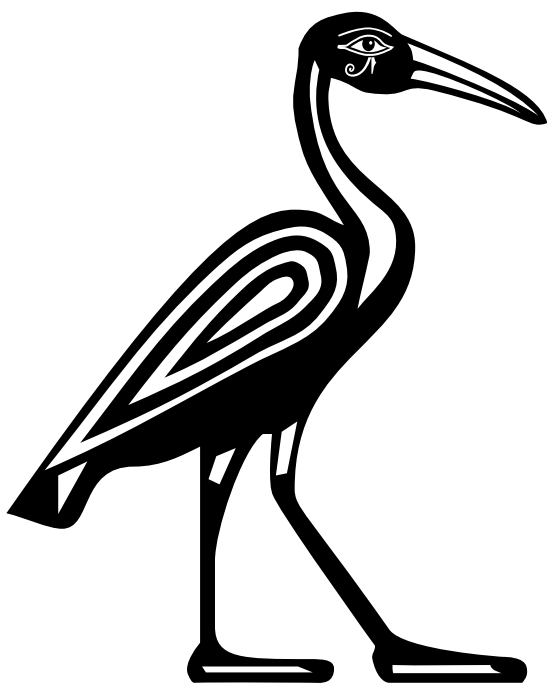




# A Citizen's Guide to Protecting Wetlands in the Pontchartrain Basin

The Lake Pontchartrain Basin Foundation

A  
Citizen's Guide  
to Protecting  
Wetlands in the  
Pontchartrain Basin



Summer 2001

Funded by The U.S. Environmental Protection Agency



# Acknowledgments

Much gratitude to Charlotte Brunner, Russell Butz, Deborah Hopkins, Anne Sobol, Jay Vincent, and Jennie Weatherall, for providing invaluable comments as well as insight into the challenges of public participation.

Many thanks to Gulf Restoration Network staffers Cynthia Sarthou for sharing her knowledge of wetland regulations and policies, and Cynthia Goldberg who was instrumental in developing the guide.

Appreciation to Neil Armingeon for his guidance and humor, and Dinah Maygarden who supplied information on wetlands in the Pontchartrain Basin.

Also thanks to Dawn Boudreaux and Andrea Bourgeois-Calvin for their editing assistance.

Importantly, we are indebted to all those who have committed themselves to the Save Our Lake effort - their interest and support make environmental success possible.

Jill Mastrototaro, LPBF staff member, was the primary author and reviewer.

Design, layout, and Lake Pontchartrain Basin map by Wanda Gautschi with RCR Graphics, Inc.



Funding for this publication has been made possible through the U.S. Environmental Protection Agency (EPA).

This guidebook has been reviewed by EPA and various state agencies and approved for publication. Approval does not signify that the contents herein reflect the views and policies of EPA or the State of Louisiana.



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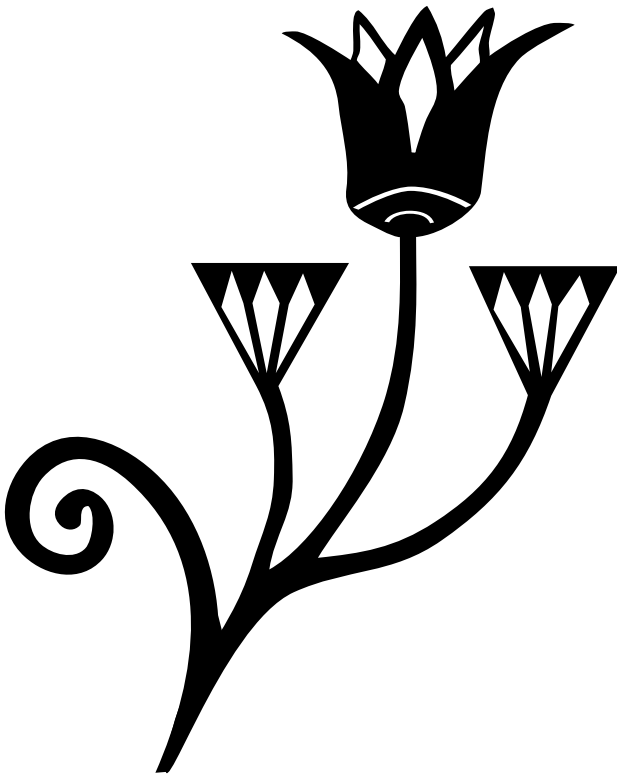
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# Introduction



# Local Citizens Lead an Environmental Victory

There was a time when Clara and Jerry Crawford did not know about state and federal wetland protection programs. They lived in a small house in the Big Branch community just east of Mandeville in St. Tammany Parish. Jerry was a commercial fisherman; he knew the waters of Lake Pontchartrain like the back of his hand. Clara's life with Jerry taught her a deep appreciation for the local lands and waters.

The Crawfords did not attend public meetings, and they would not have dreamed of making speeches. In the spring of 1990, however, a newspaper article transformed the Crawfords from commercial fishers to citizen activists. The article revealed that a developer proposed to construct a 24-lot subdivision directly across the road from their home. In addition, the developer wanted to dredge deeper a small stream so that future homeowners could moor their boats.

The subdivision was to be built on a 24-acre tract of wetlands along Bayou Cane, a waterway recognized by the state's Scenic Streams Program. Clara and Jerry knew the proposed development spelled trouble for the bayou and Lake Pontchartrain. They believed runoff from the subdivision would pollute the pristine bayou. The area was ecologically important too, and the land clearing and dredging would destroy wetlands that provided important wildlife habitat. For the Crawfords, the proposed development threatened their livelihood and their community.

To voice their opposition, the Crawfords and their neighbors got a quick lesson in citizen involvement. They taught themselves how to become active in state and federal natural resource management programs. They collected names on petitions at local festivals and took photographs for environmental resource agencies and newspaper articles.

What the Crawfords and their neighbors learned helped them voice their opposition to the project, and eventually the plans for the subdivision were halted. The developer began speaking with the community to learn about their concerns. Soon an agreement was reached with the landowner to sell the 24-acre tract. The purchase ultimately led to the creation of the 16,000-acre Big Branch National Wildlife Refuge. The Crawford's success was a victory for all citizens of the Pontchartrain Basin.



# Environmental Laws and the Need for Public Participation

The Crawford's experience demonstrates the importance of public participation. It is a lesson that everyone should learn because the lands and waters that make the Pontchartrain Basin so special - the lakes, rivers, bayous, and wetlands - belong to everyone. These are the public's resources, and with this ownership comes responsibility.

That is why it is important for fishers, boaters, outdoor enthusiasts, developers, and citizens alike to have a say in how these resources are managed. While each of us has the right to use and enjoy these resources, the rights of all must be respected and considered. But to have a voice, citizens must make the effort to educate themselves about protecting natural resources. They must attend public hearings, write letters to state and federal agencies, and call their elected officials to make their concerns known.

Policies and regulations have been developed at the federal, state, and local levels to protect our environmental resources. However, these resources are not necessarily protected just because these laws are in place. In the Pontchartrain Basin, when policies are not followed or enforced, the quality of our resources suffers. As a result, there is a strong need for citizen oversight and input in the environmental regulatory process.

The laws and regulations that protect environmental resources like wetlands have opportunities for citizens to participate built into them. Policy makers recognize that public involvement is vital to make sure the laws function as they are intended. Citizen involvement helps to make environmental laws more effective in a number of ways: by ensuring that regulatory agencies have access to all relevant information, by drawing attention to violations of the law, and by monitoring the agencies charged with implementing the laws. Clearly, citizens play a crucial role in protecting our natural resources.

Although the avenues of public participation are well established, few citizens know how to use them. For instance, most people do not realize that they can actually help their elected officials develop environmental policies for their state or local community. On the other hand, other people are not aware that they have the right to oppose a permit that would allow wetlands to be destroyed.

Clara and Jerry Crawford knew nothing about these processes but they learned.



Understanding how to become involved and how to make a difference in managing resources like wetlands is not easy. It takes hard work, determination, and courage, but the rewards are invaluable. Without your input, projects that could potentially destroy environmental resources, endanger public health, damage cultural values and historic property, and disrupt local economies may move forward.

To speak knowledgeably about the laws and regulations that govern our lands and waters, citizens must develop a general understanding of how resources are protected through environmental policies. This guide is designed to help citizens foster this understanding. It is based on the experiences of citizen groups and individuals that have learned how to be involved in the process to protect wetlands. You also will learn why wetlands are such a valuable resource to society.

## **Major Threats to Our Environmental Resources: Public Participation is the Key to Protection**

For the past several decades, the waters and lands of the Pontchartrain Basin have experienced tremendous environmental damage from a variety of sources including industry, an increasing population, changes in land use, and rapid development. Although the Lake has made a tremendous comeback and is cleaner now than it has been in recent decades, the Lake and its resources continue to face environmental challenges. In particular, rapid growth and unplanned development throughout the Basin continue to threaten an already troubled ecosystem, particularly in St. Tammany, Tangipahoa, Washington, Livingston, and St. Helena Parishes, an area collectively known as the Florida Parishes. Many municipalities either fail to plan for growth or plan parochially. Often land is being used and developed with limited thought and guidance.

The once rural North Shore is now one of the fastest growing areas of the Basin. An increasing population and resulting urbanization have caused dramatic changes to the area's land use patterns. Small farms, forests, and wetlands continue to be converted into subdivisions, shopping centers, and business complexes.

Current land use patterns are degrading environmental, social, historic, and economic resources throughout the Pontchartrain Basin. There is a direct



link between increased development and the degradation of water quality, habitat loss, and wetland destruction. In St. Tammany Parish, for example, twenty-one of the parish's twenty-two naturally occurring habitat types are in decline (1). As development pressures have increased in more recent years, Basin communities have begun to realize that the resources they enjoy and take for granted are quickly disappearing. Citizens like you are finding that as bayous vanish, trees are cut, streams are channelized, and waterways are polluted, their quality of life and the culture of the community they live in are being threatened.

Environmental resource protection, particularly wetland and wildlife habitat preservation, has emerged as an issue of great importance. The restoration of the Pontchartrain Basin begins with each of us. Many of the region's environmental successes have been due to interested and concerned citizens who want a clean, healthy Lake and Basin for this and future generations. As a citizen, you can be involved in the Lake's recovery through your daily actions, by participating in your community, and by voicing your desire to protect the Basin's valuable resources. You can make a difference by becoming informed and actively involved in the effort to restore Lake Pontchartrain.

Public participation is key to protecting resources throughout the Basin. Now, as more and more people make the Pontchartrain Basin their home and enjoy the area's great resources, it is more important for citizens to get involved in protecting wetlands.

## **The Purpose of This Guide**

There are many opportunities for you to help protect wetlands, and this guide is designed to provide you with a general understanding of how you can get involved in protecting them. You can write a letter to a regulatory official expressing your concerns, attend a planning and zoning meeting, or organize a neighborhood group to oppose a local project. By using this guide as a tool to protect wetlands, we can all be a part of the solution. Citizens play an important role in the regulatory process - you are powerful and you can make a difference.

Public participation is the key to protecting the Pontchartrain Basin. Staying informed about issues that concern you is one of the most challenging aspects of public participation. Policies, projects, proposals - these are all constantly changing, so it is important to keep abreast of the latest developments.



This book is only a starting point. As this edition was being produced, federal policies regulating wetlands were being challenged and possibly altered. To stay current with wetland regulations requires a personal commitment to the preservation and protection of our valuable wetland resources.

This guide attempts to explain the citizens' role in the regulatory process in a simple, straightforward manner. The next chapter is devoted to familiarizing citizens with what wetlands are and why they are important. Chapter Three discusses the laws and regulations that govern wetland protection, with particular emphasis on how local land use regulations influence wetland protection. Citizen involvement in protecting wetlands, the core of this guide, is the focus of the final chapter. This chapter will introduce you to key tools that you can use to get involved and make change. Finally, a number of resources are located in the accompanying appendices, which will help you participate in the regulatory process and keep you informed.

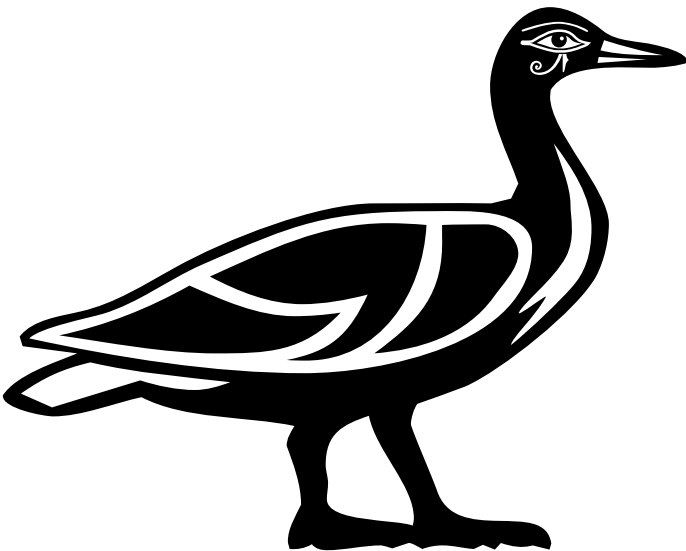
This guide is a powerful tool to help you protect the environmental treasures in your community. Your involvement ensures that decisions affecting public resources - the rivers, wetlands, bayous, lakes - are made on behalf of all the citizens of the Basin. We invite you to use the concepts and ideas presented in this guide to join in the exciting effort to restore and protect the Pontchartrain Basin.

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# Wetlands and Their Importance



# Wetlands in the Pontchartrain Basin

Wetlands are generally defined using three criteria - soil conditions, the presence of water, and plant types. Specifically, the habitat must have 1) hydric soils (soils that are saturated long enough to create low oxygen or anaerobic (no oxygen) conditions), 2) a specific hydrologic regime (presence of water at or above the ground for more than seven consecutive days in the growing season), and 3) hydrophytic plants (plants that are adapted to growing in waterlogged hydric soils). This definition is derived from the U.S. Army Corps of Engineers' definition as presented in the Louisiana State University Agricultural Center's publication *Wetland Functions and Values in Louisiana* (1), and from a definition provided in *WOW! The Wonders of Wetlands* (2).

Although these characteristics appear relatively straightforward, it is difficult to obtain a precise wetland definition because other environmental factors often come into play such as weather and geographic location (3). For example, most of the wetland habitats of the Basin are visibly wet, though a few have more subtle characteristics and may appear dry at some times of the year (4). If you researched wetland definitions, you would find that other environmental agencies and researchers have definitions of their own - all of which contributes to the complexity of determining how a wetland is defined.

Wetland habitats are classified according to the vegetation that grows in them (4). There are two very broad classifications of wetland habitat: forested wetlands and marsh. Both types are found throughout the Pontchartrain Basin. Forested wetlands include swamps and bottomland hardwood forests. Cypress-tupelo swamps are dominated by bald cypress and tupelo gum, while bottomland hardwood forests are dominated by a wide variety of tree species including species of pines and oaks. Pine flatwood/savannah habitat, for example, is a dominant ecosystem in the Florida Parishes.

There are four different types of marsh: freshwater, intermediate (more fresh than salty), brackish (part freshwater, part saltwater), and saltwater. Marshes are characterized by grasses and herbs (4). In the wetlands of the Mississippi River Delta, salinity (the amount of salt dissolved in the water), elevation (the height of land above sea level), and soil type, are the three most important factors in determining habitat type. The Delta is so low and flat that a very small change in elevation can make a big difference both in the types of plants present and the appearance of the area. If you are



interested in learning more about wetlands in the Pontchartrain Basin, check out, *A Guide to the Wetlands of the Lake Pontchartrain Basin* (Maygarden et al., 2000), which is available from the Lake Pontchartrain Basin Foundation.

## Why Are Wetlands Important?

Wetlands are dynamic ecosystems that provide a number of benefits to society, ranging from supporting the seafood industry to protecting communities from the disastrous effects of flooding. Wetlands provide an array of commercial, cultural, recreational, and environmental benefits to Louisiana's citizens. However, as with most environmental resources, it can be very difficult to attach a dollar value to the benefits they offer. The challenge of assigning a dollar value to wetland habitat has undermined efforts to protect wetlands. More recently, research has found that based on the services they provide to society, coastal marshes are valued at over \$4,000 an acre per year as compared to \$1,000 an acre per year for a tropical rain forest (5). In addition, the value of replacing wetland habitat has been demonstrated through local coastal restoration projects. For example, in a recent habitat restoration project in the LaBranche Wetlands on the western edge of Lake Pontchartrain, it cost nearly \$10,500 to restore a single acre of wetlands (6). Clearly, one can see just how valuable our coastal marshes are.

