
From: Elizabeth Hill
Sent: Thursday, March 23, 2017 11:04 AM
To: Melanie Connor
Subject: FW: Bayou Bridge Pipeline Project (MVN-2015-02295-WII) - Response to public comments
Attachments: DRAFT_BBP_Second_Public_Comment_Response_Matrix_03.16.2017.docx;
DRAFT_BBP_Initial_Public_Comment_Response_Matrix_03.16.2017.docx
Categories: RESPONSIVE

Got this yesterday.
Haven't looked at it

From: Howard, Monica [<mailto:Monica.Howard@energytransfer.com>]
Sent: Wednesday, March 22, 2017 1:29 PM
To: Elizabeth Hill
Subject: FW: Bayou Bridge Pipeline Project (MVN-2015-02295-WII) - Response to public comments

FYI, if this is of any assistance in your closing out the public comments you are addressing.

Monica Howard
Director Environmental Sciences
713-989-7186 (o)
713-898-8222 (c)

From: Marshall Olson [<mailto:molson@perennialenv.com>]
Sent: Friday, March 17, 2017 1:45 PM
To: Little, James W Jr CIV USARMY CEMVN (US) <James.Little@usace.army.mil>
Cc: steve.rowe@hdrinc.com; Howard, Monica <Monica.Howard@energytransfer.com>
Subject: Bayou Bridge Pipeline Project (MVN-2015-02295-WII) - Response to public comments

James,

Please find attached the draft responses to the second round of public comments received from January 12, 2017 to January 31, 2017 for the Bayou Bridge Pipeline Project (MVN-2015-02295-WII). As you are aware, there were a number of form letters that were received during the second comment period that were the exact same as the form letters received during the initial public comment period. Therefore, the last row of the response matrix references the form letter responses provided in the initial set of draft responses to public comments that were submitted to you on January 6, 2017. For your reference, I have attached an updated version of the initial response matrix to this email as well. Please let us know if you have any questions or need any additional information.

Thanks,

Marshall Olson
Environmental Project Manager

Perennial Environmental Services, LLC
13100 Northwest Freeway, Suite 150
Houston, Texas 77040

713-462-7121

Private and confidential as detailed [here](#). If you cannot access hyperlink, please e-mail sender.

Draft Responses to Comments Received during the Initial Public Comment Period (October 3, 2016 – November 2, 2016)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
EPA Comments			
1-1	Proposed locations for HDD indicated on the project plans include the use of a 30-foot wide right-of-way between entry and exit of the HDD. The use of HDD for pipeline installation should allow for complete avoidance of waters of the U.S. in the areas in which it is implemented. Therefore, the EPA does not believe the applicant has minimized and avoided wetlands and other waters of the U.S. to the maximum extent practicable. The applicant should eliminate the cleared right-of-way and associated impacts to aquatic habitat in HDD areas.	Maintenances of 30-foot corridor between HDD entry/exit points	BBP will not clear forested wetlands between HDD entry and exit locations except where necessary to facilitate construction of the proposed Project. In certain areas, BBP must clear forested wetlands located between HDD entry and exit locations to allow the offloading and transportation of equipment and personnel from barges to the construction ROW. Upon completion of construction, BBP will restore the areas impacted between the HDD entry and exit locations to pre-construction contours and will allow the wetlands to revegetate naturally. Therefore, there will be no permanently maintained 30-foot ROW between HDD entry and exit locations, and mitigation is proposed for the temporary impacts to these forested wetland areas.
1-2	Hydrologic connectivity should be maintained in wetland areas by installing adequately-spaced and appropriately-sized culverts through any access roads constructed in waters of the U.S.	Access roads impacting wetlands	All access roads that are constructed by BBP above pre-construction contours and elevations in waters of the U.S. will be properly bridged or culverted to maintain surface water flows.
1-3	Best management practices (BMPs) such as the use of sediment/erosion control structures should be implemented throughout construction to reduce the flow of nonpoint source pollution into adjacent wetlands and waters of the U.S.	Erosion	In compliance with the CWA, including Section 402, BBP will implement adequate erosion/siltation control measures as appropriate to avoid and minimize impacts to adjacent waters. Accepted measures include the proper use of silt fences, straw bales, or other Environmental Protection Agency construction site stormwater runoff control best management practices. These measures will be installed, maintained, and enhanced throughout construction as necessary.
1-4	The EPA requests to review the final compensatory mitigation plan, including the mitigation ratios that are used and the mitigation banks at which credits are purchased, during this initial year of LRAM implementation. Mitigation should be performed for all direct, secondary, and temporary/conversion impacts associated with the proposed project. EPA recommends the applicant mitigate by purchasing in-kind credits from multiple mitigation banks (i.e. banks located in each of the impacted 8-digit HUCs, if appropriate credits are available).	Mitigation	In accordance with 33 CFR 332.3, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S. The Corps of Engineers, New Orleans District Regulatory Branch released the interim version of the Louisiana Wetland Rapid Assessment Method (LRAM) for use in calculating compensatory mitigation requirements from wetland impacts associated with activities permitted under Section 404 of the Clean water Act and Section 10 of the Rivers and Harbors Act of 1899 via a Special Public Notice on February 29, 2016. BBP has utilized the USACE interim LRAM to propose appropriate mitigation requirements for the Project.

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
1-5	The EPA recommends that if any non-forested wetlands are temporarily impacted by the construction area and mitigation is not proposed for these areas, the applicant should be required to monitor these wetlands for five years or until they have been completely restored and revegetated to pre-impact conditions, and submit reports to the USACE on an annual basis. If full restoration of these wetlands is not achieved, additional mitigation and/or adaptive management will be required.	Wetland monitoring	Temporary impacts to non-forested wetlands do not warrant mitigation. Restoration of wetlands will be accomplished by restoring wetlands to pre-construction contours and allowing them to revegetate naturally. BBP has also proposed to utilize top-soil segregation in non-inundated wetlands in order to preserve the existing seed bank to facilitate natural revegetation. These measures have been demonstrated as an effective restoration measure throughout the industry.
LDWF Comments			
2-1	It is requested that all final mitigation options provided for this project be made available for agency review prior to the issuance of a USACE permit. Additionally, this project may impact habitats that historically supported coastal prairie or longleaf pine savannah habitat. It is the opinion of LDWF that the applicant's mitigation options should include coastal prairie and longleaf pine savannah mitigation options.	Mitigation	In accordance with 33 CFR 332.3, BBP proposes to purchase of mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S. BBP has utilized the USACE interim LRAM to determine the appropriate mitigation requirements for the Project. BBP will purchase coastal prairie and/or pine-savannah mitigation credits as required based on the resources impacted by the Project. BBP will complete all compensatory mitigation requirements as determined by the USACE and included in the permit authorization prior to beginning work in jurisdictional areas.
2-2	The applicant proposes to restore all temporarily impacted wetlands to pre-project conditions without mitigating for those temporary impacts. While LDWF is not opposed to this when those impacts occur within emergent or scrub-shrub habitats, LDWF recommends the allowance of a one year growing season prior to assessing permanent impacts to vegetated wetlands in these areas. Should unanticipated permanent impacts be evident following that one year growing season, the applicant shall provide adequate and appropriate mitigation for those impacts.	Wetland monitoring	Compensatory mitigation is not a requirement for temporary impacts to emergent wetlands. Temporarily impacted areas would be restored to pre-construction conditions as described in the Construction Procedures in the Application Cover Letter, pg 14-16; the permit will be conditioned to this effect.
2-3	The applicant proposes to maintain a 30-foot right-of-way between directional drill entry and exit points. LDWF does not support such actions within forested wetlands as they provide valuable ecological services such as water quality improvement, natural resource production, provision of wildlife habitat, airborne pollution filtration, atmospheric carbon dioxide removal, floodwater retention and stormwater runoff reduction. To avoid the loss of this valuable resource, LDWF strongly maintains that there be no clearing of forested wetlands between directional drill entry and exit sites.	Maintenances of 30-foot corridor between HDD entry/exit points	BBP will not clear forested wetlands between HDD entry and exit locations except where necessary to facilitate construction of the proposed Project. In certain areas, BBP must clear forested wetlands located between HDD entry and exit locations to allow the offloading and transportation of equipment and personnel from barges to the construction ROW. Upon completion of construction, BBP will restore the areas impacted between the HDD entry and exit locations to pre-construction contours and will allow the wetlands to revegetate naturally. There will be no permanently maintained 30-foot ROW between HDD entry and exit locations, and mitigation is proposed for the temporary impacts to these forested wetland areas.
2-4	In an effort to reduce permanent impacts, LDWF recommends that permanent pipeline ROWs not exceed 30' in width within wetlands where directional drilling is not proposed.	Permanently maintained corridor in wetlands	BBP has proposed a 30-foot-wide permanently maintained corridor through wetlands to minimize impacts to these resources.

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
2-5	<p>Our database indicates the presence of bird nesting colonies within one mile of this proposed project. Be aware that entry into or disturbance of active breeding colonies is prohibited by LDWF. In addition, LDWF prohibits work within a certain radius of an active nesting colony. If work for the proposed project will commence during the nesting season, conduct a field visit to the worksite to look for evidence of nesting colonies. This field visit should take place no more than two weeks before the project begins. If no nesting colonies are found within 400 meters (700 meters for brown pelicans) of the proposed project, no further consultation with LDWF will be necessary. If active nesting colonies are found within the previously stated distances of the proposed project, further consultation with LDWF will be required. In addition, colonies should be surveyed by a qualified biologist to document species present and the extent of the colonies. Provide LDWF with a survey report which is to include: qualifications of survey personnel, methodology, species present and abundance, along with habitat, photographs and maps of the site. To minimize disturbance to colonial nesting birds, the following restrictions on activity should be observed:</p> <p>-For colonies containing nesting wading birds, all project activity occurring within 300 meters of an active nesting colony should be restricted to the non-nesting season (9/1-2/15)</p> <p>-For colonies containing nesting gulls, terns and/or black skimmers, all project activity occurring within 400 meters (700 meters for brown pelicans) of an active nesting colony should be restricted to the non-nesting period (9/16-4/1)</p>	Bird rookeries	<p>BBP conducted an aerial survey of the Project route in April 2016 and a total of four active wading bird rookeries were identified during the survey. As documented in the survey report submitted to the LDWF in May 2016, the Project will have no direct impacts on the identified rookeries. However, two of the rookeries are located within 1,000 feet of the proposed Project. If work in these areas will occur during the nesting season (February 15th to August 1st), BBP will conduct an additional pre-construction survey no more than 2 weeks prior to the start of construction to determine if the rookeries are still present. Upon completion of the survey, BBP will provide an updated survey report that will include all data required by the LDWF. Furthermore, BBP will attempt to restrict construction activities in areas located within the buffer distances recommended for any active wading bird rookeries to the non-nesting period to the maximum extent practicable. BBP may move construction equipment through the restricted zone, but no active construction will occur in these areas. This will minimize the Project's potential impacts on the rookeries. In the event restriction of construction is not feasible within 400 meter of any rookery during the nesting season, BBP will further consult with LDWF and USFWS as necessary.</p>
2-6	<p>If construction is to be performed during the denning season, further consultation with this office will be necessary. We strongly urge workers and contractors to avoid bears, particularly if work is to be conducted during the non-denning season (April - December). Employees should be cautioned to not leave food or garbage in the field, as bears can become attracted and accustomed to human food easily. In addition, we recommend the use of bear proof garbage containers on site.</p>	LA Black Bears	<p>It is anticipated that construction will occur primarily outside of the black bear denning season (January - May). Furthermore, BBP has designed the Project to avoid direct impacts to potentially suitable den trees identified within the Project area. During construction, BBP will instruct all employees and contractors to avoid direct contact with black bears should one be observed within the Project area. BBP will also ensure that all employees maintain a clean work environment to prevent black bears from becoming attracted and accustomed to human food.</p>
2-7	<p>The applicant shall implement adequate erosion/sediment control measures to insure that no fill material or other activity related debris are allowed to enter into adjacent wetlands. Establishing long-term stands of grass on exposed soil surfaces, and installation of erosion and sediment control blankets, silt fences, and/or straw bale barriers are conceivable control measures. These measures should be implemented immediately upon placement of fill material and maintained until all loose soils have been stabilized.</p>	Erosion	<p>In compliance with the CWA, including Section 402, BBP will implement adequate erosion/siltation control measures as appropriate to avoid and minimize impacts to adjacent waters. Accepted measures include the proper use of silt fences, straw bales, or other Environmental Protection Agency construction site stormwater runoff control best management practices. These measures will be installed, maintained, and enhanced as warranted and remain in place as necessary for compliance.</p>

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
2-8	One 24" culvert shall be installed approximately every 250' should access roads be constructed through wetlands. Priority for the placement of those culverts should be given to natural low areas and drainages. Those culverts shall be maintained to ensure that the existing flow of surface water is uncompromised.	Access roads impacting wetlands	BBP will install and maintain appropriately sized culverts along access roads in wetlands as needed to ensure that the existing flow of surface water is uncompromised.
LDNR – Atchafalaya Basin Program Comments			
3-1	We request that the pipeline be installed at a depth at or below that of the adjacent natural swamp. This would require approximately 10 feet of cover, with the minimum required cover varying along the ROW according to local conditions. We recommend coordination with the ABP, St. Martin Parish, and the USACE Buffalo Cove project manager to ensure that the proposed pipeline does not interfere with restoration plans in the Beau Bayou, East Grand Lake, and Buffalo Cove water management units. USACE has authority to require that the pipeline be lowered in the event that it impedes hydrologic restoration activities. We suggest that it would be appropriate to install the pipeline at the correct depth at the outset to avoid having to re-disturb wetlands to lower the pipeline in a year or two.	Position/depth of Pipe	BBP proposes to install the pipeline 4 feet below natural grade within the basin. The applicant has coordinated with LDNR and local organizations dedicated to restoring the basin to ensure the pipeline does not interfere with restoration plans. The Project will be installed in a manner so as not to disrupt natural water flows in the basin or prohibit any ongoing or future hydrology restoration activities along the ROW.
NGO Group Comments (letter dated November 2, 2016)			
4-1	Bayou Bridge Pipeline, LLC fails to clearly demonstrate that there are no practicable alternatives to the proposed project that will have less adverse impact on the aquatic ecosystem as required by the Environmental Protection Agency requirements for CWA Section 404 permits.	Failure to demonstrate alternatives to project	40 CFR 230.10(a)(2) defines a practical alternative as an alternative that "is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes". Attachment 9 to the application includes a practical alternative analysis using these considerations. Of the five route alternatives considered, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative.
4-2	For proposed discharges into wetlands and other special aquatic sites, the Restrictions require consideration of whether the activity associated with the proposed discharge is "water dependent." Water dependency is defined as a project that "require[s] access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose." 40 C.F.R. § 230.10. This proposed project is not water dependent. Pipelines are inherently not water dependent, and the Applicant has not clearly demonstrated that the proposed project is an exception. The basic purpose of the project is to transport crude oil. The applicant has not demonstrated that this instance of crude oil transport requires access or proximity to or siting within aquatic habitat. Without a demonstration of water dependence, it must be concluded that alternatives with less adverse impacts exist. <i>Id.</i>	Water dependent	The basic purpose is defined in the application Cover Letter, Page 3 as "to move an economical, abundant, reliable, and domestic supply of crude oil from Clifton Ridge Marine Terminal in Lake Charles, Louisiana to various crude oil terminals located near St. James, Louisiana." As the comment correctly points out, water dependency is defined as a project that "require[s] access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose." 40 C.F.R. § 230.10. Because of the geographic location of the delivery points at St. James terminals in the Louisiana Coastal Zone, the route will require siting within and in proximity to coastal wetlands to meet the purpose of the Project. The proposed Project, is water dependent as defined by applicable regulations.

