APPENDIX

Attachment I :	Statement of Scott Sebastien, March 7, 2012, prior owner of Fisher Bottom
Attachment I-a:	April 5, 2010 letter from Don Reed, Professor of Forestry and Wildlife, LSU
Attachment II:	Moist Soil Management Plan for Fisher Bottom, July 2010, prepared by LDWF for Mallard Basin Inc.
Attachment II-a	Permit transfer request from William Schumacher, Atchafalaya Investments, LLC to the New Orleans District, Corps of Engineers, dated September 21, 2011
Attachment III :	E-mail from Paul Link LDWF April 2, 2012
Attachment IV:	Letter dated March 15, 2010 from LDWF, signed by Tony Vidrine
Attachment V:	Photographs 1 - 30 of Mallard Basin site, including Fisher Bottom water impoundment area, taken by Michael Herrmann, USACE, on March 30, 2012
Attachment VI :	Butte LaRose Gauge data from March 1-2, 2012 (rivergauges.com)
Attachment VII:	Letter dated February 28, 2012 from U.S. Fish and Wildlife Service, re: Mallard Basin MVN-2010-1080-WLL and Scott Sebastien MVN-2010-1032-WLL)
Attachment VII-a:	Letter from U.S. Army Corps of Engineers, New Orleans District (USACE/NOD) to U.S. Fish and Wildlife Service date February 2, 2011.
Attachment VIII:	Letter from Louisiana Wildlife and Fisheries dated April 20, 2012
Attachment IX:	Letter from Paul Davidson, Executive Director Black Bear Conservation Coalition, dated April 10, 2012
Attachment X:	Letter from Maria Davidson, Louisiana Department of Wildlife and Fisheries, Large Carnivore Program Manager, dated May 2, 2012.
Attachment XI:	Letter from Tim Morton and Associates to New Orleans District, dated July 15, 2010.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

LOUISIANA CRAWFISH PRODUCERS ASSOCIATION-WEST, ET AL.,	
Plaintiffs,	No. 6:10-cv-01085-RFD-PJH (Lead) No. 6:11-cv-00461-RFD-PJH (Member)
v.	
MALLARD BASIN, INC., ET AL.,	JUDGE REBECCA F. DOHERTY MAGISTRATE JUDGE PATRICK J.
Defendants,	HANNA
LOUISIANA CRAWFISH PRODUCERS ASSOCIATION-WEST, ET AL.,	
Plaintiffs	
v.	
LIEUTENANT GENERAL ROBERT L. VAN ANTWERP, ET AL.,	
Defendants.	

Statement of SCOTT SEBASTIEN, prior owner of Fisher Bottom,
to the U.S. Army Corps of Engineers, New Orleans District
March 7, 2012

In April 1999 my partners and I purchased several tracts of forested wetland and upland in the Atchafalaya Basin near Interstate 10, including a 700 acre parcel known as "Fisher Bottom," which is shown in the attached aerial photographs. We acquired the property in the name of Mallard Basin, Inc. for the purpose of wildlife enjoyment and hunting. The previous owners had established a management program to reduce invasive aquatic species and maintain healthy biodiversity. We sought to continue their approach to managing Fisher Bottom, with regular input from state experts.

We contacted the Louisiana Department of Wildlife & Fisheries and invited an experienced biologist named Robert Helm to the property to give us professional guidance in aquatic wildlife and habitat management. He visited the property several times after we completed the purchase to help us refine a successful wetland stewardship program based upon the expertise of the Department of Wildlife & Fisheries.

Fisher Bottom is a shallow water body. Even during the rainy season when Fisher Bottom reaches full pool, the water is only 2' – 2 ½' deep in the middle and progressively shallower as you move toward the perimeter. It's more of a marshy wetland than a lake. We learned from Wildlife & Fisheries that the shallow water is susceptible to rapidly growing invasive aquatic species like water hyacinth, salvania, alligator weed and cutgrass. Without active management these plants would cover the surface of the water with floating vegetation, crowding out native aquatic species and eliminating places for waterfowl to land or feed. If left unmanaged, the submerged bottom would accumulate a muck, or humus, of decomposing hyacinth and salvania that would sharply reduce available dissolved oxygen in the water. Some of this muck would float up under the surface foliage, forming a floating mat of vegetation commonly called "floton." Floton can slowly strangle an otherwise healthy waterbody.

Controlling these invasive species would allow more light to reach the water, preserve higher dissolved oxygen levels (important for fish, frogs and other aquatic animals) and give opportunities for native perennials like sedges, wild millets, and smart weed to take root. These native seed-bearing species in turn attract waterfowl and other migratory birds as well as turkey, deer and nutria. The presence of a range of herbivores attracts carnivores like alligators, owls, foxes and hawks. Our goal was to create a healthier ecosystem with more open water to ensure a variety of animal life so that the property could provide us hunting and recreational enjoyment.

We followed the water management guidance of Wildlife & Fisheries during the 13 years we owned the property. Wildlife & Fisheries recommended an annual draw-down of water to dry-out invasive aquatic plants and accumulated bottom muck, thereby controlling these unwanted invasives and exposing the subsoil so that native plants could germinate and take hold. The state's experts advised us that without active intervention under a long-term management plan, invasive species would slowly cover Fisher Bottom with a spongy expanse of floton, making the area undesirable to most animal species and ruining its character as a healthy marsh.

At the south-east end of Fisher Bottom, where the land is lowest, an old embankment had been put up, we believe more than 50 years ago. A wooden weir or water control structure in the middle of the berm governed the outflow of water from Fisher Bottom. On the advice of Wildlife & Fisheries we replaced the old wooden weir with more easily adustable aluminum water control structure. By removing successive panels from the improved weir we could gradually lower the water level in Fisher Bottom at the right time each year in order to combat undesirable aquatic species. We also installed a water pump in uplands we own on a separate parcel along the Whiskey Bay Pilot Channel to bring water from the Pilot Channel through several thousand feet of watercourses and ditches into Fisher Bottom at its north-east side. With this system in place we were able to raise water levels during periods of drought and we could quickly replace water after the annual draw-down.

In practice we drained Fisher Bottom less often than once a year – about 9 times during the 13 years of our ownership. After six weeks or so the water would largely subside in Fisher Bottom, except for several deeper channels in the bottom contour which always retained water. Fish, frogs and alligators used these lower pools until we restored the water level. Occasionally we treated particularly heavy patches of invasive species with a herbicide like Round-Up or 2-4-

D after the annual draw-down, on the recommendation of Wildlife & Fisheries, which regularly uses these herbicides in sections of the Atchafalaya Basin under its management. But herbicides are expensive. To the best of my memory we used them only four to six times over the thirteen years we owned the property.

In summary our objective at Fisher Bottom was to build on the practice of the prior owners by using water management to combat invasive species and to encourage sufficient biodiversity among native species to attract and support a healthy animal population. We achieved some success in this endeavor and are now working with the new owner to share the habitat management techniques we learned. We also put the buyer in touch with Tony Vidrine, a biologist with the Department of Wildlife & Fisheries who worked with us after Robert Helm died, and I understand they will continue to consult with Mr. Vidrine on proper environmental management.

I, Scott Sebastien, declare that the foregoing statement is true and correct.

Executed on March 7, 2012.

Scott Sebastien

Scott Sebastien

ATTACHMENT 1-a

LSU AgCenter
Research & Extension

Bob R. Jones – Idlewild Research Station

4419 Idlewild Road
Clinton, Louisiana 70722
(225)683-5848
Fax: (225)683-3281

April 5, 2010

Don Reed Ph.D
Jones-Idlewild Research Station
4419 Idlewild Road
Clinton, La. 70722

Mr. Scott Sebastien
Mallard Basin Inc.
137 Kyle Street
Opelousas, La. 70570

Mr. Sebastien:

This letter is in reference to a site visit that was made on the morning of Tuesday March 23, 2010 to a location west of the Whiskey Bay Pilot Channel in St. Martin Parish, Louisiana. Mr. Jimmy Lagrone, an adjoining landowner, who accompanied me on the trip, had contacted me the prior week, requesting assistance with a forestry related matter.
The reason for the visit was to determine the age of several trees located on top of an old earthen embankment that served as a water control structure in the past. Increment core borings were made on three trees growing on the embankment. These included a 24-inch and 26-inch dbh (diameter breast height) baldcypress (Taxodium distichum) and a 26-inch dbh red maple (Acer rubrum). The gps coordinates for the sampled trees were as follows:

baldcypress: N-30° 20.122' W-091° 39.022'
red maple: N-30° 20.096' W-091° 39.015'

Following drying and preparation of all core samples it was determined that all sampled trees were established on the embankment well prior to the year 1960. A conservative estimate as to the age of all these trees is 50 years or older as of March 2010.

All core samples will be available in my office if you desire them for any reason in the future. Please do not hesitate to call me if I can be of further assistance in this matter.

Sincerely:

Don Reed Ph.D
Professor, Forestry and Wildlife Specialist
LSU AgCenter

Management Plan for Fisher Bottom

July 2010

Prepared by:
Jason Olszak
Wetland Bird Biologist
Louisiana Department of Wildlife and Fisheries
5652 Hwy. 182
Opelousas, LA 70570
(337) 948-0255
jolszak@wlf.la.gov

Introduction/Location

This management plan is intended to guide the land manager of the property in establishing and maintaining desired habitat, to include moist-soil vegetation, conditions in order to maximize the value of food and cover for wetland dependent wildlife species within the impounded acres of Fisher Bottom, located T8S, R8E, most in section 81, south of Interstate- 10 and west of the Atchafalaya Whiskey Bay Pilot Channel, owned by Mallard Basin Inc. 137 Kyle St. Opelousas, LA 70570. This plan does not include all management activities which the landowner may implement in managing moist-soil vegetation over time, but rather serves as a guide for the best alternatives for management on site conditions as they currently exist. As, site conditions change over time, or as additional opportunities arise, other methods of vegetative manipulation may be warranted.

Effective management of wetlands for native moist soil vegetation in the Mississippi Alluvial Valley provides abundant, high quality, food and cover for native game and non-game wildlife species in Louisiana. Many of these wetland wildlife species are of high economic, recreational, and conservation importance in the region. In order to effectively manage land for moist soil vegetation, three things are necessary: 1. The ability to add and remove water at specified times, 2. Means to manipulate vegetation in order to maintain early successional species, and 3. A monitoring program of sufficient detail where specific management actions can be evaluated and improved upon, based on the results.