While Louisiana accounts for 25% of the nation's coastal wetlands and 40% of the salt marshes in the continental United States, Louisiana's wetlands are rapidly being lost (7). For example, Louisiana's coastal marshes are disappearing at the alarming rate of 20,000 to 25,000 acres per year (1). If the current rate of wetland loss continues, the state will lose more than 1 million acres of coastal wetlands by the year 2050, an area larger than the state of Rhode Island (8). While some of the loss is due to natural processes like erosion, a significant amount of wetland loss in the Basin occurs because of human impacts. The Pontchartrain Basin lost 188,356 acres of wetlands due to dredging, filling, and channelization between 1932 and 1990 (9). Presently, significant wetland loss is occurring on the North Shore of the Lake due to poorly planned growth and development.

Although wetlands constitute only 5% of the land area in the lower forty-eight states, the functions and values that they provide are immeasurable (1). Since Louisiana's current rate of wetland loss is so high, it is critical that citizens recognize the many benefits wetlands offer, and



join in the effort to protect these special areas. Only by understanding the values of wetlands can their true worth be understood so that these unique environments may be protected and preserved for all to benefit from and enjoy.

## *Wildlife and Plant Habitat*

Wetland habitat supports an enormous amount of plant and animal life, and provides essential habitat for a variety of mammals, birds, fish, reptiles, and amphibians. The term habitat refers to the areas that provide breeding, feeding, and nesting grounds for animals and plants. Wetland marshes offer important resting and feeding areas for migratory waterfowl such as geese and ducks. Wetlands are also home to many endangered plants and animals. Endangered or threatened species such as the West Indian Manatee, the Bald Eagle, the Gulf Sturgeon, the Gopher Tortoise, and the Louisiana Quillwort, have been sighted throughout the Pontchartrain Basin. The future of these species relies heavily on protecting and maintaining habitat.

Submersed Aquatic Vegetation (SAV), or seagrass, is one of the rarest habitats in the Basin, and is one of the most productive plant communities in the world. SAV provides critical habitat to young, developing marine life thus serving as a major part of the foodchain. Simply put, SAV contributes significantly to the Lake's annual \$35 million dollar commercial and recreational fishing industry (10). An indicator of environmental stress, this critical habitat has been in decline for the past fifty years. Recent research has shown, however, that efforts directed at protecting this resource are working, and seagrasses have begun to recover - a sign of hope for the future of Lake Pontchartrain's wetlands. Scientists believe that the seagrass recovery is due in part to increased salinities in the Lake, the 1990 ban on shell dredging, and the significant improvement in the Lake's water quality (11).

## *Commercial Fishing*

Commercial fishing is a significant part of the Pontchartrain Basin economy. In the United States alone, more than 70% of the commercial fishing market consists of species that use coastal wetland areas at some point during their lifecycle (1). Lake Pontchartrain serves as valuable habitat for developing marine life such as blue crabs, shellfish, shrimp, and countless fish species. Declines in commercial and shellfishing harvests in the Basin have been attributed to wetland and habitat loss.



## *Water Quality*

In the Pontchartrain Basin, most waterways do not meet state water quality standards for primary recreational use (i.e. swimming and fishing). This is particularly apparent in the Florida Parishes. Wetlands are important in protecting water quality by helping to filter out pollutants and remove excess nutrients from the ecosystem. Pollution comes from point and non-point sources. Point sources of pollution are those which stem from a single, easily identifiable source such as an industrial complex or wastewater treatment plant. Non-point pollution comes from a variety of sources, making it difficult to identify what the causes are. Stormwater runoff is a type of non-point pollution that has substantial impacts on the Lake's health. The runoff is composed of trash, oil, chemicals, sediment, etc., that are picked up by rain water moving over the ground. This polluted water eventually makes its way to the Lake or a Basin waterway.

When waterways receive large loads of sediments and nutrients, aquatic life is harmed, and deadly algae blooms result, which alter or prevent the feeding and spawning of marine life, and contaminate drinking water supplies. Wetlands help to absorb and filter out the nutrient-rich, polluted water through their roots, acting as a natural cleansing system to promote clean water for the entire Basin community. It is also important to point out that wetland loss has contributed to the degradation of water quality by increasing runoff and soil erosion, introducing large amounts of sediment and pollutants into nearby streams, rivers, and bayous.

## *Flood Mitigation and Storm Surge Protection*

Wetlands have the natural ability to act like sponges and store tremendous amounts of water. As a result, wetlands help to prevent flooding from heavy rains or storm surges associated with tropical storms and hurricanes by absorbing excess waters. Research has shown that for every mile of coastal wetlands, the height of a storm surge can be reduced by one foot (1). Wetlands can also withstand the repeated impact of waves, absorbing substantial amounts of wave energy and minimizing shoreline erosion. In short, wetlands protect human health and safety in the face of damaging tropical storms and hurricanes.

## *Aquifer Recharge*

Though wetlands play an important role in ensuring clean water, they are also critical to maintaining the quantity, or volume, of our water resources. Aquifers are underground geologic formations that hold large quantities of groundwater. Groundwater is freshwater that moves through the soil. Due to their ability to absorb large quantities of water, wetlands recharge aquifers by replacing groundwater that is used for drinking, agricultural, and



industrial purposes. Wetland plants can cleanse the water as well by removing impurities and pollutants through their roots and leaves. In addition, wetlands help to maintain water levels in streams and rivers during low water periods and droughts.

## *Aesthetics and Recreation*

Citizens most often recognize wetlands for the recreational values they offer. In Louisiana, our vast wetland resources have resulted in the state being nicknamed *The Sportsman's Paradise*. Recreational activities range from hunting and fishing to ecotourism. As noted earlier, wetlands provide critical habitat for countless game and non-game species including waterfowl and fish. The economic market created by these hunting and fishing opportunities is a significant part of Louisiana's economy, with hunters and fishermen contributing billions of dollars annually. Recreational fishing is one of the fastest growing industries in Louisiana with retail sales contributing over \$790 million annually to the state's economy (12).

In more recent years, ecotourism has emerged as a significant part of the state's economy. Ecotourism is tourism associated with environmental resources and can include activities such as canoeing, hiking, bird watching, and nature photography. Ecotourist activities generally do not disturb the natural environment, which helps to preserve the delicate ecology of the resource and in turn promote further ecotourism.

## *Cultural Values*

Wetlands are a major part of southeastern Louisiana's culture and they have helped shape the history of the area (1). The original settlers relied on the swamps and bayous for food, shelter, and other necessities. These critical ties to wetlands influenced the lifestyle and livelihood of the Basin's early communities, allowing the area to develop and cultivate a culture all its own. Now visitors from all over the world flock to the region to experience and appreciate this unique, rich heritage.

Clearly wetlands offer an array of important economic, cultural, recreational, and ecological benefits to communities throughout the Pontchartrain Basin. By recognizing these values and adopting some of the tools for protecting wetlands described in this guide, you can help to ensure that citizens throughout the Basin continue to benefit from and enjoy these valuable resources.



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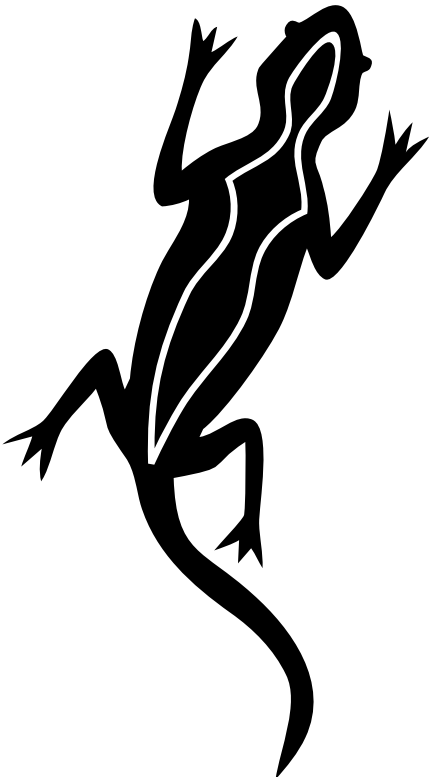
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Laws  
and  
Regulations  
that  
Protect  
Wetlands



# Introduction

Since wetlands are a valuable environmental resource, they are regulated at the federal, state, and local level through a number of laws created to protect wetlands and direct activities that impact wetlands. In order to participate effectively and appropriately in the regulatory process, it is important for citizens to have a basic understanding of these laws.

These laws fall into four general categories:

- 1 Those directed specifically at wetlands (mainly overseen by the U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA)),
- 2 Those directed at water quality (primarily directed by EPA and the states),
- 3 Those directed at protecting our coasts (managed mainly by EPA, the states, and the National Oceanic and Atmospheric Administration), and
- 4 Those directed at local land uses (primarily overseen by the states and/or local governments).

While the regulatory aspects of wetland protection can seem complex and overwhelming, this chapter presents a brief overview of wetland regulations and permits employed by state and federal agencies. Throughout this chapter, keep in mind that citizens play an important role in the wetlands permitting process. The public has the right to participate in the permitting process by monitoring and responding to permits required under federal and state legislation. You will learn about these regulations and how they function - you do not need to be an attorney to understand them. A general grasp of them will provide an important foundation as you learn how to get involved in the permitting process in Chapter Four.



# FEDERAL LAWS AND REGULATIONS

## The Clean Water Act

In 1972, Congress passed the Clean Water Act (CWA) to protect the nation's waterways - oceans, lakes, rivers and streams, aquifers, coastal areas, and wetlands (1). The law sets out broad rules for protecting the waters of the United States, and directs EPA and the Corps to develop more specific rules (known as regulations) governing activity in waters and wetland areas. Sections 401 and 404 of the Act are specifically designed to protect wetlands and other aquatic habitats by requiring permits for certain activities that occur near or in wetlands. These permits are backed up by fines and criminal penalties for those who fail to obtain or to comply with the permits. For more information on the laws and regulations discussed in this chapter visit the following websites: THOMAS ([thomas.loc.gov/](http://thomas.loc.gov/)), the Code of Federal Regulations ([www.access.gpo.gov/nara/cfr](http://www.access.gpo.gov/nara/cfr)), and the Louisiana State Legislature ([www.legis.state.la.us/](http://www.legis.state.la.us/)). Your local library also may have basic information on them.

### *Section 404 of the Clean Water Act*

There are two types of permits that may be issued under Section 404 of the Clean Water Act: 1) individual permits, which are issued for a specific activity on a case-by-case basis, and 2) general permits, which authorize a type(s) of activity over a large geographic area. The level of public participation differs between the two types of permits. The opportunity for public input is substantially greater in the individual permitting process as compared to the general permit process.



# Federal Agency Roles in the Wetland Permitting Process

## **U.S. Environmental Protection Agency (EPA):**

Responsible for protecting the nation's wetlands, water quality, public health, and fish and wildlife resources. Sets standards that govern the Corps' issuance of Section 404 permits, works with the Corps to define areas covered by Section 404, and reviews permits issued by the Corps. If EPA finds that a permit will have significant and unacceptable impacts on waters or wetlands, it has the authority to 'elevate' a permit, which means EPA headquarters will review the permit. Keep in mind that permits are elevated very rarely. In addition, if EPA determines that the permit will cause substantial harm to municipal water supplies, shellfish beds, fisheries, wildlife or recreational areas, it has the power to veto (overrule) the Corps' decision to issue a permit. Although it has occurred, a veto by EPA is very uncommon.

## **U.S. Army Corps of Engineers (Corps):**

Mainly responsible for regulating dredge and fill activities. Administers the wetland regulatory program under the guidance of EPA, reviews Section 404 permit applications, accepts written and oral comments, can hold public hearings, and decides whether or not to issue a permit.

## **U.S. Fish and Wildlife Service (FWS):**

Responsible for protecting and managing fish, wildlife, and their associated habitat. FWS receives notice of Section 404 permits and may file comments regarding potential damage to fish and wildlife and their habitat. FWS also enforces the provisions of the federal Endangered Species Act and must be notified by the Corps if a project may affect an endangered or threatened species.

## **U.S. National Marine Fisheries Service (NMFS):**

Manages, conserves, and protects marine resources including marine commercial fisheries, marine mammals, and essential fish habitat (habitat needed by fish for spawning, nursery grounds, and feeding). Under the Sustainable Fisheries Act, NMFS must receive notice of a Section 404 permit application and may submit comments concerning the project's impact on essential fish habitat.



## Individual Permits

Section 404 of the Clean Water Act requires a permit for the “discharge of dredge and fill material” into waters of the United States. An individual permit, or ‘dredge and fill’ permit, is required any time soil or other material is placed in a river, lake, ocean, wetland, or other waterbody of the U.S., or before a structure is built that will destroy a wetland (unless the activity is covered under a general permit, which is discussed later on). Dredging is the process by which soil is dug up from a waterway or waterbody. When the dredged material is placed on land or in wetlands, it is referred to as fill. Fill can also come from land-based sources such as sand and rock quarries.

Individual permits are often referred to as ‘a 404’, ‘a Section 404’, and ‘404 permit’. They focus on activities that are permitted on an individual, case-by-case, project-by-project basis. Section 404, however, does not regulate every activity that occurs in wetlands. Examples of activities that would require an individual permit include building a subdivision, store, or shopping center, constructing a road, and filling behind a bulkhead. Under Section 404, EPA has also declared some practices exempt from an individual permit as well as general permits. These activities include many farming, ranching, and silvicultural (forestry) practices, as long as they are a part of regular, established operations, such as plowing, cultivating, or harvesting for food or forest production. To find out whether specific activities are exempt, contact your local Corps or EPA office.

In preparation for a project that may impact wetlands, a landowner will often contact the Corps to determine whether a permit is needed before a project is undertaken. The Corps will then decide if the wetland falls within their authority under Section 404. For large projects, landowners often hire an environmental consultant to examine the property in order to find out if wetlands are present, to determine the size of existing wetlands, and to map out the location of the wetland area. This process is called a ‘wetland delineation’. The Corps will review the consultant’s data and must approve the delineation as part of the initial permit review process to determine whether the wetland falls under federal jurisdiction (i.e. if it meets the Corps definition of a wetland). If the Corps does determine that the wetland meets this requirement, the landowner will need a permit before the project or activity moves forward.

If the applicant requires a permit and a complete application is submitted to the Corps, the Corps will release a public notice on the project, which includes information such as the project/activity, the location of where the activity is to take place, the applicant’s name, and maps depicting the property and describing the activity. Citizens have the opportunity to submit written comments on the notice to the Corps within the time



frame specified in the public notice. Keep in mind the Corps' final permitting decisions are published as a list that accompanies their public notices, and they are also available on-line at their website. For a brief overview of the individual permitting process, refer to the arrow diagram that follows the in-depth presentation of the Section 404 permitting process.

To get an idea of what a public notice looks like, refer to Appendix E, which familiarizes you with how an individual permit is usually presented. The next chapter will provide you with a more detailed framework of how you can participate in the wetlands permitting process by commenting on public notices.



## The Section 404 Permit Application Process

- A Section 404 permit application is submitted to the Corps by an individual, organization, or business intending to carry out an activity that may destroy wetlands.
- If the Corps determines that the permit application is complete, they will make a preliminary determination whether the proposed project will or will not have a significant impact on the environment or society (e.g., a Finding of Significant Impact (FOSI) or a Finding of No Significant Impact (FONSI)).
- If a FOSI is the preliminary determination, an Environmental Impact Statement (EIS) is prepared by the permit applicant as required by the National Environmental Policy Act (NEPA). (NEPA and EISs are discussed toward the end of this chapter.)
- If a FONSI is the preliminary determination, the Corps will issue a public notice of the permit application and accept written comments from all concerned members of the public. The Corps is also required by law to solicit comments from state and federal agencies that are involved in wetland permitting and water quality issues.
- Depending on the size and scope of the project, the comment period can last anywhere from 10 to 30 days, including weekend days.
- Once the comment period ends, the Corps reviews all public comments received and forwards copies to the permit applicant. The applicant must respond to the comments/concerns within a time frame specified by the Corps.
- Based on the comments that were submitted, the Corps will also decide whether a public hearing is necessary. Announcements for public hearings are posted in the official state journal, The Baton Rouge Advocate, and the official paper of the parish where the project is being proposed. Public hearings are rarely granted. You may want to write or call your elected officials to ask that they request a public hearing.