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
4-3	Bayou Bridge Pipeline, LLC's permit application does not clearly demonstrate, as required by the Restrictions, that this pipeline is needed and that there are no practicable alternative. Because it fails to demonstrate a need for the project, Bayou Bridge Pipeline, LLC has not clearly demonstrated that a no-action alternative is impracticable and improper. In other words, the "no action" alternative remains practicable.	Alternative actions	As discussed in the application Cover Letter, Pages 3 - 4, the purpose for the project is to provide an efficient, safe, and reliable transportation solution to move crude oil within the United States markets, which meets the need to improve United States energy independence and provide a more reliable supply of crude oil to United States refineries for processing to meet domestic needs for fuels and other petroleum derivatives. The need for the project is further demonstrated by the responses to BBP's open season process for common carrier pipelines which resulted in committed shippers entering into binding long-term transportation and deficiency contracts for 90% of the transportation capacity of the project. Furthermore, as discussed in BBP's application (2.0 NO-ACTION ALTERNATIVE, page 1-2, Attachment 9), if the Project's objective of creating additional pipeline capacity to allow the transportation of crude oil to meet market demand are to be met under a no-action alternative, other projects and activities would be required which would result in their own environmental impacts.
4-4	Bayou Bridge Pipeline, LLC's permit application fails to clearly demonstrate that it cannot transport crude oil using alternative methods.	Alternative actions	USACE regulations cited by the commenter, only require the examination of alternatives that do not "have other significant adverse environmental consequences." Transportation of crude oil using alternative methods, such as barge, truck, and rail would likely incur significant adverse environmental consequences including adverse impacts to the environment and general public. According to the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA), "Pipelines are the safest and most cost-effective means to transport the extraordinary volumes of natural gas and hazardous liquid products that fuel our economy. To move the volume of even a modest pipeline, it would take a constant line of tanker trucks, 750 per day, loading and moving out every two minutes, 24 hours a day, seven days a week. The railroad-equivalent of this single pipeline would be a train of seventy-five 2,000-barrel tank rail cars every day. These alternatives would require many times the people, clog the air with engine pollutants, be prohibitively expensive, and - with many more vehicles on the roads and rails carrying hazardous materials - unacceptably dangerous."
4-5	Bayou Bridge Pipeline, LLC fails to consider a pipeline project using an alternative point of origin, point of end, or both. Without such an analysis, Bayou Bridge Pipeline, LLC has not demonstrated that this pipeline project is the only practicable actions.	Alternative actions	Existing infrastructure and market demands dictate the origin and end point of the proposed pipeline route. Considering alternative origin and end points would not meet the purpose of the project to deliver crude oil from Clifton Ridge Marine Terminal in Lake Charles, Louisiana to various crude oil terminals located near St. James, Louisiana, which has been fully subscribed through the applicant's open season. An alternate origin or delivery point does not meet the purpose and need of the project and is thus not a practicable alternative.
4-6	Of the four routes surveyed, one does indeed reduce the amount of wetland impact and the number of major waterbody crossings. In doing so, it has not minimized the need for dredge and fill discharge into wetlands to the maximum extent practicable.	Alternative route	Although Alternative 3 does reduce the overall wetland impacts and number of major waterbody crossings, as detailed in the alternative analysis (Attachment 9), this alternative would increase the length of the project, increase total land disturbance, increase impacts on agricultural lands, and would require an additional horizontal directional drill to cross the Gulf Intracoastal Waterway, which is regulated by the USACE under Section 10 and Section 408. Additionally, the overall project cost would be increased by constructing this alternative. Therefore, it was eliminated from consideration as a practicable alternative per 40 CFR 230.10(a)(2) which defines practical alternatives as an alternative that "is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes".

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
4-7	The action of trenching, and associated discharge of the dredge material into the wetland, could be one of the most disruptive activities of the proposed project if not properly restored. The process of placing the material back into the trench is thus an essential aspect of reducing the harm caused by the initial disposition of material dredged from the trench. Because this permit application fails to provide any parameters that the inspector will apply in overseeing this process, it is impossible for the Corps to evaluate the effectiveness of the potential backfilling process.	Construction methods	Industry standards and best management practices will be implemented for backfilling operations; all construction activities will be completed in accordance with and/or exceedance of applicable federal and state regulations. The referenced historical construction methodologies predating current regulations are irrelevant to the proposed project application, because pipeline construction methods have improved since the projects referred to by the commenter were constructed.
4-8	Bayou Bridge Pipeline, LLC's permit application must be denied because it is not in the public interest and is therefore inconsistent with the Corp's Section 404 permitting regulations. Bayou Bridge Pipeline, LLC's permit application must be denied because it is inconsistent with the Corps' regulations for evaluating permit applications. 33 C.F.R. § 320.4. The Corps' regulations state that the determination of whether to issue a permit will be based on a review of the public interest. 33 C.F.R. § 320.4(a). This review considers the specific facts of the potential permit and the individual and cumulative impacts of the proposed action, weighing the detrimental impacts with the beneficial impacts. Id. If this balancing indicates that the project is not in the public interest then the permit must not be issued. Id.; 33 C.F.R. § 320.4(b)(4).	Public interest	<p>BBP has followed Section 404(b)(1) guidelines and sufficiently demonstrated that the proposed project is in the public interest and is therefore consistent with the Corp's Section 404 permitting regulations. As stated in the Application Cover Letter, Page 3 the Project will:</p> <ol style="list-style-type: none"> 1. Improve overall safety to the public and environment. It will reduce crude oil shipped by truck and by rail and increase the amount shipped by pipeline. Pipelines are the safest and most efficient means to transport crude oil, according to statistics compiled by the United States Department of Transportation. Pipelines are heavily regulated and are subject to intense scrutiny and oversight. Time and time again, pipelines have proven to be the safest and most reliable form of transporting oil. 2. Will play a role in increasing America's energy independence. The pipeline is a means to transport domestically produced crude oil to support United States consumers' energy demand. The United States still imports half of the oil it consumes per day, and the pipeline will provide a critical link to help close the gap between what we produce as a country and what we consume. 3. Through the Project, Gulf Coast refineries will have better access to more reliable United States crude oil production to be used to meet United States consumers' need for gasoline, diesel fuel, and other petroleum products. 4. Will ease transportation constraints for agricultural products. The Project will free-up rail capacity for the transportation of crops and other commodities currently held up by crude oil cargos. <p>Furthermore, the regulations cited by the commenter, 33 CFR 320.4(a)1, lists relevant factors to be considered by the district engineer when determining if a project is contrary to the public interest. Among those factors listed are "economics", "energy needs", and "the needs and welfare of the people". These factors must be taken into account by the Corps in balancing the project's benefits and impacts. Subsection (n) of the regulation states "Energy conservation and development are major national objectives. District engineers will give high priority to the processing of permit action involving energy projects." The proposed energy development project is considered a "major national objective" by the applicable regulations; and therefore, must be considered as such when weighing the detrimental impacts against the beneficial impacts.</p>
4-9	Bayou Bridge Pipeline, LLC fails to provide basic information upon which the public interest balancing inquiry can be performed as required by 33 C.F.R §320.4(a)(1). No mention is made regarding how neighboring residents would benefit from the proposed project.	Public interest	BBP provided information regarding the public interest of the Project. Specifically regarding neighboring communities as stated in the application (Cover Letter Page 3-4): "The pipeline will not only provide a long-term, safe, reliable, and energy-efficient option to move crude oil to enhance America's energy independence, it will also provide direct benefits to communities located along and near the Project route. These benefits will include, but are not limited to, providing: temporary construction employment; full-time, local jobs to operate and maintain the pipeline; right-of-way (ROW) payments; additional sales tax revenues from the sale of goods and services during construction and long-term to operate and maintain the pipeline; annual State and local community revenue from property taxes; and long-term support of regional contractors, manufacturers, distributors, and retailers through on-going purchase of goods and services to operate and maintain the Project."

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
4-10	The project will travel under Bayou Lafourche, a drinking water source for over 300,000 residents of Louisiana, and a source of water for Agriculture and Industry. The applicant must be required to obtain a permit from the Bayou Lafourche Fresh Water District before approval of the Water Quality Certification and 404 permit. The Applicant must have a spill control plan and emergency shutoff valves on either side of Bayou Lafourche.	Drinking water	BBP has applied for a permit from the Bayou Lafourche Fresh Water District. The Permit application was reviewed and was approved by the Water District Board on October 25, 2016. BBP is preparing a Facility Response Plan (FRP) to address potential spill response in accordance with PHMSA 49 CFR 194. Remote actuated shut-off valves will be located at periodic intervals along the pipeline including upstream and downstream of Bayou Lafourche.
4-11	Bayou Bridge has yet to develop disaster-response plans, despite the inherent vulnerabilities of pipelines and ETP's past incident record.	Safety	BBP is preparing a Facility Response Plan to address potential spill response in accordance with PHMSA Regulations.
4-12	Given the information available in public documents, it does not appear that the Corps, LDEQ, or the Applicant have fully weighed the costs and benefits relevant to the Project. Direct, indirect, secondary, and cumulative impacts of the proposed wetland fill and clearing remain overlooked.	Cost/benefits of the Project	BBP's application includes all information necessary under the Section 404(b)(1) Guidelines for application review.
4-13	The direct impacts of the proposed project are not fully represented. The public notice states that "[t]he proposed project will temporarily impact approximately 453.96 acres of jurisdictional wetlands and 42.14 acres of other waters of the U.S. In addition, approximately 158.80 acres of jurisdictional wetlands will be permanently converted to non-forested wetlands within the pipeline right-of-way". A 75-foot buffer along the pipeline route contains ~942 acres of wetland and waters, according to the USFWS National Wetlands Inventory. Of these, the majority of acres (~781) are forested wetlands.	Direct impacts	Impacts to wetlands and waterbodies are fully represented in BBPs application. Although the USFWS National Wetlands Inventory (NWI) is a useful tool, it is based primarily on interpretation of aerial imagery and is not designed for regulatory purposes. The direct impacts to wetlands and waterbodies included in BBP's application represent actual field conditions as determined by qualified biologists and are consistent with USACE technical guidelines and methods for delineating wetlands. The USACE ultimately has responsibility for administering Section 404 of the CWA and determining the location and extent of wetland boundaries.
4-14	Impact to streams is listed as acreage, instead of linear feet. This misrepresents and undervalues the ecological values of streams.	Direct impacts	Pipeline crossing lengths in linear feet for streams are included in the Impact Tables (Attachment 2). Furthermore, all mapping exhibits provided by the applicant depict the full extent of stream features impacted by the proposed Project.

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4-15	Especially when climate is considered, the removal of slow-growing bottomland forests is not a temporary impact, particularly when the project, as projects previous to this, contemplate large indirect hydrological impacts that cause siltation and vast changes to the forest canopy.	Direct impacts	No net loss of wetlands is proposed and no large indirect hydrological impacts or vast changes to the forest canopy are proposed or anticipated. Mitigation for all impacts to forested wetlands is proposed in accords with USACE compensatory mitigation guidelines (33 CFR 332.3(b)). All impacts to wetlands are considered temporary because no permanent loss will occur as a result of Project activities. Forested and scrub-shrub wetlands permanently converted to emergent wetlands will continue to function as wetlands upon completion of the Project; and therefore, there will be no net loss of wetlands. However, BBP recognizes that vegetation clearing in scrub-shrub and forested wetlands would result in a conversion of wetland types. The final mitigation plan for the proposed project includes all impacts classified as permanent and conversion. Impacts to forested wetlands within the temporary right-of-way will be accounted for as conversion impacts and will be mitigated for accordingly.
4-16	As described above, the pipeline ROW follows, in part, previously permitted and similar rights of way. These rights of way are out of compliance, obstructing north to south flow, causing large indirect impacts to hydrology and wetlands, enough to change the type of wetland. These impacts must be evaluated, as deep swamps are invaluable resources in the basin that are becoming more rare as the basin (08080101) is silted in by Old River Control.	Secondary or indirect impacts	The proposed project will not include placement of excavated material on existing spoil banks which parallel the pipeline right-of-way. All excavated materials placed in temporary spoil piles in the workspace will be replaced to pre-construction contours, which will not exacerbate existing flow conditions or preclude future restoration activities. Some existing infrastructure BBP parallels in the utility corridor pre-date the Clean Water Act and Section 404 permitting, thus they are not out of compliance.
4-17	The climate contribution from Bayou Bridge must be comprehensively quantified, from the point of oil extraction, to the climate costs of construction, to the pumping of oil through the pipe, all the way to the end-use of refined products.	Climate impacts	There is no current methodology or policy guidance to determine how the project's incremental contributions of greenhouse gases would translate into physical effects on the global climate. During construction, emissions from fuel-burning internal combustion engines (e.g. transportation trucks, heavy equipment, drill rigs, etc.) may temporarily increase the levels of atmospheric greenhouse gas, but because of the short-term duration and mobile nature of project construction, it would not result in a significant impact to climate change. Understanding that greenhouse gasses are also emitted from the combustion of end-use refined products, the emissions cannot be attributed solely to this project, because fuel supply is generally demand-driven rather than supply-driven. As such, regardless whether the project is constructed, end-users would still have a need for fuel. Therefore, it is purely speculative to assume that the project's contributions to climate change would be significant.
4-18	The agency must consider changes in carbon sequestration from loss of forested wetlands. According to CEQ, it is insufficient to merely state the impacts are small.	Climate impacts	Unavoidable temporary and permanent conversion of forested wetlands is proposed to be offset by compensatory mitigation. Changes in carbon sequestration associated with these impacts would also be mitigated for by implementation of an approved compensatory mitigation plan prior to authorization of the project.