ATTACHMENT II-a

SEP 23 2011

ATCHAFALAYA INVESTMENTS, LLC
131 Woodsboro Drive
Lafayette, Louisiana 70508

September 21, 2011

Mr. Ronnie W. Duke
Chief, Western Evaluation Section
U.S. Army Corps of Engineers
P.O. Box 60267
New Orleans, Louisiana 70160-0267

Re: Permit Transfer Request
MVN-2010-1080-WLL
MVN-2010-1032-WLL

Dear Mr. Duke:

Please be advised that Mallard Basin et al., transferred its interest in Sections 59, 60, 74, 75, 80, 81 and 83, T-8S-R8E, St. Martin and Iberville Parishes, Louisiana, on July 25, 2011, to Atchafalaya Investments, LLC, via various deeds and servitudes. The signed transfer page for the individual permits is enclosed, and undersigned agrees to be bound by the terms and conditions of the nationwide permit (also enclosed).

Please record this transfer request in your permit file.

We also want a use added to the permits of the following: recreational duck and deer hunting, froging, crawfishing, fishing, bird watching, alligator hunting, enjoyment of natural beauty of the area, and general wildlife enjoyment.

Sincerely,

William C. Schumacher
Managing Member

Enclosures
cc: Nicholas Gachassin, III

Figure 1. Current site conditions include large floating mats of a single species; smartweed.

Current site conditions include a seasonally flooded, low tree density, Cypress swamp where backflooding occurs at a river level of 17-18 ft at Butte La Rose. Large canopy gaps allow the establishment of a lush, ground level, moist-soil vegetative community of which management capabilities have been established. Intermittently, willow and buttonbush has grown, but mainly concentrated around the impoundment margins, and boat channels. At the time of initial site visit (7/12/2010) the unit was dominated (60-70%) by large floating mats of smartweed (*Polygonum* spp.) In other areas, floating mats consisted of a variety of species such as arrowhead (*Saggitaria latifolia)*, true sedges (*Carex* spp.), and flat/nut sedges (*Cyperus* spp.), coffeeweed (*Sesbania* spp.), and wild millets (*Echinochloa* spp.). All but coffeeweed are considered good/excellent waterfowl forage, as well as excellent substrate for aquatic invertebrates, which support large numbers of wetland birds, reptiles, amphibians, and mammals. A smaller proportion of the unit, mainly around the boat channels, is choked up, annually by floating mats of noxious water hyacinth (*Eichornia crassipes*) and alligatorweed (*Alternanthera philoxeroides*).

Figure 2. Density of these floating mats, inhibit use by wintering waterfowl, wading birds, and recreational boaters.

There exists, an electric pump where water can be drawn from the Whiskey Bay pilot channel at a maximum rate of 6000-8500 gallons per minute depending on river depth. Three water control structures (stoplog structures with outflow diameters of 48 inches) at the south end of the unit allow fine-tuned dewatering of the unit assuming the water level outside the impoundment is lower than that inside. Because of the inaccessibility of tractors and implements to the site, and the presence of numerous tree stumps, mowing or disking of the dried site is not possible. Both of these activities are common methods of vegetation control in the lower Mississippi Valley. However, another common method which has been used with success on Fisher Bottoms in the past is herbicide application. The killing of the existing vegetation allows the seeds of more favorable species an opportunity to establish themselves in the absence of competition from the noxious plants that would otherwise dominate.

Objectives- Maintain early successional vegetation.

Like regional conservation objectives, annual objectives of the management plan are to maximize benefits to a diverse group of wildlife native to the Atchafalaya Basin, with an emphasis on waterbirds. This will be done by controlling noxious vegetation and encouraging a diverse suite of emergent moist-soil vegetation, which produces both food and cover for focal species. Not only will such plants produce seeds and tubers for wintering waterfowl, but the underwater vegetative structure serves as both a food source and substrate for aquatic micro- and macro-invertebrates which are the primary animal drivers of aquatic food chains. Also, the ability to maintain standing water within a forested system during the summer months, when many floodplain forests have dried up as the rivers subside, and evaporation rates increase, provides additional benefits. First, wading birds often nest in rookeries over

open water, as it reduces nest and chick predation risks from terrestrial mammals. Second, one of the main limiting factors for woodland nesting waterfowl (Wood ducks, Black-bellied whistling ducks, and Hooded mergansers), is wooded wetland of sufficient size in summer for brood rearing, where vertical vegetation provides cover for ducklings vulnerable to predation from nearly every predatory animal in the forest.

Vegetation goals may be achieved by two means on this property, 1. water level fluctuation, and 2. herbicide application.

1. Water Control Climatic and soil conditions in South Louisiana promote the rapid colonization of bare ground by lush, fast growing plants. If left alone, succession to a woody stage is hastened. Woody species such as black willow (*Salix nigra.*) and buttonbush (*Cephalanthus occidentalis*) can sprout and grow quite tall during a single summer. Thus, early season drawdowns of water can be carried out when needed, but should not occur very often as this has the potential to increase annual control costs. It also eliminates the benefits to nesting wading birds and brooding waterfowl, in addition to the loss of early summer recreational crawfishing and frogging opportunities. Maintaining water levels near full pool throughout spring and into summer suppresses woody establishment. When water is drawn down in late summer, desirable vegetation such as duck potatoe, sprangletop, flatsedges, and millets are favored.

   All things considered, the thick, dense, floating mats of vegetation that dominate the vegetated portions of the unit currently, preclude use of much of the area by wintering waterfowl. It may therefore be necessary to release water early and spray herbicide the following year (if river levels allow). This would give the germinating vegetation a full season of growth to substantially root into the underlying, hard ground. When water is put on in the fall, the plants are rooted in the ground rather than the floating mats and the now emergent, rather than floating vegetation is more accessible to feeding ducks in the winter.

2. Herbicide Application The initial colonization of mudflat or dry ground is achieved by fast growing, plentiful seed producing, herbaceous annuals. Perennials soon follow and, because they live more than one year, they put more energy into maintain vegetative structure than reproduction ie. seed production. They have a tendency to form dense stands with very low species diversity. Perennial smartweed, alligatorweed, coffeeweed, and water hyacinth are the most common noxious perennials in the Atchafalaya Basin and all are present in Fisher Bottom. As stated before, mowing or disking, both effective ways of dealing with noxious perennials, cannot be done here. Thus a selective herbicide such as 2,4-D which kills broadleaf plants but not grasses is recommended for controlling these weeds.

Adaptability

Consider that environmental, economic, and personal barriers exist in putting a management plan into action at times. Perhaps, a year when the impoundment was drained early and plans were made to spray noxious weeds are ruined by an uncommonly rainy summer, preventing the use of spray equipment. High river levels in the spring may not allow an early discharge of impounded water.

Economic hardship may rule out a large herbicide purchase in a given year. Adaptability in your plans is therefore a must. Aerial herbicide application, rather than ground or boat spraying may be needed; a year without a drawdown may be necessary if environmental conditions warrant, and perhaps pumping water during a hot, dry summer to maintain high water levels for a late drawdown are all possible ways to adapt to factors out of the land manager's control.

Monitoring

Every wetland management unit is different. Even those that are separated by only a levee have differing plant communities, seed banks, and management histories. A single region-wide management plan is difficult if not impossible to implement in some areas within the region. Thus, informed management actions require knowledge of site-specific conditions, management activities, and habitat response as a result of those activities. A generic example of a format for wetland unit recordkeeping is shown in Appendix 1. This recording system may be expanded upon but represents a minimum of the variables that should be evaluated regularly.

As often as the land manager is present on the wetland unit, he should document the site conditions, management activities and response of habitat to past activities. Time, labor, and money are conserved when management actions are based on accurate records of what has and has not worked in achieving habitat goals in the past.

Recommended management actions for the coming year.

July 2010

Draw down water (4"-6" per week) until dry; or as fast as necessary to be dry enough to get in and spray herbicide in mid-August. Watch control structure and river levels. Place boards back in control structure if river begins rising to prevent inundation of the unit.

August 2010

Spray large (2-6 acre) "holes" in smartweed with 2,4-D (60 fl. oz. per acre) or glyphosate (at least 72 fl. oz. per acre). Holes in other large floating mats may be sprayed with glyphosate.

Spot spray willows and buttonbush within the unit with glyphosate (72 fl. oz. per acre). Make sure to get total foliar coverage, especially at the growing tip of the trees for a kill.

September 2010

Monitor growth of desirable vegetation. Spot spraying with 2.4-D any problem broadleafs or woody vegetation that may emerge.

Early to mid-October 2010

Position all boards in the control structures to begin catching water. Begin slowly pumping water back into impoundment 2"-4" per week (hopefully with the aid of rain).

November 2010 – March 2011

Monitor wildlife response, including harvest success. This should be done with regular observational monitoring data as well.

Late-March 2011

Begin drawdown of unit (weather/river) permitting in preparation for early spraying of the entire unit to kill off vegetation making up the floating mats. Permit grasses/sedges to establish and grow and root firmly throughout the summer.

Again, the preceding chronology of events may be hampered by conditions beyond the manager's control. Clearly, a snag in the program early on alters the possibility of activities that are scheduled later. This illustrates how adaptability to changing conditions is required.

Appendix 1. Example datasheet for monitoring wetland management units.

DATE: _____

Water Level (at gauge) _____

	Sub-unit	1	2	3
Vegetation presence	Species A %	Sprangletop 25	millet 90	Sagittaria 20
	Species B %	Cockleburr 10		Sprangletop 30
	Species C %	chufa 10		Cattail 20
	Species D %	barnyardgrass 25		
	Species E %	Willow <1		
	Mudflat %	10		
	Open water %	20	10	30
Management Action Taken		sprayed 2,4-D @ 64 oz./ac.		
		spot spray willow glyphosate @72 oz. / ac.		
		Ran pump for 2 days. Added 4 inches.		
		pulled board x/x/2010 4" let out in 6 days.		
Wildlife Species Response		x herons, x egrets, and x storks feeding on crawfish in pooled water at boat channel	Trapped 4 sacks of crawfish in 50 traps	2 wood duck broods in the buttonbush on west end.
Results of Environmental Variables		Hurrican x/x/2010 added 12" of water		
		95 degrees for 2+ weeks, no rain, water evaporating 2" per day.		
Notes:		will have to spray cockleburr next year if it gets worse.	Millet seems to have benefitted from last years spraying of alligatorweed	beaver dam at end of this unit not permitting water to drain as fast
		Spragletop growing at waters edge in wet soil as opposed to barnyardgrass in higher, dry soil		

ATTACHMENT III

Herrmann, Michael H MVN ATTACHMENT III

From: Link, Paul [plink@wlf.la.gov]
Sent: Monday, April 02, 2012 5:09 PM
To: Herrmann, Michael H MVN
Cc: Olszak, Jason
Subject: RE: Mallard Basin site visit (UNCLASSIFIED)

Mike,

In my opinion, the wildlife habitat was greatly improved via this project's activities. Without the annual management and manipulation of the water control structures the area that currently produces a multitude of beneficial seed-producing plants for waterfowl would quickly be overtaken by less desirable species such as willow and Chinese tallow. Further, the addition of the electric pump and conveyance ditch provides dependable water to an area that historically flooded on a more routine basis prior to the construction of the flood protection levees and straightening of the Atchafalaya River.

