

VOLUME 1

CLEAN WATER ACT
Section 404(c) Evaluation

BAYOU AUX CARPES
LOUISIANA



U.S. ENVIRONMENTAL PROTECTION AGENCY

Region 8
Dallas, Texas

JULY 1986

PART I.

RECOMMENDED DETERMINATION

and

TECHNICAL DOCUMENTATION

TABLE OF CONTENTS

Part I

RECOMMENDED DETERMINATION AND TECHNICAL DOCUMENTATION

- A. Recommended Determination
- B. "A Hydrological, Chemical, and Biological Assessment of Bayou aux Carpes, New Orleans, Louisiana." January 1985. EPA - Region 4 Ecological Support Branch, Athens, Georgia.
- C. "Description of Data Collection, Methodology and Photo Analysis Results of Photointerpretive Study of Bayou aux Carpes Area." June 19, 1985. EPA - Environmental Monitoring Systems Laboratory, Las Vegas, Nevada.
- D. "Fish and Wildlife Resources of the Bayou aux Carpes Drainage Area, Jefferson Parish, Louisiana." June 1985. U.S. Fish and Wildlife Service - Division of Ecological Services, Lafayette, Louisiana.
- E. "A Study of the Effects of the Proposed Leveeing and Drainage of the Bayou aux Carpes Swamp on the Adjacent Barataria Unit, Jean Lafitte National Historical Park." November 5, 1984. LSU Center for Wetland Resources, Baton Rouge, Louisiana.
- F. "Review of CWA 404(c) Related Studies in the Bayou aux Carpes Area." August, 1985. Steimle and Associates.
- G. Wetland Characteristics
- H. Maps and Photographs
 - 1. Study Area Map
 - 2. Color Infrared Photograph
 - 3. Photographs of Study Area
 - 4. Photographs of Jean Lafitte National Historical Park, Barataria Unit

Part II

BACKGROUND AND HISTORY

- A. The Harvey Canal-Bayou Barataria Levee Project
 - 1. Pre-Litigation
 - 2. Litigation Phase
 - a) State Court Litigation
 - b) Federal Litigation

000001

000000

000001

000000

3. EPA Section 404(c) Proceeding
 4. Corps of Engineers Permit Decision
 5. Project Status
- B. Related Administrative Activities
1. Marrero-Lafitte Waterline Project
 2. West Bank Hurricane Protection Levee Project
- C. Index to Section 404(c) Documentation and Background

Part III

CONSULTATION

- A. EPA Notices
1. Proposed Determination and Hearing Notice
 - a) Federal Register Notice
 - b) Public Distribution Copy and Distribution List
 - c) Newspaper Notices of Hearing
 2. Comment Period Time Extension Notice
 - a) Federal Register Notice
 - b) Public Distribution Copy and Distribution List
- B. Public Coordination
1. Public Hearing Transcript and Written Statements Submitted During Hearing
 2. Additional Comments Received
 3. Responsiveness Summary and Distribution List
 4. Information Depository
 5. Press Release
 6. Newspaper Articles
- C. Agency Coordination
1. Federal
 2. State
 3. Local

000002

000002

A. RECOMMENDED DETERMINATION

000003

080003

ENVIRONMENTAL PROTECTION AGENCY
INTERFIRST TWO BUILDING, 1201 ELM ST.
DALLAS, TEXAS 75270

RECOMMENDED DETERMINATION TO PROHIBIT, DENY, OR RESTRICT
THE SPECIFICATION, OR THE USE FOR SPECIFICATION, OF AN AREA
AS A DISPOSAL SITE

INTRODUCTION:

The Regional Administrator of Region 6 of the Environmental Protection Agency (EPA) is recommending, by way of this notice, that the Administrator of EPA invoke the provisions of Section 404(c) of the Clean Water Act (33 U.S.C. 1251 et seq.). Section 404(c) provides that the EPA Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreation areas. The procedures for implementation of 404(c) are set forth in 40 CFR 231.

Although one particular project (the Harvey Canal-Bayou Barataria Levee Project) is the focus of related court action (discussed below), there is no pending permit application currently being considered for the area in question by either the EPA or the U.S. Army Corps of Engineers (Corps). This action, therefore, is not an EPA "veto" of a Corps permit decision. Instead, the Regional Administrator is recommending a restriction on the use of the site described below. The restriction would be applicable to future permit applications* and to proposals for using the area as a Corps of Engineers dredged material disposal site.

* Substantial physical, biological, and other changes have occurred to warrant a new Section 404 application and/or review associated with any proposal to proceed with the original design, or another design, of the Harvey Canal-Bayou Barataria Levee Project.

000004

000004

The Regional Administrator's decision to initiate the 404(c) process came about at this particular time partly as a result of recent judicial action. A suit was filed in 1977 by landowners who were interested in the completion of a project, which originated in the 1960's as a Corps flood control project (Harvey Canal-Bayou Barataria Levee Project). The landowners wanted the project completed according to the original design. This original design included levee-building, construction of a pumping station, and closure of some waterways. Land reclamation benefits would have been realized through the drainage of wetlands.

Over the years, EPA (and other agencies) continually objected to the original project design because of the potential significant adverse effects (primarily drainage of the wetlands) upon on this productive wetland ecosystem. In 1975, EPA recommended a modified design, which would replace the dams with flood gates and which would require that, if a pumping station was needed for flood control, it be operated so as to maintain the integrity of the wetlands. Although the Corps of Engineers actually accepted this recommendation at one point* (COE, Nov. 16, 1976) implementation of it was pre-empted by a law suit filed by landowners who would have benefited from the drainage project.

The latest step in the landowner's law suit occurred in the U.S. District Court for the Eastern District of Louisiana (on remand from the U.S. Court of Appeals for the 5th Circuit). Judge Lansing Mitchell issued an order which, in part, allowed EPA until December 18, 1984, to initiate a Section 404(c) proceeding on the project as originally designed. On December 18, 1984, EPA Region 6 initiated the 404(c) process with respect to that portion of the Bayou aux Carpes swamp owned by those landowners.

By the same action EPA initiated the 404(c) process for an additional area adjoining that property, but outside of the realm of the area being considered in the specific case before the District Court. Together, both of these tracts comprise the approximately 3,000 acre Bayou aux Carpes study area, which is the subject of this recommendation. The impacts from both the originally designed Harvey Canal-Bayou Barataria Levee Project and other activities which would require a Section 404 permit have been evaluated.

*The Corps of Engineers subsequently denied a permit application from Jefferson Parish for constructing a pumping station at Bayou aux Carpes. The application was submitted in response to an order from the 24th Judicial District Court, State of Louisiana.

000005

000005

On May 10, 1985, EPA Region 6 issued a proposed determination* to prohibit the specification of the Bayou aux Carpes study area for the discharge of dredged or fill material. This proposal was made based on the likelihood of unacceptable adverse impacts to shellfish beds or fishery areas (including spawning and breeding areas), wildlife, and recreation resources.

A public hearing was conducted in Gretna, Louisiana on June 18, 1985 in order to accept comments on the proposed determination. Public participation at the hearing and during the comment period (ending August 19, 1985) was substantial. Support was expressed both for and against the proposal. The EPA proposal was supported by the National Park Service, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Louisiana Department of Wildlife and Fisheries, the Louisiana Department of Natural Resources, numerous environmental and civic groups, and many citizens with an interest in the area. Those opposing the proposal included some owners of land within the study area and several business organizations promoting the industrial development of the Gulf Intracoastal Waterway (Bayou Barataria) frontage.

The U.S. Army Corps of Engineers has also requested that EPA exclude from the proposed restriction an area for the disposal of dredged material from the Gulf Intracoastal Waterway (Bayou Barataria). That segment of the waterway has never been dredged since the initial construction. According to the Corps (COE, Aug. 15, 1985), the segment is not expected to require maintenance in the near future. The adverse impacts to fish and wildlife resources as a result of such disposal are projected to be significant and unacceptable, as discussed below. For that reason, alternative disposal sites should be utilized if and when maintenance dredging is required along this approximately 3.7 mile segment of the 95 mile project between the Mississippi River and the Atchafalaya River.

DESCRIPTION OF THE SITE:

The Bayou aux Carpes study area is located approximately 10 miles south of New Orleans, Louisiana, on the "West Bank" of Jefferson Parish. The area is bounded on the north by the east-west Estelle Pumping Station Outfall Canal, on the east by the Plaquemines-Jefferson Parish line, on the south by Bayou Barataria and Bayou des Familles, and on the west by State Highway 3134 and the "Vee-Levee" pipeline canal. The geographic coordinates are:

* Published in the Federal Register on May 17, 1985.

000006

000006

Range 23 East, Township 15 South, Portions of Sections 13, 14, 55, 57, 59;
Range 24 East, Township 14 South, Portions of Sections 55, 81, 82; and
Range 24 East, Township 15 South, Portions of Sections 48, 49, 50, 52, 57.

Maps of the study area are attached.

The southwest border of the study area is adjacent to the Barataria Unit of the Jean Lafitte National Historical Park. About 600 acres of the Barataria Unit lies within the Bayou aux Carpes drainage area. The Park lands are hydrologically connected to the Bayou aux Carpes study area via four sets of culverts under Louisiana Highway 3134.

The Bayou aux Carpes study area is a part of the Barataria Basin hydrologic unit. The area is subject to slight tidal effects and appears primarily as a freshwater to weakly brackish aquatic system. Wind appears to be the primary force affecting water levels in the study area. Water transport from Bayou aux Carpes to Bayou Barataria is generally rapid and directed towards Barataria Bay. The potential for flooding over the majority of the study area due to rising water in Bayou Barataria exceeds 50 percent of the time (EPA, Jan. 1985).

Levees span virtually the entire perimeter of the Bayou aux Carpes study area. The two mile long Southern Natural Gas Pipeline canal provides the primary hydrological connection between the study area and Bayou Barataria (Gulf Intracoastal Waterway) and, ultimately, Barataria Bay. During the construction of the Southern Natural Gas Pipeline Canal and several shorter unmaintained drill hole canals (no producing wells exist in the study area) dredged materials were deposited along the canal banks. The levees generally rise no more than a few feet. Aside from the relatively flat topography, numerous breaks in the levees and the unfilled area at the head of the Southern Natural Gas Pipeline Canal provide a pathway for surface water to exchange between the canals and surrounding swamps and marshes. Remnants of the original Bayou aux Carpes waterway are unleveed, thus allowing surface water to sheet flow across to the adjoining wetlands.

The study area is a diverse estuarine ecosystem covering approximately 3,000 acres in the upper reaches of the Barataria Bay Basin. Approximately 71 percent of the study area is comprised of forested wetlands, shrub wetlands, and cypress swamps while approximately 21 percent is represented by marshlands, ponds, and open waterways. The remainder of the study area consists of land classified as old orchard, residential, agricultural, industrial, wooded upland, and grassland associated with levees and roads (EPA, June 19, 1985).

Bald cypress (Taxodium distichum), tupelo-gum (Nyssa aquatica), green ash (Fraxinus pennsylvanica), and red maple (Acer rubrum), are common overstory vegetation in the forested wetland areas while softstem bullrush (Scirpus validus), bulltongue (Sagittaria falcata), pennywort (Hydrocotyle bonariensis),

iris (*Iris giganteaerulea*), smartweed (*Polygonum* spp.), spikerush (*Eleocharis* spp.) and alligator weed (*Alternanthera philoxeroides*), are typical of the marsh regions of the study area. Water-hyacinth (*Eichhornia crassipes*), and duckweed (*Lemna* spp.) characterize the floating vegetation of the bayou and canals in the study area (EPA, June 19, 1985 and USFWS, 1985).

ECOLOGICAL VALUES ASSOCIATED WITH THE SITE:

As it currently exists, the Bayou aux Carpes study area is a viable and valuable wetland area*, which is a functioning component of the Barataria Bay and estuarine system. Seasonally flooded forested wetland areas, such as are found here, are considered among the most biologically productive of all wetland ecosystems. Despite the existing alterations, mainly levees and canals, the Bayou aux Carpes study area provides local and regional benefits in terms of water storage and release, habitat for the production and growth of freshwater and estuarine fish and shellfish, nutrient processing, and a source of organic matter for export to Barataria Bay. These values are elaborated upon below.

A. Local Values

The assemblage of finfish species is diverse and is indicative of a stable fisheries community in a relatively unstressed environment. Water quality is good and there is adequate interchange between the waterways and adjacent wetlands to allow for their use as spawning and nursery areas (EPA, Jan. 1985; LDNR, July 1985; USFWS, 1985). The interchange of water also promotes significant nutrient and detrital transport (EPA, Jan. 1985).

At least twenty-three species of freshwater fishes are reported to be associated with the Bayou aux Carpes drainage area. The area provides sport fishing opportunities for channel and blue catfish, sunfish, bluegill, and largemouth bass (EPA, Jan. 1985; Day, 1984; USFWS, 1985).

The local fishery resource value assumes an even broader geographical significance since adult and juvenile forms of some freshwater species move from the traditional freshwater regions of the Barataria Basin towards the Gulf in the fall and early winter. There they replace marine species immigrating from the estuary to the Gulf. As summer approaches, salinity and temperature increase and the freshwater forms retreat back to the upper freshwater zones of the basin (Day, 1984).

* Within the study site, several areas of non-wetlands occur (approximately 150 acres in total), primarily along the natural levee ridge of Bayou des Familles.

000000

000009

In addition to finfish, field sampling (EPA, Jan. 1985) yielded 14 taxa of macroinvertebrates from stations in the canals and bayou and 27 taxa of macroinvertebrates from the marsh and swamp areas. Many of these macroinvertebrates (juvenile crawfish, grass shrimp, and amphipods) are important as fish food items. Others, including blue crab and adult red swamp crawfish, are of direct commercial value.

The study area also provides valuable habitat for a diversity of wildlife species. The marshlands and forested wetlands provide feeding, resting, nesting, and escape habitat to numerous species of game and nongame mammals and commercially important furbearers, songbirds, raptors, migratory and resident waterfowl, wading birds, woodpeckers, other birds, and many species of amphibians and reptiles (USFWS, 1985).

During the field studies (EPA, Jan. 1985 and USFWS, 1985), at least 70 species were observed, including nine species of amphibians, 10 species of reptiles, 45 species of birds, and six species of mammals (EPA, Jan. 1985 and USFWS, 1985). Of those species observed, the wood duck, bald eagle, and American alligator are considered by the Fish and Wildlife Service to be National Species of Special Emphasis. In addition, the pileated woodpecker has been highlighted by the Fish and Wildlife Service Regional Resource Plan for the Southeast Region. The endangered bald eagle is known to nest in the general vicinity of the Bayou aux Carpes study area. At least three bald eagle nests have been documented within a 10 mile radius of this area (USFWS, Nov. 13, 1984).

B. Regional Values

1. Hydrology

The relatively flat topography of the study area, in combination with the low and/or broken levees, enhances the capacity of the study area to detain surface waters and affect a slow release to downstream systems. The water storage capacity of the study area was confirmed by measuring the cyclic chloride concentrations of swamp water discharged to Bayou Barataria and by monitoring a dye tracer. The storage capacity is significant in that water which is frequently introduced into the study area from Bayou Barataria contains urban runoff from the surrounding area. While the water is temporarily detained in the Bayou aux Carpes area, heavy metals are deposited in the sediments. Also, inorganic nitrogen is biologically processed into other compounds, including plant and animal matter, which are then subject to export to downstream areas (EPA, Jan. 1985 and Day, 1985).

2. Contribution to the Barataria Bay Estuary

Barataria Bay is one of the most productive estuarine areas along the Louisiana coast. Louisiana estuaries owe their high level of productivity to the extensive systems of marshes and swamps in the upper basins. These

000010

-7-

000010

upper basin regions, such as the Bayou aux Carpes study area, provide the drainage necessary to maintain the broad, stable brackish zones in the estuary (Day, 1984).

EPA field studies (EPA, Jan. 1985) demonstrated a hydrological connection between the study area and the Barataria Bay estuary. This pathway appears to have been operational each month of the year in 1984, thus providing a route for the exchange of both nutrients and aquatic life.

Field data indicate that the Bayou aux Carpes study area is seasonally brackish and several of the species collected in the area can tolerate both fresh and saline environments. Observations of bay anchovy, striped mullet, threadfin shad, tidewater silverside, and blue crab provided recent evidence of ingress and egress by estuarine organisms (EPA, Jan. 1985 and USFWS, 1985). The Louisiana Department of Natural Resources has stated that "these wetlands provide not only important wildlife habitat, but act as nursery grounds for many estuarine dependent species of recreational and commercial value to the State of Louisiana" (LDNR, July 10, 1985).

EPA has found that habitats further downstream rely on the freshwater wetlands in the study area for their sources of important nutrients. The forested wetlands of the upper Barataria Basin export large amounts of nitrogen, phosphorus, and carbon to the estuaries of the lower basin. This is a major source of the energy which fuels the high productivity of the Louisiana coastal ecosystems (Day, 1984).

The amount of plant biomass produced in the study area, although not directly measured, appears to be comparable to that measured in nearby sites (Conner and Day, 1976; EPA, Oct. 1980; USFWS, March 1982; USFWS, March 1984) exhibiting similar species composition. This plant biomass is significant because it serves both as an important direct food source for numerous species of fish and wildlife that live on or visit the project site, and as a source of detritus (i.e., plant and animal material undergoing various stages of decay by the action of bacteria and fungi). Detrital material constitutes a large fraction of the diet of fishes and invertebrates and thereby contributes to the downstream estuarine food webs. By this mechanism, recreational and commercial fish and shellfish resources are supported.

EPA field and laboratory studies confirmed that the Bayou aux Carpes study area is a source of organic carbon and nitrogen to Bayou Barataria, leading to Barataria Bay. Nutrient exchange measurements and dye tracer studies verified the export mechanism. During the study period, water transport from Bayou aux Carpes to Bayou Barataria was rapid and directed towards Barataria Bay. Traced waters leaving the Bayou aux Carpes study area via the Southern Natural Gas Pipeline canal traveled downstream in Bayou Barataria a distance of six miles in less than 24 hours (EPA, Jan. 1985).

The denitrification process is an efficient and important function of forested swamps, as well as tidal marshes. The biological cycling of inorganic nitrogen was evident in the Bayou aux Carpes study area. Bayou

Barataria was found to be the primary source of inorganic nitrogen and the study area was found to be a principal site for its assimilation into other nitrogen forms, such as animal and plant protein. Concentration gradient studies revealed that the study area is a significant source of organic matter exported to the lower Barataria estuarine system (EPA, Jan. 1985).

In summary, EPA studies confirm the determination of the Louisiana Department of Natural Resources that the Bayou aux Carpes study area "plays a vital role in the functioning of the estuarine system by contributing organic matter and acting as a buffer between adjacent developed areas and the lower estuary." Further, the state agency advised EPA that the study area is "an important element in the upper Barataria estuary and will be considered a key component of the system when the Louisiana Department of Natural Resources initiates a future study for special area management of the upper Barataria basin" (LDNR, July 10, 1985).

3. Recreation

The Barataria Unit of the Jean Lafitte National Historical Park lies within the same drainage basin as the Bayou aux Carpes study area and is ecologically similar to the study area. Since there is a direct hydrological connection, ecological conditions in the study area have a strong influence on the 600 acre Park segment. The vegetation within the Park contains significant undisturbed areas of three major forest types: ridge, bottomland hardwood, and cypress-tupelo. Most natural levee areas in south Louisiana have been extensively developed and the study area is one of the very few, and perhaps the only protected area, where all three communities remain in the natural state (Day, 1984). Park management plans call for the unit to be maintained as a "protected representative natural community subzone" (NPS, Oct. 12, 1984).

The Park Service has also placed an emphasis on this area as an educational resource. An interpretative walkway traverses typical bottomland forested wetlands, then enters a cypress-tupelo swamp. The trail receives high visitor use and is a major tool in the Park's education program. In addition, an "environmental education group use site" that is planned would rely heavily on the swamp area adjacent to the Bayou aux Carpes study area (NPS, Oct. 12, 1984 and NPS, Aug. 7, 1985).

Recreational opportunities such as boating, fishing, trapping, and some hunting are also available within the bounds of the study area. The public currently has access to portions of the tract by way of the major watercourses.

C. Summary of Values Assessment

The recent EPA Section 404(c) evaluation has confirmed the conclusions regarding the ecological values of the study area which were described

In the March 31, 1976, EPA Region 6 review of the Harvey Canal-Bayou Barataria Levee Project (Appended to EPA, Jan. 1985). The site is a productive and functioning component of the Barataria Bay system. The ecological and recreational values are numerous and are evident at both the local, on-site level as well as the broader regional level.

POTENTIAL ADVERSE IMPACTS OF SECTION 404 PERMIT ACTIVITIES:

A. Cumulative and Regional Impacts

As reported by the Department of Commerce (USDC, 1980), Louisiana is the third ranking state in fisheries employment and the state's estuarine system produces 28 percent of the nation's fishery harvest. The Corps of Engineers recently estimated that 40 percent of the nation's fur catch came from coastal Louisiana marshlands. They also report that "[s]portsmen spend 25 million user-days each year hunting and fishing in this incredibly productive area. In 1983, the value of the fish and wildlife resources was \$450 million" (COE, 1984).

The national and statewide significance of these resources was summarized by the Department of Commerce thusly: "The coastal and marine resources of the Louisiana coastal zone, including living and non-living resources, recreation, fish, wildlife, estuarine, and water and land resources, are values of prime importance to the people and economy of the State and the nation." And yet, it is an area experiencing increasing pressures for wetland conversion and economic development (LDTD, 1978 and USDC, 1980).

In a report to the Joint Legislative Committee on Natural Resources, Dr. Sherwood Gagliano stated that over the last 80 years, over 800,000 acres of land in coastal Louisiana have been lost. Approximately 58 percent of this has occurred over the past 25 years. In other words, his findings clearly indicate a geometric, rather than arithmetic, rate of coastal land loss in Louisiana (Gagliano, 1981).

Recent losses of forested wetlands in the state are on the order of 87,200 acres annually (USFWS, March 1984) and the losses of estuarine wetlands in Louisiana have been reported at a rate of 25,000 acres, or 40 square miles, per year (USFWS, March 1984; COE, 1984; Dozier et al.; and Gagliano, 1981). This is extremely significant in light of the fact that Louisiana possesses approximately 41 percent of the coastal marshes in the coterminous U.S. (COE, 1984). Aside from the biological, water quality, recreational, and flood protection benefits which are being affected, economic impacts are also being realized. The U.S. Fish and Wildlife Service has found that Louisiana's "multi-million dollar commercial inshore shrimp fishery is directly proportional to the area of intertidal emergent wetland" (USFWS, March 1984).

The causes cited for these wetland losses include such natural phenomena as coastal subsidence and compaction, erosion, and sea level rise, and

000013

-10-

000013

such anthropogenic causes as channelization, levee construction, canal dredging, subsidence due to mineral extraction, agricultural expansion, and urban expansion. Many of the second group of activities fall under the jurisdiction of Section 404 of the Clean Water Act. In fact, it has been predicted in a report by the Department of Commerce that "if the present draining and filling operations for urban and commercial development in the coastal area continue at the current rate, an additional 186,000 acres of the state's wetlands will be lost by the year 2000" (USDC, 1980).

The same types of activities causing significant statewide coastal wetland losses are also reported by the Department of Interior as major influences in the Barataria Basin, within which the study area lies (USFWS, 1983). The Louisiana Department of Transportation and Development (LDTD, 1976) has calculated the total land loss of Barataria Basin wetlands as being 44,800 acres by 1970.

A significant and adverse cumulative effect would result if the study area wetlands were to be drained or converted to urban or agricultural uses. The upper Barataria Basin wetlands are increasingly being ringed by urban development. This can be seen along the Bayou des Familles ridge to the northwest of the Estelle Pumping Station Outfall Canal. Also, the effects of pumping upon habitat similar to that of the study area may be seen immediately west of that canal.

In order to evaluate the potential cumulative effects of the loss or degradation of the 3,000 acre study area wetland tract within the context of the Barataria Basin, a general idea of the scale of the economic value of the tract was found useful. The value of an acre of wetland in the Barataria Basin has been estimated to be \$9,058.93 annually (USDC, 1980 and USFWS, May 1984). This value was computed in 1978 and accounts for only commercial and recreational fishing, commercial trapping, and recreation. The figure does not account for all benefits provided by the wetlands, omitting such factors as flood control and waste treatment. Using this estimate, a predictably conservative value of the study area wetlands in terms of fish, wildlife, and recreation benefits alone would amount to approximately \$27 million annually. This estimate would not account for the additional positive influences from the hydrologically connected Jean Lafitte National Historical Park. The value might also be considered understated because the study area represents a notable portion, roughly four percent of the periodically flooded marsh and swamp area in the expansive Barataria Basin (derived from USFWS, 1983). The Barataria Basin is responsible for a large, if not the largest, share of Louisiana's total commercial fishery harvest (Craig and Day, 1977 and EPA, Jan. 1985).

Therefore, based on EPA's findings of the wetland values and functions of the Bayou aux Carpes study area, it can be seen that unacceptable adverse cumulative and regional impacts would be likely to result from the loss or degradation of these wetlands.

B. Jean Lafitte National Historical Park

Adverse effects upon recreation (primarily from the potential loss of sport fishing and hunting opportunities) associated with the deposition of dredged or fill material within the study area is predictable and has been substantiated by a high level of public concern throughout the public hearing comment period. Also of great concern with regard to recreational opportunities are the potential effects which some disposal activities might have on the Jean Lafitte National Historical Park. The core area of the Barataria Marsh Unit of the Park, administered by the National Park Service, adjoins the Bayou aux Carpes study area on its western border and has a direct hydrological and ecological connection to the study area.

Completion of the Harvey Canal-Bayou Barataria Levee Project as originally proposed, or any other project which would have the effect of draining, drying, or hydrologically isolating the Bayou aux Carpes study area, would adversely affect the Jean Lafitte National Historical Park.

The hydrological relationship is such that attempts to drain or significantly alter the hydrology of the study area would result in adverse hydrological alterations within the Barataria Unit of the Park. These changes would have a significant and undesirable effect on recreational use of the Park and would seriously diminish the capacity of the Park to meet its legislative directive to "preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region..." (Public Law 95-625, November 10, 1978).

Park Superintendent James L. Isenogle stated at the public hearing that completion of the Harvey Canal-Bayou Barataria Levee Project,

"would so profoundly impact the aquatic system of the Barataria Unit of the Park as to invite serious questions as to the area's viability as a part of the National Park system. It should be noted that Public Law 95-625, the law that authorized the park, also established a park protection zone contiguous to the core of the Barataria Unit. The purposes of this zone are to '...protect the following values in the core area: 1) fresh water drainage patterns from the park protection zone into the core area; 2) vegetative cover; 3) integrity of ecological and biological systems; and 4) water and air quality.' Certainly if the Bayou aux Carpes Project were to proceed, those values in much of the core area would be quite literally, destroyed" (EPA, June 1985).

A study of the effects that leveeing and draining the study area would have on the Park was conducted by John W. Day, Jr., of the Louisiana State University Center for Wetland Resources (Day, 1984). Dr. Day concluded that as long as the surface water connection remains functional, the "forced drainage of the Bayou aux Carpes swamp would also result in drainage of much of the area within the park. This would lead to an increase in the number of upland species, and most of the wetland area would be lost."

Specifically, Dr. Day projected that the predominant transition to upland species following drainage would be punctuated by some shallow ponding, resulting from subsidence. Flood-tolerant shrub species would be found in these areas, which would be expected to exhibit about half the level of productivity of the former swamp and bottomland hardwood forests. The larger area of upland habitat would also be expected to exhibit lower productivity than the existing wetland habitat. In addition, organic matter export would be substantially lower and the ability of the Barataria Unit to absorb excess flood waters would be essentially lost. Due to the dramatic changes in plant community structure and trophic dynamics, the wildlife habitat values of the existing Park wetlands would be lost. Similarly, the habitat for resident finfish and crustaceans, as well as for both marine and fresh water migratory species, would be lost along with the attendant recreational opportunities.

Alternative means of preserving the wetland values of the Park if the study area was placed under pump would include placing control structures at the highway culverts and implementing an intensive water management plan. Although the control structures might initially slow the rate of ecological transformation due to draining, EPA has found that the option of constantly maintaining flooded conditions would eventually lead to the deterioration of the cypress-tupelo and bottomland hardwood communities. Shallow open water would become the predominant habitat type. Attempts to reproduce natural hydrological cycles through extensive water management would be expensive, involving major alterations in order to variously pump water into the area and then drain it out again. Such a system would be incompatible with the goals of the National Park Service and result in the loss of many of the existing wetland values such as nursery habitat and materials export (Day, 1984 and NPS, Aug. 7, 1985).

In addition to the Harvey Canal-Bayou Barataria Levee Project, other types of activities conducted in the study area which would require a Section 404 permit would potentially affect the ecological and/or recreational values of the Barataria Unit. This portion of the National Park and the Bayou aux Carpes study area represent, in form and in function, two ecologically interconnected segments of one wetland system.

C. Fish, Shellfish and Wildlife Resources

The loss or degradation of fish and wildlife resources resulting from the proposed Harvey Canal-Bayou Barataria Levee Project has been a point of concern to the U.S. Fish and Wildlife Service since the early 1960's. Several reviews of project alternatives conducted in 1962 concluded that levee construction and land conversion would result in an irreversible and significant loss of wooded swamp and marsh habitat, along with the associated fish and wildlife values. In 1975, the U.S. Fish and Wildlife Service Regional Director recommended that the application for a permit to install a pumping station at Bayou aux Carpes be denied, that the existing dam across Bayou aux Carpes be removed, and that no further construction of

the levee system be permitted. These recommendations were based on the same concerns expressed a decade earlier. Again, in 1984, the Fish and Wildlife Service concluded that the originally proposed project would bring about the destruction of valuable wetlands which provide habitat for numerous species of resident and migratory wildlife (USFWS, Nov. 14, 1984). Additionally, the Fish and Wildlife Service has found that the fish and wildlife resources of the Barataria Unit of the Jean Lafitte National Historical Park would be adversely affected by drainage of the study area (EPA, June 18, 1985).

The wildlife species which would be adversely affected would include an endangered species, several National Species of Special Emphasis, commercially important furbearers, and game animals. The project would also induce adverse impacts on fishery resources by eliminating habitat, reducing materials export to lower estuarine areas, and affecting water quality by compounding the eutrophication problems in the upper Barataria Basin (Craig and Day, 1977).

The deposition of dredged or fill material specifically associated with the completion of the Harvey Canal-Bayou Barataria Levee Project has been the focus of the Fish and Wildlife Service reviews. Their review of each aspect of the project, however, demonstrates that other potential projects involving Section 404 activities would also adversely impact fish, shellfish, and wildlife resources. Those separate activities evaluated include deposition associated with: levee construction and repair; the completion of closure dams across Bayou des Familles, the Southern Natural Gas Pipeline Canal, and Bayou aux Carpes; the construction of ancillary drainage canals; the conversion of the wetlands to residential and commercial land uses; and urban expansion surrounding the study area which would have offsite impacts (EPA, June 18, 1985).

Most recently, the Fish and Wildlife Service* conducted a population survey and prepared a Habitat Evaluation procedure (HEP) report (USFWS, 1985) for the study area and the Barataria Unit of the Jean Lafitte National Historical Park. The wildlife species selected for evaluation were representative of a broad array of community positions (e.g., trophic levels, habitat requirements, taxonomic groupings), as well as recreational, commercial, and aesthetic values. The results indicated that the bottomland hardwood wetlands and swamp and marsh habitats were generally of moderate to high value for the species evaluated.

* Other agencies represented by biologists on the team included the National Park Service, U.S. Army Corps of Engineers, and Louisiana Department of Wildlife and Fisheries. A representative from EPA also served as an ex-officio member of the evaluation team.

000017

-14-

000017

The projections of future conditions, prepared as a part of the HEP analysis, indicated that with the implementation of Section 404(c), only slight changes in habitat value, due to the effects of natural ecological succession, would occur. If, however, the study area were to be enclosed by levees and drained, all evaluation species would be expected to show habitat value losses. Development of the converted lands would cause virtually all of the habitat value to be lost.

The HEP analysis also included a projection of the impacts from the deposition of fill material in the absence of drainage. The results showed that the filled areas would become vegetated with upland species, presenting correspondingly lowered habitat values for wetland-associated fish and wildlife populations. An additional activity examined was that of increased canalization, such as that associated with mineral development. This type of activity was projected to reduce fish and wildlife productivity by disrupting sheet flow and nutrient recharge of the wetlands.

Another federal agency with expertise regarding finfish and shellfish is the National Marine Fisheries Service. They also recognize that the study area is utilized by estuarine organisms and that the area provides many benefits which contribute to downstream, estuarine productivity. They concurred with EPA's May 10, 1985, preliminary findings that the deposition of dredged or fill material within the study area would have significant and adverse impacts within the study area, downstream towards Barataria Bay, and within the Barataria Unit of the Jean Lafitte National Historical Park (NMFS, June 17, 1985).

Similar findings resulted when the U.S. Army Corps of Engineers evaluated the Section 404 permit application associated with the Harvey Canal-Bayou Barataria Levee Project in 1979 by way of an Environmental Assessment and Findings of Fact. As a result of that review, the Section 404 permit was denied in 1980 based on, among other factors, the availability of alternative non-wetland sites, and the potential adverse impacts to the Jean Lafitte National Historical Park and to fish and wildlife resources (COE, Aug. 28, 1980).

By letter dated July 10, 1985, the Louisiana Department of Natural Resources also concluded that the study area wetlands "provide not only important wildlife habitat, but act as nursery grounds for many estuarine dependent species of recreational and commercial value to the State of Louisiana." Their historical analysis revealed that between the years 1956 and 1983 no major changes in wetland types occurred. However, an increase in open water areas was evident, as well as in increase in uplands, primarily levees or spoil banks. Aside from the direct loss of fish and wildlife resources, a major concern of the State appears to be the potential loss of the study area as an ecological "buffer between adjacent developed areas and the lower estuary" (LDNR, July 10, 1985).

This buffer could be compromised by projects which entail the drainage and conversion of these wetlands to agricultural, residential, or commercial uses. The dredging of canals and pipelines could also affect the study area wetlands by causing a reduction in sheet flow, which transports nutrients and organic matter into and out of the wetlands. If the placement of canals and associated spoil banks result in impounding the wetland, productivity of the site would decline due to impeded germination of trees and the succession to aquatic herbaceous growth and small water-tolerant shrubs (COE, 1981; Day, 1984; NPS, Aug. 7, 1985).

The adverse impacts of canalization and the implications for Barataria Bay fisheries were evaluated by John Day in a report for the National Park Service (Day, 1984) as follows:

"Canals are another way in which urban and agricultural runoff can by-pass the swamps and marshes and proceed directly into the wetland areas in the lower basin. Because wetlands act as a way to upgrade water quality, this skirting of wetland areas may increase the chance of eutrophication of the lower basin waterbodies due to the high nutrient-load of the runoff water (Kemp 1978)*.

Hopkins and Day (1979)* found that Lake Cataouatche and, to a lesser extent, Lake Salvador have already begun to experience the effect of an altered hydrological regime. These lakes in the Barataria Basin used to be a prime nursery ground for Louisiana commercial fisheries, but now drainage canals from the West Bank of New Orleans bypass the swamps and enter directly into the lakes. High nutrient loads from the West Bank have caused Lake Cataouatche to become eutrophic and fish kills after large rainstorms are indicative of the impact of the changes in the natural hydrology of this once productive area. The Barataria Waterway also allows urban runoff to flow unhindered to the upper part of Barataria Bay. Harmful substances can no longer be trapped by wetlands, and therefore flow straight into water bodies. There have also been reports of increased occurrences of salt water intrusion into the freshwater areas of the Barataria Basin because of these dredged canals (Conner and Day, 1980)*."

Finally, the findings from these federal and state agencies with various responsibilities for protecting fish and wildlife resources added much

* Citations available in Day, 1984.

to the current EPA review under Section 404(c) of the Clean Water Act. However, EPA concern regarding the effects from projects involving the discharge of dredged or fill material in this area is not new. EPA has conducted reviews of the Environmental Impact Statements and Section 404 permit applications for two other large-scale projects (the Marrero-Lafitte Waterline Project and the West Bank Hurricane Protection Levee Project) which would affect this same area. As a part of these reviews, EPA became involved in extensive negotiations regarding the protection of these wetland resources. EPA has thereby historically recognized this area as a sensitive, valuable wetland worthy of special protective measures, and yet continually subject to project proposals which would adversely affect its wetland characteristics, including the associated fish and wildlife resources.

In order to verify, update, and expand previous evaluations, EPA conducted field studies in January 1985 and documented them in a report entitled, "A Hydrological, Chemical, and Biological Assessment of Bayou aux Carpes, New Orleans, Louisiana" (EPA, Jan. 1985). Additional field surveys and a photointerpretive study based on recent infrared photography (EPA, June 19, 1985) added further support to the concerns for fish and wildlife resources highlighted in the Region 6 "Proposed Determination to Prohibit, Deny, or Restrict the Specification or the use for Specification, of an Area as a Disposal Site; Notice and Public Hearing," published in the Federal Register on May 17, 1985. EPA also examined the review of these and other studies prepared by Steimle and Associates, consultant to some of the landowners.

This review confirmed previous EPA evaluations and the findings of other agencies, as reported above, with regard to the existing value and the potential for unacceptable adverse impacts upon fish and wildlife resources. The bottomland hardwood wetlands and the wooded swamp and marsh habitat, in conjunction with the waterways, provide valuable feeding, breeding, and nursery habitat for numerous species of finfish, shellfish, and wildlife. Furthermore, the tidal exchange, which provides the mechanism for detrital export and the ingress and egress of estuarine fauna, indicates the scope of the potential impacts.

D. Section 404(c) Criteria

Unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, and recreation areas are the four criteria which may individually or jointly be used as the basis for an EPA decision to invoke the provisions of Section 404(c) of the Clean Water Act. In making this determination, any written findings of compliance with the EPA "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" (40 CFR Part 230) shall also be considered.

An "unacceptable adverse effect" is defined as an impact which would be likely to result in a significant degradation in any of the criteria areas (40 CFR 231.2(e)). In the determinations made under Section 404(c) of the

Clean Water Act, an impact is judged as being "unacceptable" in terms of environmental factors and requires no balancing of economic or other factors (Supplementary Information - 44 FR 196). The term "significant" is taken to mean "more than 'trivial'," or "significant in a conceptual rather than a statistical sense" (Supplementary Information - 45 FR 249). Further, the determination that an unacceptable adverse effect "would be likely" to occur represents a finding based on predictions of future impacts. Absolute certainty is not required, but rather a finding of "reasonable likelihood" (Supplementary Information 40 CFR 231).

In evaluating the projected impacts in this case, EPA staff applied this definitional framework to information available from: previous studies of the area associated with various public and private project proposals; recent studies conducted in association with this recommended determination; coordination with other agencies (including a review of the Corps' Environmental Assessment/Section 404(b)(1) Review and Findings of Facts related to one particular project proposal--the Harvey Canal-Bayou Barataria Levee Project); and comments received from the public, including affected land-owners.

These findings revealed that the discharge of dredged or fill material within the Bayou aux Carpes study area would be likely to induce unacceptable adverse effects on the following criteria: shellfish beds and fishery areas, including spawning and breeding areas; wildlife; and recreation areas.

The study area wetlands were found to display many beneficial wetland characteristics and functions such as: 1) a high degree of biological productivity; 2) habitat for all or portions of the life cycles of a variety of fish and wildlife, including waterfowl, furbearers, freshwater sport fish, and commercially important shellfish and marine fish; 3) hydrological buffering, including stormwater retention and downstream freshwater contribution; 4) water quality improvement; 5) nutrient and energy export; and 6) recreation opportunities (on-site and in the adjacent Jean Lafitte National Historical Park).

The predicted impacts evaluated and summarized in the preceding sections indicate that these functions and characteristics would be significantly and adversely affected by implementation of various activities which would require a Section 404 permit.

RECOMMENDED DETERMINATION:

The Regional Administrator of Region 6 has determined that the approval of certain activities would be likely to result in unacceptable adverse effects on fish and wildlife resources and recreation areas. These activities include: 1) construction of the Harvey Canal-Bayou Barataria Levee Project, as originally proposed; 2) implementation in the Bayou aux Carpes study area of Federal projects regulated under Section 404; and 3) the issuance

-18-

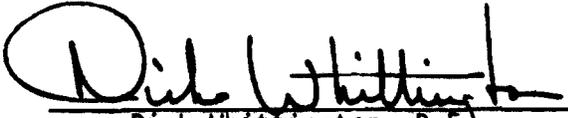
of permits for Clean Water Act Section 404 activities to be conducted in the Bayou aux Carpes study area wetlands. For that reason, it is recommended that the use of the Bayou aux Carpes study area as a disposal area for dredged or fill material be restricted. This recommendation applies to the Harvey Canal-Bayou Barataria Levee Project (original design) and all activities regulated under Section 404, with the exception of certain habitat enhancement projects which receive the approval of the Regional Administrator.

The recommended determination is based on a thorough site evaluation, coordination with representatives of affected landowners, consideration of information provided by other agencies and knowledgeable individuals, a review of the scientific literature, a review of the administrative activities of EPA, the federal court proceedings, and the results of a public participation program.

ADDITIONAL INFORMATION:

This document represents a summary of the findings from all the information reviewed in the administrative record. For further information contact: Environmental Protection Agency, Federal Activities Branch, 1201 Elm Street, Dallas, Texas 75270.

Date: August 30, 1985


Dick Whittington, P.E.
Regional Administrator

000022

000024

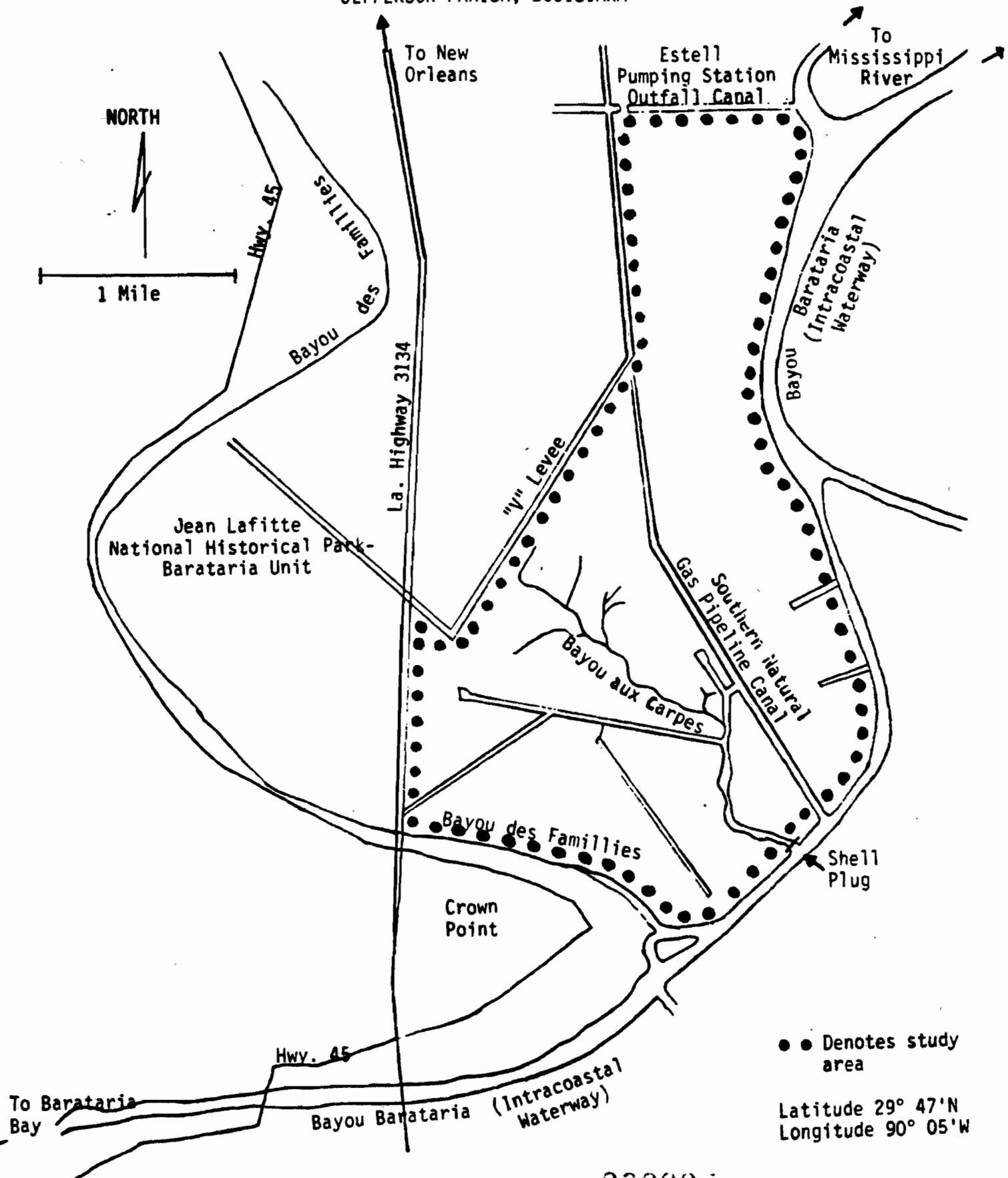
REFERENCES CITED

- COE, November 16, 1976. "Statement on Revised Statement of Findings: Harvey Canal-Bayou Barataria Levee Project, Louisiana." Drake Wilson, Deputy Director of Civil Works, United States Army.
- COE, August 28, 1980. Letter from Colonel Thomas A. Sands, District Engineer, U.S. Army Corps of Engineers, to Joseph S. Yenni, Parish of Jefferson.
- COE, 1981. "Impacts of Flooding Regime Modification on Wildlife Habitats of Bottomland Hardwood Forests in the Lower Mississippi Valley." Waterways Experiment Station, U.S. Army Corps of Engineers, Vicksburg, Mississippi. Technical Report EL-81-13.
- COE, 1984. "Louisiana Coastal Area Initial Evaluation Studies: Land Loss and Marsh Creation." U.S. Army Corps of Engineers, New Orleans District.
- COE, August 15, 1985. Letter from Colonel Eugene S. Witherspoon, District Engineer, U.S. Army Corps of Engineers, to Environmental Protection Agency.
- Conner, William H., and John W. Day, Jr. 1976. "Productivity and Composition of a Baldcypress-Water Tupelo Site and a Bottomland Hardwood Site in a Louisiana Swamp." American Journal of Botany 63(10): 1354-1364.
- Craig, N.J., and John W. Day, Jr. 1977. "Cumulative Impact Studies in the Louisiana Coastal Zone: Eutrophication; Land Loss." Final Report to Louisiana State Planning Office by Louisiana State University Center for Wetland Resources, Baton Rouge, Louisiana.
- Day, John W. Jr., 1984. "A Study of the Effects of the Proposed Leveeing and Drainage of the Bayou aux Carpes Swamp on the Adjacent Barataria Unit, Jean Lafitte National Historical Park." Louisiana State University Center for Wetland Resources, Baton Rouge, Louisiana.
- Day, John W., William H. Conner, G. Paul Kemp, and David G. Chambers 1981. "The Relationship of Estuarine Productivity to Wooded Swamps and Bottomland Forests in the Southeastern U.S." in "Proceedings: U.S. Fish and Wildlife Service Workshop on Coastal Ecosystems of the Southeastern United States." February 1981. U.S. Fish and Wildlife Service, U.S. Department of Interior.
- Dozier, Malcolm D., James G. Gosselink, Charles E. Sasser, and John M. Hill. Undated. "Wetland Change in Southwestern Barataria Basin, Louisiana, 1945 - 1980." Louisiana State University, Coastal Ecology Laboratory, Baton Rouge, Louisiana.

- EPA, October 1980. "Field Guide to Evaluate Net Primary Production of Wetlands." U.S. Environmental Protection Agency, Environmental Research Laboratory, Corvallis, Oregon. EPA-600/8-80-037.
- EPA, January 1985. "A Hydrological, Chemical, and Biological Assessment of Bayou aux Carpes, New Orleans, Louisiana." U.S. Environmental Protection Agency Region 4, Ecological Support Branch, Athens, Georgia.
- EPA, June 18, 1985. "United States Environmental Protection Agency Public Hearing In the Matter of: Proposed Determination to Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site." Public hearing transcript of June 18, 1985. Gretna, Louisiana.
- EPA, June 19, 1985. "Description of Data Collection, Methodology and Photo Analysis Results of Photointerpretive Study of Bayou aux Carpes Area." U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Las Vegas, Nevada.
- Federal Register, May 17, 1985. "Proposed Determination to Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Notice and Public Hearing." Federal Register Vol. 50, No. 96, Friday, May 17, 1985.
- Gagliano, Sherwood M. 1981. "Special Report on Land Loss, Barrier Island Erosion and Wetlands Deterioration in the Louisiana Coastal Zone." Presented to: The Joint Legislative Committee on Natural Resources, Baton Rouge, Louisiana.
- LDNR, July 10, 1985. Letter from C. G. Groat, Assistant to the Secretary, Louisiana Department of Natural Resources, to Dick Whittington, P.E., Regional Administrator, U.S. Environmental Protection Agency, Region 6.
- LDTD, 1976. "Barataria Basin: Geologic Processes and Framework." Louisiana State University Center for Wetland Studies, for the Louisiana Department of Transportation and Development.
- LDTD, 1978. "The Value of Wetlands in the Barataria Basin." Anthony J. Mumphrey, Jane S. Brooks, Thomas D. Fox, Cynthia B. Fromherz, Robert J. Marak, and James D. Wilkinson for Louisiana Department of Transportation and Development.
- NPS, 1980. "Natural Areas Significance Study - Mississippi River Delta Region". August, 1980. U.S. Department of the Interior, National Park Service, Washington, D.C.
- NPS, October 12, 1984. Letter from James L. Isenogle, Superintendent, Jean Lafitte National Historical Park, National Park Service, to Barbara Keeler, U.S. Environmental Protection Agency, Region 6.

- NPS, August 7, 1985. Letter from Robert I. Kerr, Regional Director, Southwest Region, National Park Service, to Dick Whittington, P.E., Regional Administrator, U.S. Environmental Protection Agency, Region 6.
- NMFS, June 17, 1985. Letter from Richard J. Hoogland, Chief, Environmental Assessment Branch, National Marine Fisheries Service, to Dick Whittington, P.E., Regional Administrator, U.S. Environmental Protection Agency, Region 6.
- USDC, 1980. "Louisiana Coastal Resources Program Final Environmental Impact Statement." U.S. Department of Commerce, National Oceanic and Atmospheric Administration.
- USFWS, March 1982. "The Ecology of Bottomland Hardwood Swamps of the Southeast: A Community Profile." U.S. Fish and Wildlife Service, U.S. Department of the Interior OBS-81/37.
- USFWS, 1983. "Ecological Characterization of the Mississippi Deltaic Plain Region: A Narrative with Management Recommendations." U.S. Fish and Wildlife Service, U.S. Department of the Interior. OBS-82/69.
- USFWS, March 1984. "Wetlands of the United States: Current Status and Recent Trends." U.S. Fish and Wildlife Service, U.S. Department of the Interior.
- USFWS, May 1984. "The Ecology of Delta Marshes of Coastal Louisiana: A Community Profile." U.S. Fish and Wildlife Service, U.S. Department of Interior. OBS-84/09.
- USFWS, November 13, 1984. Letter from Dennis B. Jordan, Endangered Species Field Office, U.S. Fish and Wildlife Service, to Clinton B. Spotts, U.S. Environmental Protection Agency, Region 6.
- USFWS, November 14, 1984. Letter from Gerald W. Bodin, U.S. Fish and Wildlife Service, to Barbara Keeler, U.S. Environmental Protection Agency, Region 6.
- USFWS, 1985. "Fish and Wildlife Resources of the Bayou aux Carpes Drainage Area, Jefferson Parish, Louisiana." U.S. Fish and Wildlife Service, U.S. Department of the Interior.

BAYOU AUX CARPES STUDY AREA
JEFFERSON PARISH, LOUISIANA



NORTH

1 Mile

To New Orleans

Estell Pumping Station
Outfall Canal

To Mississippi River

Hwy. 45

Familles
Bayou des

La. Highway 3134

"Y" Levee

Bayou Barataria
(Intracoastal
Waterway)

Jean Lafitte
National Historical Park-
Barataria Unit

Southern Natural
Gas Pipeline Canal

Bayou aux Carpes

Bayou des Familles

Shell Plug

Crown Point

Hwy. 45

To Barataria Bay

Bayou Barataria (Intracoastal Waterway)

● ● Denotes study area

Latitude 29° 47' N
Longitude 90° 05' W

000025

000025

**B. A HYDROLOGICAL, CHEMICAL, AND BIOLOGICAL
ASSESSMENT OF BAYOU AUX CARPES**

000027

000027

**A HYDROLOGICAL, CHEMICAL, AND BIOLOGICAL ASSESSMENT OF
BAYOU AUX CARPES, NEW ORLEANS, LOUISIANA**

JANUARY 1985

by

**Environmental Protection Agency
Environmental Services Division
Ecological Support Branch
Athens, Georgia 30613**

000026

JUN 13 1985

000028

TABLE OF CONTENTS

	<u>Page No.</u>
LIST OF TABLES	ii
LIST OF FIGURES	iii
PROJECT PERSONNEL	v
SUMMARY AND CONCLUSIONS	1
INTRODUCTION	4
PROJECT AREA AND STUDY SITE	6
METHODS AND RESULTS	7
Quality Assurance	7
Hydrographic Assessment.	7
Water Level Responses	8
Ground Surface Elevations	10
Water Circulation	11
Water Chemistry	13
Sediments	15
Biological	17
Swamp and Marsh Biota	18
Canal Biota	19
DISCUSSION	20
LITERATURE CITED	30
APPENDIX A	

000029

000029

LIST OF TABLES

<u>Table</u>	<u>Description</u>	<u>Page No.</u>
1	Station Descriptions, Bayou Aux Carpes Study, January 1985	32
2	Water Level Summary, Barataria Waterway	34
3	Ground and Water Surface Elevations, Bayou Aux Carpes, January 1985	35
4	Water Chemistry-Chlorides and Salinity, Bayou Aux Carpes, January 1985	36
5	Water Chemistry, Bayou Aux Carpes, January 1985	37
6	Sediment Pesticides, Bayou Aux Carpes, January 1985	39
7	Benthic Macroinvertebrates, Qualitative Collections, Bayou Aux Carpes, January 1985	40
8	Fish Collections, Bayou Aux Carpes, January 1985	41

000031

000031

LIST OF FIGURES

<u>Table</u>	<u>Description</u>	<u>Page No.</u>
1	Site Location	42
2	Bayou Aux Carpes, Jefferson Parish, Louisiana	43
3	Hydrographic Monitoring Locations, Bayou Aux Carpes, January 1985	44
4	Station Location, Nutrient Sampling, Bayou Aux Carpes, January 1985	45
5	Station Location, Biological Sampling, Bayou Aux Carpes, January 1985	46
6	Water Levels, Bayou Aux Carpes, January 16-20, 1985	47
7	Daily Water Level Recordings, COE at Algiers and Barataria Staging Stations, 1984, Bayou Aux Carpes	48
8	Wind Speed and Direction, Moisant International Airport, January 1985	49
9	Rainfall, Bayou Aux Carpes, January 1985	50
10	Water Level, East Borrow Ditch, Lafitte- Larose Highway, Bayou Aux Carpes, January 1985	51
11	Water Level Comparison, 1/16/85, Bayou Aux Carpes, January 1985	52
12	Ground Surface Transects, Bayou Aux Carpes, January 1985	53
13	Frequency of Daily Water Levels (1984) at COE Algiers and Barataria Staging Stations, Bayou Aux Carpes	54
14	Water Levels, Chlorides and Dye Tracer, SNGPL Canal at Junction with ICW, Bayou Aux Carpes	55
15	Dye Tracer Study, Bayou Aux Carpes, January 1985	56

000032

000032

LIST OF FIGURES (Continued)

<u>Table</u>	<u>Description</u>	<u>Page No.</u>
16	Water Levels, TOC and Total Organic Nitrogen, SNGPL Canal at Junction with ICW, Bayou Aux Carpes	57
17	Water Levels and Nitrogen Forms, SNGPL Canal at Junction with ICW, Bayou Aux Carpes	58
18	NO ₂ -NO ₃ , Organic N, TOC Comparison, Bayou Aux Carpes, January 1985	59
19	Sediment Size Composition, Canals and ICW, Bayou Aux Carpes	60
20	Sediment Size Composition, Forested Swamp and Marsh, Bayou Aux Carpes, Stations 2 and 10a	61
21	Sediment Size Composition, Forested Swamp and Marsh, Stations 7 and 8, Bayou Aux Carpes	62
22	Sediment Metals, Bayou Aux Carpes	63
23	Seasonal Distribution, Water Levels at Barataria, Jan - Dec, 1984	64
24	Seasonal Distribution, Water Levels and Predominant Winds, Barataria, Jan - Dec, 1984	65
25	Seasonal Distribution, Water Levels, Rainfall and Wind Direction, Barataria, Jan - Dec, 1984	66

000033

000035

PROJECT PERSONNEL

- *Delbert B. Hicks - Aquatic Biologist, Region IV, EPA
- *Thomas R. Cavinder - Environmental Engineer, Region IV, EPA
- Hoke S. Howard - Aquatic Biologist, Region IV, EPA
- Donald W. Lawhorn - Engineering Technician, Region IV, EPA
- Barbara Keeler - Biologist, Region VI, EPA

Project personnel wish to acknowledge the assistance of Sue Hawes, New Orleans District of U. S. Army Corps of Engineers, whose familiarity with the site was of great benefit.

*Authors

SUMMARY AND CONCLUSIONS

1. The Bayou Aux Carpes project area consists of approximately 3000 acres of wetlands comprised mainly of forested swamp and marshes. Although the project is bound on its perimeter by levees, the Southern Natural Gas Pipeline (SNGP) canal provides a direct hydrological connection between the site and the Barataria Intracoastal Waterway (ICW) and Barataria Bay. Navigation within the project area is provided by the SNGP canal, petroleum exploration canal, and bayou.
2. Wind appears to be the primary force effecting water levels in the project area and the Barataria Waterway. A diurnal tide range of 0.3 to 0.4 feet was recorded during the study. This range appears typical of the upper basin region of the Barataria Bay system. A rainfall event of 1.4 inches produced no discernible increase in water levels within the project waterways.
3. An average ground surface elevation of 1.24 feet National Geodetic Vertical Datum (NGVD) was determined from 22 survey observations within undisturbed swamp and marsh areas of the project site. During the study, the average depth of water inundating the marsh and swamp area was observed to be 0.3 feet. Surface elevation of the swamp and marsh water at most locations exceeded water level elevations in the Barataria Waterway and the SNGP canal. The relatively flat topography of the swamp/marsh areas and the broken berm line flanking a

majority of adjoining canals enhanced the capacity of the swamp to detain, store, and slowly release surface water to downstream systems.

4. The water storage capacity of the swamp was illustrated in the present study by the measured cyclic chloride concentration of swamp water discharged to the Barataria Waterway.
5. Dye tracer studies confirmed that water transport from Bayou Aux Carpes to the Barataria Waterway was rapid and directed towards Barataria Bay. Traced waters exiting the Bayou Aux Carpes site via the SNGP canal traveled downstream in the Barataria Waterway a distance of six miles in less than 24 hours.
6. During 1984, water levels in the Barataria Waterway exceeded the average swamp/marsh surface elevation of 1.24 feet NGVD at least 50 percent of the time. Water level elevations in the Barataria Waterway equaled or exceeded 1.24 feet NGVD between one and 26 days each month during 1984. The frequency at which water levels equaled or exceeded 1.24 feet NGVD were most pronounced during the period from May through October 1984 and appeared as a response to southerly wind directions. During 1984, the average annual water level in the Barataria Waterway was 10 to 14 percent below the 20-year mean; hence, the potential for the flooding of the Bayou Aux Carpes swamp is greater during an average water year.

7. The Bayou Aux Carpes project area is a fresh to weakly brackish aquatic environment. Surface water salinity of the swamp drainage ranged from 0.5 to 0.8 ppt with a soil water salinity measuring 1.5 ppt in a marsh area. Salinity of the Barataria Waterway was 0.1 ppt. Based upon this salinity regime, the source of the salinity would ultimately be the Barataria Bay estuary. Winds from the south during the summer could drive saline water from the estuary into Bayou Aux Carpes area where it is stored and metered back into the estuary during the winter with the assistance of northerly winds.
8. Sampling of canal habitat yielded 14 taxa of macroinvertebrates and four species of fish. Three estuarine species were included in the catch -- blue crab, fiddler crab, and bay anchovy. From the marsh/swamp habitat, 27 taxa of macroinvertebrates including blue crab and 6 species of fish were collected. Many of the crustaceans collected are important fish food items such as juvenile crayfish, grass shrimp, and amphipods.
9. With the rise and fall of water levels in the Bayou Aux Carpes site, a hydrological mechanism was available for the exchange of nutrients and organic matter with the Barataria Waterway. Measurements of dye dispersion from the site and nutrient exchange at the mouth of SNGP canal confirmed an export mechanism. The Bayou Aux Carpes area was shown to be a source of organic carbon and nitrogen (detritus) to the Barataria Waterway which leads to Barataria Bay.

10. Water from the Barataria Waterway contains urban runoff from the New Orleans area which is frequently introduced into the Bayou Aux Carpes system where the surface water is temporarily detained. With detention, heavy metals are deposited in the sediments and inorganic nitrogen ($\text{NO}_2\text{-NO}_3$) is biologically processed into other compounds including plant and animal matter which are then subject to export to downstream areas.
11. Results of this study confirm the earlier findings of the 1976 EPA assessment of Bayou Aux Carpes. The 1976 study concluded that Bayou Aux Carpes is a valuable and viable parcel of swamp and marsh in terms of production and export of organic matter, habitat for important fish and shellfish, storage of surface water, processing of nutrients. Therefore, the project area remains a functioning component of the Barataria Bay system.

INTRODUCTION

The Regional Administrator of EPA, Region 6, has initiated a 404(c) action on a wetland tract in Jefferson Parish, Louisiana, south of New Orleans. The purpose of this action is to preclude the loss or alteration of wetlands through the filling and/or forced drainage of approximately 3000 acres of marsh and forested swamp in the Bayou Aux Carpes area. The filling and forced drainage of such areas impairs and destroys several natural functions presently providing public benefits. With this particular project, loss of aquatic habitat for the production of fish, shellfish, fish food items, primary production, and water storage are some of the primary issues.

The Administrator for Region 6 requested personnel of the Environmental Services Division of Region 4 to assist Region 6 members in evaluating these issues in early 1976. At that time, a team of aquatic biologists and an environmental engineer assessed pertinent documents and conducted an inspection of the project area. This inspection produced findings indicating the value of the Bayou Aux Carpes swamp in terms of ecological functions (Appendix A). In 1984, the Environmental Services Division of Region 4 was requested to conduct a technical study to gather additional site specific facts regarding the chemical, biological, and physical character of the Bayou Aux Carpes swamp. The site study, initiated in mid-January 1985, had the following objectives:

- o Determine the kinds of fish, shellfish, and benthic macro-invertebrates associated with the marshes, forested swamp areas and adjoining canals.
- o Determine the water level dynamics associated with the Bayou Aux Carpes swamp, adjoining canals, and the Barataria Waterway (ICW) leading to Barataria Bay.
- o Evaluate the potential nutrient and detrital exchange between the Bayou Aux Carpes swamp, associated canals, and Barataria Bay.
- o Characterize the water and sediment quality associated with the Bayou Aux Carpes swamp and adjoining canals.

PROJECT AREA AND STUDY SITE

The project area of the Bayou Aux Carpes swamp measures approximately 3000 acres and is located south of New Orleans, Louisiana and is part of the Barataria Bay Basin (Figure 1). The area is irregularly shaped and is bounded to the east by the Barataria Waterway (ICW) and to the west by the Jean Lafitte National Park and the "V" levee-canal (Figure 2). The National Park is hydrologically connected to the Bayou Aux Carpes system via culverts under the Lafitte-Larose Highway (Day, 1984). Navigation to the interior of the study area is possible by way of the Southern Natural Gas Pipeline (SNGP) canal which connects with Bayou Aux Carpes and other canals created for petroleum exploration efforts.

