BENNIE G. THOMPSON
SECOND DISTRICT, MISSISSIPPI

COMMITTEE ON
HOMELAND SECURITY
RANKING MEMBER

WASHINGTON OFFICE:
2466 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–2402
(202) 225–5876
(202) 225–5898: FAX

E-Mail: benniethompson@mail.house.gov
Home Page: http://www.benniethompson.house.gov

CONGRESSIONAL BLACK CAUCUS
CONGRESSIONAL GAMING CAUCUS
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Congress of the United States
House of Representatives
Washington, DC 20515–2402

August 27, 2018

Major General Richard G. Kaiser
Commander, Mississippi Valley Division
US Army Corps of Engineers
1400 Walnut Street
Vicksburg, MS 39180

Re: Integrated Draft Feasibility & Environmental Impact Statement; Pearl River Basin, Mississippi, Federal Flood Risk Management Project Hinds and Rankins Counties, MS

Dear Commander Kaiser:

I write to express grave concerns regarding a federal project proposed in my district. The Integrated Draft Feasibility Study & Environmental Impact Statement for this project, locally known as "One Lake" and formally known as the Pearl River Basin, Mississippi, Federal Flood Risk, Management Project, Rankin and Hinds Counties, MS, is currently under public review and comment through September 6th, 2018. This document (the DEIS) was prepared by the Rankin-Hinds Pearl River Flood and Drainage Control District (Drainage District), which serves as the project's local sponsor. As a matter of law, this study must comply with all federal environmental laws and planning requirements that would apply if the Pearl River study was being prepared by the US Army Corps of Engineers (Corps).

I have heard from many of my constituents about this highly controversial project who have highlighted a multitude of serious, unresolved economic and environmental issues that demonstrate its fiscal imprudence and destructive nature. Based on this information, including the fact that the Drainage District is not fully complying with federal law, I strongly object to One Lake and urge the Corps to reject this project.

My objection is supported by, but not limited to, the following issues:

Lack of Compliance with Federal Laws

The DEIS is being conducted under Section 211 of the Water Resources Development Act of 1996. Since Section 211 does not waive any laws or planning requirements, the Drainage District is required to comply with all federal environmental laws and planning requirements that would apply if this study was being prepared by the Corps. But this has not happened.

For example, the DEIS does not comply with the National Environmental Policy Act. Among many other problems, it fails to evaluate highly reasonable alternatives, fails to evaluate the project's adverse impacts to a wide range of fish and wildlife species and vital habitats; and is scientifically unsound. The DEIS does not comply with the mitigation requirements established

☐ 107 WEST MADISON STREET
P.O. BOX 610
BOLTON, MS 39041
(601) 866–9003
(601) 866–9036: FAX
(800) 355–9003: IN ST.

☐ 728 MAIN STREET, SUITE A
GREENWOOD, MS 38930
(662) 455–9003
(662) 453–0118: FAX

☐ 910 COURTHOUSE LANE
GREENVILLE, MS 38701
(662) 335–9003
(662) 334–1304: FAX

☐ 3607 MEDGAR EVERS BOULEVARD
JACKSON, MS 39213
(601) 946–9003
(601) 982–5337: FAX

☐ 263 EAST MAIN STREET
P.O. BOX 356
MARKS, MS 38646
(662) 326–9003
(662) 326–9003: FAX

☐ MOUND BAYOU CITY HALL
P.O. BOX 679
106 GREEN AVENUE, SUITE 106
MOUND BAYOU, MS 38762
(662) 741–9003
(662) 741–9002: FAX

The DEIS also was initially released without critically important and required information, including a Biological Assessment and corresponding Biological Opinion, and the mandatory Fish and Wildlife Coordination Act Report. While a draft Biological Assessment was subsequently released, the Fish and Wildlife Coordination Act Report still has not been completed—and of course, the information from that report has not been considered in developing the DEIS. The draft Biological Assessment clearly shows that a formal Biological Opinion will be required for the project, and of course this also has not been finalized or provided to the public for review.

To date, the Drainage District also has not complied with the Independent External Peer Review (IEPR) process established by the Water Resources Development Act of 2007 (33 USC 2343). One Lake is a highly controversial civil works project that will cost well over $200 million, which triggers a mandatory IEPR under 33 USC 2343(a). The law requires the public to be provided with information on the timing of the IEPR, the entity that has the contract for the IEPR review, and the names and qualifications of the IEPR panel members at the very beginning of the IEPR process. To date, no information has been provided publicly as required by law.

Inadequate Opportunity for Meaningful Public Review

The National Environmental Policy Act (NEPA) requires the Corps, or in the case of One Lake, the Drainage District, to facilitate public involvement in decision making to the fullest extent possible, including providing a meaningful opportunity for the public to provide comments on draft environmental impact statements. Given the severe and extensive impacts posed by One Lake to Mississippi communities, our economy, and the environment, the Drainage District has failed to provide a meaningful opportunity for public review, by among other things:

- Failing to provide meaningful public notice. There was no notice of the public comment period in the Federal Register, nor through direct mailings to the many interested parties (including to the individuals and organizations that filed scoping comments in 2013 and to the communities that have formally opposed the project), nor through the many other means recommended in the NEPA implementing regulations.