As I stated on Friday while at the site visit, that project is very similar to many projects I have been involved with to restore or enhance habitats for waterfowl and other migratory birds. It is a project that I'd be proud to call my own.

I hope this helps,

Paul

Paul Link
North American Waterfowl Management Plan Coordinator Wildlife Division, LDWF
2000 Quail Drive, Room 436
Baton Rouge, LA 70808
plink@wlf.la.gov
Office: 225-765-2358
Mobile: 225-405-8474

-----Original Message-----
From: Herrmann, Michael H MVN [mailto:Michael.H.Herrmann@usace.army.mil]

Sent: Monday, April 02, 2012 4:31 PM
To: Link, Paul
Cc: Olszak, Jason
Subject: FW: Mallard Basin site visit (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Paul,

Please see the message below referencing bear habitat. We are seeking an opinion from your section with the same emphasis placed on the general habitat as relating to overall wildlife.

We know that projects like this are in operation all over the Miss.
Valley and are an overall success and benefit to wildlife or they would not be allowed.

Can you please give us an opinion of the Mallard Basin site habitat, its effects on wildlife and what it's removal would do to the project area and it's wildlife (as the message below describes).

If you have any input on crawfish and fish species and its effects from these projects, that would be excellent also.

Thanks again for putting in time with us on this project. We value your opinion, we certainly appreciate the effort and know that it will go a long way.

Mike Herrmann Jr.
US Army Corps of Engineers
New Orleans District
Regulatory Branch OD-SW
(504) 862-1954
michael.h.herrmann@usace.army.mil

In order to assist us in improving our service to you, please complete the survey found at http://per2.nwp.usace.army.mil/survey.html

-----Original Message-----
From: Herrmann, Michael H MVN
Sent: Monday, April 02, 2012 4:17 PM
To: 'pauldavidson'; 'Davidson, Maria'
Cc: Duke, Ronnie W MVN
Subject: Mallard Basin site visit (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Thanks again for your help with the site visit Friday. I really appreciate your time.

Within 30 days, I am due to prepare a supplemental document which will summarize the visit, condition of the site and the comments we receive from each of you. As we discussed, your opinion on the site is what we are seeking; particularly what effect the project, its infrastructure, function, etc. and the pump/pipe may have on the Louisiana Black Bear and its critical habitat.

We are interested in your opinion of what effect the termination of the project and having all of its features removed, such as ditches, spoil banks, water control structure, pump/pipe and its water holding abilities or lack thereof would have on the Louisiana Black Bear and its critical habitat.

We would also like your opinion on the present condition of the 600 acre site and whether or not it exhibits benefits or detriments to the Louisiana Black Bear.

Also please explain the significance of the immediate project vicinity and how it relates to the present population of the Louisiana Black Bear.

Any other opinion you have on the site and/or its relation to the Black Bear would be valuable to us and appreciated.

For your reference, the two permits issued by the Corps of Engineers New Orleans District (numbered below) are as follows:

MVN-2010-1080-WLL
Mallard Basin Inc.
New water conveyance ditch, water control structure, placement of spoil all in association with approximately 600 acres of moist soil management area within infrastructure existing over 50 years.

MVN-2010-1032-WLL
Installation of intake pipe at Pilot Channel in association with the electric pump.

Mike Herrmann Jr.
US Army Corps of Engineers
New Orleans District
Regulatory Branch OD-SW
(504) 862-1954
michael.h.herrmann@usace.army.mil

In order to assist us in improving our service to you, please complete the survey found at http://per2.nwp.usace.army.mil/survey.html

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

ATTACHMENT IV

BOBBY JINDAL
GOVERNOR

State of Louisiana

DEPARTMENT OF WILDLIFE AND FISHERIES
OFFICE OF SECRETARY

ROBERT BARHAM
SECRETARY

March 15, 2010

To whom it may concern:

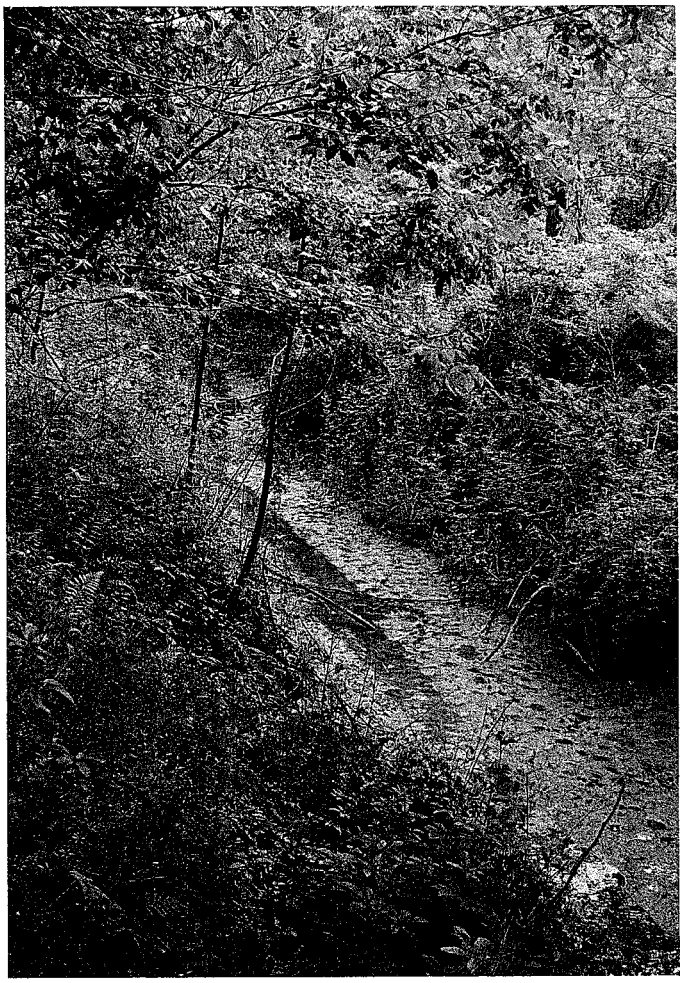
Several years ago, at the request of the landowner, Robert Helm, former LDWF Waterfowl Biologist and I, Tony Vidrine, Region 6 Biologist conducted a survey on a property to give recommendations for improving waterfowl habitat. We conducted a survey on what is known as the Fisher Bottom of the particular property, a low lying area that normally holds water. This property is located within the Atchafalaya Basin system.

We surveyed the entire portion of this property and gave the following Waterfowl Management recommendations to the landowner. Robert and I surveyed this entire area and recommended that the existing, old control structure be replaced with a new control structure in order to better control the water level in this area. Many undesirable plant species were invading this area and without repairs to the old structure this area would be lost as desirable waterfowl habitat in the future. With the ability to control water levels on this site, more desirable waterfowl plants foods would be able to thrive on this site.

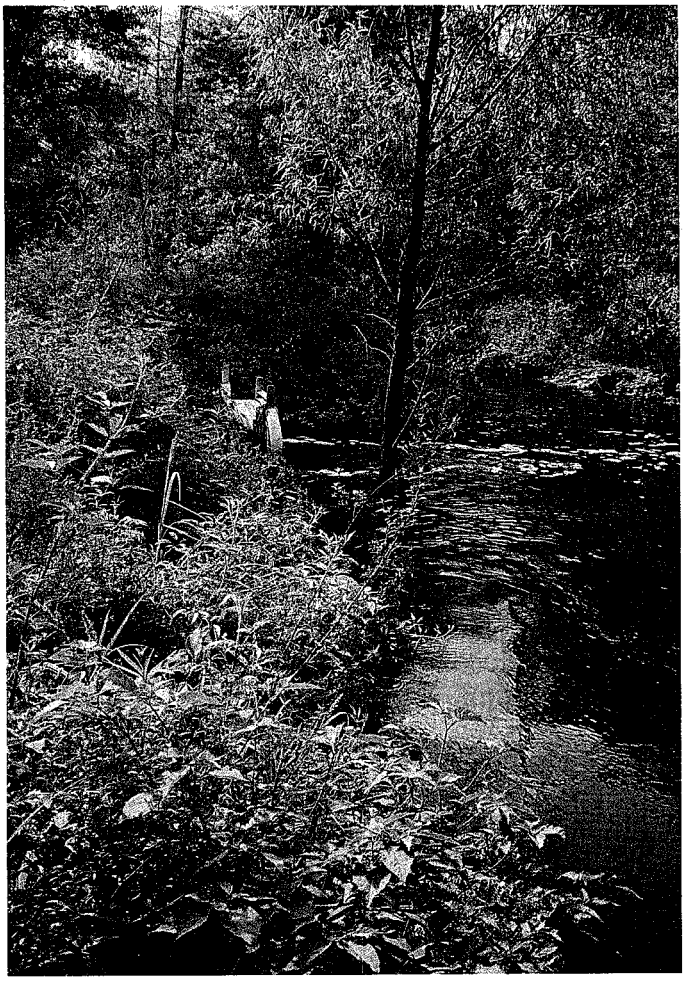
Tony Vidrine
Mississippi Alluvial Valley South Region Manager

ATTACHMENT V

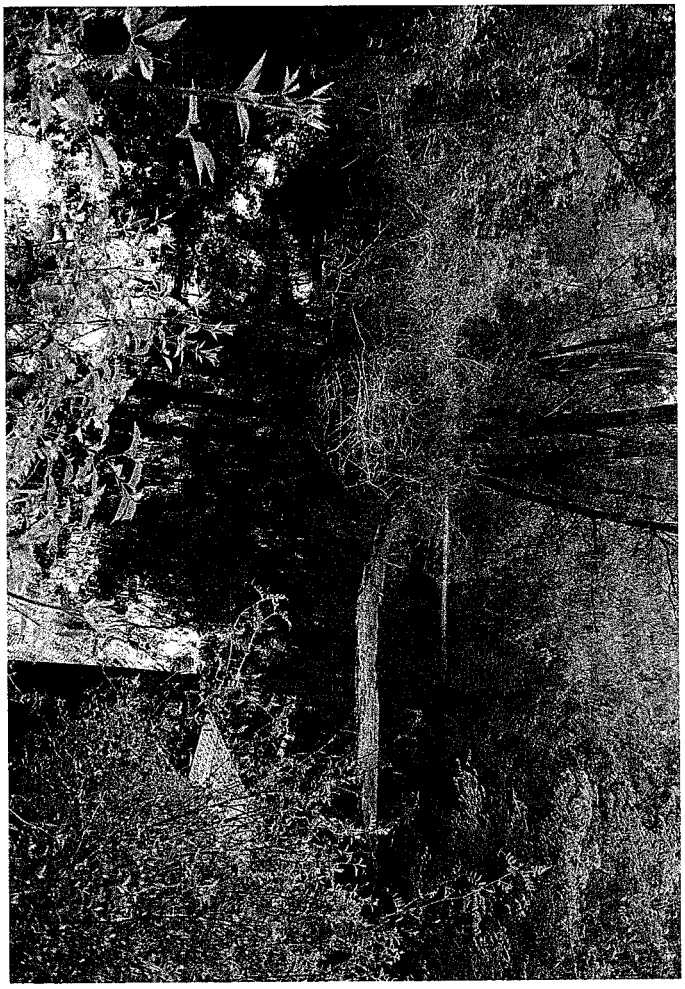
(2)