Draft Responses to Comments Received during the Initial Public Comment Period (October 3, 2016 – November 2, 2016)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
4-19	The Corps must deny this permit because Bayou Bridge Pipeline, LLC has failed to propose an appropriate compensatory mitigation option. The Corps regulations, at 40 C.F.R. § 230.93(a)(1), explain that “[p]ermit applicants are responsible for proposing an appropriate compensatory mitigation option to offset unavoidable impacts.” Id. Bayou Bridge Pipeline, LLC’s public notice only vaguely mentions its plans to use a mitigation bank to offset any unavoidable wetland functions caused by the project implementation but fails to provide details for this mitigation option. The Corps must ensure that adequate mitigation plan information is included in the public notice “to enable the public to provide meaningful comment on the proposed mitigation,” providing exception only for data which is “confidential for business purposes.” 40 C.F.R. § 230.94(b). For wetland compensatory mitigation projects, a permittee must submit a mitigation plan that includes site selection criteria, baseline information for impact and compensation sites, ecological performance standards, and monitoring requirements, among other requirements. 33 C.F.R. § 322.4(c)(2)-(14). Because “permit applicants are responsible for proposing an appropriate compensatory mitigation option to offset unavoidable impacts,” putting off the mitigation proposal renders the application incomplete so it must be denied. 40 C.F.R. § 230.93(a)(1). The information provided in the permit application on impacts and mitigation is wildly insufficient to allow for meaningful public comments, particularly in regard to impact on wetlands and bottomland hardwoods.	Wetland mitigation	BBP has fulfilled the requirements for proposing appropriate compensatory mitigation by submitting a draft mitigation plan for the district engineer to review in accordance with 33 CFR § 322.4(c)(1): “For permittees who intend to fulfill their compensatory mitigation obligations by securing credits from approved mitigation banks or in lieu fee programs, their mitigation plans need include only the items described in paragraphs (c)(5) [Baseline Information] and (c)(6) [Determination of Credits] of this section, and the name of the specific mitigation bank or in-lieu fee program to be used.” The required information is found in BBP’s Application Cover Letter, pg 21-24 and Attachment 11, Interim LRAM Table for Project Impacts. A permit would not be issued until the applicable agencies have established and are satisfied with BBP’s plan for meeting the mitigation requirements.
4-20	Rather than paying into a mitigation bank, Bayou Bridge Pipeline, LLC should focus on preserving the unique and valuable areas in the Basin. Bringing the right-of-way back into compliance by removing the spoil banks while their equipment is on site could be a great way to mitigate inside the Atchafalaya Basin and could restore the hydrology for thousands of acres of wetlands.	Wetland mitigation	Compensatory mitigation requirements will follow the preferred order as established by regulatory agencies 33 CFR § 322.3(b)(1)-(6). Accordingly, all compensatory mitigation proposed for the project will be determined utilizing the USACE interim LRAM.
4-21	The Corps’ regulations state that “compensatory mitigation requirements must be commensurate with the amount and type of impact that is associated with a particular DA permit.” 40 C.F.R. §230.93. Because the effects of this pipeline will be on sensitive and valuable wetland areas, a 1:1 mitigation ratio would not commensurate with the type of impact that would result from the pipeline installation.	Wetland mitigation	BBP has proposed mitigation utilizing the interim LRAM method to determine the appropriate mitigation required for to offset impacts associated with the Project, which does not utilize a 1:1 mitigation ratio. The Corps of Engineers, New Orleans District Regulatory Branch released the interim version of the LRAM for use in calculating compensatory mitigation requirements from wetland impacts associated with activities permitted under Section 404 of the Clean water Act and Section 10 of the Rivers and Harbors Act of 1899 via a Special Public Notice on February 29, 2016.
4-22	To assure that minimization and mitigation in the same watershed and for the correct type of wetlands are occurring, we request that, at a minimum, mitigation banks and the avoidance and minimization statement used are included in the permit application.	Wetland mitigation	BBP’s statement explaining how impacts to waters of the United States are to be avoided and minimized is found in the Application Cover Letter, pg 17-21. Pages 21-24 of the Application Cover Letter states that all compensatory mitigation proposed for the project will be determined utilizing the interim LRAM, which utilizes river basins to evaluate impacts. Table 5 (Application Cover Letter, pages 23-24) includes a summary of all wetland impacts in each of the 6 basins impacted by the Project. Where possible, mitigation credits will be purchased from mitigation banks located within the river basins where the impacts are proposed to occur. Approved mitigation banks that could be utilized to purchase mitigation credits are included in Attachment 11, Interim LRAM Table for Project Impacts. Prior to permit issuance, the USACE will approve appropriate mitigation to offset unavoidable impacts to aquatic resources.

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4-23	We request additional information in the initial Public Notice commensurate with the standards imposed by law (e.g., mitigation plans, efforts made to avoid impacts, necessity of project location, adequate alternative analysis, environmental assessments, etc.). Because these regulations are not adequately adhered to, the public notice and application at issue is incomplete and due to be denied.	Application/Public Notice is incomplete	BBP's application includes all information necessary under the Section 404(b)(1) Guidelines for application review. Plans for mitigation are included in the Application Cover Letter, pages 21-24. Efforts made to avoid impacts are found on pages 17-21. An alternative analysis is provided as Attachment 9. Environmental Assessments including a Threatened and Endangered Species and Sensitive Resource Report (Attachment 6) are included in the BBP application. The public notice is commensurate with current regulations and guidelines providing an appropriate level of detail.
4-24	The Corps cannot grant this permit because it has not prepared an Environmental Impact Statement ("EIS") for the project pursuant to the National Environmental Policy Act ("NEPA").	Environmental Impact Statement	In accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction.
4-25	The Corps must deny this permit because Bayou Bridge Pipeline, LLC has failed to show that the project does not violate applicable state water quality standards.	State water quality standards	The LDEQ is concurrently reviewing the project with respect to Section 401 of the CWA. Prior to the onset of construction in regulated areas, BBP will obtain a WQC under Section 401 of the CWA from the LDEQ.
4-26	The Applicant has failed to provide sufficient information for a Water Quality Certification. LDEQ must deny the certification because of the Applicant's failure to determine the applicable standards for the various water bodies, including designated uses and criteria. See LA. ADMIN. CODE tit. 33, pt. IX, §§ 1101, 1113(A). LDEQ must also ensure the affected water bodies maintain their recreational uses and support the preservation and propagation of desirable species of aquatic biota and indigenous species of wildlife. LA. ADMIN. CODE tit. 33, pt. IX, § 1109(B). These determinations were not established in the Applicant's cover letter, Attachment 2 - "Waters of the United States" impacted by the proposed Project, or Attachment 3 - Engineering Form 4345.	Water quality standards	Stormwater runoff during construction is the primary source of potential impacts to water quality associated with the Project. In order to assure that the water quality standards are met, BBP will design a SWPPP and utilize Best Management Practices (BMPs) to control any amount of stormwater runoff during construction. BBP has demonstrated its commitment to control stormwater runoff to meet state water quality standards. A Spill Prevention and Response (SPAR) Plan is found in Attachment 8. Project Typical Drawings depicting BMPs that will be implemented before, during, and after construction are found in Attachment 1. Furthermore, a Water Quality Certification would be obtained from the LDEQ prior to construction in any regulated areas.
4-27	Bayou Bridge Pipeline, LLC's public notice does not include any specific information pertaining to its water quality certification application.	Water quality standards	BBP's application includes all information necessary to initiate LDEQ's Section 401 Water Quality Certification review per the procedures described in LAC 33:IX. Chapter 15. After the initial review/public notice period, the LDEQ can request additional information from BBP as needed. LDEQ will analyze potential impacts to water quality and determine if the Project will comply with site specific water quality standards prior to issuance of a Water Quality Certification.
4-28	In accordance with state law, and in the interest of the public, we formally request that two public hearings be held to consider material matters at issue in Bayou Bridge Pipeline, LLC's certification application. Id. at (E)(1)(b), (c). One hearing should be in the town of Henderson, near the Atchafalaya Basin, and the second in the Lafayette area.	Public hearings	A joint public hearing with the LDEQ and USACE will be held in response to the requests received during the public comment period.

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Committer / Comment ID	Comment	Issue	Draft USACE Response
4-29	The Corps' ability to enforce this permit is limited, due to the regulatory Department of the New Orleans District of the Corps of Engineers lack of a boat and consequent inability to access water and ensure compliance. Since there is no road access to most of the Atchafalaya Basin, enforcement of the permit by the Corps would be impossible. By issuing permits that cannot be enforced, the New Orleans District is failing to respect federal law.	USACE doesn't have a boat	The New Orleans District of the USACE has adequate means for enforcement of permits issued.
4-30	Bayou Bridge Pipeline, LLC's permit application should be denied because the proposed right-of-way is currently in violation of state and federal law and is causing irreparable harm to the Basin. Currently, part of the proposed right-of-way from Bayou Bridge Pipeline, LLC houses other pipelines – including pipelines that were installed in a way that caused a ruinous disruption to the natural water flow in the Basin. An impermeable spoil bank stretches along the right-of-way, acting as a dam and thwarting the natural water flow, which would otherwise run from north-to south. The consequence of the spoil bank's obstruction is especially detrimental because the water is slow-moving and laden with sediment. Impeding the flow causes the sediment to settle and creates unnatural blockages that destroy the wetland nature of the Basin. Not only do these blockages unnaturally change the fundamental nature of the Basin, but they also hamper navigational, commercial, and recreational activities like fishing. Restoring the water flow through the spoil bank to a north-to-south direction is thus crucial to maintaining the richness of the Basin and its use for aesthetic and recreational activities.	Unlawful & environmental impacts	Collocation of linear utilities is typically a preferred routing measure to minimize impacts. The existing conditions in the basin from previous projects constructed does not warrant the denial of BBP's application. The proposed pipeline would be constructed such that it did not violate any federal and state regulations and standards. Construction methods to be utilized are designed to minimize impacts to aquatic resources including natural water flows in the basin, navigational, commercial, and recreational activities, nor will the project prohibit any ongoing or future hydrology restoration activities along the ROW.
USFWS Comments			
5-1	Due to the importance of the project area as nesting habitat for bird species of conservation concern, the Service recommends that the project be constructed in a manner that would minimize bird impacts. The Migratory Bird Treaty Act prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the U.S. Department of the Interior. While the Act has no provision for allowing unauthorized take, the Service realizes that some birds may be harmed or killed as a result of project-related activities even when reasonable measures to protect birds are implemented. The Service's Office of Law Enforcement (LE) carries out its mission to protect migratory birds through investigations and enforcement, as well as by fostering relationships with individuals, companies, and industries that have taken effective steps to minimize their impacts on migratory birds, and by encouraging others to enact such programs. As such, LE focuses its resources on investigating and prosecuting individuals and entities that take migratory birds without regard for their actions or without effort to implement Service recommendations or conservation measures. In this case, we recommend that no habitat alteration work within mature forested areas be performed during the nesting period (March 1 to July 31).	Migratory birds	BBP has minimized impacts to forested areas along the route and will make efforts to minimize clearing of mature forested areas during the nesting period.

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5-2	<p>Although several comprehensive coast-wide surveys have been recently conducted to determine the location of newly-established nesting colonies, we recommend that a qualified biologist inspect the proposed work site for the presence of undocumented nesting colonies during the nesting season because some waterbird colonies may change locations year-to-year.</p>	Colonial nesting wading birds	<p>BBP conducted an aerial survey of the Project route in April 2016 and a total of two active wading bird rookeries were identified during the survey within a 1,000 feet of the proposed workspace. If work in these areas will occur during the nesting season (February 15th to August 1st), BBP will conduct an additional pre-construction survey no more than 2 weeks prior to the start of construction to determine if the rookeries are still present.</p>
5-3	<p>For colonies containing nesting wading birds (i.e., herons, egrets, night-herons, ibis, and roseate spoonbills), anhingas, and/or cormorants, all activity occurring within 1,000 feet of a rookery should be restricted to the non-nesting period, depending on the species present. Below is the list of colonial nesting birds that may be found and the corresponding window during which the project may occur. Please note no part of the project should occur outside those windows within 1,000 feet of a rookery.</p> <p><u>Species/Project Activity Window:</u></p> <ul style="list-style-type: none"> - Anhinga: July 1 to March 1 - Cormorant: July 1 to March 1 - Great Blue Heron: August 1 to February 15 - Great Egret: August 1 to February 15 - Snowy Egret: August 1 to March 1 	Colonial nesting wading birds	<p>BBP conducted an aerial survey of the Project route in April 2016 and a total of four active wading bird rookeries were identified during the survey. As documented in the survey report submitted to the LDWF in May 2016, the Project will have no direct impacts on the identified rookeries. However, two of the rookeries are located within 1,000 feet of the proposed Project. If work in these areas will occur during the nesting season (February 15th to August 1st), BBP will conduct an additional pre-construction survey no more than 2 weeks prior to the start of construction to determine if the rookeries are still present. Upon completion of the survey, BBP will provide an updated survey report that will include all data required by the LDWF. Furthermore, BBP will attempt to restrict construction activities in areas located within the buffer distances recommended for any active wading bird rookeries to the non-nesting period to the maximum extent practicable. BBP may move construction equipment through the restricted zone, but no active construction will occur in these areas. This will minimize the Project's potential impacts on the rookeries. In the event restriction of construction is not feasible within 400 meter of any rookery during the nesting season, BBP will further consult with LDWF and USFWS as necessary.</p>
5-4	<p>In addition, we recommend that on-site contract personnel be trained to identify colonial nesting birds and their nests, and avoid affecting them during the breeding season (i.e., the time period outside the activity window).</p>	Colonial nesting wading birds	<p>BBP will conduct environmental training for contractors prior to beginning construction. The training will include identification of colonial nesting birds and their nests, and avoidance measures to be implemented during the breeding season.</p>