- Utilizing an inappropriately short 45-day public comment period. The complex nature and significant impacts of this project, and the controversy surrounding this project, make the 45-day public comment period far too short. The fact that there are several key materials that were provided late into the public comment period, or that still remain missing from the DEIS (the clearly required Biological Opinion, Fish and Wildlife Coordination Act report, Independent External Peer Review Report) prevents the public from fully understanding the extent of the project's impacts, and has added to the difficulty in providing effective comments in this short time period.

- Against the request of many concerned stakeholders during the 2013 scoping process for this DEIS, the Drainage District intentionally structured its public meetings to be as limiting to public participation as possible. This included no signage outside the venues to direct attendees, not allowing a formal audience Question-&-Answer component, and

placing a stenographer off to one side with little direction given to encourage attendees to provide their comments. With regards to the Pearlington, MS, meeting, it was held in a location that was not conveniently accessed by most of the affected downstream/coast communities. Also other than the August 2nd, 2018, public meeting in Jackson, the other two meetings were not announced until well into the comment period, which provided little notice for the public to plan their attendance. Finally, it should be recognized that the Drainage District was compelled to add the third meeting, and the only meeting held in Louisiana, in response to the request of state and local political leaders.

- The Drainage District was compelled to re-start the 45-day comment period because they failed to include the required Biological Assessment (BA) when the DEIS was originally released on June 23, 2018. The BA was finally released a full month later, resulting in the adjusted comment deadline of September 6th, 2018. However, the DEIS is still missing the Fish and Wildlife Coordination Act Report, a Biological Opinion (which is clearly required by the Endangered Species Act), and details about the IEPR process. These major deficiencies prevent the public and decision makers from fully analyzing the adverse ecological impacts of this project.

Due to these critical shortfalls, and the many failings with the DEIS, the Corps should take over the public notice and review process as required by their planning regulations. If the Corps determines that this study should continue, it should fundamentally reassess alternatives for reducing flood damages, prepare a legally adequate DEIS, and restart the comment period when the DEIS and all documents required by law are made available to the public. Any such new public comment period should be initiated through an official public notice in the Federal Register coupled with additional meaningful efforts to notify members of the public - including my constituents - as outlined in the regulations that implement NEPA.

Unacceptable Public Health & Safety Impacts

- One Lake is being touted as a panacea for protecting the metro Jackson community from another flood event like that of the 1979 Easter Flood. However, the 1979 flood of record was a 1,000-year flood event, whereas One Lake is designed to alleviate flooding for a 100-year flood event. Clearly One Lake is being sold under the illusion of flood control and falls well short of providing any meaningful protection for metro Jackson. Also the DEIS fails to identify the number of homes and businesses that will be flood-free as a result of this project, versus those that will only have a reduction in flood stage.

- This project would promote new development in the floodplain and will destroy over 1,000 acres of wetlands that provide natural flood protection for the existing community, thereby placing more structures and property at risk of flooding.

- The proposal would impact at least three contaminated sites (i.e. former Gulf States Creosote Wood Treatment Facility, unpermitted LeFleur's Landfill, unpermitted Gallatin Street Landfill). At least five additional highly contaminated sites are also located within

or near the project area, including the Sanford Products Lumber Mill, which is listed on EPA's National Priorities List for Superfund cleanup. The DEIS acknowledges that some remediation and mitigation would be required to address these contaminated sites, however, it downplays the existing public health threats of these locations and it fails to provide a plan to ensure that the public will be adequately protected from exposure to these hazardous sources. Such remediation and mitigation are likely to cost tens of millions of dollars, yet the DEIS provides a fundamentally false estimate ($8 million) of the true cost to taxpayers. Realistic costs to develop and implement remediation plans for these sites must be accounted for.

- The Pearl River runs through rural and urban areas subject to high concentrations of toxic pollutants, pesticides, and fertilizers. However, no testing has been carried out to determine the level of toxicity and contamination for the 25 million cubic yards of sediments that will be dredged and used as fill to build up land around the created lake for future development. The DEIS does not assess the potential for - or impacts of – resuspending or redistributing these sediments in the environment, nor the public and ecological health threats associated with these activities.

The One Lake proposal should be rejected because it imposes unacceptable risks to the health, safety, and welfare of the public, including my constituents.

Unacceptable Environmental Harm

- One Lake includes dredging 10-miles of the Pearl River and building a dam to create a 1,900-acre lake. It will directly destroy over 2,500 acres of wildlife habitat, much of which provides natural flood protection for local communities. The proposal eliminates or alters critical habitat for federally-protected species (Gulf sturgeon, Ringed sawback turtle, Wood stork, Northern long-eared bat) as well as important habitat for other birds, fish, and wildlife, both within the project footprint as well as along the Pearl's 200-mile stretch that flows south of the proposed dam to Mississippi Sound and the Gulf of Mexico. This includes conservation lands such as the Bogue Chitto National Wildlife Refuge and the Pearl River Wildlife Management Area, whose ecological health depends on this freshwater.