- If granted, the Corps will post a notice of the public hearing at least 30 days before the hearing takes place. The public and other interested parties have another opportunity to submit additional comments during the public hearing period. After the hearing, the Corps will evaluate all additional written and oral comments.
- If the comments raise sufficient concerns regarding significant environmental/societal impacts from a project, the Corps may reconsider whether a FONSI was appropriate. If the Corps finds that it was not appropriate, they will begin the EIS process and the permit will be placed on hold until the EIS is completed. (EISs are discussed later on in this chapter under NEPA.)
- During their permit review process, the Corps will complete an Environmental Assessment (EA) of the project. The EA is not made available to the public until the Corps has issued its final decision on the permit. (EAs are discussed later on in this chapter under NEPA.)
- The Corps will then make its final FOSI/FONSI determination regarding the project. If the Corps decides the project is not in the public's interest or that it violates the Section 404(b)(1) Guidelines, the permit is denied. If the permit is found to be in the public interest, the permit is issued. Sometimes the Corps will issue a permit with special conditions that the applicant must follow.
- If the permit is denied, the applicant can revise and resubmit another project application, terminate the proposed project, or appeal the permit decision to the Corps.
- Under the law, EPA has the right to review and elevate a permit decision (obtain a review by EPA's Regional Administrator) or under certain circumstances, veto or overrule a permit approved by the Corps. In the 22-year history of the Section 404 program, EPA has vetoed only eleven permits (2).



# The Section 404 Permit Application Process

Proposed project



Corps' jurisdictional determination



Navigable water and/or wetlands  
are present



Applicant notified that a  
Section 404 permit is required  
under the Clean Water Act



Applicant submits a complete permit  
application to the Corps as well as other  
permits needed by other regulatory  
agencies (i.e. DEQ, DNR)



The Corps makes a preliminary  
determination that the project will or will  
not significantly impact the environment  
and/or society (i.e. FOSI or FONSI).



If FOSI, then EIS process is launched under  
NEPA. If FONSI, then the Corps issues a  
public notice for public and regulatory  
agency comment. Public notice  
comment period lasts 10-30 days,  
including weekend days.



Based on the comments received, Corps  
decides whether to hold a public hearing.  
There will be another opportunity to  
submit additional comments during the  
public hearing period.



The applicant must respond to the  
comments/concerns the Corps receives



Corps evaluates all materials and comments  
submitted and either approves, denies, or  
grants the permit with special conditions



If the Corps denies the permit, the applicant  
can revise the project and resubmit another  
permit application, terminate the project,  
or appeal the decision



If the permit is approved,  
the applicant can begin the project

Navigable water and/or wetlands  
are not present



Permit not required



Applicant begins work on the project



# How the Corps Reviews Individual Permits

The Corps applies two review processes when examining individual wetland permit applications. These processes are known as the public interest review and the Section 404(b)(1) Guideline review. Since you will be participating in the permitting process if you submit comments on a public notice to the regulatory agencies, it is important to understand what the agencies are looking for when they conduct their review.

## Public Interest Review

As part of the Section 404 permitting process, the Corps conducts a public interest review. During this review, the Corps evaluates the permit based on the potential impacts the proposed activity may have on society. The benefits that may result from a project are balanced against any foreseeable harm. Corps regulations require that no permit should be granted unless the benefits of altering a wetland outweigh the damage to the resource.

In completing this review, the Corps must consider:

- 1 the general public and private need for the project;
- 2 whether there are alternative locations and/or strategies that exist which can achieve the project's purpose; and
- 3 the degree of the good/useful and harmful/damaging effects the project will have on the public and private uses of the project location.

Factors the Corps must evaluate during the public interest review include economics, aesthetics, general environmental concerns, historic properties, fish and wildlife values, land use, navigation, flood hazards, wetlands, recreation, water supply, water quality, safety, energy needs and, in general, the needs and welfare of the people. Most importantly, the Corps must consider the combined effect of these factors as well as the cumulative effect of the project and other nearby projects or proposals, on society and on the environment.



## Section 404(b)(1) Guidelines Review

The Corps must also ensure that a project complies with EPA's Section 404(b)(1) Guidelines that govern how Section 404 permits are issued. The Corps examines the permit based on several factors to determine whether a project meets these guidelines:

- 1 Whether an alternative(s) to the project exists that would not negatively affect wetlands (e.g., Can the project be built in an area that would not negatively impact wetlands?). If an alternative exists, then the permit should not be issued.
- 2 Whether the project is water-dependent (e.g., if it requires access or proximity to or siting in a wetland or waterbody to fulfill its basic purpose). If proximity to water is not required, then it is assumed that there are alternative sites for the project that are not in wetlands.
- 3 Whether the project has been designed in a way that avoids and/or reduces the impacts to the environment, and whether it is possible to mitigate for the unavoidable impacts the project will have on wetlands. Mitigation refers to the act of creating a new wetland or restoring a wetland that has been destroyed or damaged from a project. A discussion of mitigation banking follows.
- 4 Whether the project will cause a violation of state water quality standards; jeopardize federally listed endangered or threatened species; negatively affect municipal water supplies, fish, and shellfish; reduce the ability of a wetland to absorb nutrients, purify water, or reduce wave energy; or reduce the recreational, aesthetic, or economic value of the area.

## Wetlands Mitigation

Permit applicants whose projects will destroy wetlands are required by law to first avoid and minimize impacts to wetlands. For impacts that are considered 'unavoidable', the applicant is responsible for replacing the damaged wetlands and their functions; this is called mitigation.

The purpose of wetlands mitigation is to help replace the functions and values of wetlands that are lost to projects permitted through the wetlands regulatory process (3). Generally, mitigation takes place in areas that were originally occupied by wetlands or in areas where wetlands have been damaged and need to be restored (4). Areas that have a high potential to be converted into wetland habitat are the most favorable sites for wetlands mitigation. The Corps assesses the value of a tract of wetlands that is to be impacted by a project. The ratio of impacted wetlands to restored wetlands



depends on the quality and quantity of the habitat that will be impacted by the project.

Permit applicants whose projects will destroy wetlands are responsible for replacing these wetland functions by restoring wetlands or by buying a corresponding amount of wetlands at an approved mitigation bank or area. Mitigation areas and banks are sites that are recognized and approved by the Corps for wetland restoration that must meet certain criteria to be accepted as approved mitigation sites.

A mitigation bank is a piece of land that the landowner has restored to wetland habitat. Once restored, the Corps determines the ecological value of the land and assigns the land a number of credits which represent the property's habitat value. The landowner is then able to sell these credits to permit applicants whose projects will destroy wetlands. The landowner uses the money to maintain or further enhance the restored wetland.

Wetlands mitigation in the Corps' New Orleans District is primarily accomplished through mitigation areas. In this situation, the landowner coordinates with the Corps to develop and implement a plan to replant the land back into wetland status. The Corps will conduct an evaluation to determine the potential ecological value of the property based on the plan, and assigns a number of credits that the landowner can expect to sell based on the successful implementation of the plan. The landowner will sell these credits for money to replant and manage the land.

The major difference between a mitigation area and a mitigation bank is that for a mitigation area, the landowner receives the money upfront for the restoration work, therefore ensuring a return on the credits that are sold. A mitigation bank, on the other hand, is already restored before credits are sold.

While mitigation banks and areas help to reestablish wetlands in places where they once existed, some scientists and members of the environmental community have raised concerns about the ability of created wetlands to equally replace natural wetlands in their function.

There are a limited number of wetland mitigation areas/banks in the Pontchartrain Basin. Unfortunately, most of the wetland mitigation that is completed occurs away from the areas where wetlands have been destroyed. For instance, in the case of the Basin, many of the mitigation areas are located in another part of the state. As a result, there may be a strong incentive for establishing additional mitigation areas/banks in the Basin so as to ensure the protection of locally threatened, environmentally sensitive areas. Public interest and support would play a major role in helping to establish local mitigation areas/banks.



## General and Nationwide Permits

The Clean Water Act also directs the Corps to issue general permits that grant authorization for a broad type or general categories of activity in a geographic area if they are deemed as having minor impacts on the environment. General permits include regional permits issued by district offices of the Corps that apply only to a specific state or region, while nationwide permits are issued by Corps headquarters and apply nationwide. Once a general or nationwide permit is in place, an individual permit is not needed for a project that meets the conditions set out in these permits.

### **General Permits**

General permits often cover issues such as navigation, bridges, and surveying activities. In Louisiana, many district-wide permits apply to activities that are carried out in the coastal areas of the state. The Corps' New Orleans District office, for example, has authorized a district-wide permit for oil and gas activities, while the Vicksburg District office in Mississippi has issued a permit for the construction of catfish ponds.

Corps' districts can override general permits on a case-by-case basis if they find there is sufficient reason to be concerned about the effects of a project (i.e. when several projects that qualify under a general permit may damage a small geographic area). However, this is rarely done.

The public is only given an opportunity to comment on general permits when they are first being considered or when a permit is being considered for renewal. There is no opportunity for public comment on specific activities that are covered under the general permit, and little or no review is conducted by the Corps for site-specific concerns. Contact the Corps' district office in your area to learn about general permits that may affect your community. See Appendix B for contact information.

### **Nationwide Permits**

The Corps published new Nationwide Permits (NWP) on March 9, 2000. These NWPs became effective on June 7, 2000. The new NWPs limit the maximum acreage of wetlands that can be impacted by activities under a NWP to one-half an acre of wetlands, and most new NWPs require that the Corps be notified of activities impacting more than one-tenth of an acre of wetlands. The NWPs also provide additional protection to "critical resource waters", 100-year floodplains, and streams. To learn more about these new NWPs contact your local Corps district office.



## *Section 401 of the Clean Water Act*

Section 401 of the Clean Water Act gives authority to the individual states to develop, implement, and enforce programs to protect water quality (5). Most states have regulations for implementing Section 401 that are administered by state environmental agencies. In Louisiana, the Department of Environmental Quality (DEQ) has been charged with issuing Water Quality Certificates (WQCs) under Section 401.

Section 401 requires that a person applying for a federal permit, such as a Section 404 permit, must certify that the activity being proposed in the permit will not affect the quality of water resources in the project area. The permit applicant also must provide the state agency (DEQ) with information on how the project might impact water quality. DEQ reviews the permit, the quality of the water resources in the project area, and the state's water quality standards, in order to determine if a Water Quality Certificate should be granted. If DEQ believes that water quality will not be adversely affected (i.e. harmed), a WQC will be granted. On the other hand, if DEQ determines that the project will degrade water quality to the point that the state's water quality standards may be violated, a request for a WQC will be denied. The Section 401 Water Quality Certification process under DEQ is explained on the following page.

While the Section 401 certification process is separate from the Section 404 permit process, they often undergo agency review at the same time. In most cases, if a water quality certificate is needed, the public notice for a project will be listed together with the Corps' notice in a single notice called a joint public notice (JPN). Appendix E has a sample JPN. If a project requires a WQC and is not put on JPN, then a notice will be placed in *The Baton Rouge Advocate*. DEQ does not keep a mailing list for WQC notices.

To find out about the status of a water quality certificate, you must contact the DEQ representative listed on the public notice.



## The Section 401 Water Quality Certification Process

- An application for a Water Quality Certificate is submitted to DEQ by an individual, organization, or business intending to carry out an activity that may impact water quality.
- DEQ reviews the application to make sure the quality of water resources in the project area will not be degraded, or 'adversely affected'.
- The WQC is placed on joint public notice (JPN) with the Corps for comment by all concerned members of the public. Generally the comment period lasts 10 to 20 days, including weekend days. If DEQ does not issue a JPN, then the notice will be placed in The Baton Rouge Advocate.
- After reviewing comments submitted during the public notice period, DEQ will decide whether or not to hold a public hearing to get more information on the project. Hearings are not generally held unless requested by the public or other agencies, and even then they are held very rarely. You may want to write or call your elected officials to ask that they request a public hearing. Announcements for public hearings are posted in the official state journal, The Baton Rouge Advocate, and the official paper of the parish where the project is being proposed. During the public hearing period, there will be an additional opportunity for written and oral comments to be submitted.
- Following a review of all written and oral comments that have been submitted, DEQ can either grant the WQC, issue a WQC with project modifications that help protect water quality, deny the WQC, or waive its certification authority.
- Unfortunately, water quality certification is rarely denied for wetland-related projects because most wetlands have not been assigned water quality standards by the State of Louisiana. In other words, because DEQ often has little information about what levels of pollutants are safe for wetlands (known as water quality standards), DEQ cannot accurately predict the effects of the proposed project on the health of wetlands and waterbodies.



# The Rivers and Harbors Act (Section 10)

The Rivers and Harbors Act prevents navigable waters of the United States from being obstructed (6). Section 10 of the Act requires that anyone wishing to dredge, fill, or build any structure in a navigable waterway and/or a wetland to obtain a permit from the Corps. For example, installing a bulkhead or extending a boat dock on your property would require a permit under Section 10. An activity that will impact wetlands may require Section 404 and Section 10 permits, thus both sections are often included in a public notice. However, in some cases, a project may involve dredging a wetland but may not include placing fill in the wetland, which will only require a Section 10 permit. The permit notification, comment, and review processes under Section 10 are virtually the same as those under Section 404.

# The Coastal Zone Management Act

In 1972, Congress passed the Coastal Zone Management Act (CZMA) to protect the nation's coast by giving states the responsibility of developing and implementing voluntary programs to protect their coastlines (7). CZMA encourages states to develop a Coastal Zone Management Plan (CZMP) in which they define acceptable land and water uses and activities within their coastal zone. The coastal zone of states generally extends three miles seaward and as far inland as necessary to protect the coast. Along the southern United States, for instance, the coastal zone extends a significant distance inland particularly in Louisiana. States with approved CZMPs are eligible for federal funding to help them protect and improve the quality of their coastal areas. In Louisiana, any area that lies below the five foot contour mark (in terms of elevation) is considered to be in the state's coastal zone. (See Appendix A for an illustration of the coastal zone in the Pontchartrain Basin.)

CZMA requires that any person applying for a Section 404 permit for an activity that may impact coastal zone resources must receive a determination from the state that the activity is consistent with the CZMP. In Louisiana, the Department of Natural Resources (DNR) has been charged with the responsibility of implementing the CZMA. Before an activity that may damage environmental resources is carried out in the state's coastal zone, DNR must first issue a Coastal Use Permit (CUP). Activities that would require a CUP include building a subdivision or installing a gas pipeline, while other activities that are considered more minor, such as the construction of a single home, do not require a CUP. Contact DNR for more specific information.



Although a Coastal Use Permit does not in any way take the place of a Section 404 permit, the process for obtaining a CUP is very similar to the Section 404 permitting process. In coastal Louisiana, CUPs and Section 404 permits are often required for a single project. A CUP must be granted before a Section 404 permit is granted. To view a sample CUP, see Appendix F. DNR's permitting decision is published every two weeks in the joint public notices that are sent out to their mailing list and announcements are published in the state journal, *The Baton Rouge Advocate*.

Louisiana citizens can file suit against DNR to appeal a Coastal Use Permit decision under the Louisiana Coastal Resources Program (LCRP). The appeal must be filed within thirty days after the permitting decision is announced. Citizens can also file a petition for reconsideration with the Secretary of DNR. The reconsideration process tends to be the best course of action if information has been made available after the permitting decision has been made, which could have influenced DNR's decision. Such an example would be finding out that an endangered species is located on the project's property. Keep in mind that the reconsideration process can take some time.

You may also choose to appeal the permit decision in court. There are deadlines for appealing permit decisions. To take advantage of this option, it is important to stay aware of these deadlines so as to not to miss your opportunity in court. These deadlines often come up while the reconsideration process is underway.

## **The National Environmental Policy Act**

Passed in 1969, the National Environmental Policy Act (NEPA) seeks to ensure that proper consideration is given before any major federal action is undertaken that could significantly affect the environment or the public (8). NEPA is triggered whenever a federal agency such as the U.S. Department of Transportation or the Corps is proposing a major federal action or project that might impact the environment. The phrase 'major federal action', however, is misleading since under NEPA the Corps' granting of a permit in and of itself is a 'major federal action', regardless of the project's size. Therefore, a 'major federal action' can range from the construction of a subdivision or a single home to the building of a new highway or airport.

Since wetlands are the focus of this guide, the Corps most often will be the federal agency you deal with in the NEPA process. NEPA requires federal agencies to complete an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS). These reports are developed to evaluate potential impacts alternative courses of action have on the



environment and society. During the process of developing an EA or an EIS, the federal agency gathers information from many sources on economic, historic and cultural resources, air and water quality, project alternatives, etc.

### *Environmental Assessments (EAs)*

For projects that are expected to have a low impact on the environment or the public, a federal agency (i.e. Corps) must prepare an Environmental Assessment (EA). The EA determines if a project or activity will have a negative environmental impact, and if so, whether the impact will be significant. If an EA finds that the project will not have significant environmental impacts, the agency will issue a Finding of No Significant Impact (FONSI). However, if the EA finds that the project will cause significant harm to the environment (i.e. the agency decides to issue a Finding of Significant Impact (FOSI)), the agency is required to prepare an Environmental Impact Statement. The permit is then placed on hold until the EIS process has been completed.