(1)

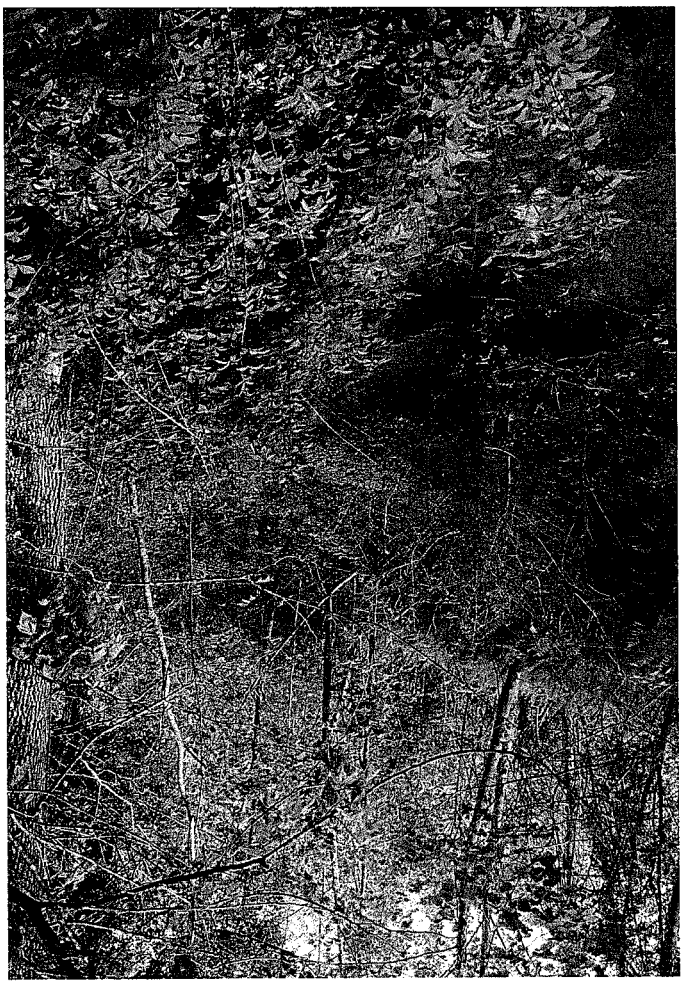


(4)



(3)

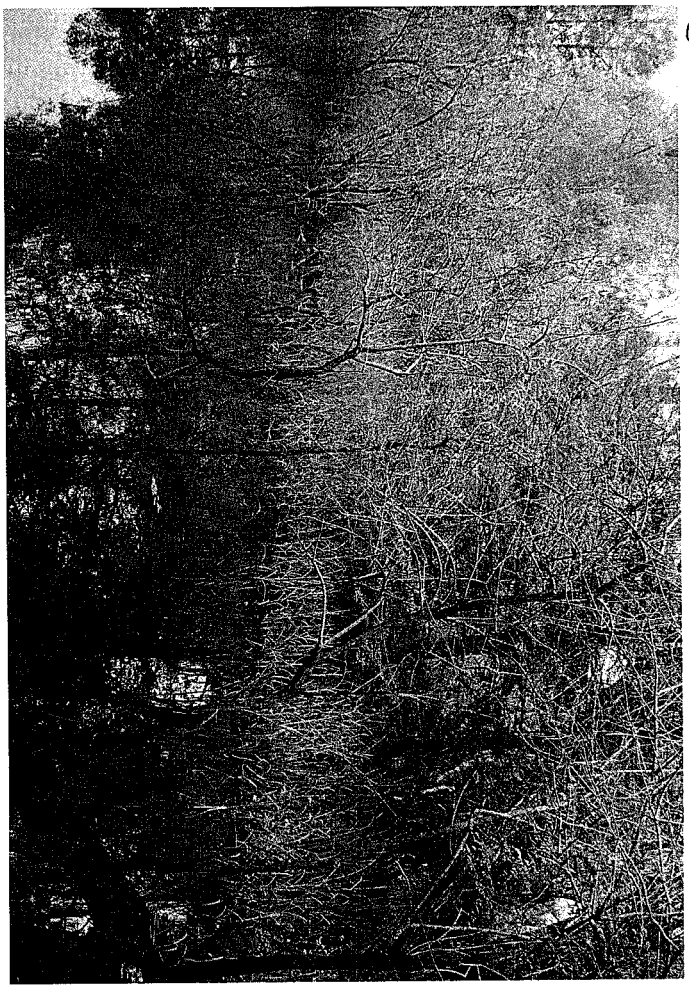
(6)



(5)

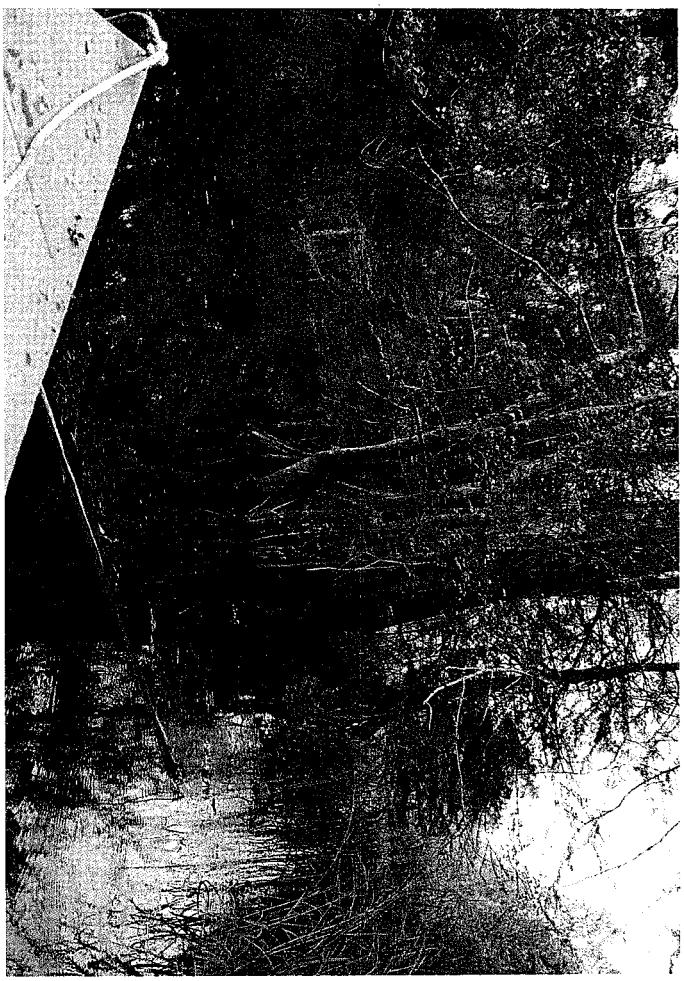
(8)

(7)

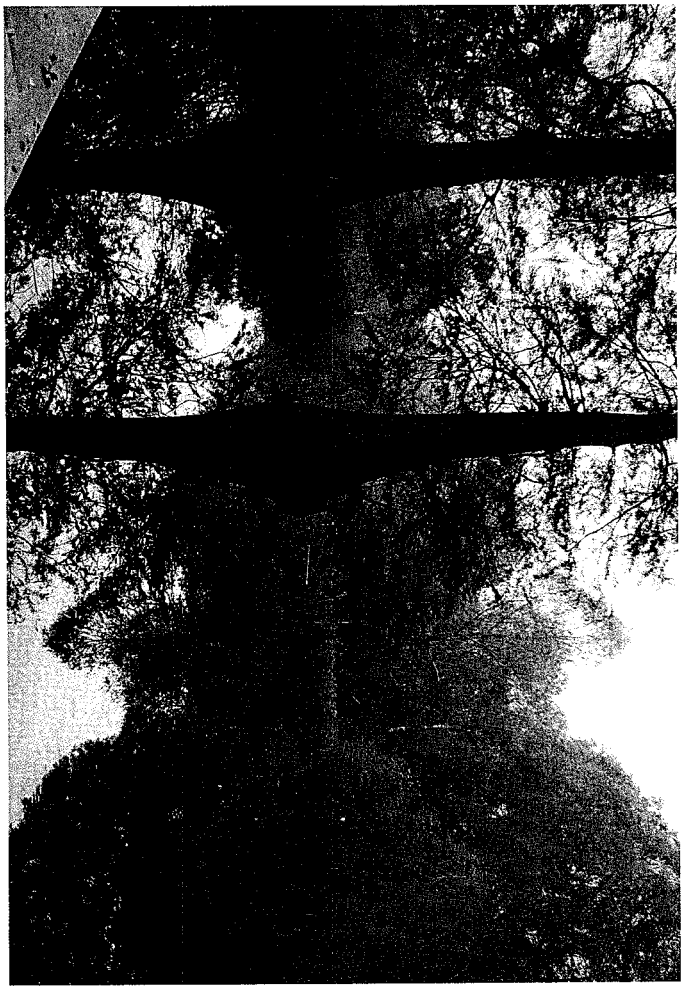


(10)

(9)



(12)



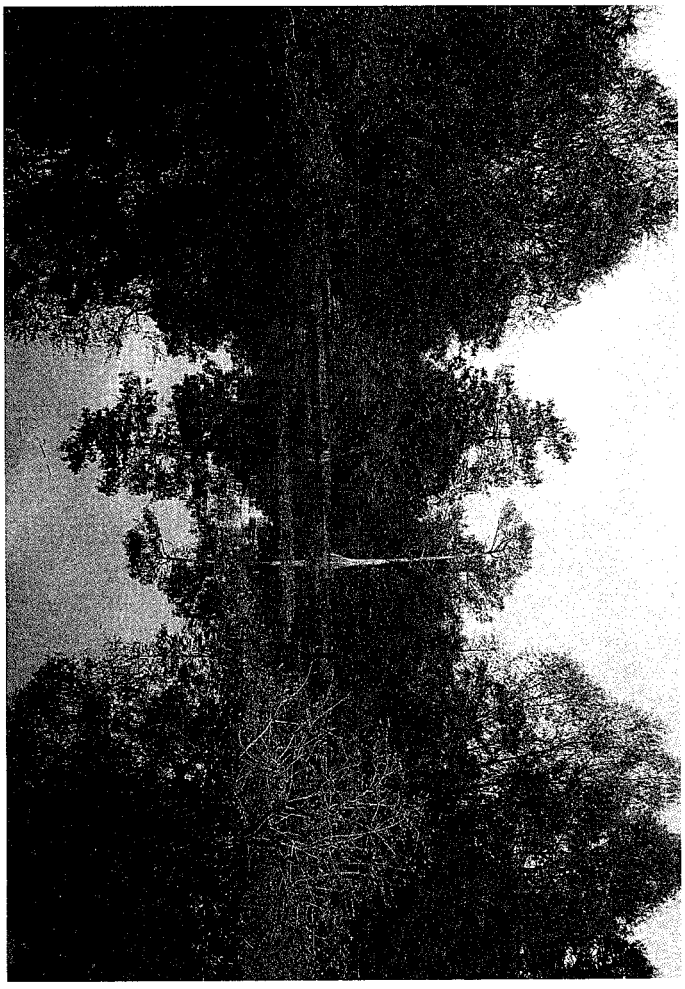
(11)