Based upon inspection of the site by EPA personnel in 1976 and current aerial photography of the area, the Bayou Aux Carpes project area can be described as a diverse wetland composed of forest and shrub swamp, marshes, ponds, and open waterways. Bald cypress, tupelo-gum, green ash, and red maple are common upper story vegetation of the swamp while softstem bullrush, bulltongue, cattail, spikerush, and alligator-weed are typical of the marsh regions. Water hyacinth and duckweed characterize the floating vegetation of the Bayou and dredged canals.

Earlier work by Chabreck (1972) indicates that the Bayou Aux Carpes area to be part of the Barataria Basin hydrologic unit and is subject to slight tidal effects. Based upon his description of

vegetation and salinity for both surface and soil water, the Bayou Aux Carpes area appears primarily as a freshwater to intermediately brackish aquatic system.

Because of restricted accessibility, the present study focused on the areas of the Bayou Aux Carpes swamp associated with the SNGP canal and exploration canals. Location of stations for hydrographical, water quality and biological sampling are shown in Figures 3, 4, and 5, with station descriptions provided in Table 1.

METHODS AND RESULTS

Quality Assurance

Methodology involved in data gathering for this study followed EPA, Environmental Services Division Standard Operating Procedures (SOP) protocol.

Hydrographic Assessment

The hydrographic assessment included the determination of water level dynamics, water motion, and ground surface elevation.

The study of water level dynamics involved the placement of Stevens recorders within the project boundaries, in the east borrow ditch of the Lafitte-Larose Highway, at the mouth of the SNGP canal and on the ICW at the Lafitte-Larose Highway bridge (Figure 3). Additionally, water level records from gauging stations operated by the U. S. Army Corps of Engineers (COE) at the Algiers Lock, Barataria Waterway at Lafitte, and Barataria Waterway at Barataria

(Figure 1) were obtained for the current EPA period of study and for approximately the previous 20 years.

For the period of study, a recording rain gauge was installed in the Bayou (Figure 3). Wind direction and speed data for the study period were obtained from the New Orleans Moisant International Airport. Ground surface elevations of the marsh and swamp within the Bayou Aux Carpes area were determined by differential leveling between the water surfaces in the waterways and the marsh and swamp floor.

Water Level Responses

Water levels recorded in the Bayou Aux Carpes study site, and at the Algiers Lock (upstream of the site) and at Barataria (downstream of the site) were compared for the study period of 1/16-20/85 (Figure 6). By inspection, water levels at the three locations appeared to closely track each other. A small diurnal tide range of approximately 0.3 foot was evident in each record. Daily water level recordings for a one year period (January - December, 1984) were examined for the Barataria and Algiers gauging stations by comparing simultaneous 0800 hours observations (Figure 7). Mean water levels at the Algiers and Barataria stations were 1.28 and 1.24 feet NGVD (National Geodetic Vertical Datum), respectively. The similarity in water level dynamics was also evident in records spanning 17 to 22 years for the COE gauging stations (Table 2). From Table 2, a mean tidal range of 0.25 to 0.35 foot NGVD was derived from the difference between mean low and mean high

water levels calculated for the gauging records. The tidal range of 0.3 foot observed in the EPA study appeared typical of the long term records. Since tidal ranges are relatively small (about 0.3 foot), the effects of wind and rainfall on water level dynamics were also considered. Wind effects are particularly significant in shallow, open water bodies such as those associated with the Mississippi River estuarine system.

The effects of wind on water levels in the Barataria waterway and Bayou Aux Carpes were clearly evident during the study. In the afternoon of 1/16/85 a marked rise in water level occurred with a corresponding decrease following on 1/20/85 (Figure 6). Wind speed and direction data provided by the Moisant International Airport, New Orleans, depicted a relatively strong wind from the south with gusts to 24 knots on the afternoon of 1/16/85 and a strong wind from the north with gusts in excess of 30 knots on 1/20/85 (Figure 8). From these data, it is apparent that winds from the south effected a rise in water levels whereas winds from the north lead to a decrease in water levels.

During this same period, a rainfall gauge installed in Bayou Aux Carpes recorded a rainfall of 1.4 inches between the hours of 2200 on 1/16/85 and 0500 on 1/17/85 (Figure-9). The effects of rainfall on water levels in the Barataria Waterway and Bayou Aux Carpes were not apparent in the records shown in Figure 6. The record probably reflects the masking effects of wind. However, the rainfall effected a sharp rise in the water level recorded at

the Lafitte-Larose highway borrow ditch (Figure 10, see Figure 3 for recorder location). Since the borrow ditch receives roadside runoff and drainage from the Jean Lafitte National Historical Park, the water level increase was probably accentuated by storm runoff, i.e. water level rise was 0.6 feet following a 1.4 inch rainfall event. Drainage maps of the Lafitte-Larose Highway (Louisiana Department of Transportation) show several culverts under the highway connecting surface drainage of the Park to the Bayou Aux Carpes system.

Following the rain event, the water level in the borrow ditch slowly but steadily decreased. This pattern was unlike water level records for either the swamp or Barataria Waterway. For example, a water level recorder stationed in the swamp approximately 0.25 mile east of the recorder positioned in the borrow ditch (Figure 3) provided a water level record similar to the ICW records (Figure 11). The contrast between the swamp and borrow ditch hydrographs suggests, at least during the EPA study period, that water levels in the ditch were not responding simultaneously to hydrographic conditions in the Barataria Waterway.

Ground Surface Elevations

As previously reported, water level records for the ICW and Bayou Aux Carpes were nearly identical (Figures 6 and 7); hence, the recorded water levels at Algiers Lock and the Barataria gauges were used to adjust water levels in the Bayou Aux Carpes to NGVD. Ground surface elevations of the marsh/swamp within Bayou Aux

Carpes System were determined by differential leveling between the water surfaces in the canals and the marsh/swamp floor. Locations of the seven ground surface transects are shown on Figure 12. A total of 22 elevations were determined within the undisturbed marsh/swamp floor. Elevations ranged from 0.44 to 1.65 feet with a mean of 1.24 feet NGVD (Table 3).

The frequency of occurrence of water level elevations in the Barataria Waterway which can potentially flood into the marsh and swamp areas were determined for 1984. Water levels recorded each day at 0800 hours were plotted for the Algiers and Barataria water level gauges (Figure 13). As shown, the mean elevation of the marsh and swamp floor (1.24 ft. NGVD) was exceeded at least 50 percent of the time by water levels in the Barataria Waterway. Marsh-swamp elevations of 0.44 and 1.65 feet NGVD were exceeded 95 and 20 percent of the time by water levels in the waterway, respectively. Numerous breaks in the levees adjacent to the swamp and marshes including the unfilled areas at the head of the canals allow surface water to flow between the wetlands and adjacent waterways. Remnants of the original Bayou Aux Carpes waterway (Figure 2) was unleveed, thus allowing surface water to sheet flow to the adjoining wetlands. During the study period, depth of surface waters in the swamp averaged 0.3 foot (Table 3).

Water Circulation (Dye Tracer)

A dye tracer (Rhodamine WT) was released at 1200 hours on 1/17/85 in Bayou Aux Carpes at the rain gauge location (Figure 3).

Dye dispersion from the point of release was monitored by automatic samplers positioned near the mouth of the SNGP canal (Figure 3). The samplers were operated for a period of 36 hours with sample collections programmed at one-hour intervals. Samples were split with one portion measured with a fluorometer for dye concentrations and the other returned to the Athens Laboratory (EPA) for chloride analysis. In addition, a boat mounted flow-through fluorometer was used to monitor the travel of traced water within the project's navigable watercourses and in the Barataria Waterway.

Within 3.5 hours following release, the tracer was found at Station 10 near the mouth of the SNGP canal (Figure 14). The traced waters exited from the canal and into the Barataria Waterway on successive ebb tides. Dye concentrations increased through the ebbing phase of the tide. During the flood tide, water from the Barataria Waterway flooded into the SNGP canal resulting in a decrease in dye concentrations.

The traced waters from Bayou Aux Carpes moved rapidly downstream through the SNGP Canal and then into the Barataria Waterway (Figure 15). The dye path from the point of release tracked primarily to the SNGP Canal and then south to the Barataria Waterway and then towards Barataria Bay. Virtually no dye moved in a northerly direction along the SNGP canal nor did it disperse upstream of Station 6, the long east-west drill hole canal. The leading edge of the dye cloud entered the Barataria Waterway within 4.5 hours of

its release. After 21.5 hours, the traced waters had traveled downstream in the ICW to the community of Barataria (Figure 1), a distance of 31,000 feet or nearly 6 miles (Figure 15).

Chloride concentrations responded to tidal phase much in the manner depicted for the dye (Figure 14). At Station 10 near the mouth of the SNGP canal, chloride concentrations increased on the ebbing tide with a decrease occurring on the flooding phase. Swamp drainage appeared as the source of chlorides during the study period. Surface water from the Barataria Waterway (Station 11) contained the lowest chloride concentration of 49 mg/L. Chloride concentrations for other locations in the project area ranged from 250 to 430 mg/L (Table 4). Soil water collected from a screened well point driven to a depth of two feet in the marsh floor (Station 10a) yielded a chloride concentration of 800 mg/L or about 1.5 ppt salinity. Surface salinity of the swamp drainage ranged from about 0.5 to 0.8 ppt (Table 4). As discussed later, the ultimate source of the chlorides in the swamp drainage is presumably the estuary.

Water Chemistry (Nutrients)

The nutrient exchange regime of surface water exchanging between the Bayou Aux Carpes swamp and Barataria Waterway was sampled over a 36-hour period. Automatic samplers were positioned at the mouth of the SNGP Canal (Station 10) and programmed to collect samples at hourly intervals. In addition, surface water grab samples were collected from the Barataria Waterway and at other sites in the swamp and adjoining canals (Figure 4). All samples were preserved and returned to the Athens Laboratory (EPA) for analyses.

Organic carbon and organic nitrogen concentrations at the mouth of the SNGP Canal responded to tidal effects as described for the dye and chlorides observations. Concentrations increased on the ebbing tide and then decreased during the flooding phase (Figure 16). This trend suggests that the Bayou Aux Carpes system is a source of organic matter to the Barataria Waterway. The $\text{NO}_2\text{-NO}_3$ concentration regime at the mouth of the SNGP canal was reversed in terms of the tidal effects. Concentrations increased during the flooding phase and decreased when ebbing tides occurred (Figure 17). The observed relationship between tidal, organic nutrients and chloride concentrations indicates that with decreasing water levels in the ICW, flow at the mouth of SNGP Canal is driven primarily by swamp drainage. In contrast, the rising water in the Barataria Waterway provides the energy to disperse water from the Barataria Waterway to the canal.

Nutrient concentrations of surface water collected from the swamp, canals, and Barataria Waterway are shown in Table 5. Concentrations for ammonia (NH_3) and nitrite-nitrate ($\text{NO}_2\text{-NO}_3$) were greater in the Barataria Waterway than in the swamp or associated canals. Concentrations of $\text{NO}_2\text{-NO}_3$ were nearly 28 times greater in the Barataria Waterway compared to the marsh-swamp drainage (Figure 18). In contrast, higher levels of organic carbon (TOC) and organic nitrogen (Org. N) were associated with swamp drainage (Figure 18). Marsh-swamp drainage featured at least a two-fold increase in TOC and organic nitrogen concentrations compared to Barataria Waterway (ICW).

Sediments

Particle size and organic content of sediments are factors affecting the kinds and numbers of benthic macroinvertebrates dwelling in or upon the bottom. Bottom sediments also serve as a sink for many kinds of heavy metals and man-made compounds such as pesticides. To characterize these physical and chemical aspects, sediments were obtained from the bottom of selected stations in forested swamp, marshes, canals, and the Barataria Waterway. Samples analyzed for particle size, organic content, and heavy metals were collected as 10 cm bottom cores.

Results for priority pollutant pesticides and PCB analyses of sediment samples indicate all designated compounds examined were below the detection limits for the chemical procedure employed (Table 6).

Particle size composition of core samples from the Barataria Waterway and canals was predominately silt particles (0.0039 to 0.0625 mm in Figure 19). Total organic content of the core samples ranged from 12 to 20 percent, by dry weight. The sediment profiles for Station 2 (a forested swamp area) and Station 10a (a marsh area), were similar to those characterizing the canals and Barataria Waterway (Figure 20). Stations 7 and 8 (a marsh and swamp site, respectively) were in sharp contrast to other sites. Sediments were primarily comprised of coarser materials (identified as decomposing vegetation), 2 to 32 mm, with a total organic content of 64 to 67

percent (Figure 21). Sediments featuring an organic content exceeding 50 percent by dry weight are generally typical of peat substrate (Chabreck, 1972). Chabreck further indicates that sediments with less than 15 percent organic content tend to represent mainly mineral soils comprised primarily of silt, clay, and sand. Based upon these distinctions, the sediments (top 10 cm) associated with the Barataria waterway and canals appear alluvial in origin. In this case the silt and clay particles originated elsewhere and were trapped by the stilling effects of the canals and wetlands.

The contrast in sediment profiles for the two swamp or marsh areas sampled appeared related to their hydrological connection to the canals. As indicated by the general station description (Table 1), Stations 2 and 10a were in the direct pathway of surface water exchanging between the canals and the wetlands via breaks in the berm line. Stations 7 and 8 were not proximate to breaks in the canal berm. The surface water exchange between the canals and wetlands was more characteristic of sheet flow. By the time the surface water originating from the canals reached the more interior sites, its silt load was probably relieved via the deposition process.

The ability of canals and the swamp/marsh habitat to trap finely divided particles was also evident in the heavy metals concentrations determined for the sediments (Figure 28). The ICW appeared to retain greater concentrations of zinc compared to the swamp and marsh areas. Copper, lead, and iron, concentrations

appear uniformly distributed between the swamp, marsh, canal, and Barataria Waterway (ICW). This distribution pattern indicates the capacity of the marsh/swamp system to trap these heavy metals typically associated with urban runoff.

Biological

Qualitative sampling for benthic macroinvertebrates was conducted in Bayou Aux Carpes marsh and forested swamp environs (Stations 2, 7, 8 and 10a). Various methods, such as standard biological dip nets and drift nets (.5 mm mesh) and hand sorting from available substrates including aquatic plants, stumps, rocks and debris were employed.

To sample nektonic animals in the canals, a channel net was stretched across the canal segment leading from the SNGP canal to Station 4 and anchored to stakes deeply driven into the adjoining banks. The net was constructed of 1 mm nylon mesh with a 5/16-inch chain secured to the foot line of the net. It measured 8 x 50 feet with an 8 x 8 x 8 feet center bag. The canal channel measured approximately 60 to 70 feet in width, hence, the net when in place only partially blocked the canal. The net was fished for approximately four hours on an ebbing tide. Specimens collected from the net were stored in widemouth plastic containers with 90 percent ethanol as a preservative and returned to the Athens Laboratory for identification to the lowest possible taxa.

Swamp and Marsh Biota

Sampling of benthic macroinvertebrates indicated a relatively low level of species richness associated with the swamp and marsh habitat (Table 7). Crustaceans and odonates appeared as the predominate groups of taxa observed in the samples. Nine and 14 taxa of macroinvertebrates were found associated with the swamp areas sampled at Stations 2 and 7, respectively. Five of these taxa were common to both stations which included two kinds of amphipods, aquatic snails, and juvenile crayfish. Aside from the difference in number of taxa (9 versus 14), hydrology and substrate quality were also different.

Station 7, when compared to Station 2, was more of an interior site in the swamp where the water was deeper (3 to 4 inches) and its movement characteristic of sheet flow. Station 2 was characterized by a more vigorous flow regime because of its closer proximity to a primary surface water connection between the canal and swamp. The sediment of the interior swamp site (Station 7) was characterized as peat substrate compared to a more finely divided substrate of silt and sand at Station 2.

Samples from two marsh sites (Stations 8 and 10a) each yielded nine taxa of benthic macroinvertebrates (Table 7). As in the case of the two swamp stations sampled, the quality of substrate and surface water movement were also distinctly different. Three species of amphipods and one species of snail were common to both marsh areas. Grass shrimp, P. kadiakensis, and blue crab, C. sapidies,

were found associated with the small drainage cuts extending from the SNGP canal into the marsh at Station 10a. The presence of blue crabs, a juvenile specimen, reflects the hydrological and biological interaction between the project area and the estuary.

In addition to the benthic macroinvertebrates collected in the swamp and marsh habitat, several species of fish were found associated with these areas (Table 8). Livebearers, such as mosquitofish, least killifish, and sailfin molly, were observed. Mosquitofish appeared as the most abundant species. In addition, spotted sunfish, banded pygmy sunfish, and one species of killifish were collected. Except possibly for the banded topminnow, the fish collected are considered euryhaline species with mosquitofish being common to tidal swamps and marshes (Odum, 1984).

Canal Biota

Sampling of canal biota was limited to a single blocknet set. Because the net only partially blocked the canal channel, the data collected by this means must be viewed in qualitative terms.

The blocknet catch yielded 14 taxa of macroinvertebrates and 4 taxa of fish (Tables 7 and 8). Eight invertebrate taxa were common to the macroinvertebrate communities associated with the marsh and swamp environment. In addition to the blue crab, a second estuarine crab (Uca sp.) was captured by the channel net.

The fish species were represented by juvenile specimens and included bay anchovy, gizzard shad, sunfish, and least killifish

(Table 8). The bay anchovy is an estuarine species which generally migrates to tidal freshwater in the early spring to feed and then returns to the estuary to spawn in late spring. Larvae of this species move upstream to weakly brackish and freshwater tidal nursery areas in the summer (Odum, 1984).

DISCUSSION

Presently, levees span virtually the entire perimeter of the Bayou Aux Carpes project area. The Southern Natural Gas Pipeline (SNGP) canal provides the primary hydrological connection between the swamp and the Barataria Waterway (ICW) and ultimately Barataria Bay. With construction and maintenance of the SNGP canal and associated drill hole canals, dredged materials were spoiled along the canal banks thus forming berms which in some areas measured several feet high. Numerous breaks in the berm line, especially at the end of the canals, provide a pathway for surface water to exchange between the swamp marshes and canals. Determining the potential for exchange of water between these systems was one of the primary objectives of the hydrological assessment.

The mean water level for the Barataria Waterway in the vicinity of the project area was 1.38 to 1.45 feet NGVD. Ground surface elevations of swamp and marsh areas surveyed averaged 1.24 feet NGVD. Accordingly, the potential for the flooding of the Bayou Aux Carpes by rising water in the Barataria Waterway appears to occur at least 50 percent of the time (Figure 13). Furthermore, the frequency of water levels at or above 1.24 feet NGVD in the Barataria Waterway appeared strongly seasonal (Figure 23).

The 1984 water level record for the Barataria Waterway (ICW) reveals three aspects of the flooding regime. First, the 1984 record depicts the average monthly water level as generally peaking during the period of May through October. Since the average ground elevation of the Bayou Aux Carpes swamp was 1.24 feet NGVD, water stages attaining or exceeding this elevation could initiate flooding of the swamp. It is only coincidental that the annual monthly water levels in 1984 averaged 1.24 feet, which is identical to the average surface elevation of the swamp in the study area transects. Secondly, the 1984 annual water level average of 1.24 feet NGVD in the Barataria Waterway was about 0.14 to 0.21 of a foot less than the 20-year average reported in Table 2, i.e., about 10 to 14 percent less in amplitude than the 20-year average. Finally, the lower graph in Figure 23 shows that flooding of the swamp could have occurred in each month of the 1984 water year and possibly even daily as suggested in the case of October during an average or above average water year.

The primary factor controlling the water level appeared to be wind. Short term effects of wind were clearly apparent during this study. Winds from the south increased water levels; whereas, winds from the north effected a measured decrease in water levels (Figures 6 and 8).

Historically, winds from the south prevail during the summer while winds from the north dominate during the winter (Figure 24). Rain events do not appear to effect water levels as readily as the wind (Figure 25). As indicated by Day (1984), winds from the south

provide the necessary energy to drive estuarine waters into the Bayou Aux Carpes region of the Barataria Basin, which would account for the weakly brackish character of the waters draining from the swamp during this study. The capacity of the Bayou Aux Carpes swamp to detain surface waters was evident in the chloride data reported for this study. Chloride concentrations increased with ebb flows from the swamp and decreased when the direction of flow reversed and originated from the Barataria Waterway (Figure 14).

The relatively flat topography of the swamp, in combination with the broken berm line of the canals, undoubtedly served as factors enhancing the capacity of the swamp to detain surface waters and effect its slow release to downstream systems. The average depth of water over the swamp and marsh floor was 0.3 foot (Table 3). This value when added to the average ground surface elevation of the swamp resulted in an average water level elevation of 1.54 feet NGVD. This elevation was above the maximum water level height recorded in the ICW and study canals (Figure 6). The water stored in the forested swamp would seek breaks in the berm line where it's gradually discharged into the canals and ICW. Such a hydraulic gradient would explain the observed net movement of organic carbon, organic nitrogen, chlorides, and dye to the Barataria Waterway.

The seasonal flooding and storage regime of the Bayou Aux Carpes area provides numerous and unique benefits in terms of nutrient processing, primary and secondary production, flood control, salinity control, and as a nursery habitat for freshwater and estuarine fish and shellfish.

The hydrological connection between Bayou Aux Carpes and the Barataria Waterway and the capacity of the Bayou system to detain surface water combined to buffer effects of urban runoff from the New Orleans area on downstream regions like Barataria Bay. Results of the sediment analyses demonstrate the function of Bayou Aux Carpes as a mechanism for trapping finely divided materials thus interrupting their transport to the estuary. Heavy metals, whether absorbed to silt, clays, organic matter, or precipitated as metallic sulfides, are deposited in the sediments.

By detaining the surface water particularly associated with summer flooding, nutrient cycling in the swamp is enhanced. Detention increases the contact time of overflow water with the forest floor of the swamp which is the principal site of denitrification processes and nutrient uptake by rooted vegetation (Brinson, 1981). The timing of the annual flooding regime coincides with the primary growth period of the swamp plant community in southern Louisiana freshwater swamps (Conner and Day, 1976).

The denitrification process ($\text{NO}_2\text{-NO}_3$ to N_2) is an efficient, rapid, and important function in forested swamps as well as tidal marshes (Brinson, 1981; EPA, 1984; and Brinson, et al., 1984). Denitrification is an anaerobic process involving specialized bacteria which utilize the nitrogen bound oxygen (NO_3) as an energy source. In this manner, the NO_3 is reduced to nitrogen gas (N_2) as the bacteria assimilate organic matter. Thus, the decomposition of organic matter proceeds in the absence of dissolved oxygen and the

nitrite-nitrate load of the overflow water is diminished. At virtually all marsh and swamp stations sampled, disturbed sediments yielded the odor of hydrogen sulfide, which is characteristic of a reducing environment.

The biological cycling of inorganic nitrogen ($\text{NO}_2\text{-NO}_3$) was evident in the Bayou Aux Carpes swamp. The $\text{NO}_2\text{-NO}_3$ concentration gradient decreased from sampling points in the Barataria Waterway to stations in the forested swamp and marshes (Figure 18). In this context, the Barataria Waterway emerges as a primary source of $\text{NO}_2\text{-NO}_3$ and the Bayou Aux Carpes swamp a principal area for its assimilation into other nitrogen forms such as animal or plant protein. Accordingly, the elevated concentrations of organic nitrogen in the swamp drainages as compared to those in the Barataria Waterway is not surprising (Figure 18).

With the rise and fall of water levels in the swamp, a hydrological mechanism is established for the exchange of nutrients between the swamp and Barataria Waterway. The export of these materials can be frequent (Figure 23). The lower graph of Figure 29 indicates the number of days each month in 1984 when the water level in the ICW equaled or exceeded the average ground elevation of the swamp and marsh. For each day that the water level in the ICW falls below 1.24 feet NGVD, a net drainage of surface water from the swamp to the Barataria Waterway is possible as demonstrated in this study. Results of the dye dispersion measurements confirmed the net movement of surface waters was from the Bayou Aux Carpes

swamp to the Barataria Waterway and downstream towards the estuary. Although the exchange of organic matter between the swamp and Barataria Waterway was not quantified in terms of loadings (tons/year), net export of organic nitrogen and total organic carbon (TOC) from the Bayou to the Barataria Waterway was evident. Concentration of dye, chlorides, organic nitrogen, and TOC increased at the mouth of the SNGP canal during the ebb phase of the tide (Figures 14, 16, and 17). The concentration gradient depicted in Figure 18 for TOC and organic nitrogen indicates the swamp and marshes as the principal source of organic matter in the export regime.

In terms of annual export of organic carbon and nitrogen from a forest swamp such as Bayou Aux Carpes, the work of Day, et al. (1977) provides a point of reference for judging the potential of the export regime in terms of mass loading from forested wetlands. These investigators conducted a 14-month study of net production and export of nutrients from a swamp forest in the upper drainage basin of the Barataria Bay estuary. Annually, the 770 km² swamp exported 8016, 1047, and 154 metric tons of organic carbon, nitrogen, and phosphorus, respectively, to the estuary. The hydrological regime of the swamp studied by Day, et al. (1977) was somewhat different from the Bayou Aux Carpes area. Both were subject to seasonal flooding; however, rainfall was the principal source of surface drainage in the swamp studied by Day, et al. (1977). For the Bayou Aux Carpes area, surface water drainage was primarily controlled by wind; rain and tide were secondary influences.

A source of organic matter (detritus) for export from the swamp would be its forest and marsh community of plants. Since the Bayou Aux Carpes site is a relatively typical cypress-tupelo swamp in terms of vegetational characteristics and seasonal flooding, its annual primary production would probably be similar to the swamp studied by Conner and Day (1976). These authors reported total primary production for the seasonally flooded Louisiana swamp at 1,574 g/m²/yr at a bottomland hardwood site and 1,140 g/m²/yr at a cypress-tupelo site. The net primary production in forested swamps is generally greater in seasonally flooded systems (Brown, et al., 1979).

The present study demonstrated a hydrological connection between the Bayou Aux Carpes swamp and the Barataria estuary. The pathway between the estuary and swamp appears operational each month of the year at least in the 1984 water year; thus, providing a route for the exchange of nutrients and aquatic life between the swamp and estuary.

Day (1984) provides insight to the seasonal migratory patterns of fish and shellfish in the Barataria Bay and its associated freshwater basins. He identifies the more traditionally reported migratory patterns of estuarine species using the freshwater regions of an estuarine basin as nursery habitat. He documents the presence of bay anchovy, sheepshead minnow, spot, striped mullet, tidewater silverside, and lady fish in the vicinity of the Jean Lafitte National Historical Park which is part of the Bayou Aux Carpes swamp. Hawes (1984) expanded this list of estuarine species for

Bayou Aux Carpes to include both juvenile and adult blue crab. The present study confirmed continual use of the Bayou Aux Carpes by estuarine species (Tables 7 and 8). Juvenile forms of estuarine crabs and bay anchovies were found in the mid-January sampling.

From Day (1984), Hawes (1984), and the present study, at least 15 species of freshwater fishes are reported to be associated with the Bayou Aux Carpes drainage area. Many of these species such as channel and blue catfish, sunfish, and bass, are recognized as important to both commercial and sport fisheries. Day (1984) further elaborated on the potential for a number of freshwater species to seasonally expand their territory in the winter. As he explains and documents, adult and juvenile forms of some freshwater species move from the traditional freshwater regions towards the Gulf in the fall and early winter where they replace marine species immigrating from the estuary to the Gulf. As summer approaches, salinity and temperature increase and the freshwater forms retreat back to the upper freshwater zones of the basin. This cycle would appear particularly significant in terms of assigning a fishery resource value to the Bayou Aux Carpes area. The assessment work of Day (1984) clearly indicates that the potential benefits of fishery production can extend well beyond the geographical boundaries used to describe Bayou Aux Carpes.

For the Bayou Aux Carpes project site, the benthic macroinvertebrate data indicated a relatively restricted community in terms of species richness (Table 7). For the two marsh stations and one

site in the forested swamp, only nine taxa were observed. However, many of the taxa found can tolerate a wide range of environmental conditions including low concentrations of dissolved oxygen and salinity. For several reasons, the relatively low diversity of the community is not surprising. As explained by Odum (1984), the relatively simple structure of the benthic macroinvertebrate community in a tidal freshwater system can be linked to a lack of diverse habitat. Non-tidal systems tend to yield a substantially more diverse community of benthic macroinvertebrates than a tidally effected system. The chloride data gathered in this study coupled with the findings of Chabreck (1972), indicate that the Bayou Aux Carpes site is seasonally brackish which would favor the survival of euryhaline species and impair the success of pure freshwater forms. Several of the taxa found in the Bayou Aux Carpes system can tolerate both fresh and saline environments. Although the benthic community may be represented by relatively few taxa (a total of 27), many of the taxa are important processors of organic matter and fish food items including crayfish, grass shrimp, and other crustaceans such as amphipods (Hyalella azteca and Gammarus sp.).

In the findings of the 1976 assessment by EPA personnel, Barataria Bay was described as the singly most productive estuarine area along the Louisiana coast (Appendix A). Also indicated was the fact that Louisiana estuaries owe their high level of productivity to the extensive system of marshes and swamps of the upper basins. These upper basin regions of swamps and marshes provide

the drainage necessary to maintain the broad, stable brackish zones in the estuary. The Bayou Aux Carpes system is one of these upper basin swamps draining to Barataria Bay.

The results of this study corroborate the findings of the EPA assessment in 1976 and the later assessment by Day (1984). Despite the present alterations of the swamp, mainly the presence of levees and canals, the Bayou Aux Carpes area provides local and regional benefits in terms of water storage and release, habitat for the production and growth of freshwater and estuarine fish and shellfish, nutrient processing, and a source of organic matter for export to Barataria Bay.

LITERATURE CITED

- Brinson, M. M., H. D. Bradshaw, and E. S. Kane. 1981. Nitrogen cycling and assimilative capacity of nitrogen and phosphorus by riverine wetland forests. Water Resource Research Institute. Rept. No. 167. University of North Carolina. 90p.
- Brinson, M. M., H. D. Bradshaw, and E. S. Kane. 1984. Nutrient assimilative capacity of an alluvial floodplain swamp. Journal of Applied Ecology. Vol. 21, 1041-1057p.
- Brown, S., M. M. Brinson, and A. E. Lugo. 1979. Structure and function of riparian wetlands in strategies for production and management of floodplain wetlands and other riparian ecosystems. Gen. Tec. Rept. WO-12. U.S. Dept. of Agriculture. U.S. Forest Service.
- Chabreck, R. H. 1972. Vegetation, water, and soil characteristics of the Louisiana coastal region. Bulletin No. 664. Louisiana State University. Agricultural Experiment Station. 72p.
- Conner, W. H. and J. W. Day, Jr. 1976. Productivity and composition of a bald cypress-water tupelo site and a bottomland hardwood site in a Louisiana swamp. Amer. J. Bot. 63(1):1354-1364.
- Day, J. W., Jr., T. J. Butler, and W. H. Conner. 1977. Productivity and nutrient export studies in a cypress swamp and lake system in Louisiana. In Estuarine Processes, M. Wiley, ed. Vol. 2. Academia Press.

Day, J. W., Jr. 1984. A study of the effects of the proposed leveeing and drainage of the Bayou Aux Carpes swamp on the adjacent Barataria Unit, Jean Lafitte National Historical Park. Report to Jean Lafitte National Historical Park.

Environmental Protection Agency. 1973. Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents. EPA-670/4-73-001.

Environmental Protection Agency. 1984. Reeves Project: A study of the intertidal marshes and streams. Rept. EPA, Environmental Services Division. Athens, GA 30613.

Environmental Protection Agency. 1980. Standard Operating Procedures. Engineering Section. Environmental Services Division, Athens, Georgia.

Environmental Protection Agency. 1982. Standard Operating Procedures. Environmental Biology Section. Environmental Services Division, Athens, Georgia.

Environmental Protection Agency. 1982. Standard Operating Procedures. Laboratory Services. Environmental Services Division, Athens, Georgia.

Hawes, S. 1984. Memo for the record. COE, New Orleans District.

Odum, W. E. 1984. The ecology of tidal freshwater marshes of the United States east coast: a community profile. FWS/OBS-83/17. U.S. Fish and Wildlife Service. U.S. Dept. Interior.

Table 1. Station Descriptions, Bayou Aux Carpes Study, Louisiana, January 1985

Barataria Waterway (ICW):

- Station 11 -- located approximately 100 yards from north shore in Barataria Waterway; soft, silty substrate; depth of 12-14 feet.

Canals:

- Station 3 -- mid-channel, located approximately 50 yards from head of short drill canal; silty substrate; bottom depth of 6-7 feet; hyacinths (Eichornia crassipes) at head of canal; berm vegetation consisted of red maple (Acer rubrum), mainly sweetgum (Liquidambar styraciflua) and wax myrtle (Myrica cerifera).
- Station 4 -- mid-channel, about 200 yards north of original Bayou Aux Carpes waterway; silty substrate; bottom depth of 6 feet; macrophytes along shore consists of alligatorweed (Alternanthera philoxeroides), bulltongue (Sagittaria falcata), pennywort (Hydrocotyl).
- Station 9 -- mid-channel, northernmost station in SNGP canal; approximately mid-point of canal length; soft, silty substrate; bottom depth of 5-6 feet; berm vegetation consisted of mainly red maple (Acer rubrum), willow (Salix), sweetgum (Liquidambar styraciflua), wax myrtle (Myrica cerifera), elderberry (Sambucus).
- Station 10 -- mid-channel, approximately 50 yards upstream from mouth of SNGP canal; soft, silty substrate; bottom depth of 4-5 feet; berm vegetation consisted of mainly willow (Salix), elderberry (Sambucus), water oak (Quercus nigra).

Marsh:

- Station 8 -- Marsh area, open canopied, located off west side of SNGP canal (\approx 1/4 mile from canal mouth); substrate appeared to be rich in organic matter (decayed and partially decomposed vegetative material); depth of water overlying substrate was generally less than one inch; most macrophytic vegetation was dead at time of study except for some Hydrocotyl.
- Station 10a -- Marsh area east of Station 10; station has a break in berm and egress and ingress of water was noted during the study period; most marsh vegetation was dead at the time of the study except for Hydrocotyl; substrate composition in the drainage cut appeared to be fine organic matter overlying fine sand; water depth in the marsh was approximately 1-2 inches while the drainage cut was approximately 10-12 inches.

Table 1 (Continued)

Forested Swamp:

- Station 1 -- Located in forested swamp 50 yards off western end of shorter drill canal; station was located in drainage cut which emptied into the drill canal; flow between swamp and drill canal was evident during the study; vegetative community consisted of cypress, water tupelo with understory of lizard's tail (Saururus cernuus), bulltongue (Sagittaria falcata), coontail (Ceratophyllum demersum), water depth of approximately one foot; substrate appeared to be composed of fine silt overlying fine sand.
- Station 2 -- Located in forested swamp 50 yards off eastern end of shorter drill canal; station was located in drainage area which had flow emptying to the drill canal during the study period; vegetation same as described for Station 1; water depth was approximately one foot; substrate appeared to be fine silt overlying fine sand.
- Station 5a -- Located in drainage cut at end of longest drill canal; forested swamp composed of cypress and water tupelo with an understory of bulltongue, lizard's tail; water depth was approximately one foot; substrate appeared to be fine silt and sand.
- Station 9a -- Located in forested swamp, east of Station 9 which is approximately one mile from the mouth of the SNGP canal; vegetation consisted of mainly cypress, water tupelo; depth of water approximately 3/4 - 1 inch; substrate appeared to be high in organic content, especially decaying or partially decomposed vegetation.
- Station 7 -- Located in forested swamp off west side of SNGP canal (approximately 1/2 mile from canal mouth); cypress, water tupelo, red maple were predominant trees; understory vegetation consisted of bulltongue (Sagittaria falcata), banana lily (Nymphoides aquatica) and lizard's tail; water depth of 6 inches, substrate appeared to contain large amounts of decomposing organic matter.

TABLE 2
WATER LEVEL SUMMARY (FT - NGVD)
BARATARIA WATERWAY

	<u>ICW at¹ Algiers Lock</u>	<u>Bayou² Barataria at Barataria</u>	<u>Bayou³ Barataria at Lafitte</u>
Mean Annual Extreme High	3.07	2.92	2.94
Mean High	1.55	1.57	1.60
Mean Annual Extreme Low	-0.10	0.23	-0.05
Mean Low	1.20	1.32	1.25
Mean Water Level ⁴	1.38	1.45	1.43
Mean Tide Range ⁵	0.35	0.25	0.35

Date Source: COE

1 - 1958 through 1980

2 - 1962 through 1980

3 - 1963 through 1980

4 - Based upon average of mean high and mean low stage

5 - Based upon difference of mean high and mean low stage

TABLE 3
GROUND AND WATER SURFACE ELEVATIONS (FT - NGVD)
BAYOU AUX CARPES
JANUARY 1985

Transect	Swamp/Marsh Left		Swamp/Marsh Right	
	Ground	Water	Ground	Water
A	1.53	1.60	1.60	1.63
	1.27	1.60	1.65	1.67
			1.61	1.67
B	1.49	--*	1.28	1.73
	1.54	1.59	1.27	1.73
C	1.05	1.53	1.02	1.65
	1.00	1.54	1.12	1.69
D			0.44	0.97
			1.04	--*
E			1.32	--*
			0.66	1.00
F	1.60	1.80	1.19	1.99
			1.56	--*
G	1.51	--*		
	0.57	1.42		

Total of 22 Ground Observations
 Maximum 1.65
 Mean 1.24
 Minimum 0.44

Total of 17 Water Observations
 Maximum 1.80
 Mean 1.54
 Minimum 0.00

*water level below ground surface

TABLE 4
 WATER CHEMISTRY-CHLORIDES (mg/L) and SALINITY (ppt)
 BAYOU AUX CARPES
 JANUARY 1985

STATION	DATE	TIME	CL	STATION	DATE	TIME	CL	Sal (ppt)	
10	1/17	1045	130	2	1/20	1200	250	0.5	
		1145	140	5	1/23	0800	260	0.5	
		1345	170	7	1/20	1230	220	0.4	
		1445	180	9	1/20	0800	430	0.8	
		1545	190	10a	1/20	1330	300	0.6	
		1645	210	10 soil	1/19	1535	800	1.5	
		1745	220	11	1/20	1400	49	0.1	
		1845	240						
		1945	240						
		2045	250						
		2145	210						
		2245	110						
		2345	110						
		1/18	0045	130					
	0295		70						
	0345		70						
	1330		280						
	1430		290						
	1530		300						
	1630		290						
	1730		220						
	1830		100						
	1930		110						
	2030		250						
	1/19	2130	290						
		2230	260						
		2330	150						
		0030	140						
		0130	70						
		0230	54						
		0330	51						
		0430	52						
		0530	54						
0630		65							
0730		77							
0830	130								
0930	200								

TABLE 5
 WATER CHEMISTRY (mg/L)
 BAYOU AUX CARPES
 JANUARY 1985

STATION	DATE	TIME	NH ₃ -N	NO ₂ -NO ₃ -N	Org. N	T-P	TOC
1	1/17	1100	0.22	<0.05	0.78	0.11	14
1	1/18	1205	0.33	<0.05	0.87	0.11	14
1	1/19	1415	0.50	<0.05	0.90	0.14	17
2	1/17	1100	0.07	<0.05	0.93	0.10	12
2	1/18	1210	0.16	<0.05	0.79	0.10	15
2	1/19	1410	0.37	<0.05	1.23	0.15	19
3	1/17	1115	0.50	0.76	0.50	0.36	11
3	1/18	1200	0.26	0.65	0.72	0.34	12
3	1/19	1405	0.24	0.57	0.68	0.34	12
4	1/17	1120	0.20	0.94	1.00	0.38	11
4	1/18	1155	0.26	0.35	0.84	0.37	15
4	1/19	1400	0.14	0.25	0.84	0.36	14
5	1/17	1640	0.18	<0.05	0.60	0.22	15
5	1/18	1135	<0.05	<0.05	0.80	0.16	14
5	1/19	1420	0.09	<0.05	0.76	0.20	15
5-A	1/17	1135	<0.05	<0.05	0.72	0.14	14
5-A	1/18	1135	0.12	<0.05	0.80	0.14	14
5-A	1/19	1430	0.55	<0.05	0.25	0.18	15
6	1/17	1206	0.14	0.35	0.96	0.34	15
6	1/18	1150	0.18	0.16	0.82	0.33	15
6	1/19	1500	0.09	0.24	0.90	0.33	14
7	1/17	1315	0.12	<0.05	3.58	0.37	44
7	1/18	1230	0.12	<0.05	1.58	0.14	22
7	1/19	1335	0.08	<0.05	0.92	0.13	21
9	1/17	1300	0.23	0.24	1.07	0.30	15
9	1/18	1215	0.22	0.14	1.08	0.20	21
9	1/19	1350	0.19	0.09	0.91	0.18	18
10	1/17	1330	0.20	<0.05	1.20	0.64	11
10	1/18	1315	0.08	<0.05	1.12	0.50	13
10	1/19	1300	0.10	<0.05	0.40	0.26	12
11	1/17	1330	0.62	1.4	0.48	0.56	8.4
11	1/18	1320	0.63	1.4	0.17	0.56	8.0

000071

000071

TABLE 5 (continued)

STATION	DATE	TIME	NH ₃ -N	NO ₂ -NO ₃ -N	Org. N	T-P	TOC	
10	1/17	1040	0.19	1.1	0.71	0.48	14	
		1140	0.19	1.2	0.72	0.43	12	
		1240	0.19	0.99	0.72	0.36	11	
		1340	0.19	0.94	0.80	0.39	12	
		1440	0.20	0.82	0.80	0.38	13	
		1540	0.20	0.74	0.97	0.42	13	
		1640	0.20	0.65	1.10	0.41	14	
		1740	0.20	0.60	0.90	0.34	13	
		2340	0.46	1.0	0.74	0.50	12	
		1/18	0040	0.43	0.97	0.87	0.53	11
			0140	0.50	1.1	0.90	0.55	10
			0240	0.60	1.3	0.80	0.30	9
			0340	0.60	1.3	0.80	0.56	8.3
			0440	0.62	1.2	0.68	0.56	8.6
	0540		0.55	1.2	0.85	0.52	9	
	0640		0.36	0.92	0.84	0.46	12	
	0740		0.21	0.58	0.89	0.36	14	
	0840		0.43	0.94	0.87	0.48	11.5	
	0940		0.18	0.50	0.92	0.40	16	
	1040		0.17	0.47	0.93	0.34	15	
	1300		0.22	0.43	0.88	0.34	17	
	1400		0.13	0.39	1.67	0.80	23	
	1500		0.16	0.36	0.94	0.32	16	
	1600		0.13	0.38	0.85	0.35	14	
	1700		0.38	0.89	0.82	0.42	11	
	1900		0.45	1.0	0.75	0.5	8.7	
	2000		0.24	0.58	0.96	0.39	14	
	2100		0.15	0.37	1.05	0.37	16	
	2200	0.24	0.64	0.96	0.42	14		

Table 6. Sediment pesticides ($\mu\text{g}/\text{kg}$, dry wt.), Bayou Aux Carpes. January 1985.

Compound	Sta. 2	Sta. 3	Sta. 4	Sta. 7	Sta. 8	Sta. 10a	Sta. 10	Sta. 11
Aldrin	80U	60U	20U	100U	20U	200U	200U	10U
Heptachlor	80U	60U	20U	100U	20U	200U	200U	10U
Heptachlor Epoxide	80U	60U	20U	100U	20U	200U	200U	10U
Alpha-BHC	80U	60U	20U	100U	20U	200U	200U	10U
Beta-BHC	80U	60U	20U	100U	20U	200U	200U	10U
Gamma-BHC (Lindane)	80U	60U	20U	100U	20U	200U	200U	10U
Delta-BHC	80U	60U	20U	100U	20U	200U	200U	10U
Endosulfan I (Alpha)	200U	70U	30U	200U	40U	40U	30U	20U
Dieldrin	200U	70U	30U	200U	40U	40U	30U	20U
4,4'-DDT (P,P'-DDT)	700U	200U	60U	300U	80U	100U	70U	40U
4,4'-DDE (P,P'-DDE)	700U	200U	60U	300U	80U	100U	70U	40U
4,4'-DDD (P,P'-DDD)	700U	200U	60U	300U	80U	100U	70U	40U
Endrin	700U	200U	60U	300U	80U	100U	70U	40U
Endosulfan II (Beta)	700U	200U	60U	300U	80U	100U	70U	40U
Endosulfan Sulfate	1000U	400U	100U	500U	100U	100U	100U	60U
Chlordane (Tech, Mixture)	800U	300U	100U	800U	200U	200U	200U	100U
PCB-1242 (Aroclor 1242)	800U	500U	200U	1000U	300U	1000U	2000U	100U
PCB-1254 (Aroclor 1254)	6000U	2000U	600U	3000U	800U	1000U	700U	500U
PCB-1221 (Aroclor 1221)	800U	600U	200U	1000U	300U	1000U	2000U	100U
PCB-1232 (Aroclor 1232)	800U	600U	200U	1000U	300U	1000U	2000U	100U
PCB-1248 (Aroclor 1248)	800U	600U	200U	1000U	300U	1000U	2000U	100U
PCB-1260 (Aroclor 1016)	6000U	2000U	600U	3000U	800U	1000U	700U	500U
PCB-1016 (Aroclor 1016)	800U	500U	200U	1000U	300U	1000U	2000U	100U
Toxaphene	10000U	4000U	1000U	9000U	2000U	2000U	2000U	900U
Endrin Aldehyde	1000U	400U	100U	500U	100U	100U	100U	60U
Methoxychlor	700U	400U	100U	1000U	200U	100U	200U	80U
Moisutre %	90	90	75	70	88	76	78	67

U - Material was analyzed for but not detected. The reported concentration is the minimum detection limit.

Table 7. Benthic Macroinvertebrates, Qualitative Collections, 000073
Bayou aux Carpes, Louisiana, January 1985.

Organism	Forested Sta. 2	Swamp Sta. 7	Marsh Sta. 8	Marsh Sta. 10	Canal Sta. 4
DIPTERA					
<u>Glyptotendipes</u> sp.					X
<u>Ablabesmyia</u> <u>peleensis</u>		X			
<u>Polypedilum</u> prob. <u>illinoense</u>		X			
<u>Goeldichironomus</u> <u>holoprasinus</u>			X		
<u>Chironomus</u> <u>plumosus</u> group			X		
<u>Tanypus</u> <u>neopunctipennis</u>				X	
EPHEMEROPTERA					
<u>Siphonuridae</u> (damaged)					X
ODONATA					
<u>Miathyria</u> <u>marcella</u>	X				
<u>Pachydiplax</u> <u>longipennis</u>	X				
<u>Coryphaeschna</u> <u>ingens</u>	X				
<u>Anomalagrion</u> sp.	X				
<u>Nasiaeschna</u> sp.					X
<u>Boyeria</u> <u>vinosa</u>		X			
<u>Anax</u> <u>amazili</u>			X		
<u>Enallagma</u> sp.		X	X		X
<u>Ischnura</u> sp.		X	X		X
HEMIPTERA					
<u>Ranatra</u> sp.					X
CRUSTACEA					
<u>Hyaella</u> <u>azteca</u>	X	X	X	X	X
<u>Gammarus</u> sp.					X
<u>Asellus</u> sp.	X	X	X	X	X
<u>Lirceus</u> sp.			X	X	
<u>Astacidae</u>	X	X			
<u>Astacidae</u> , prob. <u>Cambarellinae</u>		X			
<u>Palaemonetes</u> <u>kadiakensis</u>				X	X
<u>Callinectes</u> <u>sapidus</u>				X	X
<u>Uca</u> sp.					X
BIVALVIA					
<u>Musculium</u> sp.		X			X
GASTROPODA					
<u>Physella</u> prob. <u>heterostropha</u> <u>pomila</u>	X	X	X	X	X
<u>Stagnicola</u> sp.		X			
<u>Menetus</u> sp.		X			
<u>Fossaria</u> sp.				X	
<u>Laevapex</u> sp.	X	X		X	
TOTAL TAXA	9	14	9	9	14

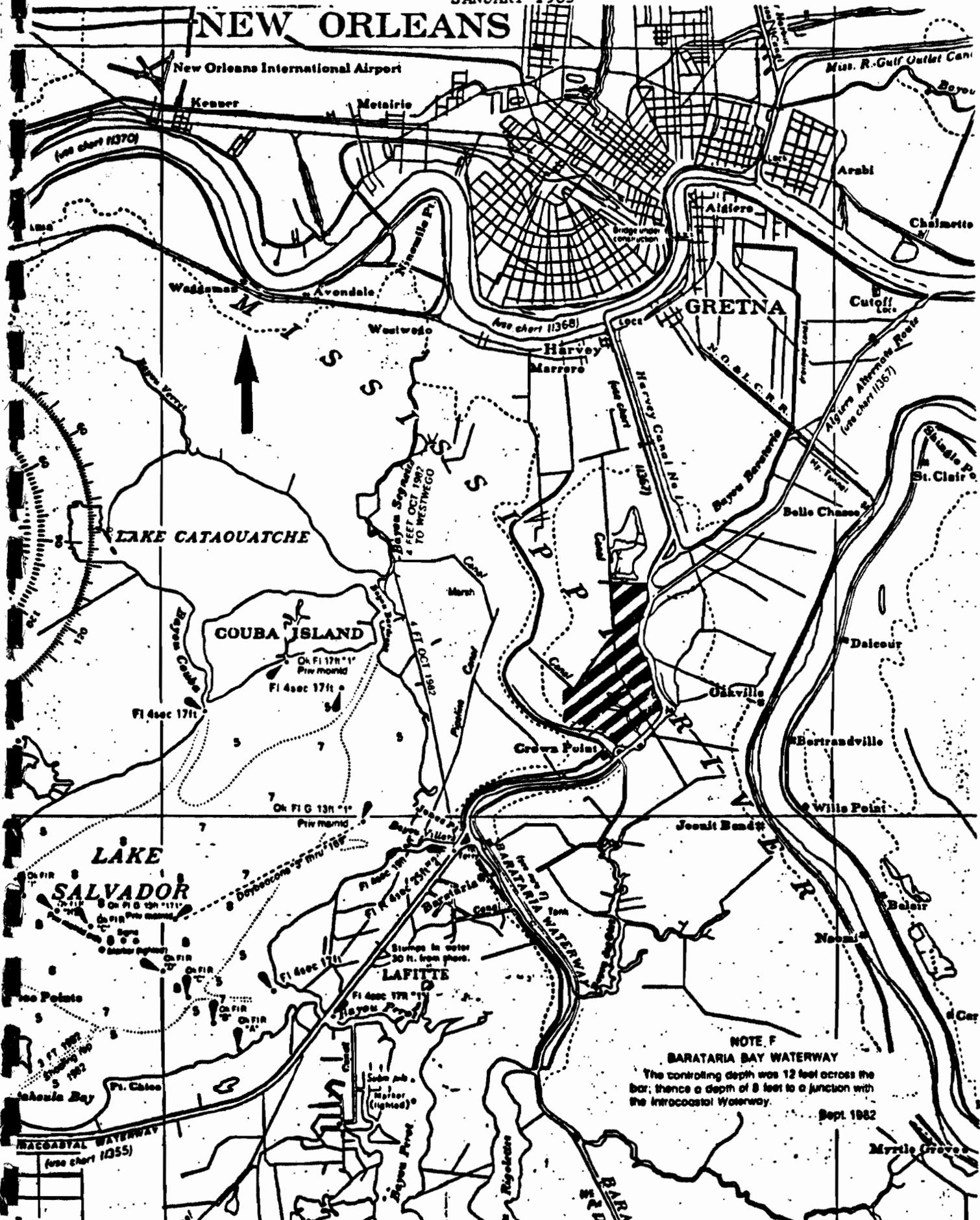
Table 8. Fish Collected, Bayou Aux Carpes, Louisiana, January 1985.

Organism	Forested Sta. 2	Swamp Sta. 7	Marsh Sta. 10	Canal Sta. 4
<u>Clupeidae</u>				
<u>Dorosoma cepedianum</u>		X		
<u>Engraulidae</u>				
<u>Anchoa mitchilli</u> *		X		
<u>Cyprinodontidae</u>				
<u>Fundulus cingulatus</u>			X	
<u>Poeciliidae</u>				
<u>Gambusia affinis</u>	X		X	X
<u>Heterandria formosa</u>	X	X	X	X
<u>Poecilia latipinna</u>			X	
<u>Centrarchidae</u>				
<u>Elassoma zonatum</u>	X		X	X
<u>Lepomis punctatus</u>				X
<u>L. sp.</u>		X		
TOTAL TAXA	3	4	5	4

*Estuarine species

FIGURE 1
 SITE LOCATION
 BAYOU AUX CARPES
 JANUARY 1985

030075 000075



NOTE F
 BARATARIA BAY WATERWAY
 The controlling depth was 12 feet across the
 bar; thence a depth of 8 feet to a junction with
 the Intracoastal Waterway.
 Sept. 1982

FIGURE 2
BAYOU AUX CARPES
JEFFERSON PARISH, LOUISIANA

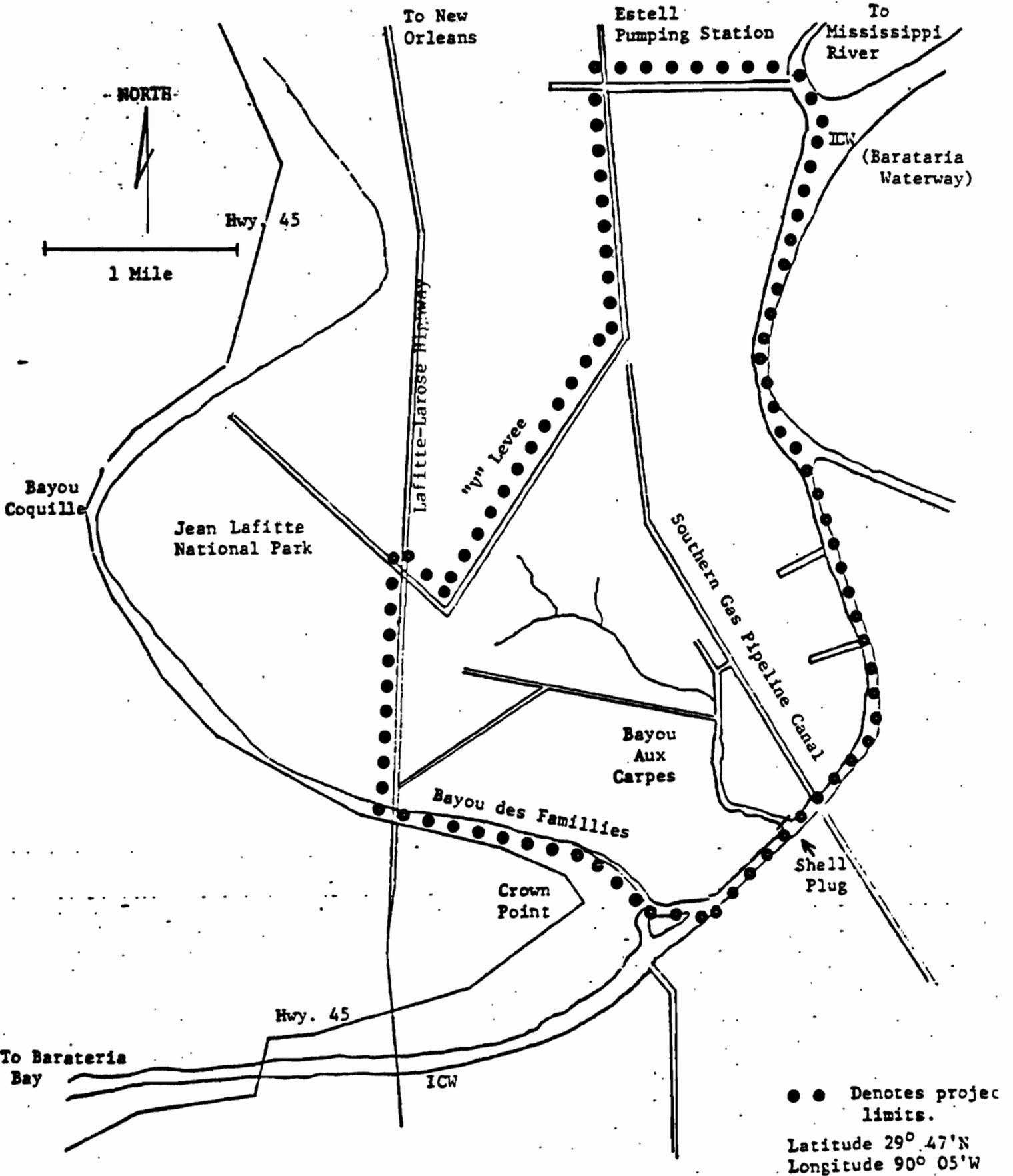


FIGURE 3
HYDROGRAPHIC MONITORING LOCATIONS
BAYOU AUX CARPES
JANUARY 1985

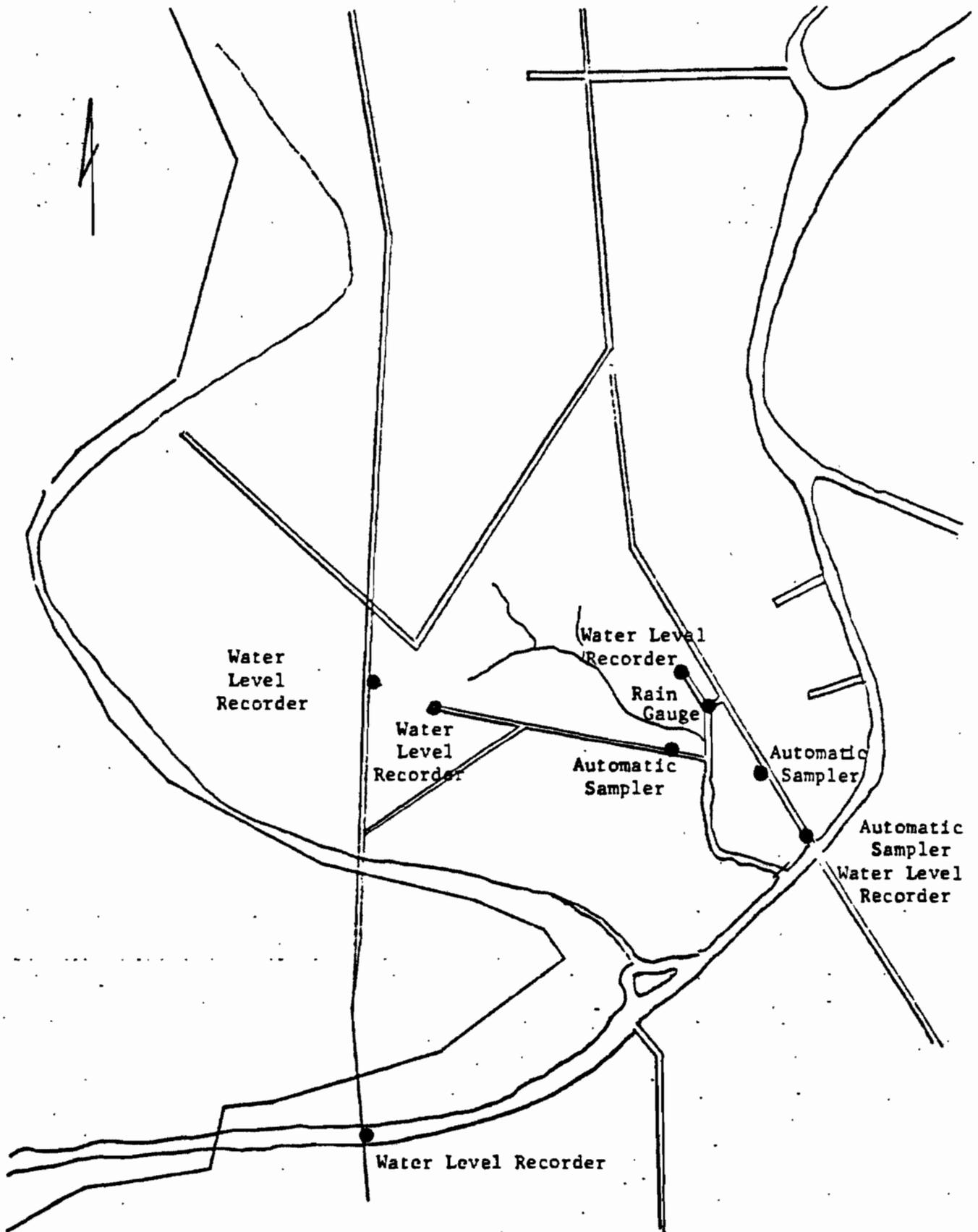


FIGURE 4.
Stations for water quality sampling,
Bayou Aux Carpes Study
January, 1985

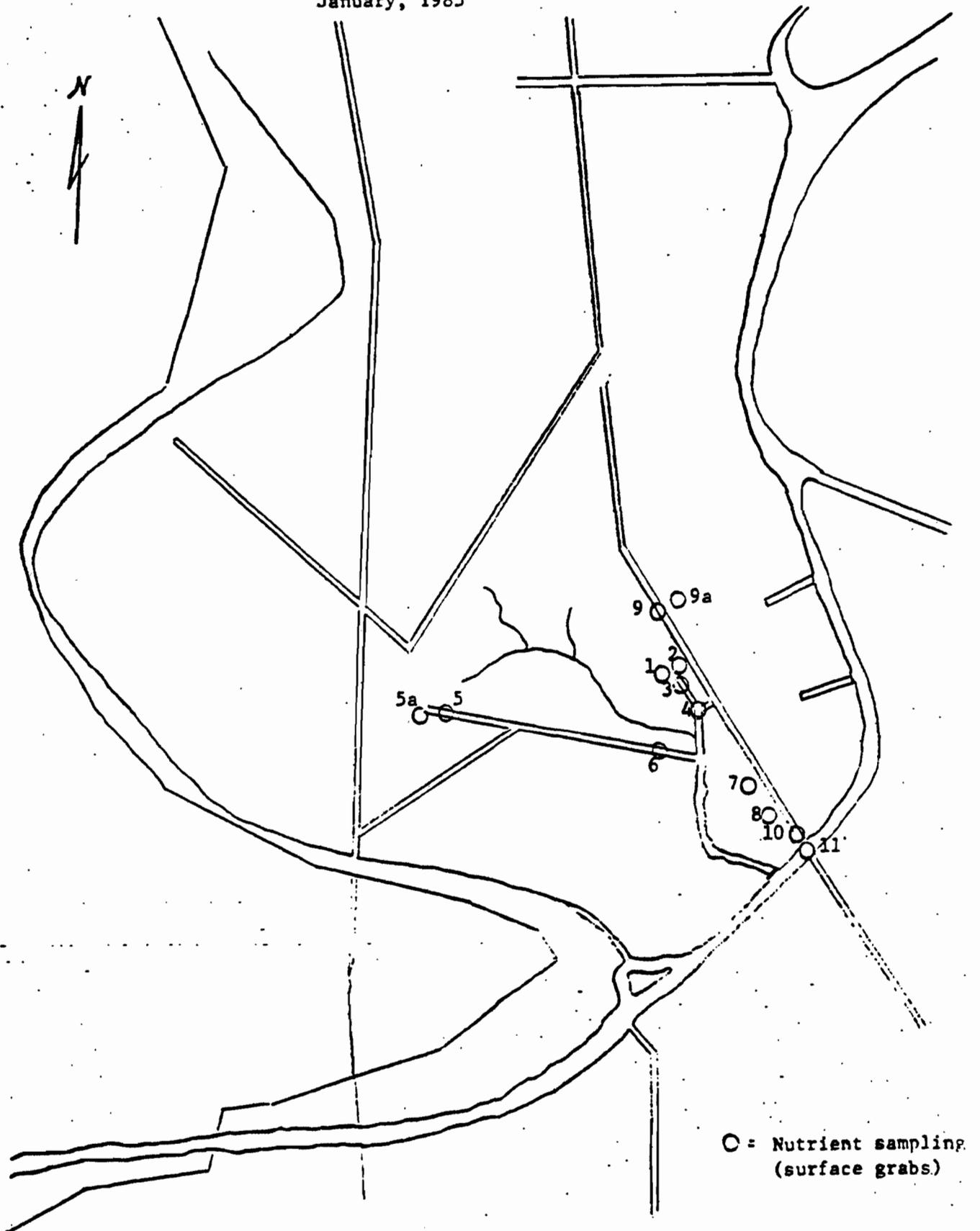
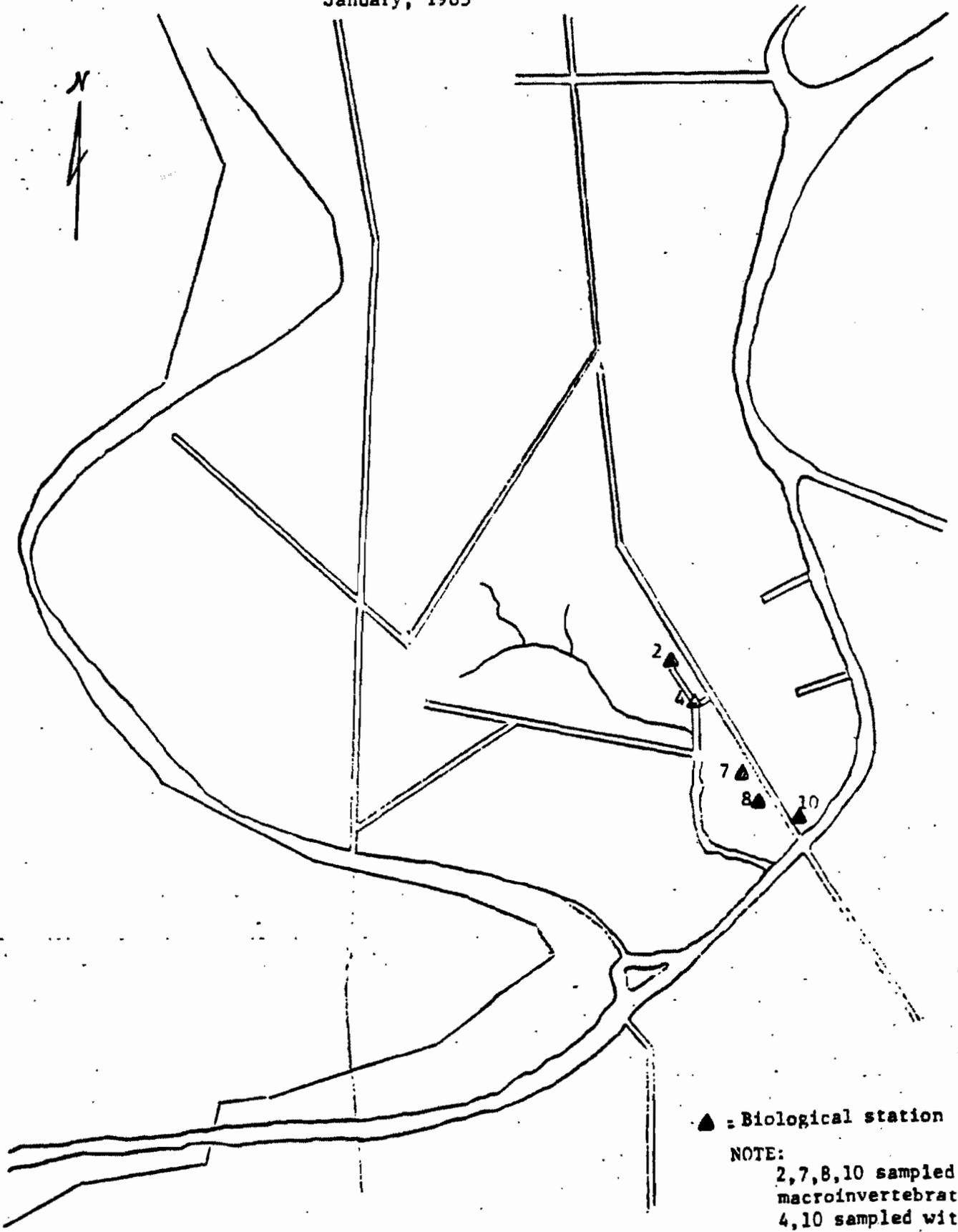