For the most part, EAs are not reviewed by the public. However, public reviews are performed if a proposed action is highly controversial.

### *Environmental Impact Statements (EISs)*

An Environmental Impact Statement (EIS) is produced for projects that are expected to have a large impact on the environment or the public. As a result, the EIS process is more complicated and time-consuming than the EA process. An EIS must contain a broad description of the proposed action to be taken, alternatives to the proposed activity or project, and a detailed assessment of its environmental effects. Public review and participation are also a significant part of the EIS process. Federal agencies are required to hold public hearings and to request comments from other federal agencies and the public. Public comments are often accepted at three points in the EIS process: 1) scoping, which is the initial step taken by the agency to determine all the issues that will be considered in the process, 2) when the agency has completed a draft EIS, and 3) when the agency has completed a final EIS.



# **The Sustainable Fisheries Act (Essential Fish Habitat)**

The Magnuson-Stevens Fishery Conservation and Management Act of 1976 includes provisions to protect habitats in the Gulf of Mexico that are important to fishery resources. The Sustainable Fisheries Act (SFA) of 1996, which amended the Magnuson-Stevens Act, introduced provisions for essential fish habitat (EFH). Under SFA, the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service (NMFS) identified habitat in the Gulf of Mexico important to fish, including habitat necessary for fish spawning, feeding, and/or their growth to maturity; such areas are known as essential fish habitat. All of the Gulf's coastal wetlands have been designated as EFH.

SFA requires federal agencies that authorize, fund, or undertake actions that adversely affect EFH to consult with NMFS to assess and minimize impacts of the activities on essential fish habitat. The federal agencies' assessment includes: 1) a description of the proposed action, 2) an analysis of the effects of the activity, including cumulative effects, on EFH and fish species that may be affected, 3) federal agency views regarding the effects of the action on EFH, and 4) proposed mitigation, if applicable. NMFS will review the project and/or public notice and recommend measures or actions that need to be taken to protect EFH. The federal agency must respond to NMFS' comments and their response must discuss the measures that will be taken to minimize the project's impact on EFH.

If the federal agency disagrees with the recommendations, the agency must provide rationale for issuing the permit. Although NMFS does not have the authority to veto (override) a decision made by a regulatory agency to grant a permit, it is helpful to have NMFS comments in the administrative record of the permit decision.

## **The Fish and Wildlife Coordination Act**

The Fish and Wildlife Coordination Act protects the quality of the aquatic environment needed for fish and wildlife resources. Any time the Corps proposes to control (dam) or modify a waterbody, or before issuing a permit for an activity that will impact a waterbody, including any associated wetlands, the Corps must first consult with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS). The consultation is to ensure that the environmental value of the water body or wetland is considered in the decision-making process. The consultation



process is generally initiated when the Corps sends FWS or NMFS a public notice for a Section 404 permit. FWS or NMFS reviews the permit notice and then may submit comments to the Corps addressing any concerns about the potential environmental effects of the project, including suggestions on how the project's environmental impact may be reduced.

## **The Endangered Species Act**

The Endangered Species Act (ESA) protects animals and plants in danger of becoming extinct. A plant or animal species becomes protected under the Act when the Secretary of the Department of the Interior lists it as endangered or threatened. Once a species is listed, the Act prohibits the "taking" of that species. Importantly, "taking" includes the harming or altering of habitat that the listed species relies on for its survival.

The ESA requires that the Corps consult with the U.S. Fish and Wildlife Service (FWS) prior to issuing a permit or taking any other action so that the agency can ensure the activity will not harm a listed species. FWS is consulted when a Section 404 permit application indicates, or when the agency receives information from an independent source, that an activity may affect a threatened or endangered species. FWS will then complete a formal review to determine the project's impact on that species and recommend measures, including denial of the permit, to reduce or eliminate the threat posed by the project or activity.

## **STATE LAWS AND REGULATIONS**

### **The Louisiana Scenic Rivers Act**

The Louisiana Scenic Rivers Act was passed in 1970 by the state legislature to preserve, protect, and enhance the wilderness qualities, scenic beauty, and ecology of the state's free-flowing rivers, streams, and bayous (9). The Louisiana Department of Wildlife and Fisheries (DWF) is charged with overseeing the Louisiana Natural and Scenic Rivers System. As defined by law, a natural and scenic river, stream, or bayou is one that is free-flowing and has not been channelized, cleared, or altered over the past 25 years, has native vegetation covering its banks, and has no or few manmade structures located along it.

DWF considers a number of factors when recognizing a waterway in the program. These include fish and wildlife habitat, the presence of protected/rare/endangered/threatened species, water quality, historic and archaeological features, scenic value, and recreation. To date more than



1,300 miles of waterways have been declared part of the Natural and Scenic Streams Program. To find out if a waterway in your neighborhood has been recognized as a Scenic Stream, contact the DWF office. For contact information, see Appendix C.

Before an activity can take place along a waterway in the Scenic Rivers Program, a permit must be issued by DWF. An applicant must also have all other permits needed (i.e. Section 404, Water Quality Certificate) from the appropriate regulatory authorities before a permit is granted.

When you participate in the regulatory process, it is important to know if a waterway that is involved in the project is part of the Scenic Streams Program. If the waterway is recognized by the program, be sure to include this point in your written or oral comments.

## **The Louisiana State and Local Coastal Resources Management Act**

This Act was authorized in 1978 to help establish Louisiana's coastal management program and assist coastal parishes in developing local voluntary programs. The Louisiana Department of Natural Resources (DNR) is the lead agency charged with directing the development and oversight of the coastal programs. All coastal programs must meet specific criteria designated by the state. To date, seven parishes in the Pontchartrain Basin have approved programs: Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, and St. Tammany Parishes. For more information on coastal programs in these parishes, contact their program office. (See Appendix J for contact information.) Recall that DNR requires coastal use permits (CUPs) for activities that occur in the state's coastal zone; in areas that are below the five foot contour.

Under the law, parishes that have approved programs take on certain coastal use permitting responsibilities that are normally given to DNR. These are called 'uses of local concern'. Uses of local concern generally involve activities that require a coastal use permit that do not occur on a state waterway. The building of a subdivision or commercial facility are examples of uses of local concern. Therefore, uses of local concern that require a coastal use permit are reviewed by the parish's program representative rather than DNR's Coastal Management Division staff. DNR retains authority to review coastal use permits for uses of state concern in parishes with approved programs. A use of state concern includes an activity being proposed by a state or federal agency, one that occurs on state property, one that may significantly affect the parish, or an energy-related use (e.g., an oil and gas pipeline).



# LOCAL LAND USE REGULATIONS AND POLICIES

## Local Land Use Policy and the Environment

The manner in which land is used, maintained, and developed is an important component in promoting and ensuring the integrity of land and water resources. Over the past several decades, the Pontchartrain Basin has experienced a significant decline in water quality and has undergone a substantial loss of important wetland and wildlife habitat. Since the Lake and Basin provide numerous benefits to the surrounding communities, there is a serious need to preserve and protect them in order to support the environmental, social, and economic health of the region.

Local land use regulations, policies, and ordinances direct the way land is developed, from determining the appropriate lot size for homes in a subdivision to placing restrictions on the amount of runoff that can come from property under construction. In this sense, land use regulations have a major impact on the quality of environmental resources. If land use policies fail to consider or protect the environment, development often results in environmental damage, such as destroying pristine natural habitats, disrupting wildlife, and introducing toxic pollutants into nearby waterways.

Increasing development in the Pontchartrain Basin has had a direct impact on the quality of our natural resources. On the North Shore of the Lake, for example, the construction boom has resulted in destroying hundreds of acres of wetlands, endangering rare wildlife habitats, and polluting local streams and rivers, rendering them off limits to swimming and fishing.

Citizens have the potential to influence land use regulations and thereby protect the environment. By providing input and comment on local land use ordinances and policies, informed citizens can help ensure that regulations consider environmental resources. Regulations, for example, can identify unique open space areas that should be protected or require buildings to be constructed a specific distance from a wetland or waterway. There are many opportunities to protect resources through land use policy.



# Protecting Wetlands Through Local Land Use Regulations

In the Pontchartrain Basin, local land use regulations often are the most effective tools to protect natural resources. Federal and state wetland regulations must be consistent with regulations established by local communities. If a project does not get approved at the local level by the planning and zoning authority, it cannot receive a federal or state permit.

On the other hand, experience has shown that development proposals that are approved and permitted at the local level almost always tend to be approved by the U.S. Army Corps of Engineers, the Louisiana Department of Environmental Quality, and the Louisiana Department of Natural Resources. Moreover, once a developer makes a permit request to one or more of these agencies, it is much more difficult for a project to be fought by local citizens due to the limited resources available to them (e.g., money, time). Clearly, if local citizens can prevent a development proposal from being approved by their local planning and zoning commission, or other appropriate authority, the project has little chance of moving any farther in the permitting process.

## Zoning and Rezoning Land

Sometimes events that occur even before a development proposal is made can determine the outcome of a project. Frequently, the success of a proposal depends on the way a parcel of land is zoned. Sometimes a property owner must make an application to their local planning and zoning commission to change the zoning on a parcel of land so that they can pursue a development project. Without the proper zoning designation, a developer cannot proceed any further in the permitting process and would not be able to receive any other necessary permits, such as a building permit.

St. Tammany Parish, for instance, has zoning laws but much of the land is being rezoned from agricultural and low density suburban to commercial and high density suburban. This rezoning and the resulting development is taking a tremendous toll on the parish's environment. Twenty-one of the parish's twenty-two naturally occurring habitat types are in decline, and all but a few waterways are off-limits to swimming and fishing (9). Areas of the parish that were rural just a few years ago are now being replaced with strip malls and subdivisions. More and more homeowners are beginning to complain about flooding in and around their homes.



In Louisiana, municipalities and parishes are not required to develop land use regulations to monitor and control development in their communities. Instead, the cities and parishes must take their own initiative in managing growth by developing their own land use regulations. Therefore, citizens must encourage sound, environmentally responsible land use policies in their communities. By ensuring that environmentally sensitive land use policies are in place and are being enforced, citizens can help to make great strides in protecting the Basin's resources.

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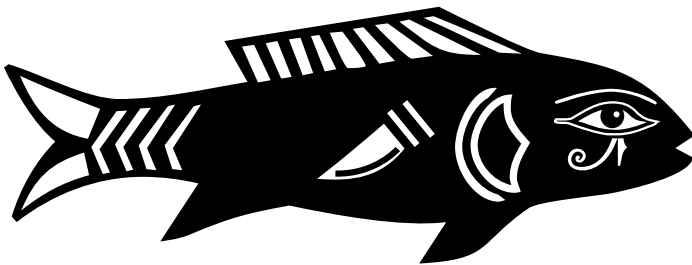
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# How Citizens Get Involved in Protecting Wetlands



# PROTECTING WETLANDS THROUGH THE PERMITTING PROCESS

One of the most effective ways to protect wetlands is to get involved in the permitting process. Projects that destroy wetlands require permits from both federal and state agencies. When deciding whether or not to issue a permit, these agencies are required by law to ask for public input to determine if a project is in the public's interest. By providing your viewpoints on a proposed project, you may help stop the destruction of valuable wetlands, or reduce a project's ecological impacts.

The destruction of wetlands is more common than you may think - it occurs every day. The construction of docks, piers, boat launches, residential subdivisions, oil exploration structures, maintenance dredging, and gas pipeline installation, are all projects that can involve the dredging and filling of wetlands. Each project, no matter how large or small, has an impact on our resources. These impacts combined together have an enormous effect on the environment. This is known as a *cumulative effect*.

As you learned in the previous chapter, there are many laws and regulations that require people to obtain permits before beginning projects that impact or may impact wetlands. This chapter will provide tools to help you effectively participate in the permitting process. Please note that a variety of wetland manuals were used to develop this chapter. Information on these materials is included at the end of the chapter.

## Public Notice of a Permit Application

After a wetlands regulatory agency has reviewed the permit application for a project, the agency is required to advertise a public notice to the adjoining landowners of the project area and the agency's mailing list. The agency also will publish a notice in a journal of record called the Federal Register, if a new general permit is being considered or if modifications to existing general permits are being proposed. The Federal Register is a daily publication of all government public notices. It is published by the National Archives and Records Administration and can be accessed at your local law library or may viewed on the internet at [www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).



Since the Corps, the Louisiana Department of Environmental Quality (DEQ), and the Louisiana Department of Natural Resources (DNR) are responsible for reviewing applications that involve wetlands, there is no single source of public notices. Frequently, these agencies will release a public notice together called a joint public notice (JPN). Usually JPNs will include the Corps, DEQ, and DNR, or just the Corps and DEQ with DNR's notice being separate. When sending comments on a JPN, you have to send your letter to all of the agencies listed on the notice.

In order to receive free copies of these public notices, you must call or write the Corps and DNR with a request to be placed on their public notice mailing list. It is important to get on the mailing lists of both agencies to ensure that you will receive all of the notices issued for your area of interest. Addresses of these agencies are listed in the box on the next page and in Appendix B. You can receive notices for any parish from the Corps. DNR's mailing list for coastal use permits is not limited to just activities in the coastal zone of the Pontchartrain Basin, so you will receive notices for all projects in Louisiana's coastal zone.

Though DEQ does not have a mailing list, if a water quality certificate is required for a project, a joint public notice is usually issued with the Corps. Therefore, if you are on the Corps' mailing list, you should get most of the WQC notices via JPNs. Projects that require a WQC but are not placed on JPN will be announced in *The Baton Rouge Advocate*.

Keep in mind that projects which fall under Section 404 general permits do not always require a permit application and they are not posted for public notice.

Visit the Lake Pontchartrain Basin Foundation's website at [www.saveourlake.org](http://www.saveourlake.org) and click on Action Alert to access information on public notices and public meeting and hearing event announcements that the Foundation needs your assistance on. You can access information on permit actions and cease and desist orders in the Basin by visiting, 1) New Orleans District Corps at [www.mvn.usace.army.mil](http://www.mvn.usace.army.mil) (click on Regulatory, then Current Regulatory News and scroll down to Issued, Proffered, & Denied Individual Permits and Cease & Desist Orders), and 2) Vicksburg District Corps at [www.mvk.usace.army.mil](http://www.mvk.usace.army.mil) (click on Permit Public Notices).

The permit application notices that you will receive will look similar to the one provided in Appendix E. When reviewing the permit, there are several things you should take into consideration: Who is applying for the permit? Where will the project take place? What is the nature of the project? What is the size of the project? How many acres of wetlands will be directly or indirectly impacted?



Sometimes you will find that a public notice does not have as much information on a project as you may need. Frequently notices lack information such as drainage, susceptibility to flooding, how the property is zoned, the type of wetland habitat found on the property, activities that have been previously permitted on the property, and projects that have been permitted or are under permit review on properties abutting the project area. You may also find that the maps included in the public notice are difficult to interpret or lack information you want. You may find it useful to contact the regulatory agency that has issued the notice to get more information or a clearer explanation of what information the agency will be using to make its permit decision. The regulatory agencies will each keep their own files on a permit application. You have a legal right to review all of the material in these files related to the application.

## **Addresses of Agencies that Regulate Activity in Wetlands**

**Louisiana Department of Environmental Quality**  
Water Pollution Control Division  
P.O. Box 82135, Baton Rouge, LA 70884-2135  
(225) 765-0219  
[www.deq.state.la.us](http://www.deq.state.la.us)

**Louisiana Department of Natural Resources**  
Coastal Management Division  
P.O. Box 44487, Baton Rouge, LA 70804-4487  
(225) 342-7591 or (800) 267-4019  
[www.dnr.state.la.us](http://www.dnr.state.la.us)

**U.S. Army Corps of Engineers**  
New Orleans District Office  
Eastern Evaluation Branch  
P.O. Box 60267, New Orleans, LA 70160-0267  
(504) 862-1270 or (504) 862-1950  
(504) 865-1121 (Main Operator)  
[www.mvn.usace.army.mil](http://www.mvn.usace.army.mil)

Vicksburg District Office  
Permits Section  
4155 East Clay St., Vicksburg, MS 39180  
(601) 631-5721  
(601) 634-5000 (Main Operator)  
[www.mvk.usace.army.mil](http://www.mvk.usace.army.mil)



# Written Comments

Written comments are used to present your views on a permit application to the reviewing agency. Your comments should include the permit application's file number and applicant's name that appears on the public notice. A public comment period extends from 10 to 30 days after a permit notice is posted, including weekend days. Therefore, it is important to read public notices carefully to determine when written comments are due to the regulatory agency. See Appendix E for a step-by-step overview of how to interpret a public notice.