(14)

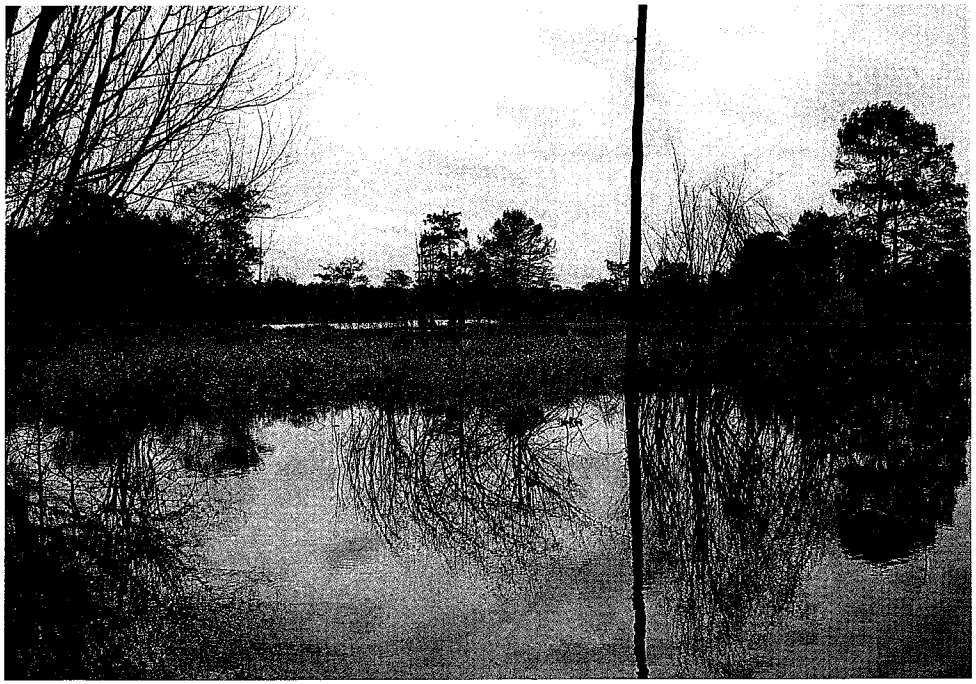
(13)

(16)

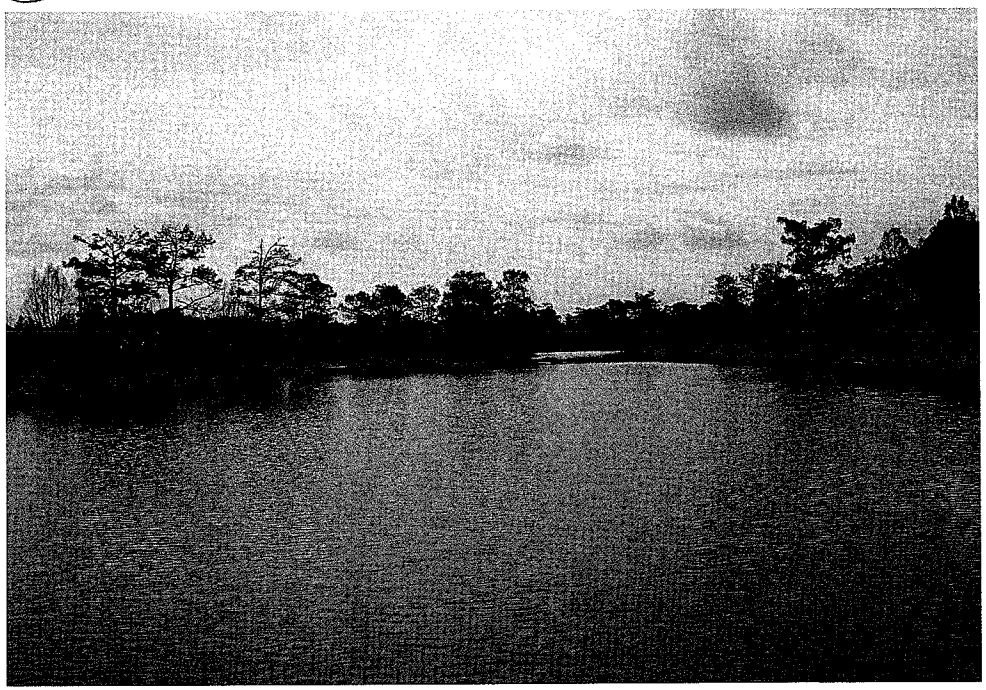
(15)



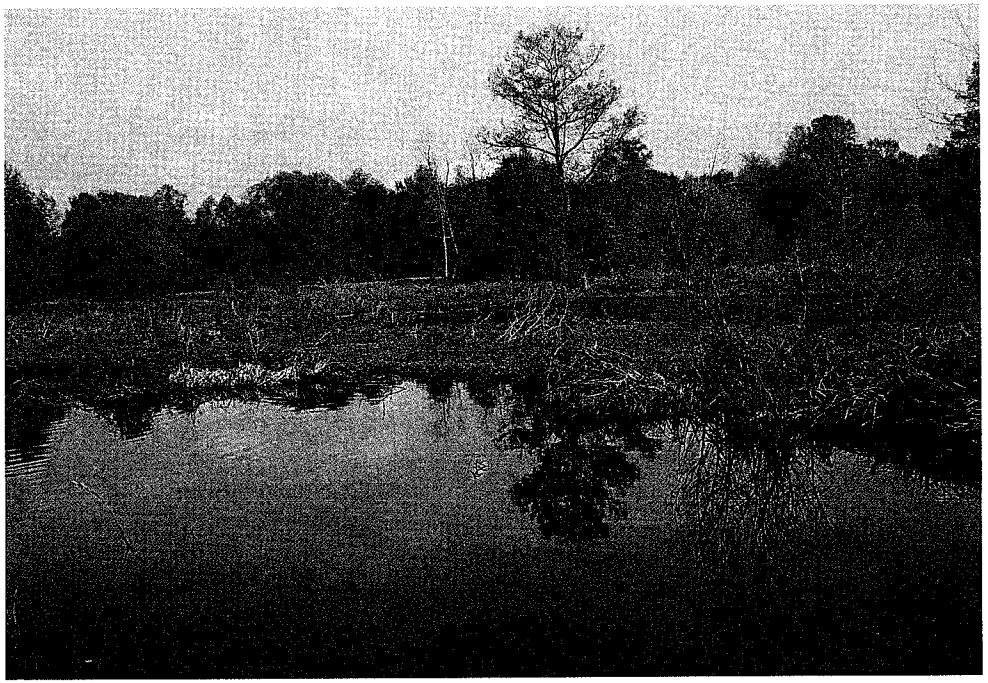
17



19



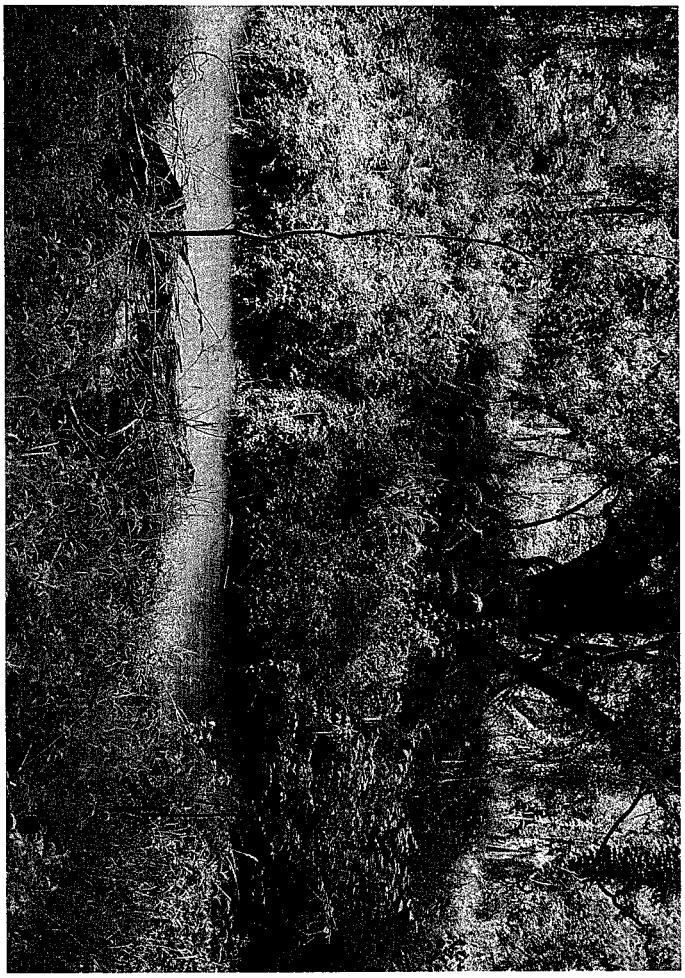
18



20

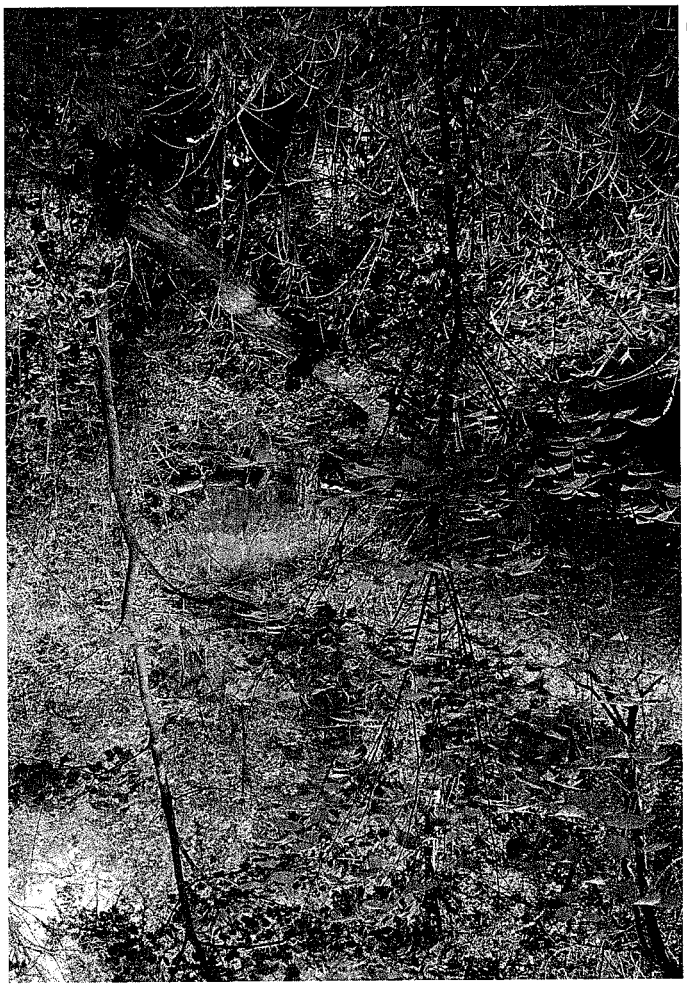
(22)