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5-5	The applicant proposes to clear and maintain a 30-foot right-of-way between directional drill entry and exit points. The Service does not support such actions within forested wetlands due to their high ecological value. Furthermore, authorization of this project component could be precedent setting thereby leading to cumulative impacts to jurisdictional forested wetlands from such actions in the future. Therefore, to avoid current and future forested wetland loss from this potentially precedent-setting proposal, the Service strongly opposes the clearing of forested wetlands between directional drill entry and exit areas.	Clearing between HDD Entry/Exit	BBP will not clear forested wetlands between HDD entry and exit locations except where it is necessary to facilitate construction of the proposed Project. In certain areas, BBP must clear forested wetlands located between HDD entry and exit locations to allow the offloading and transportation of equipment and personnel from barges to the construction ROW. Upon completion of construction, BBP will restore the areas impacted between the HDD entry and exit locations to pre-construction contours and will allow the wetlands to revegetate naturally. Therefore, there will be no permanently maintained 30-foot ROW between HDD entry and exist locations.
5-6	The Service does concur with the applicant's proposed use of a 75-foot temporary construction right-of-way within wetlands where directional drilling is not proposed. However, in an effort to reduce permanent wetland impacts, the Service recommends that permanent pipeline right-of-ways not exceed 30-feet in width within those non-directional-drill wetland areas.	Permanent Easement width in non-HDD wetlands	BBP cannot feasibly install the pipeline in less than a 75 foot construction right-of-way where HDD is not proposed. BBP will restrict the width of the permanently maintained corridor through forested wetlands to 30 feet to minimize impacts to these resources.
5-7	The applicant proposes to restore all temporarily impacted jurisdictional wetlands to pre-project conditions without mitigating for those temporary impacts. While the Service is not opposed to this when those impacts occur within emergent or scrub-shrub habitats, the Service recommends the allowance of a one-year growing season prior to assessing permanent impacts to those vegetated wetlands areas. Should unanticipated permanent impacts be evident following that one-year growing season, the applicant should provide adequate and appropriate mitigation for those jurisdictional wetland impacts.	Mitigation	Bayou Bridge has proposed mitigation for all temporary impacts to forested wetlands. Bayou Bridge has committed to successful restoration of all temporarily impacted wetlands, and if not properly restored, will make necessary corrections to grade, hydrology, and/or vegetation as needed to achieve success.
5-8	The applicant proposes to mitigate for impacts to jurisdictional wetland resources through the purchase of in-basin/in-kind mitigation credits from Corps of Engineers-approved mitigation banks. While the Service tentatively supports this concept, the proposed project may impact habitats that were historically coastal prairie or longleaf pine savannah wetlands. If those historic wetland habitats were present within the proposed project area, the Service recommends including them as mitigation options	Mitigation	BBP proposes to compensate for both the permanent and temporary conversion of wetlands through the purchase of mitigation credits from USACE approved mitigation banks. BBP has utilized the USACE interim LRAM to determine the appropriate mitigation requirements for the Project. BBP will purchase coastal prairie and/or pine-savannah mitigation credits as required based on the resources impacted by the Project. A final compensatory mitigation plan will be approved by the USACE prior to issuance of a permit.
5-9	[W]e request that all final compensatory mitigation options provided for this project be made available for agency review prior to the issuance of a Corps of Engineers permit.	Mitigation	A final compensatory mitigation plan will be provided to the USACE prior to issuance of the USACE authorization.

Form Letters

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6-1	Bayou Bridge has ignored significant and unacceptable impacts to surrounding wetlands, waterbodies, and communities while also neglecting its necessary legal responsibilities.	Project Impacts / Legal Responsibilities	BBP has avoided and minimized impacts to waters of the U.S. to the greatest extent practicable. All temporarily impacted wetlands and waterbodies will be returned to pre-construction contours; there is no proposed fill of any waters of the U.S. Further, in accordance with 33 CFR 332.3 and as outlined in the application Cover Letter, Page 21-24, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable temporal impacts to waters of the U.S. The Project will also provide direct benefits to communities located along and near the Project route including, but not limited to, providing: construction employment; full-time, local jobs to operate and maintain the pipeline; right-of-way payments; additional sales tax revenues from the sale of goods and services during construction and long-term to operate and maintain the pipeline; annual State and local community revenue from property taxes; and long-term support of regional contractors, manufacturers, distributors, and retailers through ongoing purchase of goods and services to operate and maintain the Project. Finally, the Project would be constructed and operated in accordance with and often exceeding all applicable federal, state, and local regulations. Therefore, BBP has not neglected its legal responsibilities.
6-2	No public need for the pipeline exists. Bayou Bridge repeatedly cites “energy independence” as its motivating factor, though reality shows that our country is a net exporter of petroleum products. We are in fact already producing more energy than we need. With no project benefits apparent, it is essential for the Corps and LDEQ to weigh all project costs.	Project Benefits / Project Need	The need for the Project is demonstrated by the responses to BBP's open season process for common carrier pipelines, which resulted in committed shippers entering into binding long-term transportation and deficiency contracts for the Project. BBP has followed Section 404(b)(1) guidelines and sufficiently demonstrated that the proposed project is in the public interest and is needed. Further, petroleum products are not synonymous with crude oil as petroleum products includes all refined products. According to the US Energy Information Administration, the US produces a large share of the petroleum it consumes, but still relies on imports to meet demand. In 2015, the US produced about 14.8 million barrels per day and consumed about 19.5 relying on imports to support supply (https://www.eia.gov/energyexplained/index.cfm?page=oil_imports). Energy independence remains a goal for the US.
6-3	The installation of over 160 miles of pipe and supporting infrastructure, across 11 parishes, will impact more than 600 wetlands acres and cross almost 700 waterbodies. Yet there presently exists no plan to mitigate this disruption “commensurate with the scale and scope of the impacts.”	Mitigation	In accordance with 33 CFR 332.3, and as outlined in the application Cover Letter, Page 21-24, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable environmental losses resulting from impacts to waters of the U.S. The Corps of Engineers, New Orleans District Regulatory Branch released the interim version of the LRAM for use in calculating compensatory mitigation requirements from wetland impacts associated with activities permitted under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 via a Special Public Notice on February 29, 2016. BBP has utilized the USACE interim LRAM to determine the appropriate mitigation requirements for the Project. Where possible, mitigation credits will be purchased from mitigation banks located within the river basins where the impacts are proposed to occur. BBP will complete all compensatory mitigation requirements as determined by the USACE and included in the permit authorization prior to beginning work in jurisdictional areas.
6-4	Degrading wetland habitat reduces buffer from regional flooding. And impeding the natural flow of the Atchafalaya Basin will block the drainage of floodwaters. The increased risks presented by this notion of water management are unacceptable.	Hydrology / Flooding	There is no net loss of wetlands as a result of the project. Also, the Project will not result in impacts to wetland habitats that would reduce regional flooding buffers. Furthermore, the Project will be installed in a manner and to sufficient depth in the Atchafalaya Basin so as not to disrupt natural water flows in the basin. BBP will restore all disturbed Project areas to pre-construction contours to minimize impacts on hydrology. All temporarily impacted wetlands will be allowed to revegetate naturally, and BBP will purchase mitigation credits to offset unavoidable impacts to waters of the U.S. Where possible, mitigation credits will be purchased from mitigation banks located within the river basins where the impacts are proposed to occur.
6-5	Bayou Bridge is inconsistent with Louisiana’s Comprehensive Master Plan for a Sustainable Coast and Executive Order No. JBE 2016-09. Louisiana state agencies must do all in their power to prevent further coastal erosion. LDEQ cannot issue a 401 certification and follow the executive order.	Consistency with Local Regulations	The proposed Project is not inconsistent with Louisiana’s Comprehensive Master Plan for a Sustainable Coast; in fact, one of the main objectives of the Master Plan is to ensure that the Louisiana coast continues to be a hub for commerce and industry. Construction of the Project will contribute to the economic growth of the local communities located along and near the Project route. Furthermore, all state agencies responsible for issuing permits for the proposed Project will do so in accordance with Executive Order No. JBE 2016-09.

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6-6	There are alternative routes for the pipeline that would be less destructive to the environment and more protective of communities. Bayou Bridge even examined a route that would reduce impacts to wetlands and waterbodies.	Alternatives	In accordance with 40 CFR 230.10(a)(2), BBP conducted an alternative analysis (Attachment 9) for five route alternatives. Of these, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative. Although Alternative 3 does reduce the overall wetland and waterbody impacts, as detailed in the alternative analysis, this alternative would increase the length of the project, increase total land disturbance, increase impacts on agricultural lands, and would require an additional horizontal directional drill to cross the Gulf Intracoastal Waterway, which is regulated by the USACE under Section 10 and Section 408. Additionally, the overall project cost would be increased by constructing this alternative. Therefore, it was not deemed a practicable alternative per 40 CFR 230.10(a)(2) which defines practical alternatives as an alternative that "is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes".
6-7	Bayou Bridge has yet to develop disaster-response plans, despite the inherent vulnerabilities of pipelines and ETP's past incident record.	Safety	BBP is preparing a Facility Response Plan (FRP) to address potential spill response in accordance with PHMSA regulations.
6-8	As a federal agency, the Corps must consider climate change during its decision-making process. The climate contribution from Bayou Bridge must be comprehensively quantified, from the point of oil extraction all the way through the end-use of refined products. Conversely, the threats posed by climate change to the long-term viability of Bayou Bridge must also be evaluated.	Climate Change	There is no current methodology or policy guidance to determine how the project's incremental contributions of greenhouse gases would translate into physical effects on the global climate. During construction, emissions from fuel-burning internal combustion engines (e.g. transportation trucks, heavy equipment, drill rigs, etc.) may temporarily increase the levels of atmospheric greenhouse gas, but because of the short-term duration of Project construction, it would not result in a significant impact to climate change. Understanding that greenhouse gasses are also emitted from the combustion of end-use refined products, the emissions cannot be attributed solely to this Project, because fuel supply is generally demand-driven rather than supply-driven. As such, regardless whether the Project is constructed, end-users would still have a need for fuel. Therefore, it is purely speculative to assume that the Project's contributions to climate change would be significant.
6-9	Please prepare an Environmental Impact Statement for the proposed Bayou Bridge pipeline, with multiple public hearings must also be held, ideally in the greater Lafayette and Atchafalaya region.	EIS / Public Hearing	If, after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. All regulatory agencies which have jurisdiction or special expertise with respect to the environmental impact of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction. A joint public hearing with the LDEQ and USACE will be held in response to the requests received during the public comment period.
6-10	As a homeowner, my constitutional right to property has been infringed upon with the continued granting of permits for pipelines within an infinite corridor. There are safety and hazard issues that continue to build as each permit is granted. I have had flooding of property due to these pipelines being put in the ground and an inability to restore it properly. The value of my property has decreased as it is becoming unusable for anything but cutting grass and hay.	Flooding	The applicant has committed to respectfully and fairly compensating each landowner by paying a fair market value for the establishment of a permanent easement across their land. Landowners will also be compensated for damages to crops, grazing lands, timber or other structures/activities that could affect property value. All areas impacted by the construction of the project would be restored to the pre-construction conditions and there will be no increase in flooding as a result of the Project.

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6-11	The properties next to me and in the area of my home have overgrown, unkept right of ways. The pipeline companies do not oversee that they are maintained, nor does any government agency check up on them. This has become quite a safety hazard.	Safety / ROW Maintenance	The permanent easement will be monitored and maintained in accordance with PHMSA regulations. This will be accomplished by regularly mowing or cutting woody vegetation within the 50-foot-wide permanent easement in uplands and the 30-foot-wide corridor within wetlands. Areas outside of the permanent easement would be allowed to revegetate naturally upon completion of construction in order to restore wetland and wildlife habitat.
6-12	I have been harassed by the Bayou Bridge representative. When I simply asked for a copy of the proposed agreement to be reviewed by my attorney, I was threatened to be brought to court and was told what they were NOT going to do for me. They have been reluctant to answer my questions and still have not fulfilled my request to physically show me where the proposed pipeline would cross my property. I was told, “you have a copy of the survey”. Which is very small, not clear, and not detailed.	Landowner Complaint	The USACE has no role in landowner negotiations. Furthermore, BBP has been in contact with the landowner throughout the process of easement negotiations and has provided all currently available information requested by the landowner. The location of the pipeline has been conveyed to the landowner both on the easement agreement as well as through the placement of stakes on the landowner’s property.
6-13	Aren’t Louisiana’s coastal wetlands rare and endangered enough to protect them jealously? Aren’t there pre-existing pipelines and/or routes that can accommodate this petroleum?	Wetland Impacts / Alternatives	<p>BBP has attempted to minimize and avoid impacts to wetlands to the greatest extent practicable. In accordance with 33 CFR 332.3, and as outlined in the application Cover Letter, Page 21-24, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S.</p> <p>The need for the Project is demonstrated by the responses to BBP’s open season process for common carrier pipelines, which resulted in committed shippers entering into binding long-term transportation and deficiency contracts for the Project. As a result of the expressed interest of the shippers in a pipeline that would connect terminals in Lake Charles with existing terminals in St. James, it can be inferred that infrastructure does not currently exist that could provide the same services as proposed by the Project.</p>
Tulane University Letter of behalf of NGOs			
7-1	The Corps and LDEQ’s public notice does not disclose either the ownership interests or the connection to the Dakota Access Pipeline, and both of these issues are significant enough that failure to disclose these critical facts renders the public notice illegal. See 33 CFR 325.3(a). In fact, the Corps regulations require its public notice to include a description of the activity’s “purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments” Id. at para. (a)(5). The public notice says not a single word about the project’s purpose or intended use. As the Corps prepares its alternatives analysis around the applicant’s purpose, the absence of this information handicaps the public’s ability to comment on alternatives.	Public Notice	<p>BBP’s application includes sufficient information to give a clear understanding of the nature and magnitude of the activity. 33 CFR 325.3(a)(5) requires a public notice to include a “brief description of the proposed activity, its purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful public comments, including a description of the type of structures, if any to be erected on fills or pile or float-support platforms, and a description of the type composition, and quantity of materials to be discharged or disposed of in the ocean.”</p> <p>A brief description of the proposed activity is included in the application Cover Letter, Page 2, Project Description. The purpose and intended use of the Project is found in the application Cover Letter, Page 3, Purpose and Need. A description of the type of structures to be erected is found in Page 5-6 of the application Cover Letter, Pipeline Facilities. Additional descriptions and detailed drawings of the pipeline facilities are found in Attachment 1, Project Mapping which includes Pipeline Profile Drawings and Project Typical Drawings. The public notice is commensurate with current regulations and guidelines providing an appropriate level of detail.</p>