Remember that the purpose of submitting comments is to build the public record of information on a particular project. Your comments should be based on and include facts, scientific evidence, personal experiences, photographs, and newspaper articles that illustrate the importance of the wetlands that will be impacted. Up-to-date maps can be valuable tools as well by helping to identify other existing or ongoing projects and structures within and near the proposed project area. Make use of historical stories and cultural activities that relate to the wetlands that will be impacted. For example, if you know that your great-grandfather used a certain wetland for fishing and hunting, it is important to pass the information along to the regulatory agency(s). This way the agency can consider the area's historic value when making their permit decision. The views that you offer may provide new insight.

By submitting comments, you are building the public record and, in doing so, the case against the project. If you believe that the project is complicated and destructive enough for the agency to hold a public hearing, you should request that one be held. Be sure to clearly explain why you feel a hearing is necessary and how the agency and the public will benefit from it. You may also request an extension of the written comment period if you feel as though more time is needed for completing comments or if you received the notice close to the comment deadline. Extensions are not always granted, but some agencies may give you an additional 7 to 10 days to comment when a request is made.

There are several opportunities for you to make written comments during the permitting process:

- During the comment period after the permit is posted for public notice.
- During a designated comment period after a public hearing is held.
- During the EIS scoping process or following the announcement(s) that the draft or final EIS is available for public comment.



There are several specific issues you should focus on when making comments on a project that affects wetlands. Keep in mind that these guidelines may be used for both written and oral comments:

- A** Do feasible and practicable (i.e. practical) alternatives to this project exist? If you know of any alternatives that may avoid wetland destruction, submit them as alternatives to the proposed project and explain why they are less damaging to wetlands.
- B** Is the project water dependent? Does it need to be located in or near water?
- C** Is the project being proposed with the public's interest in mind? In other words, would the project benefit the surrounding community?
- D** Are there public and private resources that may be disturbed? For example, are there local fisheries or recreational fishermen who would be affected by this project? Is a nursery ground for fish or shellfish going to be impacted?
- E** Are there threatened, endangered, or other important plant and animal species nearby that would be impacted by this project?
- F** Are the impacts to the wetlands as small as possible (i.e. minimized)?
- G** Are the negative impacts to the environment being compensated for by the applicant (i.e. wetland mitigation)?
- H** Will the project degrade the water quality of water resources nearby?
- I** Have there been other projects that destroy wetlands concentrated in the same geographic area? If other projects have been permitted, the new project will only increase the amount of wetlands destroyed in the region. This relates to the cumulative impact that several projects have together on wetlands and other ecological resources.

Written comments should be sent to the regulatory agency that is considering the permit. The name and address of the agency representative who should receive your comments will be listed on the public notice for



the permit. Be sure to include the permit application number or other reference number listed on the permit in your letter. You can also carbon copy (cc) your comments to the head of the agency, your elected officials, the media, and other organizations or individuals that may have an interest in the project.

In the case of a joint public notice, you will have to send your comments to all agencies listed on the notice. Be sure to properly reference the permit application numbers and project managers of the agencies. Project managers are the people charged with reviewing the permit.

## *Following Up with the Agencies*

When you submit comments on a public notice, you may not get an acknowledgement that your comments have been received by the regulatory agency. It is important to stay informed of the permitting status of the project; the permit reviewer's phone number is listed on the public notice. To ensure that your concerns and questions that you raise in your letter are addressed, you may want to regularly contact the agency representative that your comments were directed toward. You will not be contacted directly from the agency when a permitting decision is made. Corps permitting decisions are announced in joint public notices and are also available on-line at their website. To check on the status of a water quality certificate, you must contact the DEQ representative listed on the public notice. DNR's permitting decisions are published every two weeks in the joint public notices sent to their mailing list and announcements are published in the state journal, *The Baton Rouge Advocate*.

## **Public Hearings**

The purpose of a public hearing is for the regulatory agency to obtain more information about the proposed project. Because of the time and expense associated with hosting a hearing, agencies are more likely to hold a hearing when a project is large, complicated, and there is controversy surrounding the permitting of it. However, if a large number of people raise concerns about a project or request a hearing in their written comments to the regulatory agency, the agency may hold a hearing to give citizens and organizations an opportunity to submit oral comments. Here are some things to keep in mind about public hearings:

- ▶ Announcements for public hearings are posted in the official state journal (*The Baton Rouge Advocate*) and the official paper of the parish where the project is being proposed.



- ▶ Public hearings are usually held two weeks to thirty days after the public notice of the hearing has been issued.
- ▶ During the hearing, those who sign up to speak are allowed anywhere from 3-15 minutes to present their viewpoints, depending on the number of people who have signed up to speak.
- ▶ If you do not wish to speak, you may submit written comments at the hearing. Because the hearing will most likely be recorded, it is important to request that an agency representative state on the record the deadline for sending written comments on the project.
- ▶ In general, written comments may be accepted by the agency for 10 to 30 days after the hearing.

## *Oral Comments*

Oral comments presented at a public hearing should be considerably shorter than written comments because of the time restrictions you have when speaking. It is a good idea to speak briefly and concisely about your concerns at the hearing and support your testimony with detailed, comprehensive comments in writing.

If a request in your written comments for a public hearing is not granted, citizens are free to organize their own public meeting. Make sure you have an agenda, rules for discussion, a designated leader, and a place to hold the meeting. In order to encourage as much participation as possible, use flyers, press releases, phone trees, and public service announcements to advertise the event.

## **Reducing the Environmental Impacts of a Proposed Project**

During the public comment period an opportunity does exist for minimizing the impacts of a proposed project on the environment. State and federal regulatory agencies may submit comments on a proposal during the public comment period. In some cases, the agencies require the permit applicant to redesign or modify the project to reduce its expected impact on the environment. A project may be redesigned for a number of reasons - to avoid destroying an old stand of trees, to protect wetlands from disturbance, to cut back on the amount of fill needed for the project, or any number of other reasons. Citizens can include alternatives to the proposed project in their comments as well. Often times your comments will result in reducing the environmental impacts of a project.



# Freedom of Information Act (FOIA)

As a citizen activist, it is important that you have access to all information regarding wetland projects in your area. You can use information in government documents to submit stronger comments, speak knowledgeably with regulatory agencies, and accurately inform the media about the specifics of a proposed project. The Freedom of Information Act (FOIA) gives citizens the right to obtain and inspect copies of federal government documents. (See Appendix G for a sample FOIA request letter.) A request for this information must be made to the agency in writing. After receiving a written request, the federal agency is required by law to respond to your request in ten days. The response may only be an acknowledgement of receipt of your request and a statement that the information you requested will be sent to you.

You are required to pay for the cost of searching for and copying the documents you request unless you are requesting information in the public interest. For example, if you want a copy of the final permit decision issued on a local project located in wetlands used to fish and boat, the FOIA request you submit would be considered to be in the public interest because the permitted project may degrade water quality and ultimately threaten public health. Keep in mind, however, the agency may still ask you to pay, even though you do not have to.

Certain states along the Gulf coast, including Louisiana, have statutes similar to FOIA that give citizens the right to request and receive state government documents in return for covering the copying costs. If you are not mailed a notice of the agency's final permit decision, a records request can be used to obtain this information.

## Appealing An Improper Decision on a Permit

Under federal law, a citizen is allowed to appeal a permit if they feel an improper permitting decision was made. You can appeal a decision after the Corps has issued a permit, denied a permit, or ruled that no wetlands would be involved in the project. The Corps has no internal agency appeals process so you must appeal a permit in the federal court that presides over the project area.

There are two avenues for appealing a permit. For lawsuits that involve water quality/wetlands and their related regulations, a lawsuit may be brought against the Corps under the Clean Water Act. In this case, you have sixty days to send the Corps a notice of intent-to-sue with information



detailing the reasons for the appeal. Lawsuits can also be brought under the Administrative Procedures Act (APA). Lawsuits under APA raise concerns about the EIS completed on a project or the fact that an EIS should be completed on a project but was not. A lawsuit can immediately be brought against the Corps under these pure National Environmental Policy Act (NEPA) claims. Be aware that lawsuits are only to be undertaken in rare cases.

If possible, get in touch with a lawyer before the permit is approved to get help in preparing your comments and to assist in responding faster when a permit decision is reached. In some situations it may be possible for a citizen to get free legal services from lawyers who work for non-profit organizations. See Appendix H for organizations in your area that may provide free legal services.

## Monitoring the Permit Applicant

Whether or not the permit is issued to the applicant, it is important to keep a watchful eye on the proposed project area. If a permit is granted, it is important to make sure that the applicant is following the rules or guidelines stated in the permit. If the permit is denied, you should monitor the project site to ensure that the project does not move forward anyway. If you see any unauthorized activity taking place in a project area, immediately contact the permitting agency so that they can investigate your concern.

## Enforcement and After-the-Fact Permits

If you see problems in your local wetlands such as potentially unauthorized filling of the area or tree harvesting, the discharge of pollution, or an oil spill, contact the appropriate regulating agency as soon as possible. It may turn out that an activity or project that has not been permitted is being carried out. In some cases, a project may have a permit but the activity that is being carried out is not covered by the permit. Follow these guidelines when reporting a problem:

- Give as much information as possible. The more information you can pass along to the agency, the faster the agency can respond to the problem.
- Give the exact location of the problem. Use landmarks such as roads, highway or river mile markers, and buildings. Take photographs to document the problem. If possible, indicate the location on a map.



- ▶ Give specific details. Tell the agency about on-going projects in the area such as the type of materials dredged or dumped, the time(s) and date(s) of the activity, and the names of possible violators.
- ▶ Inform your community. Tell members of your community about the problem and urge them to report the activity to the regulatory agency. The more members of your community you can get to report a potential violation the better.

## To Report Violations Contact These Agencies

### **Louisiana Department of Environmental Quality**

(225) 765-0634 (*Enforcement*)

### **Louisiana Department of Natural Resources**

Coastal Management Division

(225) 342-7591 or (800) 267-4019

### **U.S. Army Corps of Engineers**

New Orleans District Office

(504) 862-2270 (*Surveillance and Enforcement Division*)

Vicksburg District Office

(601) 631-5721 (*Permits Division and Enforcement Division*)

After receiving a report of a problem, an agency will check to see if the activity in the area is covered by a permit. If the agency finds that an activity or project is unauthorized and requires a permit, an investigation will be conducted to determine what, if any, penalties are necessary. In many cases, an investigation may take as long as several months. If the agency does find that a violation has occurred, often it will issue a cease and desist order. A cease and desist order threatens to fine and imprison the violator if the activity is not stopped immediately. Therefore, all work related to the project must be stopped.

After a cease and desist order is issued, it is important to keep up-to-date on the status of the case. Contact the regulatory agency regularly to get updates. Find out if the landowner or developer has applied for an after-the-fact permit. After-the-fact permits are applied for in cases where the applicant is applying for the permit after an activity requiring a permit has already begun.

If an after-the-fact permit is being considered, you may file comments on it just as you would with an individual permit, or you may file a citizen enforcement action to oppose it. A citizen enforcement action (i.e. lawsuit)



allows a private citizen to stop activities in wetland areas that have not been permitted or have been suspended by EPA or the Corps. It is important to proceed carefully with a citizen enforcement action. Contact a lawyer or an organization that specializes in environmental litigation. See Appendix H for organizations in the Pontchartrain Basin that may be able to provide free legal services.

Although you may report a permit violation to an agency, you may be dissatisfied with the outcome of the enforcement action brought against the violator. Regulatory agencies often admit that their ability to bring enforcement actions against violators is limited by the resources they have available (e.g., staffing, time, costs). However, violations reported by citizens can result in changing the way an agency handles permits for similar activities in the future, or it may open up new lines of communication. Regardless, citizen monitoring can be a powerful tool to protect wetlands and waterways.

## **PROTECTING WETLANDS OUTSIDE OF THE PERMITTING PROCESS**

While citizen involvement in the permitting process can be an effective way to protect wetlands, there are other approaches that you may use to try to stop environmentally destructive projects. It is critically important that you avoid limiting your effort to a single path. You and your community must take advantage of your options by organizing on many fronts to aid in the viability and longevity of your effort. You must structure your effort so that it can endure; you cannot expect to win a battle and rest, for you may find that there is always something to overcome.

### **Get Politically Active**

Generally, politics can play a significant role in projects that impact wetlands and other environmental resources. While the outcome of a project does not rely solely on political factors, local and state level politics may help to steer a project through the permitting process. The case of Clara and Jerry Crawford presented earlier in the guide demonstrated just how important citizen involvement and influence in politics and the community can be.



Although citizens have an obligation to keep abreast of proposed projects and permits, it is very important for them to make sure local and state elected officials also are informed. You can do this by writing letters, making phone calls, and arranging meetings with them. Be sure to get other members of your community involved in contacting officials since the more input they receive from the public, the more likely they are to listen and respond to your concerns.

To find the state elected officials that represent your community, visit the Louisiana state legislature's homepage at [www.legis.state.la.us](http://www.legis.state.la.us). You can also refer to the following:

### **The Louisiana House of Representatives**

P.O. Box 94062, Baton Rouge, LA 70804-9062  
(225) 342-7263 (phone) or (225) 342-8336 (fax)  
<http://house.legis.state.la.us/>

### **The Louisiana Senate**

P.O. Box 94183, Baton Rouge, LA 70804  
(225) 342-2040 or (225) 342-0617 (fax)  
<http://senate.legis.state.la.us/>

## **The Media**

The media can be a very effective tool to inform the public about a particular project. A project may be brought to the attention of interested politicians, local government agencies, and other organizations and citizens through television, radio, and newspaper reports. The media can be your ally or your enemy depending on how wisely you use the publicity it gives to you and/or your organization. If your position on a project is not well developed and lacks scientific or cultural facts to support it, your credibility with both the media and the public could be damaged. However, by developing a credible relationship with newspapers, TV, and radio stations, you can provide the public with valuable facts and perspectives that are presented thoroughly and accurately.

There are several ways to make use of the media. You can:

- ▶ Use public service announcements on radio and television to announce public hearing dates, comment deadlines, or public meetings for a proposed project. Public service announcements are usually free and need to be only 2-3 sentences long.



- Use a press release to inform the media of the who, what, where, why, and when of a project and to explain how it relates to you and your community. A press release is a written statement, not more than one page long. Be sure to include your contact information at the top of the press release so that the media can reach you if they need more information. See Appendix I for a sample press release.
- Use press conferences or events to give short presentations and question and answer sessions about the project as well as your views. Be sure to send a press advisory to the media at least seven days prior to an event, or fax it three days prior to the event. A press advisory describes the time, location, and the nature of the press event. Press conferences will attract more attention than a press release so it is important to use them when you have a lot of community support or have new information to share regarding a project.
- For more ideas on how to make the best use of the media, attend media workshops sponsored by larger regional or national environmental groups and organizations. These workshops are often free and open to local activists.

## **Support Programs that Help to Protect Wetlands**

There are a number of ways wetlands can be protected within and outside the regulatory arena. Keep in mind that both regulatory and non-regulatory approaches should be used to protect and restore wetlands. No one strategy is the sole solution to preserve these important habitats. Rather all approaches should be used to complement one another. Some of these strategies are outlined below.

### ***Local Programs***

There are several different wetland protection programs that have been put into place by local, state, or federal policy makers. On the local level, zoning regulations or ordinances may exist to protect against the development of wetland areas. If local ordinances are not in place, you can meet with local policy makers and explain to them the need and support that exists for local wetlands protection. Refer to the discussion at the end of Chapter Three to learn how local land use regulations and policies can be used to protect environmental resources.



## *Federal Programs*

### Coastal Wetlands Planning, Protection, and Restoration Act

Laws that protect wetlands exist at the state level as well. For instance, the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) of 1990 sets aside \$40 million every year for coastal Louisiana wetland restoration projects. A task force made up of local, state, and federal agencies and organizations is responsible for implementing the law. Citizens can take part in the CWPPRA process by proposing projects of local concern, providing input on proposed restoration projects by writing to a CWPPRA task force member, or attending public hearings held by the CWPPRA task force. See Appendix B for contact information.

### The Wetlands Reserve Program and the Conservation Reserve Program

Non-regulatory federal programs for wetland protection have also been created and are available to citizens on a voluntary basis. These programs include the Wetlands Reserve Program (WRP) and the Conservation Reserve Program (CRP), both of which are administered by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS). WRP allows interested landowners to develop a conservation easement or enter into a cost-share restoration agreement with NRCS to protect and restore lands (1). While funding is available for WRP until 2002, the future of the program is unsure.