(21)

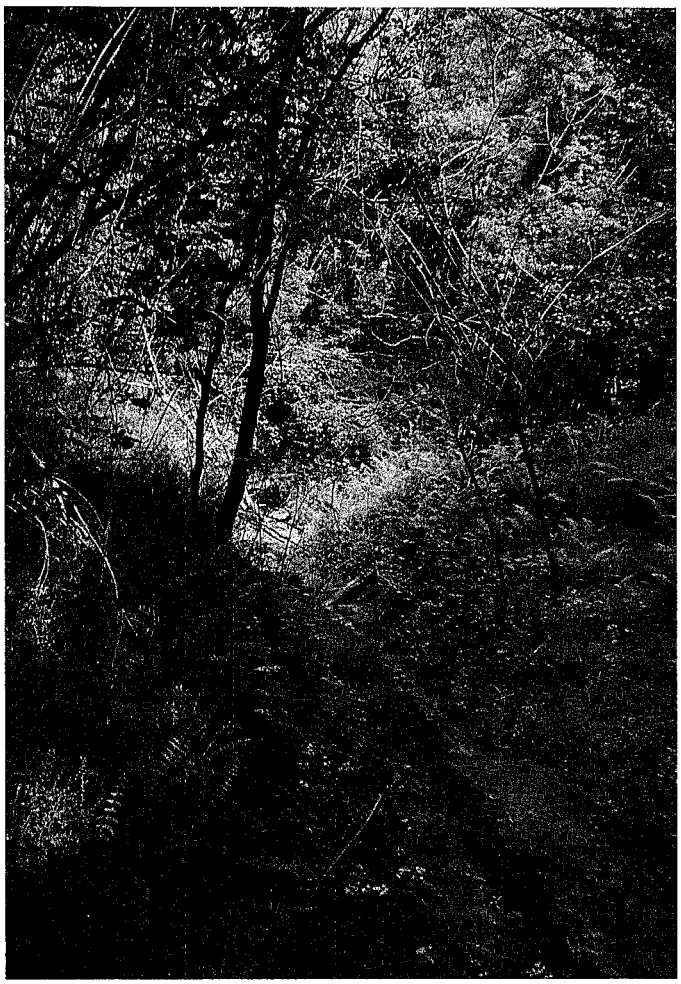


(24)

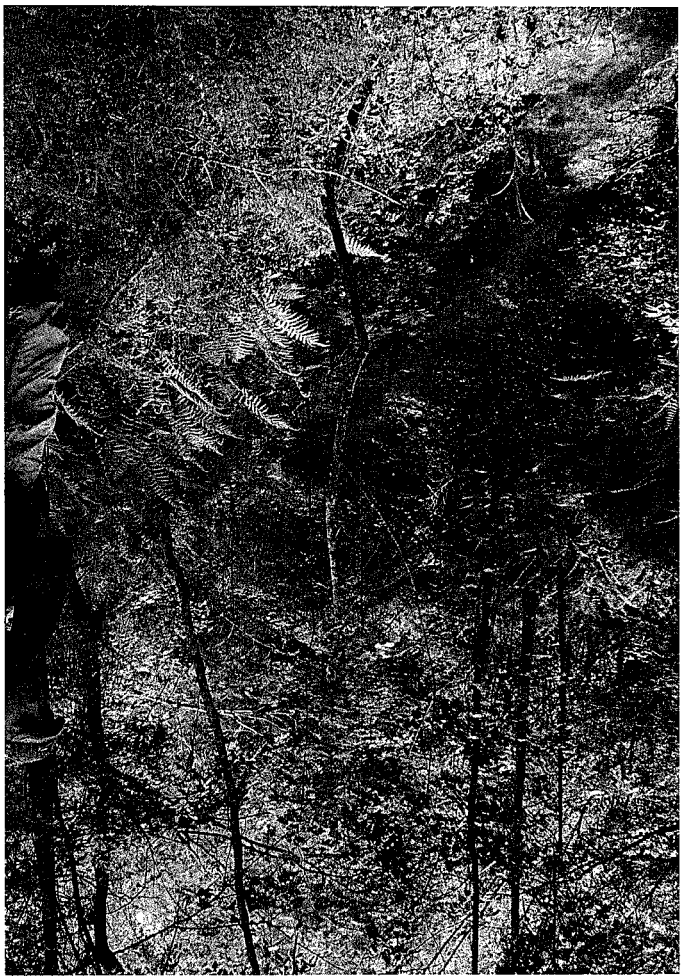
(23)



(26)

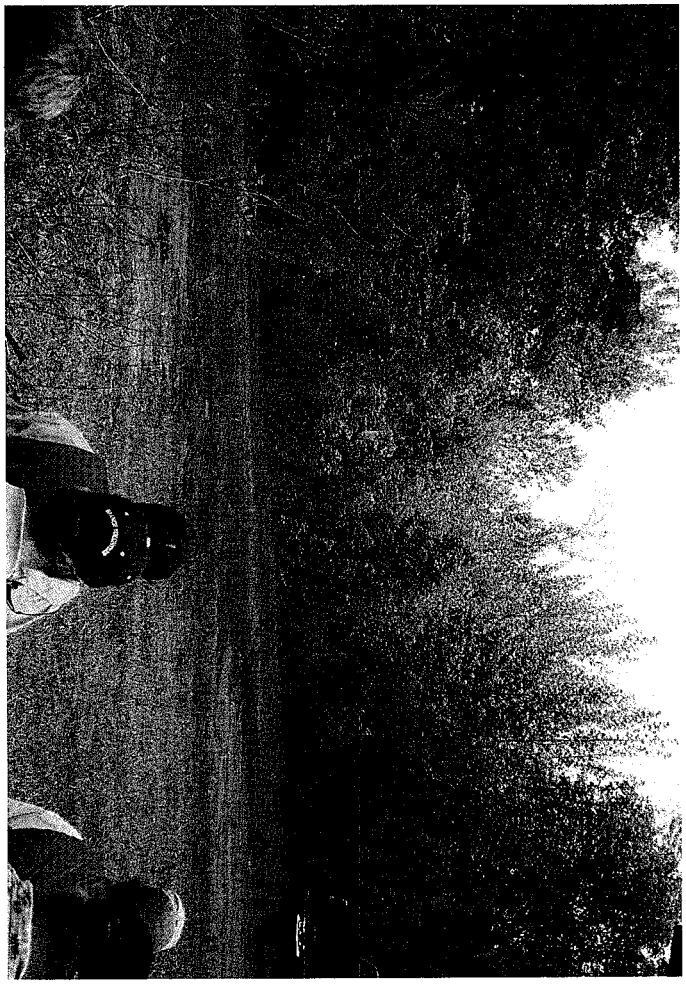


(25)

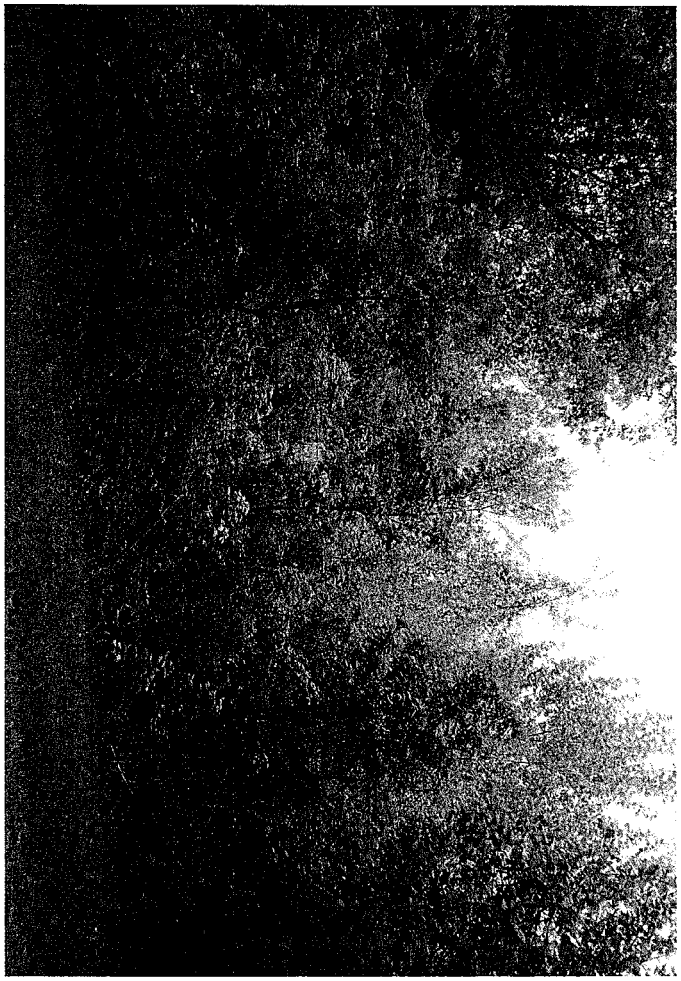


(28)

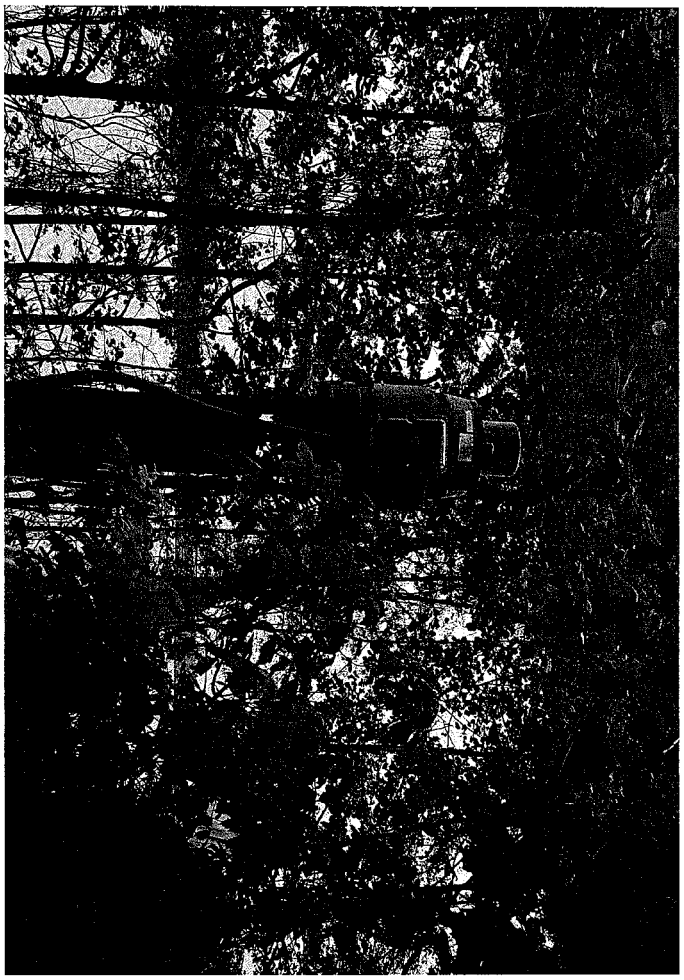
(27)



(30)



(29)



ATTACHMENT V I

Historic Data For Atchafalaya River at Butte La Rose (03120)

Gage Zero: 0 Ft. NGVD29
Flood Stage: 25 Ft.
Record High Stage : 27.28 Ft.