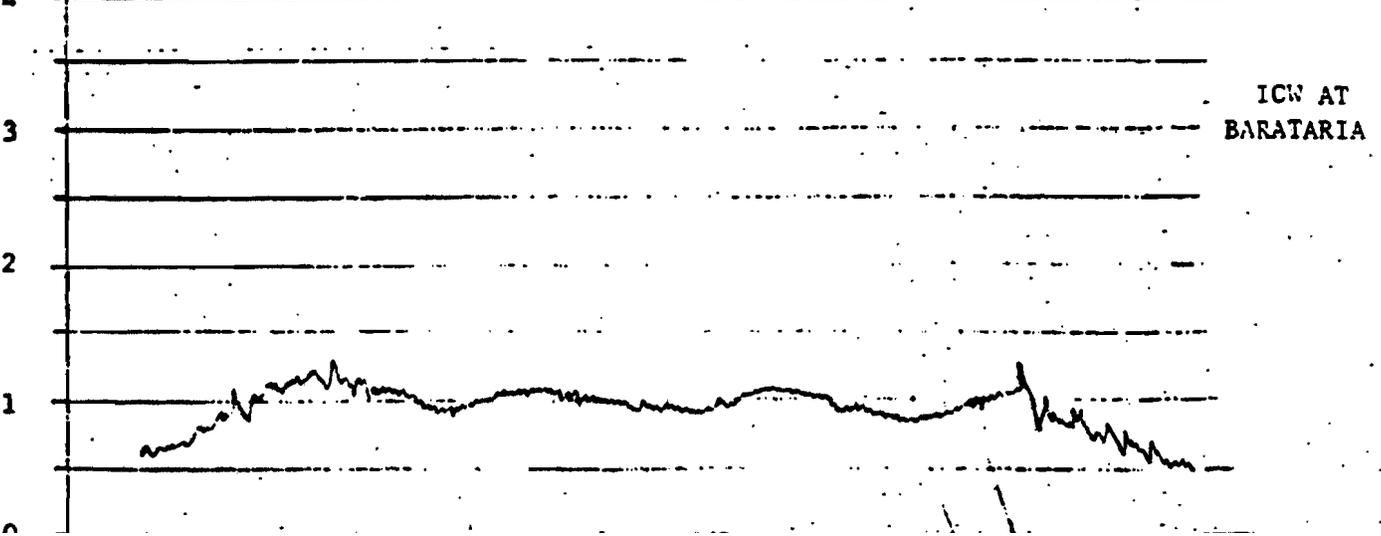
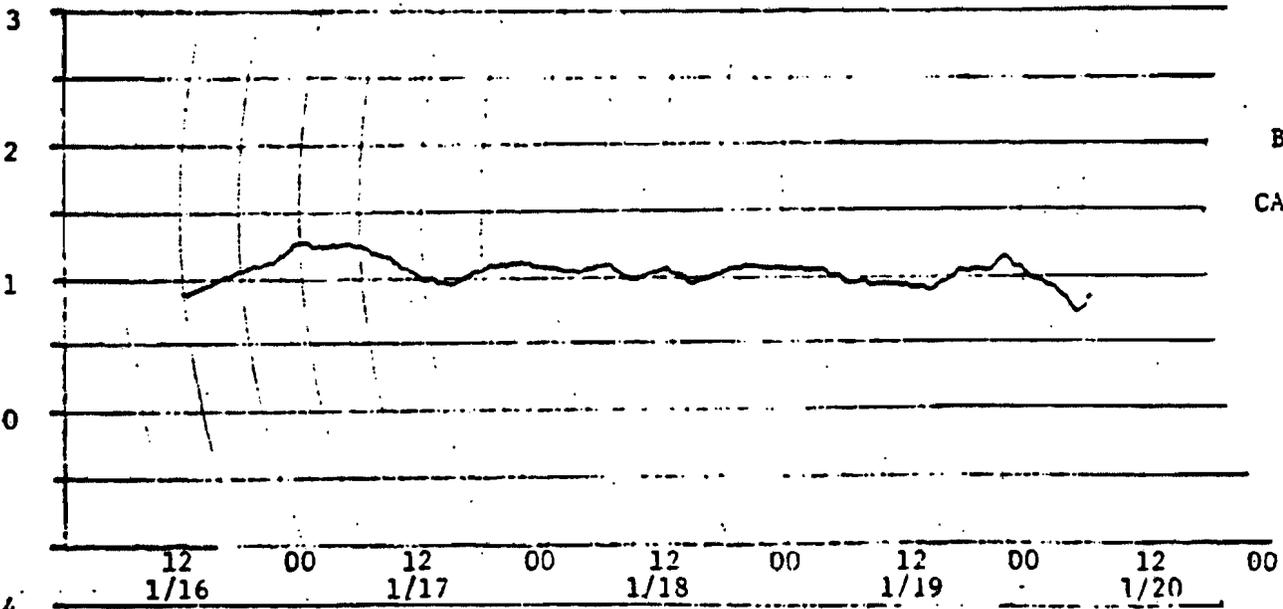
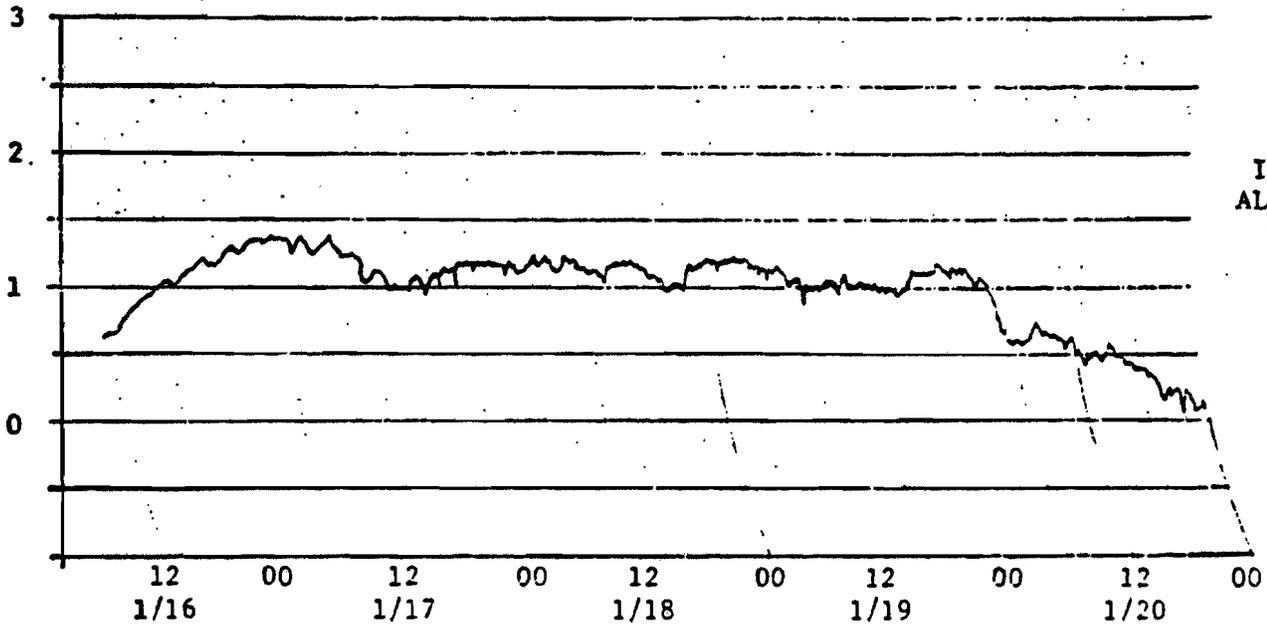
FIGURE 5.
Station for biological sampling,
Bayou Aux Carpes Study
January, 1985



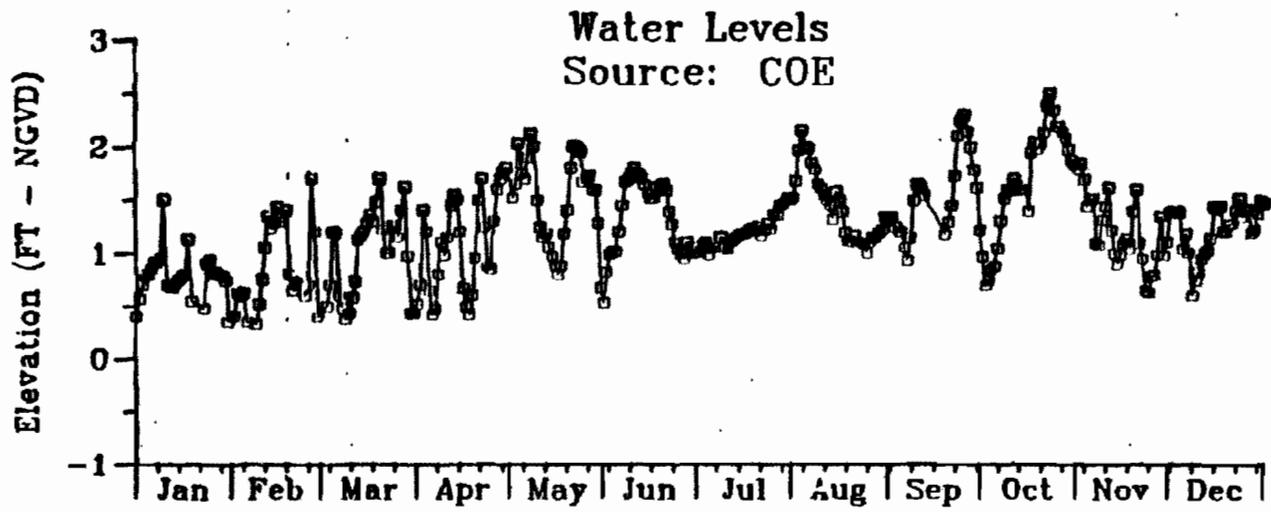
▲ = Biological station

NOTE:
2,7,8,10 sampled
macroinvertebrates
4,10 sampled with
block nets (larv
fish & invertebra

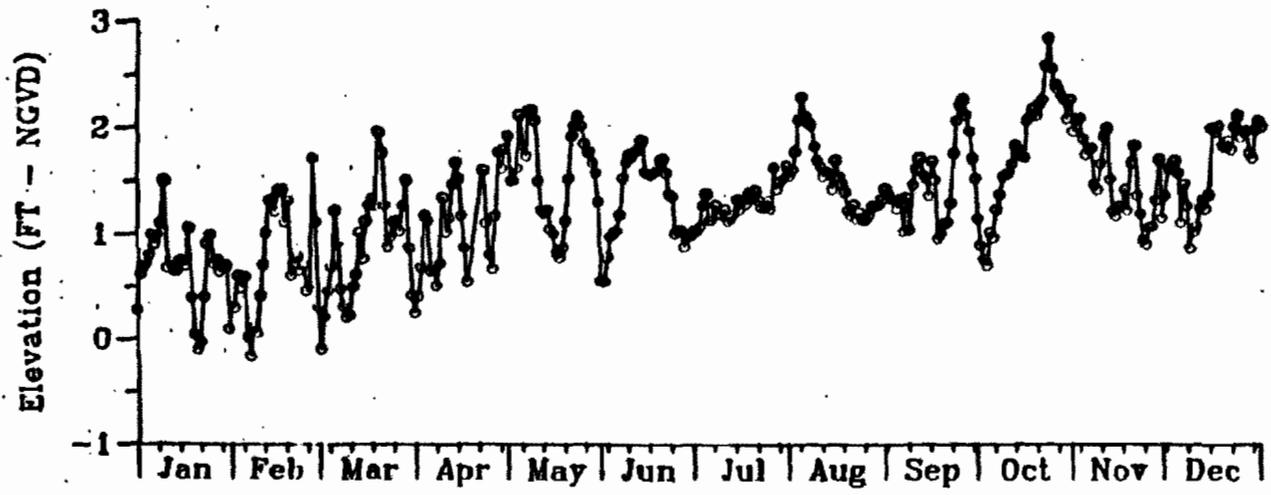
FIGURE 6
WATER LEVELS
BAYOU AUX CARPES
JANUARY 16-20, 1985



WATER STAGE (FT - NGVD)



Jan 84 - Dec 84



Jan 84 - Dec 84

030001
 000081

- Wind -
Direction Speed (Knots)

000082

000082

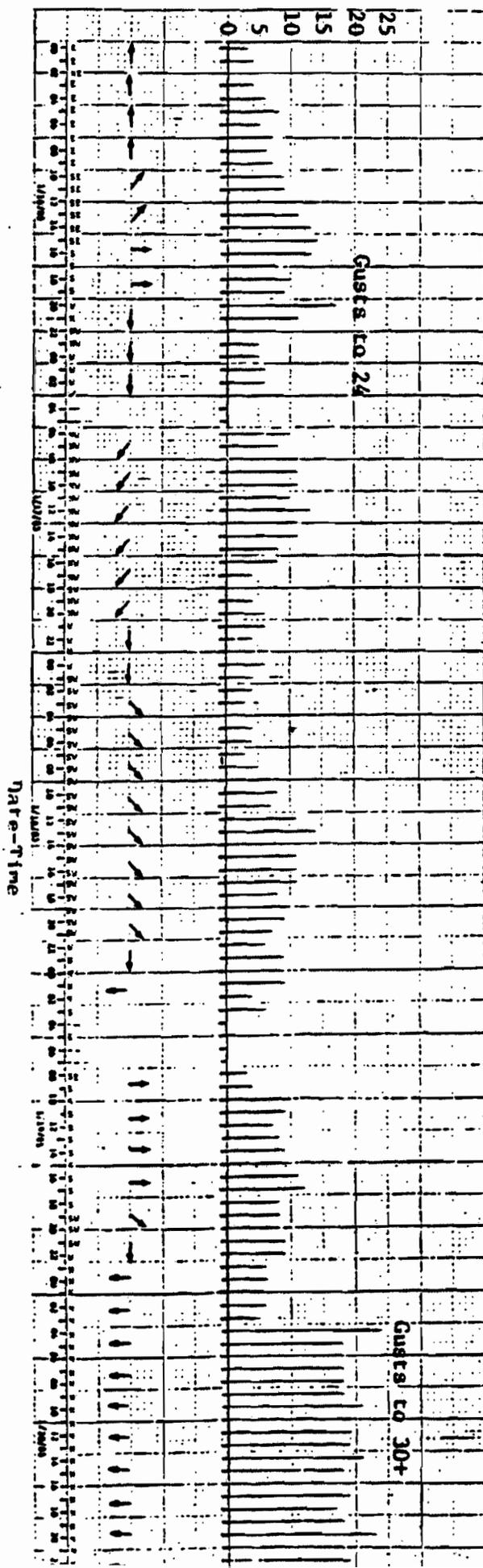


FIGURE 8
WIND SPEED AND DIRECTION
MOISANT INTERNATIONAL AIRPORT
NEW ORLEANS, LA
JANUARY 1985

FIGURE 9
RAINFALL
BAYOU AUX CARPES
JANUARY 1985

000083

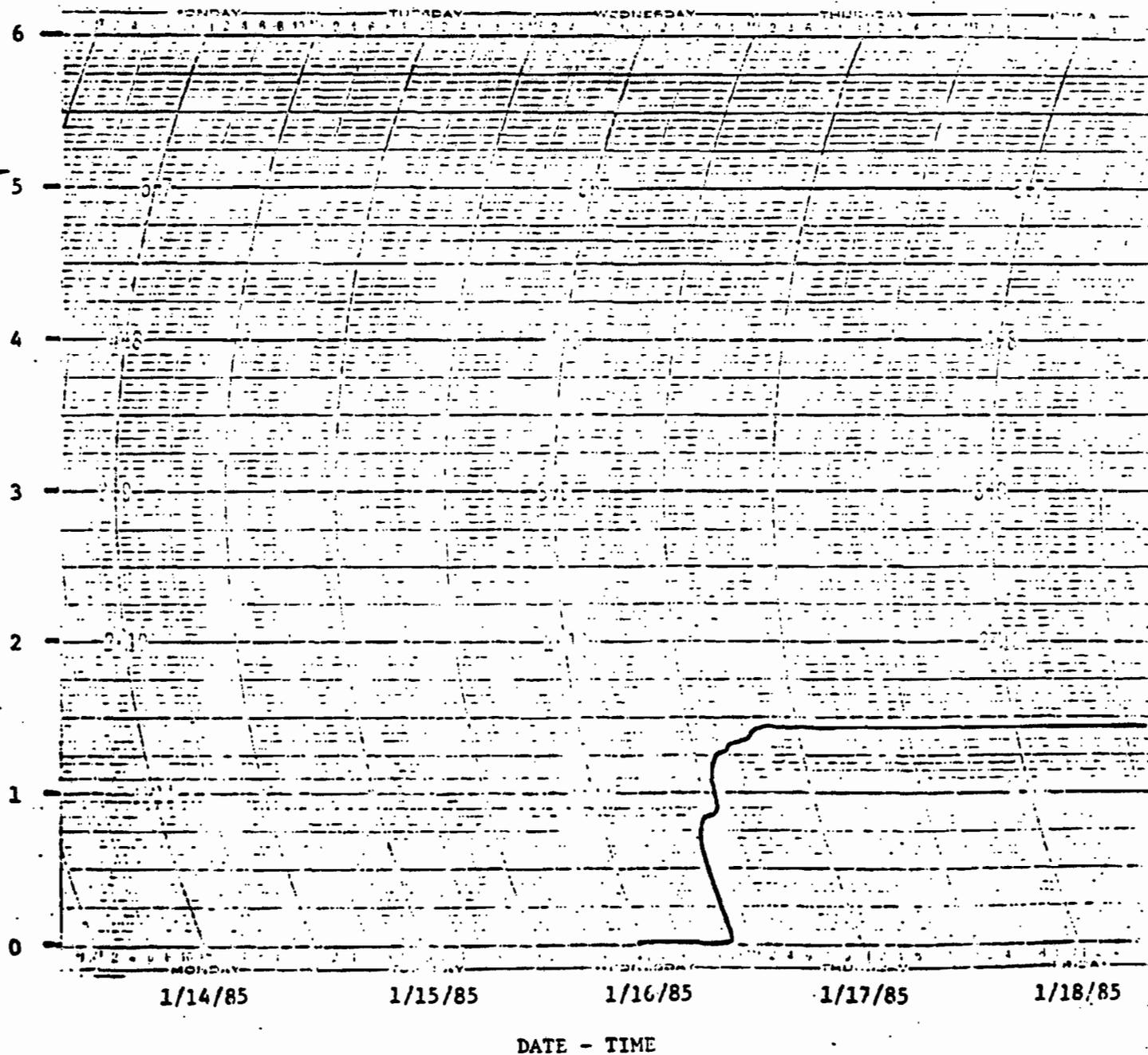
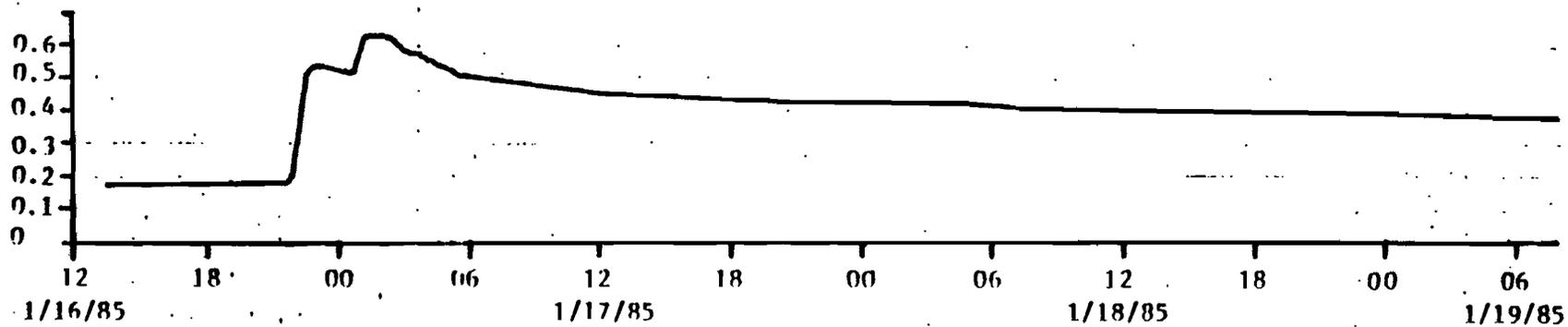


FIGURE 10
WATER LEVEL,
EAST BORROW DITCH
LAFITTE/LAROSE HWY.
BAYOU AUX CARPES
JANUARY 1985

WATER LEVEL (STAFF GAUGE - FT.)

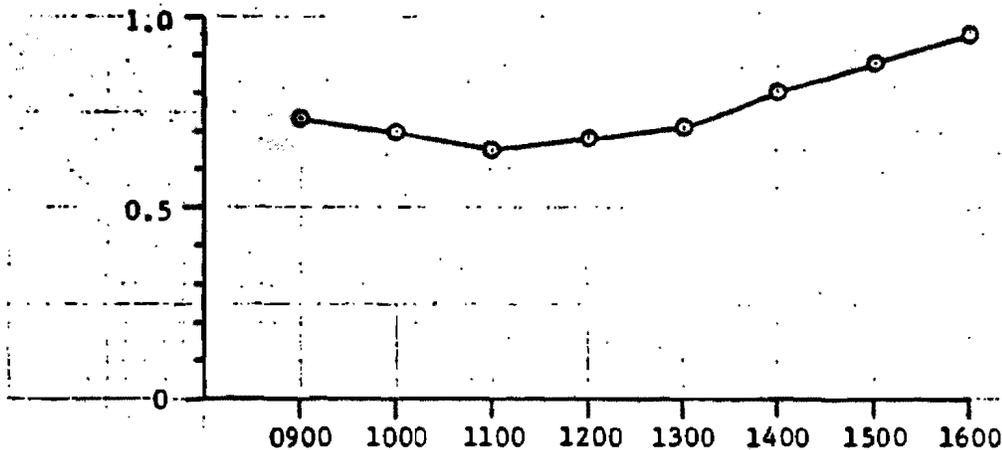


DATE - TIME

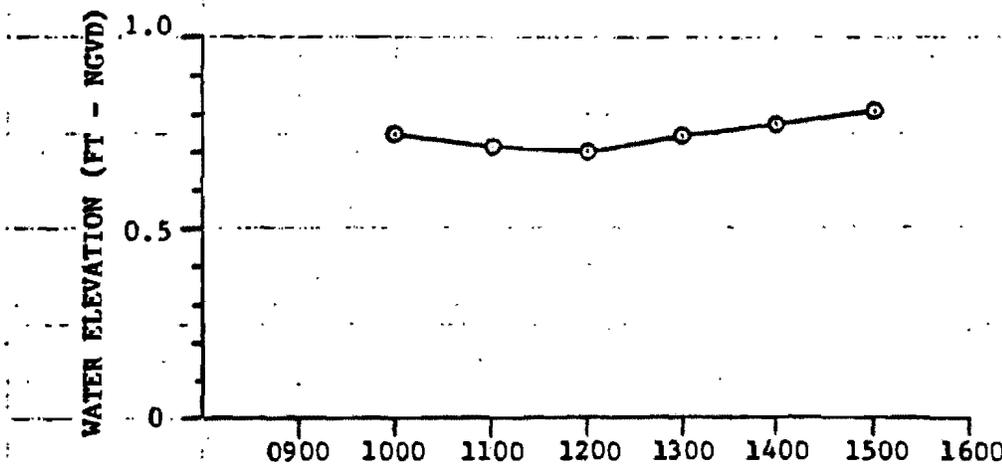
000034

000084

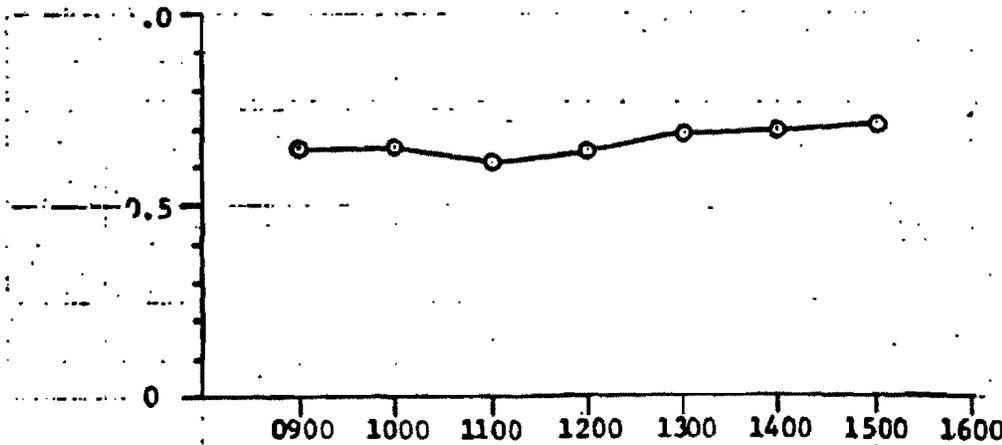
FIGURE 11
WATER LEVEL COMPARISON ON 1/16/85
BAYOU AUX CARPES
JANUARY, 1985



ICW @
ALGEIRS
LOCK



BAYOU AUX
CARPES - WEST
END OF EAST-WEST
DRILL HOLE CANAL



ICW @
BARATARIA

FIGURE 12
GROUND SURFACE TRANSECTS
BAYOU AUX CARPES
JANUARY 1985

000086

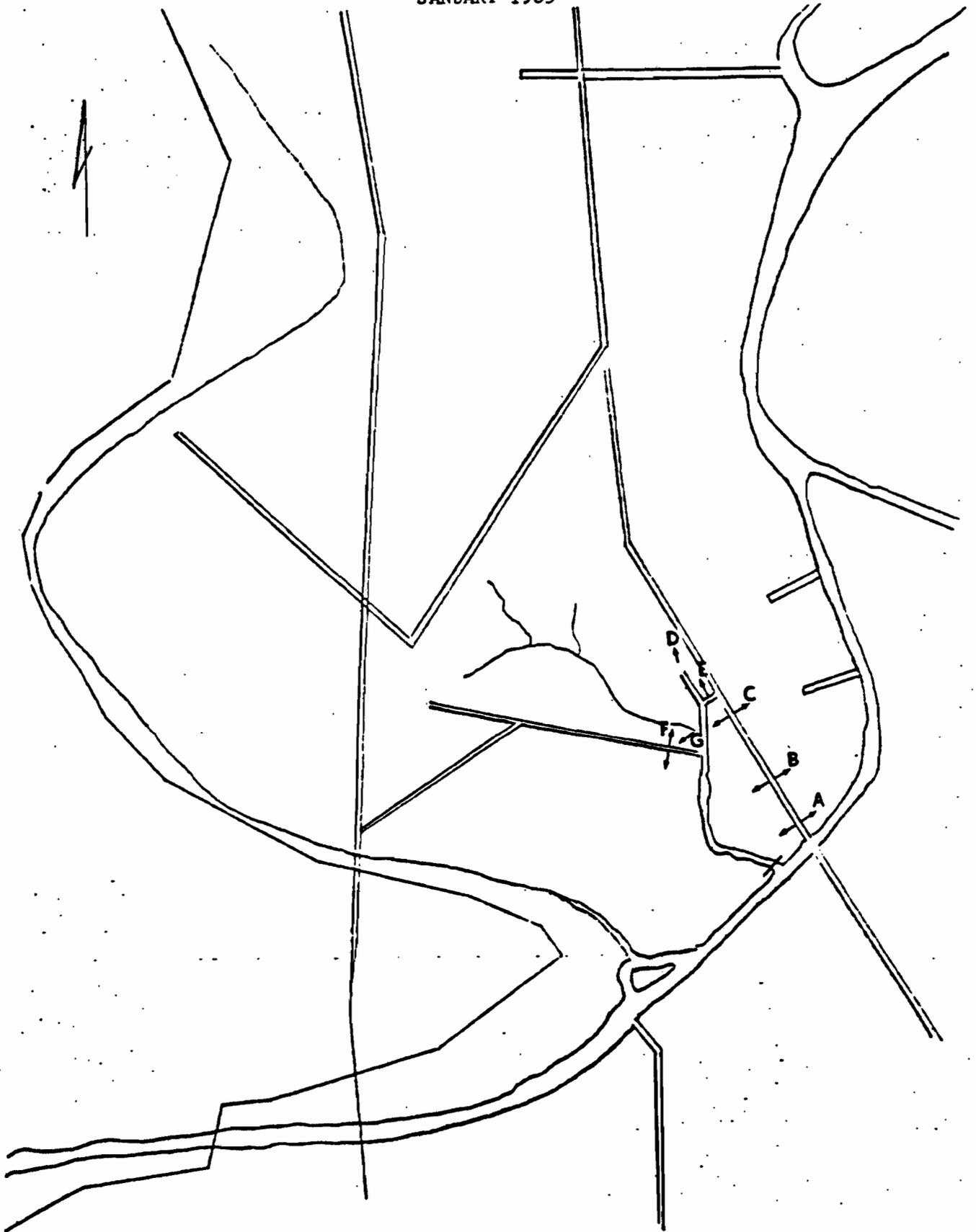


FIGURE 13

FREQUENCY OF DAILY WATER LEVELS FOR 1984 AT THE COE ALGIERS AND BARATARIA STAGING STATIONS.
BAYOU AUX CARPES, LOUISIANA

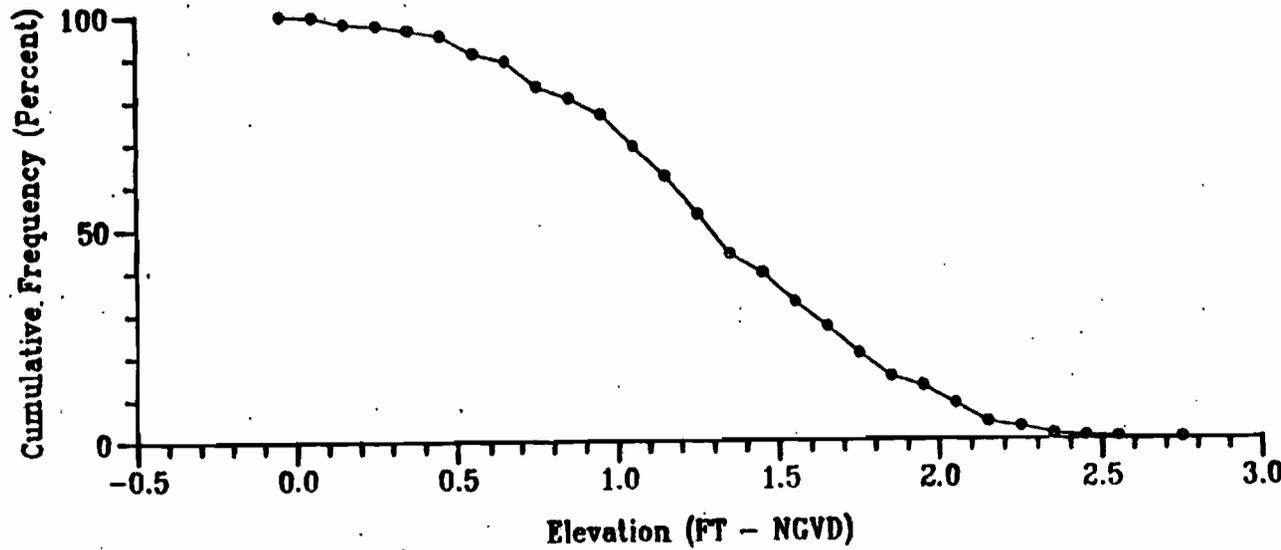
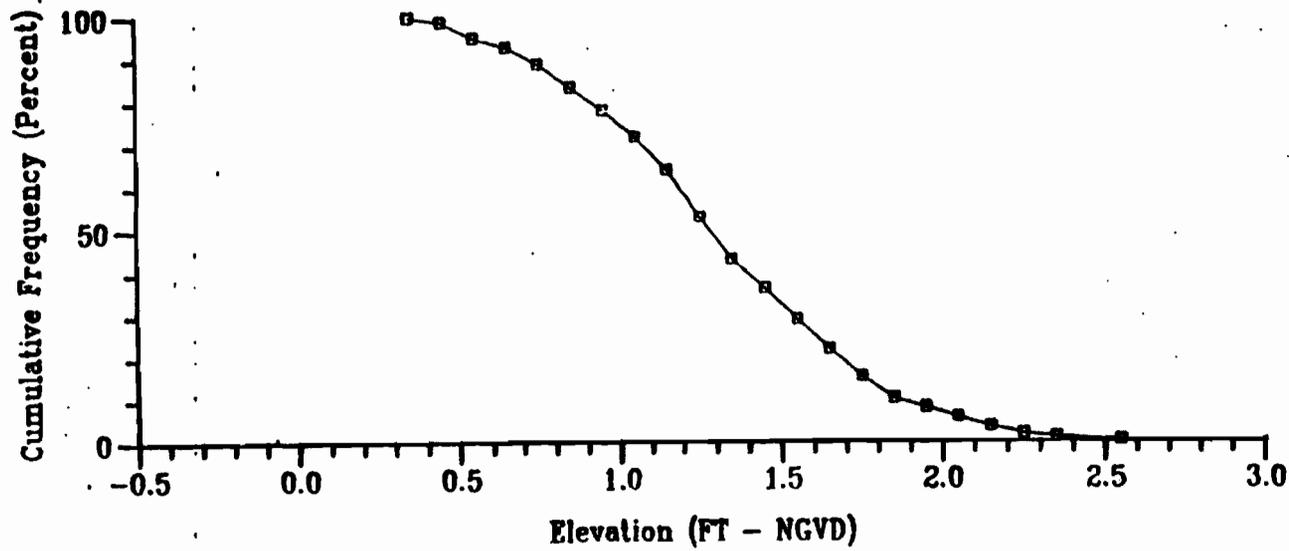
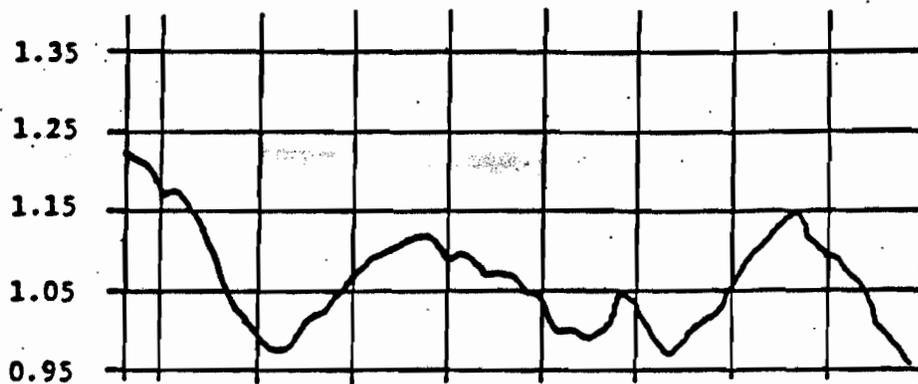


FIGURE 14
WATER LEVELS, CHLORIDES AND DYE TRACER
SNGP CANAL AT JCT. WITH ICW
BAYOU AUX CARPES

000088

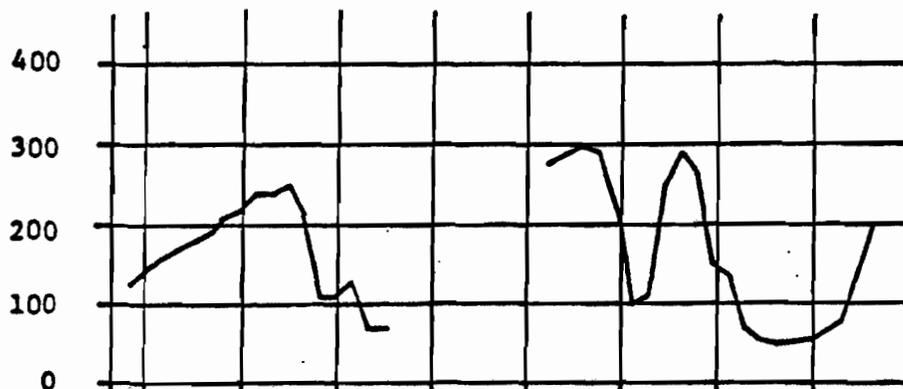
WATER
LEVEL

(Feet)



CHLORIDE
CONCENTRATION

(mg/L)



TRACER
CONCENTRATION

(ppb)

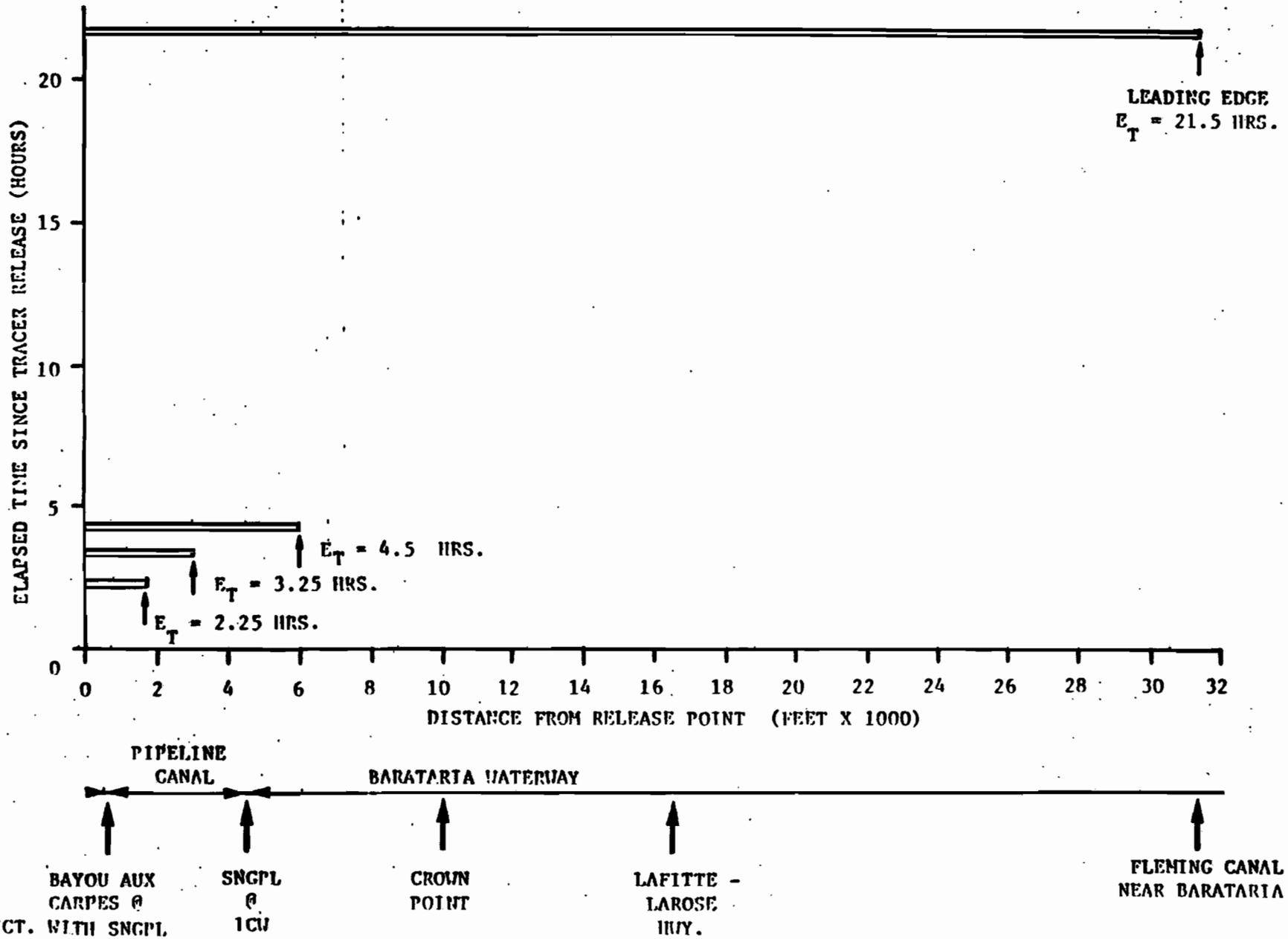


1/17/85

1/18/85

1/19/85

FIGURE 15
 DYE TRACER STUDY
 BAYOU AUX CARPES
 JANUARY, 1985



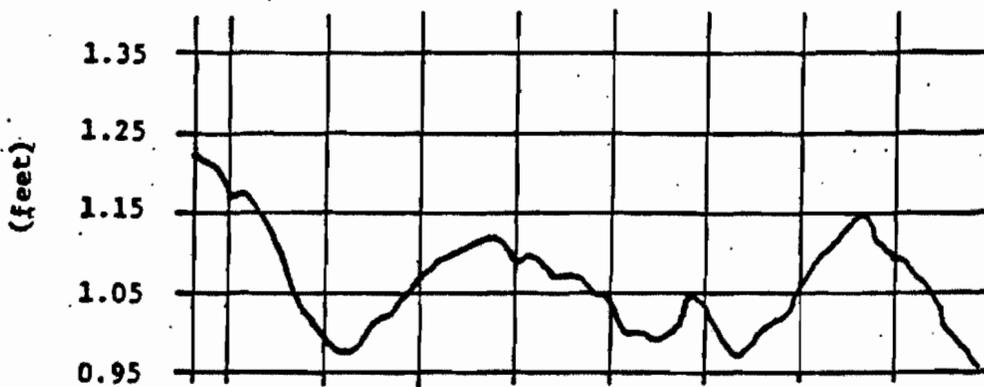
000030

000089

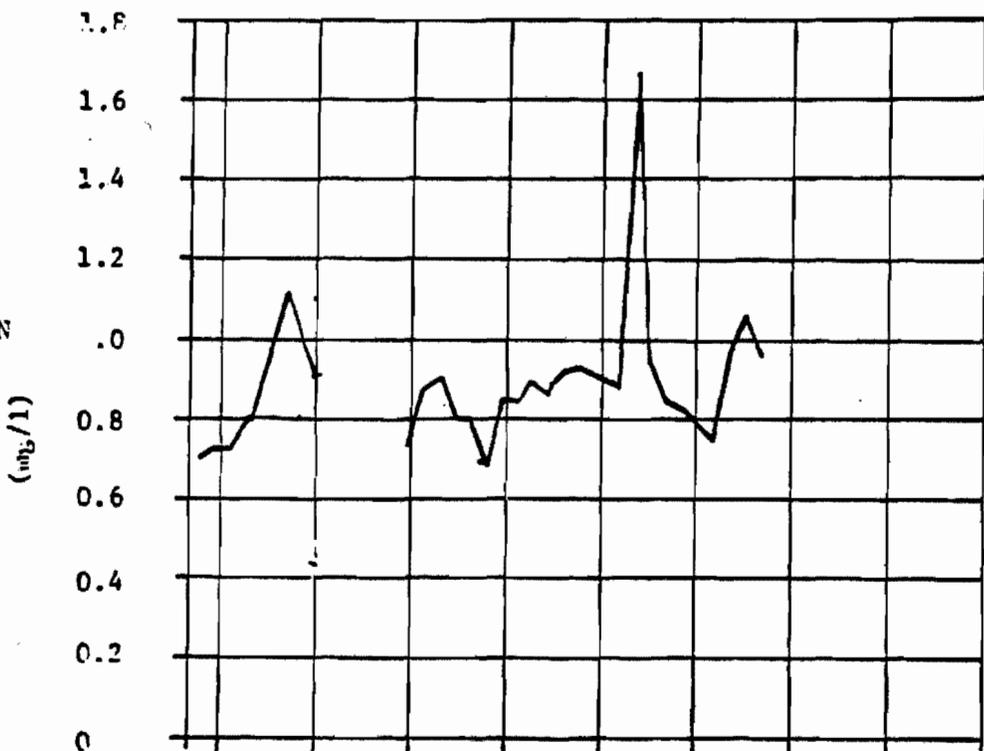
FIGURE 16
 WATER LEVELS, TOTAL ORGANIC CARBON AND TOTAL ORGANIC NITROGEN
 SNGP CANAL AT JCT. WITH ICW
 BAYOU AUX CARPES

000000

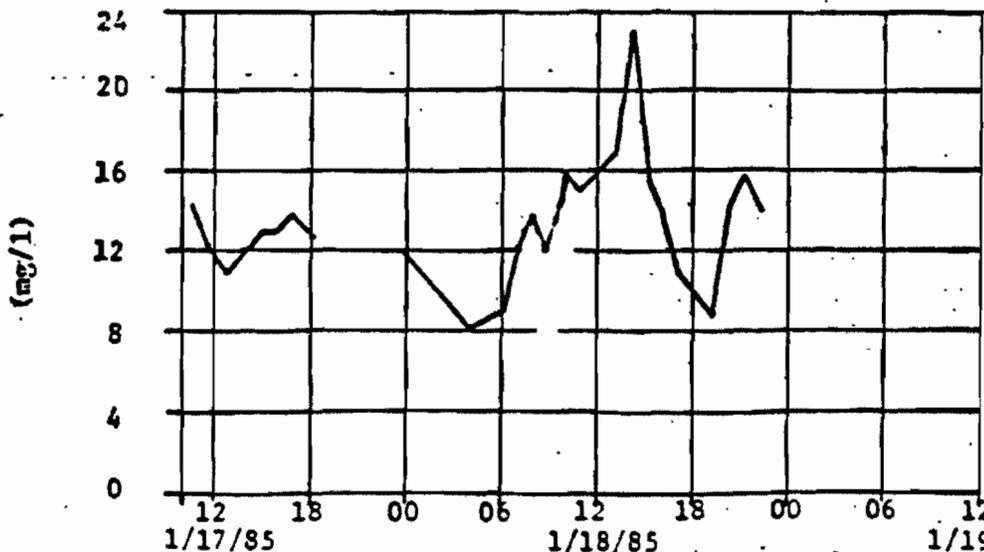
WATER
 LEVEL



ORGANIC NITROGEN
 CONCENTRATION



TOTAL ORGANIC
 CARBON
 CONCENTRATION



DATE - TIME

FIGURE 17
WATER LEVELS AND NITROGEN FORMS
SNGP CANAL AT JCT. WITH ICW
BAYOU AUX CARPES

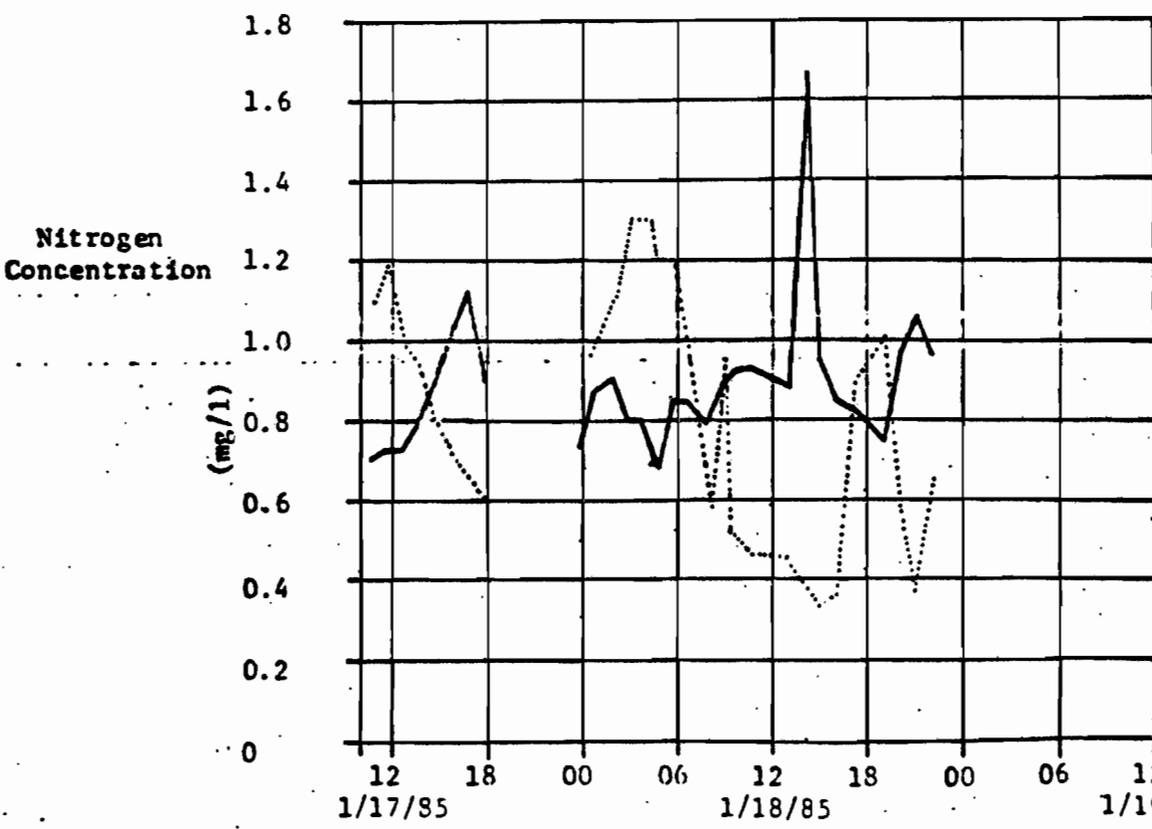
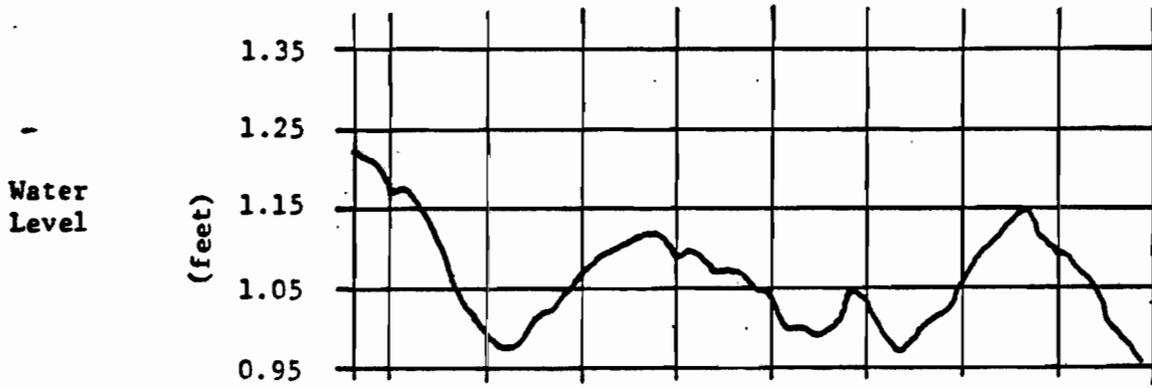
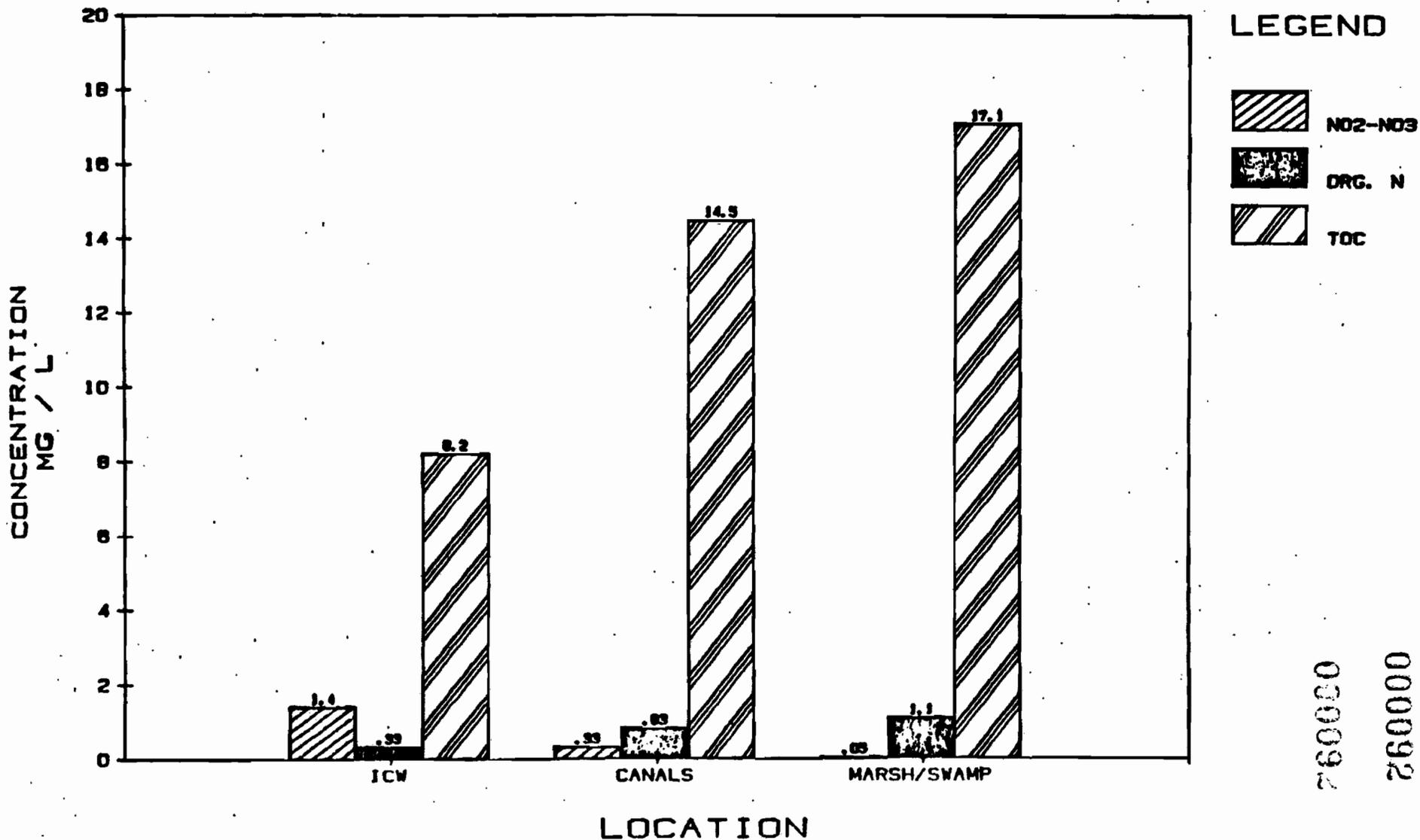


FIGURE 18
 NO2-NO3, ORG. N, TOC COMPARISON
 BAYOU AUX CARPES
 JANUARY, 1985



000092

000092

FIGURE 19.

SEDIMENT SIZE COMPOSITION, CANALS AND ICW,
BAYOU AUX CARPES.

