Laura Galban,
Federal Register Liaison, Bureau of Consumer Financial Protection.

[FR Doc. 2023–14197 Filed 7–5–23; 8:45 am]
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DEPARTMENT OF DEFENSE

Department of the Army, Army Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement for the Yazoo Backwater Area Water Management Project

AGENCY: U.S. Army Corps of Engineers, Department of the Army, DoD.

ACTION: Notice of intent to prepare a draft environmental impact statement for the Yazoo Backwater Area water management project, Sharkey, Yazoo, Washington, and Issaquena, and Humphrey Counties, Mississippi.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Vicksburg District, is announcing its intent to prepare an Environmental Impact Statement (EIS) for the authorized Yazoo Basin, Yazoo Backwater, Mississippi, Project (Project). The EIS will analyze a new water management solution for the Project. The EIS will also examine measures to avoid, minimize, and mitigate environmental impacts associated with the Proposed Action which is the USACE Preferred Alternative. The EIS process does not foreclose the authorities of other State and Federal agencies to assist those Yazoo Backwater Area communities in risk management, emergency response, and community resilience. State and Federal agencies, with applicable authorities, would be continually engaged as necessary throughout the process.

DATES: All comments and suggestions must be submitted by August 7, 2023.

ADDRESSES: To ensure the Corps has sufficient time to consider public input in the preparation of the Draft EIS, scoping comments should be submitted by email at *YazooBackwater@usace.army.mil* or by surface mail to Mike Renacker at U.S. Army Corps of Engineer, Vicksburg District, ATTN: CEMVK–PPMD, 4155 East Clay Street, Room 248, Vicksburg, MS 39183.

FOR FURTHER INFORMATION CONTACT: Stacey M. Jensen, in writing at the Office of the Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Washington, DC 20318–0108; by telephone at 703–695–6791; and by email at *YazooBackwater@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Project Background and Authorization.* After the devastating Mississippi River Flood of 1927, Congress passed the 1928 Flood Control Act (FCA) which authorized the Mississippi River & Tributaries (MR&T) project. The Mississippi River Levees (MRL) project, which was authorized by the 1928 FCA, as amended, is a component of the MR&T project and prevents inundation of the alluvial valley of the lower Mississippi River (LMR) which begins at Cape Girardeau, Missouri, and gently slopes to the Gulf of Mexico. The Mississippi River levees protect major cities and towns, developed industrial areas, valuable farmlands, and wildlife habitats against the Project Design Flood (PDF) by confining flow to the leveed channel except where it enters backwater areas or is diverted purposely into floodway areas. Backwater areas and floodways were both integral features designed into the overall MRL project.

Backwater areas are the necessary result of gaps left in the main-stem Mississippi River levee system at the mouths of major tributaries that empty into the river. During large flood events, floodwaters from the Mississippi River back into the gaps and/or block discharges from the tributary systems from exiting the backwater areas. The MR&T project is augmented by four backwater areas. The St. Francis River Backwater Area and the White River Backwater Area in the northern section of the LMR, the Yazoo River Backwater Area in the middle section of the LMR, and Red River Backwater Area in the southern section of the LMR. These backwater areas typically operate through the use of backwater levees which tie into the MRL system, water control structures, pumps, and sometimes connecting channels. The St. Francis River, White River, and Red River backwater areas each have operational pump stations; the Huxtable pump station was built in 1977, Graham-Burke pump station was built in 1964, and Tensas-Cocodrie pump station was built in 1986, respectively.

Floodways are intended to safely divert excess floodwaters past critical reaches in the levee system to prevent the PDF from exceeding levee design elevations. The original MR&T project provided for five floodways which were the Birds Point-New Madrid floodway in the northern section of the LMR, the Boeuf/Eudora floodway in the middle section of the LMR, and the West Atchafalaya, Morganza, and Bonnet Carre floodways in the southern section of the LMR. The Boeuf/Eudora floodway, which would have diverted water from the middle section of the LMR, from the mouth of the Arkansas River to Old River, during a PDF, was the only authorized floodway that was never implemented and was eventually removed as an authorized component of the MR&T project. The Boeuf/Eudora floodway would have removed approximately 700,000 cubic feet per second (cfs) of floodwater flow from the Mississippi River during the PDF. Without the Boeuf/Eudora floodway, it became necessary to confine the PDF between higher and stronger levees along the Mississippi River. Prior to the 1941 FCA and in an attempt to reduce the necessity of the Boeuf/Eudora Floodway, the cutoff and channel realignment component of the MR&T was initiated in 1932 for the middle section of the LMR. The cutoff and channel realignment component was intended to eventually increase the carrying capacity of the channel and lower flood stages. Legal action was initiated in 1929 from landowners over the use of the Boeuf/Eudora floodway. By 1941, with the legal conflicts still unresolved, the Mississippi River Commission re-examined the MR&T project but made no formal recommendation on the floodway issue. The 1941 FCA formally abandoned all components of the Boeuf/Eudora floodway and authorized an increase in the height of the Mississippi River levees, a plan developed by the Mississippi River Commission to provide flood protection to the Yazoo Backwater Area.