- The Pearl River is a major source of freshwater for Mississippi Sound and the Gulf of Mexico, and the proposed dam is expected to significantly reduce this downstream flow. The DEIS's Study Area focuses mainly on the project footprint and provides dubious hydrologic modeling on downstream impacts. Much more detailed modeling is required to assess One Lake's local and downstream impacts.

- In reviewing the DEIS, the US Fish & Wildlife Service has concluded that One Lake, *"is the most environmental damaging plan"* considered in the DEIS. The Service further concludes that, *"Overall, greater details regarding plan formulation, design, operation, mitigation, and adaptive management should be presented in another draft of the EIS*

prior to finalizing." (See letter dated August 16, 2018, to Mike Goff/Headwaters Inc., Drainage District contractor.)

- Many data gaps and unsubstantiated assumptions are made throughout the DEIS. Further research and analysis should be undertaken to understand the short and long-term impacts to water quality, wildlife and habitats, and public health, not only in the immediate project area but upstream and downstream of the project. Also as required by law, the DEIS must include a specific and detailed mitigation plan to address impacts to birds, fish, other wildlife and habitat.

The One Lake proposal should be rejected because it will cause unacceptable harm to Mississippi's natural resources.

Unacceptable Costs to Taxpayers and Economic Harm

- The Mississippi Legislative PEER Report #540 (10/12/2010, p.35), found, *"A Comprehensive Levee Plan would be less expensive than a lake plan."* In fact, the flood control plans developed before 1996 offer less costly options that better address flooding concerns. These options include improvements to existing levees, raising buildings and homes, or buying out properties with historical flooding problems. The DEIS fails to provide any rationale for supporting the more expensive One Lake proposal versus a Comprehensive Levee Plan, fails to meaningfully evaluate non-structural options, and completely ignores consideration of natural infrastructure to reduce flood risks.

- The DEIS acknowledges that its cost projections are based on multiple assumptions and unknowns. In addition, the true costs of mitigation and the cost of toxic site remediation are unknown as the plans for such actions have not been developed. As a result, true costs are expected exceed the estimated $345 million for construction and the estimated $13.9 million annual maintenance cost. Since project proponents have passed their upfront costs onto taxpayers, and there is state legislation allowing this to continue, a thorough economic analysis is necessary to fully ascertain and quantify the costs to relocating infrastructure that would be impacted (i.e. roads, bridges, railroad lines, utilities, landfills, hazardous waste sites), design/construction costs, mitigation costs, and annual costs to operate, manage and maintain the lake, levees, and dam. Additional costs that must be assessed and fully accounted for as a project cost are the costs for contaminated/toxic sediment testing and remediation, costs associated with water quality sampling, and other public/ecological health-related data gathering.

- Over 100 downstream industrial users and municipalities in Mississippi rely on stable freshwater flows from the Pearl River to adequately dilute their discharges in order to not violate their permit limits. Flow changes resulting from this project are expected to increase costs to these users such as International Paper and Georgia-Pacific as well as municipal sewage treatment plants for Jackson (i.e. Savannah Street), Bogalusa and Pearl River.

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- Mississippi's annual $891 million seafood industry supports nearly 9,500 jobs. The Mississippi Governor's Oyster Council 2015 final report recognized the threat to oyster recovery from upstream freshwater-depleting projects like One Lake. The Mississippi Commission on Marine Resources passed a 2015 resolution against damming the Pearl based on the threat One Lake poses to the state's oyster industry.

- Substantive short and long-term questions remain about who will be responsible for constructing and managing this project, as well as who will be responsible for carrying out and paying for daily management and annual maintenance of the lake, levees, and dam. While the Drainage District has asserted that they intend to hand project construction over the Corps once the EIS process has concluded and other state and federal permits are secured, no guidance has been provided to this effect. Also there are outstanding water management issues associated with constructing and operating a new dam and levee system in tandem with the existing Ross Barnett Reservoir and Spillway, to which the Pearl River Valley Water Supply District is the responsible authority. It is unclear how these two systems would be managed to control water levels and releases, who would be responsible for making such decisions, and what data these decisions would be based on.

The One Lake proposal should be rejected because it imposes unacceptable costs on taxpayers, including on my constituents, and will cause other economic harm.

Finally, please refer to my enclosed August 27, 2018, letter addressed to Colonel Michael C. Derosier, which documents 38 outstanding questions and concerns regarding this proposal that should be answered before it receives any more attention.

In closing, this project should be fully vetted by the Corps, the affected states, and the public before it receives any further consideration. Thank you for your attention to this serious matter.

Sincerely,

Bennie G. Thompson
Member of Congress

Enclosure: Bennie G. Thompson letter of August 27, 2018 to Vicksburg Corps of Engineers