000093

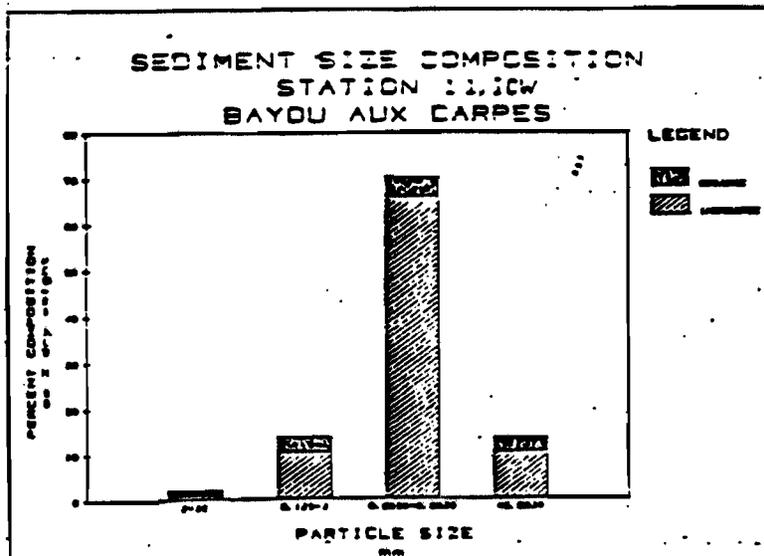
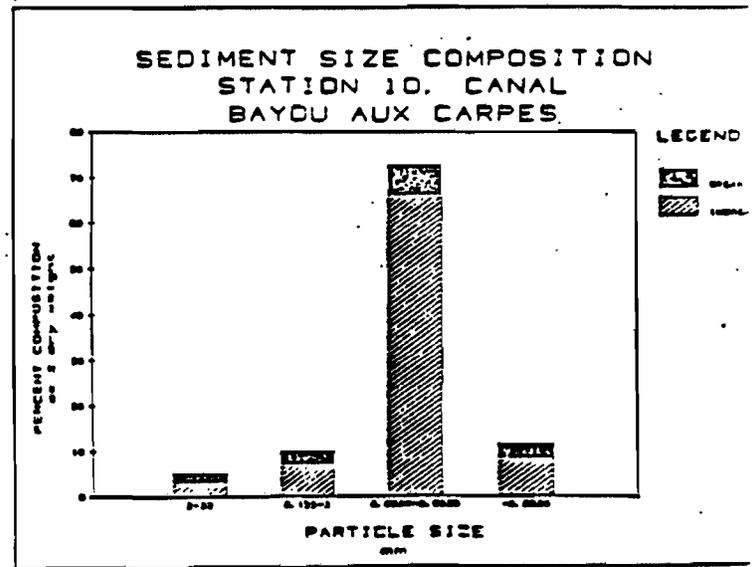
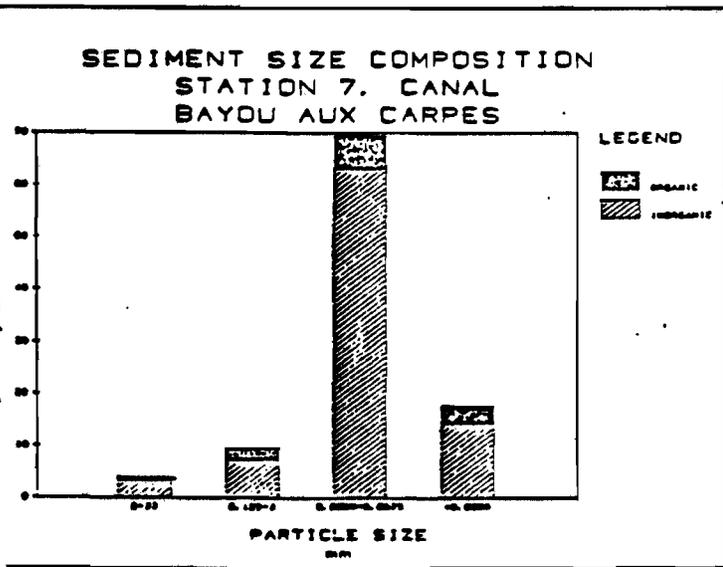
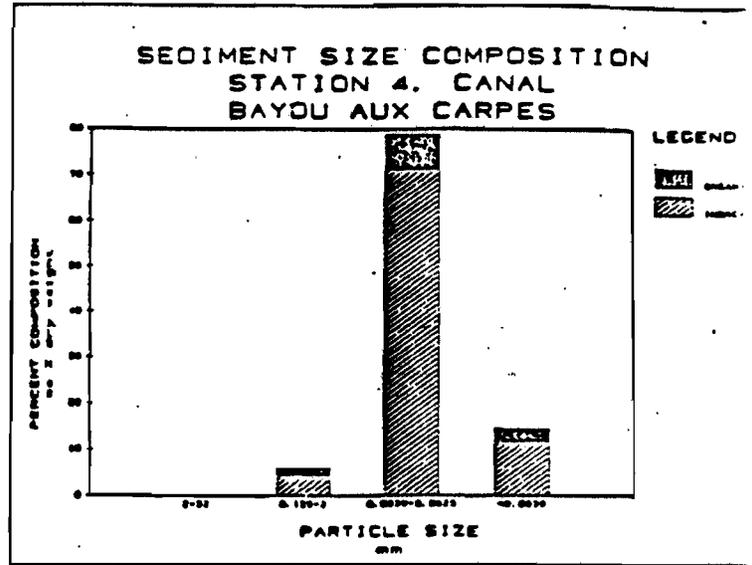
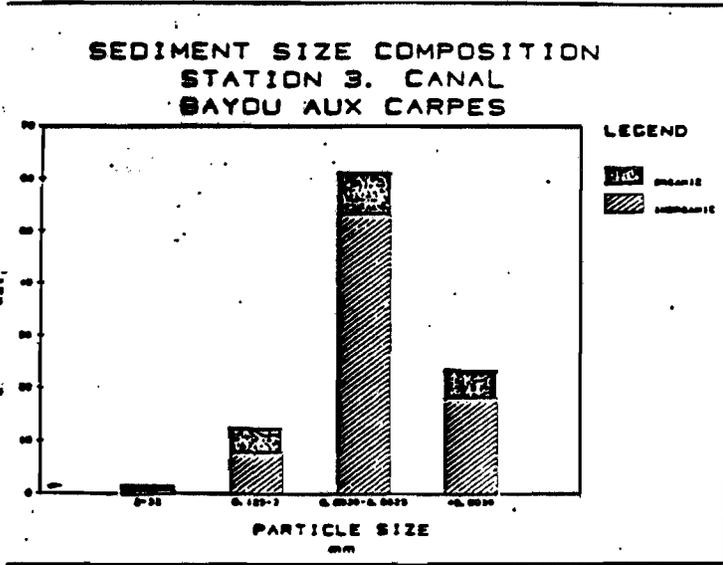
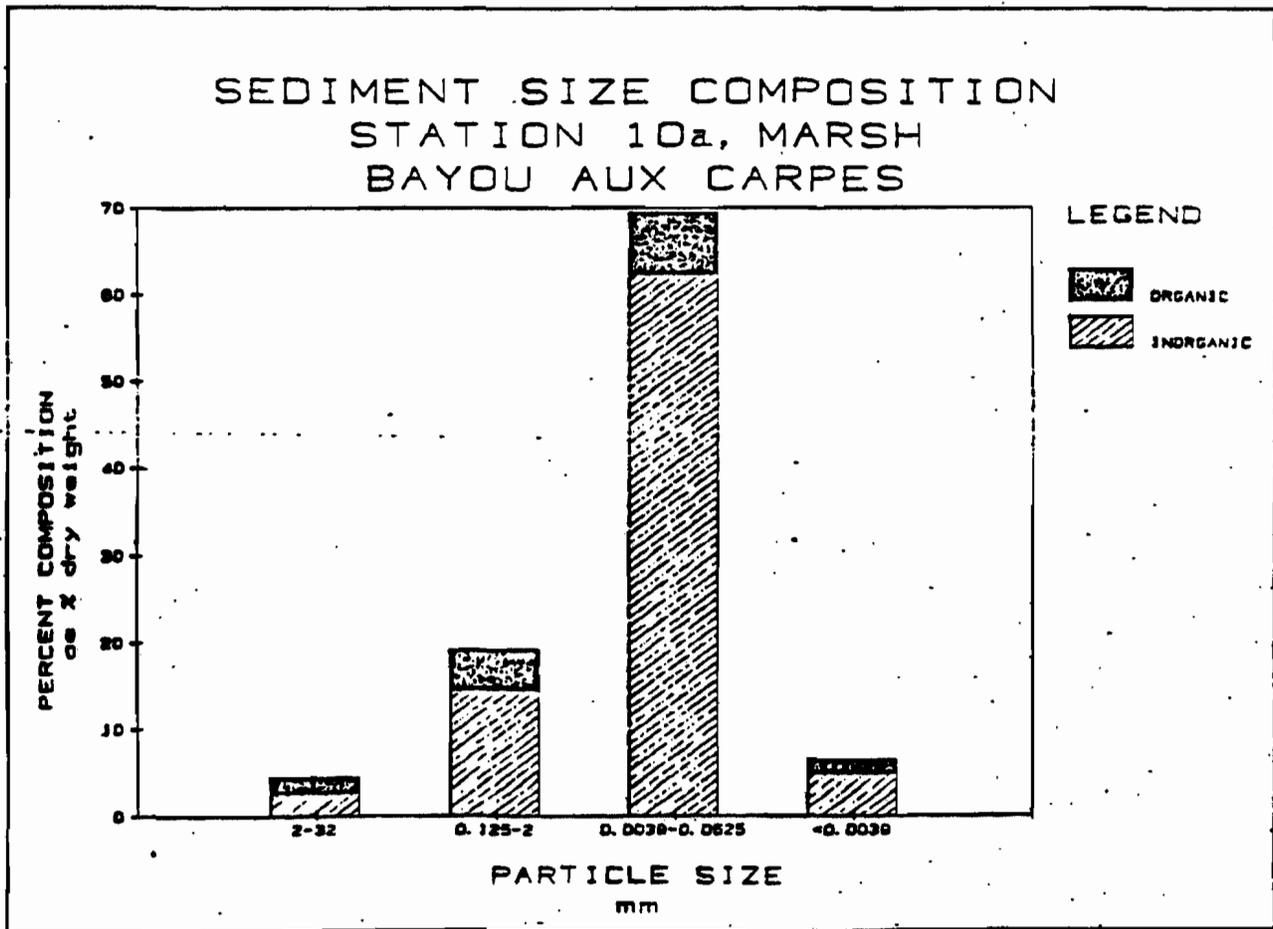
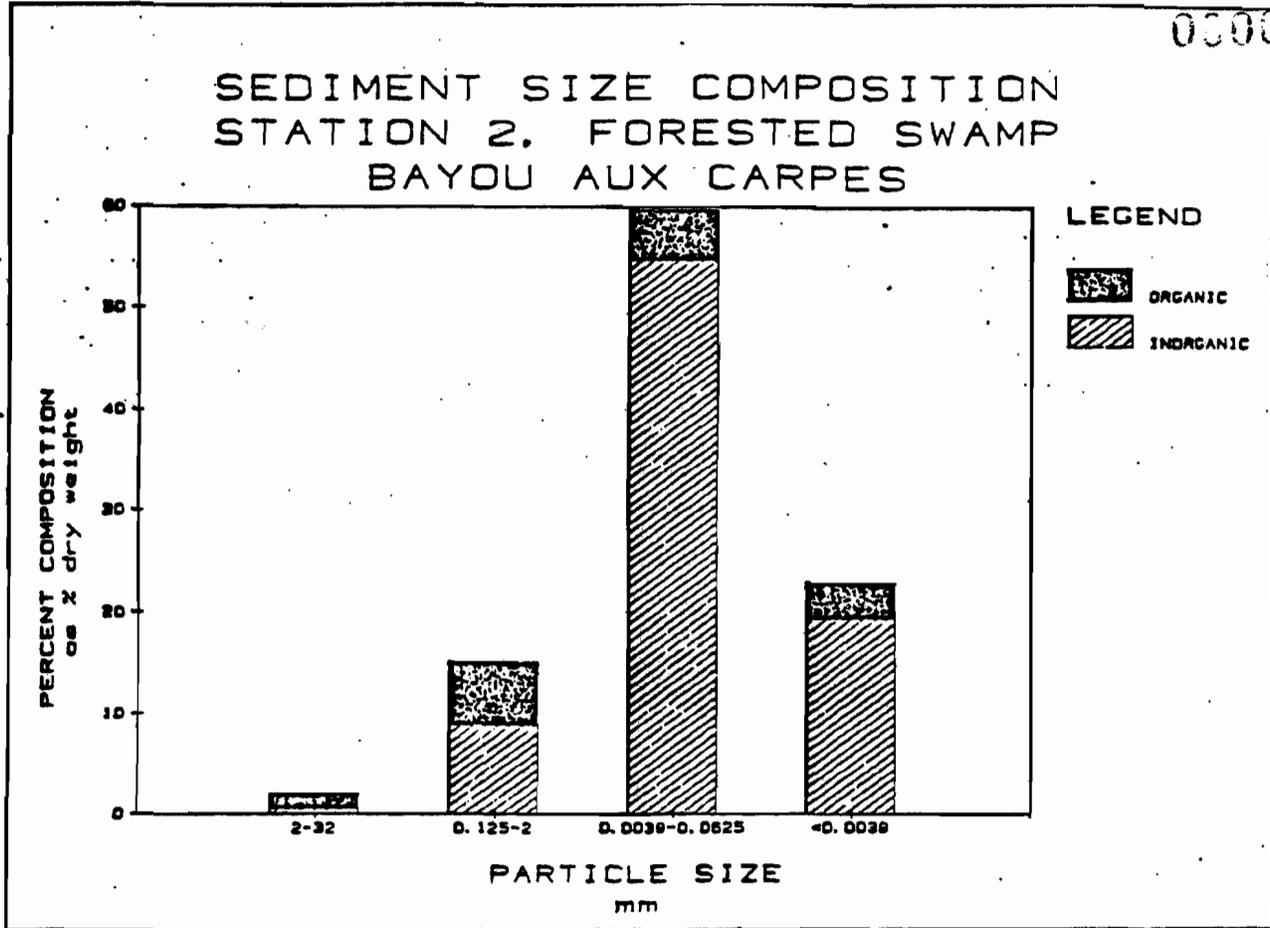


FIGURE 20.

SEDIMENT SIZE COMPOSITION, FORESTED SWAMP AND MARSH,
BAYOU AUX CARPES.

000094

00009



SEDIMENT SIZE COMPOSITION, FORESTED SWAMP AND MARSH,
BAYOU AUX CARPES.

000095

000096

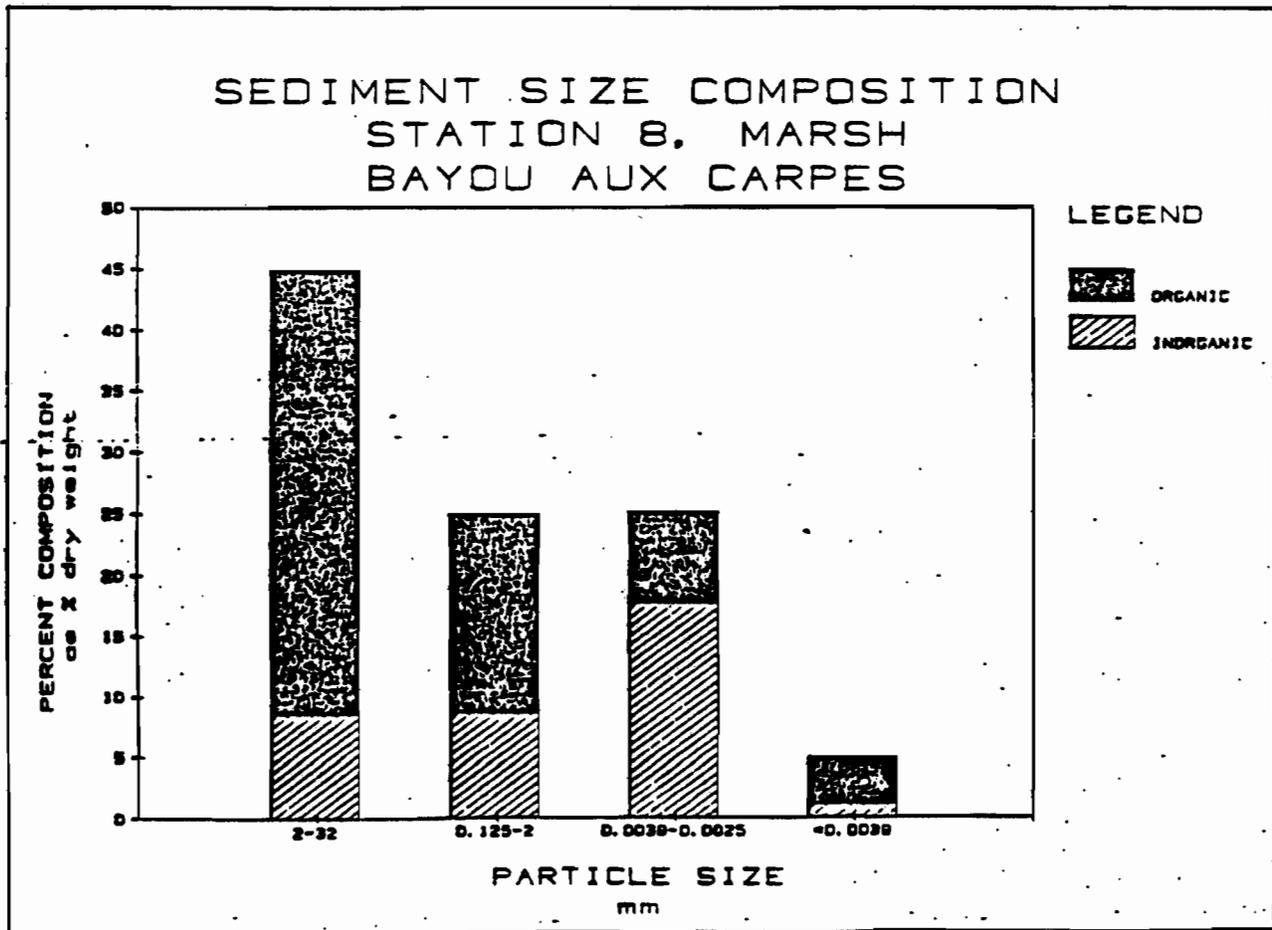
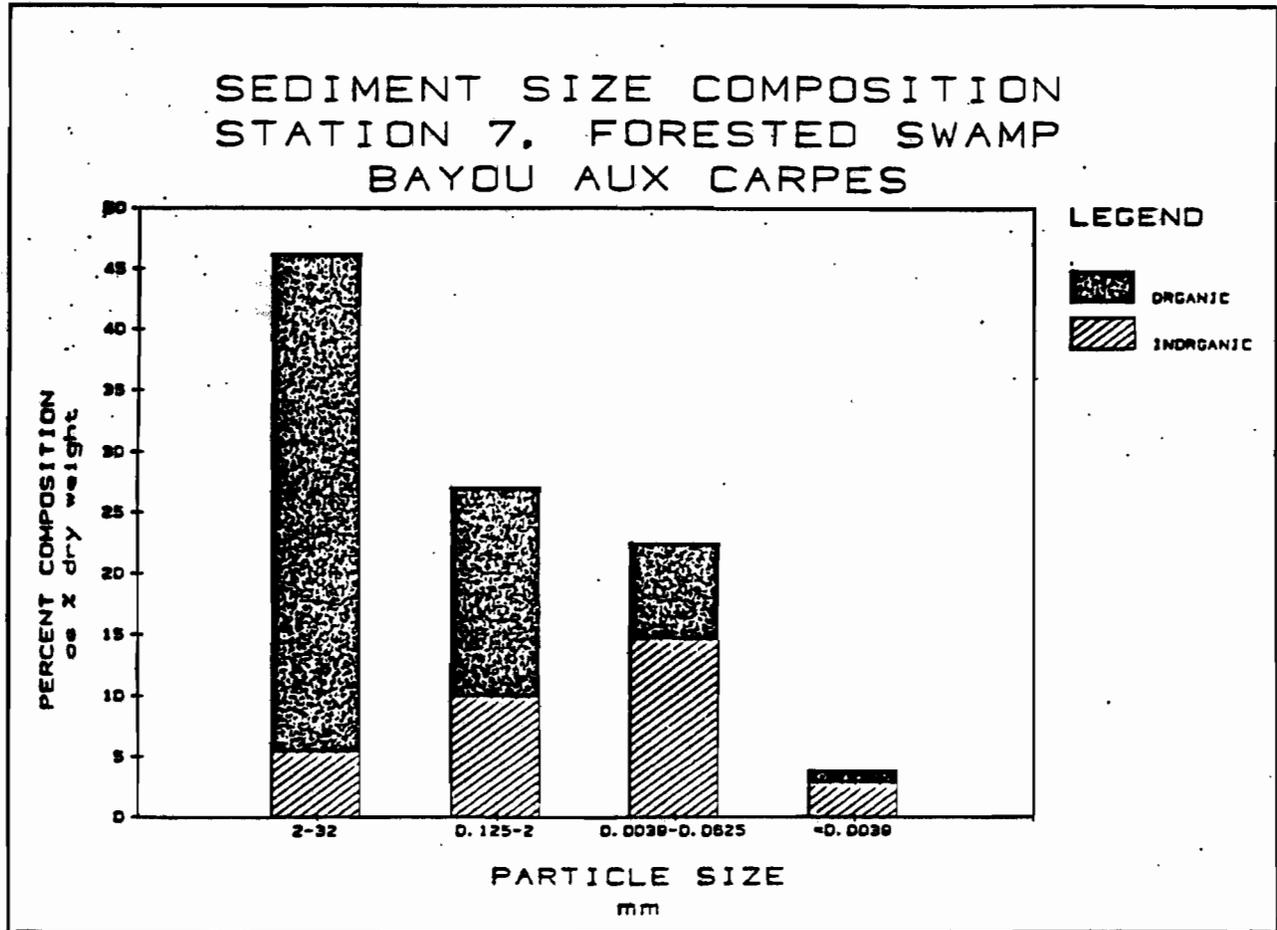


FIGURE 22
 SEDIMENT METALS mg/kg [dry wt.]
 BAYOU AUX CARPES
 JANUARY, 1985

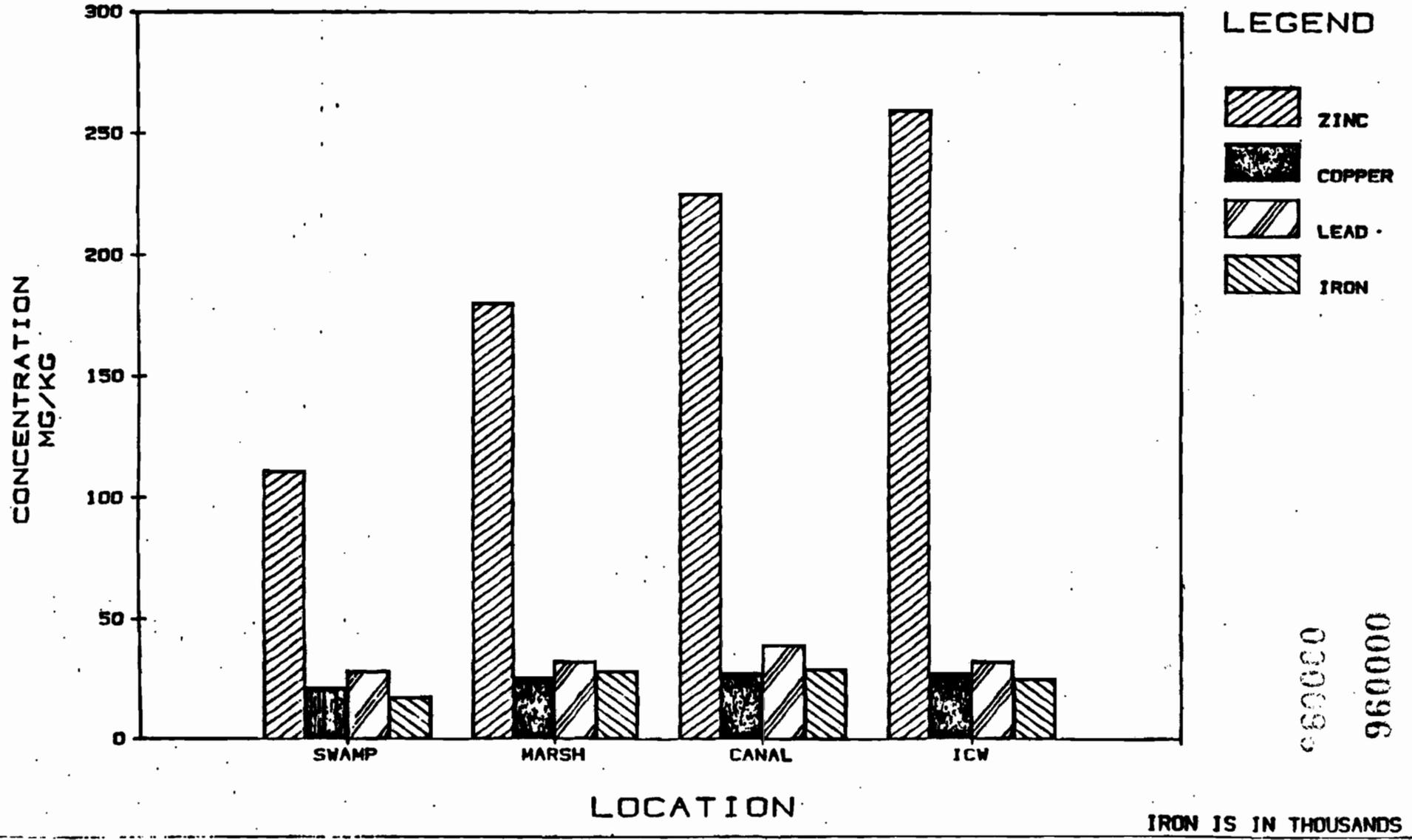


FIGURE 23
SEASONAL DISTRIBUTION
WATER LEVELS AT BARATARIA
JAN - DEC. 1984

000097

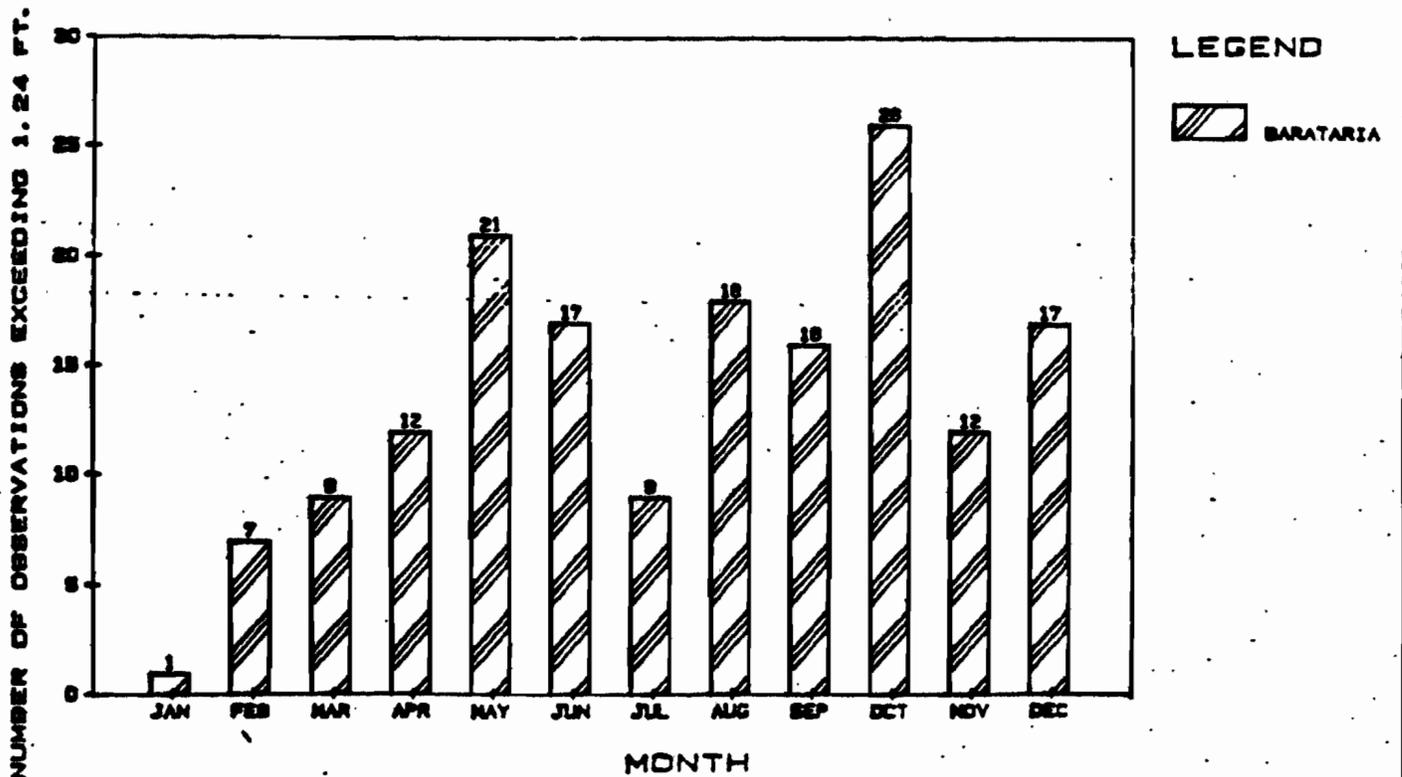
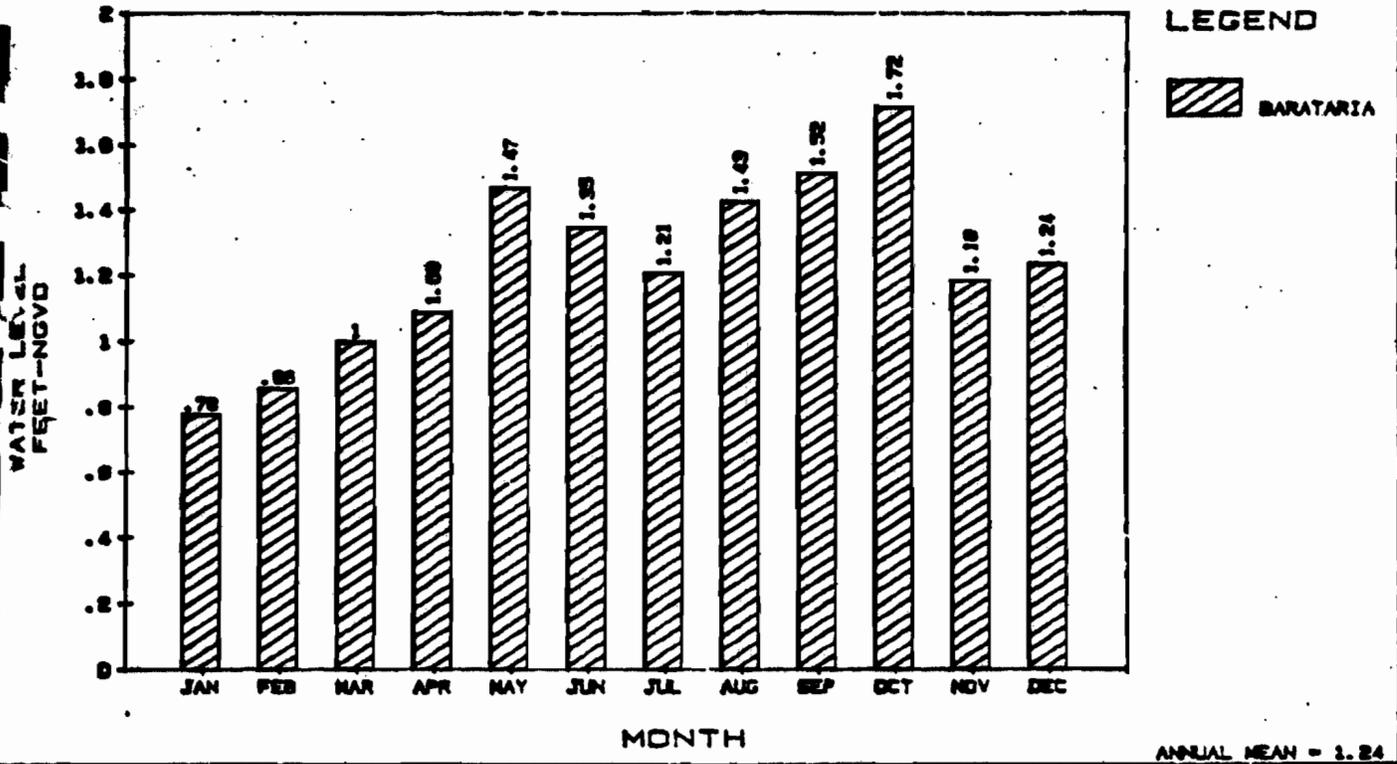


Figure 24

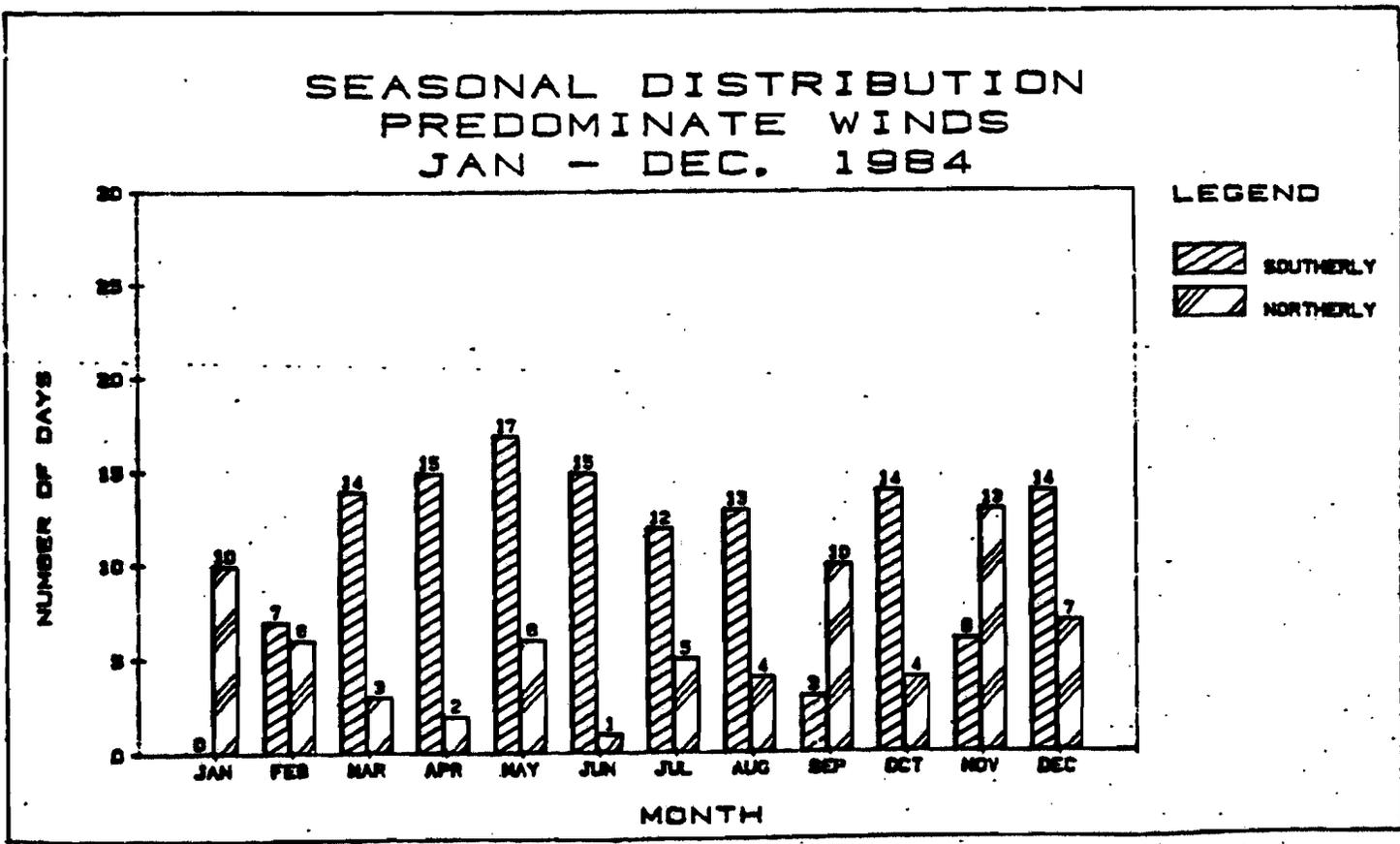
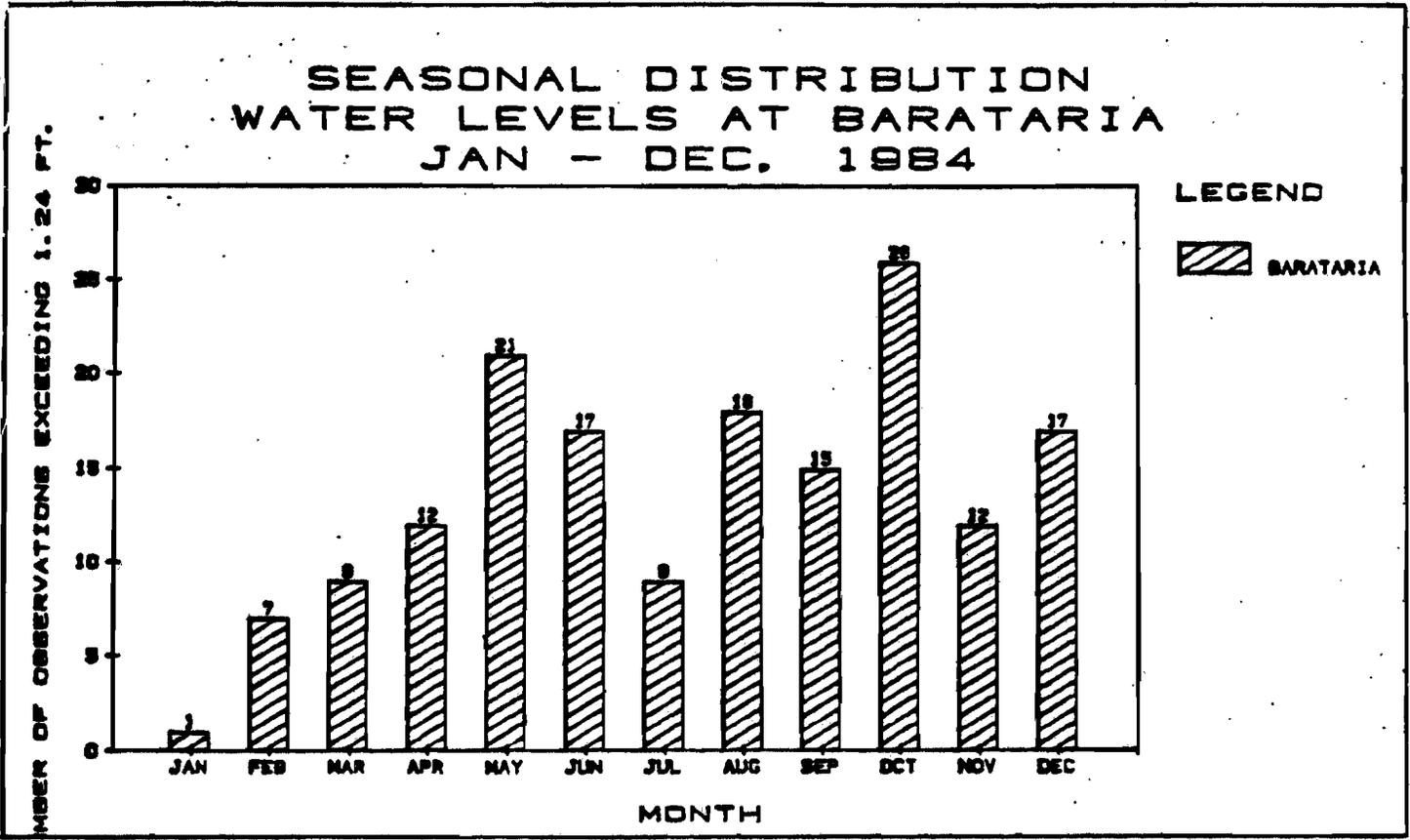
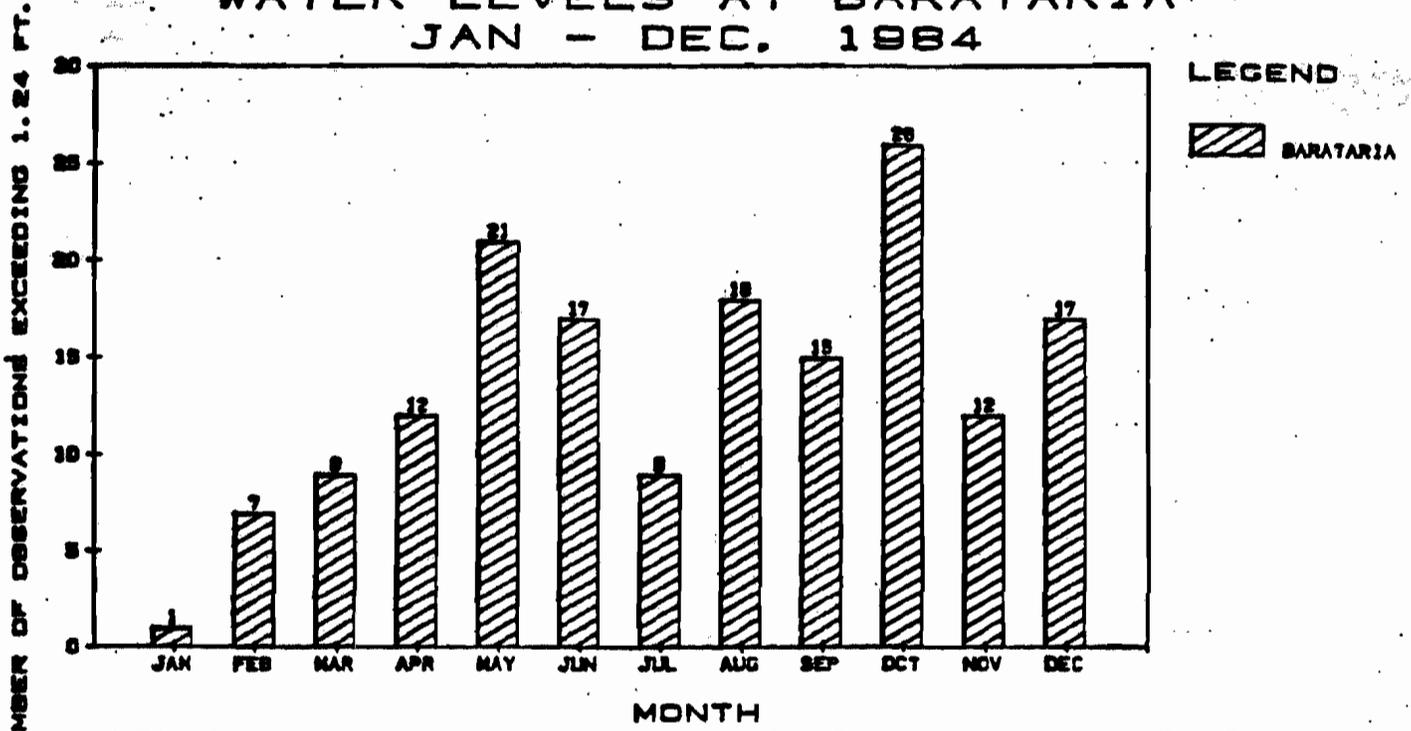
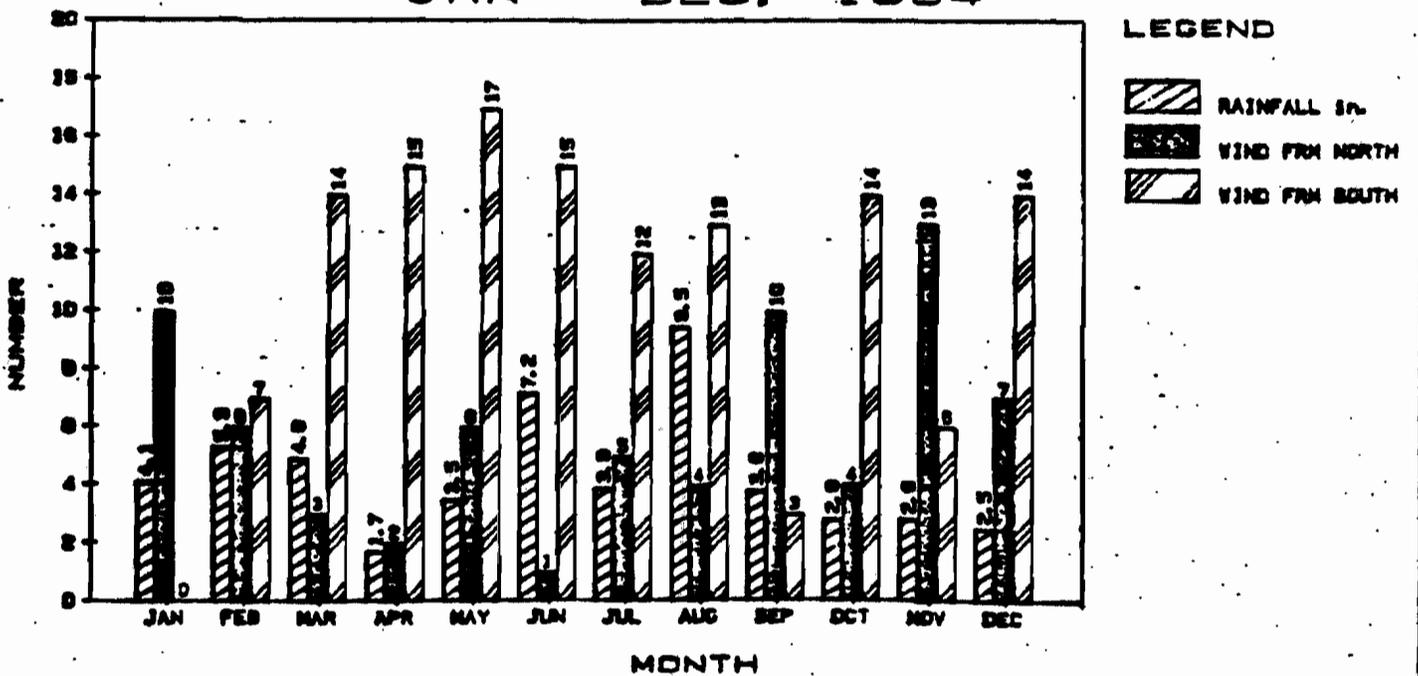


Figure 25

SEASONAL DISTRIBUTION WATER LEVELS AT BARATARIA JAN - DEC, 1984



SEASONAL DISTRIBUTION RAINFALL & WIND DIRECTION JAN - DEC, 1984



000100

000100

APPENDIX A

APPENDIX A

Harvey Canal-Bayou Barataria Levee Project

March 31, 1976

See Below

Mr. John C. White
Regional Administrator
EPA Region VI

SUMMARY

As requested, we have surveyed the subject project and offer the following conclusions. The 3,700-acre tract of wetlands, as it presently relates to the subject project, remains a valuable and viable parcel of swamp and marsh area. In view of the value of this resource, we consider Region VI's decision to request use of a floodgate instead of a pumping station as reasonable, appropriate, and justifiable.

ACTION

For your information.

BACKGROUND

At your request, we reviewed the present status of the subject project and determined if existing alterations have impaired the functioning of the 3,700-acre wetlands to the extent that environmental impacts of completing the project (i.e., pumped drainage of the wetlands) would be trivial. The review was completed the week of March 22 and consisted of briefings, a site visit to the project area and surrounding environs, and a review of available documents. The briefings were by Mr. Peter W. Dumsavage of your office and by staff members of the New Orleans District Corps of Engineers office (list of attendees at March 23, 1976, meeting is attached). The site visit was accomplished with the aid of a helicopter. Pertinent documents were provided by the COE staff.

To complete our evaluation, it will be necessary to briefly describe the site and the project as they relate to the Barataria Bay system.

The Site - The Harvey Canal-Bayou Barataria Levee project is an 11,700-acre (18.3-square-mile) tract located near the headwaters of the Barataria Bay system. The 3,700 acres (5.8 square miles) of the project with which we are concerned is predominantly a freshwater system of mainly swamp and some marsh. The site is near sea level, has an imperceptible gradient, and is subject to only a slight tidal influence (0.25 foot).

The Barataria Bay drainage basin, including the 3,700-acre site, is approximately 1,900 square miles and is characterized by distinct parallel zones of vegetation which are noted below.

- Freshwater swamps - Headwaters of the basin featuring swamp forests (cypress, gum, etc.) with salinity less than 1 ppt.
- Freshwater marshes - Immediately seaward of swamps and comprised mainly of herbaceous vegetation with salinity less than 1 ppt; extensive in upper-central portion of basin.
- Intermediate and brackish marshes - Transition zone from fresh to salt marsh with salinity 5 to 10 ppt.
- Salt marsh - Most seaward extension of vegetation (except for scattered mangrove stands near some of the isles) with average salinity near 17 ppt.

From the above it can be seen that these vegetational zones are highly correlated with a specific salinity regime, thus showing that spatial and temporal variation in the salinity gradient is controlled by freshwater runoff from the drainage basin where the annual rainfall averages 60 inches. Reversals of gradient occasionally occur during periods of high runoff from the Mississippi River.

According to the reports reviewed, Louisiana leads all states in the volume of commercial fish and shellfish harvested. Ninety percent of the harvest is of estuarine-dependent species. Barataria Bay, in turn, is described as the singly most productive estuarine area along the Louisiana coast. Reports of the LSU Center for Wetland Resources clearly indicate that Louisiana estuaries owe their high productivity largely to the extensive systems of marshes and swamps at the land-water interface and to the broad, brackish zones where salinity fluctuations are tempered by continuous freshwater inputs from interior storage areas (i.e., the freshwater swamps and marshes).

The Project - The Harvey Canal-Bayou Barataria project involves two distinct subareas:

- An 8,000-acre tract whose levees and pumping stations are installed and operated by local interests.
- A 3,700-acre tract immediately seaward of the 8,000-acre tract which was unleveed and undrained at the beginning of the federal project. For purposes of this discussion, reference to the "federal project" will allude specifically to the 3,700-acre tract.

Construction of initial levees for the "federal project" were completed by the Corps of Engineers in November 1973. Gaps in the levee were left at Bayou Aux Carpes, the Southern Natural Gas pipeline, and a partial opening at Bayou Des Familles. Subsequent to completion of the levee, local interests have completed closure of the Bayou Aux Carpes opening using clam-shell fill. Plans call for reclamation of the 3,700-acre tract by pump drainage via a pumping station to be installed at the Bayou Aux Carpes closure. At present, circulation of water between the 3,700-acre tract and the Intracoastal Waterway is via the Southern Natural Gas pipeline canal.

Importance of Site - Freshwater swamps and marshes in coastal areas perform several critical functions including:

- Efficient producers of organic matter which support an indigenous fauna, and surpluses are exported to fuel downstream systems.
- Serve as freshwater storage and recharge areas which control the rate and timing of freshwater inputs to downstream estuaries, thus maintain a broad zone of salinity gradient throughout the year.
- Support an indigenous flora and fauna which is of direct value to man for recreation, aesthetics, sport fishing, and timber production.

Based on observations made during our visit, the 3,700-acre tract is still performing all of the above functions. The Cypress-Tupelo Swamp and the fresh marshes will remain viable as long as they are not drained. It is reasonable to expect that they will continue to produce significant quantities of organic matter to fuel the system. Closure of Bayou Aux Carpes and the reduction of sheet flow from the system has undoubtedly lessened the export of organic matter to downstream systems; however, the Southern Natural Gas pipeline canal still serves as a major export route of organic material produced in the swamps and marshes. Installation of a floodgate at Bayou Aux Carpes, as recommended by EPA Region VI would provide an additional avenue for export of detritus to downstream systems.

Perhaps the most important function of the freshwater swamps and marshes in the Barataria Bay system is the amelioration of fluctuations in freshwater inputs to the estuary during periodic wet and dry periods. Since the swamp and marsh are intact and connected to the rest of the system via the pipeline canal, this important function is still taking place.

According to reports of the LSU Center for Wetland Resources, the salinity of Barataria Bay is determined by basin runoff and inputs from the Mississippi River. The basin runoff, however, is the major determinant of the salinity gradient and also serves in a buffering capacity to maintain uniform salinity throughout the water year. According to these same reports, the 3,700-acre tract is part of the zone of major freshwater storage for the Barataria Bay system. Loss of such storage areas via drainage increases the amplitude of salinity variations in the brackish zone.

A brief example illustrates the change in freshwater runoff characteristics brought about by pump drainage:

Hydrologic data:

1. Annual rainfall = 60 inches
2. Annual runoff = 20 inches (40 inches consumed by evapotranspiration)
3. Rate of discharge following rainfall = 0.20 inch per day.

Thus:

1. From 2 above, the mean annual runoff rate from 3,700 acres = 8.5 cfs
2. From 3 above, the runoff rate following rainfall = 31.1 cfs

Based on this analysis, it is apparent that the initial 150-cfs pump to be installed will move rainfall at a rate five times greater than the natural system. As pointed out by the Corps, the initial 150-cfs installation will only drain a portion of the area. Larger-capacity pumps will ultimately be installed, thus further increasing the rate of de-watering as compared with the natural system.

Finally, we have no doubt that the existing 3,700 acres of wetlands continues to support an indigenous biota of direct value to man. The present diking of the 3,700 acres of wetlands may have reduced public access to the area; but it fails to eliminate any of the recreational, esthetical, or sport-fishing features of the tract. In addition, the potential timber value of the cypress trees remains as a renewable resource if the area is not drained.

Writers: L.B. Tebo, Jr., S&A, Region IV
Delbert B. Hicks, S&A, Region IV
Thomas R. Cavinder, S&A, Region IV
Victor W. Lambou, EM&S Lab., Las Vegas

Attachment

LBTebo:pc:2294:3/31/76

**C. DESCRIPTION OF DATA COLLECTION, METHODOLOGY
AND PHOTO ANALYSIS RESULTS OF PHOTOINTERPRETIVE
STUDY OF BAYOU AUX CARPES AREA**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF RESEARCH AND DEVELOPMENT
ENVIRONMENTAL MONITORING SYSTEMS LABORATORY-LAS VEGAS
P.O. BOX 15027, LAS VEGAS, NEVADA 89114-5027 • 702/798-2100 (FTS 545-2100)

JUN 19 1985

SUBJECT: Bayou aux Carpes, AMD5531
FROM: Timothy W. Foresman
Environmental Scientist, AMS
TO: Barbara Keeler
Environmental Services Division
Region 6

Attached with this memorandum is a description of data collection, methodology and results of the photo analysis project of the Bayou aux Carpes study area. Also attached is a narration of Mr. Williams' presentation for June 18th and a brief VITA.

Should you have any questions, please direct them to either myself or Mr. Williams.

Attachments

**DESCRIPTION OF DATA COLLECTION, METHODOLOGY, AND
PHOTO ANALYSIS RESULTS OF PHOTOINTERPRETIVE STUDY OF
BAYOU AUX CARPES AREA**

DATA COLLECTION AND METHODOLOGY

Color infrared (CIR) aerial photography was collected of the Bayou aux Carpes study area in Jefferson Parish, Louisiana, on March 25, 1985. The photographs were collected at two scales, 1:12,000 and 1:30,000. The 1:12,000 scale photos were used to perform photo analysis and the 1:30,000 scale photos were used to compile a large photomosaic to display the interpretive information.

After aerial photographs were collected, they were examined in preparation for a field trip to the study area on April 4, 1985. During the visit, a representative sample of vegetation types was observed, photographs were taken and referenced to aerial imagery, and field observations were made. During the subsequent photo analysis phase of the study, vegetation types observed in the field were compared to aerial photographic image parameters such as size, shape, height, spectral response, and texture. This comparison process is known as "signatures" development. Each "signature" is a unique combination of image parameters that identifies a specific vegetation type. Once these signatures are developed, vegetation throughout the study area can be identified and delineated on the aerial photographs.

DESCRIPTION OF VEGETATION TYPES

A total of 18 categories of vegetation and land uses were observed at the Bayou aux Carpes study area. An additional ecotonal boundary category was added. A detailed description of each category follows.

Aquatics (A) Floating plants such as mixtures of duckweed, water lily, and water hyacinth comprise this category. They are easily identified on the CIR photographs as masses of floating vegetation exhibiting varying shades of red and fine texture.

Agricultural Land Use (Ag) Pastureland can be seen along the ridge in the southwest portion of the study area. It can be identified on the aerial photos by its fine texture and linear fence lines.

Bulltongue Marsh (BM) An emergent marsh dominated by bulltongue is evident in marshes at the north and south ends of the study area. These areas are brown toned with some slight reddish tints. According to sources in the area, bulltongue was just starting its spring growth at the time of photo acquisition.

Upland
Hardwoods (BH)

A topographic ridge is located in the west and southwest portions of the study area. It supports a mixture of bottomland hardwoods such as various oaks, sweet gum, green ash, and red maple. On the CIR photos the height of this mature forest community is very evident. Varying shades of red are visible due to the number of tree species present.

Bulltongue/Mixed
Emergent Marsh (BME)

Certain areas within the northern and southern marshes at Bayou aux Carpes contain approximately equal amounts of bulltongue and a mixture of other emergents such as pennywort, frog-bit, bacopa, maidencane, and smartweed.

This marsh has a mottled appearance on the photographs, having elements of the bulltongue and mixed emergent photo signatures.

Cypress (C)

Pure stands of cypress are present throughout the study area. They are identified by a consistent spectral response from each individual tree and absence of other co-dominants in the forest canopy.

Cypress/Hardwoods (CH)

A small portion of the forested wetland was of this type. A mixture of small cypress with their characteristic spectral response and hardwoods (varied tones) were visible.

Cypress/Tupelo (CT)

This was the most prevalent forested wetland type within the Bayou aux Carpes area. At the time of aerial data collection, the tupelo had not leafed out, but still appeared in gray and white tones with exposed branches. The combination of the typical cypress signature and trees with the exposed branches aided in identification of this type.

Cypress/Willow (CW)

One fairly large stand of cypress and willow is present in the north central portion of the study area. The willow signature varies from the north to the south end of the area, possibly because all species had not fully leafed out by March 25. The willow associated with this category had not leafed out and exhibited gray tones and a "dimpled" texture.

Duckweed (D)

Duckweed is actually an aquatic type, existing in mixtures with other aquatic types, but certain notable areas of pure duckweed floating in water bodies were visible. Duckweed has a thin wispy appearance on the photos and a pinkish spectral response. When duckweed was also located within marshes and wetland forests it was not mapped because the resultant complexity would be difficult to understand.

Grassland (G)

Certain areas associated with road embankments and levees exhibited upland grass and herbaceous species. At the time of the photography, vegetation had not

Industrial (I)

One river barge refitting facility was present at the southern end of the study area. It was identified by the presence of barges, attendant structures, and stockpiled materials.

Mixed Emergent Marsh (ME)

A mixture of emergent wetland species is closely associated with the bulltongue-dominated marshes. Typical species include pennywort, frog-bit, bacopa, maidencane, and smartweed. Because of the diversity of species, the photo signature is varied for this type, but is easily distinguished from the bulltongue marsh.

Old Orchard (O)

An old abandoned pecan orchard is present near the western edge of the study area. It is identified by the regular placement of the pecan trees.

Residential (R)

A single residence and associated property is visible near the confluence of Bayou des Familles and Bayou Baratavia. Its photo signature consists of the characteristic shape of the house and fine texture of the surrounding grounds.

Shrub Wetland (SW)

Areas of bulltongue, and mixed emergent marshes that had 30 per cent or more of shrub cover were placed in this category. Shrub cover is predominantly wax myrtle. Photo signature has the appearance of marshes and sparse shrub cover.

Willow (W)

Pure strands of willow exist along levees, the southern marsh, and the north central part of the study area. They have a fairly homogeneous spatial appearance and consistent spectral response depending on their relative north to south location within the area.

Willow/Maple (WM)

Significant stands of willow and maple act as co-dominants along levees surrounding the study area. The spectral response is a deeper red due to the presence of the maple.

Ecotone

Ecotonal boundaries exist where a transition from one vegetation type to another is too subtle to affix a definite boundary. A dashed line indicates this type of transition is present.

RESULTS OF PHOTO ANALYSIS

After all vegetation types were delineated on the aerial photos, areal measurement of the different types was performed with a computer assisted electronic digitizer. Table 1 below presents the results of these measurements.

TABLE 1. RESULTS OF MESURATION OF VEGETATION CATEGORIES

<u>Symbol</u>	<u>Category</u>	<u>H(A)*</u>	
A	Aquatics	4.23	(10.45)
Ag	Agriculture	23.38	(57.77)
B	Bulltongue Marsh	166.58	(411.62)
BH	Bottomland Hardwoods	328.86	(812.61)
BME	Bulltongue/Mixed Emergent Marsh	11.23	(27.75)
C	Cypress	21.79	(53.85)
CH	Cypress/Hardwoods	0.86	(2.12)
CT	Cypress Tupelo	439.22	(1,085.31)
CW	Cypress Willow	17.88	(44.18)
D	Duckweed	0.66	(1.63)
G	Grassland (assoc. with levees and roads)	17.49	(43.22)
I	Industrial	1.16	(2.87)
ME	Mixed Emergent Marsh	79.72	(196.99)
O	Old Orchard	3.94	(9.74)
R	Residential	0.24	(0.60)
SW	Shrub Wetlands	35.97	(88.88)
W	Willow	77.97	(192.66)
WM	Willow/Maple	57.46	(141.98)
		1,288.64	3,184.23

*Hectares(Acres)

By summarizing the data under the broader categories of marsh and forested wetland, 262.46 hectares (648.54 acres) of marshland and 887.50 hectares (2,193.01 acres) of forested wetland are present in Bayou aux Carpes study area. The forested wetland figure was derived by subtracting forested levee values, 92.51 hectares (228.59 acres), from the total forested categories appearing in Table 1. Forested levee was not used as a thematic overlay category because it was not an exclusive category, i.e., different types of vegetation existed at different locations on the levees.

After areal measurements were taken, interpretive data was transferred to clear acetate material on a large photomosaic of the study area to form a vegetation and land use thematic overlay. Two other overlays were produced, a Surface Drainage and Topographic Sheet Nomenclature overlay and a Study Area Boundary overlay. The Surface Drainage and Topographic Sheet Nomenclature

overlay depicts significant surface drainage pathways whether natural or man-made. Levee breaks observed on both sides of the Southern Natural Gas Pipeline Canal on April 4, 1985 are also displayed on the overlay along with names and locations of highways, watercourses, and other geographic reference points present on the Bertrandville 7-1/2" U.S. Geological Survey Topographic Sheet.

PRESENTATION AT PUBLIC HEARING
CONCERNING BAYOU AUX CARPES
STUDY AREA - JUNE 18, 1985

Aerial photographs of the Bayou aux Carpes study area located in Jefferson Parish, Louisiana, were acquired at flight altitudes of 6,000 and 15,000 feet above ground level on March 25, 1985.

Enlargement prints, see in this photo display, were produced from the original 9 by 9 inch color infrared aerial film. The appearance of the study area on these prints differs substantially from what it might look like on true color prints. This is primarily due to the sensitivity of color infrared film to reflectances of electromagnetic energy which we cannot see. This is contrasted to electromagnetic energy that we can see called "visible light." Living vegetation reflects this infrared energy and it is recorded in red color as seen on these enlargements. Other objects have photographic tones that are combinations of blue, green, and red portions of visible light. (verbally describe other features) For a variety of different reasons, different species and associations of vegetation reflect varying amounts of infrared energy. Since these different variations are recorded permanently on film, professionals trained in aerial photointerpretation can recognize these differences and identify vegetation types based upon tonal characteristics as well as several other photographic image qualities.

Eighteen categories of vegetation and land use cover were used in mapping the study area. After mapping was completed, measurements of the land area of each type were performed with a computer assisted electronic digitizer. When measurements were grouped into two general categories, marshes and forested and shrub wetlands, it was found that approximately 648 acres of marshes and 2,190 acres of forested and shrub wetlands are present in the study area.

This photomosaic, which is actually two aerial photos glued together, has a photo scale of 1:6,500. That is the same as one inch equals 542 feet. So an inch on the photomosaic equals approximately 542 feet on the ground. The vegetation and land use information derived during analysis of the photos was transposed from smaller photos to a clear overlay affixed to the photomosaic. We produced two other overlays, one showing significant natural and man-made surface drainage features and names of various geographic features and another depicting the boundary of the study area.

DAVID R. WILLIAMS**ASSIGNMENT: Image Analyst (Land Use/
Land Covers/Vegetation)****EDUCATION:** 1972, Stephen F. Austin State University, Master of Forestry; 1964, Sam Houston State University, B.S., Biology**EXPERIENCE:****Summary:** Thirteen years experience in the remote sensing field with an emphasis on analysis of terrestrial and aquatic vegetation using conventional photography.**Lockheed-EMSCO, Scientist Principal** 1984

Technical lead in land-use and vegetation mapping disciplines. Conduct historical wetland and land-use mapping projects in conjunction with EPA enforcement investigations. Expert witness testimonies and depositions given. Long-term riparian vegetation mapping project is ongoing for assessment of cattle grazing impacts. Conduct current and historical identification and analysis of hazardous waste sites.

Lockheed-EMSCO, Scientist, Sr. 1977-1984

Photo analysis included a variety of land use and vegetation mapping projects. Information was used for Section 404 permit evaluation, oil and hazardous materials spill impacts and for long range environmental monitoring of large geographic areas.

Lockheed-EMSCO, Environmental Analyst 1975-1977

Primary tasks included image analysis and report preparation in support of EPA's remote sensing program. Emphasis was on aerial surveys of vegetation damage due to air pollutants, hazardous wastes, thermal surveys of electric power plants, and nonpoint pollution suspended sediment studies.

Florida Bureau of Water Resources, Head of Planning Section 1974-1975

Planning and organizational and activities of the Florida Department of Natural Resources and the five state water management districts. Also, became familiar with many administrative functions necessary to the operation of a bureau.

Florida Department of Transportation, Remote Sensing Scientist 1971-1974

Performed project management and aerial photointerpretation and mapping of selected vegetational areas within the State of Florida. Work included complete mapping of vegetation in the Florida Keys, vegetation mapping for input into highway corridor planning, and development of a vegetation classification scheme for the state.

**D. FISH AND WILDLIFE RESOURCES OF THE BAYOU
AUX CARPES DRAINAGE AREA**



United States Department of the Interior
FISH AND WILDLIFE SERVICE

POST OFFICE BOX 4305
103 EAST CYPRESS STREET
LAFAYETTE, LOUISIANA 70502

June 18, 1985

Mr. Clinton B. Spotts
Chief, Federal Activities Branch
U.S. Environmental Protection Agency
1201 Elm Street
Dallas, Texas 75270

Dear Mr. Spotts:

In accordance with prior agreements between our two agencies, we are submitting the enclosed report on our Habitat Evaluation Procedures analysis and additional fish and wildlife inventories on the Bayou aux Carpes drainage area. A summary of our findings will also be presented at the public hearing on the matter on June 18, 1985, in Gretna, Louisiana. Please feel free to call me or Dr. Thomas Michot of this office should you have any questions regarding the report.

Your cooperation in this matter is appreciated.

Sincerely yours,

David W. Fruge
Field Supervisor

FISH AND WILDLIFE RESOURCES
OF THE BAYOU AUX CARPES
DRAINAGE AREA, JEFFERSON PARISH,
LOUISIANA

SUBMITTED TO
FEDERAL ACTIVITIES BRANCH
U.S. ENVIRONMENTAL PROTECTION AGENCY
DALLAS, TEXAS

PREPARED BY
THOMAS C. MICHOT, PH.D
FISH AND WILDLIFE BIOLOGIST

UNDER THE SUPERVISION OF
DAVID W. FRUGE, FIELD SUPERVISOR

U.S. FISH AND WILDLIFE SERVICE
DIVISION OF ECOLOGICAL SERVICES
LAFAYETTE, LOUISIANA

JUNE 1985

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION.....	1
HABITAT TYPES.....	4
HABITAT EVALUATION PROCEDURES ANALYSIS.....	6
FISH AND WILDLIFE INVENTORY.....	8
FUTURE PROJECTIONS.....	15
CONCLUSIONS.....	20
LITERATURE CITED.....	21

FIGURES

1. Map of study area showing major geographical features.....	2
2. Map of study area showing habitat types	3
3. Map of Bayou aux Carpes study area showing sampling transects used for HEP analysis and wildlife inventory.....	11
4. Fish sampling stations (numerals) in the Bayou aux Carpes study area.....	14

TABLES

1. Acreages by habitat type for the Bayou aux Carpes study area, Louisiana.....	5
2. HEP evaluation species and the habitat types in which they were rated in the Bayou aux Carpes study.....	7
3. Variables used as input for HSI models in Bayou aux Carpes HEP analysis.....	9
4. Values and suitability indices (SI) for HSI variables for each species, by habitat type, and their respective HSI equations and values in Bayou aux Carpes study area.....	12
5. HSI, acreage, and HU values for all species, by habitat type, in the Bayou aux Carpes study area.....	13
6. Fishes collected in the Bayou aux Carpes study area, April 1985, listed according to relative abundance, and stations where collected.....	16
7. Animal species identified in the Bayou aux Carpes study area, October 1984 and March 1985.....	17

INTRODUCTION

Section 404(c) of the Clean Water Act authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to prohibit the specification of any area as a disposal site, and to deny or restrict its use as such whenever he determines that the discharge of dredged or fill materials into such an area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreation areas. By Public Notice dated May 10, 1985, the EPA Regional Administrator (Region 6) in Dallas, Texas, stated his intent to invoke Section 404(c) proceedings to prohibit future use of the Bayou aux Carpes drainage area in Jefferson Parish, Louisiana, as a disposal site. The purpose of this report is to provide the EPA with detailed information regarding the value of the Bayou aux Carpes drainage area to fish and wildlife resources. This information is based on a Habitat Evaluation Procedures (HEP) analysis and additional fish and wildlife inventories conducted during March 20 to March 26, 1985.

The study area is located in Jefferson Parish, Louisiana, about 10 miles south of New Orleans, in the upper Barataria Basin (Figure 1). The area is bounded on the east and south by the Harvey Canal/Bayou Barataria segment of the Gulf Intracoastal Waterway, on the west by the Bayou des Familles ridge, and on the north by the so-called V-levee and the Estelle Canal.