The Project was authorized by the FCA of 1941 (Public Law (Pub. L.) 77–228) and amended by the FCA of 1965 (Pub. L. 89–298). Section 103 of the Water Resources Development Act (WRDA) of 1986 established cost sharing for flood control projects, or separable elements thereof, on which construction was initiated after April 30, 1986. This provision would have required a local cost share to implement the Project. WRDA of 1996 later amended section 103 of WRDA 1986 to define physical construction as the date of the award of a construction contract, which restored full Federal responsibility for the Project. The FCA of 1941 authorized flood protection to the Yazoo Backwater Area through a combination of levees, associated drainage channels, water control structures, and a pump station. By 1942 the cutoff and channel realignment program was completed, and flood stages were lowered on the Mississippi River at Vicksburg. However, more recent hydrologic studies have revealed that these benefits have largely been

reversed, and peak stages on the Mississippi River at the Vicksburg gage are increasing. To date, the levee, three water control structures, and the connecting channel have been completed as part of the authorized project. The levee, known as the Yazoo Backwater Levee, is an extension of the Mississippi River east bank levee, generally along the west bank of the Yazoo River to a connection with the Will M. Whittington (Lower) Auxiliary Channel Levee in the vicinity of the mouth of the Big Sunflower River. The Yazoo Backwater levee was completed in 1978. The authorized water control structures include the Steele Bayou, Little Sunflower River, and Muddy Bayou structures which were completed in 1969, 1975, and 1978, respectively. These water control structures allow for gravity flow drainage. The connecting channel between the Little Sunflower and Steele Bayou water control structures was completed in 1978. The Yazoo Backwater Area is the only major backwater area in the MR&T project that has an authorized yet unconstructed pump station to evacuate impounded water.

The Yazoo Backwater Levee was designed to reduce flood risks from overbank flooding of the Yazoo River, which is a major tributary that empties into the Mississippi River. Water control structures were incorporated into the Yazoo Backwater Levee to facilitate the release of water from the landside to the riverside of the levee, which is dependent on the elevation of the Mississippi River, and subsequently the Yazoo River. For instance, when the Yazoo River stage is lower than the landside stage at the Steele Bayou water control structure, the structure remains open to allow for the gravity flow release of precipitation driven headwaters from within the Yazoo Basin. Likewise, when the Yazoo River stage is higher than the landside stage at the Steele Bayou water control structure, the structure is closed to prevent Yazoo River floodwaters from entering or backing into the Yazoo Backwater Area (typically referred to as backwater flooding). Closure of the Steele Bayou water control structure also impounds any surface water and precipitation from the 4,093 square mile (2.62 million acres) drainage area of the Yazoo Basin. Once these waters become trapped, due to closure of the structure and no drainage potential into the Yazoo River, the flooding becomes known as a backwater flood event. When these conditions are met, and the continued accumulation from local rainfall events within the Yazoo Basin continue to drain southward, the backwater flooding is increased. A pump station would evacuate impounded backwater when the water control structures are closed.

The recurring backwater flooding has demonstrated the need to complete the remaining flood damage reduction feature of the Yazoo Basin, Yazoo Backwater, Mississippi, Project. In the twenty-first century alone, the Yazoo Backwater area has experienced some degree of backwater-induced flooding 19 out of the 23 years. The historic 2019 flood inundated over a half million acres of the Yazoo Backwater Area from February to August. Another backwater flood occurred in February of 2020 and devastated the already flood-ravaged area. The 2020 floodwaters peaked only 2 ft lower than in 2019 and flooded over 450,000 acres of land. More volume of water passed through the Mississippi River at Vicksburg during 2019 than ever before in our period of record (1927–2022). During 2020 the second-most volume of water passed through the Mississippi River at Vicksburg. The volume of water passing through in 2019 was more than twice the amount of volume that Lake Erie can hold.