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
7-2	The Corps must deny the application if there is a practicable alternative which would have less adverse impact on the aquatic ecosystem, unless that alternative has other significant adverse consequences.	Alternative Route	40 CFR 230.10(a)(2) defines a practical alternative as an alternative that "is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes". Attachment 9 to the application includes a practical alternative analysis using these considerations. Of the five route alternatives considered, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative.
7-3	Further, when the proposed location is in wetlands, as a large portion of this one is, and unless the proposed activity is water dependent, which this one clearly is not, the Guidelines require the Corps to presume that a practicable alternative site is available which has less adverse impacts.	Water Dependent	The basic purpose of the Project as defined in the application Cover Letter, Page 3 is "to move an economical, abundant, reliable, and domestic supply of crude oil from Clifton Ridge Marine Terminal in Lake Charles, Louisiana to various crude oil terminals located near St. James, Louisiana." As defined by 40 CFR 230.10, water dependency is a project that "require[s] access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose." Because of the geographic location of the delivery points at St. James terminals in the Louisiana Coastal Zone, the route will require siting within and in proximity to coastal wetlands to meet the purpose of the Project. The proposed Project, is water dependent as defined by applicable regulations.
7-4	The Corps' public notice states that "[t]he applicant has designed the project to avoid and minimize direct and secondary adverse impacts to the maximum extent practicable by co-locating the proposed route with existing rights-of-way," but avoidance and minimization are only secondarily relevant, <i>after</i> an applicant meets its burden to demonstrate that its project must be in wetlands in the first place. October 3, 2016, Joint Public Notice at 2. Nor is the fact that the applicant "proposes to offset unavoidable wetlands impacts by purchasing mitigation credits" relevant at all at this point. <i>Id.</i> In fact, the Corps' inclusion in the public notice of discussion about exercises which are not even relevant until the applicant meets its alternatives burden causes significant concern that the Corps has already reached a conclusion about alternatives, before the comment period even opened. Yet the public notice says nothing about the applicant's alternatives analysis or the Corps' evaluation of the analysis.	Public Notice/ Mitigation/ Alternate Routes	The statement in the public notice regarding the applicant's efforts to avoid and minimize adverse impacts is relevant. The applicant has demonstrated that the Project will require unavoidable impacts to wetlands due to the geographic location of the delivery points at St. James terminals in the Louisiana Coastal Zone. Because the St. James terminals are fixed, the route will require siting within and in proximity to coastal wetlands and no practicable alternative exists that would avoid all impacts to wetlands while meeting the purpose of the Project. Similarly the statement regarding the purchase of mitigation credits to offset unavoidable impacts is also relevant because the applicant has considered alternatives in the application alternative analysis (Attachment 9) in which the proposed route was found to be the most environmentally sound, technically feasible, and cost-effective alternative. Statements regarding the applicants' proposed actions should not be interpreted as the Corps' decision regarding issuing a permit as the evaluation of the application is ongoing.
7-5	In sum, a public hearing is both necessary and appropriate in this matter, and the Corps' and LDEQ's regulations require granting this request for a public hearing.	Public Hearing	A joint public hearing with the LDEQ and USACE will be held in response to the requests received during the public comment period.

USACE New Orleans District

Draft Responses to Comments Received during the Initial Public Comment Period (October 3, 2016 – November 2, 2016)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
8-1	<p>Please further discuss reasons supporting the overall public interest in the project and why the proposed pipeline must be located in wetlands to fulfill its overall purpose. The search for less damaging practicable alternatives is required and should take into consideration a realistic geographic area. Therefore, an alternative route analysis should reflect this vicinity, unless you can further justify a lesser area of practicality. An alternatives analysis should include but is not limited to a locality map of any alternate paths assessed, search criteria used, informative details of each location, and inclusive reasons they were “not” chosen and/or considered practicable.</p>	Alternative routes	<p>Overall, the Project’s purpose is to provide an efficient, safe, and reliable transportation solution to move crude within the United States markets, which meets the need to improve United States energy independence and provide a more reliable supply of crude oil to United States refineries for processing to meet domestic needs for fuels and other petroleum derivative products. 33 CFR 320.4(n) states “Energy conservation and development are major national objectives. District engineers will give high priority to the processing of permit action involving energy projects.” The proposed pipeline project is an energy development project, and is therefore considered a “major national objective” by the applicable regulations. This “major national objective” has tremendous secondary and sustainable economic benefits to the United States by supporting energy independence, increasing employment opportunities, and adding to demand in many manufacturing sectors, which will be a boost to the overall economy. In addition to moving the crude oil from terminal to terminal, the Project purpose can be summed up in four major categories:</p> <ol style="list-style-type: none"> 1. First, the Project will improve overall safety to the public and environment. It will reduce crude oil shipped by truck, rail and waterborne means and increase the amount shipped by pipeline. Pipelines are the safest and most efficient means to transport crude oil, according to statistics compiled by the United States Department of Transportation. Pipelines are heavily regulated and are subject to intense scrutiny and oversight. Time and time again, pipelines have proven to be the safest and most reliable form of transporting oil. 2. Second, the Project will play a role in increasing America’s energy independence. The pipeline is a means to transport domestically produced crude oil to support United States consumers’ energy demand. The United States still imports half of the oil it consumes per day, and the pipeline will provide a critical link to help close the gap between what we produce as a country and what we consume. 3. Third, through the Project, Gulf Coast refineries will have better access to more reliable United States crude oil production to be used to meet United States consumers’ need for gasoline, diesel fuel, and other petroleum products. 4. Finally, the Project will ease transportation constraints for agricultural products. The Project will free-up rail capacity for the transportation of crops and other commodities currently held up by crude oil cargos. <p>The recent rapid increase in domestic oil production is reshaping the U.S. economy and redefining America’s competitive advantages within the global economy. Crude oil pipelines create jobs across the construction and manufacturing supply chain and create significant economic value. According to a study from HIS Economics (The Economic Impacts of Crude Oil Pipeline Construction and Operation available at http://www.nam.org/Issues/Energy-and-Environment/Crude-Oil-Pipeline-Impact-Study.pdf) last year (2015) crude oil pipelines supported an increase in total US employment of 207,800 jobs, from both construction and maintenance, and contributed \$15.5 billion to US gross domestic product (GDP). The proposed Project is a \$670 million dollar investment directly impacting the local, regional, and national labor force by creating nearly 1,500 construction jobs. It will also provide direct benefits to communities located along and near the Project route. These benefits will include: temporary construction employment; full-time, local jobs to operate and maintain the pipeline; ROW payments; additional sales tax revenues from the sale of goods and services during construction and long-term to operate and maintain the pipeline; annual State and local community revenue from property taxes; and long-term support of regional contractors, manufacturers, distributors, and retailers through ongoing purchase of goods and services to operate and maintain the pipeline.</p> <p>As stated in the application Cover Letter, Page 3, the overall purpose of the Project is "to move an economical, abundant, reliable, and domestic supply of crude oil from Clifton Ridge Marine Terminal in Lake Charles, Louisiana to various crude oil terminals located near St. James, Louisiana." In order to fulfill this purpose, approximately 162 miles of pipeline would be constructed within south central Louisiana. Simply due to the geography of much of the region, which is dominated by lowlands, coastal marshes, and floodplains, it is not practicable to construct a pipeline of this magnitude solely in uplands. Moreover, in order to fulfill the Project’s overall objective of transporting crude oil from the Project’s origin, Clifton Ridge Marine Terminal in Lake Charles, to the end point terminals near St. James, a crossing of the Atchafalaya Basin is unavoidable. Therefore, the Project must be located within wetlands to fulfill the overall purpose of the Project.</p>

Draft Responses to Comments Received during the Initial Public Comment Period (October 3, 2016 – November 2, 2016)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
8-2	Discuss in detail any future plans and/or developments expected from the proposed pipeline project, should a permit be issued.	Future Expectations	At this time there are no future plans and/or developments expected as a result of the proposed Project.
8-3	In your permit application, you presently propose to clear and maintain a 30-foot right-of-way between directional drill entry and exit points. At this time, this office along with multiple other resource agencies have not and presently do not support such actions within forested wetlands, due to their high ecological value and based on a likely viable opportunity to avoid and minimize impacts to aquatic resources. Furthermore, authorization of this component would be considered precedent setting and conflict with other previous permit decisions, thereby leading to cumulative impacts to jurisdictional forested wetlands. Based on past knowledge and experience with other similar pipeline projects, it is our understanding that maintained forested vegetation over Horizontal Directional Drill areas is typically a viable and conceivable option. Therefore, at this time we recommend that you modify your permit application and drawings to reflect the absence of forested wetlands to cleared between directional drill entry and exit areas, unless you can provide justifications why this is not a practicable alternative.	Maintenances of 30-foot corridor between HDD entry/exit points	BBP will not clear forested wetlands between HDD entry and exit locations except where necessary to facilitate construction of the proposed Project. In certain areas, BBP must clear forested wetlands located between HDD entry and exit locations to allow the offloading and transportation of equipment and personnel from barges to the construction ROW. Upon completion of construction, BBP will restore the areas impacted between the HDD entry and exit locations to pre-construction contours and will allow the wetlands to revegetate naturally. Therefore, there will be no permanently maintained 30-foot ROW between HDD entry and exist locations and mitigation is proposed for the temporary impact to these forested wetland areas.

Draft Responses to Comments Received during Second Public Comment Period (January 12, 2017 – January 31, 2017)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
Sierra Club New Orleans Group, Delta Chapter			
9-1	Since the proposed pipeline crosses the Atchafalaya River and Bayou Lafourche, this project must be in compliance with the 1899 Rivers and Harbors Act Section 10	Federal Authorizations	The Individual Permit application for BBP is seeking authorization from the USACE under Section 10 of the Rivers and Harbors Act of 1899 for all section 10 water crossings, including the Atchafalaya River and Bayou Lafourche.
9-2	Because this is an interstate pipeline originating in Texas, an EIS must be performed before a DEQ water quality permit is issued	EIS	The crossing of a state boarder (which is not part of the BBP project) or proposal of an interstate pipeline, does not necessitate an EIS. The proposed Project would span from Lake Charles to St. James, and is located entirely within Louisiana. As the lead federal agency, the USACE will determine if an EIS is warranted given the proposed environmental impacts, and LDEQ would be involved during the development of an EIS. However, the documentation provided thus far does not support a determination of significant impact; therefore, one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction.
9-3	It is common for such infrastructure projects to fail due to human causes regardless of the quality of design, the engineering, or the stated intentions. The history of such failure is immense. In fact it is probably rare for projects to be built to specifications.	Human Error during Construction	BBP will design and construct the proposed Project in accordance with or exceeding all applicable federal regulations including those outlined in 49 CFR 195. An array of inspectors are retained throughout construction to document compliance with project specifications.
9-4	Often leaks are noted and repairs are delayed or pipe replacement is put off way beyond safe limits of service so as not to interfere with profits until a significant failure occurs.	Maintenance / Timing of Repairs	Operation and maintenance of the pipeline is regulated by PHMSA 49 CFR 195, which includes strict timelines for preventing issues and addressing concerns along the system. For many reasons, including economic concerns, it is in the best interest of any operating company to prevent any loss of product and avoid negative impacts to the environment and surrounding area by safely operating the system, BBP's Operation and Maintenance Plan meets or exceeds these regulations in all aspects. Many of the measures that exceed the regulations were in the BBP presentation at the hearing.
9-5	One of the most basic aspects of a proposed pipeline is the capacity. In both of the cover letters which were accessible to the agencies and public for review the companies stipulated that the crude oil capacity of the pipeline would be approximately 280,000 barrels per day. Yet to our great surprise in the Bayou Bridge Pipeline Fact Sheet of February 2017 (a glossy promo available at the LADNR public hearing of February 8, 2017) Bayou Bridge Pipeline stated, "to deliver an initial capacity of approximately 280,000 barrels per day with an ultimate design capacity of up to 480,000 barrels per day."	Capacity	Comment is correct, the initial capacity is 280,000 barrels per day (bpd) with an ultimate design capacity of 480,000 bpd.
Gulf Restoration Network (GRN) Letter February 13, 2017			
10-1	The sum of increases in carbon emissions to the atmosphere, due to the damages to the land, but also increased industrial emissions, must be quantified before LDEQ and USACE can make a determination whether the costs of this project outweigh the benefits.	Carbon Emissions	There is no current methodology or policy guidance to determine how the Project's incremental contributions of greenhouse gases would translate into physical effects on the global climate. During construction, emissions from fuel-burning internal combustion engines (e.g. transportation trucks, heavy equipment, drill rigs, etc.) may temporarily increase the levels of atmospheric greenhouse gas, but because of the short-term duration and mobile nature of project construction, it would not result in a significant impact to climate change. Understanding that greenhouse gasses are also emitted from the refining of the crude oil and from combustion of end-use refined products, the emissions cannot be attributed solely to this project, because fuel supply is generally demand-driven rather than supply-driven. As such, regardless whether the project is constructed, end-users would still have a need for refined fuels. Therefore, it is purely speculative to assume that the project's contributions to climate change would be significant.
10-2	Because the application does not contain a quantified carbon impact analysis, the application is incomplete and must be denied.	Incomplete Application	BBP's application includes all information necessary under the Section 404(b)(1) Guidelines for application review.

Draft Responses to Comments Received during Second Public Comment Period (January 12, 2017 – January 31, 2017)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
10-3	Should the pipeline be in the national security interest, the risks of not avoiding waters and wetlands must be evaluated in an environmental impact statement.	EIS	In accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction. Complete avoidance of waters of the U.S. is not the threshold of an EIS.
10-4	The pipeline crosses less than 50 feet beneath Bayou Lafourche, source for local drinking water, but also fresh water for the maintenance of over 100,000 acres of coastal marsh. These coastal marshes are listed for restoration under the federal CIAP Program, as well as the state Coastal Master Plan. The purpose of these programs is primarily an aid to suppress storm surge, and thus lessen flood risk--avoiding billions in flood damages per year. Federal monies have already been spent, and more will be spent, to secure this water for life along the bayou.	Drinking Water / Coastal Resources Risk	BBP has obtained a permit from the Bayou Lafourche Fresh Water District for the proposed Bayou Lafourche crossing. Furthermore, the BBP application includes a separate review by the DNR for a coastal use permit. The decision to issue or deny a coastal use permit is based on the proposed project's consistency with the coastal zone management program.
10-5	The USACE, in partnership with the Louisiana Department of Natural Resources, has invested over \$20 million and 15 years for the Buffalo Cove project to be implemented fully ⁵ . The project was completed winter 2015, and there are now 5 years remaining of monitoring water quality, sedimentation rates and fish community responses until the USACE fulfills their obligation to the project and the people of the state of Louisiana as stated in Environmental Assessment #366. The Bayou Bridge pipeline footprint cuts through the northern portion of the restoration area and runs directly across a delineated area of influence for Element 15 (Gay's Slough input) described in that same Assessment #366.	Restoration Projects	The Project will result in short term impacts to water quality as discussed in the application including where it crosses Element 15 of the Buffalo Cove project; however, the impacts will be limited to the duration of construction and would not contribute to sedimentation within the basin or impacts to fish communities post construction. The pipeline will be installed in a manner and to sufficient depth so as not to disrupt natural water flows along the system, including within Element 15. BBP will restore all disturbed Project areas to pre-construction contours to minimize impacts on hydrology and potential for sedimentation.
10-6	The Project is inconsistent with Louisiana's Comprehensive Master Plan for a Sustainable Coast and a 2016 Executive Order.	Louisiana Comprehensive Master Plan	The proposed Project is not inconsistent with Louisiana's Comprehensive Master Plan for a Sustainable Coast; in fact, one of the main objectives of the Master Plan is to ensure that the Louisiana coast continues to be a hub for commerce and industry. Construction of the Project will contribute to the economic growth of the local communities located along and near the Project route while resulting in minor impacts to the coastal zone, for which mitigation is proposed. Furthermore, all state agencies responsible for issuing permits for the proposed Project will do so only if in accordance with Executive Order No. JBE 2016-09.
10-7	The destruction of water flow and loss of ecosystem services worth trillions of dollars, is contrary to the unequivocal language of the Master Plan.	Louisiana Comprehensive Master Plan	There is no net loss of wetlands as a result of the projects and the Project will be installed in a manner and to sufficient depth so as not to disrupt natural water flows. BBP will restore all disturbed Project areas to pre-construction contours to minimize impacts on hydrology. All impacted wetlands, with the exception of a narrow permanent corridor in certain areas as necessary for safe operation and maintenance of the system, will be allowed to revegetate naturally, and BBP will purchase mitigation credits to offset all unavoidable impacts to waters of the U.S. in accordance with 33 CFR 332.