The area was historically drained by a natural waterway, Bayou aux Carpes. A dam was constructed at the mouth of that waterway in 1974, and the flow of water into and out of the area is now only through the mouth of the Southern Natural Gas pipeline canal at Bayou Barataria. The two-mile-long pipeline canal is hydrologically connected to Bayou aux Carpes and to all wetlands in the study area; accordingly, that canal serves as the primary tidal connection between the study area and the Barataria Bay estuary. Other major waterways in the study area include two oil field location canals off of Bayou aux Carpes (about 2,500 and 6,000 feet in length), a 3,500-foot-long powerline right-of-way canal (connected to one of the above-referenced canals), and two plugged oil-field location canals (1,500 to 2,000 feet in length) off of Bayou Barataria (Figure 2).

Approximately 25 percent of the Bayou aux Carpes drainage is located within the Barataria Unit of Jean Lafitte National Historical Park (JLNHP). That portion of JLNHP that lies within the Bayou aux Carpes drainage area is located west of Louisiana Highway No. 3134 and east of Bayou des Familles. Park lands are hydrologically connected with Bayou aux Carpes via four sets of culverts under that highway, but they would not be included in the area defined by EPA under the Section 404(c) proceedings.

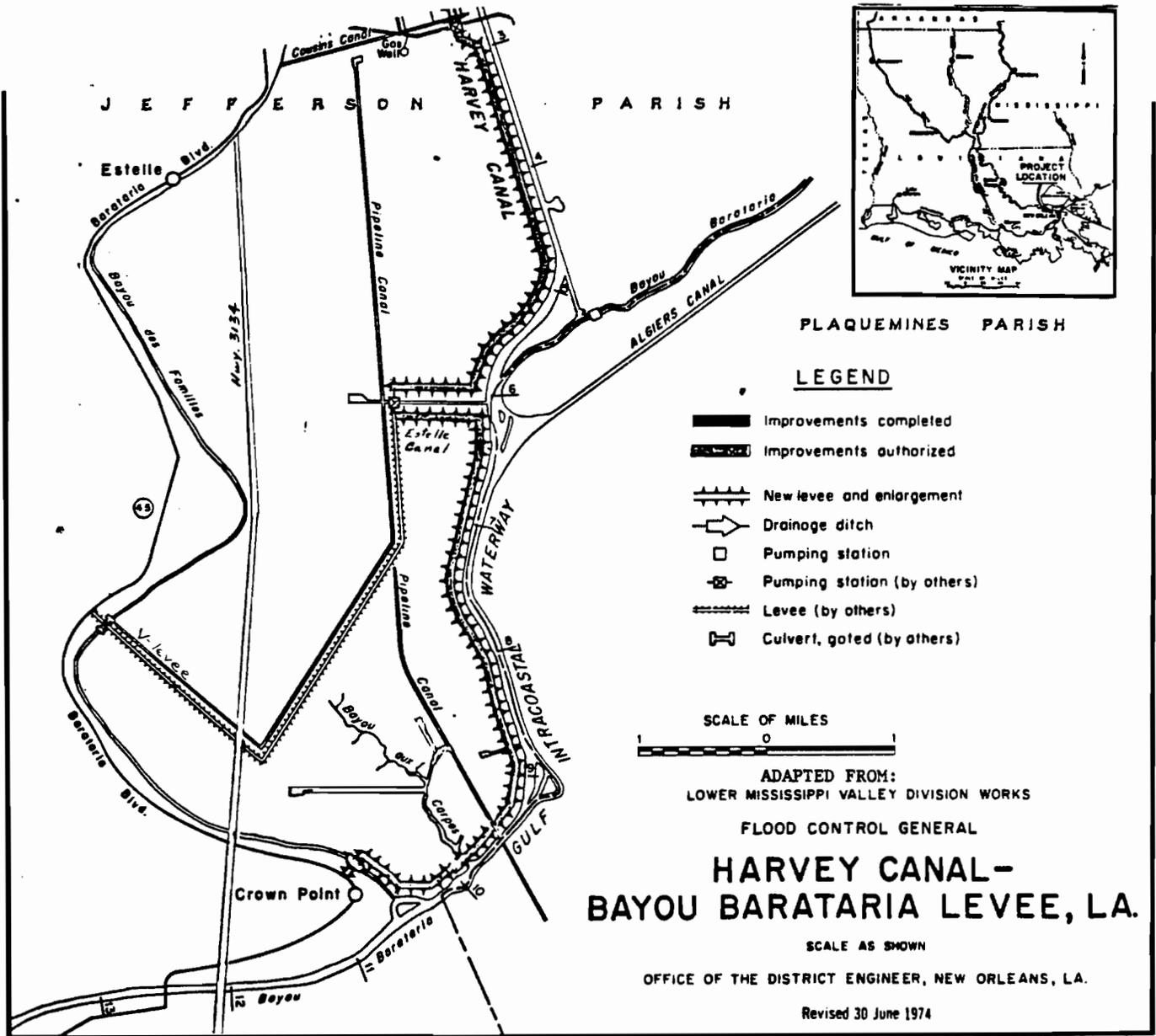


Figure 1. Map of study area showing major geographical features.

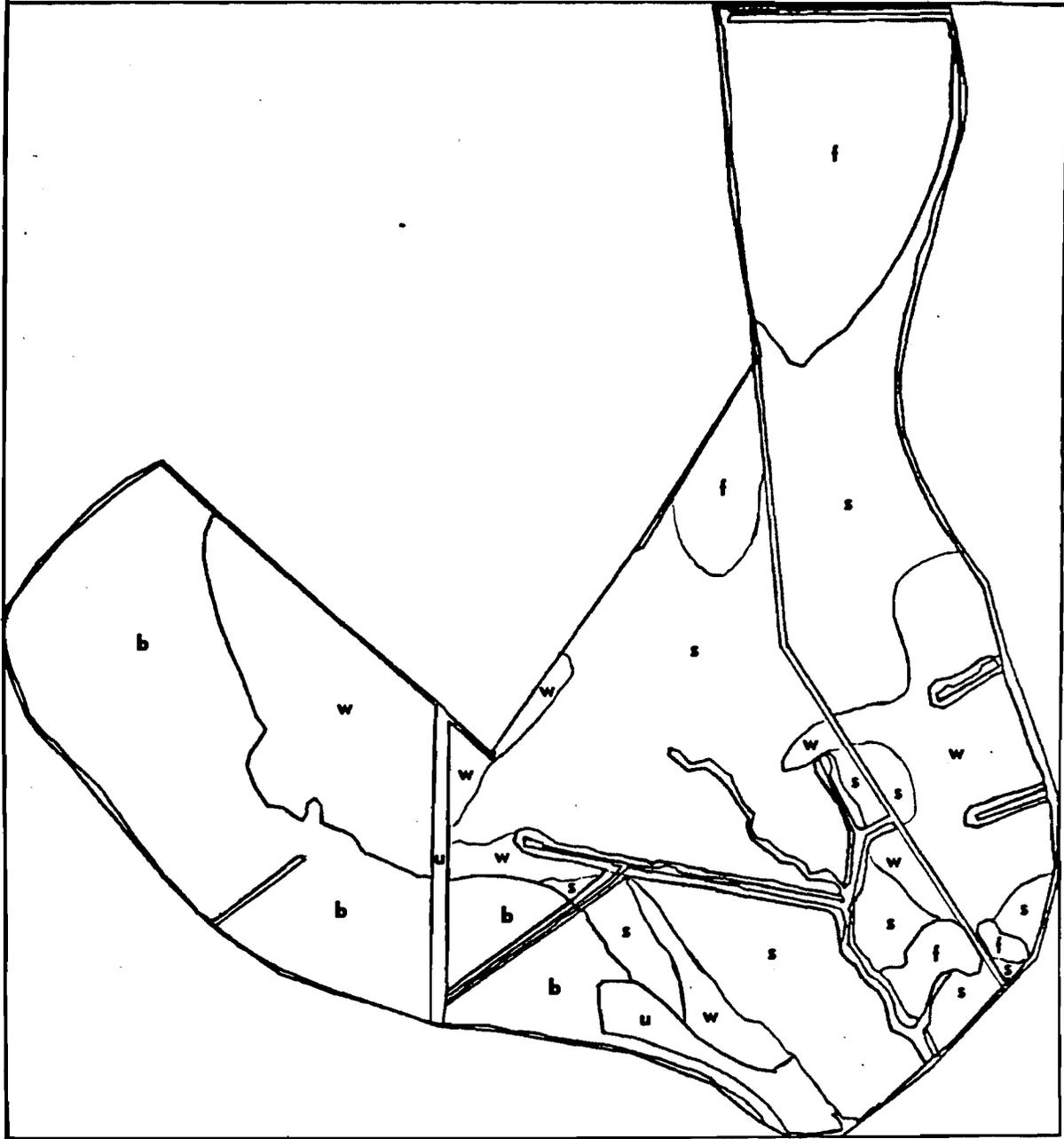


Figure 2. Map of study area showing habitat types; b = bottomland hardwoods, f = fresh marsh, s = scrub-shrub wetlands, u = upland developed, w = wooded swamp, unmarked = riverine or upland.

HABITAT TYPES

The Bayou aux Carpes drainage area totals 3,564 acres (Figure 2). Bottomland hardwood habitat (intermittently flooded palustrine forested wetlands according to Cowardin et al. 1979) comprises about 620 acres (Table 1). This habitat type is associated with the relatively high elevations along the Bayou des Familles ridge. Tree species found in this habitat type include hackberry, water oak, live oak, Nuttall oak, sweetgum, American elm, swamp red maple, green ash, water tupelo, baldcypress, boxelder, water hickory, and bitter pecan. Tree canopy closure averages about 90 percent. Understory species include elderberry, hawthorne, wax myrtle, rattan vine, trumpet creeper, poison ivy, privet, palmetto, Virginia creeper, blackberry, spiderwort, butterweed, lizard's tail, and spiderlily.

Wooded swamp habitat (intermittently exposed palustrine forested wetlands according to Cowardin et al. 1979) comprises approximately 790 acres in the study area (Figure 2; Table 1). Predominant tree species in this habitat type are baldcypress and water tupelo; red maple, green ash, black willow, and sweetgum may also be present. Tree canopy closure averages about 75 percent. Understory species include palmetto, buttonbush, wax myrtle, giant cutgrass, softrush, smartweed, pennywort, spiderwort, pigweed, lizard's tail, bulltongue, alligatorweed, hygrophila, waterprimrose, and bacopa. Floating and submersed aquatics include frogbit, water hyacinth, duckweed, watermilfoil, and coontail.

Palustrine scrub-shrub wetlands differ from palustrine forested wetlands in that the areal coverage of trees (greater than 20 feet in height) is less than 30 percent and the areal coverage of shrubs and/or trees less than 20 feet in height is at least 30 percent (Cowardin et al. 1979; Figure 2). This habitat type is the predominant one in the study area, comprising 1,324 acres (Table 1). Tree canopy closure ranges from 5 to 25 percent with baldcypress, water tupelo, swamp red maple, and black willow being the predominant species. Canopy closure of the shrub layer ranges from 30 to 75 percent; predominant species include, in addition to small individuals of the above tree species, wax myrtle, buttonbush, and eastern baccharis. Herbaceous species found on the marshy floor of this habitat type include bulltongue, iris, spikerush, pennywort, bacopa, alligatorweed, waterprimrose, hygrophila, lilaepsis, climbing hempweed, frogbit, duckweed, and mosquito fern.

There are about 535 acres of fresh marsh (palustrine emergent wetlands according to Cowardin et al. 1979) in the study area (Figure 2; Table 1). Predominant vegetation species include bulltongue, pennywort, spikerush, iris, saltmarsh mallow, rattlebox, eastern baccharis, smartweed, alligatorweed, giant cutgrass, frog fruit, deerpea, sedge, sugarcane plumegrass, nutgrass, water hyacinth, and duckweed.

Upland forested habitat occurs on spoil banks adjacent to dredged canals and waterways (Figure 2) and comprises 141 acres in the study area (Table 1). These areas are seldom, if ever, inundated. Vegetation consists of swamp red maple, sweetgum, American elm, green

Table 1. Acreages by habitat type for the Bayou aux Carpes study area, Louisiana.

Habitat Type	Acres
Bottomland hardwood	620
Wooded swamp	790
Scrub-shrub wetlands	1324
Fresh marsh	535
Upland forested	141
Upland developed	93
Riverine	42
Total	3545

ash, black willow, baldcypress, wax myrtle, eastern baccharis, water oak, live oak, elderberry, goldenrod, blackberry, lizard's tail, and poison ivy.

Upland developed habitat (Figure 2), which comprises 93 acres in the study area (Table 1), includes agricultural, residential and commercial lands as well as roads and terrestrial oilfield locations. Riverine habitat (canals and bayous) totals 61 acres. The latter habitat type is largely open water but also includes areas of floating aquatic beds vegetated with water hyacinth, duckweed, and other plant species.

HABITAT EVALUATION PROCEDURES ANALYSIS

The Habitat Evaluation Procedures (HEP) developed by the U.S. Fish and Wildlife Service (FWS 1980) provide a standard quantitative methodology for impact assessment. The HEP are based on the assumption that vegetative communities have value to wildlife and that positive or negative impacts can be expressed in terms of quantity and quality modification to wildlife habitat. These impacts can be measured and compared. Additionally, optimum habitat for a certain species can be characterized and any habitat can be compared to the optimum to develop a Habitat Suitability Index (HSI).

Habitat suitability can be related to the abundance of a species because of the assumed linear relationship between the HSI and the carrying capacity of a habitat. The HSI for a particular species is determined by utilizing models which contain measurable key habitat components for a specific animal in a particular habitat. An HSI value of 0 indicates that a cover type provides little or no potential habitat for the evaluation species, whereas a value of 1.0 indicates that the habitat provides optimum life requisites in the form of food, cover, and/or reproduction. A value between 0 and 1.0 can be correlated to various levels of carrying capacity in a linear manner, i.e., the difference between 0.1 and 0.2 is of the same magnitude as the difference between 0.8 and 0.9. The HSI is an expression of habitat quality per acre per year and total Habitat Units (HU) can be obtained by multiplying the HSI by the total acreage of habitat available.

An interagency evaluation team assisted the FWS in its development of methodology and collection of field data for the HEP analysis. Other agencies represented by biologists on the team included the National Park Service, U.S. Army Corps of Engineers, and Louisiana Department of Wildlife and Fisheries; a representative of the Environmental Protection Agency also served as an ex-officio member of the evaluation team.

A broad range of potential evaluation species was considered by the team; seven species were eventually selected (Table 2), based on their ecological position in the community (e.g., trophic level, habitat requirements, taxonomic grouping) as well as their recreational, commercial, and aesthetic values. HSI models for six of the

Table 2. HEP evaluation species and the habitat types in which they were rated in the Bayou aux Carpes study; BLH = bottomland hardwood, WS = wooded swamp, UFO = upland forested, SS = scrub-shrub wetlands, and FM = fresh marsh.

Evaluation Species	Habitat Type
Gray squirrel	BLH, UFO
Pileated woodpecker	BLH, UFO, WS
North American mink	BLH, UFO, WS, SS, FM
Wood duck	WS, SS, FM
Great egret	WS, SS, FM
American alligator	SS, FM
Common muskrat	SS, FM

evaluation species were based on published models developed by the FWS' Division of Biological Services; the American alligator model was based on a draft model on file at the FWS's Lafayette, Louisiana, Ecological Service Field Office. Variables measured for each model are listed in Table 3.

A stratified random/systematic sampling design was used to select sample sites. Each habitat type was divided into subunits based on location and homogeneity of vegetation. Transects were systematically laid out perpendicular to the hydrologic gradients and one transect was randomly selected for each subunit (Figure 3). Along each transect, sample sites were spaced systematically from a randomly-selected starting point; distance between sites was based on required sample size (see below). Values for HSI variables were measured or estimated primarily from a tenth-acre circular plot at each sample site, although larger plots were used as necessary.

The required sample size for each variable was based on values from a HEP analysis conducted on JLNHP in 1984. Those values were used to estimate the sample size required to obtain a sample mean whose relationship to the population mean was within a range of 90 percent confidence level and 25 percent relative precision. This method of estimating the required sample size assumes a normally distributed population (see FWS 1980).

Data were collected by the evaluation team between March 20 and March 26, 1985. Foliage on marsh and woody vegetation was well established at that time. A total of 48 sites was sampled; the number of sites per habitat type ranged from 7 to 15.

Mean values for all habitat variables and their respective suitability index (SI) values are presented in Table 4. Also presented in that table are the HSI values for each appropriate species/habitat type combination and the equations used to calculate those values. The HU values were obtained by multiplying the HSI values by the acreage values (Table 5).

Bottomland hardwood and wooded swamp habitats in the study area rated moderate to high value for all species evaluated (Table 5). Upland forested habitat rated low for gray squirrel and pileated woodpecker and was found to be optimum for mink. The scrub-shrub wetlands in the study area were found to be of high quality as wood duck wintering habitat and alligator habitat, and were of moderate quality for mink, great egret, and muskrat. Fresh marsh rated high to moderate as alligator, mink, and muskrat habitat.

FISH AND WILDLIFE INVENTORY

Fish sampling was conducted on the study area on April 17 and 18, 1985. Sampling was conducted with a 6-foot by 30-foot, 1/4-inch mesh minnow seine, a small-mesh dip net, and multimesh size gill nets. Sampling locations are shown in Figure 4. Stations 1,2,4,5,6, and 8

Table 3. Variables used as input for HSI models in Bayou aux Carpes HEP analysis; Optimum Range = range of values at which the Suitability Index for that variable would be 1.0.

Evaluation Species	Variable	Optimum Range
Gray squirrel	V1 = percent canopy closure of mast trees >10 in dbh	40-60%
	V2 = number of species of mast producing trees	>=4 species
	V3 = percent tree canopy closure	40-75%
	V4 = mean dbh of overstory trees	>=15 in
	V5 = percent shrub canopy closure	20-30%
Pileated woodpecker	V1 = percent tree canopy closure	75-100%
	V2 = number trees >20 in dbh	>=30/acre
	V3 = number stumps and logs >7 in diameter per acre	>=10/acre
	V4 = number snags > 15 in dbh per acre	>=0.17/acre
	V5 = mean dbh of snags > 15 in	>=21.5 in
North American mink	V1 = percent woody or persistent plant canopy closure	75-100%
	V2 = percent of year with surface water present	75-100%
	V3 = percent coverage of persistent emergent herbaceous vegetation	50-75%
	V4 = percent tree/shrub canopy closure within 328 ft of marsh edge	75-100%
Wood duck	V1 = number of potentially suitable tree cavities per acre	>=28/acre
	V4 = percent water surface covered by potential brood cover	50-75%
	V5 = percent water surface covered by potential winter cover	50-75%
Great egret	V1 = percent of plot with water 4 to 9 in deep	100%
	V2 = percent of substrate in 4- to 9-in-deep zone covered with vegetation	40-60%
	V4 = mean water depth	>= 24 in
	V5 = mean height of woody vegetation	>= 25 ft
	V6 = distance to road or dwelling	>=0.6 mi
	V7 = distance to other disturbance	>=165 ft

Continued

Table 3 (continued).

Evaluation Species	Variable	Optimum Range
American alligator	V1 = water salinity	0-7 ppt
	V2 = distance to water \geq 5 ft in depth	\leq 1640 ft
	V3 = mean summer water depth	5-11 in
	V4 = percent coverage open water	30-60%
Common muskrat	V1 = percent canopy cover of emergent herbaceous vegeta- tion	50-80%
	V7 = percent of emergent herba- ceous vegetation consisting of persistent life form species	100%
	V8 = percent of emergent herba- ceous vegetation consisting of Olney bulrush, common three-square, or cattail	80-100%
	V9 = percent of open water supporting submerged or floating vegetation	100%

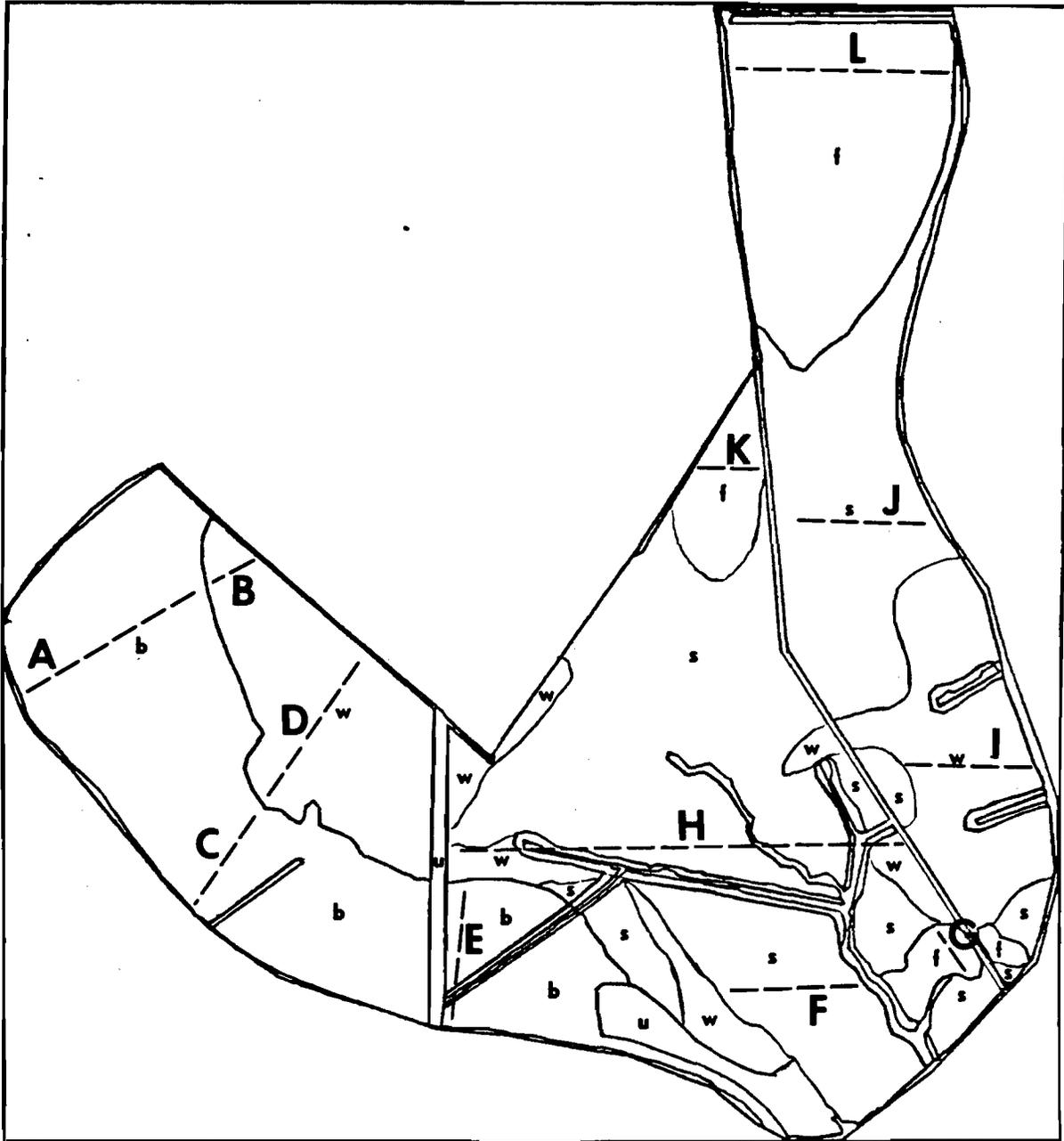


Figure 3. Map of Bayou aux Carpes study area showing sampling transects (upper-case letters) used for HEP analysis and wildlife inventory; lower-case letters refer to habitat types (see Figure 2).

Tab. ies su ill ndi (S) or var es ea pec by site type
 and their respective ndl equations and values in layo ax Compes s y at ab iat
 as in Table 2.

SPECIES	VARIABLE	DESCRIPTION	BLH		UFO		NS		SS		RM	
			VALUE	SI	VALUE	SI	VALUE	SI	VALUE	SI	VALUE	SI
Gray Squirrel	V1	% cc mast trees >10 in. dbh	58.00	1.00	3.00	0.07						
	V2	No. spp. mast prod.	2.60	0.68	0.30	0.07						
	V3	% tree cc	89.00	0.90	88.00	0.90						
	V4	Mean dbh overstory trees	19.00	1.00	7.00	0.20						
	V5	% shrub cc	31.67	1.00	38.00	0.89						
	MIN.FOOD	$(V1*V2)^{(1/2)}$		0.82		0.07						
	COV/REPR	$(V3*V4)^{(1/2)}*V5$		0.95		0.38						
	HSI	MIN (MIN.FOOD,COV/REPR)		0.82		0.07						
Pileated Woodpecker	V1	% tree cc	89.00	1.00	88.00	1.00	75.00	1.00				
	V2	No. trees >20 in. dbh /ac.	24.00	0.77	4.30	0.04	27.00	0.89				
	V3	No. stumps/logs /ac.	47.00	1.00	42.00	1.00	52.00	1.00				
	V4	No. snags (>15 in.) /ac.	11.00	1.00	3.75	1.00	18.00	1.00				
	V5	Mean dbh snags >15 in.	17.00	0.48	16.30	0.40	19.00	0.71				
	A	$(V1V2V3)^{(1/2)}$		0.88		0.20		0.94				
	B	$(V4*V5)^{(1/2)}$		0.69		0.63		0.84				
	HSI	MIN (A,B)		0.69		0.20		0.84				
North American Mink	V1	% woody/persis. plant cc	95.89	1.00	96.86	1.00	82.91	1.00	8.25	0.11	8.25	0.11
	V2	% yr. surf. water pres.	14.88	0.45	100	1.00	99.55	1.00	100	1.00	100	1.00
	V3	% persis. emerg. veg.									7.50	0.24
	V4	% tree/shrub cc w/in 100 m									92.00	1.00
	HSI(wdd.)	$(V1*V2)^{(1/2)}$		0.67		1.00		1.00		0.33		
HSI(msh.)	$V2((4V3+V4)/5)$										0.39	
Wood Duck	V1	No. cavities /ac.					22.90		7.50			
	V3	V1 * 0.18				4.12	0.81	1.35	0.27			
	V4	% cc brood cover				44.55	0.88	67.50	1.00			
	V5	% cc winter cover				42.27	0.82	53.75	1.00		7.25	0.13
	HSI(brdg)	MIN (V3,V4)				0.81		0.81		0.27		0.00
	HSI(wint)	V5				0.82		1.00		1.00		0.13
Great Egret	V1	% water 4-10 in. deep				67.22	0.68	50.00	0.50	41.25	0.41	
	V2	% of 4-10 in. zone veg.				76.33	0.59	89.38	0.26	96.25	0.08	
	V4	Mean water depth (in.)				8.56	0.36	4.88	0.20			
	V5	Mean ht. woody veg. (ft.)				37.56	1.00	17.75	0.77			
	V6	Dist. nearest road/dwelling					1.00		1.00			
	V7	Dist. other disturbance					1.00		1.00			
	FOOD	$(V1+V2)/2$					0.64		0.38			0.25
	COVER	$(V4*V5)^{(1/2)}$					0.60		0.39			0.00
	DISTURB.	$(V6*V7)^{(1/2)}$					1.00		1.00			0.00
	HSI(nstg.)	MIN (COVER.,DIST.)					0.60		0.39			0.00
HSI(fdg.)	FOOD					0.64		0.38			0.25	
American Alligator	V1	Water salinity						0.00	1.00	0.00	1.00	
	V2	Dist. (ft.) to deep water					878.6	1.00	510.5	1.00		
	V3	Mean water depth (in.)					5.00	1.00	3.25	0.75		
	V4	% open water					8.14	0.36	3.75	0.23		
	COVER	$(0.3*V1)+(0.3*V2)+(0.4*V4)$						0.74			0.69	
	WATER	V1						1.00			1.00	
	REPR.	$(V2^0.3)*(V3^0.7)$						1.00			0.82	
	HSI	MIN (COVER.,WATER.,REPR.)						0.74			0.69	
Common Muskrat	V1	% cc emerg. herba. veg.					85.00	0.98	99.00	0.91		
	V7	% cc persis. spp.					1.25	0.11	3.63	0.12		
	V8	% cc 3-square or cattail					0.00	0.10	0.00	0.10		
	b	% open water					6.25	0.06	3.75	0.04		
	V9	% o.w. area vegetated					65.00	0.68	75.00	0.78		
	a	% veg. (1-b)						0.94		0.96		
	HSI	$[(V1V7V8)^{(1/4)}*a]+[V9*b]$						0.34		0.34		

Table 5. HSI, acreage, and HU values for all species, by habitat type, in the Bayou aux Carpes study area; West = area west of Highway 3134 (i.e., in JLNHP); East = area east of the highway (i.e., in the area being considered by EPA for 404(c) action.

SPECIES	Bottomland Hardwood						Wooded Swamp						Upland Forested			Scrub-shrub			Fresh Marsh				
	West		East		Both		West		East		Both												
	HSI	Acres HU	HSI	Acres HU	HSI	Acres	HU	HSI	Acres	HU	HSI	Acres	HU										
Gray Squirrel	0.82	515	422	105	86	620	508							0.07	141	10							
Red-breasted Woodpecker	0.69	515	355	105	72	620	428	0.84	348	292	442	371	790	664	0.20	141	28						
North American Mink	0.67	515	345	105	70	620	415	1.00	348	348	442	442	790	790	1.00	141	141	0.33	1324	437	0.39	535	209
Wood Duck (breeding)								0.81	348	282	442	358	790	640				0.27	1324	357			
Wood Duck (wintering)								0.82	348	285	442	362	790	648				1.00	1324	1324	0.13	535	70
Great Egret (nesting)								0.60	348	209	442	265	790	474				0.39	1324	516			
Great Egret (feeding)								0.64	348	223	442	283	790	506				0.38	1324	503	0.25	535	134
American Alligator																		0.74	1324	980	0.69	535	369
Common Muskrat																		0.34	1324	450	0.34	535	182

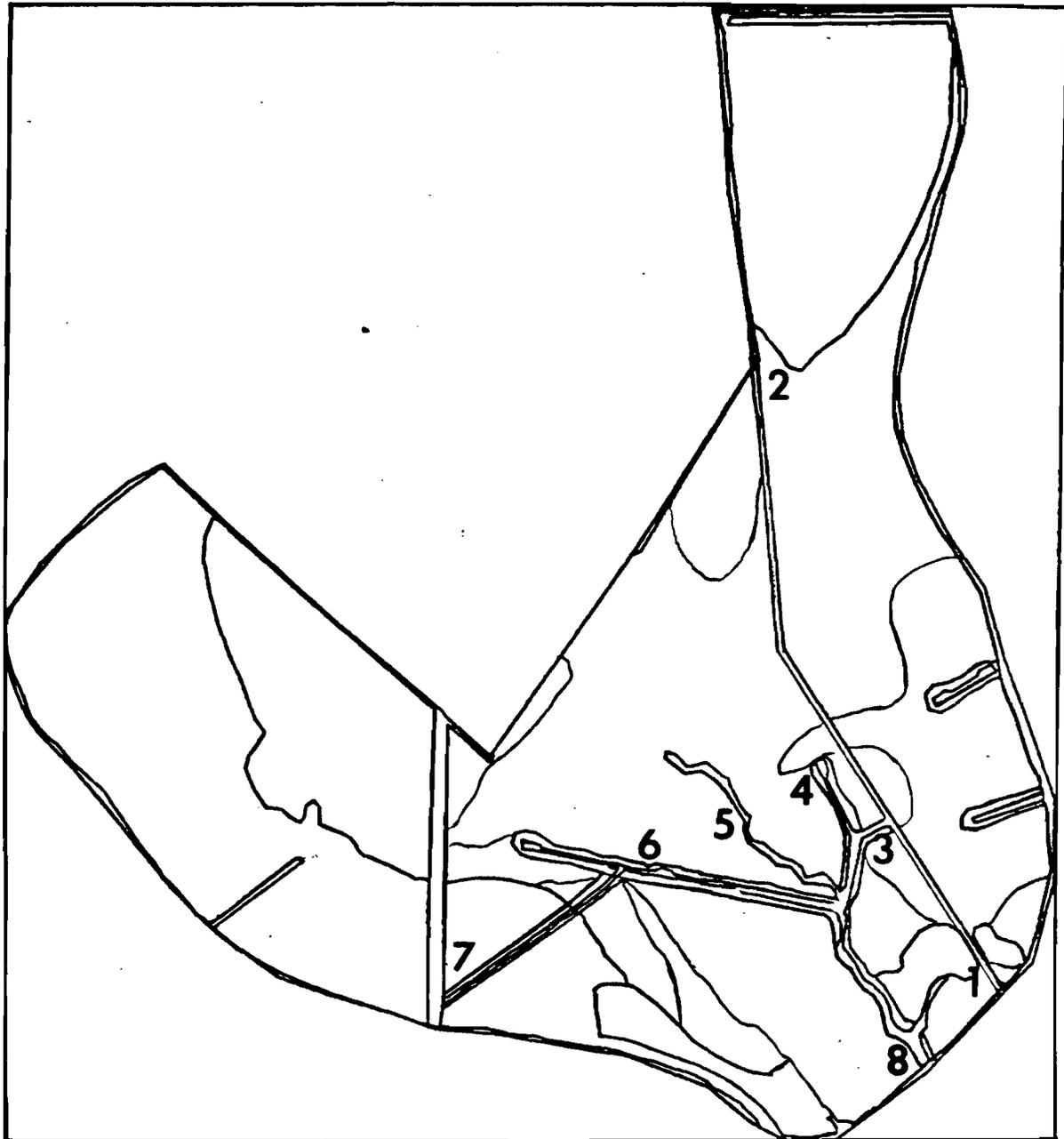


Figure 4. Fish sampling stations (numerals) in the Bayou aux Carpes study area.

were located at breaks in the spoil banks that allow a free exchange of water between the waterway and adjacent wetlands.

The most abundant fish species collected in the study area were forage species, i.e, mosquitofish, least killifish, sailfin molly, threadfin shad, and golden topminnow (Table 6). Game fish (predominantly bluegill and largemouth bass) were also present in large numbers.

In addition to the finfish listed in Table 6, a number of crustaceans were collected. Grass shrimp were abundant at all sites. Adult blue crabs were collected in gill nets only at sites 1 and 3, but juveniles were collected at all stations. Several small crawfish were collected at stations 6 and 7.

The assemblage of species collected is diverse and is indicative of a stable fisheries community in a relatively unstressed environment. Water quality appears to be good and there is adequate interchange between the waterways and adjacent wetlands to allow for their use as spawning and nursery areas as well as for nutrient and detrital exchange. Use of the study area by estuarine species is evidenced by the presence of bay anchovy, tidewater silverside, striped mullet, and blue crabs in the samples. The area is also important for sportfishing for largemouth bass, bluegill, bowfin, blue crab, and crawfish. The fish species collected in the Bayou aux Carpes study area were the same as those collected by FWS in the Barataria Unit of JLNHP in September 1984, with the exception of six species (alligator gar, yellow bullhead, redear sunfish, ladyfish, sheepshead minnow, and spot) that were collected only in the park and two species (skipjack herring and threadfin shad) that were collected only in the present study area.

Wildlife species identified on HEP transects (March 20-26, 1985), as well as those identified on a visit to the study area in October 1984 are listed in Table 7. The species listed represent a typical assemblage for those habitats. A total of 70 species was observed, including nine species of amphibians, 10 species of reptiles, 45 species of birds, and six species of mammals. The study area obviously serves as important habitat to a diversity of wildlife species. Some of the species observed on the area are considered by the FWS to be National Species of Special Emphasis (Federal Register, Vol. 48, No. 237, December 8, 1983). These species include wood duck, osprey, bald eagle, and American alligator. In addition, the pileated woodpecker has been highlighted by the FWS's Regional Resource Plan for the Southeast Region. A great egret and great blue heron nesting colony is also present on the study area. The wetlands of the study area also provide a significant detrital contribution to adjacent estuarine waters.

FUTURE PROJECTIONS

With the implementation of Section 404(c) of the Clean Water Act, future dredge and/or fill activities would be prohibited or greatly

Table 6. Fishes collected in the Bayou Aux Carpes study area, April 1985, listed according to relative abundance and stations where collected (See Figure 4).

Species	Number Sampled	Stations
Mosquitofish	Over 1000	All
Least Killifish	Over 1000	All
Sailfin molly	Over 1000	All except #1
Threadfin shad	Over 1000	3, 5, 8
Golden topminnow	Over 1000	All except #1
Bluegill	62	2, 3, 5, 7, 8
Largemouth bass	17	1, 3, 6, 7
Striped mullet	8	1, 3, 6
Spotted gar	8	1, 3
Warmouth	7	3, 5, 6, 8
Gizzard shad	6	1, 3
Spotted sunfish	6	6, 7
Yellow bass	6	1, 3
Blue catfish	6	1, 3
Bowfin	5	6
Bay anchovy	5	1
Tidewater silverside	4	1
Channel catfish	1	1
Flier	1	7
Black crappie	1	6
Golden shiner	1	2
Skipjack herring	1	1

Table 7. Animal species identified in the Bayou aux Carpes study area, October 1984 and March 1985, listed by habitat type; letters A - L refer to HEP transects (see Figure 3); RZ = riparian zone of riverine habitat.

Species	Transects
Amphibians	
Amphiuma	J, L
Red-spotted newt	L
Cricket frog	G, I, RZ
Bird-voiced tree frog	I, RZ
Green tree frog	C, K
Bullfrog	L
Pig frog	J, L
Bronze frog	J, L
Southern leopard frog	I
Reptiles	
American alligator	RZ
Mississippi mud turtle	J
Southern painted turtle	D
Gulf Coast box turtle	A, C
Broad-banded water snake	D, F, H, I, J, L, RZ
Green water snake	RZ
Western ribbon snake	I, RZ
Western mud snake	F, J, L
Texas rat snake	RZ
Western cottonmouth	D, F, J
Birds	
Anhinga	RZ
Great blue heron	G, J, L
Green-backed heron	RZ
Little blue heron	D, E, F, H, RZ
Great egret	B, D, F, H, L, RZ
Snowy egret	RZ
Tricolored heron	H
Yellow-crowned night heron	H, L
White Ibis	B, G, J
Wood duck	A, B, D, H, J
Black vulture	C, D
Turkey vulture	B, I
Bald eagle	RZ
American swallow-tailed kite	A
Red-shouldered hawk	A, D, G, I, J
Osprey	C
Spotted sandpiper	H
Common snipe	LL
Barred owl	A, C, D, H, I, J, RZ
Chimney swift	C
Belted kingfisher	RZ

Continued

Table 7 (Continued).

Birds

Pileated woodpecker	C, H, J, RZ
Red-bellied woodpecker	C, H, J, RZ
Hairy woodpecker	D
Eastern wood pewee	C
Purple martin	H, I
Common crow	G, H, I
Fish crow	RZ
Carolina chickadee	A, C, D, J, RZ
Tufted titmouse	A, C, D, I, RZ
Carolina wren	C, D, I, J, RZ
Blue-grey gnatcatcher	C
White-eyed vireo	A, C,
Blue-winged warbler	C
Prothonotary warbler	A, I
Northern parula	A, C, D, I, RZ
Yellow-throated warbler	D, I
Hooded warbler	C
Ovenbird	C
Common yellowthroat	A, C, D, I
American redstart	C
Northern cardinal	C, J, RZ
Red-winged blackbird	G, RZ
Common grackle	I
Summer tanager	RZ

Mammals

Nine-banded armadillo	A
Swamp rabbit	A
Gray squirrel	RZ
Nutria	D, L
Northern raccoon	L
White-tailed deer	A

restricted. Under such conditions, the habitat acreages would not be expected to change significantly from the baseline condition. It is possible that the area may become wetter due to subsidence and lack of sediment and nutrient inflow from the Mississippi River. An increase in wetness (i.e., the depth, duration, and extent of flooding) would result in conversion of bottomland hardwood habitat to wooded swamp, wooded swamp to scrub-shrub wetlands, scrub-shrub wetlands to marsh, and marsh to open water and associated aquatic vegetation beds. However, such changes would likely occur at a very low rate since, based on a habitat mapping study conducted for the FWS by Wicker (1980) and examination of aerial photographs and soils data, little habitat change has occurred in the past 30 years. In general, the available HUs for gray squirrel would show a decrease whereas those of the other evaluation species would probably stay the same or show a slight increase.

- Without the implementation of 404(c), the area would, in all likelihood, be enclosed by levees and placed under pump drainage. All habitats would become drier and be subject to eventual development. All evaluation species would be expected to show HU losses. Bottomland hardwood areas would show an initial increase in understory growth, which would decrease the HSI value for gray squirrel. Mink HSI would decrease as well due to the decreased availability of water. Pileated woodpecker HSI in this habitat type would not be affected by the initial drier conditions. However, the bottomland hardwood areas would be first to be cleared and developed, as they are situated on the highest ground. When such development occurred, virtually all habitat value to the evaluation species would be lost. Of course, such development would only occur east of Louisiana Highway 3134; the JLNHP area west of the highway would continue to experience increased drying and associated degradation of habitat values for wetland-associated fish and wildlife populations.

The draining of wooded swamp would result in an increase in understory species and tree species that are less tolerant of flooding. The increased subsidence that would be associated with drainage would result in the root systems of existing cypress and tupelo trees being exposed to air and thus to increased deterioration. As a result, most of the mature trees would fall and young trees would increase in abundance (as is presently the case in forested lands north of the V-levee). Pileated woodpecker would show an initial increase in HUs due to the increased availability of stumps, logs, and snags for feeding and nesting, followed by a decrease in HUs as mature trees are replaced by young trees. Mink, wood duck, and alligator would show a decrease in HUs due to the decreased availability of water in the wooded swamp as well as scrub-shrub and fresh marsh habitats. The eventual clearing and/or filling of these habitats would result in virtual elimination of their value as wildlife habitat.

The deposition of fill material in the absence of drainage would also result in severe degradation of existing habitats. If filled areas remained undeveloped (an unlikely scenario based on present development pressures), they would become upland forested (e.g., spoil bank) habitat; such habitat was found to be of low value to pileated woodpecker and gray squirrel and of high value to mink. In addition, increased canalization (such as associated with drainage activities

and oil and gas development) would serve to further disrupt sheet flow, nutrient recharge of wetlands, and other aspects of the area's hydrology; this would result in reduced fish and wildlife productivity. If the filled areas are developed for commercial or residential purposes, they will lose virtually all of their value to wildlife.

CONCLUSIONS

The Bayou aux Carpes drainage area is a highly productive wetland system that is of significant value to many species of fish and wildlife. The marsh and wooded wetlands serve as valuable feeding, resting, nesting, and/or escape habitat to numerous species of game and nongame mammals and commercially important furbearers, songbirds, raptors, migratory and resident waterfowl, wading birds, woodpeckers, and other birds, as well as many species of amphibians and reptiles including the American alligator. Our HEP analysis shows that all or portions of the study area are of high quality to gray squirrel, pileated woodpecker, mink, wood duck, great egret, and American alligator.

The wetlands and open water bodies of the study area also provide nursery, feeding, and spawning habitat for numerous species of recreationally and commercially important freshwater and estuarine fishes and shellfishes. Recent studies (Day et al. 1977, 1982) have shown that wetlands such as these in the upper Barataria Basin also provide organic detritus to nearby estuarine waters, thereby contributing to the production of estuarine-dependent fishes and shellfishes. The study area wetlands also serve a vital water quality function by removing excess nutrients and sediments and thereby reduce the potential for pollution of adjacent waters (Kemp and Day 1981).

LITERATURE CITED

- Cowardin, Lewis M., Virginia Carter, Francis C. Golet, and Edward T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. Fish and Wildlife Service, Office of Biological Services, Washington, D.C., FWS/OBS-79/31 103 p.
- Day, J.W., Jr., T.J. Butler, and W.H. Conner. 1977. Productivity and nutrient export studies in a cypress swamp and lake system in Louisiana. Pages 255-269 in M. Wiley, ed. Estuarine Processes, Vol. 2. Academic Press, NY.
- Day, J.W. Jr., C.S. Hopkinson, and W.H. Conner. 1982. An analysis of environmental factors regulating community metabolism and fisheries production in a Louisiana estuary. Pages 121-136 in V.S. Kennedy, ed. Estuarine Comparisons, Academic Press, NY.
- Kemp, G.P. and J.W. Day, Jr., 1981. Floodwater nutrient processing in a Louisiana swamp forest receiving agricultural runoff. Completion Report A-043 CLA. Louisiana Water Resources Research Institute, Louisiana State University, Baton Rouge, LA.
- U.S. Fish and Wildlife Service. 1980. Habitat Evaluation Procedures (HEP): ESM 102. Division of Ecological Services, Washington, D.C.
- Wicker, K.M., J.B. Johnston, and M.B. Young. 1980. The Mississippi Deltaic Plain Region habitat mapping study. 464 maps. U.S. Fish and Wildlife Service, Office of Biological Services. FWS/OBS-79/07.

**E. A STUDY OF THE EFFECTS OF THE PROPOSED
LEVEEING AND DRAINAGE OF THE BAYOU AUX CARPES
SWAMP ON THE ADJACENT BARATARIA UNIT, JEAN
LAFITTE NATIONAL HISTORICAL PARK**

A STUDY OF THE EFFECTS OF THE PROPOSED LEVEEING AND DRAINAGE
OF THE BAYOU AUX CARPES SWAMP ON THE
ADJACENT BARATARIA UNIT, JEAN LAFITTE NATIONAL
HISTORICAL PARK

by

John W. Day, Jr.

Center for Wetland Resources
Louisiana State University
Baton Rouge, LA 70803

RECEIVED

JUN 17 1985

6 ES

November 5, 1984

Submitted to

Jean Lafitte National Historical Park
423 Canal Street, Room 206
New Orleans, LA 70130

INTRODUCTION

DEFINITION OF WETLANDS

The term "wetland" as it is used today may have originated in 1919 when it was used in a United States map showing the location of lands requiring drainage for agricultural use (Gray et al. 1923). In the 1950's the U.S. Fish and Wildlife Service began using the term wetlands in classifying and inventorying waterfowl habitats (Martin et al. 1953, Shaw and Fredine 1954). During the 1960's the term wetlands began to appear in the scientific literature (Hook 1981, Larson 1982) and today is a commonly used term in our everyday life.

There is no single, correct, indisputable, ecologically sound definition for wetlands. The definition of wetlands was sharpened in the Federal Water Pollution Control Act (FWPCA) of 1972 and the Clean Water Act of 1977. Section 404 of the FWPCA required the Secretary of the Army to issue permits for the discharge of dredged or fill material into navigable waters in the United States. The Act covers freshwater wetlands which are described as "those areas that are inundated or saturated by surface or groundwater at a

frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (Federal Register, Vol. 42(138) Part 323, July 19, 1977). This definition led to problems, however, because not all could agree on what species are typically adapted to be included under this definition.

To further clarify the definition of specific wetlands, the U.S. Fish and Wildlife Service (USFWS) devised its own classification of wetlands and deepwater habitats of the United States (Cowardin et al. 1979). In their report, the USFWS defined wetlands as "lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated with water or covered with shallow water at some time during the growing season each year."

GENERAL CHARACTERISTICS OF FRESHWATER FORESTED WETLANDS

In a typical riparian forest along the lower Mississippi River Valley, flooding almost always occurs during the late winter and spring, controlled by snowmelt and spring thaws and spring rains in the northern half of the continent. The rising river backs through small tributaries into the forest, flooding it with sediment- and nutrient-laden water. As the water spreads out and slows down, sediments settle out and nutrients are absorbed by the bottom sediments. These inorganic nutrients are subsequently taken up by roots and converted to organic material such as leaves, twigs, stems, flowers, and fruit. During the fall season, the leaves fall, forming a layer of litter (detritus) covering the ground. This litter overwinters on the ground, decaying rather slowly because, typically, the ground is not flooded during this period and temperatures in the winter are low enough to inhibit metabolic rates. With the coming of spring, aquatic organisms move from the river into the forest where they consume the litter and where a number of organisms spawn. As the water retreats at the end of the spring flood, it carries with it newly spawned organisms, organic detritus, and organic nutrients into the adjacent stream.

IMPORTANCE OF WETLANDS

Taken in their entirety, state and federal regulatory programs recognize certain values that freshwater wetlands have, including the importance to the entire coastal ecosystem, flood control, water quality, and natural productivity. All wetlands do not function to provide all of these values nor do all wetlands provide these values equally (Larson 1982).

Importance of Surrounding Systems. Each wetland system (i.e. swamps, marshes, estuaries) may seem like a distinct unit, however these habitats are very open, with many interconnections to adjacent systems. The forested wetlands are tied on one side to the more permanently aquatic environments of the marshes and bays, and tied to the upland terrestrial system on the other side. Several ways in which wetlands are important to surrounding areas are through fish and shellfish habitat, nutrient export, favorable hydrological effects on surrounding water bodies, and maintenance of water quality.

Habitat Value. When freshwater wetlands are close to coastal marshes, estuarine-dependant species can utilize these swamps as nurseries (Wharton and Brinson 1978, Day et al. 1982). In the swamps bordering Lake Pontchartrain,

Hinchee (1979) found that freshwater areas served as habitats for several species of estuarine organisms, including shrimp, blue crab, sea trout, and menhaden. Chambers (1980) studied the Donataria Bay system and found that a number of marine species utilize the upper-freshwater swamp and marsh areas in the basin (including Lakes Salvador and Cataouatche). What Chambers observed was that euryhaline larvae, post larvae, and juvenile marine nekton migrate far up the basin during the late winter and spring (to Lakes Salvador and Catouatche), and then move downstream as they mature to reach the Gulf in the late summer and fall. The juveniles and adults of some of the freshwater species move toward the gulf in the fall and early winter replacing the outward-bound marine species. It is thought that reduced competition and salinities at the upper part of the basin enable the freshwater species to better exploit the resources further downstream. In the late winter and spring, as salinities and temperatures increase, the freshwater species retreat back up to the upper basin and the marine species begin their upstream migration as the cycle continues. Mesohaline juveniles of certain marine species move up the basin during the summer months. As the salinity decreases in the late fall and winter, these species return to the estuaries and the Gulf. Some species

spend their entire life-cycle in the estuaries by moving between the freshwater swamps in the upper basin to the bays and barrier islands near the Gulf. Figure 1 shows the different species and what part of their life-cycle brings them to different areas within the basin.

Materials Export. Habitats further downstream rely on the freshwater wetlands for their sources of important nutrients. Organic carbon export is much greater from forested watersheds than from upland watersheds (Mulholland and Kuenzler 1979). These researchers suggested that the greater export of organic carbon from forested wetlands is due to the increased leaching of dissolved organic compound from the organically-rich soils and from the concentrating effect of evapotranspiration due to the abundance of trees. The swamp forest of the upper Barataria Basin export large amounts of nitrogen (1047 metric tons/yr), phosphorous (154 metric tons/yr), and carbon (8016 metric tons/yr) to the estuaries of the lower basin (Day et al. 1977). These nutrient inputs are thought to act as energy subsidies which allow for the high productivity of the Louisiana coastal areas (Day et al. 1982).

Freshwater inputs are important in maintaining the brackish water gradient in estuaries. Swamps have been

shown to act as storage areas for water during the months of high precipitation, then slowly release the stored water through time to the lower areas of the basin (Littlejohn 1977, Sklar and Day 1984). This slow, steady discharge of stored nutrient-rich water also acts to maintain the high productivity of estuaries (Livingston 1978).

Flood Control. Inland wetlands function as basins in the watershed that retain and detain water at various flood stages. The vegetation, soils, and topography of swamps and riparian forests cause an internal stabilization of often erratic water regimes (Littlejohn 1977). Water stored during wet periods is released slowly during dry periods, thus significantly affecting downstream flood stages (Wharton 1970, Larson 1982).

Water Quality. Sediments and nutrients are carried by flood waters. Freshwater wetlands are subject to flooding from adjacent rivers, bayous, and lakes by overbank flooding and from adjacent uplands through runoff of rain. In the first case, as the river rises and water backs up across the floodplain, deposition of suspended solids results. Several reports (Unsic 1965, Yarbrow 1979, Livingston 1978, Mitsch et al. 1979) document the role of floodplain forests in removing sediment and nutrients from

flood waters. Efficient nutrient retention appears to be related to dissolved oxygen concentration and the organic content of the sediment, with peats more effective than mineral soils (Whigham and Bayley 1979).

In a Louisiana swamp, Kemp and Day (1981) found that nutrients were not distributed along any source-sink gradient as has been reported for other swamp systems (Wharton 1970, Boyd 1971, Kitchens et al. 1975). The swamp forest in Louisiana, however, retained 44% of the nitrogen and 40% of the phosphorous introduced into the system by floodwaters. The Louisiana swamp acted as a buffer to downstream systems assuring steady releases of waters with a stable nutrient composition (Kemp and Day 1981).

Natural Productivity. Flooded woodland swamps are considered one of the most productive of the wetland ecosystems (Brown and Peterson 1983). Conner and Day (1976) found that the total productivity of the des Allemands swamp in Louisiana was 1,574 grams/square meter/year for a bottomland hardwood site and 1,140 grams/square meter/year for a cypress-tupelo site. The high productivity of forested wetlands is due to several benefits of the forests' proximity to major floodplains. The yearly input of organic materials and nutrients by rivers supports an increased rate

of community metabolism. This high metabolism has been reflected in:

1. high annual litterfall and nutrient turnover,
2. high detrital decomposition rates,
3. periodic flushing of accumulated detritus and metabolic waste products, and
4. the operation of several microbial conversion processes; i.e. nitrification ammonification, sulfate reduction, etc. (Wharton and Brinson 1979)

The alternating wet-dry cycle is thought to be the major contributor to the high productivity of the wetland forests. This periodic flooding of the bottomland hardwoods has been compared to the tidal action of the saline marshes, which brings in new nutrients and flushes the waste from the marshes. The change in productivity with respect to flooding was probably best described by Odum (1978). He compared the productivity of stagnant, seasonally flooded systems and abrasively flooded systems to the regional productivity averages. He proposed that the seasonally flooded areas have the highest net productivity.

EFFECT OF FLOODING ON FRESHWATER WETLANDS

Seasonal Flooding. Net primary production in forested wetlands has generally been shown to be greatest in areas characterized by seasonal flooding (Brown et al. 1979, Conner and Day 1976, Conner et al. 1981, Conner and Day 1982). Recently, however, Brown and Peterson (1983) reported that they found aboveground production in a flowing water forest in Illinois was less than a still-water forest, suggesting that the generalization about all floodplain forests being productive is not true. More work needs to be done on this aspect.

Most tree species exhibit reduced growth during flooding, but if the trees are flooded during the dormant season and if the flood waters recede before growth begins in the spring, bottomland species actually exhibit increased growth rates (Broadfoot 1967, McAlpine 1961). The increased growth rates have been attributed to maintaining higher soil moisture levels in flooded versus non-flooded areas (Broadfoot and Williston 1973). It has also been reported that growth rates have increased when the water table has been raised to within the rooting depth (Broadfoot 1973).

Permanent Flooding. Flooding extending into the growing season or for extended periods can have serious

effects on bottomland trees. (Bell and Johnson 1974). Even though flooding may have no effect the first year, the trees usually start dying the second year, and only a few bottomland species have been reported to survive three years of continuous flooding (Green 1947). Most species cannot survive two years of continuous flooding (Broadfoot and Williston 1973). Hall and Smith (1955) reported that in Tennessee none of the 39 common deciduous tree species could survive flooding if the root system was covered for more than 54% of the growing season during an eight year period.

On the other hand, cypress and tupelogum do well under flooded conditions (Dickson et al. 1972, Kennedy 1970). Cypress is well-known for its ability to grow in flooded areas. However, increased flooding can sometimes have serious consequences. Depth of flood water seems to be very important in determining the mortality of cypress trees. Brown and Lugo (1982) reported that a mean depth of flooding of 60 cm appeared to be the threshold of flooding that a swamp forest in Florida could tolerate before mortality occurred. Also in Florida, Harmes et al. (1980) found that in water from 20 to 100 cm deep 0-16% of the cypress trees died after 7 years. In water over 120 cm deep, 50% of the cypress died after 4 years. In Louisiana a long-term study of cypress survival was conducted near Lake Chicot (Penfound

1949, Egglar and Moore 1961). After 4 years of flooding with water 60-300 cm deep, 97% of the cypress were still alive. Eighteen years after flooding, 50% of the cypress were still alive. However, most of the living trees in the deep water had dead tops (Egglar and Moore 1961)

HUMAN IMPACTS ON WETLANDS

For most of the history of the United States, wetlands have been considered unhealthy and unattractive wastelands that needed to be eliminated. For example, the Swamplands Act of 1849 and 1850 transferred all "swamps and overflow lands" to the states with the conditions that the individual states would sell these lands and use the proceeds to build the levees and pumps required to drain the land (Harrison 1951). Thousands of acres of wetland forests and marshes were cleared or drained because of the Act. Much of this newly reclaimed land was used for agricultural or residential purposes. As an example of the impact in Louisiana, only 5.6 million acres remain of the original 9.4 million acres of wetland swamps (Turner et al. 1980). The clearing of the swamps is not the only harmful effect of human intervention. Other human activities, such as timber harvesting and canal dredging have affected not only the

forested wetlands, but also the nearby marshes, lakes, and coastal areas.

Effect of Timber Harvesting. Nearly every mature stand of the wetlands forest types (i.e. cypress-tupelo, bottomland hardwood) has been cut at least once. The cypress industry thrived in Louisiana between 1880 and 1925, and most of the virgin stands of this species were logged in these years (Conner and Day 1976). The clear-cutting or cutting of these forests has affected the food chains of the swamp environment. Most floodplain food chains rely on leaf-litter and other organic debris from the trees to sustain the detrital feeders (Nelson and Scott 1962, Marshall 1967, de la Cruz and Post 1977). The cutting of the trees destroys the area's ability to provide large amounts of these substances. To better illustrate how these wetland habitats are interrelated, when a swamp in Florida was cut the marine productivity of a nearby estuary severely declined (Livingston 1978).

Effect of Canals and Altered Hydrology. The dredging of canals and pipelines also affects wetlands. Because of the placement of many canals and their associated spoil banks, some swamp areas have been impounded and are continuously flooded. Swamps that undergo impoundments show

no recruitment of new trees since most tree seeds do not germinate in standing water. As the mature trees die or are blown over, the canopy opens and the understory quickly becomes filled with aquatic herbaceous growth and small water-tolerant shrubs. The productivity of the impounded swamps declines in comparison with undisturbed areas (Conner et al. 1981).

Canals also cause a reduction in sheet flow over the swamp. Sheet flow is the overland flow of water over the swamp forest floor as it crests the banks of nearby streams and bayous. Sheet flow is important in the transport of nutrients and organic matter out of the swamps (Sklar and Day 1984). Without this export of nutrients, productivity farther down the basin can be affected. Sheet flow is also important in bringing new sediments and nutrients into an area.

Canals are another way in which urban and agricultural runoff can by-pass the swamps and marshes and proceed directly into the wetland areas in the lower basin. Because wetlands act as a way to upgrade water quality, this skirting of wetland areas may increase the chance of eutrophication of the lower basin waterbodies due to the high nutrient-load of the runoff water (Kemp 1978).

Hopkinson and Day (1979) found that Lake Cataouatche and, to a lesser extent, Lake Salvador have already begun to experience the effect of an altered hydrological regime. These lakes in the Barataria Basin used to be a prime nursery ground for Louisiana commercial fisheries, but now drainage canals from the West Bank of New Orleans bypass the swamps and enter directly into the lakes. High nutrient loads from the West Bank have caused Lake Cataouatche to become eutrophic and fish kills after large rainstorms are indicative of the impact of the changes in the natural hydrology of this once productive area. The Barataria Waterway also allows urban runoff to flow unhindered to the upper part of Barataria Bay. Harmful substances can no longer be trapped by wetlands, and therefore flow straight into water bodies. There have also been reports of increased occurrences of salt water intrusion into the freshwater areas of the Barataria Basin because of these dredged canals (Conner and Day 1980).

JEAN LAFITTE NATIONAL HISTORICAL PARK

The specific study area in the Barataria Basin has the general characteristics of swamp and marsh systems discussed in the preceding sections. However, the location of Jean Lafitte National Historical Park (NHP) in the middle

Barataria Basin, puts it in a zone of transition from several standpoints. This situation must be taken into consideration when discussing alternatives for the Park.

1. The area is in a transition zone between fresh and saline parts of the Barataria Basin. Salinity data indicate that Lakes Salvador and Cataouatche range from fresh to about 5ppt (Chambers 1980, Hopkinson and Day 1979, Witzig and Day 1983). Marsh vegetation along much of the shore of Lake Salvador, on Couba Island, and around parts of Cataouatche, are characterized by Sagittaria falcata, and the marsh has been classified as fresh to intermediate by Chabreck and Linscombe (1978).

The area goes through a regular seasonal progression in terms of salinity. During winter, northerly winds combined with water surpluses freshen the area. During summer there is little surplus water and there are often deficits. This combined with southerly winds, results in the movement of salt water upbasin. The mixing of the different salinity waters leads to a nekton community that is a mixture of fresh and salt water species (Chambers 1980).

2. The Park is a transition zone in terms of human impact. Urban development is moving off the natural levees into marginal wetlands. Upland runoff (which originally flowed

through wetlands) now is channelized into open water. This has led to a marked deterioration in water quality in water bodies near the sources of runoff. Bayou Segnette Waterway, Lake Cataouatche, Bayou Verret, and the Gulf Intracoastal Waterway are strongly impacted by upland runoff. Waterbodies such as Bayous Perot and Rigolettes and Little Lake are cleaner because they are more distant from the sources of runoff.

3. Finally, there is the obvious transition from terrestrial to wetland to open water. Because of these transitions, conditions within the Park region can change rapidly. A wind shift can increase salinity. A sudden rainstorm can fill a bayou with turbid upland runoff, and the border between water, wetland, and upland changes constantly with subsidence. All of these factors point out the necessity of looking at the park as a dynamic rather than static area.

WETLAND MANAGEMENT PRINCIPLES

There are a number of factors concerning wetland ecology which should form the basis for management.

1. Natural hydrology should be maintained or restored. Natural wetland hydrology involves movement of water through shallow, sinuous natural channels and overland across wetlands. Artificial canals speed channelized water flow but retard overland flow through wetlands. Wetland deterioration and salt water intrusion are natural processes in the Mississippi deltaic plain with its switching deltas. However, canals and spoil banks accelerate the rate at which these processes occur.

2. Wetlands are characterized by fluctuating water levels. If they remain dry, succession to terrestrial habitat takes place. Permanent flooding generally leads to succession to aquatic habitats.

3. Salt water intrusion is a regional problem, and careful thought should be given before wetlands are impounded to combat salt intrusion. For example, in the middle Barataria Basin, the Barataria Bay Waterway and several smaller canals (such as the Turtle Island Cutoff) allow a more direct introduction of salt water than if natural drainage patterns still existed. Another problem with impoundment is that sedimentation on wetlands is reduced. Since sedimentation is the major process which offsets subsidence, reduced sedimentation will result in more rapid wetland

deterioration (Baumann et al. 1984). Sedimentation is also one of the most important sources of new nutrients (DeLaune et al. 1981).

4. Wetlands can absorb high levels of nutrients and organic matter. Therefore, upland runoff should be made to flow through wetlands before entering open water areas. Research has shown that wetland productivity will increase and water quality problems will decrease if nutrient rich waters are directed through wetlands. Some treatment is necessary, however, because the ability of wetlands to treat enriched waters can be overwhelmed.

5. Finally, it must be realized that change is natural in the Louisiana coastal zone, and that wetland systems will not remain static. Care should be taken, however, that human activities do not accelerate change.

IMPACT OF DRAINAGE OF THE BAYOU AUX CARPES
SWAMP ON THE ADJACENT BARATARIA UNIT,
JEAN LAFITTE NATIONAL HISTORICAL PARK

Statement of Problem

As a result of a recent court ruling, plans call for drainage of the Bayou aux Carpes (BAC) swamp. This would be done by repairing and upgrading the levee along the Gulf Intracoastal Waterway (GIWW). The area would be pumped by a pumping station to be constructed at the junction of BAC and the GIWW or by breaching the "V" levee and upgrading the Estelle pumping station.

Drainage of the BAC swamp complex would impact the adjacent Barataria Unit of the Jean Lafitte National Historical Park (JLNHP).

An interpretive walkway traverses typical bottomland forested wetlands, then enters a cypress-tupelo swamp. The trail enjoys high visitor use and is a major tool in the Park's interpretive program. In addition to providing such interpretive facilities for the public, it is the National Park Service's responsibility and policy to protect the environmental integrity of lands under its jurisdiction.

The study explores the effects of the proposed drainage relative to the portion of the hydrologic unit found within the core area, Barataria Unit, and outlines possible scenarios and proposes management actions necessary to mitigate the development project.