During backwater flood events, stagnant water conditions can remain, often for extended periods of time, until the Yazoo River stage is lower than the landside stage at the Steele Bayou water control structure, at which time the structure can be opened to allow for gravity flow out of the interior Yazoo Basin Area, reducing the landside stages of a given flood event. During prolonged backwater flood events, stagnant conditions create low dissolved oxygen in the water column which impact aquatic species. The backwater flooding also affects terrestrial areas with significant depths of water, restricting usable habitat and available food for terrestrial species. Therefore, these species must leave the flood zone or face mortality. The human population of the Yazoo Backwater Area also suffers significantly. During the 2019 flood, hundreds were displaced from their flooded homes for over six months. Farmers lost their entire 2019 crop season in the affected area.

2. *Joint Agency Collaboration Effort.* In January 2023, the U.S. Department of the Army (Civil Works) and the Environmental Protection Agency (EPA) signed a Joint Memorandum of Collaboration stating that the agencies are committed to a collaborative and expeditious path forward to establish flood risk reduction in the Yazoo Backwater Area that would be compliant with the Clean Water Act (CWA) and all other applicable laws and regulations. The U.S. Fish and Wildlife Service (USFWS) was also included in the collaborative effort. The Joint Memorandum identified activities ''to enable the Army to deliver a preferred approach on flood risk reduction solution(s) for the YBA by June 2023.'' The close collaboration between all three agencies throughout the process would serve the Federal Government in meeting flood risk management objectives, ensuring appropriate consideration of the National Environmental Policy Act (NEPA) and CWA section 404 requirements, addressing the needs of the affected communities, and addressing fish and wildlife issues. Since the issuance of the Joint Memorandum, the USACE, EPA, and USFWS have organized interagency technical and engagement teams to identify issues of concern and develop a draft water management solution. The USACE, EPA, and USFWS also jointly conducted public engagement sessions to allow the public to provide comments on preliminary options under consideration by USACE for a Project. All comments received were cooperatively reviewed by the interagency teams and considered in the development of the USACE Preferred Alternative.

A total of four public engagement sessions were held on February 15, 2023, and a total of four public engagement sessions were held on May 4 and 5, 2023, at the USACE Vicksburg District office. The February 2023 sessions were held to receive input from the communities on their needs and on development of a draft preferred approach, and the May 2023 sessions were held to receive input from the communities on the draft preferred approach. In addition, roundtable sessions were held on February 16, 2023, with various individuals, groups, and organizations, including a session for community leaders, local elected officials, agricultural interests, and environmental organizations. The input gathered throughout these early engagement sessions and on the draft preferred approach was used to inform the development of the USACE Preferred Alternative in this NOI. Transcripts from the May 2023 sessions can be found on the Yazoo Backwater Area Project web page.[1]

Commenters spoke on a variety of topics regarding their concerns about, and lived experiences during, flood events, from lack of access to their homes and families, damages to their

[1] *https://www.mvk.usace.army.mil/Missions/Programs-and-Project-Management/Yazoo-Backwater/* (last accessed June 28, 2023).

homes, lack of access to emergency services and education, lack of access to roads and loss of infrastructure, loss of agricultural crops and inability to plant crops, loss of ability to receive payment from crop insurance, economic losses and business hardships with the community being supported generally by agricultural production, loss of recreational values, loss of wetlands through long duration of inundation, as well as trees and other flora, loss of environmental values and harms caused to fish and wildlife, environmental justice concerns, lack of community growth and development opportunities, and impacts to both physical and mental health. The majority of commenters supported a solution that included a structural component. A few commenters stated that only a fully non-structural or nature-based solution should be put forth for any proposed action.

The USACE used the information provided by engagements and comments and the joint agency collaborative efforts to develop its Preferred Alternative for purposes of NEPA compliance. The USACE used information received, such as information related to crop season dates, to modify what the agencies presented to the public in May 2023.

Through this collaborative process, the USACE developed a Preferred Alternative and must go through the NEPA process to identify a final selected alternative for the Project and will fully consider the alternatives described below in the EIS process. To be clear, USACE has not made any irreversible or irretrievable commitment of resources regarding USACE's Preferred Alternative and seeks public input on all alternatives proposed for their ability to provide a community-driven flood risk reduction solution to the Yazoo Backwater Area.

3. *The USACE Preferred Alternative.* The USACE Preferred Alternative is a water management solution to reduce flood risk in the Yazoo Backwater Area, resulting from high stages of the Mississippi River, and consists of structural and nonstructural components. The Preferred Alternative provides flood risk reduction for communities and the local economy. Flood risk reduction will target primary residences (and roads isolating them), schools, infrastructure, commercial properties, and prime farmland while minimizing environmental losses.