Draft Responses to Comments Received during Second Public Comment Period (January 12, 2017 – January 31, 2017)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
10-8	Pipelines are inherently not water dependent, and the Applicant has not clearly demonstrated that the Project is an exception. The Applicant has also failed to demonstrate that practicable alternatives do not exist.	Water Dependent/ Practicable Alternatives	<p>The basic purpose of the Project as defined in the application Cover Letter, Page 3 is "to move an economical, abundant, reliable, and domestic supply of crude oil from Clifton Ridge Marine Terminal in Lake Charles, Louisiana to various crude oil terminals located near St. James, Louisiana." As defined by 40 CFR 230.10, water dependency is a project that "require[s] access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose." Because of the geographic location of the delivery points at St. James terminals in the Louisiana Coastal Zone, the route will require siting within and in proximity to coastal wetlands to meet the purpose of the Project. The proposed Project, is water dependent as defined by applicable regulations.</p> <p>A detailed alternative analysis was conducted for the Project (Attachment 9). Based on this analysis, a practicable alternative that would still meet the purpose and need of the project and would not impact waters of the U.S. does not exist.</p>
10-9	Instead of avoiding wetlands and waters, the Applicant has avoided completing their application via a proper alternative analysis, to determine if non-wet potential project sites exist, or alternative methods. The alternative analysis must include direct, indirect, secondary, and cumulative impacts that take into account aspects of water quality, wildlife, and flood protection. Presently, the public has not received any information as to why the Project must be sited in the Applicant's preferred location.	Alternative Analysis	In accordance with 40 CFR 230.10(a)(2), BBP conducted an alternative analysis (Attachment 9) for five route alternatives. Of these, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative. The other route alternatives were not deemed practicable per 40 CFR 230.10(a)(2), which defines practical alternatives as an alternative that "is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes".
10-10	If the project is in the national security interest, it should be sited outside of floodplains that put the project and the product at risk.	Floodplains	In order to fulfill the Project purpose, approximately 162 miles of pipeline would be constructed within south central Louisiana. Simply due to the geography of much of the region, which is dominated by lowlands, coastal marshes, and floodplains, it is not practicable to construct a pipeline of this magnitude solely in uplands and out of the floodplains. However, BBP has designed the project to minimize impacts to floodplains to the greatest extent practicable. All temporarily disturbed areas will be returned to pre-construction contours and allowed to revegetate. Aboveground facilities located within floodplains will be constructed in accordance with all applicable federal, state, and local floodplain regulations so as to minimize impacts to floodplain elevations and velocities.
10-11	Impacts to wetland areas could obviously be minimized if the development were relocated to non-wet regions, or if the pipeline used HDD methods (Fig 1). As noted above, a burden to show the non-existence of practicable alternatives rests with the Applicant, when the proposed project is located in a special aquatic habitat and is not water-dependent.	Practicable Alternatives	<p>Due to the geography of southern Louisiana, it is not practicable to construct a pipeline from Lake Charles to St. James and avoid all impacts to waters of the U.S.; therefore, the Project is water-dependent as defined by 40 CFR 230.10. BBP will utilize 32 horizontal directional drills (HDDs) to minimize impacts to waters of the U.S. However, it is not practicable to utilize HDDs to cross all wetlands located along the proposed Project route due to engineering constraints associated HDDs (i.e., limitations on the maximum length of an HDD).</p> <p>BBP also conducted an alternative analysis (Attachment 9) for five route alternatives in accordance with 40 CFR 230.10(a)(2). Of these, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative. Furthermore, there are no alternative routes that would completely avoid impacts to waters of the U.S.</p>
10-13	By avoiding the Calcasieu river floodplain, the applicant could avoid 16 of ~63 acres of wetland destroyed in the parish. Only nine of eighty-seven of all stream crossings in Calcasieu Parish are avoided by HDD. The applicant could avoid many open cuts merely by drilling deeper--underneath the wetlands and waters of the United States.	Impacts in Calcasieu Parish	BBP has avoided and minimized impacts to waters of the U.S. to the greatest extent practicable. A total of 4 HDDs will be utilized to minimize impacts on waters of the U.S. in Calcasieu Parish. BBP has also reduced the proposed construction footprint from 100 feet to 75 feet in wetlands to minimize impacts. No waters of the U.S. will be destroyed as a result of construction or operation of the BBP. All temporarily impacted wetlands and waterbodies will be returned to pre-construction contours; there is no proposed fill of any waters of the U.S. Further, in accordance with 33 CFR 332.3 and as outlined in the application Cover Letter, Page 21-24, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable temporal impacts to waters of the U.S.

Draft Responses to Comments Received during Second Public Comment Period (January 12, 2017 – January 31, 2017)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
10-14	We request an alternatives analysis that includes horizontal drilling underneath major floodplain areas and major rivers as a result of this letter.	Practicable Alternatives	In accordance with 40 CFR 230.10(a)(2), BBP conducted an alternative analysis (Attachment 9) for five route alternatives. Of these, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative. BBP will utilize HDDs to cross all major rivers located along the proposed route. However, the utilization of HDDs under the entire length of the major floodplain areas crossed by the Project is not feasible due to the engineering constraints associated with HDDs (i.e. limitations on the maximum length of an HDD). Therefore, BBP did not evaluate this in the alternative analysis provided in Attachment 9. Note that even if back to back HDDs were implemented across the basin, clearing of vegetation would still be required in most instances in order to facilitate moving equipment from one HDD location to the next. Clearing of vegetation would have also been required prior to construction to facilitate the geotechnical analysis required to properly design an HDD. Lastly, HDDs are not a one size fits all solution to avoiding impacts as inadvertent releases of drilling mud is always a possibility.
10-15	Given the information available in public documents, it does not appear that LDNR or the Applicant have fully weighed the costs and benefits relevant to the Project. Direct, indirect, secondary, and cumulative impacts of the proposed wetland fill and clearing remain overlooked.	Costs and Benefits/ Impacts	As outlined in Attachment 9, BBP conducted an alternative analysis to determine the most environmentally sound, technically feasible, and cost-effective route, and BBP provided the LDNR a cumulative impact analysis for the portion of the Project located within the Louisiana Coastal Zone. The proposed Project will not result in the permanent fill of any wetlands. Furthermore, all unavoidable impacts to waters of the U.S. will be mitigated utilizing USACE approved mitigation credits.
10-16	Given that the Public Notice does not thoroughly adhere to the executive order, the Corps and LDEQ and LDNR should deny the permit application.	Adhere to Executive Order	As required, the public notice adheres to the requirements of 33 CFR 325.3. The measures in the executive order are addressed in the application and by the office of coastal management.
10-17	The cumulative impacts on storm and flood protection must also be taken into consideration. This project could incite additional construction and in turn jeopardize even more wetlands unique to this area. This activity, combined with similar wetland-destroying projects, could result in more flooding in nearby communities, as well as degraded water quality in the Calcasieu River, Bayou Lacassine, Mermentau River, Bayou Queue de Tort, Granges Coulee and Vermillion River, The Indian Bayou Floodplain, Bayou Tortue and Bayou Teche, the entire Atchafalaya Basin, Lower Grand River, Bayou Lafourche, and Bayou Verret, and other surrounding wetlands that depend on these rivers. The whole area must be looked at as an interrelated ecological unit in order to adequately assess the true cumulative impacts.	Cumulative impacts	It is purely speculative to assume that the Project would incite additional construction that would impact wetlands. The project has no interconnects proposed or planned, and is simply a transportation pipeline from one set of terminals to another to offer safe and effective hauling of crude oil. Furthermore, the Project will not result in impacts to wetland habitats that would reduce regional flooding buffers. BBP will restore all disturbed Project areas to pre-construction contours to minimize impacts on hydrology. All temporarily impacted wetlands will be allowed to revegetate naturally except for a narrow corridor in certain areas where vegetation maintenance will occur through the life of the Project to ensure safe operation of the system. Also, BBP will purchase mitigation credits to offset unavoidable impacts to waters of the U.S. in accordance with 33 CFR 332. Should other projects be constructed in the Project area for any given reason, mitigation would be also required for all unavoidable impacts to waters of the U.S. Therefore, there would be no cumulative net loss of waters of the U.S.
10-18	Since the Public Notice does not assess, or even recognize, the potential direct, indirect, and cumulative impacts that will result from the direct destruction of over 600 acres of wetlands, The Corps and LDEQ and LDNR cannot approve this proposal as submitted.	Public Notice	The public notice adheres to the requirements of 33 CFR 325.3. Furthermore, 600 acres of wetlands are not proposed to be destroyed as there is no proposed fill of any waters of the U.S. and there will be no net loss of waters of the U.S. as a result of the Project.
10-19	The Applicant must develop disaster-response plans, and local floodplain officials should be included in the notification of this permit since the proposed site sits within an area vulnerable to flooding.	Disaster-Response Plans	In accordance with 49 CFR 194, BBP is preparing a facility response plan (FRP) to address potential spill response and will submit it to PHMSA prior to commencing operations of the pipeline. Local floodplain officials have been coordinated with as appropriate.
10-20	The materials in the pipeline are not specified--the proposal is for both "light" and "heavy" crude oil. But there is a great difference in response and impact for oil sands spills than for light, Bakken crude. LDNR and LDEQ cannot evaluate a spill response plan when the material transported is not even specified.	Spill Response Plan	The pipeline is being designed to transport both light and heavy crude products. The FRP will comply with the applicable requirements of the Oil Pollution Act of 1990 and will be prepared in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan, the Region 6 Contingency Plan, the Southeast Texas and Southwest Louisiana Area Contingency Plan, and the Southeast Louisiana Area Contingency Plan. The FRP will address measures specific to the various types of crude products being transported via the pipeline.
10-21	Until the Applicant has drafted an adequate spill-response plan, its application for a WQC and CUP ought to be deemed inadequate.	Spill Response Plan	BBP is preparing a facility response plan (FRP) to address potential spill response and will submit it to PHMSA prior to commencing the transportation of crude oil in accordance with the regulations. A draft is in development, but cannot be finalized until construction is essentially complete as the plan must account for the final design and construction of the system.

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
10-22	These wetlands also lie within the 100-year floodplain and are clearly susceptible to storm-surge events (Figure 1). ²⁷ However, the Applicant makes no mention of any containment plans for brine, drilling waste, saltwater, or produced water. This is deeply concerning, given the proposed site's distinct geography. The Applicant's response plan refers to other states, when this pipeline is proposed for one state--this is clearly a Xeroxed plan cut from another cloth and not made for Louisiana's waters and wetlands.	Floodplain / Construction Waste	The Project is a transportation pipeline and no exploration or production is proposed; therefore, there will be no brine, saltwater, drilling waste, or produced water. BBP has designed the project to minimize impacts to floodplains to the greatest extent practicable. All temporarily disturbed areas will be returned to pre-construction contours and allowed to revegetate. Aboveground facilities located within floodplains will be constructed in accordance with all applicable federal, state, and local floodplain regulations so as to minimize impacts to floodplain elevations and velocities. Furthermore, BBP will adhere to the project-specific construction plans provided in Attachment 8.
10-23	The Applicant's application must be deemed inadequate until it submits parish-specific spill-response plans for specified materials transported. We also request that local floodplain managers be notified of the associated, significant flood and spill risks.	Spill Response Plan / Floodplain	BBP is preparing a FRP to address potential spill response in accordance with 49 CFR 194. The FRP will be submitted to PHMSA prior to commencing the transportation of crude oil. BBP has been in contact with local floodplain administrators to ensure that all aboveground facilities constructed within floodplains adhere to local floodplain regulations.
10-24	The Public Notice fails to adequately describe the Mitigation Plan.	Public Notice / Mitigation	The public notice adheres to the requirements of 33 CFR 325.3. As described in both the public notice and the application, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S.
10-25	Federal law also requires the Applicant to compensate for, or mitigate, the damages resulting from the destruction of our nation's wetlands, should a permit be issued. In the public notice, there is only a vague mention of proposed plans for the use of a mitigation bank to offset any unavoidable losses to wetland functions caused by project implementation. ²⁸ Impacts to the Atchafalaya Basin must be mitigated within the basin, due to the legacy of neglect we have witnessed inside that particular watershed, and its economic importance. We have heard, but have no access to plans that state that mitigation is planned for every basin except Terrebonne and Atchafalaya, the basins where the majority of wetland impacts occur. Such a change requires a new public notice.	Mitigation	The public notice adheres to the requirements of 33 CFR 325.3. In accordance with 33 CFR 332.3, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S. As outlined in the application Cover Letter, Page 21-24, BBP will mitigate for the unavoidable impacts to waters of the U.S. in the five basins where the impacts occur. Furthermore, all impacts in the Atchafalaya Basin will be mitigated for in-basin.
10-26	The information provided on impacts and mitigation is wildly insufficient to allow for meaningful comments, especially regarding bottomland hardwoods. However, what is clear is that the federal regulations are not being followed.	Impacts / Mitigation	BBP has avoided and minimized impacts to wetlands to the greatest extent practicable. The application Cover Letter, Pages 8-11 and Pages 20-22, provides a detailed description of the proposed impacts associated with the Project. In accordance with 33 CFR 332.3, and as outlined in the application Cover Letter, Pages 21-24, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S. A final compensatory mitigation plan will be approved by the USACE prior to issuance of a permit.
10-27	To assure that minimization and mitigation in the same watershed and for the correct type of wetlands are occurring, we request that, at the minimum, mitigation banks and the avoidance and minimization statement used are included in the Public Notice. Since this regulation is not followed, the Public Notice is incomplete and must be reissued with a mitigation plan.	Mitigation / Public Notice	The public notice adheres to the requirements of 33 CFR 325.3.
10-28	The final plan, with mitigation plan included, should be made available to the public before any permits are granted.	Mitigation	In accordance with 33 CFR 332.3, and as outlined in the application Cover Letter, Page 21-24, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S. The number of credits proposed to be purchased from each specific bank is provided in the draft compensatory mitigation plan. A final compensatory mitigation plan will be approved by the USACE prior to issuance of a permit.
10-29	We request more information in the initial Public Notice (e.g., mitigation plans, efforts made to avoid impacts, necessity of project location, adequate alternative analysis, environmental assessments, etc.). Because this regulation is not followed, the Public Notice is incomplete and must be reissued with a mitigation plan.	Public Notice	The public notice adheres to the requirements of 33 CFR 325.3.