Longitude: -91.68666660
Latitude: 30.28138880
River Mile: 64.8
Record High Stage Date: 05/23/1973

Location of Gage:

Atchafalaya River at Butte La Rose, LA. Gage and data provided through a cooperative program between USGS and U.S. Army Corps of Engineers.

** Raw data, subject to change **

Download Data

07:00 Central

Date / Time	Stage (Ft)
03/01/2012 07:00	8.64
03/02/2012 07:00	8.37
03/03/2012 07:00	8.11
03/04/2012 07:00	7.85
03/05/2012 07:00	7.81
03/06/2012 07:00	7.23
03/07/2012 07:00	6.84
03/08/2012 07:00	6.94
03/09/2012 07:00	7.17
03/10/2012 07:00	7.87
03/11/2012 07:00	8.32
03/12/2012 07:00	8.62
03/13/2012 07:00	9.71
03/14/2012 07:00	10.72
03/15/2012 07:00	11.54
03/16/2012 07:00	11.86
03/17/2012 07:00	12.49
03/18/2012 07:00	12.98
03/19/2012 07:00	13.09
03/20/2012 07:00	13.19
03/21/2012 07:00	13.27
03/22/2012 07:00	13.72
03/23/2012 07:00	13.81
03/24/2012 07:00	13.60
03/25/2012 07:00	13.68
03/26/2012 07:00	13.83
03/27/2012 07:00	13.88
03/28/2012 07:00	13.98
03/29/2012 07:00	14.07
03/30/2012 07:00	14.12
03/31/2012 07:00	14.25
04/01/2012 07:00	14.34
04/02/2012 07:00	14.25
04/03/2012 07:00	14.22
04/04/2012 07:00	14.12
04/05/2012 07:00	13.98
04/06/2012 07:00	13.73
04/12/2012 07:00	11.70
04/13/2012 07:00	11.25
04/14/2012 07:00	

	11.14
04/15/2012 07:00	10.89
04/16/2012 07:00	10.40
04/17/2012 07:00	9.75
04/18/2012 07:00	9.00
04/19/2012 07:00	8.25
04/20/2012 07:00	7.75
04/21/2012 07:00	7.46
04/22/2012 07:00	7.29
04/23/2012 07:00	7.15
04/24/2012 07:00	6.59
04/25/2012 07:00	6.62
04/26/2012 07:00	6.79
04/27/2012 07:00	6.83
04/28/2012 07:00	6.72
04/29/2012 07:00	6.66
04/30/2012 07:00	6.28
05/01/2012 07:00	6.13
05/02/2012 07:00	5.62
US Army Corps of Engineers - New Orleans District - Water Control Center - Contact Us	

ATTACHMENT VII

United States Department of the Interior

FISH AND WILDLIFE SERVICE
646 Cajundome Blvd.
Suite 400
Lafayette, Louisiana 70506

February 28, 2011

Mr. Ronnie Duke
Chief, Western Evaluation Section
Regulatory Branch
U.S. Army Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160-0267

MAR 0 9 2011

RE: MVN-2010-1080, MVN-2010-1032 -WLL
WLL

Dear Mr. Duke:

The U.S. Fish and Wildlife Service (Service) has reviewed your letter dated February 2, 2011, regarding the subject after-the-fact project authorizations. Mallard Basin, Inc. (MVN-2010-1080) and Scott Sebastian (MVN-2010-1032) received authorization by the U.S. Army Corps of Engineers (Corps) for previously conducted work in the Atchafalaya Basin. Service comments are submitted in accordance with provisions of the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The Service does not enter into section 7 consultations on permit applications when applicants are seeking "after-the-fact" authorization for projects or portions of projects that have already been completed. Such completed projects effectively limit any options for formulation or implementation of reasonable and prudent alternatives that avoid jeopardizing the continued existence of federally listed species or destroying or modifying their designated critical habitats. The consultation process is intended to address the impacts of "proposed" actions rather than past, ongoing, or future effects of completed projects. Therefore, the Service, by policy, does not consult after-the-fact on completed actions.

As always, the Service appreciates the opportunity to consult on all permits prior to project completion that are issued by the Corps. Please contact Rob Smith (337/291-3134) of this office regarding any questions you may have regarding our comments.

Sincerely,

for Brad S. Rieck
Acting Supervisor
Louisiana Ecological Services Office

Cc: LDWF, Baton Rouge, LA

TAKE PRIDE® IN AMERICA

ATTACHMENT VII-a

FILE

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

02 February 2011

REPLY TO
ATTENTION OF
Operations Division
Western Evaluation Section

SUBJECT: MVN 2010-1080-WLL

Mr. Robert Smith
U.S. Fish and Wildlife Service
646 Cajundome Blvd., Suite 400
Lafayette, Louisiana 70506

Dear Mr. Smith:

This is in reference to the Mallard Basin and Scott Sebastian "After-the-Fact" projects located within the Atchafalaya Basin in St. Martin and Iberville Parishes. The applicants are seeking authorization for work that was completed on-site approximately 10 years prior to applying for Corps authorization.

Mallard Basin Inc., (MVN-2010-1080-WLL), was authorized to conduct dredging operations to construct 1,878 linear feet of new ditch and to maintain 9,019 feet of existing ditch used to convey water from the Atchafalaya River, replace a deteriorated wooden water control structure with a new variable crest, four-barreled, metal structure and remove a non-functioning water control structure and replace with an earthen dam, all to provide facilities required to control water levels over a forested wetland area identified as Fisher Bottoms, in accordance with a plan recommended by staff of the Louisiana Department of Wildlife and Fisheries with an overall goal of providing high quality wetland habitat that provides amenities critical in sustaining various fish and wildlife communities. The subject management area and infrastructure has been in existence for approximately 50 years.

On March 17, 2010 the Corps conducted an on-site field inspection to determine impacts and establish jurisdictional authority. During the field inspection by Corps Biologists, it was determined that the previously completed work was found to have no remaining negative impacts or losses to wetland functions. All spoil areas associated with the previous work activity remained wetlands and supported emergent wetland communities. In addition, no evidence indicating negative impacts to Louisiana Black Bear, Black Bear habitat or destruction of denning trees was observed during the field inspection.

Scott Sebastian, (MVN-2010-1032-WLL) was approved to install a water pump with intake and outfall pipes off the Whiskey Bay Pilot Channel, located in the Atchafalaya Basin in Iberville Parish, Louisiana. During a field inspection of the above site and structure by the Corps, it was determined that the structures were installed in a non-wet site connecting to a Section 10 Waterway, with no impacts to jurisdictional wetlands. The Corps found no evidence indicating negative project related impacts to the Louisiana Black Bear, Black Bear habitat or denning trees.

Both projects were issued by the New Orleans District on or prior to October 6, 2010. To this date the Corps has not received comment from the U.S. Fish and Wildlife Service in response to the Public Notice issued for Mallard Basin on May 24, 2010. Furthermore, the Corps did not provide agency notification on the Scott Sebastian project on the basis of finding a "no-effect", to threatened and endangered species, outside of which the Corps does not provide agency notification on a Nationwide Permit #7.

The Corps is concerned with ensuring proper consultation with FWS concerning threatened and endangered species namely the Louisiana Black Bear. By this letter, we are providing FWS with the opportunity to express any comments or concerns regarding both projects and their possible effects on Louisiana Black Bear habitat. The Corps will then consider all comments and the possibility of a modification to the existing permit authorizations.

If you have any questions or need additional information, please contact Mike Herrmann at (504) 862-1954.

Sincerely,

Ronnie W. Duke

Ronnie W. Duke
Chief, Western Evaluation Section

Enclosure

ATTACHMENT VIII

BOBBY JINDAL
GOVERNOR

State of Louisiana

DEPARTMENT OF WILDLIFE AND FISHERIES
OFFICE OF WILDLIFE

ROBERT J. BARHAM
SECRETARY

JIMMY L. ANTHONY
ASSISTANT SECRETARY

April 20, 2012

Mr. Pete J. Serio, Chief
Regulatory Branch
United States Army Corps of Engineers
P. O. Box 60267
New Orleans, LA 70160-0267

RE: *Application Number: MVN-2010-1080-WLL – Subsequent Correspondence*
Applicant: Mallard Basin, Inc.

Dear Mr. Serio:

The professional staff of the Louisiana Department of Wildlife and Fisheries (LDWF) Habitat Section has reviewed, at your staff's request, the July 2010 Management Plan for Fisher Bottom. Based upon this review, we have no objection to the implementation of the management plan.

The LDWF Habitat Section submits this determination to the U.S. Army Corps of Engineers in accordance with provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.). Please do not hesitate to contact me at 225-765-2819 should you need further assistance.

Sincerely,

Kyle F. Balkum
Biologist Program Manager

ATTACHMENT IX

Assessment at Mallard Basin Site in Atchafalaya Basin

On March 30, 2012, I accompanied Corps personnel, LA Dept. of Wildlife and Fisheries personnel, and the current and previous landowner to a site on the west side of the Whiskey Bay Pilot Channel, just south of Interstate 10 in St. Martin Parish. The purpose of the site visit was to assess the impacts of a water impoundment on the federally listed (ESA) Louisiana black bear (*Ursus americanus luteolus*).

We looked at the water control structure, pump and water distribution system, a boathouse and toured the impoundment. The water level in the unit was being lowered, so water was running out of the water control structure, attracting a lot of activity from fish in the outflow.