The structural component consists of a 25,000 cfs pump operated to manage backwater flooding seasonally. The proposed location for the pump station would be on Steele Bayou adjacent to the water control structure in Issaquena County, Mississippi. The backwater will be managed at 90.0 feet (ft), National Geodetic Vertical Datum (NGVD throughout) at the Steele Bayou gage, during the crop season of March 16th through October 15th and will be managed at 93.0 ft at the Steele Bayou gage during the non-crop season of October 16th through March 15th. These elevations are close to the elevations for the 2- (89.3 ft) and 5-year (92.0 ft) floodplains. Including a buffer on the extent of the 2- and 5-year floodplains will help to protect wetlands across the entire 2- and 5-year floodplains, particularly those riverine backwater wetlands located at the outer extent of the floodplains, receive sufficient backwater flood inundation to maintain ecological functioning. Managing water to any specific elevation requires the pumps to be initiated at a lower elevation and managing to 93.0 ft in the non-crop season will allow backwater flooding to benefit more wetlands before pumping is initiated. Similarly, managing to 90.0 ft during the crop season will allow backwater flooding to benefit more wetlands before pumping is initiated. Lastly, there are fewer wetlands anticipated to be impacted between the 90.0–93.0 ft elevations than between the 89.3–92.0 ft elevations, which translates to fewer wetlands to assess for impacts and likely less compensatory mitigation needs.

This seasonal water management solution will ensure flood risk reduction for the primary residences and vital infrastructure, preserving primary economic drivers in the community, while avoiding or minimizing adverse impacts to fish, wildlife, and wetland values. During the seasonal water management at the 93.0 ft elevation, minimal functional losses of aquatic resources are anticipated, while some functional losses, such as fish spawning and rearing habitat, are anticipated during the seasonal water management at the 90.0 ft elevation. However, the USACE Preferred Alternative is not anticipated to convert any wetlands to non-wetlands during operation of the water management solution.

The nonstructural component consists of various features to reduce future flood impacts. One nonstructural feature is modification of the operation of the Steele Bayou water control structure to minimize impacts. Currently the structure is operated to maintain water levels in the Yazoo Backwater Area between 68.5 and 70.0 ft. The Preferred Alternative will modify operation of the structure to maintain water levels in the Yazoo Backwater Area at approximately 75.0 ft. This feature would allow for more exchange of water between the riverside and landside of the Yazoo Backwater Levee, mimicking more natural flood pulses and therefore benefiting the aquatic environment. Water levels would be maintained below top bank of the stream channels and therefore will not result in an increase in flood risk. Modifications to the Steele Bayou water control structure operation manual would be completed as a joint effort between USACE, EPA, and the USFWS. The remaining nonstructural features consist of acquisition (*i.e.,* property buyouts) or floodproofing of properties. Floodproofing of properties includes additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents. Floodproofing options may include, but are not limited to, construction of ring levees, elevating homes, septic and sewer protection, and raising road elevations. Any floodproofing option outside of USACE authority will be coordinated with the appropriate State and/or Federal agency. A mitigation plan will be developed to fully compensate for all unavoidable environmental impacts and would be approved by USACE, EPA, and USFWS. In addition to the mitigation plan, a comprehensive monitoring and adaptive management plan will be developed as a joint effort between USACE, EPA, and USFWS. This plan will provide monitoring guidelines throughout the construction and operation of the Preferred Alternative and describe practical solutions to an array of potential environmental challenges in the Yazoo Backwater Area, as well as the Yazoo Basin, potentially associated with the USACE Preferred Alternative.

4. *Other Alternatives to be Considered.* The EIS will evaluate the USACE Preferred Alternative water management solution described above. As a result of the early joint agency public engagement in the pre-scoping process, three additional reasonable alternatives were developed for consideration in the EIS: the No Action Alternative; variations of the Preferred Alternative providing variations on the crop season dates; an alternative to not exceed the 90.0 ft elevation in water management year round (*i.e.,* no seasonal water management); and, a fully non-structural solution alternative (*i.e.,* without structural pumps) using the non-structural methods described above in the Preferred Alternative but more extensive to provide flood risk reduction for all primary residences

impacted in the Yazoo Backwater Area. Impacts and environmental consequences of the alternatives on the affected environment will be evaluated and compared for the future with project and future without project conditions.

