned
- Developed a blueprint for successful FAST-41/CPP implementation
- Utilize digital communication to streamline agency involvement (emails in lieu of letters)
- Early Vertical Team engagement is crucial to success

### Key Challenges
- Guidance may or may not exist for all aspects of implementing FAST-41/EO 13807
- Managing applicant/sponsor expectations (FAST-41)
- 2-year EO 13807 EIS goal is aspirational in nature; complex projects may take longer

### Path Forward
- Continue to work with staff at FPISC to realize efficiencies in regulatory process
- Be flexible and open in a rapidly changing system
- Strive to meet the goals and intent of both FAST-41 and EO 13807

As of 21 February 2018
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THIRD-PARTY CONTRACT EIS TEAM

[Logos of various companies]
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A Trustee Perspective
Mel Landry
NOAA
Sources of DWH Oil Spill Funding

NRDA
(Natural Resource Damage Assessment)
Oil Pollution Act

RESTORE Act
(Resources and Ecosystems
Sustainability, Tourist
Opportunities, and Revived
Economies)
CWA Civil

NFWF
(National Fish & Wildlife
Foundation)
CWA Criminal
(2) **Federal Trustees.**—The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act.

(3) **State Trustees.**—The Governor of each State shall designate State and local officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of the designation.

(4) **Indian Tribe Trustees.**—The governing body of any Indian tribe shall designate tribal officials who may act on behalf of the tribe or its members as trustee for natural resources under this Act and shall notify the President of the designation.

(5) **Foreign Trustees.**—The head of any foreign government may designate the trustee who shall act on behalf of that government as trustee for natural resources under this Act.

(c) **Functions of Trustees.**—

(1) **Federal Trustees.**—The Federal officials designated under subsection (b)(2)—

   (A) shall assess natural resource damages under section 1002(b)(2)(A) for the natural resources under their trusteeship;

   (B) may, upon request of and reimbursement from a State or Indian tribe and at the Federal officials’ discretion, assess damages for the natural resources under the State’s or tribe’s trusteeship; and

   (C) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.
## Restoration Funding in Dollars

<table>
<thead>
<tr>
<th>Major Restoration Categories</th>
<th>Unknown Conditions</th>
<th>Regionwide</th>
<th>Open Ocean</th>
<th>Alabama</th>
<th>Florida</th>
<th>Mississippi</th>
<th>Texas</th>
<th>Total Restoration Funding*</th>
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<tbody>
<tr>
<td>1. Restore and Conserve Habitat</td>
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<tr>
<td>Wetlands, Coastal, and Nearshore Habitats</td>
<td></td>
<td>65,000,000</td>
<td>5,000,000</td>
<td>40,096,070</td>
<td>55,500,000</td>
<td>100,000,000</td>
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<td>Habitat Projects on Federally Managed Lands</td>
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<td>3,000,000</td>
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<td>75,500,000</td>
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<td>Early Restoration (through Phase IV)</td>
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<td>28,110,000</td>
<td>15,629,367</td>
<td>259,625,700</td>
<td>80,000,000</td>
<td>383,365,067</td>
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<td>2. Restore Water Quality</td>
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<td>Nutrient Reduction (Nonpoint Source)</td>
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<td>5,000,000</td>
<td>35,000,000</td>
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<td>Water Quality (e.g., Stormwater Treatments, Hydrologic Restoration, Reduction of Sedimentation, etc.)</td>
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<td>300,000,000</td>
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<td>3. Replenish and Protect Living Coastal and Marine Resources</td>
<td></td>
<td>380,000,000</td>
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<td>380,000,000</td>
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<td>Fish and Water Column Invertebrates</td>
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<td>Early Restoration Fish and Water Column Invertebrates</td>
<td></td>
<td>20,000,000</td>
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<td>20,000,000</td>
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<tr>
<td>Sturgeon</td>
<td></td>
<td>15,000,000</td>
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<td>15,000,000</td>
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<tr>
<td>Sea Turtles</td>
<td></td>
<td>60,000,000</td>
<td>55,000,000</td>
<td>5,500,000</td>
<td>20,000,000</td>
<td>10,000,000</td>
<td>7,500,000</td>
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<td>Early Restoration Turtles</td>
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<td>29,256,165</td>
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<td>19,965,000</td>
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<td>Submerged Aquatic Vegetation</td>
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<td>Marine Mammals</td>
<td></td>
<td>19,000,000</td>
<td>55,000,000</td>
<td>5,000,000</td>
<td>5,000,000</td>
<td>10,000,000</td>
<td>144,000,000</td>
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<td>Birds</td>
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<td>70,400,000</td>
<td>70,000,000</td>
<td>30,000,000</td>
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<td>145,000</td>
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<td>71,937,300</td>
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<td>Mesophotic and Deep Benthic Communities</td>
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<td>Oysters</td>
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<td>3,329,000</td>
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<td>Early Restoration Oysters</td>
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<td>4. Provide and Enhance Recreational Opportunities</td>
<td></td>
<td>25,000,000</td>
<td></td>
<td>63,274,513</td>
<td>38,000,000</td>
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<td>Provide and Enhance Recreational Opportunities</td>
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<td>5. Monitoring, Adaptive Management, and Administrative Oversight</td>
<td></td>
<td>65,000,000</td>
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<td>200,000,000</td>
<td>10,000,000</td>
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<td>Monitoring and Adaptive Management</td>
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<td>Administrative Oversight and Comprehensive Planning</td>
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<td>40,000,000</td>
<td>150,000,000</td>
<td>20,000,000</td>
<td>20,000,000</td>
<td>7,500,000</td>
<td>25,000,000</td>
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<td>Adaptive Management NRD Payment for Unknown Conditions</td>
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<td>Total NRD Funding</td>
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<td>$700,000,000</td>
<td>$349,851,678</td>
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<td>$860,152,616</td>
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</tbody>
</table>