The basic habitat needs for black bears include abundant and diverse natural foods, water, escape cover, dispersal corridors, and den sites. I saw nothing at any of the sites that would be anything but good for a black bear. Soft mast, primarily blackberry, was abundant, and the area was densely vegetated, providing excellent cover for bears and any other wild fauna that might be found there. Everything that I saw was excellent bottomland hardwood habitat for bears and nothing associated with the water control structure or pump and piping could be described as detrimental to bears or bear habitat. Areas to the south of the site are likely too wet to provide good habitat for bears, but the Mallard Basin site, albeit void of bears at present, will likely attract bears as the bear population in the region continues to increase.

Paul L. Davidson, Executive Director

Black Bear Conservation Coalition

April 10, 2012

ATTACHMENT A

BOBBY JINDAL
GOVERNOR

State of Louisiana

DEPARTMENT OF WILDLIFE AND FISHERIES
OFFICE OF WILDLIFE

ROBERT J. BARHAM
SECRETARY

JIMMY L. ANTHONY
ASSISTANT SECRETARY

Mr. Pete J. Serio, Chief
Regulatory Branch
United States Army Corps of Engineers
P. O. Box 60267
New Orleans, LA 70160-0267

RE: *Application Number: MVN-2010-1080-WLL*

Dear Mr. Serio:

The professional staff of the Louisiana Department of Wildlife and Fisheries (LDWF) Large Carnivore Section has reviewed the above listed project. Based upon this review, and a field visit on March 30, 2012; we have found the project has no impact to the Louisiana black bear and have no objection to this project.

Please do not hesitate to contact me at 337-948-0255 should you need further assistance.

Sincerely,

Maria Davidson

Maria Davidson
Large Carnivore Program Manager

ATTACHMENT XI

Tim Morton & Associates, Inc.
Regulatory & Environmental Consultants
730 E. Kaliste Saloom Road
Lafayette, LA 70508

(337) 234-5124 (337) 235-3632 (FAX)

July 15, 2010

Mr. Mike H. Herrmann, Jr.
Western Evaluation Section
Operations Division
New Orleans District, Corps of Engineers
P. O. Box 60267
New Orleans, Louisiana 70160-0267

Re: MVN 2010-1080-WWI.

Dear Mr. Herrmann,

This responds to letters from the Louisiana Department of Wildlife and Fisheries (LDWF) and Leigh Haynie, representing Atchafalaya Basinkeeper and the Louisiana Crawfish Producers Association, West (Commenter) commenting on or objecting to the subject permit application.

The LDWF requested that a management plan be provided outlining management objectives and water control structure operation guidelines. The requested management plan is attached. The LDWF commented that all forested vegetation cleared during dredging and construction activities be removed and hauled offsite to a non wetland disposal location, or chipped and spread on site in a manner that is beneficial to the surrounding environment. As noted in the public notice all of the work was completed over ten years ago and no large trees were cleared by the work. No downed forested vegetation remains in the areas affected by the work. Finally, the LDWF indicated that adequate and appropriate mitigation be provided for impacts to wetland functions. The applicant will comply with the mitigation requirements as deemed appropriate by your agency.

The following response rebuts or refutes the comments of the Commenter. The opening paragraph contains a patently false statement that the applicant was able to obtain permission to close one lane of I-10 on the Atchafalaya Basin Bridge in order to position a crane to lower a pump. All of the materials associated with the installation of the pump and pipelines and the water control structures was barged to the site by the applicant. At no time did the applicant get permission to close a lane on I-10.

Paragraph 2. The Joint Public Notice clearly states that the work was conducted in St. Martin and Iberville Parishes. The permit application also clearly indicated that the work was conducted in these two parishes.

Paragraph 3. Commenter contends that the pump has no utility without the outfall structure located at the end of the area dredged by the applicant. No such outfall structure exists. Prior to the applicant's ownership of the property and the installation of the permanent pump, water was periodically pumped from the Atchafalaya River to a borrow canal associated with the installation of the Gulf States Utilities power line north of Interstate 10. A portable pump was used in this operation. This borrow canal is a prime fishing area and water was regularly pumped into the canal before the present landowners acquired the land. Today, the permanent pump is used during drought conditions to provide water to Fisher Bottoms and to the borrow canal. Accordingly, the pump is a stand alone feature of the landowner's management plan for the property. Again, the pump was not lowered over the side of Interstate 10 and therefore there is no need for engineering schematics and reports.

Paragraph 4. Our review of historic topographic maps does not indicate that a water feature named Fischer Lake ever existed. We also can not find on these maps a Bayou Cane that connects Fisher Bottoms to Warner Lake.

Paragraph 5. The permit application with attachments addresses all issues raised by this paragraph.

Paragraph 6. Activities of the applicant follow the recommendations of the LDWF for management of the area designed to provide protection for all species. We would note that the Commenter consistently disrespects the expertise of the LDWF.

Paragraph 7. Commenter makes unfounded claims regarding the disruption of sheet flow and the interference with the reproductive success of recreational and commercially important aquatic species. The project has been complete for over ten years and the area was similarly managed for over 40 years prior to the present landowner's acquisition of the property. The attached management plan was developed by the LDWF to enhance the habitat for aquatic and wetland species. Applicant notes that the property discussed is private land and may only be accessed by the Commenter through acts of trespass.

Paragraph 8. Applicant cleaned out an existing drainage ditch/natural drain. No named bayou exists in the area north of Fisher Bottoms where work was performed.

Paragraphs 9-11. [National Environmental Policy Act] Commenter contends that this project requires an Environmental Impact Statement because of the significance of the effects this

project has on waters of the United States. This project has enhanced the overall habitat quality of the area. Without the water control structures and the ability to pump water into Fisher Bottoms, the area currently managed would be densely vegetated with black willow and Chinese tallow trees. The open waters of Fisher Bottoms and the submersed aquatics so beneficial to the fish and wildlife species currently utilizing the area would disappear.

Please note that the last sentence of paragraph 11 reads "Future exploration and development activities are reasonably foreseeable indirect effects of the suspensions here that must be analyzed now under NEPA." This statement is not applicable to permit application.

Paragraphs 12-15. [Greenhouse Gasses] This is not applicable to this permit application.

Paragraph 16. [Rivers and Harbors Act] Applicant notes that the property discussed is private land and may only be accessed by the Commenter through acts of trespass.

Paragraph 17. [The Louisiana Civil Code] Not applicable to this permit application. A surveyor was not involved in the preparation of the permit plats nor is one required to be involved. The elevations depicted on the plats are based on publically available LIDAR data. The project features have been in place for over 10 years and in another form for over 40 years prior.

Paragraph 18. [Conservation] As noted by Commenter, we agree that the activity in this permit application has had "...perhaps no impact at all." Only we would modify it in this instance with the inclusion of the word adverse between no and impact.

Paragraph 19. Not applicable to this permit application as this addresses coastal lands.

Paragraph 20. [Economics] The applicants activities have enhanced wetlands.

Paragraph 21. [Clean Water Act] The applicant has enhanced the aquatic habitat through adherence to the management plan developed for this area. Crawfish production in Fisher Bottoms is particularly enhanced by a more stable water regime.

Paragraph 22. There is no evidence that the project negatively impacts dissolved oxygen in the basin. Crawfish, frogs, turtles and fish are thriving in Fisher Bottoms thanks to the prudent management of the area as recommended by the Louisiana Department of Wildlife and Fisheries.

Paragraph 23. [Practical Alternative] The applicant improved a water control methodology that had been utilized for over 40 years to ensure an adequate water supply to sustain wildlife habitat in Fisher Bottoms. Because the only natural source of water in this portion of the Basin, other than rainfall, is backwater flooding, an alternate means of ensuring dependable and sufficient water in Fisher Bottoms for wildlife management was required. When the current owners found that impoundment and rainfall were not sufficient, the addition of water from the Atchafalaya River by pumping was instituted.

Paragraph 24. Not applicable.

Paragraph 25. Spoil banks have had no impact on the circulation patterns in Fisher Bottoms or Lake Warner. The water control structure (dam) is being operated in accordance with a management plan that enhances the Fisher Bottoms for fish and wildlife resources.

Paragraphs 26-29. [Alternatives B] Commenter makes several claims regarding adverse impacts with no substantiation and finally contends that the ecosystem could be recovered by removal of the "dam and spoil banks". The management plan ensures that adverse impacts to the Fisher Bottoms ecosystem are minimized and that habitat quality is enhanced. As addressed by the attached Management Plan developed by the LDWF, removal of the water control structure would result in the drainage of Fisher Bottoms and the subsequent loss of habitat quality as a result of the invasion of species with negative impacts on wetlands.

Paragraph 30. No stagnant standing bodies of water were created by the work conducted by the applicant.

Paragraph 31. [Practical Alternative C] Enhancement of more that 450 acres of wetlands more than compensates for the alleged impacts resulting from the dredging, spoil banks and the water control structures associated with this project.

Pages 9-11. These pages address regulatory contents and are not directed to specific issues of this permit application.

Page 12. [Endangered Species] It is our understanding that the U. S. Fish and Wildlife Service did not comment on the public notice for this project. Accordingly, we believe that threatened or endangered species were not affected by the project.

Page 13. [National Historic Preservation Act] It is our understanding that the State Historic Preservation Officer did not comment on the public notice for this project.

Page 14. [Fish and Wildlife Values] The applicant's activities were and are undertaken in accordance with a management plan developed by the LDWF.

Page 15. [Navigation] Again, applicant notes that the property discussed is private land and may only be accessed by the Commenter through acts of trespass.

Page 16. [Recreation] The applicant purchased this land solely to provide recreation for family and friends. Everything that has been done on this land was done to enhance that recreational experience. The applicant sought advice from the Louisiana Department of Wildlife and Fisheries and Ducks Unlimited to ensure that the recreational opportunities available on this property were maximized.

Page 16. [Water Quality] The Louisiana Department of Environmental Quality has not yet issued a water quality certification for this project, but we foresee no problem with issuance of that certification.

Page 16. [Food Production] No comment.

Page 16. [Needs and Welfare of the People] No comment.

Page 16. [Considerations of Property Ownership] The work was performed on property owned by the applicant and on adjacent land with that landowner's permission.

Page 16. [State of Louisiana Water Quality] Commenter contends that this project does not comply with the state of Louisiana's water quality regulations when in fact the Louisiana Department of Environmental Quality has not yet made that determination.

Pages 16-17. [Conclusion] No comment.

The applicant wishes to stress that the work subject to this permit application has been completed for over 10 years. Additionally, it is important to note that the work associated with water management in Fisher Bottoms completed by the applicant was not new, but was an improvement to water management techniques that were in existence for over 40 years prior to

the applicant's purchase of the property. Finally, the applicant believes that all of the work conducted resulted in beneficial impacts to the ecosystem.

If additional information is required, please advise.

Sincerely,

TIM MORTON & ASSOCIATES, INC.

Tim Morton, Agent
Mallard Basin, LLC

tm

Attachment