CRP is another voluntary approach whereby landowners commit to establishing various long-term conservation practices for a 10-15 year period (2). Participating landowners receive annual rental payments for the land and cost-share assistance in return for protecting land through the CRP. Other approaches to wetlands protection include donating land; using conservation easements, deed restrictions, or covenants; land purchases; the state assuming ownership of a land parcel (known as eminent domain); and wetland restoration programs. Citizens can take part in the CRP and WRP by contacting their state agencies to get them involved.



## *Constructed Wetlands*

As you learned earlier, wetlands are important in maintaining water quality. Since wetlands act as a natural cleansing system to remove excess nutrients and chemicals, wetlands can be designed and constructed to target specific pollutants. Wetlands can be constructed to remove pollutants associated with stormwater runoff as well as metals from logging and mining operations, and as a means to treat sewage effluent from wastewater treatment facilities. The ability of constructed wetlands to effectively remove nutrients and pollutants depends on a number of factors such as the type of plants and soil selected and the volume of water the system can handle. Furthermore, constructed wetlands can be developed in areas where wetlands never existed. Presently a great deal of research is being done on the effectiveness and success of constructed wetlands.

## *Utilizing the Functions of Existing Wetlands*

Projects are also underway nationwide to utilize the natural abilities of wetlands. In some cases, existing tracts of wetlands are being used to remove toxics and pollution found in stormwater or to help treat sewage wastewater. For example, the City of Mandeville in St. Tammany Parish currently has a project underway to use a tract of wetlands near its municipal wastewater treatment plant as a part of the process to treat sewage.

## *Land Trusts*

Land trusts are nonprofit, voluntary organizations that work with landowners to place land in protective programs using a number of different conservation tools (3). Land trusts often focus on protecting open space that is being threatened by development through conservation easements that permanently restrict the uses of land, land donations and purchases, and strategic estate planning. Throughout the country, local, regional, and national land trusts abound, working to preserve and protect all sorts of open space, including wetlands, wildlife habitat, shorelines, forests, farms, historic estates, and recreational areas. Land trusts target all types and sizes of open space. Currently, there are no active land trusts in the Pontchartrain Basin. See Appendix D for information on regional, state, and national land trusts.



# Forming a Citizen Group to Protect Wetlands

If you find your community needs to establish a group to protect wetlands and environmental resources, it is a good idea to contact existing historical, cultural, or environmental organizations to determine:

- 1 If a local group is already established in your area. You may want to join and/or volunteer for this group. See Appendix C for organizations that work on wetland issues in the Pontchartrain Basin.
- 2 If no local group exists, other local organizations may be able to provide structure, guidance, and possible financial assistance to create your group. Also ask about workshops or trainings that may be available for citizens who are interested in protecting local wetlands. You may also want to partner with an existing organization to aid in your effort.

When establishing a group it is important to focus on a small geographic area that all your members are directly interested in (i.e. a river, stream, or watershed). A small geographic region will allow your group to monitor wetlands more closely and frequently. Being aware of new projects in that area will enable you to be proactive and organized about wetland protection, rather than reacting to a project that is already well into the permitting process.

## Citizen Involvement in Local Land Use Policy

There is a direct and critical link between land use and the quality of our environmental resources. Only by becoming aware and involved can citizens make sure that our lands and waters are improved and protected for this and future generations. In order to help direct the development of land use regulations in your community, there are a number of ways in which you can get involved in guiding local land use decisions. Here are some ideas for you to consider:

- Learn more about and promote alternatives to unplanned development.
- Participate in planning efforts in your community. Become familiar with the planning and development processes and standards of your town or parish.



- Ask your local officials to establish and support planning and zoning regulations. Attend planning and zoning commission meetings to stay informed of local development plans and to share your input on proposed projects.
- Make your voice heard! Get involved in local planning and zoning decisions. Testify at public hearings on specific development projects (good and bad) that may significantly affect water quality or promote unplanned development.
- Encourage your local officials to develop erosion and sediment control ordinances.
- Become an active member of a local organization that advocates environmentally sound growth and development.
- Encourage your local officials to support development projects that are environmentally sensitive and that promote low-impact recreation.
- When purchasing a home, avoid properties in rural locations that are not officially designated as growth areas by the local government, rather they are unincorporated.

## Simple Ideas to Protect Wetlands

Whether you are part of a local wetland protection group or you are just someone concerned about the destruction of wetlands, you can help protect wetlands with these simple efforts:

- Receive and review public notices and submit comments when appropriate.
- Develop a network of contacts including, but not limited to, landowners, elected officials, regulatory agencies, citizen groups, environmental groups, and fishermen and sportsmen groups. Educate them about wetland projects in your area and what they can do to help protect wetlands.
- Monitor wetlands in your community on a regular basis. This will help you recognize projects that have not been permitted. See the discussion presented earlier in this chapter for more information about what to do if you discover an unpermitted project in your area.
- Gather information on the historical, cultural, and economic functions and values of the wetlands in your region. For example, were the waters historically used by indigenous peoples? Are there commercial or recreational fishing opportunities in these wetlands? This will give you an information base that can be used when writing comments or speaking at a public hearing.



- Keep track of cumulative wetland loss. In other words, if several projects have been permitted which each destroy a small area of wetlands, remember that the combination of all wetland losses may be quite significant. You can talk about cumulative impacts in written or oral comments that you submit to the regulatory agencies.

## References

- (1) U.S. Department of Agriculture. "Wetlands Reserve Program Fact Sheet." [[www.nhq.nrcs.usda.gov/OPA/FB96OPA/WRPfact.html](http://www.nhq.nrcs.usda.gov/OPA/FB96OPA/WRPfact.html)]. Accessed January 18, 2001.
- (2) U.S. Department of Agriculture. "USDA Prepared to Implement New, Environmentally-Focused Conservation Reserve Program." [[www.ibiblio.org/london/agriculture/forums/Patricia-Dines/msg00008.html](http://www.ibiblio.org/london/agriculture/forums/Patricia-Dines/msg00008.html)]. Accessed January 18, 2001.
- (3) Land Trust Alliance. "Conservation Options for Landowners." [<http://www.lta.org>]. Accessed November 7, 2000.

## Wetlands Manuals Used to Develop This Chapter

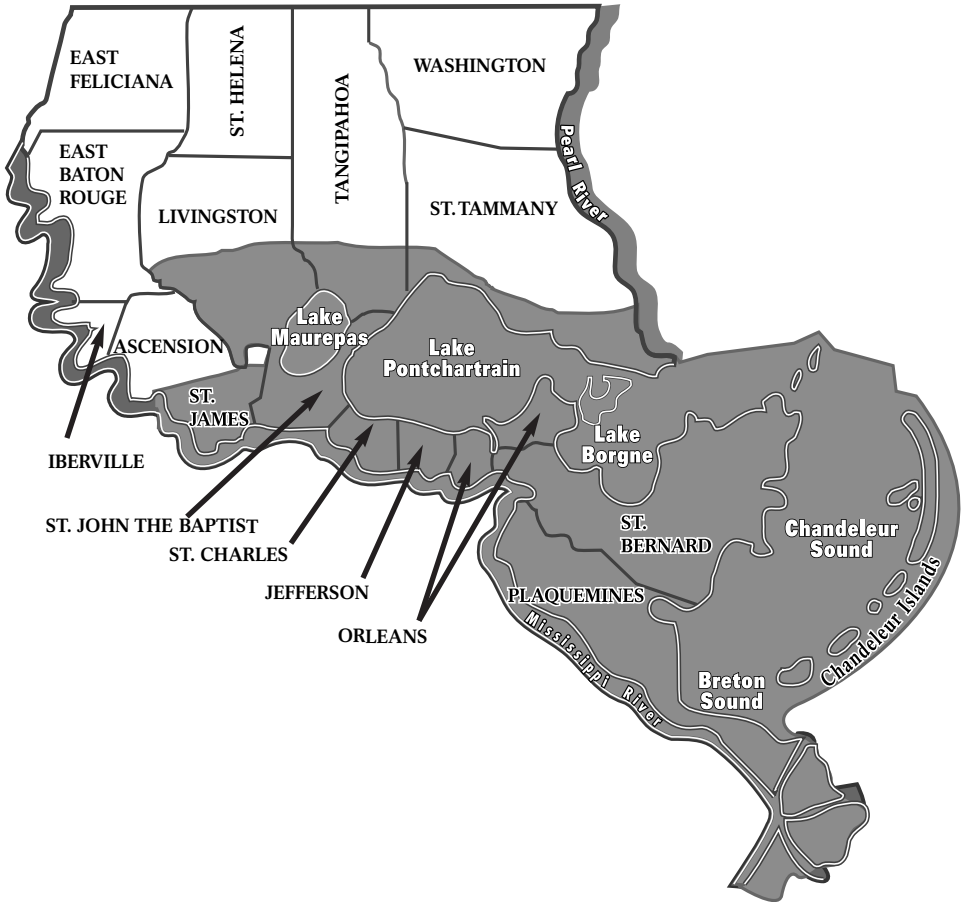
- (1) Cwikiel, W. *Michigan Wetlands: Yours to Protect - A Citizen's Guide to Local Involvement in Wetland Protection*. (Second Edition.) MI: Tip of the Mitt Watershed Council, 1992.
- (2) Hightower, M. *An Interpretive Manual for Texas Coastal Wetlands: Laws Regulations and Policies*. Texas: Texas A&M Sea Grant College Program, April 1993.
- (3) Ripple, J. *A Citizen's Guide for Protecting Wetlands in Mississippi*. MS: Mississippi Wildlife, Fisheries, and Parks, December 1992.
- (4) Wiygul, R., and A. Clipp. *Citizens' Guide to Louisiana Wetlands*. Sierra Club Legal Defense Fund, 1995.



# Appendices



## The Lake Pontchartrain Basin



■ Area in the state's coastal zone



## Agencies that Regulate Activity in Wetlands

### Coastal Wetlands Protection, Planning, and Restoration Act Program (CWPPRA)

- For general information and to get on a mailing list for upcoming meetings contact:

Gabrielle Bodin  
National Wetlands Research Center, Lafayette, LA  
(337) 266-8623

- For information on specific projects contact:

Tom Podany  
U.S. Army Corps of Engineers  
P.O. Box 60267, New Orleans, LA 70160  
(504) 862-2502

- For further information, visit [www.lacoast.gov](http://www.lacoast.gov) and to receive an e-mail newsletter, visit [www.lacoast.gov/newsletter.htm](http://www.lacoast.gov/newsletter.htm).

### Louisiana Department of Environmental Quality

Water Pollution Control Division  
P.O. Box 82135, Baton Rouge, LA 70884-2135  
(225) 765-0219  
(225) 765-0634 (Enforcement)  
[www.deq.state.la.us](http://www.deq.state.la.us)

### Louisiana Department of Natural Resources

Coastal Management Division  
P.O. Box 44487, Baton Rouge, LA 70804-4487  
(225) 342-7591 or (800) 267-4019  
[www.dnr.state.la.us](http://www.dnr.state.la.us)

### Louisiana Department of Wildlife and Fisheries

Scenic Rivers Program  
P.O. Box 98000, Baton Rouge, LA 70898  
(225) 765-2334  
[www.wlf.state.la.us](http://www.wlf.state.la.us)



## **Louisiana Governor's Office of Coastal Activities**

625 N. Fourth St., Suite 1127, Baton Rouge, LA 70802

(225) 342-3968

[www.goca.state.la.us/index.html](http://www.goca.state.la.us/index.html)

## **Louisiana State Legislature**

[www.legis.state.la.us](http://www.legis.state.la.us)

➤ Louisiana House of Representatives  
P.O. Box 94062, Baton Rouge, LA 70804-9062  
(225) 342-7263 or (225) 342-8336 (fax)  
<http://house.legis.state.la.us/>

➤ Louisiana Senate  
P.O. Box 94183, Baton Rouge, LA 70804  
(225) 342-2040 or (225) 342-0617 (fax)  
<http://senate.legis.state.la.us/>

## **U.S. Army Corps of Engineers**

➤ New Orleans District Office  
Eastern Evaluation Branch  
P.O. Box 60267, New Orleans, LA 70160-0267  
(504) 862-1950 or (504) 862-1270 (Permits Division)  
(504) 862-2270 (Surveillance and Enforcement Division)  
(504) 865-1121 (Main Operator)  
[www.mvn.usace.army.mil](http://www.mvn.usace.army.mil)

➤ Vicksburg District Office  
Permits Section  
4155 East Clay St., Vicksburg, MS 39180  
(601) 631-5721 (Permits Division and Enforcement Division)  
(601) 634-5000 (Main Operator)  
[www.mvk.usace.army.mil](http://www.mvk.usace.army.mil)

To access information on permit actions and cease and desist orders in the Basin visit: 1) New Orleans District Corps at [www.mvn.usace.army.mil](http://www.mvn.usace.army.mil) (click on Regulatory, then Current Regulatory News and scroll down to Issued, Preferred, & Denied Individual Permits and Cease & Desist Orders), and 2) Vicksburg District Corps at [www.mvk.usace.army.mil](http://www.mvk.usace.army.mil) (click on Permit Public Notices).



**U.S. Environmental Protection Agency, Region 6**

Marine and Wetlands Program (6WQ-EW)

1445 Ross Ave., Dallas, TX 75202

(214) 665-2263

(800) 832-7828 (Wetlands Helpline)

[www.epa.gov/owow/wetland/scinfo.html](http://www.epa.gov/owow/wetland/scinfo.html)

**U.S. Fish and Wildlife Service, Southeast Louisiana Refuges**

1010 Gause Blvd., Slidell, LA 70458

(985) 646-7544

[www.fws.gov/r4slr](http://www.fws.gov/r4slr)



## Wetland Resources and Contacts - Local, State, and National

### LOCAL AND STATE

#### **Bayou Liberty Association, Inc.**

P.O. Box 6862, Slidell, LA 70469

Jeanne Stangle-Hebert, President (985) 649-3423

Sean Reily, Vice-President (985) 645-0556

#### **Bluebonnet Swamp Nature Center**

10503 N. Oak Hills Parkway, Baton Rouge, LA 70810

(225) 757-8905

#### **Citizens For A Clean Environment**

22730 Old Scenic Hwy., Zachary, LA 70791

Pam Kaster, President (225) 658-2323

(East Baton Rouge Parish)

#### **CFACT**

P.O. Box 784, Hammond, LA 70404

(985) 549-0702

#### **Coalition to Restore Coastal Louisiana (CRCL)**

200 Lafayette St., Suite 500, Baton Rouge, LA 70801

(225) 344-6555 or (888) LA-COAST

[www.crcl.org/index.htm](http://www.crcl.org/index.htm)

#### **Concerned Citizens of Livingston Parish, Inc.**

P.O. Box 874, Livingston, LA 70754

(225) 686-0384

#### **Delgado Greens**

Delgado Community College

c/o Del McGinnis (Advisor)

1615 City Park Ave., New Orleans, LA 70119

(504) 483-4107



**Earthjustice Legal Defense Fund**

New Orleans Office  
400 Magazine St., Suite 401, New Orleans, LA 70130-2453  
(504) 522-1394  
[www.earthjustice.org](http://www.earthjustice.org)

**Gulf Restoration Network**

P.O. Box 2245, New Orleans, LA 70176  
(504) 525-1528  
[www.gulfrestorationnetwork.org/](http://www.gulfrestorationnetwork.org/)

**Lake Maurepas Society**

[www.stjohnparish.com/lakemaurepas/](http://www.stjohnparish.com/lakemaurepas/)  
Ben Taylor (985) 542-6266

**Lake Pontchartrain Basin Foundation**

P.O. Box 6965, Metairie, LA 70009  
(504) 836-2215  
[www.saveourlake.org](http://www.saveourlake.org)

**League of Women Voters of Louisiana**

850 N. Fifth St., Suite 103, Baton Rouge, LA 70802  
(800) 288-VOTE or (225) 344-3326  
[www.lwvla.org/](http://www.lwvla.org/)

➤ New Orleans Chapter  
234 Loyola, Suite 421, New Orleans, LA 70112  
(504) 581-9106 (phone and fax)

➤ St. Tammany Chapter  
P.O. Box 8, Covington, LA 70434  
(800) 288-VOTE or (225) 344-3326

**Little Tchefuncte River Association**

David Campbell, President  
11030 Garden Lane, Folsom, LA 70437  
(985) 796-5257

**Louisiana Audubon Council**

Dr. Barry Kohl  
1522 Lowerline St., New Orleans, LA 70118  
(504) 861-8465

**Louisiana Environmental Action Network**

P.O. Box 66323, Baton Rouge, LA 70896  
(225) 928-1315  
[www.leanweb.org/index.html](http://www.leanweb.org/index.html)



**Louisiana Labor Neighbor and PACE Project Office**

2416 S. Darla, Gonzales, LA 70737

(225) 647-5865

(community organizing for environmental and education issues)