Description of the Area

About 600 acres of the Jean Lafitte National Historical Park lies within the BAC drainage area. The portion of area that is within the park is connected hydrologically to the rest of the BAC swamp by two culverts under the new Lafitte-Larose highway. The vegetation within the park contains significant undisturbed areas of three major forest types: ridge, bottomland hardwood (BLH), and cypress-tupelo (CT). Because of the scarcity of high land in south Louisiana, most natural levee lands have been extensively developed, and this is one of the very few areas (and I believe the only protected area) where all three communities remain in the natural state. Approximately 100 acres are levee ridge vegetation, 300 acres are bottomland hardwood forest, and 200 acres are cypress-tupelo swamp.

White and Thien (undated) and Darwin (undated) described the plant communities of the JLNHP. Mixed deciduous hardwood forest occupies the highest elevations,

along the natural levee ridge. The canopy is usually over 25m and the water table is normally just below the surface. At times these ridge forests are flooded. Woody vines occur but are not as abundant as in bottomland hardwood forest. The dominant tree species are Quercus nigra, Celtis laevigata and Liquidambar styraciflua with numerous other species also occurring (White and Thien, undated).

Acer rubrum and Ulmus americana become dominant in lower elevations. The bald cypress, Taxodium distichum appears in this zone, indicating wetter soil conditions. Sabal palms (Sabal minor) are common in the understory.

The two most common large trees in the deep swamp are bald cypress (T. distichum) water tupelo (Nyssa aquatica). Acer rubrum and Fraxinus spp. are common in the understory.

Animal species present appear to be normal for this type of habitat. Smalley (undated) described the mammals, birds, and herptiles of the area. Of note is a heron rookery located within the BAC part of the JLNHP. Smalley reported observing Great Blue Herons, Great Egrets and American Anhingas. A number of fish species have been reported from the BAC and Bayou des Familles drainage (memo from Wilfred Kucera to David Muth, Sept. 14, 1984). A number of fresh water species common to this type of habitat

were collected (Table 1). Also collected within the park were a number of euryhaline marine species. This demonstrates the transitional nature of the park as discussed earlier.

The Bayou aux Carpes Swamp Drainage

The BAC swamp is surrounded by levees. Those along the Harvey Canal and the V-levee are functional and are designed to protect the developed areas along the Bayou des Familles ridge. The levees along the main GIWW are not maintained, and in many places, they are essentially non-existent. BAC is plugged at its entrance to the GIWW, but the area is hydrologically connected to the GIWW via the pipeline canal to the east. Ecologically, the area is similar to the zone within the park.

Bayou des Familles

Bayou des Familles (BDF) has an open connection to the GIWW. There used to be a dam at the mouth of BDF but it has eroded away. BDF was connected to BAC by a canal. This connection was interrupted during the construction of the Lafite-Larose Highway and no longer exists. BDF is presently connected hydrologically to the core area of the park to the west of BDF via Bayou Coquille. Thus BDF is

permanently hydrologically connected to Lake Salvador and ultimately to the Gulf Of Mexico. Therefore, BDF could never be drained by construction of a barrier and pumping station at the junction with the GIWW.

White and Thien (undated) show BDF as supporting a cypress-tupelo community. A number of fresh water fish have been reported from BDF (Table 1).

Implications of Draining the Swamp

Depending on the action taken, drainage of the BAC swamp could result in different impacts on the lands within the Jean Lafitte National Historical Park. All of the impacts significantly change the nature of the parklands as they exist now.

1 No Change in Present Hydrologic Connections Within the BAC Swamp

If no further action were taken, forced drainage of the BAC swamp would also result in drainage of much of the area within the park. This would lead to an increase in the number of upland species, and most of the wetland area would be lost. Smalley (undated) reported that during the extraordinary dry weather on 1981, the swamp gradually dried out. He found changes in the bird populations of the area

which he suggested might be related to the drying conditions. This change is indicative of the type of change which would continue under drainage conditions. Because of small scale variations in elevation and subsidence after drainage, however, there would probably be shallow ponding and the development of flood-tolerant shrub species in part of the area. Generally, this alternative would lead to lower productivity and the loss of most of the wetland character and value of the area.

2 Control Structure at Culvert to Maintain Water Level

Since drainage of the BAC swamp would lower water levels, it would lead to drying and subsidence. A control structure at the culvert could maintain flooded conditions within the park. If the flooding were constant, it would lead to the deterioration of the CT and BLH communities in the area as discussed earlier. The BLH would go first as adult trees die. CT would live longer, but seedlings would not survive under the constant flooding. The wetland area would evolve into shallow open water and flood tolerant shrubs (like buttonbush). The wetland as it exists now would cease to exist.

3 Intensive Management of Water Levels

Intensive management of water levels could maintain, to some extent, some of the wetland character of the park. Such management would be expensive and complicated, and important wetland values would be lost. This scheme would mean that water would have to be pumped into and drained or pumped out of the area. It would also involve alteration (perhaps by canals) of some park lands to ensure the desired hydrology. This plan would likely lead to conflicts within the drained area of the BAC swamp, since pumpage into that area conflicts with the objectives of the drainage plan. Water management, nutrient and organic export, and nursery values of the area would essentially be eliminated. Nor would such an intensive management program be consistent with the aims of NPS.

Wetland Values Affected by the Proposed Drainage

1 Productivity and Vegetative Composition

Alternatives 1 and 2 would lead to significant changes in vegetation composition and productivity levels. Alternative 3 might reduce these changes, but as mentioned this choice would be both difficult and expensive.

Typically, productivity of healthy swamps and bottomland hardwood forests in Louisiana range between 1100

and 1700 g dry wt/square meter/year (Conner and Day 1976). About half of this is litter fall and half is woody production (stem growth). Impounded areas exhibit about half this level of production (Conner et al. 1981). Litter production forms the base of the food chain, so that food availability would be reduced by a similar amount. Therefore, for alternative 2, production would be significantly lower. Alternative 1 would lead to lower productivity also. Terrestrial productivity is generally lower than wetland productivity, and areas where flood-tolerant shrubs developed would have a productivity similar to that of impounded swamps mentioned above. Intensive water level management could maintain productivity of the area.

Composition would change for alternatives 1 and 2. Alternative 1 would lead to a mixture of terrestrial and flood-tolerant shrubs. The successional patterns for alternative 2 would be that bottomland and cypress-tupelo species would give way to flood tolerant shrubs and eventually to shallow open-water ponds. The intensive management of alternative 3 could maintain the present structure.

2 Flood Control

Under natural conditions, wetlands can store excess water during wet periods and release it slowly during dry periods. Alternatives 1 and 2 would not allow for flooding of the wetlands during wet periods. Water drainage during wet periods would aggravate conditions in the area being pumped. Thus this value of the area would be totally lost. The loss of the ability of the area to absorb excess flood waters would exaggerate flooding and drainage problems in adjacent areas. This has been shown for the upper Barataria swamp by Hopkinson and Day (1980).

3 Nutrient and Detrital Export

This wetland value would be significantly impacted. Drainage from terrestrial watersheds has considerably less organic matter than that from wetland ecosystems (Mulholland and Kuenzler 1979). Lowered litter fall in impounded wetlands leads to less organic matter available to be exported. Poorer flushing means less of this organic matter is exported (Sklar and Day 1984). Therefore organic export from alternatives 1 and 2 would be considerably less.

Export from alternative 3 would depend on the pumping regime. In any event, if surplus water flowed into the BAC drained area and then was pumped out, it would mix with

drainage from the BAC area, and water quality would be significantly degraded.

4 Value as Nursery Habitat

Because of the location in a transitional zone between fresh and brackish water, natural wetland within the park serves as habitat for both marine and fresh water migratory species (Table 1). This value would be completely lost for all three alternatives. In addition, drainage (alternative 1) would lead to the elimination of non-migratory aquatic species. Aquatic species composition changes dramatically in both impounded and managed swamps (Sklar 1983).

5 Wildlife Habitat

The wildlife habitat value of the park area would be significantly and adversely affected by all the alternatives. This would be due to both changes in plant community structure and trophic dynamics. Alternative 1 would lose essentially all habitat values associated with wetlands. As Smalley (undated) noted, wading birds abandoned their rookery under dry conditions. For alternative 2, habitat value would deteriorate due to changes in plant composition and productivity as well as changes in the composition of the aquatic community.

Likewise, habitat value would change somewhat for alternative 3 because of changes in the aquatic animal community.

REFERENCES CITED

A

- Baumann, R.H., J.W. Day, Jr., and C.A. Miller. 1984. Mississippi deltaic wetland survival: sedimentation versus coastal submergence. *Science* 224:1093-1095.
- Bell, D.T. and F.L. Johnson. 1974. Flood-caused mortality around Illinois reservoirs. *Trans. Ill. State Acad. Sci.* 67:28-37.
- Boyd, C.E. 1971. The limnological role of aquatic macrophytes and their relationship to reservoir management. In *Reservoir Fisheries and Limnology*. Special Publ. No. 8, American Fisheries Society, Washington, D.C.
- Broadfoot, W.M. 1967. Shallow water impoundment increases soil moisture and growth of hardwoods. *Soil Sci. Soc. Am. Proc.* 31:562-564
- Broadfoot, W.M. 1973. Raised water tables affect southern hardwood growth. USDA Forest Service, Research Note SO-168.
- Brown, S. 1981. A comparison of the structure, primary productivity, and transpiration of cypress ecosystems in Florida. *Ecol. Monogr.* 51:403-427.
- Brown, S. and A.E. Lugo. 1982. A comparison of structural and functional characteristics of saltwater and freshwater forested wetlands. Pages 109-130 in B. Gopal, R.E. Turner, R.G. Wetzel, and D.F. Whigham, eds. *Wetlands- Ecology and Management*, International Scientific Publications, Jaipur, India.
- Brown, S. and D.L. Peterson. 1983. Structural characteristics and biomass production of two Illinois bottomland forests. *Am. Midl. Nat.* 110:107-117.
- Brown, S., M.M. Brinson, and A.E. Lugo. 1979. Structure and function of riparian wetlands. Pages 17-31 in R.R. Johnson and J.F. McKormick, tech. coords. *Strategies for Protection and Management of Floodplain Wetlands and other Riparian Ecosystems*. General Technical Report WO-12, USDA Forest Service, Washington, D.C.
- Buttery, B.R., W.T. Williams, and J.M. Lambert. 1965. Competition between Glyceria maxima and Phragmites communis in the region of Surlingham Broad. *J. Ecol.* 53:183-195.
- Chabreck, R.H. 1972. Vegetation, water, and soil characteristics of the Louisiana coastal zone.

- Chabreck, R.H. and G. Linscombe. 1978. Vegetative type map of the coastal Louisiana marshes. Louisiana Department of Wildlife and Fisheries, New Orleans, LA. Map.
- Chambers, D.G. 1980. An analysis of nekton communities in the upper Barataria Basin, Louisiana. M.S. Thesis. Louisiana State University, Baton Rouge, LA.
- Conner, W.H. and J.W. Day, Jr. 1976. Productivity and composition of a baldcypress-water tupelo site and a bottomland hardwood site in a Louisiana swamp. *American Journal of Botany* 63:1354-1364
- Conner, W.H. and J.W. Day, Jr. 1982. The ecology of forested wetlands in the southeastern United States. Pages 69-87 in B. Gopal, R.E. Turner, R.G. Wetzel, and D.F. Whigham, eds. *Wetlands - Ecology and Management*, International Scientific Publications, Jaipur, India.
- Conner, W.H., J.G. Gosselink, and R.T. Parrondo. 1981. Comparison of the vegetation of three Louisiana swamp sites with different flooding regimes. *American Journal of Botany* 68:320-331.
- Cowardin, L.M., V. Carter, R.C. Golet, and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. Office of Biological Services, U.S. Fish and Wildlife Service, USDI, Washington, D.C. FWS/OBS-79/31.
- Darwin, S.P. Undated. A checklist of the vascular flora of the Jean Lafitte National Historical Park. Report to the Jean Lafitte National Historical Park, New Orleans, La. 25 p.
- Day, J.W., Jr., T.J. Butler, and W.H. Conner. 1977. Productivity and nutrient export studies in a cypress swamp and lake system in Louisiana. Pages 255-269 in M. Wiley, ed. *Estuarine Processes*, Vol. 2. Academic Press, NY.
- Day, J.W., Jr., C.S. Hopkinson, and W.H. Conner. 1982. An analysis of environmental factors regulating community metabolism and fisheries production in a Louisiana estuary. Pages 121-136 in V.S. Kennedy, ed. *Estuarine Comparisons*, Academic Press, NY.
- Day, J.W., Jr., W.H. Conner, G.P. Kemp, and D.G. Chambers. 1981. The relationship of estuarine productivity to wooded swamps and bottomland forests in the southeastern U.S. Pages 193-213 in R.C. Carey, P.S.

- Markovits, and J.B. Kirkwood, eds. Proceedings U.S. Fish and Wildlife Service Workshop on Coastal Ecosystems of the Southeastern United States. USFWS, Office of Biological Services, Washington, D.C.
- de la Cruz, A.A. and H.A. Post. 1977. Production and transport of organic matter in a woodland stream. Arch. Hydrobiol. 80:227-238.
- DeLaune, R.D., C.N. Reddy, and W.H. Patrick. 1981. Accumulation of plant nutrients and heavy metals through sedimentation processes and accretion in a Louisiana salt marsh. Estuaries 4:328-334.
- Dickson, R.E., T.C. Broyer, and C.M. Johnson. 1972. Nutrient uptake by tupelogram and baldcypress from saturated or unsaturated soil. Plant Soil 37:297-308.
- Egglar, W.A. and W.G. Moore. 1961. The vegetation of Lake Chicot, Louisiana, after eighteen years of impoundment. Southwestern Naturalist 6:175-183.
- Gosselink, J.G. and R.E. Turner. 1978. The role of hydrology in freshwater wetland ecosystems. Pages 63-78 in R.E. Good, D.F. Whigham, and R.L. Simpson, eds. Freshwater Wetlands: Ecological Processes and Management Potential, Academic Press, NY.
- Gosselink, J.G., C.L. Cordes, and J.W. Parsons. 1979. An ecological characterization study of the Chenier Plain ecosystem of Louisiana and Texas. 2 Vols. Office of Biological Services, U.S. Fish and Wildlife Service. FWS/OBS-78/9 and 78/10.
- Gosselink, J.G., S.E. Bayley, W.H. Conner, and R.E. Turner. 1981. Ecological factors in the determination of riparian wetland boundaries. Pages 197-219 in J.R. Clark and J. Beneforado, eds. Wetlands of Bottomland Hardwood Forests, Elsevier Scientific Publishing Company, Amsterdam.
- Gray, L.C., O.E. Baker, F.J. Marschner, B.D. Weitz, W.R. Chapline, W. Shepard, and R. Zon. 1923. The utilization of our lands for crops, pasture, and forests. USDA Yearbook of Agriculture. Pages 415-506.
- Green, W.E. 1947. Effect of water impoundment on tree mortality and growth. J. For. 45:118-120.
- Hall, T.F. and G.E. Smith. 1955. Effects of flooding on woody plants, West Sandy Dewatering Project, Kentucky Reservoir. J. For. 53:281-285

- Harms, W.R., H.T. Schreuder, D.D. Hook, and C.L. Brown. 1980. The effects of flooding on the swamp forest in Lake Ocklawaha, Florida. *Ecology* 61:1412-1421.
- Harrison, R.W. 1951. Swamp land reclamation in Louisiana, 1848-1879. Louisiana State University Bureau of Agricultural Economics, Baton Rouge, LA.
- Hinchee, R.E. 1977. Selected aspects of the biology of Lake Pontchartrain, Louisiana. M.S. thesis, Louisiana State University, LA.
- Hook, D.D. 1981. Definition of wetlands. Pages 5-26 in B.D. Jackson and J.L. Chambers, eds. *Timber Harvesting in Wetlands*. Louisiana State University Division of Continuing Education, Baton Rouge, LA.
- Hopkinson, C.S. and J.W. Day, Jr. 1979. Aquatic productivity and water quality at the upland-estuarine interface in Barataria Basin, Louisiana. Pages 291-314 in R.J. Livingston, ed. *Ecological Processes in Coastal and Marine Systems*. Plenum Press, New York.
- Hopkinson, C.S. and J.W. Day, Jr. 1980. Modeling hydrology and eutrophication in a Louisiana swamp forest ecosystem. *Environmental Management* 4:325-335.
- Kemp, G.P. 1978. Agricultural runoff and nutrient dynamics of a swamp forest in Louisiana. M.S. thesis, Louisiana State University, Baton Rouge, LA.
- Kemp, G.P. and J.W. day, Jr. 1981. Floodwater nutrient processing in a Louisiana swamp forest receiving agricultural runoff. Completion Report A-043 CLA, Louisiana Water Resources Research Institute, Louisiana State University, Baton Rouge, LA.
- Kennedy, H.E. 1970. Growth of newly planted water tupelo seedlings after flooding and siltation. *For. Sci.* 16:250-256.
- Kirby, C.J. and J.G. Gosselink. 1976. Primary production in a Louisiana Gulf coast salt Spartina alterniflora marsh. *Ecology* 57:1052-1059.
- Kitchens, W.M., Jr., J.M. Dean, L.H. Stevenson, and J.H. Cooper. 1975. The Santee Swamp as a nutrient sink. Pages 349-366 in F.G. Howell, J.B. Gentry, and M.H. Smith, eds. *Mineral Cycling in Southeastern Ecosystems*. Energy Research and Development Administration, CONF-740513.
- Larson, J.S. 1982. Wetland value assessment - state of the art. Pp. 417-424 in B. Gopal, R.E. Turner, R.G.

Wetzel, and D.F. Whigham, eds. Wetlands - Ecology and Management, International Scientific Publications, Jaipur, India.

- Littlejohn, C. 1977. An analysis of the role of natural wetlands in regional water treatment. Pages 451-476 in C.A.S. Hall and J.W. Day, Jr., eds. Ecosystem Modeling in Theory and Practice: An Introduction with Case Histories, John Wiley and Sons, New York.
- Livingston, C. 1978. Short- and long-term effects of forestry operations on water quality and the biota of the Apalachicola estuary (north Florida, USA.) Technical Paper No. 5, Florida Sea Grant Program, University of Florida, Gainesville, FL.
- Martin, A.C., N. Hotchkiss, F.M. Uhler, and W.S. Bourn. 1953. Classification of wetlands of the United States. Fish and Wildlife Service Special Scientific Report, Wildlife No. 20.
- McAlpine, R.B. 1961. Yellow-poplar seedlings intolerant to flooding. J. For. 59:566-568.
- Mitsch, W.J., C.L. Dorge, and J.R. Wiemhoff. 1979. Ecosystem dynamics and a phosphorous budget of an alluvial cypress swamp in southern Illinois. Ecology 60:1116-1124.
- Mulholland, P.J. and E.J. Kuenzler. 1979. Organic carbon export from upland and forested wetland watersheds. Limnol. Oceanogr. 24:960-996.
- Nelson, D.S. and D.C. Scott. 1962. Role of detritus in the productivity of a rock outcrop community of a Piedmont stream. Limnol. Oceanogr. 7:396-413.
- Odum, E.P. 1978. The value of wetlands: a hierarchical approach. Pages 16-25 in P.E. Greeson, J.R. Clark, and J.E. Clark, eds. Wetland Functions and Values: The State of Our Understanding. American Water Resources Association, Minneapolis, MN.
- Penfound, W.T. 1949. Vegetation to Lake Chicot, Louisiana in relation to wildlife resources. Proceedings Louisiana Academy of Science 12:47-56.
- Sasser, C.E. and J.G. Gosselink. In press. Vegetation and primary production in a floating freshwater marsh in Louisiana. Aquatic Botany.
- Shaw, S.P. and C.B. Fredine. 1954. Wetlands of the United States - their extent and their value to waterfowl and other wildlife. Fish and Wildlife Service Circular 39.

- Sklar, F.H. 1983. Water budget, benthological characterization, and simulation of aquatic material flows in a Louisiana freshwater swamp. Ph.D. dissertation, Louisiana State University, Baton Rouge, LA.
- Sklar, F.H. and J.W. Day, Jr. 1984. Canals, hydroclimate, and the maintenance of wetland forests in Louisiana. Proceedings 11th Annual Conference on Wetland Restoration and Creation. Hillsborough Community College Environmental Studies Center, Tampa, FL.
- Smalley, A.E. Undated. Faunistic inventory of the core area, Jean Lafitte National Historical Park. Final report. Jean Lafitte National Park. 29 p.
- Turner, R.E., S.W. Forsythe, and N.J. Craig. 1980. Bottomland hardwood forest resources of the southeastern United States. Proc. Natl. Wetlands Technical Council's Bottomland Hardwoods Workshop Symp. held June 1-4, in Lake Lanier, GA.
- Ursic, S.J. 1965. Sediment yields from small watersheds under various land uses and forest covers. Proc. Federal Interagency Sedimentation Conference, U.S. Department of Agriculture, Misc. Publ. No. 97C.
- Wharton, C.H. 1970. The southern river swamp-- a multiple use environment. Bureau of Business and Economic Research, School of Business Administration, Georgia State University.
- Wharton, C.H. and M.M. Brinson. 1979. Characteristics of southeastern river systems. Pages 32-40 in R.R. Johnson and J.F. McCormick, tech. coords. Strategies for the Protection and Management of Floodplain Wetlands and Other Riparian Ecosystems. General Technical Rept. WO-12, USDA Forest Service, Washington, D.C.
- Whigham, D.F. and S.E. Bayley. 1979. Nutrient dynamics in fresh water wetlands. Pages 468-478 in P.E. Greeson, J.R. Clark, and J.E. Clark, eds. Wetland Functions and Values: The State of Our Understanding. Amer. Water Resources Assoc., Minneapolis, Minn.
- Whigham, D.F., J. McCormick, R.E. Good, and R.L. Simpson. 1978. Biomass and primary production in freshwater tidal wetlands of the Middle Atlantic coast. Pages 3-20 in R.E. Good, D.F. Whigham, and R.L. Simpson, eds. Freshwater Wetlands: Ecological Processes and Management Potential, Academic Press, NY.

White, D. and L. Thien. Undated. Plant communities of Jean Lafitte National Historical Park. Report No. CX 70290016, Jean Lafitte National Historical Park, New Orleans, La. 24 p.

Witzig, A. S. and J.W. Day, Jr. 1983. A multivariate approach to the investigation of nutrient interaction in Barataria Basin, Louisiana. Louisiana State University Center for Wetland Resources. Final Report to Louisiana Water Resources Research Institute, Baton Rouge, LA. 37 p.

Yarbro, L.A. 1979. Phosphorus cycling in the Creeping Swamp floodplain ecosystem and exports from the Creeping Swamp watershed. Ph. D. diss., University of North Carolina, Chapel Hill, NC.

Table 1. Fish species collected from Jean Lafitte National Historical Park September 11-13, 1984 (From memo from W. Kucera to David Muth, Sept 14 1984)

FRESH WATER SPECIES

1	- Spotted gar ²	11	- Mosquito fish ^{1,2}
2	- Alligator gar ²	12	- Least Killfish ^{1,2}
3	- Bowfin ^{1,2}	13	- Largemouth Bass ²
4	- Gizzard shad	14	- Bluegill ^{1,2}
5	- Golden shiner ^{1,2}	15	- Flier ²
6	- Channel catfish	16	- Redear ²
7	- Blue catfish	17	- Spotted sunfish ²
8	- Yellow bullhead	18	- Warmouth
9	- Golden topminnow ^{1,2}	19	- Black crappie
10	- Saifin molly ^{1,2}		

EURAHALINE SPECIES

20	- Bay anchovy
21	- Tidewater silverside
22	- Sheepshead minnow
23	- Striped mullet
24	- Spot
25	- Ladyfish

-
- 1 Bayou Aux Carpes drainage
2 Bayou des Falmilles drainage

**F. REVIEW OF CWA 404(c) RELATED STUDIES
IN THE BAYOU AUX CARPES AREA**



STEIMLE & ASSOCIATES, INC.

REVIEW OF CWA 404 (C)
RELATED STUDIES IN THE
BAYOU AUX CARPES AREA

STEIMLE & ASSOCIATES

August, 1985



The studies included in this review are as follows:

- Hicks, D. B. and T. R. Cavinder 1985. A hydrological, chemical and biological assessment of Bayou Aux Carpes, New Orleans, Louisiana January 1985. EPA Region IV Environmental Services Division Ecological Support Branch. Athens, Georgia
- Day, J. W. 1984. A study of the effects of the proposed leveeing and drainage of the Bayou Aux Carpes Swamp on the adjacent Barataria Unit, Jean Lafitte National Historical Park. New Orleans, Louisiana.
- Michot, T. C. 1985. Fish and wildlife resources of the Bayou Aux Carpes drainage area Jefferson Parish, Louisiana. June 1985. U.S. Fish and Wildlife Service Division of Ecological Services. Lafayette, Louisiana.

The first study reviewed was Hicks and Cavinder (1985). The study team restricted their sampling to areas in and immediately adjacent to the pipeline and well location canals in a portion of the southern half of the study area. No samples were collected or observations made in either what is called the Estelle tract in the northern portion or the Creppel-Pitre tract in the southern portion of the study area. Exhibit 1 shows the study area, the general vicinity of the sampling activity and the locations of the two tracts previously mentioned. As can be seen from this exhibit, the major portions of the study area were not examined, particularly the northern, north central and southern portions.

The study team also restricted its sampling to a five day period in January (16-20) 1985. While a substantial amount of information can be collected in five concurrent days of sampling, very little or no information on seasonal water quality, and species presence, absence and abundance can be gathered in such a limited sampling period.

The remainder of this study is addressed on a point by point basis.

Page 5, Objective 1

- o Determine the kinds of fish, shellfish, and benthic macroinvertebrates associated with the marshes, forested swamp areas and adjoining canals.

A one time sampling of the Bayou Aux Carpes (BAC) area is unlikely to render a definitive species list of fish, shellfish and benthic macroinvertebrates. Many of these organisms have seasonal peaks in abundance and cannot be found in similar



habitats at other times of the year due to migration, mortality or life cycle requirements. A minimum of a quarterly sampling would be required to obtain a reasonably complete species list from the study area.

Page 5, Objective 4

- o Characterize the water and sediment quality associated with the Bayou Aux Carpes swamp and adjoining canals.

Again, a sampling regime that covers only a small part of the year can only make inferences about water quality during the rest of the year.

Page 10, Paragraph 1

Following the rain event, the water level in the borrow ditch slowly but steadily decreased. This pattern was unlike water level records for either the swamp or Barataria Waterway. For example, a water level recorder stationed in the swamp approximately 0.25 mile east of the recorder positioned in the borrow ditch (Figure 3) provided a water level record similar to the ICW records (Figure 11). The contrast between the swamp and borrow ditch hydrographs suggests, at least during EPA study period, that water levels in the ditch were not responding simultaneously to hydrographic conditions in the Barataria Waterway.

The water level recorder in the swamp showed no lag in returning to the level of the ICW while the recorder in the borrow ditch did show a lag in returning to the level of the ICW. The absence of a lag at the swamp station contradicts the latter conclusion that the site has significant water storage capacity. If this was truly the case the water level recorder in the swamp would have had a lag similar to that of the borrow ditch gage.

Page 16-17, Paragraph 2-0

The ability of canals and the swamp/marsh habitat to trap finely divided particles was also evident in the heavy metals concentrations determined for the sediments (Figure 28). The ICW appeared to retain greater concentrations of zinc compared to the swamp and marsh areas. Copper, lead, and iron, concentrations appear uniformly distributed between the swamp, marsh, canal, and Barataria Waterway (ICW). This distribution pattern indicates the capacity of the marsh/swamp system to trap these heavy metals typically associated with urban runoff.



These data do not support the conclusion that the swamp-marsh system preferentially traps heavy metals. The highest sediment level of zinc was, as stated, in the ICW. The levels of copper, lead and iron were, as stated, uniform throughout the marsh, swamp, canal and ICW. This contradicts the conclusion that the marsh and swamp trap these materials. Based on these data, the ICW is a more efficient trap for zinc and the marsh-swamp system approximately equal to canals and the ICW in the ability to trap copper, iron and lead.

Page 19, Paragraph 3

In addition to the blue crab, a second estuarine crab (Uca sp.) was captured by the channel net.

Based on the salinity data contained in Table 4 of the report it is unlikely that the crab Uca sp. was collected. This crab may have been misidentified. A more likely crab to have occurred in the canal would have been Rhithropanopeus harrissi, the common mud crab.

Page 22, Paragraph 0

The capacity of the Bayou Aux Carpes swamp to detain surface waters was evident in the chloride data reported for this study. Chloride concentrations increased with ebb flows from the swamp and decreased when the direction of flow reversed and originated from the Barataria Waterway (Figure 14).

The subject of detention of surface waters and of chloride data supporting this conclusion is stated a number of times in the report. The only station for which substantial chloride data is available is Station 10 located 50 yards upstream of the mouth of the Southern Natural Gas Pipeline (SNGP) canal where it meets the ICW. The only chloride data from the actual swamp stations are values from Stations 2, 5 and 7 all of which were at or near the fresh water level (See Table 4). Generally 0.5 parts per thousand salinity and less are considered to be fresh water.

Another point to be made is that the chloride data presented is only for surface waters. It is not known if higher salinity waters from the lower portion of the water column in the ICW could not be the source of the higher chloride values found in the data from Station 10. These relatively few data for stations away from the ICW and actually in the swamps and marsh do not allow a definitive conclusion to be drawn about the water storage capacity of the site and its role in influencing salinities in the surrounding water bodies.



Page 22, Paragraph 1

The relatively flat topography of the swamp, in combination with the broken berm line of the canals, undoubtedly served as factors enhancing the capacity of the swamp to detain surface waters and effect its slow release to downstream systems.

This statement is not supported by water level gage data which showed no lag in the water levels with respect to the ICW (See Figure 11).

Page 22, Paragraph 2

The seasonal flooding and storage regime of the Bayou Aux Carpes area provides numerous and unique benefits in terms of nutrient processing, primary and secondary production, flood control, salinity control, and as a nursery habitat for freshwater and estuarine fish and shellfish.

The benefits of flood control and salinity control depends on detention of surface waters. This detention of surface water is not supported by the results of this study. When wind forces water into the site it remains only as long as no driving force moves it out. The water levels in the swamp followed the levels in the ICW. When the ICW level dropped, the swamp level dropped. To produce a significant flood control or salinity moderating benefit, the site would have to retain the water and slowly discharge this water over some time period. The data included in this report do not support assigning these benefits to the site.

Additionally, the benefit of nutrient processing, primary and secondary production and nursery habitat are not unique to the site. In fact, the restricted flow due to man made levees and spoil banks along canals in and around the Bayou Aux Carpes swamp limit, to some extent, the access of estuarine organisms to the area and the export of organic material to the Barataria estuary.

Page 23, Paragraph 1

The hydrological connection between Bayou Aux Carpes and the Barataria Waterway and the capacity of the Bayou system to detain surface water combined to buffer effects of urban runoff from the New Orleans area on downstream regions like Barataria Bay. Results of the sediment analyses demonstrate the function of Bayou Aux Carpes as a mechanism for trapping finely divided materials thus interrupting their transport to the estuary. Heavy metals, whether adsorbed to silt, clays, organic matter, or precipitated as metallic sulfides, are deposited in the sediments.



Neither the detention of surface water nor the trapping of heavy metals has been established by the data included in this study.

Page 27, Paragraph 1

Many of these species such as channel and blue catfish, sunfish, and bass, are recognized as important to both commercial and sport fisheries.

While channel and blue catfish are recognized in some areas as important commercial species, locally they and the bass and sunfish are of predominantly recreational value. Commercial fishing in the area is concentrated on the salt water species found generally to the south of the Bayou Aux Carpes area. These would include oysters, blue crabs, shrimp, speckled trout, redfish and croaker. The direct value of the site to freshwater commercial fisheries is minimal. Commercial fishing in this area is concentrated on species occurring further south in the estuary. The assignment of a significant value to the BAC area for freshwater commercial fishery production is inappropriate. This is particularly true since the presence of a species does not necessarily imply that it is abundant enough to support a commercial harvest.

In summary, the study attempts to assign some values and functions to the BAC area that are not supported by the data collected. Additionally, generalizations about the entire study area are made on the basis of limited samples collected over a short time in a small portion of the entire study area. Based on the data and valid conclusions in this report, it would be difficult to establish that a significant loss of or damage to fisheries, shellfishing, wildlife habitat or recreation areas would follow from the filling and or draining of this study area. Undoubtedly there would be a loss of some of these values but the overall significance of that loss cannot be readily determined from the data and conclusions in this study.

The study by Dr. Day (Day, 1984) appears to be more of a literature review than a specific study of drainage effects on the Jean Lafitte National Historical Park. Although the possible effects of such drainage are discussed, they are strictly conjecture without specific hydrologic data from the park and the Bayou Aux Carpes area. No specific comments can be addressed to this report because the statements are either of a general nature or lack site specific data to confirm or deny the impacts discussed. The report dismisses the concept of water level management within the park as impractical but a management plan is not presented in enough detail to determine if in fact it would or would not be a viable alternative.



The Fish and Wildlife Resources Study (Michot, 1985) prepared by the F&WS Division of Ecological Services dated June, 1985 is a difficult document to review. While the concept of applying the Habitat Evaluation Procedure (HEP) to various wildlife species and habitats is attractive, certain factors about the evaluation must be kept in mind. The first factor is that the HEP is based on several assumptions that are rarely true in nature. One of the assumptions is that the numbers of a species that a given type of habitat can support are linearly related to its Habitat Suitability Index (HSI). Very few relationships in nature are linear and it is highly likely that the suitability of the habitat is related in some non-linear way to the number of organisms of a given species. Another assumption that is unlikely to be true in nature is that all of the members of a species are going to be randomly distributed in a given habitat. Like the previous assumption, this is unlikely to be true. In fact some organisms are gregarious with other members of their own species, and some avoid other members of their species or even set up territories to exclude other members of their species. These preceding assumptions, while made for ease of calculation, do not necessarily reflect the conditions in the actual habitat.

The HEP study generally compares a tract of land west of the Louisiana Hwy. 3134 (Lafitte-Larose Highway) to the Bayou Aux Carpes area east of the highway. Unfortunately only the bottomland hardwood and wooded swamp habitats occur in both areas. The upland forested, scrub-shrub and fresh marsh habitats evaluated do not occur in the area west of the highway, so an overall comparison of the relative value of one area to the other is like comparing apples and oranges.

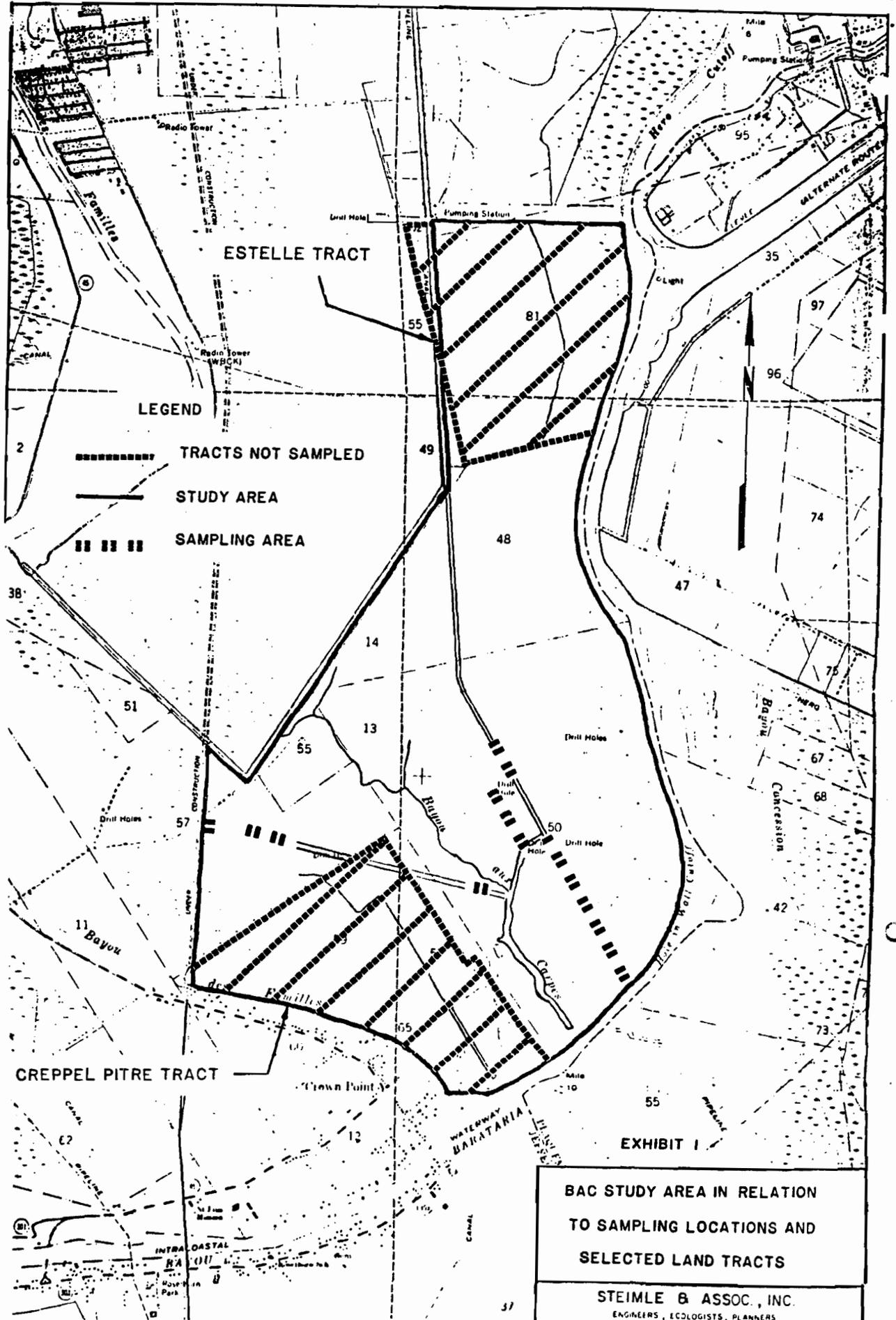
One point in the habitat evaluation appears to be inconsistent. On page 4, paragraph 5 it states:

Upland forested habitat occurs on spoil banks adjacent to dredged canals and waterways (Figure 2) and comprises 141 acres in the study area (Table 1). These areas are seldom, if ever, inundated.

One of the variables used to model the habitat suitability for the North American mink is the percent of year with surface water present (V2) and describes the optimums range as 75-100%. (See Table 3) In Table 4 under the upland forested habitat (UFO) category, the suitability index is given as 1.0 (the highest suitability). If the upland forested areas are seldom inundated, how can they be covered by water 75-100% of the time? This appears to be a direct contradiction.



In summary, all three studies point to generalized values of wetlands and apply them to the Bayou Aux Carpes swamp. Sometimes these generalizations are supported by the data collected, and other times the data contradicts the hypothesized value. Taken as a whole, these studies do not provide the level of information required to make a scientifically supportable statement about the relative value of the Bayou Aux Carpes swamp to the Barataria estuary.



LEGEND

- TRACTS NOT SAMPLED
- STUDY AREA
- SAMPLING AREA

EXHIBIT I

BAC STUDY AREA IN RELATION TO SAMPLING LOCATIONS AND SELECTED LAND TRACTS

STEIMLE & ASSOC., INC.
ENGINEERS, ECOLOGISTS, PLANNERS

G. WETLAND CHARACTERISTICS

WETLAND CHARACTERISTICS
OF THE
BAYOU AUX CARPES STUDY AREA

A. Background

Most of the Bayou aux Carpes study area displays the characteristics of soils, vegetation, and hydrology to qualify for regulation under Section 404 of the Clean Water Act. Within the study site, several isolated areas of non-wetlands occur, primarily along the natural levee ridge of Bayou des Familles.

As a part of a review associated with the Harvey Canal-Bayou Barataria Levee Project, the U.S. Army of Engineers found that the Bayou aux Carpes study area was a wetland subject to regulation under Section 404. As a part of the Section 404 permit application submittal for that project, an Environmental Assessment and Findings of Fact were prepared in 1979. As a result, the Section 404 permit was denied in 1980 based on, among other factors, the availability of alternative non-wetland sites, and the potential adverse impacts to the Jean Lafitte National Historical Park and to fish and wildlife resources.

After the June 18, 1985, public hearing for the Section 404(c) proposal by EPA, the attorney for one of the landowners requested a formal wetland determination to be made on his land in time for him to respond by the end of the comment period. The area for which the request was made includes the only significant occurrence of non-wetlands in the study area.

On August 12, 1985, Region 6 staff (accompanied by Corps of Engineers staff, the landowners' consultant, and one of the landowners) identified and flagged the wetland boundary in the field. The line will be surveyed by a licensed survey company and mapped accordingly. Although the map has not yet been supplied, it is estimated that roughly 150 acres are not subject to regulation under Section 404(c) of the Clean Water Act.* The non-wetland area is along a natural levee ridge and would not be affected by the 404(c) action. The remainder of the study area is classified as wetland, with the exception of several small isolated spots along major levees.

* See attached map for general location of non-wetland areas. Since the area has not been surveyed, the map only approximates the wetland boundary.

B. Characterization

The study area is a diverse estuarine ecosystem covering approximately 3,000 acres in the upper reaches of the Barataria Bay Basin. Approximately 71 percent of the study area is comprised of forested wetlands, shrub wetlands, and cypress swamps while approximately 21 percent is represented by marshlands, ponds, and open waterways. The remainder of the study area consists of land classified as old orchard, residential, agricultural, industrial, wooded upland, and grassland associated with levees and roads.

Bald cypress (*Taxodium distichum*), tupelo-gum (*Nyssa aquatica*), green ash (*Fraxinus pennsylvanica*), and red maple (*Acer rubrum*), are common overstory vegetation in the forested areas while softstem bulrush (*Scirpus validus*), bulltongue (*Sagittaria falcata*), pennywort (*Hydrocotyle bonariensis*), giant-blue iris (*Iris giganticaerulea*), smartweed (*Polygonum* spp.), spikerush (*Eleocharis* spp.) and alligator weed (*Alternanthera philoxeroides*), are typical of the marsh regions. Water-hyacinth (*Eichhornia crassipes*), and duckweed (*Lemna* spp.) characterize the floating vegetation of the bayou and canals.

The Bayou aux Carpes study area is a part of the Barataria Basin hydrologic unit. The area is subject to slight tidal effects and appears primarily as a freshwater to weakly brackish aquatic system. Wind appears to be the primary force affecting water levels in the study area. Water transport from Bayou aux Carpes to Bayou Barataria is generally rapid and directed towards Barataria Bay. The potential for flooding over the majority of the study area due to rising water in Bayou Barataria exceeds 50 percent of the time.

Levees span virtually the entire perimeter of the Bayou aux Carpes study area. The two mile long Southern Natural Gas Pipeline canal provides the primary hydrological connection between the study area and Bayou Barataria (Gulf Intracoastal Waterway) and, ultimately, Barataria Bay. During the construction of the Southern Natural Gas Pipeline Canal and several shorter unmaintained drill hole canals (no producing wells exist in the study area) dredged materials were deposited along the canal banks. The levees generally rise no more than a few feet. Aside from the relatively flat topography, numerous breaks in the levees and the unfilled area at the head of the Southern Natural Gas Pipeline Canal provide a pathway for surface water to exchange between the canals and surrounding swamps and marshes. Remnants of the original Bayou aux Carpes waterway are unleveed, thus allowing surface water to sheet flow across to the adjoining wetlands.

According to the Soil Conservation Service 1983 Soil Survey for Jefferson Parish, almost half of the Bayou aux Carpes study area is comprised of a Barbary muck soil. This soil type represents approximately 2.7 percent of the soils Parish-wide. This is a level (slope is less than 0.1 percent), very slowly permeable, very poorly drained, semifluid mineral soil found in swamps. The Barbary soils are frequently flooded by freshwater for very long periods. The floodwater ranges in depth from one foot to three feet. During nonflood periods, the water table fluctuates between a depth of one half a foot below the soil surface and one foot above the surface.

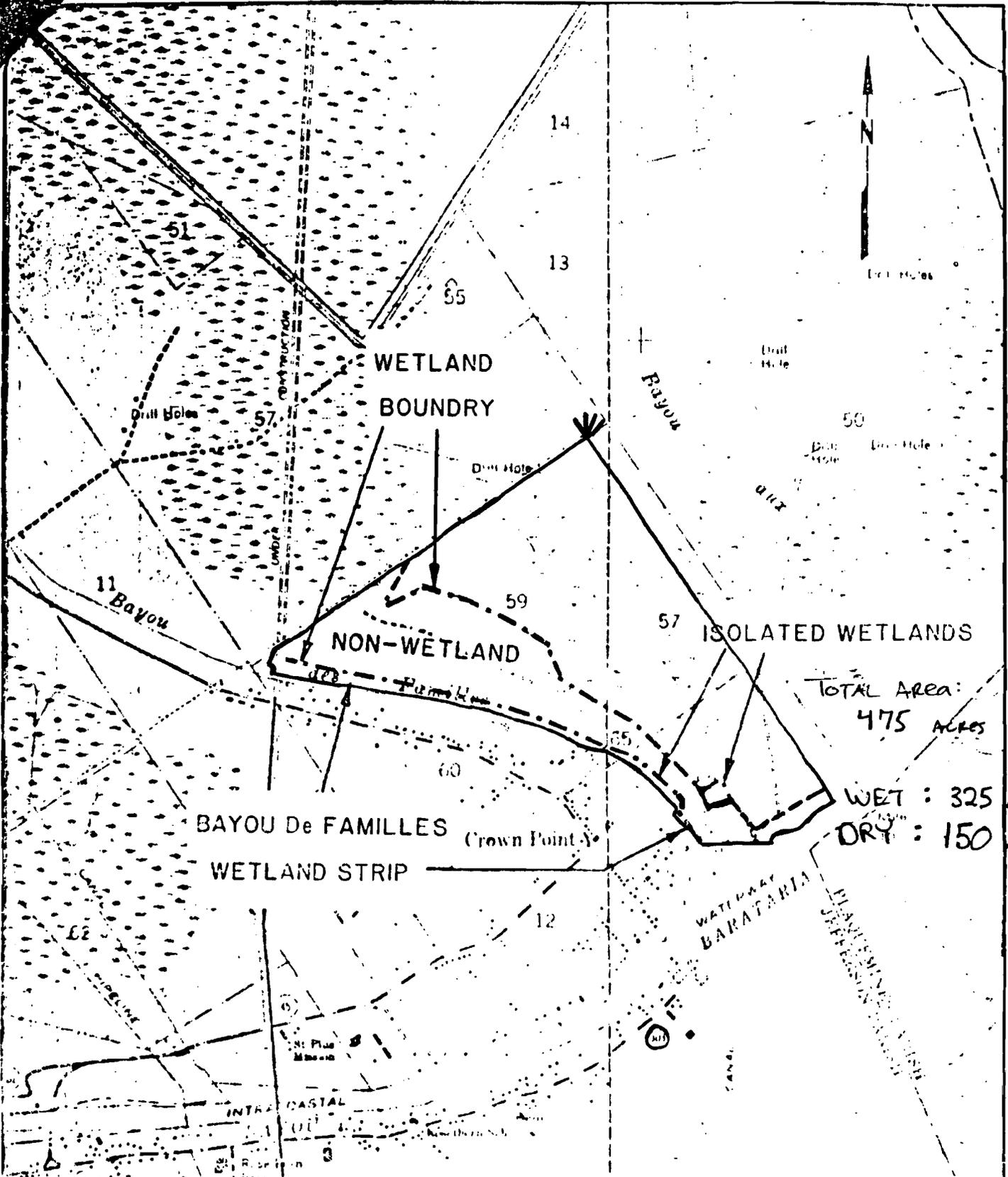
Slightly less than a third of the remaining Bayou aux Carpes study area is comprised of a soil type referred to as Allemands muck (areas previously mapped by the SCS as "Allemands muck drained," in this area are no longer drained and protected from flooding and the designation has been changed). This soil type is found in the extreme northern section of the study area and in several smaller areas to the south. This soil represents approximately 1.5 percent of soils Parish-wide. It may generally be described as a level (slope is less than 0.5 percent), very poorly drained, very slowly permeable semifluid organic soil. The soil is formed in moderately thick accumulations of decomposed herbaceous material and the underlying clayey alluvium. These soils are in freshwater coastal marshes in areas which are flooded or ponded most of the time.

A small belt of the Bayou aux Carpes study area north of Bayou des Familles is comprised of Sharkey clay. This soil represents approximately four percent of the soils Parish-wide. It may generally be described as a poorly drained, firm mineral soil found in low position on natural levee areas with a slope of less than one percent. This Sharkey soil is very slowly permeable. Water runs off the surface at a slow rate and stands in low places for short periods after heavy rains. Flooding is rare, but it can occur after heavy rains of long duration. According to the State Soil Scientist (SCS), the soil series Sharkey is considered hydric and areas where it is found are considered wetland if they are undrained and exhibit hydrophytic vegetation. In the study area, these soils occurred across the wetland-upland boundary along the Bayou des Familles ridge, some of which has been cleared and cultivated.

Another very small percentage of the Bayou aux Carpes study area, on the higher areas adjacent to Bayou des Familles and Bayou Baratavia are comprised of Commerce silt loam and Commerce silty clay loam. Together, these soil types represent approximately four percent of the soils Parish-wide. These level (slope is less than one percent), somewhat poorly drained, firm mineral soils are found on intermediate to high positions on natural levees. Permeability is moderately slow and water runs off the surface at a slow rate. A high water table fluctuates between depths of 1.5 feet and four feet below the soil surface from December through April. Available water capacity is very high and the shrink-swell potential is moderate.

The State Soil Scientist (SCS) has advised that "the Commerce soils that are frequently flooded for long durations are also considered hydric. Therefore, Commerce soils occur in a frequently flooded position for long durations, are undrained, and have hydrophytic vegetation, the soils would be considered wetlands" (Letter from B. Arville Touchet to Barbara Keeler, July 29, 1985). In the Bayou aux Carpes study area, these soils were found in some wetland areas.

For additional information regarding the wetland characteristics of the Bayou aux Carpes study area, see the EPA Region 6 Section 404(c) Recommended Determination.



SCALE 1" = 2000'

APPROXIMATE LOCATIONS OF WETLAND BOUNDARIES CREPPEL-PITRE TRACT

SOURCE:
BERTRANDVILLE 7.5' QUAD

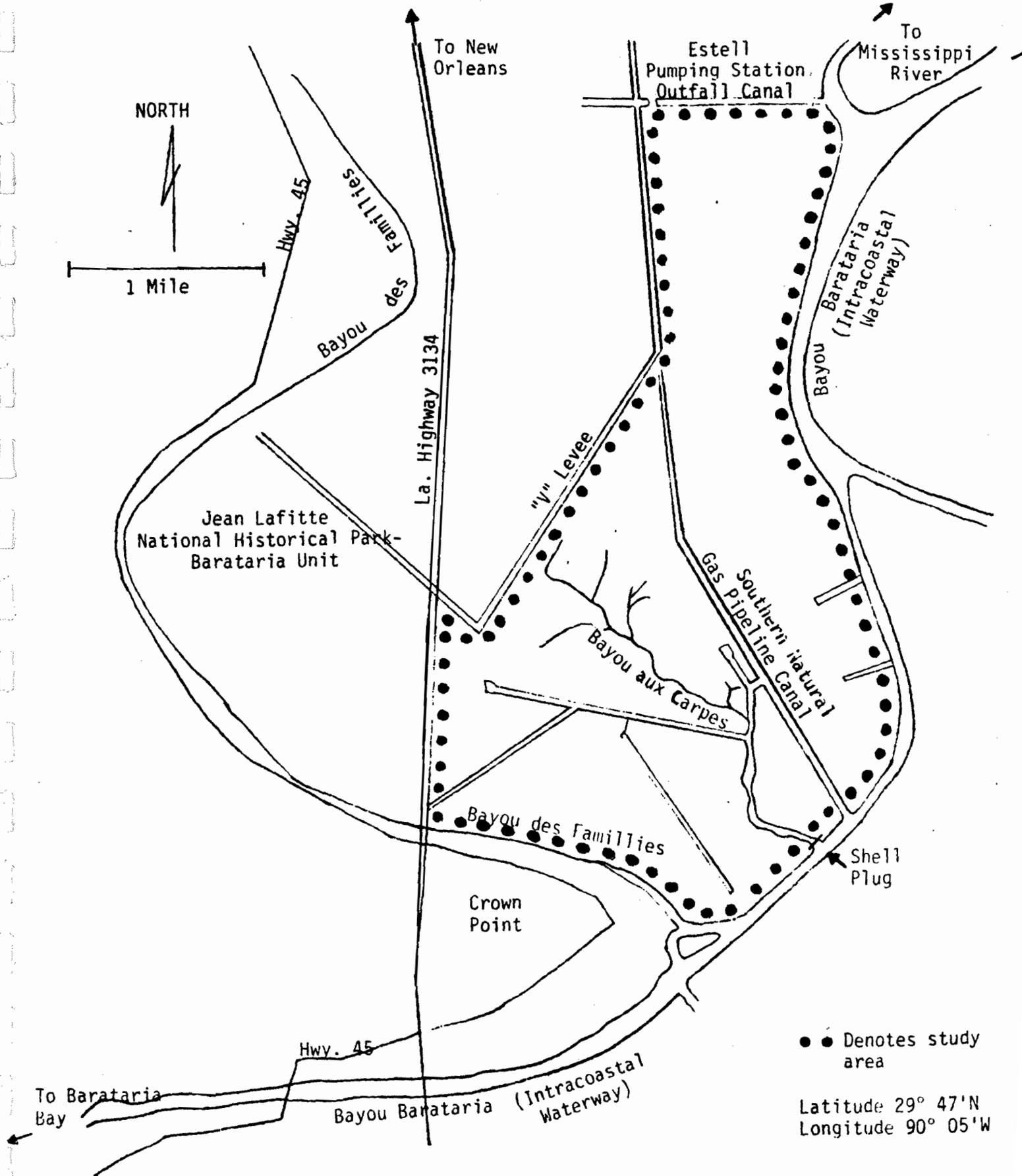
STEIMLE & ASSOC., INC.
ENGINEERS, ECOLOGISTS, PLANNERS
"SPECIALIZING IN THE ENVIRONMENT"
400 AIRLINE HWY. METairie, LA 70001

DATE: 5-16-85 DRAWN BY: S.A.F. CHECK BY:

H. MAPS AND PHOTOGRAPHS

H.1 MAPS OF BAYOU AUX CARPES STUDY AREA

BAYOU AUX CARPES STUDY AREA
JEFFERSON PARISH, LOUISIANA



NORTH

1 Mile

To New Orleans

Estell Pumping Station Outfall Canal

To Mississippi River

Hwy. 45

Bayou des Familles

La. Highway 3134

Jean Lafitte National Historical Park-Barataria Unit

"V" Levee

Bayou Barataria (Intracoastal Waterway)

Southern Natural Gas Pipeline Canal

Bayou aux Carpes

Bayou des Familles

Shell Plug

Crown Point

Hwy. 45

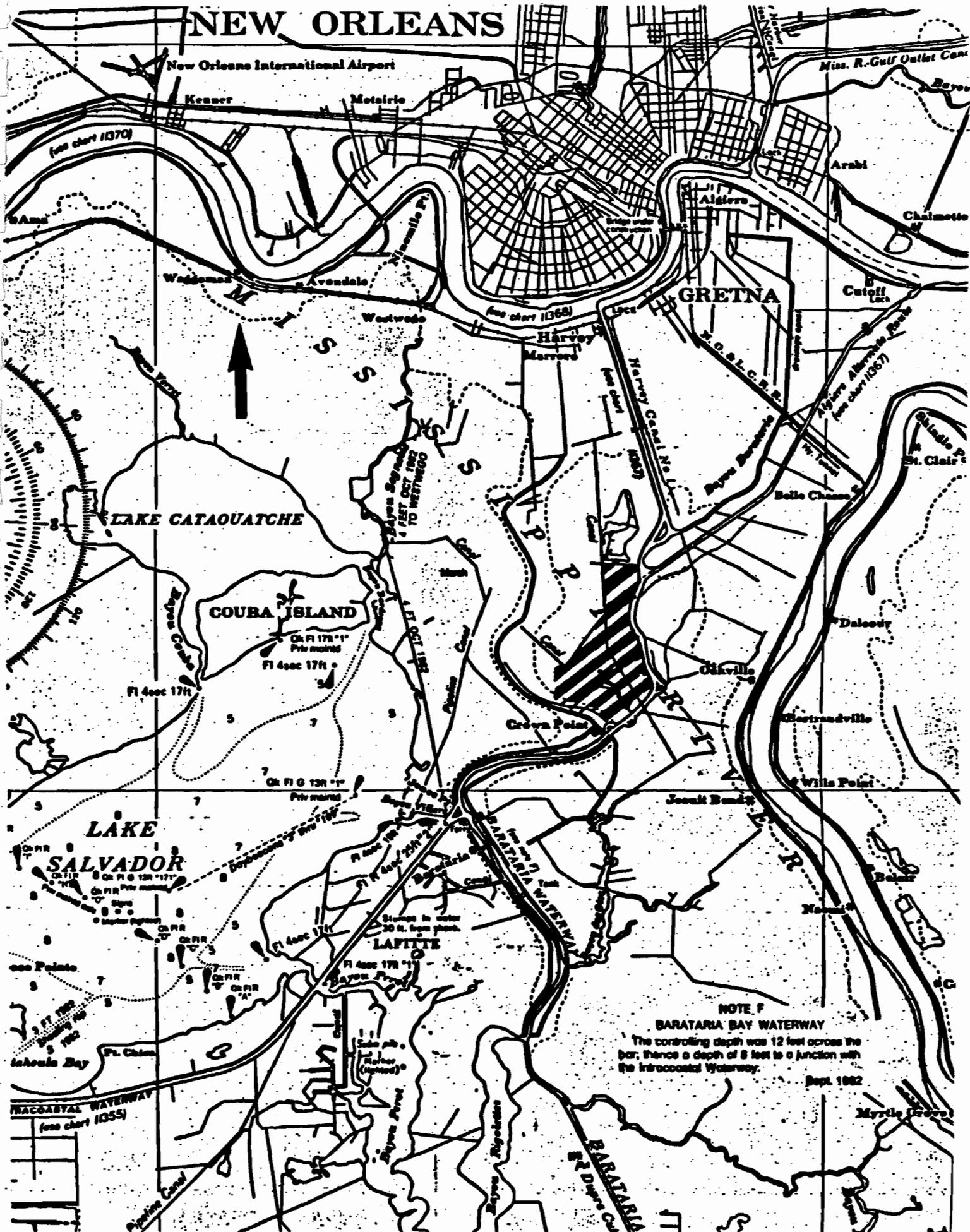
To Barataria Bay

Bayou Barataria (Intracoastal Waterway)

● ● Denotes study area

Latitude 29° 47'N
Longitude 90° 05'W

NEW ORLEANS



NOTE F
BARATARIA BAY WATERWAY
The controlling depth was 12 feet across the bar; hence a depth of 8 feet to a junction with the Intracoastal Waterway.
Sept. 1902

**H.2 COLOR INFRARED PHOTOGRAPH OF
BAYOU AUX CARPES STUDY AREA**

(ORIGINAL PHOTOGRAPHS IN COPY PROVIDED TO ADMINSTRATOR THOMAS)

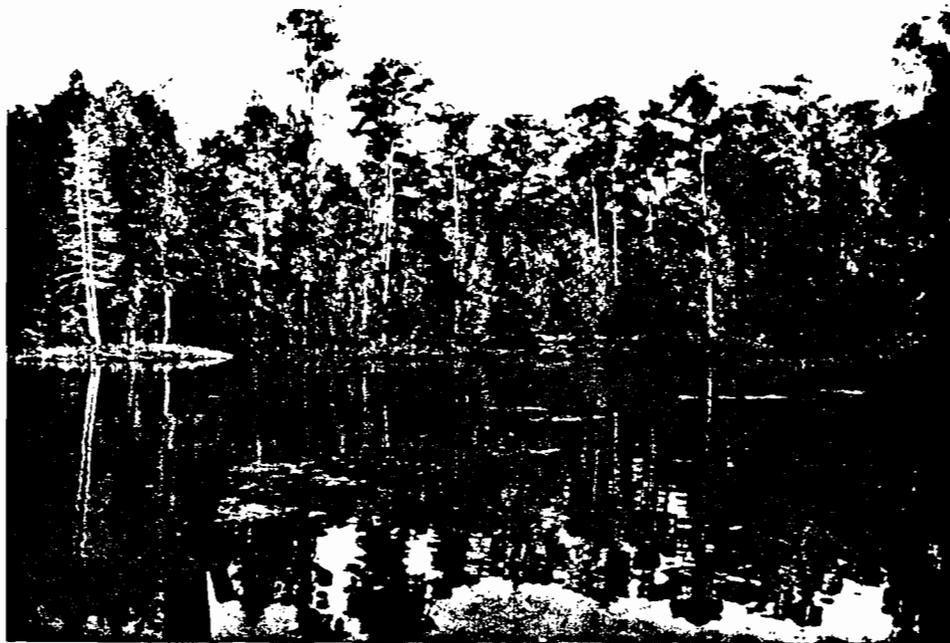
PHOTOGRAPH DATE JANUARY 19, 1984

SCALE 1:50,000

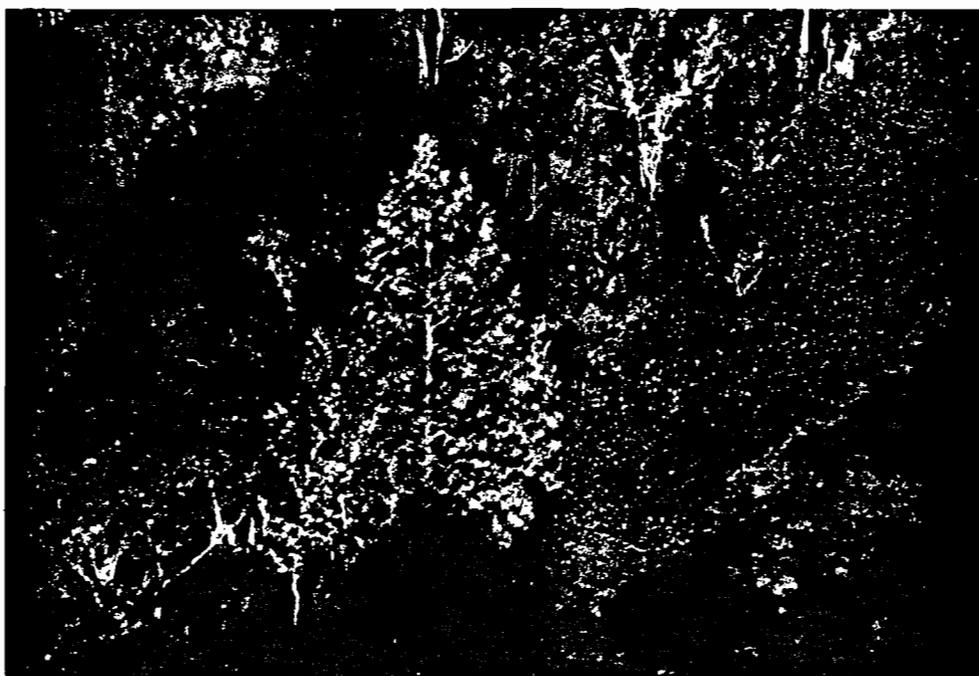


H.3 PHOTOGRAPHS OF BAYOU AUX CARPES STUDY AREA

(ORIGINAL PHOTOGRAPHS IN COPY PROVIDED TO ADMINSTRATOR THOMAS)