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10-30	We request more information in the initial Public Notice on efforts made to avoid impacts, necessity of project location, and agency comments.	Public Notice	The public notice adheres to the requirements of 33 CFR 325.3. Details on avoidance measures and alternatives are provided in the application.
10-31	Neither Nationwide Permit 12 nor any other Nationwide Permit can be used for construction of any significant portion of the Project	Nationwide Permit	The application under review is for an Individual Permit (IP).
10-32	The Project warrants a Programmatic, or Area-Wide, Environmental Impact Statement (PEIS).	EIS (PEIS)	In accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction. Programmatic or Area-Wide EIS's are not appropriate for projects that involve construction of a linear pipeline.
10-33	The Project does not appear to offer any public benefit or be in the public interest.	Public Benefit and Interest	As described in greater detail on Pages 3 – 5 of the application Cover Letter, the Project will provide a long-term, safe, reliable, and energy-efficient option to move crude oil to enhance America's energy independence, and it is a safer alternative to the rail, truck, and marine transportation currently being utilized to move crude oil. It will also provide direct benefits to communities located along and near the Project route including, but not limited to, providing: temporary construction employment; full-time, local jobs to operate and maintain the pipeline; right-of-way payments; additional sales tax revenues from the sale of goods and services during construction and long-term to operate and maintain the pipeline; annual State and local community revenue from property taxes; and long-term support of regional contractors, manufacturers, distributors, and retailers through ongoing purchase of goods and services to operate and maintain the Project.
Tulane Environmental Law Clinic Letter January 31, 2017			
11-1	Due to the significance of the impacts of this project, particularly on the Atchafalaya Basin, and the inadequacy and illegality of the Corps' mitigation method and Bayou Bridge's mitigation proposal, the Corps may not proceed with this application until it conducts an Environmental Impact Statement.	EIS	In accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction. Mitigation has been proposed in accordance with 33CFR 332 and will require approval prior to issuance of a permit.
11-2	The Corps provided insufficient notice to allow meaningful comment.	Public Notice	The public notices issued on this project adhere to the requirements of 33 CFR 325.3. The first public comment period for the Section 404/401/10 permit took place from October 3, 2016 to November 2, 2016; the second public notice noticed the hearing and opened a second comment period from January 12, 2017 to January 31, 2017 (Section 404/10) and February 13, 2017 (Section 401). Additionally, the Project application was made available to the public for review during both of the public comment periods.
11-3	Bayou Bridge's public hearing presentation did not remedy the inadequate notice.	Public Notice	The public notice adheres to the requirements of 33 CFR 325.3. BBP's public hearing presentation was given to provide a brief overview of the Project, and was not given to supplement the public notice.

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11-4	With respect to alternatives, Bayou Bridge merely represented, without support, that pipelines were safer than rail or truck transport of oil and that this route was better than others through the Atchafalaya Basin because it uses an existing right of way. It did not produce any evidence to meet its burden to show no non-wetland alternatives existed for its project. In other words, it did not support why the pipeline has to go through the Atchafalaya Basin (or any other wetland) in the first place. Likewise, it provided no explanation of what it meant by “safer.” And it provided zero information on mitigation; it merely stated that it would use a mitigation bank.	Public Hearing/ Practicable Alternatives/ Mitigation	<p>In accordance with 40 CFR 230.10(a)(2), BBP conducted an alternative analysis (Attachment 9) for five route alternatives. Of these, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative. Because of the geographic location of the delivery points at St. James terminals in the Louisiana Coastal Zone, the route will require siting within and in proximity to coastal wetlands to meet the purpose of the Project. As detailed in Attachment 9, a practicable alternative that would still meet the purpose and need of the project and would not impact waters of the U.S. does not exist.</p> <p>Public records undisputedly support the fact that pipeline are the safest mode of transportation of liquids and gas. According to the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA), "The nation's more than 206 million miles of pipelines safely deliver trillions of cubic feet of natural gas and hundreds of billions of tons/miles of liquid petroleum products each year. They are essential: the volumes of energy products they move are well beyond the capacity of other forms of transportation. It would take a constant line of tanker trucks, about 750 per day, loading up and moving out every two minutes, 24 hours a day, seven days a week, to move the volume of even a modest pipeline. The railroad-equivalent of this single pipeline would be a train of 75 2,000-barrel tank rail cars every day. Pipeline systems are the safest means to move these products" (PHMSA General Pipeline Facts, 2013).</p> <p>In accordance with 33 CFR 332.3, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S. A discussion of the amount and type of credits to be purchased is provided in both the application (Pages 21-24) and the draft compensatory mitigation plan.</p>
11-5	The Corps must provide a new public notice and comment period once it obtains all of this information from Bayou Bridge to allow the public to comment.	Public Notice	BBP's application includes all information necessary under the Section 404(b)(1) Guidelines for application review, and the public notice contained all information as required by 33 CFR 325.3.
11-6	The complexity of the information Bayou Bridge provided in this supplemental application renders the few days' notice even more inadequate. Additionally, despite including an LRAM application, the material still does not say where Bayou Bridge's mitigation will be, which is an essential aspect to allowing for meaningful comment. Further, because Bayou Bridge substantially amended its application, which was also designated as a Corps application, it requires a new Corps and DEQ public notice.	Insufficient Notice for Public Comments	The supplemental application did not differ significantly from the previous application – it simply included additional information collected in the field since the July 29, 2016 supplemental filing, and provided updated impact calculations, which decreased overall impacts to waters of the US from the July 29, 2016 filing as a result of workspace modifications. Both the July 29, 2016 filing and the January 13, 2017 filing included the LRAM calculations and outlined the number of credits required to offset the proposed impacts. Furthermore, both filings state that BBP will purchase in-basin/in-kind mitigation credits where available and outline the natural progression that would be followed if there were not enough in-basin/in-kind credits available. The draft compensatory mitigation plan that was submitted to the USACE for review also includes a detailed description of the number and type of credits to be purchased from each mitigation bank.
11-7	The Corps must conduct an environmental impact statement on Bayou Bridge's application before deciding whether to grant a permit.	EIS	In accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction.
11-8	Here, the Corps must consider the loss of wetlands this project will cause as well as any other indirect impacts in light of the effects of all the other pipelines and projects the Corps has permitted in this sensitive ecosystem. In particular, the Corps must consider the addition of yet another spoil bank to a Basin with numerous out-of-compliance spoil banks, and it must consider the fact that the Bayou Bridge pipeline will go in an area that already has an out-of-compliance spoil bank.	Wetland Impacts / Spoil Bank	There is no net loss of waters of the U.S. as a result of the Project. All temporarily impacted waters of the U.S. will be allowed to revegetate naturally, and BBP will purchase mitigation credits to offset unavoidable impacts to waters of the U.S. Furthermore, the proposed Project will not result in the creation of a spoil bank as all excavated materials will be replaced in the trench and the workspace will be returned to pre-construction contours. Some existing infrastructure BBP parallels in the utility corridor pre-date the Clean Water Act and Section 404 permitting, thus they are not out of compliance.

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11-9	The Corps must factor in its long-standing failure to enforce Section 404 permit conditions and its inability to do so because of resource constraints when it assesses the significance of the impacts of this project and the efficacy of permit conditions to reduce those impacts to minimal. In fact, the Corps' failure and inability to enforce permit conditions and other Clean Water Act violations can only be thoroughly assessed in an EIS, and stands as an independent reason why the Corps must complete an EIS for this application.	Section 404 Permit Enforcement / EIS	The New Orleans District of the USACE has adequate means for enforcement of permits issued, and in accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore, one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction.
11-10	When deciding whether mitigation will compensate for any adverse environmental impacts of the project which, unmitigated, would be significant, the Corps must assess the feasibility of success of the mitigation, the extent to which the mitigation will compensate for the particular values lost, and the connection between the particular mitigation which is implemented and the lost values. For the Corps to effectively do this, it must conduct an audit of the mitigation measures it has imposed to date, particularly those which purport to compensate for lost Atchafalaya Basin values. Without such an analysis, any conclusion the Corps draws about likely success of Bayou Bridge's proposed mitigation will be arbitrary and capricious.	Mitigation	In accordance with 33 CFR 332.3, BBP proposes to purchase mitigation credits from USACE approved mitigation banks to offset unavoidable impacts to waters of the U.S. All mitigation banks must go through a formal vetting process as outlined in 33 CFR 332.8 before they are approved by the USACE. This process involves an Interagency Review Team as well as a public notice in which the public can provide comments. By approving a bank's mitigation banking instrument, the USACE has determined that the service area for the mitigation bank is appropriately sized to ensure that the aquatic resources provided will effectively compensate for adverse environmental impacts across the entire service area.
11-11	The Corps cannot rely on the LRAM because the Corps never promulgated it as a final decision and never analyzed its effectiveness and its impacts.	LRAM	The USACE, New Orleans District Regulatory Branch released the interim version of the Louisiana Wetland Rapid Assessment Method (LRAM) for use in calculating compensatory mitigation requirements from wetland impacts associated with activities permitted under Section 404 of the Clean water Act and Section 10 of the Rivers and Harbors Act of 1899 via a Special Public Notice on February 29, 2016. On February 6, 2017, the USACE issued another Special Public Notice soliciting the public's input regarding any additions, updates, corrections, or clarifications to the LRAM. The LRAM will be finalized by the USACE upon review of any comments received during the public notice.
11-12	Further, because of the absence of any Corps explanation of how the LRAM works and how it compensates for wetland impacts, in connection with the Bayou Bridge public notice or the Corps' LRAM public notice process, it is essentially impossible for the public to evaluate any LRAM proposal.	LRAM	The USACE has provided a guidebook on the Regulatory In-lieu Fee and Bank Information Tracking System that describes the LRAM process.
11-13	Bayou Bridge's proposed mitigation, developed according to the LRAM, does not render the effects of its project on the Atchafalaya Basin insignificant. Instead, it attempts to replace wetland values unique to the Atchafalaya Basin with dissimilar wetlands in wetland mitigation banks that do not share the unique values of the Basin	Mitigation	As outlined in the permit application and the draft compensatory mitigation plan, 100% of the Project's impacts within the Atchafalaya Basin will be mitigated for utilizing credits purchased from an approved mitigation bank located within the same basin.
11-14	Bayou Bridge's proposed mitigation recently made available by the DNR reflects that it plans to mitigate only 64% of impacts via in-kind/in-basin credits. Thus, 36% of the mitigation will not be in the Basin and will necessarily fail to mitigate the loss of unique Basin attributes.	Mitigation	As outlined in the permit application and the draft compensatory mitigation plan, 100% of the Project's impacts within the Atchafalaya Basin will be mitigated for utilizing credits purchased from an approved mitigation bank located within the same basin. Therefore, there will be no net loss of wetlands in the Atchafalaya Basin. While only 64% of the impacts could be mitigated for in-basin when combining all basins along the Project, this does not mean 36% is out-of-basin as there are out-of-kind/in-basin credits proposed as well.
11-15	Worse yet, even the 64% of impacts being mitigated "in kind" is not properly characterized. Bayou Bridge represents that 100% of the impacts of its project are "temporary," and the Corps' public notice essentially repeats that error (stating that only .03 acres will be "lost"). Bayou Bridge therefore conducted its LRAM calculations under the assumption that all impacts are temporary. To suggest that a project which will install a 162-mile long pipeline in invaluable wetlands in the Atchafalaya Basin will not result in any permanent loss of any wetlands is, on its face, absurd. The Corps and Bayou Bridge must support this conclusion.	Mitigation	As outlined in the application Cover Letter, there will be no loss of wetlands as a result of the proposed Project. All wetlands impacted will be returned to pre-construction contours, and permanent fill will not be placed within wetlands. BBP classified all impacts as temporary/partial in the LRAM calculations per the LRAM guidance document.

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11-16	In sum, the Bayou Bridge application fails to meet the requirements of NEPA and the Clean Water Act. The Corps must complete an Environmental Impact Statement on this project before it can consider granting the permit.	EIS	In accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction.
Letter from Jean Dangler dated 01.27.2017			
12-1	I urge the Corps to prepare an Environmental Impact Statement for the proposed Bayou Bridge pipeline. The Corps and LDEQ are obligated to protect the environment, health, and safety of Louisiana residents. Permits cannot be issued to Bayou Bridge, as presently proposed.	EIS	In accordance with NEPA, if after completing the review under Section 404(b)(1) guidelines and public interest review, the USACE determines that the Project would result in significant environmental impacts, an EIS could be prepared. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction.
Atchafalaya Basin Keeper – Supplemental Comments received on 01.30.2017			
13-1	Therefore, prior to authorizing any additional projects in the Basin, the Corps should request that the state of Louisiana and the Congressional Delegation supply it with the necessary funds, staff, and infrastructure to perform its duties under the law.	USACE Capabilities	The New Orleans District of the USACE has adequate means for enforcement of permits issued and to perform its duties under the law.
13-2	Before granting any permits for use of an existing right-of-way (corridor), we formally request that the Corps of Engineers: <ol style="list-style-type: none"> 1. Conduct a thorough analysis of all existing violations on the proposed right-of-way. 2. Conduct a complete Environmental Impact Statement (EIS) to ascertain the total effects these existing violations, such as illegal dams and spoil banks, have on the wetlands, including the impacts to navigation on waters of the U.S., fisheries, ecology and aesthetics of the wetlands. 3. Conduct a study on the economic consequences that these violations have on fisheries, ecotourism, and any other industry affected by them. 4. Designate the proposed right-of-way as out of commission until it is brought back into compliance and make existing violators along the right-of-way accountable by enforcing permits and requiring rehabilitation of the portions on which they are responsible. 	Compliance of Existing Corridors	Some existing infrastructure BBP parallels in the utility corridor in the Basin pre-date the Clean Water Act and Section 404 permitting, thus they are not out of compliance. Furthermore, the USACE is reviewing the application under NEPA based on the proposed impacts associated with the Project; not the existing impacts related to historical projects that pre-date the Clean Water Act. All areas disturbed by the Project within the basin will be returned to pre-construction contours, and BBP will purchase mitigation credits to offset unavoidable impacts to waters of the U.S. Therefore, there will be no net loss of waters of the U.S.