**Louisiana Wildlife Federation**

P.O. Box 65239, Audubon Station, Baton Rouge, LA 70896-5239

(225) 344-6707

lawildfed@aol.com

**Mississippi River Basin Alliance**

400 Magazine St., #499, New Orleans, LA 70130

(504) 588-9008

www.mrba.org

**Northlake Nature Center**

P.O. Box 8511, Mandeville, LA 70470

(985) 626-1238

www.northlakenature.org

**Revive New River**

P.O. Box 1948, Gonzales, LA 70707

Julie Landreneau, President (225) 647-4527

Rebecca Triche, Vice-President (225) 644-7198

**Roots and Shoots**

Southeastern Louisiana University - Office of Student Organizations

Box 10483, Hammond, LA 70402

(985) 549-2120

**Save Our Wetlands, Inc.**

P.O. Box 750478, New Orleans, LA 70175

(504) 837-4242

**Save St. Tammany**

P.O. Box 941, Mandeville, LA 70470-0941

Maurice LeGardeur, President (985) 796-3639



## **Sierra Club - Delta Chapter**

[www.sierraclub.org/chapters/la/index.html](http://www.sierraclub.org/chapters/la/index.html)

➤ Honey Island Group (Covington-Mandeville-Slidell)  
P.O. Box 2529, Covington, LA 70434-2529  
Bill Sussky, Group Chair (504) 524-9124 or (985) 893-5150

➤ New Orleans Group (New Orleans metro area)  
P.O. Box 19469, New Orleans, LA 70179-0469  
(504) 836-3062

## **St. Bernard Sportsmen's League**

Pete Savoie: [SprtLeague@aol.com](mailto:SprtLeague@aol.com)

<http://sbsl.cjb.net>

## **St. Bernard Wetlands Foundation, Inc.**

P.O. Box 1694, Meraux, LA 70075

(504) 271-2837

## **St. James Citizens For Jobs and the Environment**

P.O. Box 331, Convent, LA 70723

Patricia Malosso, President (225) 562-3795

## **The Nature Conservancy**

➤ Louisiana Field Office  
P.O. Box 4125, Baton Rouge, LA 70821  
(225) 338-1040  
[www.tnc.org/infield/state/Louisiana/Louisiana.htm](http://www.tnc.org/infield/state/Louisiana/Louisiana.htm)

➤ North Shore Office  
P.O. Box 1497, Covington, LA 70434  
(985) 809-1414

## **Tulane University Environmental Law Clinic**

6329 Freret St., New Orleans, LA 70118

(504) 865-5789

## **Tulane Green Club**

c/o The Office of Student Programs

Tulane University Center, New Orleans, LA 70118

(504) 862-3198

## **U.S. Geological Survey**

National Wetlands Research Center

700 Cajundome Blvd., Lafayette, LA 70506

(337) 266-8500

[www.nwrc.nbs.gov/](http://www.nwrc.nbs.gov/)



**University of New Orleans**

Coastal Research Laboratory - Wetlands Education Program  
Department of Geology and Geophysics  
2000 Lakeshore Dr., New Orleans, LA 70148  
www.coastal.uno.edu  
Dinah Maygarden (504) 280-6718

**Washington Area Restoration Network (WARN)**

P.O. Box 1312, Bogalusa, LA 70429-1312  
Lynn Palazzo (985) 735-8148 or (985) 735-0203 or (985) 735-7707

**Women For A Better Louisiana**

P.O. Box 8361, Metairie, LA 70011-8361  
(504) 887-9480

**NATIONAL**

**American Rivers**

1025 Vermont Ave., NW, Suite 720, Washington, DC 20005  
(202) 347-7550  
www.americanrivers.org

**Clean Water Network**

1200 New York Ave., NW, Washington, DC 20005  
(202) 289-2395  
www.cwn.org

**Izaak Walton League of America**

Save Our Streams Program  
707 Conservation Lane, Gaithersburg, MD 20878  
(301) 548-0150 or (800) IKE-LINE  
www.iwla.org

**River Network**

520 SW 6th Ave., Portland, OR 97204  
(503) 241-3506 or (800) 423-6747  
www.rivernetnetwork.org



## State, Regional, and National Land Trusts

### Civil War Preservation Trust

1331 H St., NW Suite 1001, Washington, DC 20005-4706  
(202) 367-1861  
[www.civilwar.org](http://www.civilwar.org)  
(emphasis on where civil war battles occurred)

### Delta Land Trust

P.O. Box 2052, Madison, MS 39130-2052  
(601) 981-3865  
[www.deltalandtrust.org](http://www.deltalandtrust.org)

### Land Trust Alliance

1331 H Street, NW, Suite 400, Washington, DC 20005-4711  
(202) 638-4725  
[www.lta.org](http://www.lta.org)

### Tensas Conservancy Coalition

P.O. Box 51367, Shreveport, LA 71135-1367  
(318) 797-6700

### The Nature Conservancy

➤ Louisiana Field Office  
P.O. Box 4125, Baton Rouge, LA 70821-4125  
(225) 338-1040  
[www.tnc.org/infield/state/Louisiana/Louisiana.htm](http://www.tnc.org/infield/state/Louisiana/Louisiana.htm)

➤ North Shore Office  
P.O. Box 1497, Covington, LA 70434  
(985) 809-1414

### Trust for Public Land

[www.tpl.org](http://www.tpl.org)

➤ Louisiana Field Office  
909 Poydras, Suite 1700, New Orleans, LA 70112  
(504) 584-5091

➤ Southeast Regional Field Office  
306 North Monroe St., Tallahassee, FL 32301  
(850) 222-7911



## How to Interpret a Public Notice

### *Overview*

One of the most effective ways for citizens to get involved in the permitting process is to monitor and respond to public notices issued by wetlands regulatory agencies. By providing your viewpoints on a proposed project, you may help stop the destruction of valuable wetlands.

Remember there is no single source of permit application notices. In order to receive free copies of public notices, you must write to the regulatory agencies and request to be placed on their public notice mailing list. Addresses of these agencies are listed in Appendix B. Also visit the Lake Pontchartrain Basin Foundation's website at [www.saveourlake.org](http://www.saveourlake.org) and click on Action Alert to access information on public notices and public meeting and hearing event announcements that the Foundation needs your assistance on.

Below is a key that will lead you through the process of interpreting a public notice. Although each public notice is different, the way they are organized is very much the same. The key corresponds to the sample public notice provided on the pages that follow.

- (1) This is the date the public notice was issued by the regulatory agency(s). This is important when you are calculating the amount of time you have to submit comments before the comment period on the public notice closes.
- (2) - (5) The regulatory agency(s) responsible for authorizing a permit(s) for the proposed project are listed here. Comments that you submit should be directed toward the project manager(s) listed at the appropriate address (3). Be sure to include the Permit Application Number (4) and/or the Water Quality Certificate Number (WQC #) (5) when submitting comments to the U.S. Army Corps of Engineers and the Louisiana Department of Environmental Quality (DEQ), respectively.
- (6) Identifies the law(s) that require the applicant to file for a permit through the appropriate federal/state regulatory agency (e.g., the Corps, DEQ).
- (7) Name of Applicant: The individual, organization, agency, or business applying for the permit.



- (8) **Location of Work:** Description of where the project is going to take place. Habitat and nearby waterways sometimes are identified.
- (9) **Character of Work:** Description of what activity(s) the applicant wishes to carry out under the permit. Sometimes this will include information on the amount of wetlands that will be destroyed or impacted, the buildings that are to be constructed, the number of lots to be cleared, the amount of soil to be excavated, the amount of fill to be placed, and so on (as appropriate).
- (10) Identifies the number of days you have to submit comments on the public notice before the comment period closes. The time frame includes weekend days. The comment period begins on the date the public notice was issued (see (1) above). For example, based on the sample permit, if the public notice was issued on February 21, 2001, the comment period closes 20 days later, on March 12, 2001. If you need more time than that allotted to respond to the notice, you can contact the project manager(s) directly to request a 10-day extension (see (2) and (3) above). You must have a valid reason to request an extension (i.e. you are gathering information for your comments). Please note that not all extensions are granted. Extension requests should not be abused.
- (11) **Corps of Engineers Permit Criteria:** Describes the permit process exercised by the Corps as well as how they evaluate permits. (See Chapter Three for more information.)
- (12) The Corps must acknowledge if the proposed project will damage or destroy archaeological, scientific, prehistoric, or historic sites, or related-data.
- (13) The Corps must acknowledge if the proposed project will impact any endangered species or their habitat.
- (14) The Corps must identify if any essential fish habitat (EFH) will be altered or destroyed by the proposed project as required by the Magnuson-Stevens Fishery Conservation and Management Act. If EFH is to be impacted, the notice will identify the amount of acreage and the species that may be affected. (See Chapter Three for more information.)
- (15) In your comments, you may request a public hearing from the regulatory agency(s) issuing the public notice. Remember that requests for public hearings are not often granted.
- (16) Identifies the individual who heads the regulatory branch at the Corps' office.



## *Maps and Drawings*

Permit applicants are required to include maps depicting the location of where the proposed project is to take place as well as a drawing of the activity that is to be carried out.

- (17) A map identifying the general geographic location of the proposed project. Information on the engineering firm contracted by the applicant to prepare the permit application may also be included. Generally the map includes major roads, waterways, reference points, and outlines the area that the project will impact.
- (18) Drawing of the general layout of the project site which generally includes areas to be excavated or filled, buildings, parking lots, roadways, fences, boat slips, boat docks, etc. (either existing or to be constructed).
- (19) Drawing includes areas of wetlands located on the property and the wetlands that are to be impacted or left untouched. Illustrations of the project's general layout and the wetlands on the property are often combined on one drawing.
- (20) Drawing of expected drainage plan for the project. Few projects on public notice include a drainage plan. If included in the public notice, this drawing will often show the detention area where water from rainfall will be stored or diverted on the property as well as ditches and canals (either existing or to be constructed).
- (21) Drawing that presents a side view of how the activity will occur on the property.



# JOINT PUBLIC NOTICE

1 FEBRUARY 21, 2001

2 United States Army  
Corps of Engineers  
New Orleans District  
Regulatory Branch  
Post Office Box 60267  
New Orleans, La. 70160-0267

2 State of Louisiana  
Department of Environmental Quality  
Office of Environmental Services  
Post Office Box 82135  
Baton Rouge, Louisiana 70884-2135

3 (504) 862-2225 FAX (504)862-2117  
Project Manager  
Melanie Goodman

3 (225) 765-0664  
Project Manager  
Melanie Zauder  
WQC Application  
5 WQC # 010129-12

4 Permit Application Number  
EU-20-000-3273

6 Interested parties are hereby notified that a permit application has been received by the New Orleans District of the U.S. Army Corps of Engineers pursuant to: [ ] Section 10 of the Rivers and Harbors Act of March 3, 1899 (30 Stat. 1151; 33 USC 403); and/or [X] Section 404 of the Clean Water Act (86 Stat. 816; 33 USC 1344).

Application has also been made to the Louisiana Department of Environmental Quality, Office of Water Resources, for a Water Quality Certification (WQC) in accordance with statutory authority contained in Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A (3) and provisions of Section 401 of the Clean Water Act (P.L.95-17).

## COMMERCIAL STRIP MALL IN ST. TAMMANY PARISH

7 NAME OF APPLICANT: Stirling Slidell, L.L.C., c/o Solutions, Incorporated,  
Attention: Peggy Holliday, Post Office Box 820127, Vicksburg, Mississippi 39182-0127.

8 LOCATION OF WORK: The proposed project is located at the northwest corner of the Interstate 12 and Airport Road intersection, in a mixed forested 38-acre tract adjacent to an unnamed tributary to Bayou Liberty, in Slidell, Louisiana, Section 30, T8S-R14E, St. Tammany Parish, as shown on the attached drawings.

9 CHARACTER OF WORK: Mechanically clear, grade, deposit fill material, and construct buildings and infrastructures for a commercial strip mall. Approximately 50,000 cubic yards of earthen fill material, 3,270 cubic yards of asphalt, and 16,912 cubic yards of limestone would be discharged for foundations and parking lots. As proposed, the work would permanently impact approximately 7.0 acres of forested wetlands.

10 The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close 20 days from the date of this joint public notice. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit and/or this WQC request and must be mailed so as to be received before or by the last day of the comment period. Letters concerning the Corps of Engineers permit application must reference the applicant's name and the Permit Application Number, and be mailed to the Corps of Engineers at the address above, ATTENTION: REGULATORY BRANCH. Similar letters concerning the Water Quality Certification must reference the applicant's name and the WQC Application number and be mailed to the Louisiana Department of Environmental Quality at the address above.



The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 5:00 p.m. Copies may be obtained upon payment of costs of reproduction.

11

Corps of Engineers Permit Criteria

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public, federal, state, and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to make, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

12

No properties listed on the National Register of Historic Places are near the proposed work. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Copies of this notice are being sent to the State Archeologist and the State Historic Preservation Officer.

13

Our initial finding is that the proposed work would neither affect any species listed as endangered by the U.S. Departments of Interior or Commerce, nor affect any habitat designated as critical to the survival and recovery of any endangered species.

14

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal would result in the destruction or alteration of 7 acre(s) of EFH utilized by various life stages of red drum and penaeid shrimp. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need



for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

If the proposed work involves deposits of dredged or fill material into navigable waters, the evaluation of the probable impacts will include the application of guidelines established by the Administrator of the Environmental Protection Agency. Also, a certification that the proposed activity will not violate applicable water quality standards will be required from the Department of Environmental Quality, Office of Water Resources before a permit is issued.

15 Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

You are requested to communicate the information contained in this notice to any other parties whom you deem likely to have interest in the matter.

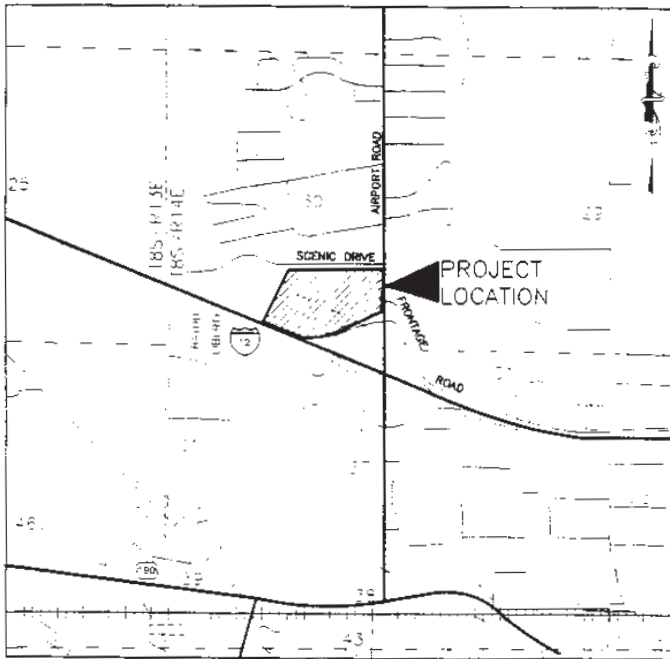
16



Ronnie W. Duke  
Chief, Regulatory Branch

Attachments





**VICINITY MAP**  
SCALE 1" = 2000'

**DUPLANTIS**  
ENGINEERING, INC.  
C O V I N G T O N

262 West Ninth Street  
Covington, Louisiana 70330

PHONE 844-447-2280  
FAX 844-447-7029  
WWW.DUPLANTIS.COM

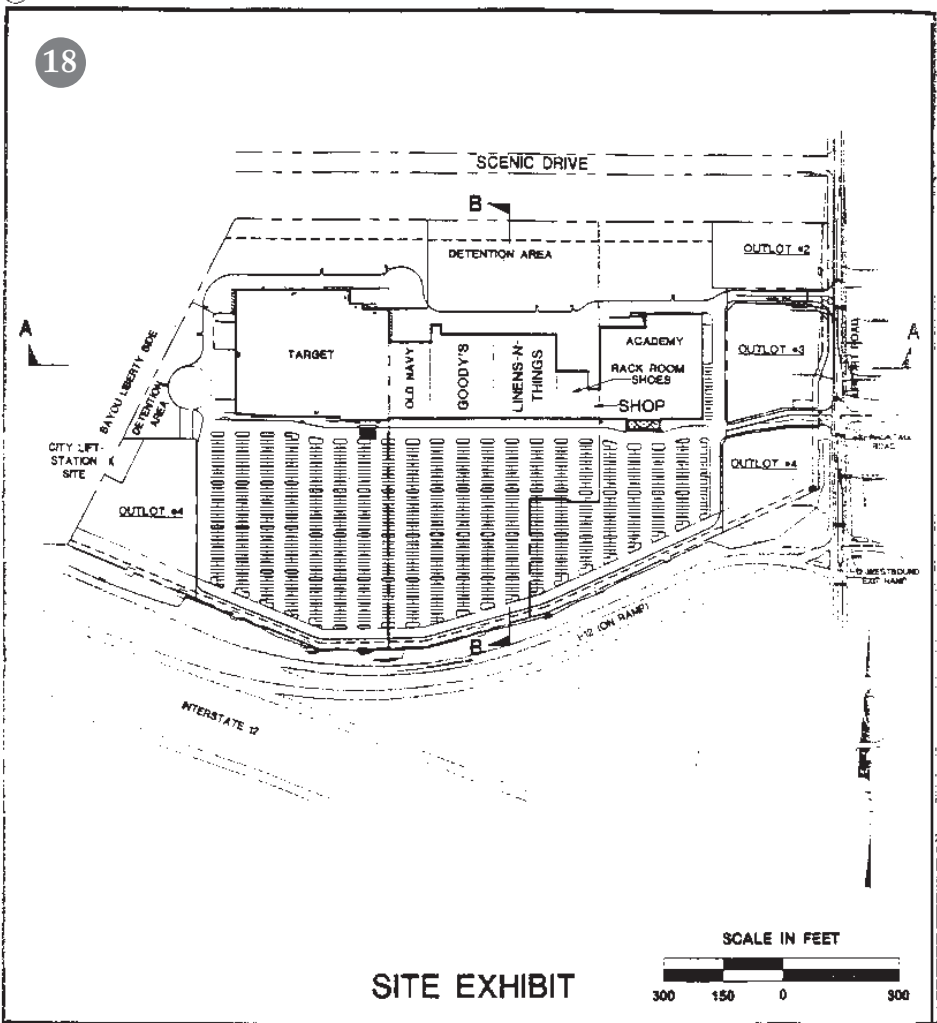
Site Development  
Land Planning  
Public Works