Cypress Swamp and Water Hyacinths along Bayou aux Carpes



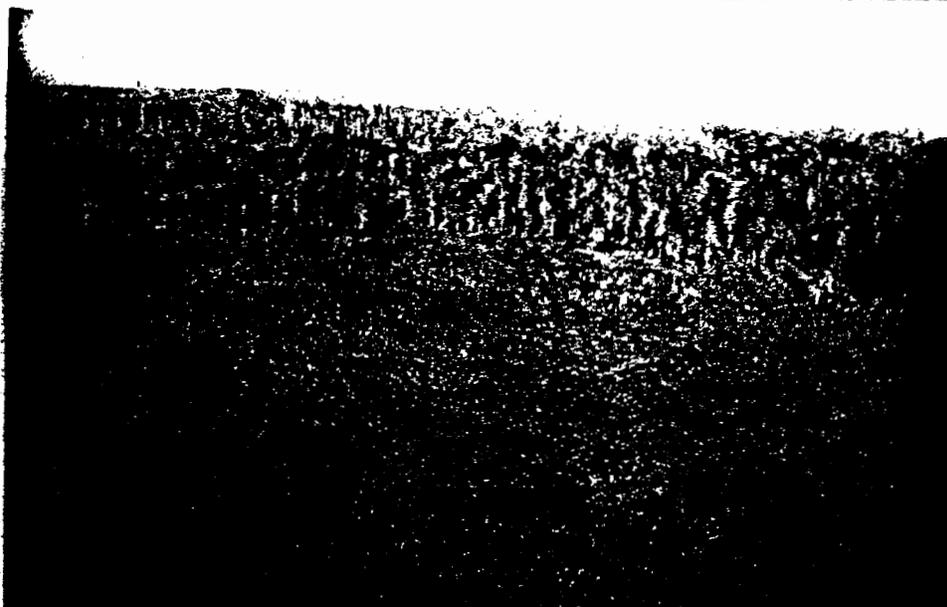


Swamp/Marsh Edge

(Note hydrological
adaptation in
tall base of
Enicococcus at right)



Cypress Tupelo Swamp



Marsh Habitat



**Willow, Water Hyssop (Bacopa), Water Pennywort (Hydrocotyl)
West from Southern Natural Gas Pipeline Canal**





**Mixed Emergent Marsh, Hydrocotyle in Foreground
West from Southern Natural Gas Pipeline Canal**



Cypress and Willow, Mixed Emergents West from Bayou Barataria Levee



**Bulltongue and Young Cypress
East from Southern Natural Gas Pipeline Canal**



Sparse Cypress, Myrtles as Understory, Mixed Emergents as Ground Cover



**Bulltongue Marsh, Water Hyssop (Bacopa) Foreground
West from Southern Natural Gas Pipeline Canal**



**Frogbit and Bulltongue
East from Southern Natural Gas Pipeline Canal**



**Young Cypress and Mixed Emergents
East from North End of V Levee**



**Sparse Cypress, Myrtles as Understory, Mixed Emergents as Ground Cover
Powerline near Drill Hole Canal**



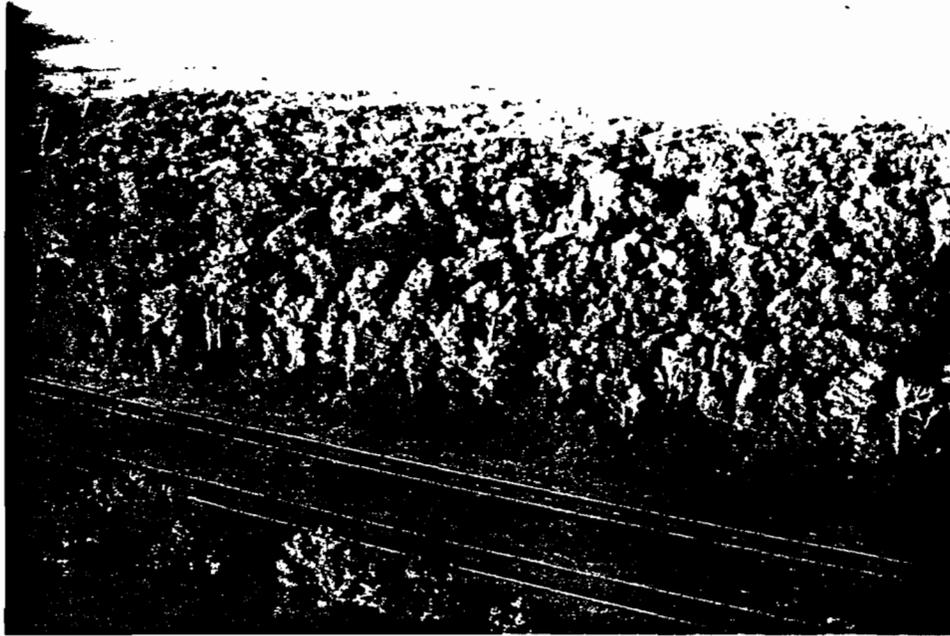
**Levee Gap at Junction of Southern Natural Gas
Pipeline Canal and V-Levee**





Washout and Break in Levees along Southern Natural Gas Pipeline Canal





Lafitte LaRose Highway , La. 3134



Levee along Southern Natural Gas Pipeline Canal



**Bayou Barataria (intercoastal Waterway)
Entrance to Southern Natural Gas Pipeline Canal**



Bayou Barataria



**Jacques Créppel Home from Bayou Barataria
near Bayou des Familles**



Bridge at eastern end of Bayou des Familles



Water Hyacinths and Duckweed





Giant Blue Iris

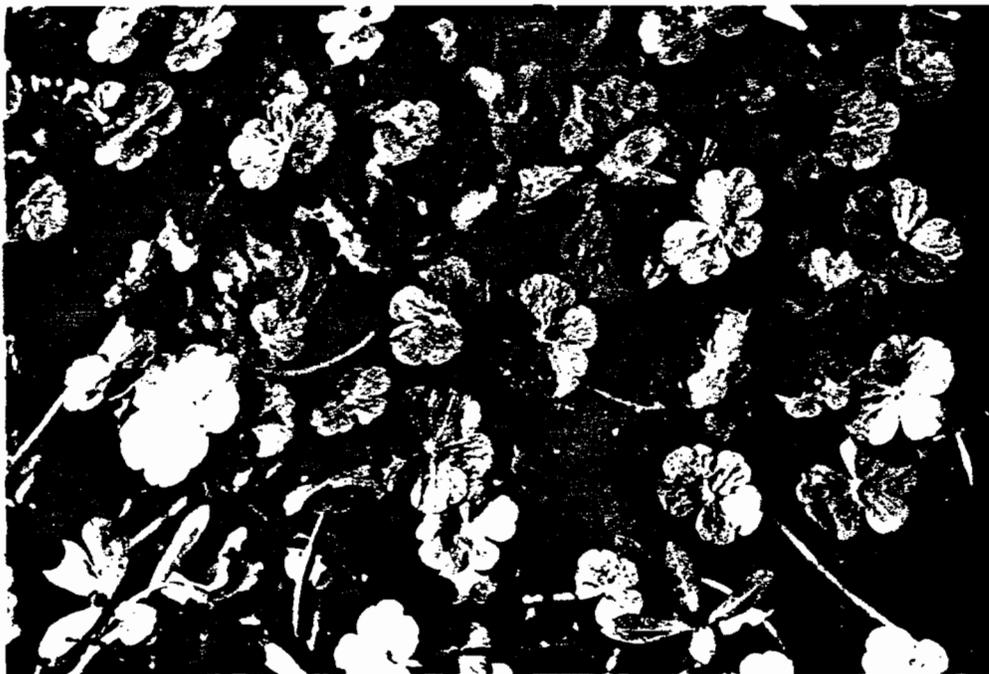




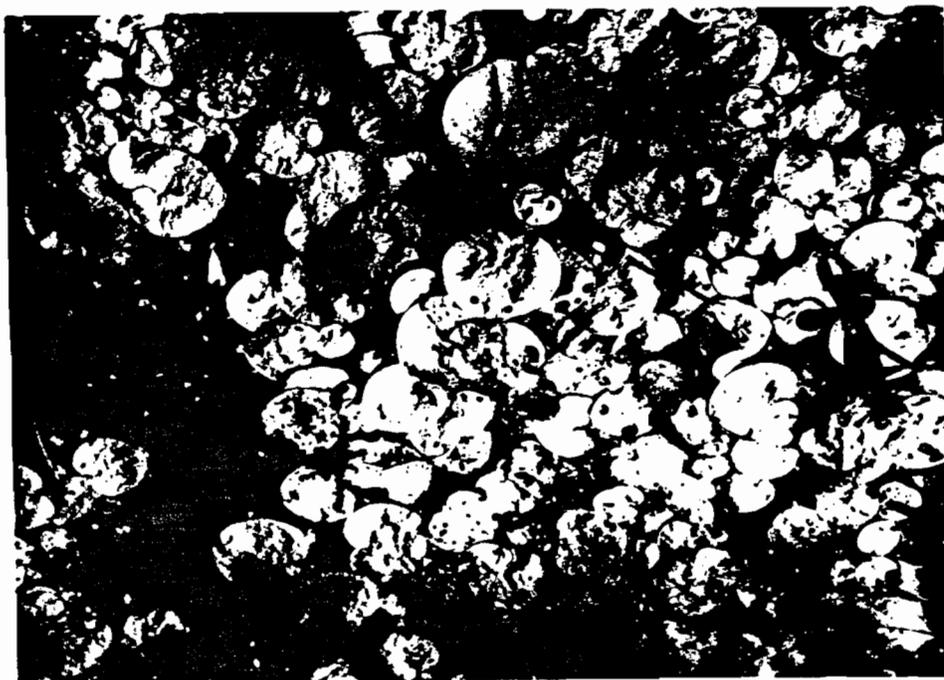
Buttonbush



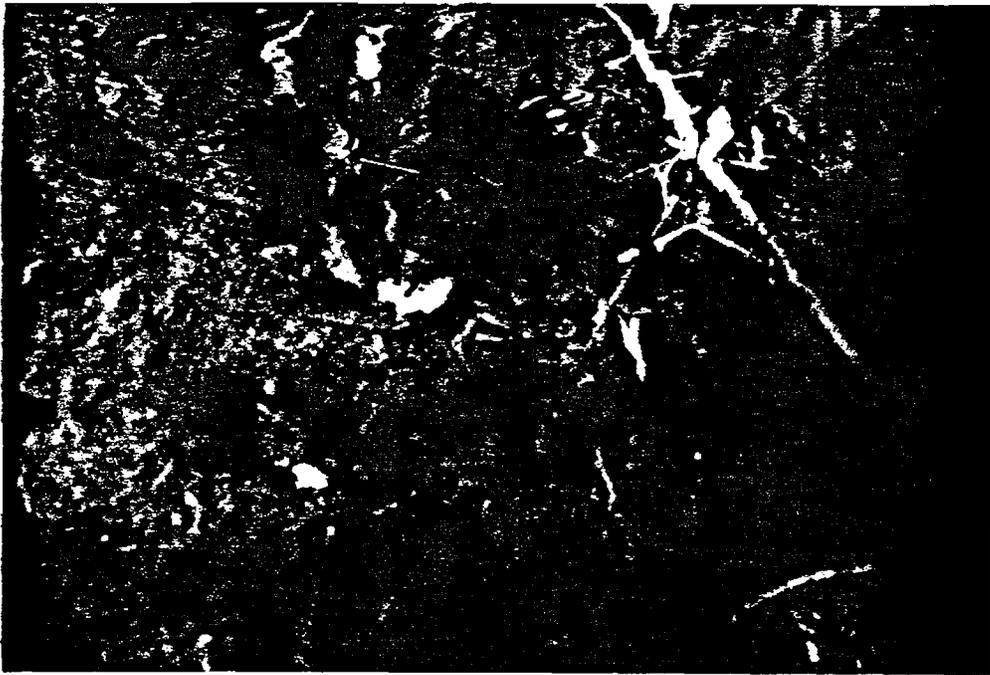
Pickerel Weed and Smartweed



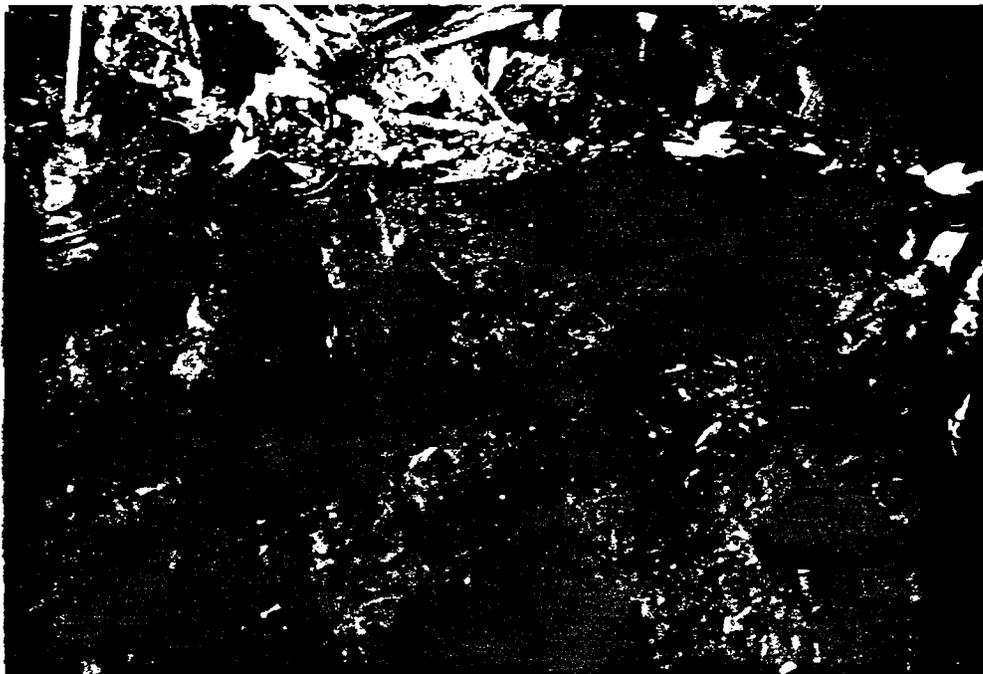
Water Pennywort (Hydrocotyl)



Frogbit



**Adult Blue Crabs in Washovers along
Southern Natural Gas Pipeline Canal**





Nutria Skull



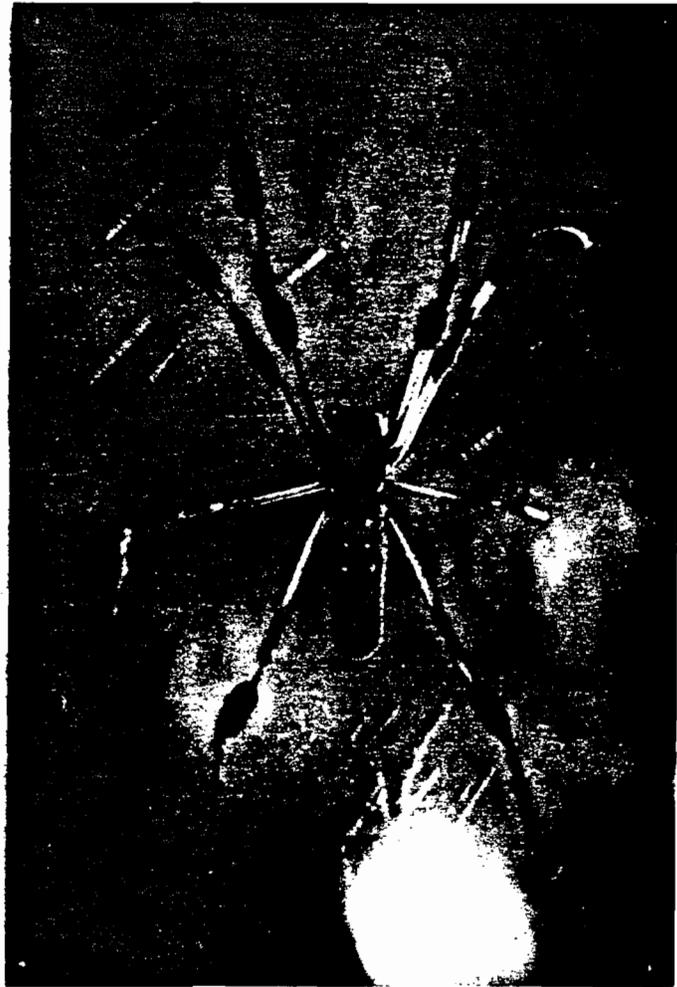
Unidentified Snake



Dragonfly on Drummond Red Maple Leaf



Lubber Grasshopper



Golden Silk Spider



Viceroy Butterfly

**H.4 PHOTOGRAPHS OF JEAN LAFITTE NATIONAL
HISTORICAL PARK, BARATARIA UNIT**

(ORIGINAL PHOTOGRAPHS IN COPY PROVIDED TO ADMINSTRATOR THOMAS)



Cypress Trees, Duckweed, Christmas Tree Lichens

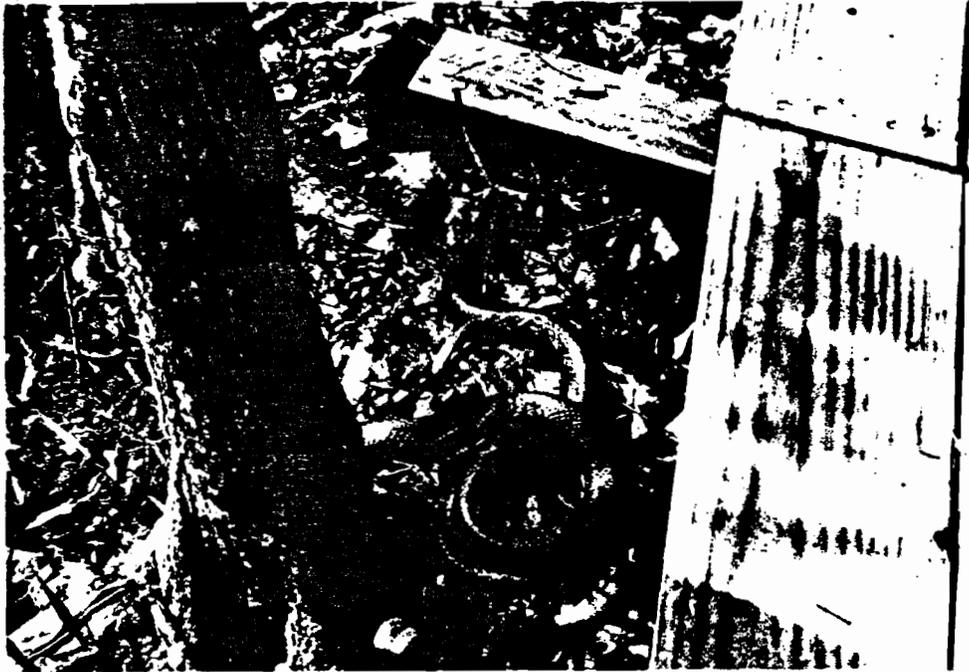
Cypress Knees Duckweed





Ring Levee Tran





Snake near Ring Levee Board Walk



**Exploring beyond
the Levee-Trick**



Water Hyacinth Ring Levee Trail



Palmetto Big Woods Trail



Big Woods Trail





Lizard's Tail



Spider Lily



Live Oak

Day Flower



II

BACKGROUND AND HISTORY

A. The Harvey Canal-Bayou Barataria Project

1. Pre-Litigation

In 1961, the Corps of Engineers proposed a flood control project (Harvey Canal - Bayou Barataria Levee Project) for the West Bank of Jefferson Parish. The project was to be constructed in two phases: Phase I was to involve construction of levees; Phase II was to involve the emplacement of dams and dikes at the mouth of Bayou aux Carpes and at Bayou des Familles, as well as the installation of a pumping station at Bayou aux Carpes.

As described by United States District Judge Lansing Mitchell (see part II B, below, Federal Litigation), it was initially contemplated that the Project would provide flood protection and land reclamation benefits in the area. The land reclamation would be achieved through the drainage of wetlands by the Bayou aux Carpes pumping station.

The Corps was required to obtain the following local assurances of cooperation from Jefferson Parish prior to commencement of the Project:

- a. Provide without cost to the United States all land, easements and rights-of-way necessary for construction of the Project, including necessary modifications and/or relocation of existing facilities;
- b. Hold and save the United States free from damages due to construction works;
- c. Construct an additional pumping station with an initial capacity of not less than 154 c.f.s. as provided in the plan of improvement and future extensions to pumping capacities as may be necessary for development of the area; and
- d. Maintain and operate all works after completion in accordance with the regulations prescribed the the Secretary of the Army.

The Parish tentatively agreed to provide those assurances and the project was approved by the Corps in February, 1964. Subsequently, final assurances were provided, a bond issue was passed for construction of the drainage works, and the necessary rights-of-way and servitudes were obtained.

An EIS was issued by the Corps in November 1970 which recommended that the project be constructed as proposed. Construction of the first lift of the levees (Phase I) was begun in 1971 and was completed by the Corps of Engineers in November 1973. Upon completion of Phase I, the project was 80% complete and all federal funds were expended. In 1974, the closure of Bayou aux Carpes was completed and a contract was let for the construction and installation of the Bayou aux Carpes pumping station. Construction was halted in November 1974 when the Corps decided to conduct a Section 404 review.

In January 1975, the Corps held a public hearing. The review was completed in March 1975 when Colonel Heiberg, District Engineer, issued a Statement of Findings and recommended that the project proceed to completion and that the pumping station be installed at Bayou aux Carpes. However, in a letter dated April 25, 1975 (Appendix), EPA Region 6 replied to the Statement of Findings with certain objections and concluded that "the permanent blocking of Bayou des Familles and Bayou aux Carpes and the subsequent draining of the interior would result in the irretrievable loss of valuable wetlands, have an unacceptable adverse impact on wildlife and recreational areas, and not be in the public interest."

Following the Corps' review of this position, the Deputy Director of Civil Works recommended completion of the project as originally approved and authorized. Further discussions ensued and in March 1976 a team of EPA scientists completed a field study which supported the Region's April 25, 1975 position.

This team's findings included the result that the Bayou aux Carpes study area performed the following functions.

- . Efficient producer of organic matter which supports an indigenous fauna, and surpluses are exported to fuel downstream systems.
- . Freshwater storage and recharge areas which control the rate and timing of freshwater inputs to downstream estuaries, thus maintaining a broad zone of salinity gradient throughout the year.
- . Support an indigenous flora and fauna which is of direct value to man for recreation, esthetics, sport fishing, and timber production.

Further, they found that the Cypress-Tupelo Swamp and fresh marshes would remain viable as long as they were not drained and that continued production of significant quantities of organic matter to fuel the Barataria system was a reasonable expectation.

In addition, the team reported:

Perhaps the most important function of the freshwater swamps and marshes in the Barataria Bay system is the amelioration of fluctuations in fresh-water inputs to the estuary during periodic wet and dry periods. Since the swamp and marsh are intact and connected to the rest of the system via the pipeline canal, this important function is still taking place.

Another Corps review then culminated in a Revised Statement of Findings issued in July 1976 by Colonel Rush, District Engineer. Once again, the Corps recommended that the project be completed as originally approved and authorized. Brigadier General Drake Wilson, Deputy Director of Civil Works, concurred with that recommendation by letter to EPA on August 27, 1976. He also advised EPA that the project would proceed unless EPA initiated a 404(c) action within 15 days. EPA did not withdraw its objections. General Wilson visited the Project site in October, 1976, along with Parish representatives, EPA representatives, property owners and environmentalists.

Then on November 16, 1976 General Wilson reversed his previous decision and directed that the dams at Bayou aux Carpes and Bayou des Familles be removed, that flood gates be installed to be used only during flood conditions, and that the pumping station at Bayou aux Carpes be abandoned.

2. The Litigation Phase

General Wilson's November 16, 1976 decision can be described as an attempt to retain the flood control benefits of the project without the adverse environmental consequences which was agreeable to the EPA and to Jefferson Parish. However, it directly and/or indirectly precipitated substantial litigation in both state and federal courts which are described below. The federal litigation (Creppel, et al vs. Corps of Engineers, U.S. District Court, E.D. Louisiana) is still pending and in connection with which, the instant Clean Water Act Section 404(c) proceeding is taking place.

a. The State Court Litigation

Southbend, the pumping station contractor, filed suit against Jefferson Parish for breach of contract and a compromise and settlement agreement was entered on April 5, 1977. On April 21, 1977 Jefferson Parish appointed a consultant to design the flood gates and began to consider its position as to whether to proceed with the modified project.

Immediately thereafter litigation was initiated in the matter of Jacques J. Creppel, et al., versus the Parish of Jefferson, et al., in the 24th Judicial District Court. The litigation resulted in a final judgement of the State Court enjoining and prohibiting Jefferson Parish from abandoning the project as originally planned. The judgement was based on the fact that an authority with supremacy had not actually exercised its power to veto the work that the Drainage District voters had funded through a bond issue. The Court further ordered the Parish to proceed with immediate construction of the pumping station at Bayou aux Carpes as provided in the original project. That judgement was affirmed by the Louisiana 4th Circuit Court of Appeals on May 15, 1980.

b. The Federal Litigation

In a separate proceeding, Creppel et al. (the "landowners") went to federal court in an action against the Corps in an attempt to set aside General Wilson's order of November 16, 1976. The named parties to this case included the Plaintiffs-Landowners, the Corps of Engineers and environmental groups but not the EPA. In ruling upon cross motions for summary judgement, Judge Mitchell upheld General Wilson's Order of November, 1976, holding that it "...merely reflects a decision of the Corps to modify the Project so as to bring it into conformity with the existing environmental regulations." (emphasis added) Judge Mitchell's decision, Creppel, et al v. Corps of Engineers, 500 F. Supp. 1108 (E.D. La. 1980). was appealed to the U.S. Court of Appeals for the Fifth Circuit.

The Fifth Circuit, in a decision dated March 17, 1982, again upheld the decision-making represented by General Wilson's November 16, 1976 Order. However, the Fifth Circuit identified two issues which it felt were unresolved and needed further consideration. Those issues were:

1. Whether or not the required local assurances could be had with respect to the modified project? and
2. Whether or not Section 404 of the Clean Water Act might prevent completion of the project.

The Fifth Circuit remanded the case to Judge Mitchell for resolution of these issues. Creppel, et al v. Corps of Engineers, 670 F. 2d 564 (5th Cir. 1982).

In later proceedings in the District Court, Judge Mitchell required the Corps of Engineers to report to him on various matters affecting the two issues raised by the Fifth Circuit. During these proceedings, it developed that (1) Jefferson Parish would not provide local assurances as to the modified project, because it felt it was prohibited from doing so by the state court order referred to above, (2) that EPA Region 6 would not invoke its Section 404(c) procedures with respect to the modified

project but, under the same circumstances that existed in 1976, would do so as to the original project.

In August, 1984, Judge Mitchell ruled that the original project should go forward. The Department of Justice filed a Motion to Reconsider this ruling, arguing among other things that it deprived EPA of an opportunity to invoke Section 404(c). At a hearing on September 19, 1984, Judge Mitchell agreed to hold the August ruling in abeyance to give EPA ninety days to consider taking action under Section 404(c) and, if it decided to do so, EPA would have an additional nine months to complete the process.

3. The EPA Section 404(c) Proceeding

Judge Mitchell's September 19, 1984 ruling, allowing EPA ninety days to determine whether to initiate the Section 404(c) proceeding precipitated a number of activities on the part of EPA Region 6. These included a review of available information about the tract, a review of the Agency's historical positions on issues relating to the tract (see below, the Lafitte waterline, the Westbank Hurricane Protection Levee). It also included a field trip to the Bayou aux Carpes swamp area in conjunction with the New Orleans District Corps of Engineers' regulatory functions staff to perform investigations and preliminary surveys which might aid in completing Region 6's picture of the Bayou aux Carpes swamp. As a result of these and other activities and the information derived therefrom the Regional Administrator initiated the Section 404(c) process by letter of December 17, 1984 to Colonel Eugene Witherspoon, the Corps' New Orleans District Engineer. The Plaintiff-landowners were notified of this step simultaneously. Numerous interested parties were notified, including Jefferson Parish, State of Louisiana officials, the senatorial and congressional delegation, and federal agencies including the National Marine Fisheries Service, the U.S. Fish and Wildlife Service and the National Park Service.

As part of the notification process to the Jefferson Parish officials, a member of the Parish council offered to assist in ascertaining owners of the tract in addition to those involved in the litigation. The offer was accepted and the Parish was requested in December 1984 to identify owners of the tract based on Parish records. In early January, letters were sent out to Jefferson Parish officials who were responsible for specific areas of the 404(c) tract such as levees and other rights of way requesting their permission to go on the tract, inasmuch as EPA was assembling a field team to do a more detailed field investigation.

A field team from EPA's Athens, Georgia Environmental Services Division Laboratory was enroute to the New Orleans area when, on January 14, 1985, Mr. Joe LeBlanc, Counsel for some of litigation plaintiffs, notified Region 6 that his clients had withdrawn

previously granted permission to enter upon the tract for the purposes of their field investigation. This resulted in application to Judge Mitchell for an Order, allowing EPA's field team access to the tract involved in the litigation. Such an Order was issued on January 16, 1985. The field team commenced its activities and performed its investigation on the tract in the timeframes noted in their report (see Section I). Inasmuch as the Order of January 16, 1985 covered only the litigation tract and not the balance of the Section 404(c) tract it was necessary during the week of January 14 to obtain permission from other landowners to enter upon their lands for the purposes of the field investigation.

Material was received from Jefferson Parish in late January, 1985 which included what was described as an Ownership Map of the Section 404(c) tract. On February 21, 1985, notice letters were sent to each of the additional owners not previously notified via the attorneys in the litigation. It was believed at this time that the Jefferson Parish map was complete as to all known landowners. In response to one of such notices, it became apparent that a portion of the tract was owned by other, unidentified owners. This circumstance precipitated another request to Jefferson Parish the response to which was received in May of 1985.

Numerous phone calls were made in an attempt to track down these owners which were heirs of a previous owner of record. Contact was made finally with one of them who declined to discuss the matter in substance but advised the inquirer to contact his attorney. The attorney, Mr. Henry Dart, was immediately called and sent a written notification and requested to provide any detailed information he might have as to the whereabouts of additional owners. Subsequently, Mr. Dart advised by phone that he did represent the owners of the tract for most purposes (such as paying the taxes on the tract, etc.) and felt that notice to him would be notice to the owners of record. Although Mr. Dart felt he would confirm this in writing later, he did not do so.

In the interim, a mailing list was compiled including landowners, interested public officials, interested citizens groups and interested groups of other kinds. EPA issued a mailing and a federal register notice of the pendency of the Clean Water Act Section 404(c) proceeding and a public hearing to be held thereon. The proceeding was the subject of a press release and advertisements in local newspapers also. The public notice appeared in the Federal Register of May 17, 1985. The public hearing was held in the Jefferson Parish Courthouse of Gretna, Louisiana on June 18, 1985. It was transcribed by a court reporter.

Shortly before the public hearing, representatives of the plaintiffs in the litigation requested permission to review documents leading to the tentative determination to impose Section 404(c) restrictions on the tract. Arrangements were

made for a consultant employed by the landowners to do so on June 7, 1985. All material requested was made available for review. Substantial number of documents were copied and provided at that time. The only documents not copied for the consultants were draft reports from the Athens Laboratory and from the National Park Service although the drafts were reviewed by the landowners' consultants.

Final Reports of the Athens field team, the Fish & Wildlife Service' Habitat Evaluation Procedure, Dr. Day's report from the National Park Service, and the Infrared Photography Narrative were all provided to the landowners' consultants or their other representatives at the time of the public hearing. Copies of the same documents were shortly thereafter provided to other interested landowners.

In recognition of the fact that the final documents were received at the time of the public hearing and that additional time in which to review them would be helpful to all concerned including landowners, the comment period was extended through and including August 5, 1985 which was announced at the public hearing. On the day that the public hearing was held, an application was filed with Judge Mitchell which was jointly entered into by EPA Region 6 and some but not all of the plaintiff-landowners, requesting that Judge Mitchell extend the nine months deadline for completion of the 404(c) process an additional 120 days. In the face of opposition by some of the plaintiff-landowners, Judge Mitchell extended the deadline only a total of 30 days to October 18, 1985. In response to the Judge's ruling, Region 6 extended the comment period an additional two weeks to August 19, 1985 which was announced in the Federal Register.

After the public hearing, the attorney for one of the landowners not involved in the litigation requested a formal wetland determination. He requested that it be completed in time for him to respond to the proposal by the end of the comment period. Region 6 arranged to have a field team go to the tract (which had been visited before) commencing August 12, 1985 for the purpose of laying out a precise wetland determination line on the ground. A line was so identified in the presence of one of the landowners and their consultant.

The comment period closed on August 19, 1985.

4. The Corps of Engineers Permit Denial

The New Orleans District, Corps of Engineers, on August 28, 1980, denied a permit application (LMNOD-SP(L.T.M.A.)767) from Jefferson Parish. The proposed work was to close Bayou aux Carpes, install and maintain a pump station. The project purposes included flood protection for developed areas along Louisiana highway 45 and reclamation of 3,100 acres of wetland for future growth and development of Jefferson Parish.

The Corps' Findings of Fact included the following:

- j. Analysis: Despite the apparent economic benefits that will accrue to the local economy if a permit is issued, we feel that the permit should be denied.
- (1) The project calls for a value judgment between preserving and developing the Bayou aux Carpes swamp. In quantifiable terms, preserving the swamp cannot compare to the economic benefits that will occur, if development proceeds. However, proper weight must be given to unquantifiable natural resources in the decision-making process. Wetlands are a valuable and diminishing national resource. Permitting projects that result in the loss of wetlands must be justifiable. For such projects it must be demonstrated that there is a need for the proposals and that there are no reasonable less damaging alternatives. There is no doubt that Jefferson Parish has a need to grow in the future and could use the 3,100 acres in question. However, there is nonwetland acreage in Jefferson Parish on the westbank of the Mississippi River that is suitable for that development. There are also sizeable non-wetland areas nearby in Orleans Parish in the area below Algiers known as the Lower Cost. See the environmental assessment also. (emphasis added)
 - (2) The project is not compatible with the present Harvey Canal-Bayou Barataria project as modified in 1976. The modified project is for flood protection only and not for drainage of the 3,100-acre Bayou aux Carpes swamp.
 - (3) The permit proposal, presently conceived, is not economically justified. The permit proposal does not call for blocking of the nearby Southern Natural pipeline canal. Without the closure of this canal, the proposed pumping station would only circulate water. The 1976 modified Federal project does not address the closure of this canal, but it would be inconsistent with the spirit of the modified Federal project to now permit the closure of the canal in conjunction with the operation of a pumping station to drain the swamp.

- (4) The Bayou aux Carpes swamp is in a floodplain. Development of the swamp when alternatives to avoid adverse effects and incompatible development in floodplains are available is contrary to Executive Order 11988; see 33 C.F.R. 239 (44 Fed. Reg. 28524 (1979)). See also (1) above.

o o o o o

1. Conclusions:

- (1) Implementation of the project could lead to the draining of the 3,100 acre Bayou aux Carpes swamp.
- (2) There are alternative nonwetland sites available to accommodate the development proposed for the 3,100 acres in question.
- (3) The proposed project appears to constitute unnecessary alteration of wetlands and floodplains.
- (4) The proposed work is inconsistent with the Harvey Canal-Bayou Barataria Federal project, as modified.
- (5) The proposed project is not economically justifiable without a closure in the Southern Natural pipeline canal.
- (6) Tidal flood protection for the existing residential community can be accomplished by use of floodgates rather than a pumping station (if the Southern Natural pipeline canal is closed).
- (7) Since the permit is being denied, there is no need for preparing a final environmental impact statement.
- (8) There is no need for a public hearing in rendering the decision.
- (9) Required state and local certification and approvals have not been obtained or even applied for recently to our knowledge.
- (10) The project could have significant adverse impacts on Jean Lafitte National Park.

The Findings of Fact (by District Engineer Colonel Thomas A. Sands, now Commander, Lower Mississippi Valley Division, Corps of Engineers) concluded with the following statement:

"I find that denial of the Department of the Army Permit as prescribed by regulations published in 33 CFR Parts 320-329 to be in the best public interest and in accordance with our wetland policy."

The Corps' associated environmental assessment contained the following conclusions:

- (a) The Bayou aux Carpes swamp and marsh ecosystem is a valuable unit of freshwater wetlands in and of itself. It also, through the pipeline canal, contributes detrital material utilized in downstream biological productivity in the Barataria Basin ecosystem.
- (b) The wetland area in question is an important wetland fulfilling several functions deemed valuable by Corps of Engineers regulations (33 CFR 320.4(b)(2)). These functions include 1) food chain production; 2) nesting, spawning, resting, rearing, and general habitat for aquatic and/or terrestrial species; 3) storage area for storm and flood waters; and 4) water purification through natural filtration processes.
- (c) The project, as proposed, would result in relatively insignificant negative primary environmental impacts.
- (d) The potential exists for severe negative secondary and cumulative environmental impacts on the Bayou aux Carpes swamp and marsh ecosystem, if, along with completion of the proposed project, the pipeline canal were closed. This action would require a Corps of Engineers permit under Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act, at this time.
- (e) Failure to close the pipeline canal in concert with constructing the proposed pumping station would result in the expenditure of several thousands of tax dollars for an ineffective project. Thus, construction of the proposed project is logical only within the context of completion of the entire levee system (i.e., closure of the pipeline canal).

5. Project Status

Construction of initial levees for the "federal project" (Phase I) was begun in 1971 and was completed by the Corps of Engineers in November, 1973. Upon completion of Phase I, the project was 80% complete and all federal funds were exhausted. Some of this work may currently exist in a deteriorated condition. The second lift levee work was never completed. Gaps in the levee were left at Bayou aux Carpes, the Southern Natural Gas pipeline, and a partial opening at Bayou des Familles.

Phase II of the project was to involve primarily the closure of Bayou aux Carpes, and construction of the pumping station at Bayou aux Carpes. Local interests have completed the closure of the Bayou aux Carpes opening using clam shell fill and this exists in good condition today. The Bayou des Familles opening was also closed at one point, using an earthen fill. This closure, however, has deteriorated to a point which currently allows an exchange of flow. A contract was let by the Parish for the construction of the pumping station and construction materials were moved to the site, although construction has never been initiated.

B. Related Administrative Activities

1. The Marero-Lafitte Waterline

Jefferson Parish applied to the Department of Housing and Urban Development (HUD) for a Community Development Block Grant in the 1970's, for funds to build a waterline from Marero to the Lafitte area, south of Crown Point. Under federal law for such projects, Jefferson Parish was responsible for complying with the National Environmental Policy Act (preparing the Draft and Final EIS). EPA, under Section 309 of the Clean Water Act, was and is required to review such documents and comment in writing on them and on the environmental aspects of the project.

EPA expressed reservations about the project and rated the Draft Environmental Impact Statement (EIS) as inadequate on August 8, 1977. EPA and representatives of the Parish worked thereafter to gain further understanding of the project and to understand each other's concerns and responsibilities. Meetings were held to assist in development of the Final EIS and the Supplement to the Final EIS as well as numerous meetings and discussions after the Supplement had been filed by the Parish.

The EPA reviewed the Supplement to the Final Environmental Impact Statement (EIS) on the proposed Marero-Lafitte Water Line Project and determined the action as proposed in the Final and the Supplement to the Final EIS to be unsatisfactory from the standpoint of environmental policy and environmental quality. As proposed, the water line would originate as a 36-inch diameter

pipe in Marero and terminate approximately 17 miles south near the end of State Highway 45 in Lafitte, as an 18-inch diameter pipe. Its size would be reduced sequentially as it moves south from Marero. The project was proposed to service approximately one-half of the ultimate projected development from the Marero-Estelle Corridor area south, an area of approximately 3,135 acres, and 886 acres south of the V-shaped levee (which forms the northern boundary of the tract which is the subject of the instant Section 404(c) proceeding.

After unprecedented attempts to resolve the issues EPA continued to rate the project and EIS as Environmentally Unsatisfactory. Of prime concern was the protection of the wetland areas. The project as designed would have induced growth and development which would encroach on wetlands, and this secondary growth had the potential to destroy the environmentally sensitive wetlands.

EPA felt that an enforceable wetland protection line was needed to assure compliance with the concepts of Executive Order 11990, "Protection of the Wetlands" and Executive Order 11988, "Floodplain Management." From the information provided, there were not enough assurances that wetland encroachment would have been significantly prevented. The EIS indicated no master land use plan for the project area to restrict such wetland encroachment. Also, numerous Section 404 permits that had been applied for within the project area were considered strong evidence that future development would not be restricted.

Grounds for concern about future development in and near the project area included the following:

1. Interest in extending new construction of State Highway 45 from Bayou Barataria south to and beyond the Lafitte area.
2. A proposed Jefferson Parish shallow water port, which EPA understood to be in the water line service area.
3. Another proposed development west of Bayou Barataria containing residential home sites located on dredged canals in wetlands.

In addition to the known problems associated with induced secondary growth which would result from the introduction of large quantities of available water, EPA found three unfavorable conditions of the EIS which reinforced concern for the project. These were:

1. Population projection inaccuracies
2. Failure to fully delineate the project area
3. Inadequate attention to alternative actions.

EPA found several inaccuracies in the need for such a large water supply system, in particular the area below the V-shaped levee. EPA agreed with the Parish that reasonable growth would occur for the area and that added water supply was needed. EPA did not concur that the population would almost double by the year 2000.

The projections below the V-shaped levee appeared to be very high. This area was designated as Crown Point, Barataria, Jean Lafitte, and Lafitte. The EIS as presented showed a population of 11,100 by the year 2000, an increase of 150% over the 1970 census. On a straight line projection from the year 1930 through the year 2000, one would expect a population of 5,400. This was significantly below the Jefferson Parish estimate in the EIS.

A Corps of Engineers projection of 8,500 for the year 2000 based on flood control protection was available.

A third source of projections was the Jefferson Parish application for an EPA grant for construction of a sewage treatment plant for the subject area. Jefferson Parish projected a population of 7,966 by the year 2000 in this application, in contradiction of the projection in the EIS. EPA's projection of 8,100 people appeared in line with the Parish wastewater treatment planning and also compared favorably with the Corps of Engineers' projection. Therefore, EPA believed that the EIS population projection of 11,100 was too high, and consequently the water line sizing was correspondingly too large.

The EPA's review signaled the need for a complete description of the project area. An impasse was reached whereby we could not resolve our fears for adverse consequences to wetlands due to development induced by the water line, particularly below the V-shaped levee. After several meetings EPA suggested that Jefferson Parish might establish an enforceable wetland protection line which would define those areas designated for development. But most important from EPA's perspective, the line would designate the areas which could not be developed and thus be protective of wetlands. By this mechanism, EPA hoped to be able to avoid final classification of the project and the EIS as unsatisfactory.

EPA requested that an ordinance be developed by the Parish Council which would insure that the wetland protection lines would be enforceable. The Parish submitted an ordinance to protect part of the area to be serviced; however, the Parish expressed the view that it was unwilling to adopt an enforcement mechanism, which if adopted, could be changed by reconsideration by a later Parish Council. This EPA believed would not prevent to a significant amount the encroachment of the wetlands in question.

The issues were ultimately resolved by a written agreement between EPA and Jefferson Parish whereby the areas to be served (and not served) by the waterline was defined. In general, the agreement obligated Jefferson Parish to avoid providing water from the HUD-funded waterline to wetland areas, including the study area involved in the instant CWA 404(c) proceeding.

The written agreement of November 1979 was made a condition of Corps of Engineers Permit LMNOD-SP (Bayou des Familles), issued Jan. 28, 1980 to the Parish to construct the Waterline across Bayou des Familles.

EPA advised HUD on April 14, 1980 that its (EPA's) objections had been resolved.

2. The West Bank Hurricane Protection Levee

EPA Region 6 and the Corps of Engineers, New Orleans District, were involved in discussions of a West Bank Hurricane Protection Levee alignment at least as early as 1979. The objectives were to establish a line which could provide adequate hurricane tidal flood protection and also to protect wetlands.

In April 1979, the Corps sent Region 6 a proposed levee alignment. This alignment was generally agreeable to EPA. In responding to the Corps, however on June 20, 1979, EPA stated, in connection with that part of the levee alignment which would have enclosed the study area which is the subject of the instant 404(c) proceeding:

"Regarding that portion of the proposed alignment commencing with the point last mentioned on the V Levee and going due south, west of Crown Point, around Crown Point and thence east and north along Bayou Barataria, to the Estelle Pump Station Canal, we have the following comments;

- (1) We recommend some provision for continuous interchange of flow across the north-south reach between the V Levee and Crown Point.
- (2) Given that one of the primary aims of the 1976 agreement between our agencies and others was the preservation of the Bayou aux Carpes Swamp, it is not, in our view, environmentally preferable to construct a hurricane levee along Bayou Barataria, when an alternate route with an existing levee base (the V-shaped levee) is available. However, if the cost to the taxpayer is demonstrably less by construction of a hurricane levee atop the existing spoil bank levee along Bayou Barataria, we will not

flatly oppose it, provided it is clearly understood (1) that this levee will be constructed with flood gates in lieu of the existing plugs at Bayous aux Carpes and des Familles, (2) that the Corps of Engineers provide assurances that item (1) will be the case and (3) that some means is identified for assuring that the flood gates will be kept open except in time of flood threat."

The Corps of Engineers prepared a Draft EIS in association with a Section 404 permit application from Jefferson Parish to construct a levee to provide hurricane protection to the communities of Westwego, Marero, and Estelle, Louisiana. On April 26, 1984, EPA notified the Corps that the preferred levee alignment was environmentally unacceptable due to the projected significant adverse impacts to water quality and wetland habitat in an area which would include the Bayou aux Carpes study area [See Appendix]. EPA also objected to the preferred alignment because it would be inconsistent with the Marrero-La Fitte Waterline agreement in that it could induce future development in the Study Area, which coincided with the Bayou aux Carpes study area. On June 20, 1984, the Corps of Engineers denied the Parish request for a permit to construct a levee along the Parish's preferred alignment and issued a permit for another alignment which would not adversely impact the Bayou aux Carpes study area or affect the existing agreement. (emphasis added)

The EPA's dealings with both the La Fitte waterline (discussed in the next preceding section) and the West Bank Hurricane levee demonstrate (1) that EPA favors important public works projects such as water supply and flood protection and (2) that EPA has historically identified the Bayou aux Carpes study area as: 1) a sensitive, valuable wetland worthy of special protective measures; and 2) as an area for which certain restrictions previously have in fact been applied, with results similar to those possible under 404(c) on a specific permit application.

CREPPEL INDEX

- I. 404(c) PROCESS - BAYOU AUX CARPES
 - (1) Resolution # 11,109 by Jefferson Parish Council, 5/4/67
 - (2) Federal Register / Vol. 44, No. 196 / Tuesday, 10/9/79
 - (3) Mailing List
 - (4) Letter: 7/28/82, to Col. Robert C. Lee from Jefferson Parish
 - (5) Letter: 9/8/83, to Harless Benthul from Joseph A. Towers
 - (6) 404(c) Scenario
 - (7) Bayou Aux Carpes - Study Topics
 - (8) Briefing Outline - Creppel v U.S. Army Corps of Engineers
 - (9) Briefing - Creppel v U.S. Army Corps of Engineers (Jefferson Parish), 5/30/84
 - (10) Resolution # 51399 by Jefferson Parish Council, 3/3/84
 - (11) Letter: 10/18/84, to David Dearing from Harless R. Benthul
 - (12) Clean Water Act Section 404(c) Procedures , 40 C.F.R. Part 231
 - (13) Memo: 9/20/84, to Dick Whittington from Harless R. Benthul
 - (14) Memo: 11/1/84, to Allan Hirsch from Matt Schweisberg
 - (15) Map: Bayou Aux Carpes
 - (16) Memo: 12/11/84, to Clinton B. Spotts from Paul Seals
 - (17) Memo: 12/12/84, to Paul Seals from Clinton B. Spotts
 - (18) Letter: 12/17/84, to Colonel Eugene S. Witherspoon from Dick Whittington
 - (19) Letter: 12/17/84, to David E. Dearing from Dick Whittington
 - (20) Letter: 12/27/84, to Lloyd F. Giardina from Harless R. Benthul
 - (21) Letter: 12/31/84, to Gilbert F. Ganuchau from David E. Dearing
 - (22) Letter: 1/11/85, to Ron Bessom from Harless R. Benthul
 - (23) Memo: 1/14/85, to Hubert Vondenstein from Lloyd F. Giardina
 - (24) Letter: 1/15/85, to Joseph LaBlanc from Harless R. Benthul
 - (25) Letter: 1/21/85, to John Volz from Paul Seals

- (26) Letter: 1/21/85, to Buck Barkley from Harless R. Benthul
- (27) Letter: 1/22/85, to Daniel L. Morrow from Harless R. Benthul
- (28) Letter: 1/22/85, to Buck Barkley from Harless R. Benthul
- (29) Letter: 1/29/85, to Harless Benthul from Byrne W. Dyer, III
- (30) Memo: 2/5/85, to Cathy Winer from Harless R. Benthul
- (31) Letter: 2/8/85, to Harless R. Benthul from Ronald R. Besson
- (32) Letter: 2/21/85, to Foster E. Creppel from Dick Whittington
- (33) Letter: 2/21/85, to Robert B. Evans from Dick Whittington
- (34) Letter: 2/21/85, to Louisiana Department of Natural Resources
from Dick Whittington
- (35) Letter: 2/21/85, to Joseph Yenni from Dick Whittington
- (36) Letter: 2/21/85, to Harless Benthul from Daniel L. Morrow
- (37) Letter: 2/21/85, to Harold Molaison from Harless R. Benthul
- (38) Letter: 2/21/85, to Joseph LeBlanc from Harless R. Benthul
- (39) Memo: 3/4/85, to Barbara A. Keeler from Harless R. Benthul
- (40) Letter: 3/12/85, to Dick Whittington from N. Buckner Barkley, Jr.
- (41) Letter: 3/22/85, to Harless R. Benthul from Karl L. Morgan
- (42) Letter: 3/26/85, to Byrne W. Dyer, III from Harless R. Benthul
- (43) Letter: 4/4/85, to Joe LeBlanc from Harless R. Benthul
- (44) Letter: 4/30/85, to Harless R. Benthul from Byrne W. Dyer, III
- (45) Notes: 5/9/85, re Albert D. Harvey, Jr.
- (46) Letter: 5/10/85, to Henry Dart from Dick Whittington
- (47) EPA's Proposed Determination to Prohibit, Deny, or Restrict the
Specification, or the Use for Specification, of an Area as a
Disposal Site; Notice and Public Hearing, 5/10/85
- (48) Letter: 5/10/85, to Robert Graves from Joseph I. Vincent
- (49) Memo: 5/16/85, to FILE from Harless R. Benthul
- (50) Letter: 5/23/85, to Donald Hodel from Joseph E. LeBlanc
- (51) Resolution: Delta Region Preservation Commission, 5/30/85
- (52) EPA ENVIRONMENTAL NEWS , 6/5/85
- (53) Letter: 6/7/85, to EPA from A.J. Planche, Jr.

- (54) Letter: 6/11/85, to Harless R. Benthul from Michael F. Rayle
- (55) Letter: 6/11/85, to Mike Rayle from Harless R. Benthul
- (56) Letter: 6/11/85, to Harless R. Benthul from Joseph E. LeBlanc
- (57) Letter: 6/12/85, to Harless R. Benthul from Joseph E. LeBlanc
- (58) Resolution: 6/13/85 by West Bank Council
- (59) Letter: 6/14/85, to Joe LeBlanc from Harless R. Benthul
- (60) Letter: 6/16/85, to Joe LeBlanc from Harless R. Benthul
- (61) Letter: 6/17/85, to Dick Whittington from Richard J. Hoogland
- (62) Postcard: 6/17/85, to EPA from Ruth Stone
- (63) EPA Notice of Public Meeting, 6/18/85, Gretna, Louisiana
- (64) Remarks by Paul Seals at Public Meeting of 6/18/85
- (65) Statement Presented at EPA Hearing by Orleans Audubon Society, 6/18/85
- (66) Letter: 6/18/85, to "EPA Public Meeting" from Lydia Guillot
- (67) Statement on Behalf of Fund for Animals on Bayou Carpes at Public Hearing on 6/18/85
- (68) Public Hearing Statement of the U.S. Fish and Wildlife Service, 6/18/85
- (69) Oral Presentation of Results of Bayou Aux Carpes Fish and Wildlife Study Presented at Public Hearing 6/18/85
- (70) Public Hearing Statement by Barbara A. Keeler, 6/18/85
- (71) Statement of National Park Service at Public Meeting, 6/18/85
- (72) Letter: 6/18/85, to Public Meeting from Diane Ribando
- (73) Transcript, Public Hearing, 6/18/85
- (74) Qualifications of David Williams, Delbert Hicks, Tom Cavinder, Dr. Thomas Michot and James Isenogle
- (75) Letter: 6/18/85, to EPA from William S. "Corky" Perret
- (76) Letter: 6/18/85, to EPA from Joseph I. Vincent
- (77) Letter: 6/19/85, to Paul Seals, from Peter H. Graber
- (78) Letter: 6/20/85, to Dick Whittington from Joseph I. Vincent
- (79) Letter: 6/21/85, to EPA from Bill Hemeter, M.D.
- (80) Letter: 6/24/85, to Michael F. Rayle from Harless R. Benthul

- (81) Letter: 6/24/85, to EPA from Joseph I. Vincent
- (82) Postcard: 6/24/85, from (author's name not shown)
- (83) Letter: 6/24/85, to Joe LeBlanc from Harless R. Benthul
- (84) Letter: 6/24/85, to Dan Morrow from Harless R. Benthul
- (85) Postcard: (undated) from Rosemary Gaudet
- (86) Postcard: (undated) from J.C. Pisano
- (87) Postcard: (undated) from Raymond & Darlene Rodrigue
- (88) Postcard: (undated) from David & Cindy Fremont
- (89) Letter: 6/24/85, to Barbara Keeler from Barry Kohl
- (90) Letter: 6/25/85, to EPA from Mary G. Curry
- (91) Letter: 6/25/85, to Henry Dart from Harless R. Benthul
- (92) Postcard: 6/26/85, to EPA from Adrian H. Bulot, Jr.
- (93) Postcard: (undated) from Sandra Goss
- (94) Postcard: (undated) from Joseph C. Sellen
- (95) Postcard: (undated) from Joe Dimarco
- (96) Postcards from Various Concerned Citizens
- (97) Letter: 6/26/85, to EPA from Brenda Evans
- (98) Letter: 6/28/85, to Whittington from Maurice "Chip" Anderson II
- (99) Postcard: 6/29/85, from Jimmy & Linda Lossaire
- (100) Postcard: 7/1/85, from Charles Laborie
- (101) Postcard: (undated), to EPA from Edward Corvillin
- (102) Letter: 7/2/85, to EPA from Mike W. Olinde
- (103) Letter: 7/2/85, to N. Buckner Barkley, Jr. from Harless R. Benthul
- (104) Letter: 7/3/85, to EPA from Laura Loomis
- (104) Letter: 7/4/85, to EPA from David A. White
- (106) EPA's Proposed Determination to Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Extension of Time, 7/9/85

- (107) Record of Communication: 7/10/85, to Barbara Keeler from
Mike Rayle
- (108) Letter: 7/11/85, to Dick Whittington from Daniel L. Morrow
- (109) Letter: 7/12/85, to Dick Whittington from John M. Green
- (110) Letter: 7/12/85, to Harless Benthul from Daniel L. Morrow
- (111) Letter: 7/16/85, to EPA from Terry Aliff
- (112) Letter: 7/19/85, to EPA from Karl L. Morgan
- (113) Letter: 7/23/85, to EPA from Fred Langemann
- (114) Letter: 7/24/85 from Clarisse White
- (115) Bayou Aux Carpes Area Citizen Concerns: Summary of Events
Sent to EPA
- (116) Letter: 7/27/85, to EPA from Sevilla Finley
- (117) Letter: 7/30/85, to Daniel L. Morrow from Paul Seals
- (118) Letter: 8/2/85, to EPA from Patricia A. Goodwin
- (119) Letter: 8/2/85, to EPA from Dr. Rev. L. Denhardt
- (120) Letter: 8/7/85, to EPA from Gerald Puderer
- (121) Letter: 8/7/85, to Daniel L. Morrow from Harless R. Benthul
- (122) Letter: 8/7/85, to Dick Whittington from Robert L. Kerr
- (123) Memo: 8/8/85, to "The File" from Harless R. Benthul
- (124) Copy of Deed concerning portion "C" of Peach Orchard Plantation
- (125) Letter: 8/13/85, to EPA from Kelly E. Rogge
- (126) Letter: 8/15/85, to EPA from Eugene S. Witherspoon
- (127) Letter: 8/19/85, to EPA from Daniel L. Morrow
- (128) Letter: 8/19/85, to EPA from Joseph E. LeBlanc, Jr.

II. PHOTO INTERPRETATION - BAYOU AUX CARPES

- (1) Memo: 1/25/85, to Donald T. Wruble from Clinton B. Spotts
- (2) Memo: 6/19/85, to Barbara Keeler from Timothy W. Foresman

III. BAYOU AUX CARPES - PROPOSED DETERMINATION, INITIAL NOTICE, HEARING NOTICE

- (1) Bayou Aux Carpes 404(c) Mailing List, April 1985
- (2) Memo: 4/22/85, to Paul Seals from Clinton B. Spotts
- (3) Memo: 5/9/85, to Thea McManus from Clinton B. Spotts
- (4) Memo: 5/9/85, to Russell F. Rhoades from Clinton B. Spotts
- (5) Federal Register / Vol. 50, No. 96 / Friday, 5/17/85
- (6) Public Meeting Notice for 6/18/85
- (7) Court Reporter Check List for 6/18/85
- (8) EPA's Proposed Determination to Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Notice and Public Hearing

IV. FWS HEP - BAYOU AUX CARPES

- (1) Dave Fruge' - HEP, Scope of Service - James W. Pulliam, Jr. Reimbursable Account, 10/23
- (2) Memo: 11/5/84, to Field Supervisor, ES, FWS, from Thomas C. Michot
- (3) Memo: 3/14/85, to Barbara Keeler from Tommy
- (4) Letter: 3/14/85, to Norm Thomas from David B. Allen
- (5) Memo: 5/7/85, to Barbara Keeler from Tommy Michot
- (6) Letter: 6/18/85, to Clinton B. Spotts from David W. Fruge

V. ATHENS REPORT

- (1) Resume: Delbert B. Hicks
- (2) A Hydrological, Chemical, and Biological Assessment of Bayou Aux Carpes by EPA, 1/13/85
- (3) Letter: 4/19, to Barbara from Del

VI. ATHENS FIELD WORK

- (1) Memo: 3/31/76, to John C. White from L.B. Tebo, Jr., Delbert B. Hicks, Thomas R. Cavinder and Victor W. Lambou
- (2) Memo for the Record: 10/29/84, from S. Hawes
- (3) Memo: 12/5/84, to Howard D. Zeller from Dick Whittington
- (4) Study Plan: Bayou Aux Carpes, 1/14-22/85 by EPA
- (5) Surface Weather Observations for period 1/15/85 - 1/22/85
- (6) Memo: 1/30/85, to Barbara Keeler from Hoke S. Howard

VII. FIELD WORK - BAYOU AUX CARPES SWAMP

- (1) 1983 Report on Bayou Aux Carpes Wetland
- (2) Photographs of Bayou Aux Carpes study area and Jean Lafitte National Park, 10/84 by Barbara A. Keeler
- (3) Letter: 10/3/84, to Judy Moulliet from Clinton B. Spotts
- (4) Agreement for Hire of Aircraft with Pilot, 10/8/84 by Oscar Ramirez
- (5) Memo: 10/19/84, to John Meagher from Clinton B. Spotts
- (6) Memo: 10/22/84, to Mac Holman from Norm Thomas
- (7) Memo: (undated/handwritten) to Barbara Keeler from Linda Lee Kirkland
- (8) Letter: 11/13/84, to Harless Benthul from Joseph A. Towers
- (9) Memo: 12/5/84, to Howard D. Zeller from Dick Whittington
- (10) Memo: 12/10/84, to Josephine S. Cooper from Dick Whittington
- (11) Record of Communication: 12/17/84, to Barbara Keeler from Clinton Spotts
- (12) Letter: 1/11/85, to Ron Bessom from Harless R. Benthul
- (13) Study Plan, Bayou Aux Carpes, 1/14-22/85 by EPA
- (14) Letter: 1/14/85, to Peter Russo from Harless R. Benthul
- (15) Letter: 1/15/85, to Joseph LaBlanc from Harless R. Benthul
- (16) Order: 1/16/85, by Judge Lansing L. Mitchell
- (17) Letter: 1/22/85, to Daniel L. Morrow from Harless R. Benthul

- (18) Letter: 1/22/85, to Buck Barkley from Harless R. Benthul
- (19) Letter: 1/30/85, to National Weather Service from
Clinton B. Spotts
- (20) Letter: 2/8/85, to Harless R. Benthul from Ronald R. Besson
- (21) Memo: 3/4/85, to Barbara A. Keeler from Harless R. Benthul

VIII. JEAN LAFITTE NATIONAL PARK

- (1) A Study of the Effects of the Proposed Leveeing and Drainage of the Bayou Aux Carpes Swamp on the Adjacent Barataria Unit, Jean LaFitte National Historical Park, 11/5/84, by John W. Day, Jr.
- (2) Letter: 10/30/84, to Barbara Keeler from James L. Isenogle

IX. COORDINATION

- (1) Travel Authorization: 9/13/84, for Barbara A. Keeler
- (2) Travel Authorization: 10/3/84, for Barbara A. Keeler
- (3) Travel Authorization: 10/18/84, for Barbara A. Keeler
- (4) Letter: 10/18/84, to Elizabeth Griffin from Harless R. Benthul
- (5) Travel Authorization: 11/15/84, for Barbara A. Keeler
- (6) Travel Authorization: 1/8/85, for Barbara A. Keeler
- (7) Travel Authorization: 3/4/85, for Barbara A. Keeler
- (8) Travel Authorization: 3/11/85, for Barbara A. Keeler
- (9) Travel Authorization: 3/24/85, for Barbara A. Keeler
- (10) Travel Authorization: 3/27/85, for Barbara A. Keeler
- (11) Federal Activities Branch Technical Assistance Section
Weekly Activities Report, 5/27-31/85
- (12) Letter: 10/22/84, to Dennis B. Jordan from Clinton B. Spotts

X. BAYOU AUX CARPES - MISCELLANEOUS

- (1) Agreement, LaRose-LaFitte Highway (undated/unsigned)
- (2) Review of Reports: Harvey Canal - Bayou Barataria Levee, 9/20/63
by U.S. Army Corps of Engineers
- (3) Land Subsidence Problems and Maintenance Costs to Homeowners in
East New Orleans, Louisiana (A Report to Homeowners), 10/75 by
Daniel Earle, Louisiana State University
- (4) Joint Stipulation of Facts, Twenty Fourth Judicial District
Court, Parish of Jefferson (undated/unsigned)

XI. GENERAL REFERENCES

- (1) Proceedings: U.S. Fish and Wildlife Service Workshop on Coastal Ecosystems of the Southeastern United States (a Compilation of Seminars, Discussions, Papers and Biological Summaries Presented at Big Pine Key, Florida 2/18-22/1980)

XII. REGION IV MATERIAL

- (1) EPA Notice of Proposed Determination (Notice No. III-404 CRP-BKW), 9/1/83
- (2) Hydrographic and Biological Studies (by EPA), Norden Project, Mobile, Alabama, 10/4 - 8/83
- (3) Memo: 1/13/84, to William D. Ruckelshaus from Regional Administrator, Region IV
- (4) Letter: 4/18/84, to Jack Maybank from Charles R. Jeter
- (5) Reeves Project: A Study of the Intertidal Marshes and Streams, 5/84
- (6) Final Determination of the Administrator Concerning M. A. Norden Site Pursuant to Section 404(c) of the Clean Water Act, 6/15/84
- (7) Letter: 7/21/84, to Martin A. Norden from Allan Hirsch
- (8) EPA Notice of Proposed Determination (Notice No. IV-404003-HLM), 7/26/84

XIII. COURT ORDERS - BAYOU AUX CARPES

- (1) Application for Writs of Certiorari, Prohibition, and Mandamus directed to Hon. Thomas C. Wicker, Judge, 24th Judicial District Court, 10/31/77, Creppel, ET AL v The Parish of Jefferson, ET AL
- (2) Judgment, Creppel v The Parish of Jefferson, 1/12/79
- (3) Order, Creppel v The Parish of Jefferson, 8/8/80
- (4) Creppel v U.S. Army Corps of Engineers, 500 F. Supp.1108, 8/8/80
- (5) Creppel v U.S. Army Corps of Engineers, 670 F.2d.564, 3/17/82
- (6) Cross Motions for Summary Judgment, Creppel v U.S. Army Corps of Engineers, 8/13/84
- (7) Order, Creppel v U.S. Army Corps of Engineers, 12/14/84
- (8) Order, Creppel v U.S. Army Corps of Engineers, 1/16/85
- (9) Minute Entry, Creppel v U.S. Army Corps of Engineers, 6/20/85
- (10) Letter: 11/23/84, to Joseph E. LeBlanc, Jr. from David E. Dearing
- (11) Motion and Order for Expedited Hearing, Creppel v U.S. Army Corps of Engineers, 6/18/85

XIV. CREPEL V CORPS OF ENGINEERS, et al., ATTACHMENTS

- (1) Deed - Harvey Canal/Bayou Baratavia Levee
- (2) Memo: 10/18/74, to Division Engineer, Lower Mississippi Valley, from J. B. Steen
- (3) Memo: 11/16/76, to Division Engineer, Lower Mississippi Valley, from Drake Wilson
- (4) Letter: 4/25/75, to Col. E.R. Heiberg III from George J. Putnicki
- (5) Letter: 9/13/77, to Hon. Lindy Boggs, Hon. J. Bennett Johnston, and Hon. Russell Long from Daniel L. Morrow
- (6) Petition: 9/9/77, from residents, fishermen and trappers of
- (7) Letter: 10/10/77, to Daniel L. Morrow from J. Bennett Johnston
- (8) Letter: 10/13/77 to Daniel L. Morrow from Sen. Russell Long
- (9) Photographs taken in 1980 in the vicinity of Crown Point, in or near the project area
- (10) Letter: 6/16/82, to Joseph Yenni from Robert C. Lee
- (11) Letter: 7/28/82, to Col. Robert C. Lee from Robert B. Evans
- (12) Letter: 10/27/82, to Col. Robert C. Lee from Harold L. Molaison
- (13) Memo: 11/3/82, to U.S. Army Corps of Engineers, New Orleans District, from Jacques J. Creppel, Karen L. Knight, Kathleen C. Carter, Foster E. Creppel, Daniel L. Morrow, Robert Pitre, Robert Pitre, Jr., William Pitre, Dr. Irvin Goldman, Dr. Bernard Goldman, Dr. William Mosby, Dr. B.R. Eubanks, Dr. Robert Fleming
- (14) Letter: 11/3/82, to Col. Robert C. Lee from Joseph E. LaBlanc, Jr.
- (15) Letter: 11/12/82, to Dick Whittington from Col. Robert C. Lee
- (16) 1983 Report on Bayou aux Carpes Westlands by L.F. Baehr, Jr.
- (17) Disposition Form, 1/18/83 to C/Permits Section from Ofc of Counsel
- (18) Map: Harvey Canal - Bayou Baratavia Levee, LA (Undated)
- (19) Letter: 2/4/83, to Col. Robert C. Lee from Dick Whittington
- (20) Memo: 2/25/83, to District Counsel from C/Plng Div
- (21) Memo: 4/1/83, to Ofc of Counsel from C/Engr Div
- (22) Supplemental Status Report Requirement, Jacques J. Creppel, et al. v United States Army Corps of Engineers, et al.
- (23) Order, 6/29/83, U.S.A. vs Parish of St. Bernard, et al., U.S.A. vs Parish of Jefferson, et al.