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
13-3	<p>Before granting a permit to Bayou Bridge Pipeline, LLC to perform dredge and fill activities for the construction of a new pipeline in the Atchafalaya Basin, we formally request that the Corps of Engineers:</p> <ol style="list-style-type: none"> 1. Review all existing pipeline permits by Energy Transfer Equity, L.P. and/or any of its subsidiaries (including but not limited to Energy Transfer Partner, L.P.; Sunoco LP; and Sunoco Logistics Partners LP). [We know that Energy Transfer also owns Florida Gas, responsible for building the Florida pipeline across the Atchafalaya Basin, one of the most damaging pipelines in the Basin] 2. Identify all violations, incidents and compliance issues related to those permits. 3. Require Energy Transfer Partners to remedy all damages caused by its violations and failure to comply with permits issued to the company and/or its subsidiaries, including the rehabilitation of right-of-ways it is permitted to use and along which has contributed violations. 	Compliance	<p>The USACE is reviewing the application in its entirety based on the proposed impacts associated with the Project. BBP will construct and maintain the Project in accordance with all applicable federal, state, and local regulations. BBP will also adhere to all project-specific plans, such as the FRP, to ensure that any impacts from an inadvertent spill are minimized to the greatest extent practicable. It is understood that the Florida Gas Pipeline was installed prior to the existence of the Clean Water Act and is therefore not out of compliance with regard to any spoil piles.</p>
13-4	<p>LDEQ should base any decisions regarding the application by Bayou Bridge Pipeline, LLC for a Water Quality Certification on facts and data collected from all of the Corps' investigations and procured EIS regarding the proposed right-of-way.</p>	Water Quality Certification / EIS	<p>LDEQ will review the proposed Project in accordance with LAC 33:IX Chapter 15. As the lead federal agency, the USACE will determine if an EIS is warranted given the proposed environmental impacts, and LDEQ would be involved during the development of an EIS. However, the documentation provided thus far does not support a determination of significant impact; therefore one has not been prepared. Regulatory agencies which have jurisdiction or special expertise with respect to the environmental impacts of the Project have been consulted, many have concurred with or concluded no respective significant impact, and any respective concerns will be addressed to the satisfaction of the regulating agencies prior to BBP being issued authorization for Project construction.</p>

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Commenter / Comment ID	Comment	Issue	Draft USACE Response
13-5	<p>The Corps of Engineers and Louisiana Department of Environmental Quality should examine whether Bayou Bridge Pipeline, LLC can be made accountable for any future liabilities related to this pipeline, such as oil spills, damages to wetlands and/or any other out of compliance issues. A limited liability company (LLC) is a corporate structure whereby the members of the company cannot be held personally liable for the company's debts or liabilities. The applicant should disclose how risks will be borne and who will be responsible for remediation of the affected areas.</p>	Safety / Accountability	<p>BBP is a Limited Liability Company (“LLC”) which is one of the most common corporate formation types available to businesses operating in the United States. By definition, this corporate structure is utilized to protect “individual members” or “partners” from personal liability associated with the company and was developed to encourage business owners to invest in the U.S. economy via the formation of companies while protecting them as individuals from certain financial liabilities. The intent of a LLC is not to avoid liability to a company, but to limit the liability to its individual members on a personal level. This corporate structure is very common and is widely utilized in businesses of all types such as agricultural operations, other business where individual members own the asset and where protection to the individual is necessary. However, just like any company doing business under its normal course, the liability for actions of a company resides with the company itself. Therefore, under a scenario where a pipeline (and assuming the reference is to BBP) has a release or spill, the company, although a LLC, is not free from liability or responsibility, but rather the company is held liable under several Federal statues and in particular the Oil Pollution Act (often called “OPA 90”), National Resource Damage Assessment (“NRDA”) and the Clean Water Act (“CWA”). Under OPA 90 (and interrelated references under the CWA and NRDA), the responsibility to remediate and quantify/qualify a release or spill resides with the company or persons responsible for the spill and in the case or example if it was BBP, then BBP would be held responsible for the cleanup and remediation and any costs that may arise. Additionally, under OPA 90, the liability under that Act assigns liability to the highest level of corporate structure or parent such that a LLC at an affiliate or subsidiary level is not immune to responsibility or accountability for a spill or release and in fact are directly accountable. Same is true if there is no parent, the company or LLC is accountable for any spill, release and any associated remediation or mitigation. Under OPA 90, it identifies and defines the lines of liability, limits of certain liability for certain causes of spills and the mechanism for which the Federal Government can take to assign the liability, how to remediate a spill or release, the extent in which the company and government would respond to a spill or release, the costs to mitigate/remediate and how the response efforts would be directed to insure minimization of impacts to the environment.</p> <p>In addition to the general nature of the Federal laws that govern and protect the public from spills and/or releases, companies such as BBP carry insurance which provide insurance coverage for liabilities associated with spills and releases and environmental remediation/mitigation. These policies are also partially regulated under OPA 90 but are often much more substantial than the minimums required by statute. In the event that a company or insurance carrier cannot cover the costs of a spill remediation or mitigation, the Federal government would then trigger the Oil Spill Liability Trust Fund (“the Fund”) under OPA 90, which has a \$1 billion value limit to cover the costs for clean-up and claims for which the Government would deploy but then recover any dollars spent from the company or party responsible for the spill. Money from a fee (\$.09/barrel) leveed on the transportation or importation of crude oil is used to fund and maintain the response equipment, staff, and replenishment of the Fund in the event the funds are deployed in response to a spill.</p>
Louisiana Environmental Action Network (LEAN)			
14-1	<p>As the pipeline is buried below ground as a result of trenching and horizontal directional drilling operations under the water bodies and the materials stockpiles along the pipeline route, the contaminated soils and sediments associated with each watershed will be disrupted, tracked into surrounding areas and contaminate storm water and shallow ground water resources. The contaminated storm/ground water will be allowed to be discharged unregulated along the right-of- way and into the surrounding environment and distribute contaminants into the surrounding area outside of the pipeline corridor and right-of-way and contaminate other water bodies.</p>	Contamination	<p>The proposed construction methods proposed include the use of best management practices to avoid and minimize impacts relative to stormwater discharges. Since the project is a narrow corridor within a large watershed, impacts from the project to the basin’s overall water quality would not be noticeably affected. BBP will implement measures outlined in the project-specific Unanticipated Discoveries Plan (Attachment 8) should any contaminated soils or groundwater be encountered during construction. These measures will avoid or minimize impacts to the surrounding areas. All contaminated media encountered during construction would be disposed of in accordance with federal, state, and local regulations.</p>

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14-2	By DEQ granting this water quality certification, it would indicate a lack of need to monitor water that is discharged during the pipeline construction process. Based on the contaminants associated with each watershed, DEQ should deny the water quality certification and prohibit the discharge of contaminated storm water and shallow ground water containing contaminated soil and sediment particles into the environment. As an alternative, DEQ should be required to establish discharge monitoring requirements for the contaminants in each water shed and require treatment of the water to remove the contaminants before allowing the water to be discharged into the environment along the pipeline corridor.	Contamination	By in large impacts from construction of a pipeline are localized to the area directly affected and sometimes slightly downstream. By nature of the proposed construction methods and best management practices proposed, affects to the soils and shallow groundwater are anticipated to be negligible. BBP will adhere to all conditions included in the Section 401 water quality certification. BBP will also implement measures outlined in the project-specific Unanticipated Discoveries Plan (Attachment 8) should any contaminated surface or groundwater be encountered during construction. These measures will minimize impacts to the surrounding areas. All contaminated media encountered during construction would be disposed of in accordance with federal, state, and local regulations.
14-3	The Louisiana Department of Environmental Quality must comply with Federal Civil Rights Regulations. These regulations require DEQ to avoid the adverse impacts of the proposed pipeline terminus on the Environmental Justice community living along Burton Street. The pipeline project would disproportionately effect the EJ community on and around Burton Street.	Environmental Justice	The jurisdiction of the DEQ is limited to areas of jurisdiction under the USACE, as such the area mentioned does not contain waters of the U.S. and therefore is not jurisdictional; DEQ's evaluation of any component, including EJ does not apply to that area. Furthermore, the referenced community is located over 1 mile from the terminus of the project, which is a predefined location (the existing terminal) based on the purpose and need of the Project.
Sierra Club, Delta Chapter – Baton Rouge Group			
15-1	We also believe that the Corps of Engineers, the LDEQ, and the applicant failed to present the possible Cumulative Impacts and full scope of this project. As a result, we believe that the concerned people were unable to understand the full impacts of this project. What was presented was a pipeline which will cross part of Louisiana which is in the area of the country under the jurisdiction of the New Orleans District of the U.S. Army Corps of Engineers.	Complete Application	BBP's application includes all information necessary under the Section 404(b)(1) Guidelines for application review.
15-2	The U.S. Army Corps of Engineers has, we believe, failed to comply with federal laws and regulations by breaking down, or allowing the applicant Bayou Bridge Pipeline, to break down or disconnect the various parts of this massive proposed oil pipeline project from North Dakota to south Louisiana by Districts of the Corps of Engineers so that the real comprehensive picture of this entire project cannot be understood and commented on by interested persons.	Connectivity	There is no component of the proposed BBP outside of Louisiana. This is a second phase of a pipeline transportation project; Phase 1 commenced in Nederland, Texas and terminated in Lake Charles, Louisiana and began operations the second quarter of 2016. While the companies that sponsor the BBP project have permitted and built other projects; BBP is not connected to nor is it dependent upon any other projects. Per the existing regulations, each crossing of a water of the U.S. is a separate and distinct project. BBP's application for an Individual Permit under the Clean Water Act is appropriate and follows existing regulations.
15-3	The applicant, the LDEQ and the Corps officials at the hearing did not explain where the oil will be coming from and where it will be going.	Source / Destination of Oil	As described in the application Cover Letter (Pages 3-4), the proposed Project would deliver crude oil from a terminal in Lake Charles to a terminal in St. James that is connected to gulf coast refineries where the crude oil will be refined into products to meet consumers' need for fuels (e.g., gasoline, diesel, and kerosene), and after further processing, for crude oil derivative products (e.g., plastics, pains, and chemicals). In order for any crude to be transported via the proposed pipeline it must meet certain physical and chemical characteristics; however, the location of origin is not a factor.
15-4	The officials at the Department of Environmental Quality, we believe, have a responsibility as the lead state agency on the environment to do more than just certify that the work on the proposed pipeline will not adversely impact water quality during the construction of the pipeline. Many of the speakers during the public hearing in Baton Rouge spoke about problems caused by previous pipeline projects in the Atchafalaya River Basin, which obstruct water flows in the Atchafalaya Floodway and Atchafalaya River Basin. These levees caused by miles of dirt stacked up along pipelines have definitely adversely impacted water flows, water quality and the habitats for wildlife and aquatic species like crawfish. These adverse impacts are felt throughout the Atchafalaya River Basin and not just in the pipeline right of ways.	Existing Conditions in the Basin	The state is also reviewing the project for consistency with the coastal zone management program under the Department of Natural Resources, Office of Coastal Management. Current regulations deem the U.S. Army Corps of Engineers the lead agency. Previous pipelines are not under review and the pipeline is proposed to be constructed such that it does not violate any federal or state regulations or standards. Construction methods to be utilized are designed to minimize impacts to aquatic resources including natural water flows in the basin and navigational, commercial, and recreational activities. Furthermore, all disturbed areas will be returned to pre-construction contours to minimize impacts to the basin's hydrology. Mitigation is also proposed for all unavoidable impacts to forested wetlands and there is no net loss of wetlands as a result of the Project.

Draft Responses to Comments Received during Second Public Comment Period (January 12, 2017 – January 31, 2017)

Commenter / Comment ID	Comment	Issue	Draft USACE Response
15-5	We believe that officials associated with the applicant, Bayou Bridge, the U.S. Army Corps of Engineers, and the Louisiana Department of Environmental Quality have failed to adhere to Article 9, Section 1 of the Louisiana Constitution of 1974, which states, “The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people. The legislature shall enact laws to implement this policy.”	Compliance	The regulations providing for the state permitting process in Louisiana were enacted in compliance with the state constitution. Therefore, the appropriate agencies evaluating the application in accordance with the applicable regulations complies with the constitution.
15-6	We see little information in the application by Bayou Bridge Pipeline that alternative sites, projects and processes were considered by the applicant for this project.	Alternatives	In accordance with 40 CFR 230.10(a)(2), BBP conducted an alternative analysis (Attachment 9) for five route alternatives. Of these, the Proposed Route was determined to be the most environmentally sound, technically feasible, and cost-effective alternative. The other route alternatives were not deemed practicable per 40 CFR 230.10(a)(2), which defines practical alternatives as an alternative that "is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes".
15-7	Numerous spoil banks are testimony to the damage created by the installation of previous pipelines. These levees have altered the water flow, causing a negative effect on the aquatic species that inhabit that part of the Basin. The applicant, Bayou Bridge Pipeline has failed to address how it will avoid this problem.	Spoil Banks	BBP will avoid preventing the flow of water by restoring the construction footprint to pre-construction conditions as presented in the application.
15-8	Bayou Bridge officials have failed to provide adequate information about how their pipelines will be protected from the introductions of other materials into the oil being transported like hazardous waste.	Product / Hazardous waste	The pipeline is designed to carry a range of crude oil product; products not meeting the specifications for which the system is designed and operated for will not be allowed to be introduced into the system.

Form Letters

A number of form letters were received during the second public comment period; however, these letters contain the same comments as originally addressed in the response matrix that was submitted to the USACE on January 6, 2017 (refer to comments 6-1 through 6-13). Therefore, the form letters received during the second public comment period are not addressed in this draft response matrix.