PROPOSED RETAIL DEVELOPMENT  
SLIDELL, ST. TAMMANY PARISH, LA  
STIRLING PROPERTIES  
COVINGTON, LOUISIANA

DATE: 11/29/07

FILE NO. 14457





**DUPLOANTIS**  
ENGINEERING, INC.  
S E V E R A L L E V E L S

300 East Ninth Street  
Thibodaux, Louisiana 70301

Phone 824-4477  
Fax 824-4477  
E-mail: info@duploantis.com

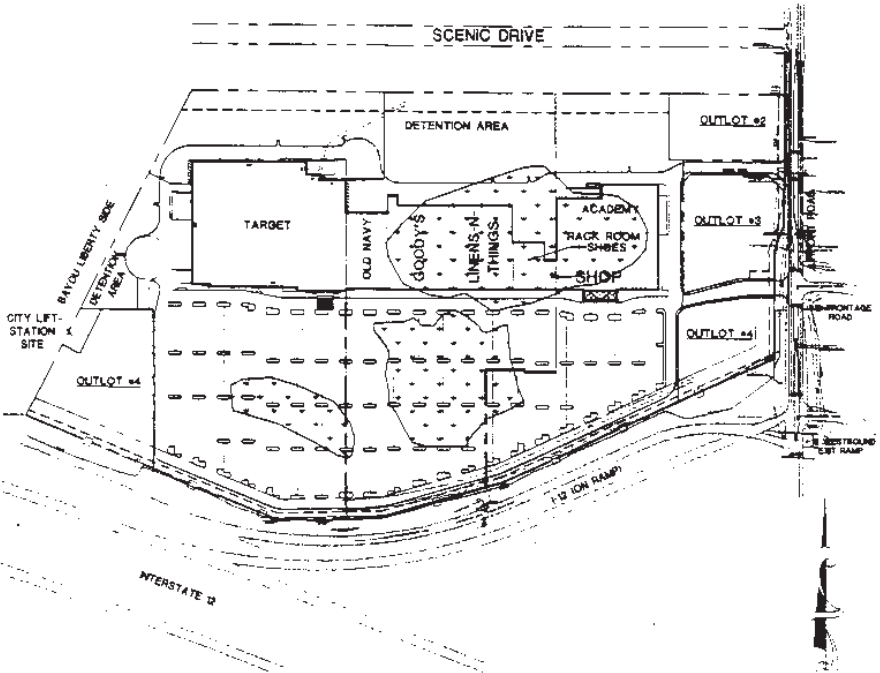
Site Development  
Land Planning  
Public Works

PROPOSED RETAIL DEVELOPMENT  
SLIDELL, ST. TAMMANY PARISH, LA  
STIRLING PROPERTIES  
COVINGTON, LOUISIANA

DATE: 11/04/07

FILE: 00-14462





LEGEND

WETLAND	
UPLAND	

**WETLAND EXHIBIT**  
 7 ACRES OF WETLANDS  
 7 ACRES DISTURBED



**DUPLANTIS**  
 ENGINEERING, INC.  
 CIVIL ENGINEERS

300 East 84th Street  
 Metairie, Louisiana 70002

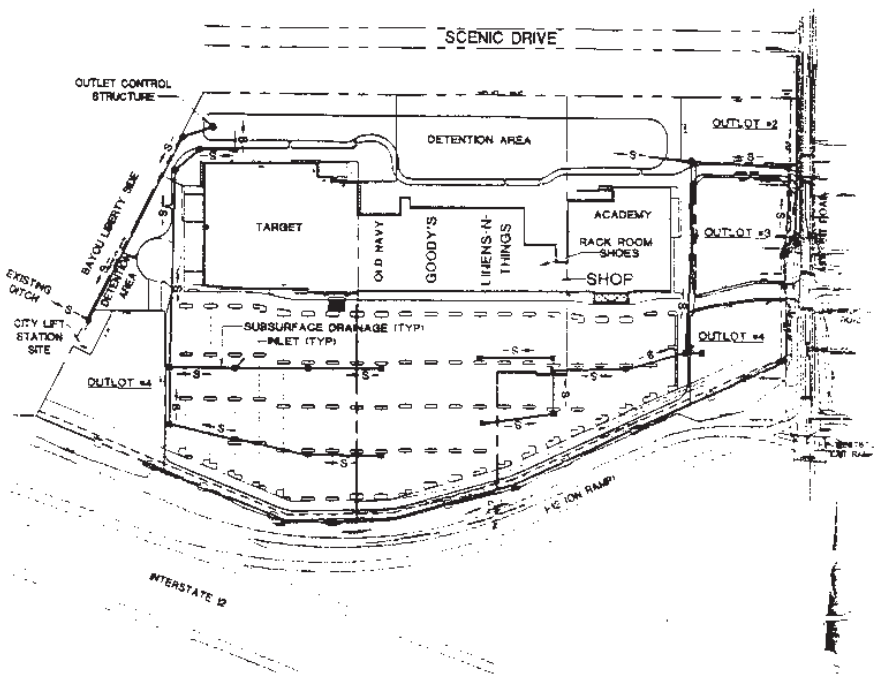
Phone: 824-6473/2780  
 Fax: 824-4477/7008  
 e-mail: duplan@att.net

Site Development  
 Land Planning  
 Public Works

PROPOSED RETAIL DEVELOPMENT  
 SLIDELL, ST. TAMMANY PARISH, LA  
 STIRLING PROPERTIES  
 COVINGTON, LOUISIANA

DATE: 11/04/01





SCALE IN FEET



### DRAINAGE EXHIBIT

**D**UPLANTIS  
 ENGINEERING, INC.  
 CIVIL ENGINEERS

PROPOSED RETAIL DEVELOPMENT  
 SLIDELL, ST. TAMMANY PARISH, LA  
 STIRLING PROPERTIES  
 COVINGTON, LOUISIANA

300 West 84th Street  
 Thibodaux, Louisiana 70301

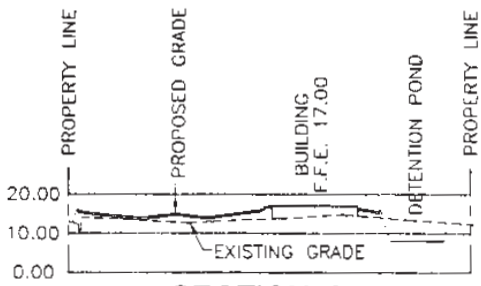
Phone (504) 447-0280  
 Telex 524457  
 Cable 50474-0280

No Development  
 Land Planning  
 Permit work

DATE: 04-01

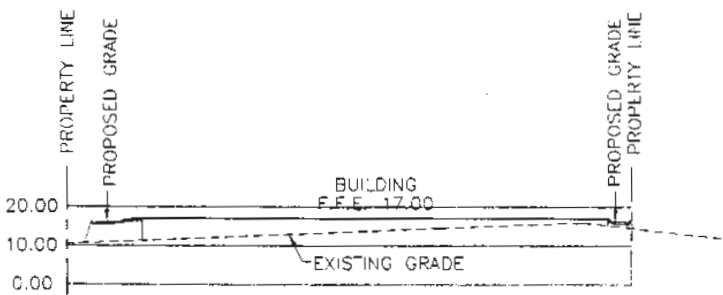


21



### SECTION A-A

HORIZONTAL SCALE: 1"=300'  
VERTICAL SCALE: 1"=30'



### SECTION B-B

HORIZONTAL SCALE: 1"=300'  
VERTICAL SCALE: 1"=30'

**DUPLANTIS**  
ENGINEERING, INC.  
CIVIL ENGINEERS

300 East Ninth Street  
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Phone 804.447.2880  
Fax 804.447.7059  
e-mail: duplantis@comcast.net

Site Development  
Land Planning  
Public Works

PROPOSED RETAIL DEVELOPMENT  
SLIDELL, ST. TAMMANY PARISH, LA  
STIRLING PROPERTIES  
COVINGTON, LOUISIANA

DATE: 11-20-07

FILE: 00-14462



## Sample Coastal Use Permit



### PUBLIC NOTICE March 6, 2001



STATE OF LOUISIANA  
DEPARTMENT OF NATURAL RESOURCES  
COASTAL MANAGEMENT DIVISION  
P. O. BOX 44487  
BATON ROUGE, LA 70804-4487  
(225) 219-4969

CMD REVIEWER: C. S. Melton

CUP NUMBER: P20010084

Interested parties are hereby notified that the Coastal Management Division of the Department of Natural Resources has received the following application for a Coastal Use Permit in accordance with the State and Local Coastal Resources Management Act of 1978, as amended, (Louisiana R.S. 49, Sections 214 21-214.41), and the rules and regulations of the Coastal Resources Program.

**NAME:**

**LOCATION:** St. Tammany Parish, LA; Lat. 30° 12' 51" N, Long. 89° 48' 05" W; Lot #21; Section 33, T9S-R14E; Lake Ponchartrain.

**DESCRIPTION:** Installation of a ±80' bulkhead, a 32' x 37' summer home, a 181' x 3' walkway, and a 16' x 16' pavilion. Approx. 553 cu. yds. of material will be hauled in and used as fill in a 30' x 50' area behind the bulkhead. Approx. 0.02 acres of water bottoms and approx. 0.06 acres of uplands will be impacted as a result of this project.\*

\*Habitat impacts are based on available in-house data and may not represent actual conditions. Field reconnaissance may be required to verify extent of impacts.

The official date of the beginning of the public comment period for Coastal Use Permits and Water Quality Certification applications begins on the date of publication of the notice in the official state journal (The Advocate), in accordance with the Rules and Procedures for Coastal Use Permits, §723.C.5.c. The Coastal Management Division will inform interested parties of the exact date of publication on request.



## Sample Freedom of Information Act (FOIA) Request Letter

Reprinted with permission from *The Citizen's Guide to Environmental Activism*, Tulane University Environmental Law Clinic, New Orleans, LA, 1991.

Date \_\_\_\_\_

Freedom of Information Act Officer  
Name and Address of Government Agency  
\_\_\_\_\_

Re: Freedom of Information Request for \_\_\_\_\_

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, I hereby request a copy of (access to) all records pertaining to (Clearly describe what you want. Include identifying material such as names, places, and the period of time about which you are inquiring. If you think they will help to explain your request, attach news clippings, reports, and other documents describing the subject of your request.)

If any expenses in excess of \$\_\_\_\_ are incurred in connection with this request, please obtain my approval before any such charges are incurred.

OR

I request a waiver of any fees connected with this request, because (your group) is a non-profit organization and this request is made in the public interest and furnishing this information can be considered as primarily benefiting the general public. This information will be used by (your group) to (explain what the information will be used for and why the release of this information will benefit the public). This information will not be used for the financial or commercial benefit of (your group) or any of its members. If for any reason my request for information cannot be sent free of charge, I request that I be notified immediately of the reasons behind the denial and the cost that will be involved prior to any copying. I do not give up my right to appeal any denial.

Should you decide the requested material is not to be disclosed, please describe the material withheld and specify in detail the statutory or administrative basis for withholding it. All segregable, non-exempt parts of the document should be provided.

I expect a response within ten days as required by law. If you have any questions or require clarification of this request, please contact me at the phone number listed below. Thank you for your prompt attention to this matter.

Your Name  
Return address/Phone number

Cc: (Name of the agency employee who you have spoken to, who you think has the documents, or who has helped you with a similar request in the past.)



## Local Organizations that Provide Free Legal Services

### **Earthjustice Legal Defense Fund**

New Orleans Office

400 Magazine St., Suite 401, New Orleans, LA 70130-2453

(504) 522-1394 or (504) 566-7242 (fax)

[www.earthjustice.org](http://www.earthjustice.org)

### **Tulane University Environmental Law Clinic**

6329 Freret St., New Orleans, LA 70118

(504) 865-5789 or (504) 862-8721 (fax)



## Sample Press Release

Use a press release to inform the media of the who, what, where, why, and when of a project and to explain how it relates to you and your community. Try to limit your press release to no more than a single page. Include quotes from appropriate people to make it interesting. Be sure to include your contact information at the top so the media can reach you if they need more information.

---

### PRESS RELEASE

FOR IMMEDIATE RELEASE  
Current Date

Contact: Name and phone number

#### LAKE PONTCHARTRAIN BASIN FOUNDATION TO HOST STATE OF THE LAKE 2001 MEETING

The Lake Pontchartrain Basin Foundation is continuing a series of Basin-wide public meetings, entitled State of the Lake 2001, to inform the public about their efforts to restore and protect the lands and waters of the Pontchartrain Basin. The seventh meeting of the series is scheduled for (DATE AND LOCATION). The meeting is open to all citizens of (?) Parish.

Public advocacy is a very important part of the Lake Pontchartrain Basin Foundation's mission, and citizen involvement continues to play a significant role in the Basin's recovery. The Foundation hopes to use these meetings to familiarize citizens with its current projects and programs and how they can participate in them.

At the (LOCATION) meeting, the majority of the program will be allotted for public input on local environmental issues and concerns.

C. Dufrechou, LPBF Executive Director, said, "Our staff is really looking forward to hearing from local residents about environmental issues in their communities."

Louisiana Senate President John Hainkel hosted the first State of the Lake meeting in March of 2000. The original program was specifically designed for elected officials from throughout the Pontchartrain Basin. The meeting garnered high praise and the Foundation staff wanted to offer the same program to citizens throughout the Basin. To that end, similar meetings are being held around the Pontchartrain Basin every other month.

The Lake Pontchartrain Basin Foundation, formed in 1989, is membership-based citizens' organization dedicated to restoring and preserving the Pontchartrain Basin.



## Parishes in the Pontchartrain Basin with Approved Local Coastal Programs

### **Jefferson Parish**

Jefferson Parish Coastal Program  
4901 Jefferson Highway, Suite E, Jefferson, LA 70121  
(504) 731-4612

### **Orleans Parish**

New Orleans City Planning Commission  
1300 Perdido St., Suite 9W03, New Orleans, LA 70112  
(504) 565-7000

### **Plaquemines Parish**

Plaquemines Parish Government  
Coastal Zone Management Department, 106 Avenue G  
Belle Chasse, LA 70037  
(504) 392-6690 extn. 1903

### **St. Bernard Parish**

Coastal Zone Management  
8201 W. Judge Perez Dr., Room 208, Chalmette, LA 70043  
(504) 278-4303

### **St. Charles Parish**

Coastal Zone Advisory Commission  
15045 River Rd.  
P. O. Box 302, Hahnville, LA 70057  
(504) 783-5000

### **St. James Parish**

Coastal Zone Commission  
P.O. Box 106, Convent, LA 70723  
(225) 562-2262

### **St. Tammany Parish**

Coastal Use Program  
Department of Engineering  
P.O. Box 628, Covington, LA 70434  
(985) 898-2552