5. *Scoping.* The USACE invites all affected Federal agencies, Tribal Nations, State and local agencies, community members with environmental justice concerns implicated by the project, other interested parties, and the general public to participate in the NEPA scoping process during development of the EIS. The purpose of the public scoping process is to provide information to the public, narrow the scope of analysis to significant environmental issues, serve as a mechanism to solicit agency and public input on potential alternatives and issues of concern, and ensure full and open participation in scoping for the EIS. As previously described, the USACE has already provided a number of public opportunities for input that helped inform the development of the USACE Preferred Alternative including robust early engagement and pre-scoping meetings and a written comment period. The engagement process continues in the scoping process described in this NOI. The USACE requests input from interested parties regarding any potential mitigation alternatives and information and analyses relevant to impacts associated with the alternatives, including the USACE Preferred Alternative. Project information can be found on the USACE project website.[2] Comments can be submitted via the methods in the **ADDRESSES** section above. All personally identifiable information (for example, name, address, etc.) voluntarily submitted by a commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

6. *Potentially Significant Issues.* The EIS will provide data and analyses on, but is not limited to, the following resources: bottomland hardwood wetlands and other wetland resources, endangered species, waterfowl, fisheries, water quality, downstream effects, cultural resources, environmental justice, recreation, and where appropriate consideration of ongoing and projected effects of climate change and greenhouse gas emissions. Wetlands, downstream effects, aquatics, and environmental justice are discussed briefly below.

Wetlands: The USACE Preferred Alternative will be designed to avoid and minimize wetland impacts. Aside from the minimal unavoidable wetland losses associated with construction of an expanded footprint of the pump station facility, the USACE's Preferred Alternative is designed to result in no conversion of wetlands to non-wetlands. Some wetland functional loss is anticipated to occur during the crop season water management period. The USACE will collaborate with EPA and USFWS to estimate wetland impacts and identify compensatory mitigation methods to offset unavoidable impacts.

Downstream Effects: Recent studies have shown the additional water from 25,000 cfs pumps, operating at full capacity, is approximately 1% of the Mississippi River highwater flow, representing a nearly immeasurable contribution to the outflow at the Vicksburg Gage. The additional flow would minimally increase the water surface stage, which would have no appreciable effect to downstream flooding. Water quality impacts are anticipated to be insignificant because the total load of nutrients and organic carbon that will be exported downstream would not be altered because of pump operation. The overall contribution of nutrients downstream, resultant from pump operation, will only affect the timing of nutrient delivery, but not the overall appreciable loading downstream in the Mississippi River.

Aquatics: The USACE Preferred Alternative is anticipated to result in some loss of spawning and rearing habitat, primarily during the crop season. The USACE will collaborate with EPA and USFWS to estimate impacts to fish and other aquatic species and identify compensatory mitigation methods to offset any impacts. Current data shows hypoxia occurs during major backwater flood events and this hypoxia negatively affects certain fish species and other aquatic organisms. Flood-induced hypoxia during the spring and early summer likely impacts successful spawning and rearing regardless of the amount of aquatic habitat available. The EIS will analyze environmental and adaptive management plans to reduce the spatial extent and duration of hypoxia.

Environmental Justice: Backwater flooding events cause severe economic damages to all populations in the Yazoo Backwater Area by destroying homes, farmland, wildlife resources, community infrastructure, and access routes used by residences and the public safety system. The majority of the Yazoo Backwater Area is home to low-income or minority communities which meet the threshold criteria of at least 20 percent or more of households having incomes below poverty levels or an area having a majority of residents identifying as a minority. The Yazoo Backwater Area is also designated as disadvantaged by the Council on Environmental Quality's Climate and Economic Justice Screening Tool.[3] Backwater flooding events create disproportionately high adverse human health and environmental effects to these minority, low-income, and underserved communities. Meaningful outreach to communities with environmental justice concerns will be conducted and the EIS will compare the current backwater flood conditions with the future flood conditions across the alternatives and analyze the impacts to each of the communities with environmental justice concerns.[4]

7. *Anticipated NEPA Schedule.* The current schedule anticipates the release of the draft EIS by the USACE for public review and comment in December 2023. After it is published, the USACE will hold a public meeting(s) to present the results of the analysis, to receive comments, and to address questions concerning the Preferred Alternative.

Approved by:

Michael L. Connor,

Assistant Secretary of the Army (Civil Works).

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[2] *https://www.mvk.usace.army.mil/Missions/Programs-and-Project-Management/Yazoo-Backwater/* (last accessed on June 29, 2023).

[3] *https://screeningtool.geoplatform.gov/en* (last accessed June 25, 2023).

[4] The EIS will also consider Executive Order 14096, Revitalizing Our Nation's Commitment to Environmental Justice For All, issued on April 26, 2023.

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0117]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for the International Research and Studies (IRS) Program (1894–0001)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).