* The total restoration funding allocation for the Early Restoration work, each restoration type, and monitoring, adaptive management, and administrative oversight is $5.5 billion (plus up to an additional $700 million for adaptive management and unknown conditions).
The Louisiana Trustee Implementation Group (LA TIG)
Typical NRDA & NEPA Process

NRDA + NEPA = RESTORATION PLAN
MBSD NRDA & NEPA Processes

Approaches / Techniques
- OPA Eval (NRDA)
- Phase 1 Restoration Plan (NRDA)
- Phase 2 Draft Restoration Plan (NRDA)
- Phase 2 Final Restoration Plan (NRDA)

Solicitation of Projects
- MBSD 404/10 Permit Application
- MBSD Draft EIS
- MBSD Final EIS

Project Type/Location
- MBSD NRDA (NRDA + NEPA)

Design Alts
- MBSD NRDA

Selection/Construction Funding
- MBSD NRDA

Construction

Project Design & Operations Planning
<table>
<thead>
<tr>
<th>Louisiana Trustee Implementation Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic Restoration Plan and</td>
</tr>
<tr>
<td>Environmental Assessment #3:</td>
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<tr>
<td>Restoration of Wetlands, Coastal, and</td>
</tr>
<tr>
<td>Nearshore Habitats in the Barataria</td>
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<tr>
<td>Basin, Louisiana</td>
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</tbody>
</table>

March 2018
Barataria Basin Strategic Restoration Plan

- Strategic Restoration Plan and Environmental Assessment
- For the Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin
- Focuses on addressing ecosystem-level injury in Barataria Basin and the Gulf of Mexico
1. A preferred alternative that relies on a suite of restoration approaches/types, including large-scale sediment diversions to restore deltaic processes, marsh creation, and ridge restoration.

2. Selected 3 projects for further evaluation and planning:
   - Mid-Barataria Sediment Diversion
   - Large Scale Marsh Creation: Component E
   - Barataria Basin Ridge and Marsh Creation: Spanish Pass Increment
Projects for Further Restoration Planning

Mid-Barataria Diversion

- Large-Scale Barataria Marsh Creation - Component E
- Sediment Diversion
- Marsh Creation
- Ridge Restoration

The Pen

Turtle Bay

POINTE A' LA HACHE
Future Restoration Plans

- **Restoration Plan 1 - Phase II Plan(s)**
  - Evaluation of design alternatives for 6 projects in Restoration Plan 1 - Phase I

- **Restoration Plan 2 (Barataria Strategic Plan) – Phase II Plans**
  - Evaluation of design alternatives for Large-scale Barataria Marsh Creation - Component E
  - Evaluation of alternatives for the Mid-Barataria Sediment Diversion
  - Evaluation of Marsh and Ridge Projects for Outcome Base Performance Contracting

- **Living Coastal & Marine Resources Restoration Plan(s)**
  - Birds, Oysters, SAV, Marine Mammals, & Turtles