XV. NEPA 6 - LAFITTE WATERLINE #1 of 3

- (1) Newspaper Article - 8/20/74
- (2) Corporate Information - Bayou des Familles Development Corporation
- (3) Memo: 1/26/76, to Russell E. Train from John C. White
- (4) Memo: 3/31/76, to John C. White from L.B. Tebo, Jr.,
Delbert B. Hicks, Thomas R. Cavinder, Victor W. Lambou
- (5) Letter: 10/14/76, to Col. Early J. Rush, III and Harry Lee
from J. Ross Vincent
- (6) Map (undated) of Study Area
- (7) Letter (undated) to Hon. Patricia R. Harris from Douglas M. Costle
- (8) Letter (undated) to Hon. Charles Warren from Douglas M. Costle
- (9) Letter (undated) to Thomas J. Armstrong from Adlene Harrison
- (10) Letter (undated) to Lindy Boggs from Moise S. Steeg, Jr.
- (11) Principles - Bayou Des Familles Corp.
- (12) Memo: 5/4/77, to Douglas M. Costle from Adlene Harrison
- (13) Letter: 11/7/77, to Col. Early J. Rush III from Harry Lee
- (14) Newspaper Article: 4/4/78, New Orleans Times-Picayune
- (15) Memo: 5/17/78, to Clinton Spotts, Peter Dunsavage, Harless Benthul
from Ed Risham
- (16) Minutes: Jeff Parish Water Line Meeting of 5/23/78
- (17) Memo: 6/23/78, to Adlene Harrison from Harless Benthul
- (18) Report on Analysis of Proposed Jefferson Parish Louisiana
Marrero to LaFitte Water Supply Line, 8/23/78
- (19) Memo: (undated), to Harless Benthul from Robert B. Elliott
- (20) Memo: 7/21/78, to Adlene Harrison from Harless Benthul
- (21) Memo: 8/31/78, to Ed Grisham from Harless R. Benthul
- (22) Letter: 8/31/78, to Douglas Allen from Adlene Harrison
- (23) Newspaper Article (date/name of newspaper not legible)
- (24) Letter: 10/2/78, to Hon. Patricia R. Harris from Adlene Harrison

- (25) Letter: 10/2/78, to Hon. Charles Warren from Adlene Harrison
- (26) Letter: 10/2/78, to Douglas A. Allen from Adlene Harrison
- (27) Letter: 10/6/78, to Lee from ???
- (28) Newspaper Articles: 12/12/78, The States Item/The Times-Picayune
- (29) Newspaper Article: 12/16/78, New Orleans States-Item
- (30) Findings of Fact: 12/22/78, U.S. v Fleming Plantations, et al,
- (31) Memo: 2/1/79, to Adlene Harrison from Harless Benthul
- (32) Letter: 2/5/79, to Harless Benthul from Patrick Rankin
- (33) Letter: 3/9/79, to Harless Benthul from Harry Lee
- (34) Letter: 3/21/79, to "Lee & Russo" from ???
- (35) Memo: 3/26/79, to William Hedeman, Jr. from Adlene Harrison
- (36) Memo: 3/30/79, to Al Erickson from Harless Benthul
- (37) Memo: 4/2/79, to Adlene Harrison from Harless A. Benthul
- (38) Letter: 4/13/79, to Jimmy Lawson from Harless R. Benthul
- (39) Letter: 3/28/79, to Harry Lee from Harless R. Benthul
- (40) Memo: (undated), to Marshall Kaplan from Harless Benthul
CA Nos. 78-2110, 78-3111
- (41) Public Notice: 4/27/79, Bayou Des Familles
- (42) Newspaper Article: 5/2/79, The States-Item
- (43) Letter: 5/7/79, to Harless R. Benthul from Lloyd A. Hymel
- (44) Letter: 7/5/79, to Adlene Harrison from Harvey H. Loumiet, Jr.
- (45) Record of Communication: 8/3/79 to "Pat" from Sid Rosenthal
- (46) Letter: 9/17/79, to James J. Donelon from Col. Thomas A. Sands
- (47) Letter: 10/25/79, to Harless R. Benthul from Dolores H. Gonzales
- (48) Memorandum of Agreement: 11/30/79
- (49) Letter: 12/28/79, to Adlene Harrison from Col. Thomas A. Sands
- (50) Letter: 1/28/80, to Jefferson Parish Department of Public
Utilities from Col. Thomas A. Sands

- (51) Letter: 4/14/80, to Thomas J. Armstrong from Adlene Harrison
- (52) Newspaper Article: 1/25/80, Times-Picayune
- (53) Letter: 4/18/80, to Col. Sands from James L. Isenogle
- (54) Letter: 5/27/80, to J. Eugene Martin from Peter J. Russo
- (55) Agenda: 5/28/80 for "Tassin"
- (56) Letter: 11/20/80, to Robert B. Evans from Col. Thomas A. Sands
- (57) Brief History Outline: 6/7/77 thru 1/28/80
- (58) Letter: 2/22/85, to Col. Eugene S. Witherspoon from David W. Fruge

XVI. NEPA 6 - JEFFERSON PARISH WEST (Bank Hurricane Levee)

- (1) Letter: 6/20/79, to Col. Thomas A. Sands from Adlene Harrison
- (2) Memorandum of Agreement, 11/30/79
- (3) Letter: 12/28/79, to Adlene Harrison from Col. Thomas A. Sands
- (4) Letter: 1/28/80, to Jefferson Parish Dept. of Public Utilities
from Thomas A. Sands
- (5) Letter: 1/14/80, to Charles W. Decker from Peter J. Russo
- (6) Letter: 11/20/80, to Robert B. Evans from Thomas A. Sands
- (7) Application for a Department of the Army Permit, 7/1/81
- (8) Copy of *Buttrey v United States*, 690 F.2d 1170 (1982)
- (9) Barataria Unit (Park Protection Zone), Rationale and Priorities
for Protection
- (10) Environmental Impact of the Action/Adequacy of the Impact Statement
- (11) Maps of Study Area
- (12) Fact Sheet: EPA and the Marrero-LaFitte Waterline Project
- (13) Summary: Draft Environmental Impact Statement
- (14) Purpose of the Park and Resources to be Protected
- (15) Guidelines for Development and Use of Properties in the Park
Protection Zone of the Barataria Unit

- (16) Comparison of Alternatives D & B
- (17) Worksheet and Map: Marrero-LaFitte Service Area
- (18) Delta Region Preservation Commission Meeting Minutes, 4/27/83
- (19) Draft - Environmental Impact Statement, West Bank, Hurricane Protection Levee, Jefferson Parish, Louisiana, 2/84
- (20) Special Public Notice, 3/12/84
- (21) Letter: 3/22/84, to Dept. of the Army from Joseph I. Vincent
- (22) Letter: 4/26/84, to Col. Robert C. Lee from Dick Whittington

XVII. HARVEY CANAL - BAYOU AUX CARPES

- (1) Letter: 9/13/62, to District Engineer, U.S. Army, Corps of Engineers, from John D. Findlay
- (2) Letter: 11/27/62, to Robert E. Lines from L.D. Young, Jr.
- (3) Letter: 11/29/62, to District Engineer, U.S. Army Corps of Engineers, from John D. Findlay
- (4) Letter: 7/12/63, to Director, Department of Public Works, State of Louisiana, from Edward R. Jennings
- (5) Letter: 8/13/63, to Jefferson Parish Council from Claude Kirkpatrick
- (6) Resolution No. 5515, 8/15/63, by Jefferson Parish Council
- (7) Letter: 2/19/64, to M.D. Hogan from Edward B. Jennings
- (8) Range Values - 5/72 to 12/72
- (9) Resolution No. 22620, 10/4/73, Jefferson Parish Council
- (10) Resolution No. 23227, 2/7/74, Jefferson Parish Council
- (11) Public Notice: 3/7/74, by U.S. Army Corps of Engineers
- (12) Letter: 9/10/74, to Col. E.R. Heiberg, III from Barry Kohl
- (13) Letter: 9/18/74, to Barry Kohl from James J. Doyle
- (14) Announcement of Public Hearing: 12/2/74, U.S. Army Corps of Engineers
- (15) Letter: 12/20/74, to Major General John W. Morris from Michael Osborne

- (16) Letter: (Draft), 12/24/74, to District Engineer, U.S. Army Corps of Engineers, from "Regional Director"
- (17) Letter: 12/26/74, to James T. Doyle from Barry Kohl
- (18) Letter: 12/27/74, to Walt Simmons from David W. Fruge
- (19) Newspaper Clipping: 12/31/74
- (20) Data on Water Quality, Soil Chemistry and Biota
- (21) Newspaper Clipping: 1/1/75, New Orleans Daily
- (22) Newspaper Clipping: 1/1/75, Times-Picayune
- (23) Newspaper Clipping: 1/6/75, States-Item
- (24) Record of Communication: 1/6/75, to Dunsavage from Barry Kohl
- (25) Newspaper Clipping: 1/7/75, Times-Picayune
- (26) Newspaper Clipping: 1/7/75, States-Item
- (27) Newspaper Clipping: 1/8/75, States-Item
- (28) Newspaper Clipping: 1/8/75, Times-Picayune
- (29) Comments by Orleans Audubon Society on Public Hearing held 1/7/85
- (30) Letter: 1/10/75, to Barry Kohl from James J. Doyle
- (31) Letter: 1/20/75, to EPA from Sidney Rosenthal, Jr.
- (32) Letter: 2/3/75, to Barry Kohl from James J. Doyle
- (33) Speed Message: 1/22/75, to Ralph Corley from H. Benthul
- (34) Letter: 2/5/75, to District Engineer, U.S. Army Corps of Engineers, from Philip S. Morgan
- (35) Statement of Findings: 3/75, Harvey Canal
- (36) Letter: (Undated), to Sidney Rosenthal, Jr. from James J. Doyle
- (37) Letter: 3/19/75, to Arthur W. Busch from E.R. Heiberg, III
- (38) Letter: 3/21/75, to Jefferson Parish Council from James B. Graham, Jr.
- (39) Record of Communications: 4/14/75, to Walt Simmons from Barry Kohl
- (40) Letter: 4/17/75, to Col. E.R. Heiberg, III from Thomas B. Shriver

- (41) Letter: 4/25/75, to Southbond Contractors from R.L. Condon
- (42) Letter: 4/25/75, to Col. E.R. Heiberg, III from George J. Putnicki
- (43) Newspaper Clipping: 5/9/75, Times-Picayune
- (44) Memo: (Undated) to James J. Doyle from Robert B. Elliott
- (45) Memo: (Undated) to John C. White from James J. Doyle
- (46) Newspaper Clipping: 5/15/75, Times-Picayune
- (47) Letter: 5/19/75, to Hon. Russell B. Long, Hon. J. Bennett Johnson, Hon. Lindy Boggs from Harold L. Molaison
- (48) Letter: 6/6/75, to Arthur W. Busch from Hon. J. Bennett Johnston and Hon. Russell B. Long
- (49) Letter: 6/19/75, to Jefferson Parish from Walter B. Stuart, IV
- (50) Agenda: 6/24/75, Environmental Regulation of the Lower Mississippi
- (51) List of Attendees: Meeting at Middle South Services 6/24/75
- (52) Record of Communication: 7/7/75, to O.W. Lively from Col. Heiberg
- (53) Memo: 7/8/75, to Robert B. Elliott from David N. Peters
- (54) Letter: 7/10/75, to Hon. Russell B. Long from John C. White
- (55) Letter: 7/10/75, to Hon. J. Bennett Johnston from John C. White
- (56) Letter: 7/14/75, to Col. E.R. Heiberg, III from Hon. Russell B. Long and Hon. J. Bennett Johnston
- (57) Resolution No. 26024, 7/17/75, Jefferson Parish Council
- (58) Letter: 7/21/75, to John C. White from Harold L. Molaison
- (59) Telegram: 7/22/75, to John C. White from Harry D. Collins
- (60) Notes for File: 7/28/75, Max Reed
- (61) Telegram: 8/4/75, to Harry D. Collins from Lynn A. Greenwalt
- (62) Letter: 8/5/75, to John C. White from E.R. Heiberg, III
- (63) Memo: 8/28/75, to O.W. Lively from R.W. Simmons
- (64) Record of Communication: 9/2/75, to R.W. Simmons from Walter Stuart
- (65) Letter: (Undated), to District Engineer, Corps of Engineers, from John C. White
River

- (66) Letter: 9/5/75, to Col. Early J. Rush, III from John C. White
- (67) Letter: 9/10/75, to Hon. J. Bennett Johnston from John C. White
- (68) Letter: (Undated) to Hon. Russell B. Long from John C. White
- (69) Letter: 9/10/75, to Hon. Russell B. Long from John C. White
- (70) Letter (Draft): (Undated), to Governor Edwards from Russell E. Train
- (71) Letter: 10/30/75, to Sheldon Meyers from Kenneth E. McIntyre
- (72) Note: 11/4/75, to Clint Spotts from Peter Smith
- (73) Letter: 11/12/75, to Harold L. Molaison from Frederic M. Chatry
- (74) Letter: 11/17/75, to Hon. Russell B. Long, Hon. J. Bennett Johnston,
Hon. F. Edward Hebert, Hon. Corinne Boggs, Hon. David C. Treen
from Harold L. Molaison
- (75) Letter: 11/17/75, to Hon. Edwin W. Edwards from Harold L. Molaison
- (76) Letter: 11/17/75, to Hon. Russell B. Long, Hon. J. Bennett Johnston,
Hon. F. Edward Hebert, Hon. Corinne Boggs, Hon. David C. Treen
from Harold L. Molaison
- (77) Letter: 11/17/75, to Hon. Edwin Edwards from Harold L. Molaison
- (78) Memo: (Undated), to Peter Smith from John C. White
- (79) Letter: 11/24/75, to Sheldon Meyers from Sidney Rosenthal, Jr.
- (80) Letter: 12/2/75, to Brig. Gen. Kenneth E. McIntyre from
Rebecca W. Hanmer
- (81) Resolution No. 26761: 12/4/75, Jefferson Parish Council
- (82) Letter: 12/4/75, to Russell E. Train from Hon. Edwin Edwards
- (83) Letter: 12/9/75, to Sheldon Meyers from Sidney Rosenthal, Jr.
- (84) Letter: 12/17/75, to Russell E. Train from Lindy Boggs
- (85) Memo: 12/23/75, to "The Administrator" from Rebecca W. Hanmer
- (86) Memo: 12/30/75, to Thomas P. Harrison from Robert B. Elliott
- (87) Memo: (Undated Draft) to "The Administrator" from
Rebecca W. Hanmer
- (88) "Productivity and Nutrient Export Studies in a Cypress Swamp,
Fresh Water Marsh, and Lake System in Louisiana" by
John W. Day, Jr., Thomas J. Butler and William H. Conner
- (89) Harvey-Canal Bayou Barataria Levee Report
- (90) Letter: 1/6/76, to Governor Edwards from Russell E. Train

- (91) Newspaper Clipping: 1/9/76, Times-Picayune
- (92) Newspaper Clipping: 1/10/76, Times-Picayune
- (93) Newspaper Clipping: 1/11/76 (name of Newspaper not shown)
- (94) Map of Estelle Estates and Golf Club
- (95) Newspaper Clipping: (Date and name of Newspaper not shown)
- (96) Newspaper Clipping: (Date and name of Newspaper not shown)
- (97) Plaintiff's Petition for Breach of Contract (Southbend Contractors, Inc. v Jefferson Parish, et al.) filed 1/13/76
- (98) Newspaper Clipping: 1/13/76, Times-Picayune
- (99) Newspaper Clipping: 1/14/76 (name of Newspaper not shown)
- (100) Resolution No. 26979, 1/15/76 by Jefferson Parish Council
- (101) Letter: 1/22/76, to "Lindy" from Russell E. Train
- (102) Newspaper Clipping: 1/23/76, Times-Picayune
- (103) Letter: 1/23/76, to Frederic M. Chattry from Peter M. Dunsavage
- (104) Memo: 1/26/76, to Russell E. Train from John C. White
- (105) Letter: 1/29/76, to Hon. Edwin W. Edwards from Harold L. Molaison
- (106) Note (handwritten): 2/2/76, to "M.H." from "Jean"
- (107) Note (handwritten): 2/3/76, to "Pete" from "R.B.E."
- (108) Letter: 2/4/76, to Russell E. Train from Gov. Edwin Edwards
- (109) List of Attendees at Meeting of 2/17/76
- (110) Memo: 2/20/76, to Dr. Wilson Talley from John C. White
- (111) Memo: 2/25/76, to John C. White from "The Administrator"
- (112) Letter: 2/26/76, to Rebecca Hanmer from Kenneth E. McIntyre
- (113) Record of Communication: 2/27/76, to Ken Kirkpatrick from Don Wruble
- (114) Memo (handwritten): 3/2/76, to Peter Dunsavage from ??? Smith
- (115) Letter: 3/2/76, to Gov. Edwards from Russell E. Train

- (116) Letter: 3/3/76, to Russell Train from Senator J. Bennet Johnston
- (117) Letter: 3/11/76, to Col. Early J. Rush, III from Crayton Lankford
- (118) Memo (Draft/Undated): to "The Administrator" from Rebecca Hanmer
- (119) Letter: 3/11/76, to Col. Early J. Rush, III from Crayton Lankford
- (120) Letter: 3/11/76, to Brig. Gen. Kenneth E. McIntyre from
Rebecca Hanmer
- (121) Record of Communication: 3/18/76, to John Baumeister from
Peter Dunsavage
- (122) Record of Communication: 3/18/76, to Peter Dunsavage from Bob Hunter
- (123) Record of Communication: 4/5/76, to Peter Dunsavage from Bob Hunter
- (124) Record of Communication: 4/9/76, to Pete Dunsavage from Becky Hanmer
- (125) Letter: 3/31/76, to Kenneth E. Black from Col. Early J. Rush, III
- (126) Memo: 3/31/76, to John C. White from L.B. Tebo, Delbert B. Hicks,
Thomas R. Cavinder, Victor W. Lambou
- (127) Memo: 4/8/76, to Rebecca W. Hanmer from John C. White
- (128) Letter: 4/12/76, to Col. Early J. Rush, III from John C. White
- (129) Letter: (undated) to Hon. Lindy Boggs from Rebecca W. Hanmer
- (130) Letter: 4/15/76, to President Gerald R. Ford from Harold L. Molaison
- (131) Record of Communication: 4/17, to Thomas Shriver from
Maj. Wheeler Summerford
- (132) List of Attendees: EPA/Corps Conference, 4/21/76
- (133) Memo: 4/22/76, to John C. White from Diana Dutton
- (134) Letter: 4/26/85, to Rebecca W. Hanmer from Harold L. Molaison
- (135) Issue Paper (undated)
- (136) Letter: (Draft/Undated), to Molaison from George W. Humphreys'
- (137) Letter: 5/4/76, to Russell E. Train from Gov. Edwin Edwards
- (138) Letter: 5/5/76, to Russell E. Train from Frank J. Deemer
- (139) Memo: 5/12/76, to DA, Lower Mississippi Valley Division, Corps
of Engineers, from Col. Gerald E. Galloway
- (140) Letter: 5/27/76, to Hon. Edwin Edwards from Rebecca W. Hanmer

- (141) Letter: 5/28/76, to John C. White from Col. Early J. Rush, III
- (142) Report: Assessment of Impacts on Water Quality Resulting from Dredging (Undated)
- (143) Letter: 6/2/76, to George W. Humphreys from Harold L. Molaison
- (144) Letter: 6/7/76, to Col. Early J. Rush III from John C. White
- (145) Petition: 6/21/76, Crown Point, Louisiana
- (146) Section 404 Federal Water Pollution Control Act Amendments of 1972: Revised Statement of Findings, 6/30/76
- (147) Letter: 7/7/76, to Brig. Gen. Drake Wilson from Clem B. Binnings
- (148) Letter: 7/9/76, to Mr. & Mrs. Everette Archille from Col. Early J. Rush, III
- (149) Newspaper Clipping: 8/6/76, Times-Picayune
- (150) Letter: 8/21/76, to Russell Train from Warren P. Lavelle
- (151) Letter: 8/27/76, to Rebecca W. Hanmer from Brig. Gen. Drake Wilson
- (152) Memo: 9/2/76, to John C. White from Rebecca W. Hanmer
- (153) Letter: 9/8/76, to Gerald Gallinghouse from Diane Ribando
- (154) Letter: 9/14/76, to John C. White from Diane Ribando
- (155) Memo: 9/16/76, to Rebecca Hanmer from John C. White
- (156) Letter: 9/16/76, to "The President" from Diane Ribando
- (157) Letter: 9/20/76, to Gerald Gallinghouse from Diane Ribando
- (158) Record of Communication: 9/27/76, to Peter Dunsavage from Barry Kohl
- (159) Letter: 9/29/76, to Warren P. Lavelle from John C. White
- (160) Letter: 10/5/76, to Hon. Martin R. Hoffman/Russell E. Train from Patrick F.J. Macrory/M. Jean Anderson
- (161) Newspaper Clipping: 11/10/76, Times-Picayune
- (162) Statement of Revised Statement of Findings, 11/16/76
- (163) Letter: 12/16/76, to Dept. of the Army from Joseph E. LeBlanc, Jr.
- (164) Newspaper Clipping: (Undated, name of Newspaper not shown)
- (165) Newspaper Clipping: 4/27/77, West Bank Guide

- (166) "A Few Comments and Suggestions on the Role of the Department of Environment & Control in Shaping the Future of Jefferson Parish", 5/13/77
- (167) Newspaper Clipping: 5/18/77, Name of Newspaper not shown
- (168) Letter: 6/13/77, to Jim Hennessey from Col. Early J. Rush, III.
- (169) Newspaper Clipping: 6/22/77, Name of Newspaper not shown
- (170) Letter: 6/29/77, to Hon. Corinne C. Boggs from Col. Early J. Rush, III
- (171) Newspaper Clipping: (Undated, name of Newspaper not shown)
- (172) Map: (undated) "Recommended Jefferson Parish Growth Conservation Boundary"
- (173) Letter: 8/8/77, to (Unspecified, i.e., "Gentlemen?") from Joseph J. Vincent
- (174) Letter: 8/12/77, to Mrs. Harrison from Joseph J. Vincent
- (175) Newspaper Clipping: 8/28/77 (Name of Newspaper not shown)
- (176) Record of Communication: 8/29/77, to Bill Seal from Pete Dunsavage
- (177) Letter: 8/30/77, to Joseph Vincent from John C. White
- (178) Record of Communication: 9/1/77, to Pete Dunsavage from Bill Seal
- (179) Letter 1/10/78, to Joseph I. Vincent from Adlene Harrison
- (180) Memo: 1/26/79, to Howard Bergmen from Diana Dutton
- (181) Public Notice: 3/12/79, "Pumping Station in Bayou Aux Carpes"
- (182) Attendees at 4/2/79 Meeting re Pump Station Site
- (183) Memo: 4/5/79, to Adlene Harrison from Harless R. Benthul
- (184) Letter: 4/17/79, to Lester Edelman from William L. Want
- (185) Trip Report: 5/4/79, Michael T. Michaud
- (186) Letter: 5/18/79, to District Engineer, U.S. Army Corps of Engineers, from Richard Ruelle
- (187) Memo: 6/5/79, to Barry Read/Diana Dutton, from Harless R. Benthul
- (188) Findings of Fact: 6/21/79, Waterway No. L.T.M.A. 964, by Col. Thomas A. Sands
- (189) Memo: 7/16/79, to Adlene Harrison from Harless Benthul
- (190) Letter: 8/6/79, to Frank J. Ehret, Jr. from Col. Thomas A. Sands

XVIII. CORPS OF ENGINEERS PERMIT DENIAL

- (1) Letter: 8/28/60, to Joseph S. Yenni from Col. Thomas A. Sands
- (2) Findings of Fact, 10/19/79, re Waterway No. (L.T.M.A.) 767
- (3) Study of Environmental Impact, Permit File No. LMNOD-SP (L.T.M.A.)767
- (4) Public Notice, 3/12/79 (Pumping Station in Bayou Aux Carpes) by Corps of Engineers

VOL. 32

CLEAN WATER ACT
Section 404(c) Evaluation

BAYOU AUX CARPES
LOUISIANA



U.S. ENVIRONMENTAL PROTECTION AGENCY

Region 6

Dallas, Texas

September 1985

PART III

CONSULTATION

A. EPA NOTICES

A.I PROPOSED DETERMINATION AND HEARING NOTICE

- a) Federal Register Notice**
- b) Public Distribution Copy and Distribution List**
- c) Newspaper Notices of Hearing**

5-17-85

Vol. 50

No. 96

Federal Register

Friday
May 17, 1985

United States
Government
Printing Office

SUPERINTENDENT
OF DOCUMENTS
Washington, D.C. 20402

OFFICIAL BUSINESS
Penalty for private use, \$300

Federal Register
(ISSN 0097-6326)



Postage and Fees Paid
U.S. Government Printing Office
375

SECOND CLASS NEWSPAPER

[OW-6-FRL-2837-5]

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Notice and Public Hearing

SUMMARY: Section 404(c) of the Clean Water Act (33 U.S.C. 1251 *et seq*) provides that the Administrator of the U.S. Environmental Protection Agency (EPA) is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreation areas. The procedures for implementation of 404(c) are set forth in 40 CFR Part 231. This notice of the proposed determination and public hearing is being published in accordance with 40 CFR 231.3 by the Regional Administrator of EPA's Region 6.

On December 18, 1984, EPA Region 6 notified the U.S. Army Corps of Engineers, and subsequently notified affected landowners, of our intention to prohibit an area known as the Bayou aux Carpes swamp from future use as a disposal site under section 404(c) of the Clean Water Act (CWA). The approximately 3,000 acre site lies south of New Orleans, Louisiana, on the "West Bank" of Jefferson Parish. The area is bounded on the north by the east-west Estelle Pumping Station Outfall Canal, on the east by the Plaquemines-Jefferson Parish line, on the south by Bayou Barataria and Bayou des Familles, and on the west by State Highway La. 3134 and the "Vee-Levee" pipeline canal. Maps of the project area are available at the above address. The geographic coordinates are:

- Range 23E, Township 15S, Portions of Sections 13, 14, 55, 57, 59;
- Range 24E, Township 14S, Portions of Sections 53, 61, 62; and
- Range 24E, Township 15S, Portions of Sections 48, 49, 50, 52, 57.

Purpose of Public Notice

EPA would like to obtain comments on this proposed determination, which could result in the denial of any future applications for Section 404 (CWA) permits for the discharge of dredged or fill material in wetlands within the area in question. We are also soliciting

comments on whether or not the impacts of any such proposed disposal operations would represent an unacceptable adverse effect as described in Section 404(c) of the Clean Water Act.

Public Hearing

A public hearing will be conducted on June 18, 1985, beginning at 7:00 in the evening, in the Council Chambers of the Gretna Courthouse, located at Second Avenue and Derbigny Street in Gretna, Louisiana.

Written comments may be submitted prior to the hearing. Both written and oral comments may be presented during the hearing. The hearing record will remain open for the submittal of written comments until the close of business on July 3, 1985, or possibly a later date announced at the hearing. Comments submitted prior to or after the hearing should be sent to the Environmental Protection Agency, Federal Activities Branch, 1201 Elm Street, Dallas, Texas 75270. All comments should directly address whether the proposed determination should become the final determination. These comments will be considered in reaching a decision to either withdraw the proposed determination or prepare a recommended determination to prohibit or deny the specification or the use for specification of the area as a disposal site. If a recommended determination is made, it and the administrative record will be forwarded to the Administrator of EPA in Washington, DC, for review and the final determination. The procedures to be used by the Administrator in making the final determination are specified in 40 CFR 231.6.

Copies of all comments submitted in response to this notice will be available for public inspection from 8:00 a.m. to 4:00 p.m. weekdays at the EPA address above.

The Regional Administrator of EPA's Region 6, or his designee, will be the Presiding Officer at the hearing. Any person may appear at the hearing and present oral or written statements, and may be represented by counsel or other authorized representative. The Presiding Officer will establish reasonable limits on the nature and length of the oral presentations. No cross examination of any hearing participant will be permitted, although the Presiding Officer may make appropriate inquiries of any such participant.

Background

EPA is taking this action according to the provisions of section 404(c) of the Clean Water Act. Although the U.S.

Army Corps of Engineers actually issues the section 404 permits, EPA also has certain responsibilities regarding this program. EPA is responsible for developing the guidelines to be used by the Corps in reviewing the permit applications. The agency also reviews and provides comments to the Corps during their review of the applications and EPA has the authority to restrict or prohibit certain areas from use as disposal sites.

EPA's decision to initiate the 404(c) process came about at this particular time partly as a result of recent judicial action. A suit was filed in 1977 by landowners who were interested in seeing a project, which originated in the 1960's as a Corps flood control project (Harvey Canal—Bayou Barataria Levee project), completed as it was originally designed. This original design included levee-building, construction or a pumping station, and closure of some waterways.

Over the years, EPA (and other agencies) continually objected to the original project design because of the significant adverse effects (primarily drainage of the wetland) which would be inflicted on this productive wetland ecosystem. In 1975, EPA recommended a modified design, which would replace the dams with flood gates and which would require that, if a pumping station was needed for flood control, it be operated so as to maintain the integrity of the wetlands.

The latest step in the landowner's law suit occurred in the U.S. District Court for the Eastern District of Louisiana (on remand from the U.S. Court of Appeals for the 5th Circuit). Judge Lansing Mitchell issued an order which, in part, allowed EPA until December 18, 1984, to invoke 404(c) on the project as originally designed. On December 18, 1984, EPA initiated the 404(c) process with respect to that portion of the Bayou aux Carpes swamp owned by these landowners.

Subsequently, EPA initiated the 404(c) process for an additional area adjoining that property, but outside of the realm of the area being considered in the specific case before the District Court. Together, both of these tracts comprise the approximately 3,000 acre tract which is the subject of this notice and the public hearing.

EPA concern regarding the effects from projects involving the discharge of dredged or fill material in this area is not new. During a review of the Environmental Impact Statements and section 404 permit applications for two other large-scaled projects (the Marrero-Lafitte Waterline Project and the West Bank Hurricane Protection Levee

Project) which would affect this same area, EPA became involved in extensive negotiations regarding the protection of these wetland resources. EPA has thereby historically recognized this area as a sensitive, valuable wetland worthy of special protective measures and yet continually subject to project proposals which could adversely affect its wetland characteristics.

Section 404(c) criteria

Unacceptable adverse effects of municipal water supplied, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas are the four criteria which may individually or jointly be used to support an EPA decision to invoke the provisions of section 404(c) of the Clean Water Act. As a result of previous studies of the area associated with various project proposals and recent studies related to this proposed determination, EPA staff has concluded that the discharge of dredged or fill material in the subject area could induce significant and unacceptable adverse effects in all criteria areas except that of municipal water supplies.

The wooded swamp and marsh habitat, in conjunction with the waterways, is a part of an intertidal estuarine system within the biologically productive Barataria Basin. The area exhibits the hydrological, biological, and soils characteristics typical of a wetland regulated under Section 404 of the Clean Water Act. The value of the area is also evidenced by the tidal exchange, with attendant detrital export and ingress and egress of estuarine fauna. Detritus from the wetland plant species serves as a fundamental element in the food chain of the regional estuarine biota. The marsh and swamp provide valuable feeding, breeding, and/or nursery habitat for various species of fish and wildlife. In addition, the public currently has access to portions of the area for certain recreational pursuits through several watercourses which pass through the site.

In summary, the tract displays many beneficial wetland characteristics and functions such as: (1) A high degree of biological productivity; (2) habitat for all or portions of the life cycles of a variety of fish and wildlife, including waterfowl, furbearers, freshwater sport fish and commercially important shellfish and marine fish; (3) hydrological buffering, including stormwater retention and downstream freshwater contribution; (4) water quality improvement and erosion control; (5) nutrient and energy export; and (6) recreational opportunities.

Potential Adverse Impacts of Section 404 Permit Activities

The direct water quality effects resulting from the discharge of dredged or fill material could significantly and adversely affect the functions and values currently characterizing this wetland system. For example, plant productivity and the resulting food supply for fish and wildlife are dependent to a large degree upon existing water quality characteristics. Also, many important finfish and shellfish species are adversely impacted by alterations to the physical-chemical environment during critical stages in their life cycles. Effects on the ability of estuarine species to utilize in this area would be manifested in other portions of the Barataria Bay estuarine system.

Aside from the more immediate and direct effects of depositing fill material, activities requiring a Section 404 permit have been proposed for the area which would result in isolating the area hydrologically and/or draining the wetland. Although previous projects have limited the area through which water may flow, this wetland and its associated functions and values are still predominately determined by this interchange. Hydrological isolation would unacceptably diminish the current fish and wildlife potential of the immediate site. Areas further downstream would be affected also because of the site's use as a nursery area, its nutrient and detrital contributions, and its water quality contributions.

Draining the wetland would be the most severe of the indirect results of possible section 404 permit activities. The maintenance and movement of water through this wetland are vital to the preservation of the system. In addition, draining this site would have unacceptable adverse effects on the ecological characteristics and recreational opportunities afforded by the eastern wetland portions of the Barataria Unit of the Jean Lafitte National Historical Park, which lies within the same drainage area as the site in question.

Drainage and conversion of this area would also contribute significantly to the cumulative wetland losses currently being experienced in coastal Louisiana in general, and in the Barataria Basin in particular. According to the Louisiana State University Center for Wetland Resources, Louisiana is losing nearly 40 square miles of its coastal wetlands each year. The rates of loss in the Barataria Basin from 1955-1978 averaged 7.5 square miles per year (Louisiana Department of Natural

Resources) and are increasing faster than the national average for wetlands. This situation is significant because of the associated adverse consequences described above and because the Barataria Bay estuary provides an average 44 percent of Louisiana's total annual fish and shellfish harvest (Louisiana Department of Transportation and Development).

Proposed Determination

Based on a thorough site evaluation, coordination with other agencies and knowledgeable individuals, and a review of the literature, the Regional Administrator of Region 8 is of the opinion that issuing permits for Section 404 activities to be conducted in the wetlands in question could result in unacceptable adverse effects on shellfish beds and fishery areas, wildlife, and recreation areas. A possible exception would be for permits covering only certain habitat enhancement activities. EPA proposes to prohibit the specification of this wetland site for discharge of dredged or fill materials because such discharge could result in the direct loss of fish and wildlife habitat, the loss of detrital materials and fresh water which are exported to downstream fisheries by tidal exchange, a potential decreased production of fish food items, the loss of the natural water filtration mechanisms, the loss of stormwater buffering capacity, and the loss of recreational opportunities.

FOR FURTHER INFORMATION CONTACT:
Environmental Protection Agency,
Federal Activities Branch, 1201 Elm
Street, Dallas, Texas 75270, (214) 767-
2716.

Dated: May 10, 1985.

Frances E. Phillips,
Acting Regional Administrator.
[FR Doc. 85-11985 Filed 5-16-85; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

**Allen H. Weiner and Weiner
Broadcasting Co.; Order To Show
Cause**

In the matter of Allan H. Weiner and
Weiner Broadcasting Company Presque
Isle, ME MM Docket No. 85-109; FCC
85-183.

Licensee of radio stations WOZW(AM),
Monticello, ME, WOZK(FM), Presque Isle, ME,
and remote pickup base station KPF-041,
Yonkers, NY.

Order to show cause why the licenses for
radio stations WOZW(AM), Monticello, ME,

ENVIRONMENTAL PROTECTION AGENCY
INTERFIRST TWO BUILDING, 1201 ELM ST.
DALLAS, TEXAS 75270

PROPOSED DETERMINATION TO PROHIBIT, DENY, OR RESTRICT
THE SPECIFICATION, OR THE USE FOR SPECIFICATION, OF AN
AREA AS A DISPOSAL SITE; NOTICE AND PUBLIC HEARING

SUMMARY: Section 404(c) of the Clean Water Act (33 U.S.C. 1251 et seq) provides that the Administrator of the U.S. Environmental Protection Agency (EPA) is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreation areas. The procedures for implementation of 404(c) are set forth in 40 CFR 231. This notice of the proposed determination and public hearing is being published in accordance with 40 CFR 231.3 by the Regional Administrator of EPA's Region 6.

On December 18, 1984, EPA Region 6 notified the U.S. Army Corps of Engineers, and subsequently notified affected landowners, of our intention to prohibit an area known as the Bayou aux Carpes swamp from future use as a disposal site under Section 404(c) of the Clean Water Act (CWA). The approximately 3,000 acre site lies south of New Orleans, Louisiana, on the "West Bank" of Jefferson Parish. The area is bounded on the north by the east-west Estelle Pumping Station Outfall Canal, on the east by the Plaquemines-Jefferson Parish line, on the south by Bayou Barataria and Bayou des Familles, and on the west by State Highway La. 3134 and the "Vee-Levee" pipeline canal. Maps of the project area are available at the above address. The geographic coordinates are:

Range 23E, Township 15S, Portions of Sections 13, 14, 55, 57, 59;
Range 24E, Township 14S, Portions of Sections 55, 81, 82; and
Range 24E, Township 15S, Portions of Sections 48, 49, 50, 52, 57.

PURPOSE OF PUBLIC NOTICE: EPA would like to obtain comments on this proposed determination, which could result in the denial of any future applications for Section 404 (CWA) permits for the discharge of dredged or fill material in wetlands within the area in question. We are also soliciting comments on whether or not the impacts of any such proposed disposal operations would represent an unacceptable adverse effect as described in Section 404(c) of the Clean Water Act.

PUBLIC HEARING: A public hearing will be conducted on June 18, 1985, beginning at 7:00 in the evening, in the Council Chambers of the Gretna Courthouse, located at Second Avenue and Derbigny Street in Gretna, Louisiana.

The latest step in the landowner's law suit occurred in the U.S. District Court for the Eastern District of Louisiana (on remand from the U.S. Court of Appeals for the 5th Circuit). Judge Lansing Mitchell issued an order which, in part, allowed EPA until December 18, 1984, to invoke 404(c) on the project as originally designed. On December 18, 1984, EPA initiated the 404(c) process with respect to that portion of the Bayou aux Carpes swamp owned by these landowners.

Subsequently, EPA initiated the 404(c) process for an additional area adjoining that property, but outside of the realm of the area being considered in the specific case before the District Court. Together, both of these tracts comprise the approximately 3,000 acre tract which is the subject of this notice and the public hearing.

EPA concern regarding the effects from projects involving the discharge of dredged or fill material in this area is not new. During a review of the Environmental Impact Statements and Section 404 permit applications for two other large-scale projects (the Marrero-Lafitte Waterline Project and the West Bank Hurricane Protection Levee Project) which would affect this same area, EPA became involved in extensive negotiations regarding the protection of these wetland resources. EPA has thereby historically recognized this area as a sensitive, valuable wetland worthy of special protective measures and yet continually subject to project proposals which could adversely affect its wetland characteristics.

SECTION 404(c) CRITERIA: Unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas are the four criteria which may individually or jointly be used to support an EPA decision to invoke the provisions of Section 404(c) of the Clean Water Act. As a result of previous studies of the area associated with various project proposals and recent studies related to this proposed determination, EPA staff has concluded that the discharge of dredged or fill material in the subject area could induce significant and unacceptable adverse effects in all criteria areas except that of municipal water supplies.

The wooded swamp and marsh habitat, in conjunction with the waterways, is a part of an intertidal estuarine system within the biologically productive Barataria Basin. The area exhibits the hydrological, biological, and soils characteristics typical of a wetland regulated under Section 404 of the Clean Water Act. The value of the area is also evidenced by the tidal exchange, with attendant detrital export and ingress and egress of estuarine fauna. Detritus from the wetland plant species serves as a fundamental element in the food chain of the regional estuarine biota. The marsh and swamp provide valuable feeding, breeding, and/or nursery habitat for various species of fish and wildlife. In addition, the public currently has access to portions of the area for certain recreational pursuits through several watercourses which pass through the site.

the Barataria Bay estuary provides an average 44 percent of Louisiana's total annual fish and shellfish harvest (Louisiana Department of Transportation and Development).

PROPOSED DETERMINATION: Based on a thorough site evaluation, coordination with other agencies and knowledgeable individuals, and a review of the literature, the Regional Administrator of Region 6 is of the opinion that issuing permits for Section 404 activities to be conducted in the wetlands in question could result in unacceptable adverse effects on shellfish beds and fishery areas, wildlife, and recreation areas. A possible exception would be for permits covering only certain habitat enhancement activities. EPA proposes to prohibit the specification of this wetland site for discharge of dredged or fill materials because such discharge could result in the direct loss of fish and wildlife habitat, the loss of detrital materials and fresh water which are exported to downstream fisheries by tidal exchange, a potential decreased production of fish food items, the loss of the natural water filtration mechanisms, the loss of stormwater buffering capacity, and the loss of recreational opportunities.

FOR FURTHER INFORMATION CONTACT: Environmental Protection Agency, Federal Activities Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Date: May 10, 1985

/s/ Frances E. Phillips for

Frances E. Phillips, Acting for

Dick Whittington, P.E.
Regional Administrator

PUBLIC MEETING



WHY

To solicit public comment on a proposal by EPA to prohibit an area known as the Bayou aux Carpes swamp from future use as a dredged or fill material disposal site. The 3000 acre site is north of Crown Point, La. and adjoins the Jean Lafitte National Historical Park. This action would be taken under the Section 404(c) of the Clean Water Act.

WHERE

The Council Chambers, Second Floor of the Gretna Courthouse, Second Ave. and Derbigney St., Gretna, Louisiana.

WHEN

Tuesday, June 18, 1985 at 7:00 p.m.

CONTACT

If you are unable to attend the meeting but wish to submit comments, please address them to:

U.S. Environmental Protection Agency

Federal Activities Branch

1201 Elm Street

Dallas, Texas 75270

Proposed Determination & Hearing Notice
Distribution List

EPA ENVIR. SERV. DIV.	MR. DELBERT B. HICKS
EPA ENVIR. SERV. DIV.	MR. TOM CAVINDER
EPA ENVIR. SERV. DIV.	MR. HOKE S. HOWARD
EPA OFF. OF FED. ACTIVITIES	MR. KIRK STARK (A-104)
EPA OFF. OF FED. ACTIVITIES	MR. ALLAN HIRSCH (A-104)
EPA OFF. OF FED. ACTIVITIES	MR. JOHN MEAGHER (A-104)
EPA (A-100EA)	MS. JOSEPHINE S. COOPER
EPA-EMSL	MR. TIM FORESMAN
EPA OFF. OF GENERAL COUNSEL	MS. CATHY WINER
LOCKHEED-EMSCO	MR. DAVID R. WILLIAMS
U. S. COE OFFICE OF COUNSEL	MS. ELIZABETH GRIFFIN
U. S. COE DISTRICT ENGINEER	COL. EUGENE S. WHITHERSPOON
U. S. COE ENVIR. QUALITY SEC.	MRS. SUE HAWES
U. S. COE REG. FUNCT. BRANCH	DR. LLOYD F. BAEHR
U. S. FISH & WILDLIFE SERVICE	MR. DAVID W. FRUGE
U. S. FISH & WILDLIFE SERVICE	DR. TOMMY MICHOT
JEAN LAFITTE PARK SUPERINTENDT	MR. JAMES L. ISENGLE
JEAN LAFITTE NATL HIST PARK	MR. GEORGE NEUSAENGER
NAT'L MARINE FISHERIES SERV	MR. RICHARD J. HOOGLAND
NAT'L MARINE FISHERIES SERV	MR. DON MOORE
U. S. DEPT. OF JUSTICE	MR. DAVID E. DEARING
U. S. FISH & WILDLF ACT REG DIR	MR. DAVID B. ALLEN
ASSISTANT U. S. ATTORNEY	MR. WILLIAM F. BAITY
SCS STATE SOIL SCIENTIST	MR. ARVILL TOUCHET
U. S. COE LOWER MISS VALLEY DIV	GENERAL THOMAS A. SANDS
REG. ENVIR. COORDINATOR	U. S. FOREST SERVICE
LINCOLN CNTR., SUITE 881	GULF OF MEX FISHERY MGT. COUNC
LA. DEPT. OF NATURAL RESOURCES	MR. JOEL LINDSEY
LA. DEPT. OF WILDLIFE & FISH	MR. J. BURTON ANGELLE
LA. DEPT. OF NATURAL RESOURCES	MR. KARL L. MORGAN
LA. DEPT. OF WILDLIFE & FISH	MR. BLUE WATSON
LA. OFFICE OF FORESTRY	
LA. DEPT. OF WILDLIFE & FISH	MR. TIM KILLEEN
DISTRICT 1 COUNCILMAN	MR. THOMAS J. WARD
DISTRICT 2 COUNCILMAN	MR. JAMES E. LAWSON
JEFFERSON PARISH	MR. JOSEPH S. YENNI, PRESIDENT
JEFFERSON PARISH COUNCIL CHAIR	MR. ROBERT B. EVANS, JR.
COUNCILMAN AT LARGE	MR. LLOYD F. GIARDINA
LA. DEPT. OF ENVIR. QUALITY	
	LA. DEPT. OF NATURAL RESOURCES
JEFFERSON PARISH	MR. HUBERT VONDENSTEIN
MARRERO LAND & IMPROVE ASSOC.	MR. N. BUCKNER BARKLEY, JR.
MILLING, BENSON, WOODWARD, ETC.	MR. JOE LEBLANC
MILLING, BENSON, WOODWARD, ETC.	MR. HAROLD MOLAISSON
C/O DANIEL MORROW ATTORNEY	MR. FOSTER E. CREPPEL
	MARRERO LAND & IMPROVEMENT CO.
C/O ROBERT A. PITRE ATTORNEY	MR. GERALD PITRE
	DR. & MS. JOHN E. FIRESTONE

Proposed Determination & Hearing Notice
Distribution list, cont.

	MR. & MRS. BURTON L. KLEIN
	MR. & MRS. LESTER L. GREEN
	MR. HOWARD C. GREEN
	MS. LINDA GOLDMAN GREEN
	MR. JAY I. GREEN
	JUDGE JOHN J. MOLAISSON
PRES BARATARIA CIVIC IMPROVE	MR. A. J. PLANCHE
PRES CROWN POINT CIVIC ASSOC.	MRS. DIANE RIBANDO
LA. WILDLIFE FEDERATION	MR. EDGAR F. VEILLON
	NATIONAL WILDLIFE FEDERATION
WESTBANK SPORTSMEN CONSV CLUB	MR. WEBSTER GRIFFIN, JR.
ORLEANS AUDUBON SOCIETY	
SIERRA CLUB	
SCH URBAN & REGIONAL STUDIES	DR. FRITZ WAGNER
	MR. FRANK J. EHRET, JR.
	MR. BARRY KOHL
CENTER FOR WETLAND RESOURCES	MR. JOHN W. DAY, JR.
UNITED STATES SENATE	HONORABLE RUSSELL B. LONG
UNITED STATES SENATE	HONORABLE J. BENNETT JOHNSTON
HOUSE OF REPRESENTATIVES	HONORABLE BILLY TAUZIN
HOUSE OF REPRESENTATIVES	HONORABLE BOB LIVINGSTON
GOVERNOR OF LOUISIANA	HONORABLE EDWIN EDWARDS
WEST JEFFERSON LEVEE DISTRICT	MR. RONALD R. BESSOM
COASTAL ENVIRONMENTS, INC.	
DIRECTOR, ECOLOGY CENTER OF LA	MR. ROSS J. VINCENT
	HENRY DART
LOUISIANA SHRIMP ASSOCIATION	MR. LEROY KIFFE
EPA WATER MGMT DIV.	MATT SCHWEISBERG
EPA REGION 4	JAMES H. FINGER
EPA REGION 4	DR. HOWARD MARSHALL

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE April 22, 1985

SUBJECT Bayou aux Carpes 404(c) Project

FROM Clinton B. Spotts *CB*
Chief, Federal Activities Branch (6ES-F)

TO Paul Seals
Office of Regional Counsel (6ORC)

Attached for your review are the following materials prepared in draft form for the Bayou aux Carpes 404(c) project:

1) Mailing List

The people on this list will be sent a copy of the proposed determination and the flier announcing the public hearing. Please verify that all landowners and attorneys are accurately listed. Our understanding is that ownership has not yet been determined for part of the northern tract. Please advise us as soon as the initial notification process has been completed for these cases. Our assumption is that this must be completed by 30-45 days prior to the hearing, if not earlier.

2) Proposed Determination and Hearing Notice

This notice was closely patterned after the previous announcements prepared by Region 4 for their 404(c) actions. The notice is intended to include in one document all of the requirements of 40 CFR 231.3(b) and (c) and (d). The summary description of the site and projected impacts will be revised as data is gathered. The notice will be mailed to all entries on the mailing list at least thirty days prior to the hearing and will be published in the Federal Register about the same time.

3) Hearing Agenda

All listed participants have agreed to participate and to coordinate their presentations and graphics with Barbara Keeler.

As additional information, the arrangements for the hearing location and necessary equipment and services have been completed. A procurement request and court reporter check list have been forwarded to the Management Division in order to secure a court reporter for the hearing.

Initial cost and timing information has also been obtained for placing notice of the hearing in area newspapers. A display ad will be run on June 12 and 16 in the West Bank Guide and a legal-style notice will be published in the Times-Picayune on or about June 9.

Attachments

cc: Russell Rhoades

PUBLIC MEETING

U.S. Environmental Protection Agency

WHY: To solicit public comment on proposal by EPA to prohibit an area known as the Bayou aux Carpes swamp from future use as a dredged or fill material disposal site. The 3000 acre site is north of Crown Point, La. and adjoins the Jean Lafitte National Historical Park. This action would be taken under the Section 404(c) of the Clean Water Act.

WHERE: The Council Chambers, Second Floor of the Gretna Courthouse, Second Ave. and Derbigny St., Gretna, Louisiana

WHEN: Tuesday, June 18, 1985 at 7:00 p.m.

CONTACT: If you are unable to attend the meeting but wish to submit comments, please address them to:

U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270



A.2 COMMENT PERIOD TIME EXTENSION NOTICES

a) Federal Register Notice

b) Public Distribution Copy and Distribution List

AWARDS LISTINGS BY STATE—Continued

Applicant name	City	State
Providence School Department	Providence	RI
Horry County School District	Conway	SC
Hampton School District No. 2	Estill	SC
Lancaster County School District	Lancaster	SC
S.D. School for the Visually Handicapped	Aberdeen	SD
Bullhead Day School	Bullhead	SD
Eagle Butte High School	Eagle Butte	SD
Swift Bird Day School	Eagle Butte	SD
Flandreau Indian School	Flandreau	SD
West Central School District No. 49-7	Hartford	SD
Lead-Deadwood School District 40-1	Lead	SD
Marty Indian School	Marty	SD
New Underwood School District 51-3	New Underwood	SD
Pierre Indian Learning Center	Pierre	SD
Sicangu Oyate Ho, Inc	St. Francis	SD
SD School for the Deaf	Sioux Falls	SD
Sioux Falls School District No. 49-5	Sioux Falls	SD
Crow Creek Reservation H.S.	Stephau	SD
Sullivan County Department of Ed.	Blountville	TN
Marion County School Board	Jasper	TN
Memphis City Schools	Memphis	TN
Houston Ind. School District	Houston	TX
San Angelo Independent School District	San Angelo	TX
Burlington Public School	Burlington	VT
Hinesburg Elementary School	Hinesburg	VT
Shelburne School District	Shelburne	VT
Anacortes School District	Anacortes	WA
Richland School District No. 400	Richland	WA
Eau Claire Area School District	Eau Claire	WI
Sacred Heart School	Eau Claire	WI
St. Patrick's School	Elkhorn	WI
St. Anne Parish	Milwaukee	WI
Harrison County Board of Education	Clarksburg	WV
Logan County School System	Logan	WV
Wayne County Board of Education	Wayne	WV
Lewis County School System	Weston	WV
Laramie County School District No. 1	Cheyenne	WY
Laramie Co. School Dist No. 2	Pine Bluffs	WY
St. Joseph's School	Rawlins	WY

FOR FURTHER INFORMATION CONTACT: Ellen O'Boyle, Office of Administration and Resources Management, Grants Information and Analysis Branch (PM-216F), 401 M Street SW., Washington, D.C. 20460, (202) 475-8270.

Dated: June 28, 1985.

Thomas Hadd,

Chief, Grants Information and Analysis Branch.

[FR Doc. 85-16730 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[OW-6-FRL-2867-4]

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Extension of Time

Background

On May 17, 1985, EPA published a notice in the Federal Register of a proposed determination to invoke the provisions of section 404(c) of the Clean

Water Act (CWA) with regard to an area known as the Bayou aux Carpes swamp. The approximately 3,000 acre site is located south of New Orleans, Louisiana, and adjoins the Barataria Unit of the Jean Lafitte National Historical Park. The previous Federal Register notice also announced the public hearing, which was held on June 18, 1985, in Gretna, Louisiana. The notice stipulated that the hearing record would remain open for the submittal of written comments until the close of business on July 3, 1985, or possibly a later date as announced at the hearing. Due to the substantial public interest in this issue and the requests by affected landowners for an extension of time in which to provide comments, an extension to August 2, 1985, was announced at the hearing. In a related matter, additional time was afforded EPA by Judge Lansing L. Mitchell, Eastern District Court of Louisiana, for the completion of the Section 404(c) process. This situation made it possible for EPA to allow more time for the submission of public comments. Therefore, this notice serves to announce a further extension of the comment period until August 19, 1985.

Extension of Time

Representatives of numerous landowners, whose property interests will be affected if the provisions of section 404(c) CWA are invoked, requested additional time in which to review and comment on the technical reports and other documents which will be considered in making the recommended determination. Since the request constitutes good cause, within the meaning of 40 CFR 231.8, the period of time available for the public to comment on the proposed determination has been extended through August 19, 1985. Documents post-marked on or before this date will be considered in making the recommended determination.

Submission of Comments

Comments should be sent to the Environmental Protection Agency, Federal Activities Branch, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. All comments should directly address whether the proposed determination should become the recommended determination, according to the criteria set forth in 40 CFR Part 231. These comments will be considered in reaching a decision to either withdraw the proposed determination or prepare a recommended determination to prohibit or deny the specification of the area as a disposal site. If a recommended determination is made, it and the

administrative record will be forwarded to the Administrator of EPA in Washington, D.C., for review and the final determination. The procedures to be used by the Administrator in making the final determination are specified in 40 CFR 231.6.

Copies of all comments submitted in response to the proposed determination will be available for public inspection from 8:00 a.m. to 4:00 p.m. weekdays at the EPA address below.

Additional Information

Technical reports and other information regarding this matter are also available for review at the Earl K. Long Library, Louisiana Collection, located at the University of New Orleans, Lakefront Drive, New Orleans, Louisiana.

For further information, contact Clinton Spotts, Federal Activities Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Dated: July 9, 1985.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 85-17202 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2866-1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5079 or (202) 382-5075. Availability of Environmental Impact Statements filed July 8, 1985 through July 12, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850286, Draft, CDB, CA,

Chinatown Redevelopment Project, Construction, Grants, Alameda County, Due: September 3, 1985, Contact: Ann Raud (415) 273-3941.

EIS No. 850287, Draft, FHW, TN, TN-386 extension, I-65 to Hendersonville Bypass, Construction and Right-of-Way Acquisition, Davidson and Sumner Counties, Due September 3, 1985, Contact: Thomas Ptak (615) 251-5394.

EIS No. 850288, Final, COE, NJ, Lower Saddle River and Sprout Brook, Flood Control Plan, Bergen County, Due: August 19, 1985, Contact: Robert Kurtz (212) 264-3609.

EIS No. 850289, DSuppl, NOAA, RI, PRO, Rhode Island Coastal Resources, Management Program, 1985 Program Changes Amendment, Approval, Due: September 3, 1985, Contact: Kathryn Cousins (202) 634-4126.

EIS No. 850290, Draft, COE, AL, Huntsville Spring Branch and Indian

ENVIRONMENTAL PROTECTION AGENCY
INTERFIRST TWO BUILDING, 1201 ELM ST.
DALLAS, TEXAS 75270

PROPOSED DETERMINATION TO PROHIBIT, DENY, OR RESTRICT
THE SPECIFICATION, OR THE USE FOR SPECIFICATION, OF AN
AREA AS A DISPOSAL SITE; EXTENSION OF TIME

BACKGROUND: On May 17, 1985, EPA published a notice in the Federal Register of a proposed determination to invoke the provisions of Section 404(c) of the Clean Water Act (CWA) with regard to an area known as the Bayou aux Carpes swamp. The approximately 3,000 acre site is located south of New Orleans, Louisiana, and adjoins the Barataria Unit of the Jean Lafitte National Historical Park. The previous Federal Register notice also announced the public hearing, which was held on June 18, 1985, in Gretna, Louisiana. The notice stipulated that the hearing record would remain open for the submittal of written comments until the close of business on July 3, 1985, or possibly a later date as announced at the hearing. Due to the substantial public interest in this issue and the requests by affected landowners for an extension of time in which to provide comments, an extension to August 2, 1985, was announced at the hearing. In a related matter, additional time was afforded EPA by Judge Lansing L. Mitchell, Eastern District Court of Louisiana, for the completion of the Section 404(c) process. This situation made it possible for EPA to allow more time for the submission of public comments. Therefore, this notice serves to announce a further extension of the comment period until August 19, 1985.

EXTENSION OF TIME: Representatives of numerous landowners, whose property interests will be affected if the provisions of Section 404(c) CWA are invoked, requested additional time in which to review and comment on the technical reports and other documents which will be considered in making the recommended determination. Since the request constitutes good cause, within the meaning of 40 CFR 231.8, the period of time available for the public to comment on the proposed determination has been extended through August 19, 1985. Documents post-marked on or before this date will be considered in making the recommended determination.

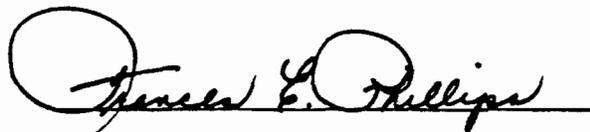
SUBMISSION OF COMMENTS: Comments should be sent to the Environmental Protection Agency, Federal Activities Branch, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. All comments should directly address whether the proposed determination should become the recommended determination, according to the criteria set forth in 40 CFR 231. These comments will be considered in reaching a decision to either withdraw the proposed determination or prepare a recommended determination to prohibit or deny the specification of the area as a disposal site. If a recommended determination is made, it and the administrative record will be forwarded to the Administrator of EPA in Washington, D.C., for review and the final determination. The procedures to be used by the Administrator in making the final determination are specified in 40 CFR 231.6.

Copies of all comments submitted in response to the proposed determination will be available for public inspection from 8:00 a.m. to 4:00 p.m. weekdays at the EPA address below.

ADDITIONAL INFORMATION: Technical reports and other information regarding this matter are also available for review at the Earl K. Long Library, Louisiana Collection, located at the University of New Orleans, Lakefront Drive, New Orleans, Louisiana.

For further information, contact the Environmental Protection Agency, Federal Activities Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Date: July 9, 1985

A handwritten signature in cursive script, reading "Frances E. Phillips", written over a horizontal line.

Frances E. Phillips, Acting for

Dick Whittington, P.E.

Regional Administrator

DISTRIBUTION LIST - TIME EXTENSION NOTICE

1)

~~LA. OFFICE OF FORESTRY~~
~~LA. DEPT. OF ENVIR. QUALITY~~
~~ORLEANS AUDUBON SOCIETY~~
~~COASTAL ENVIRONMENTS, INC.~~
ADRIAN H. BULOT, JR.
ALAN PUNCH
ALLEN PARKS
ANTHONY P. NUCCIO
AUBREY A. GUILLOT, JR.
BARRY KOHL
BENJAMIN C. OBI
BO LEDIT
BRENDA EVANS
C/O JOAN PHILLIPS
CECILIA D. STAFFORD
CHARLES LABORIE
CHARLOTTE FREMAUX
COL. EUGENE S. WHITHERSPOON
CONRAD V. MENTJES
CORALIE GOOD
DANIEL L. MORROW
DAVID & CINDY FREEMAN
DAVID MARSCHALL
DEAN CHRISTEN
DENISE VALLON
DESMOND GAILBEAU, JR.
DIANE RIBANDO
DOMINICK L. NUCCIO
DR. & MS. JOHN E. FIRESTONE
DR. FRITZ WAGNER
DR. HOWARD MARSHALL
DR. JOHN K. MOORE, JR.
DR. LLOYD F. BAEHR
DR. TOM DAVIDSON
DR. TOMMY MICHOT
ED WILLIAMS
EDGAR F. VEILLON
EDWARD ALIFF
ERNEST TASSIN
FELIX C. MADUKA
FRANK MONTEFERRANTE
FRED LANGEMAN
GARY COURET
GARY KELLEY
GARY W. ALIFF
GENE M. RUSSELL
GENERAL THOMAS A. SANDS
GEORGE E. NEUSAENGER
GORDON L. REYNOLDS
GREG JOHNSON
GREGORY BREERWOOD
GULF OF MEX. FISHERY MGT. COUNCIL
HAROLD L. MOLAISSON
HENRY DART
HONORABLE BILLY TAUZIN
HONORABLE BOB LIVINGSTON

- ~~HONORABLE EDWIN EDWARDS~~
- ~~HONORABLE J. BENNETT JOHNSTON~~
- ~~HONORABLE RUSSELL B. LONG~~
- ~~HOWARD GREEN~~
- ~~IRVIN GOLDMAN~~
- ~~J. E. MYERS~~
- ~~J. C. PISANO~~
- ~~JACQUES J. CREPPEL~~
- ~~JAMES H. FINGER~~
- ~~JAMES LEEPER~~
- ~~JIMMY & LINDA LASSAIRE~~
- ~~JOHN E. PARKER~~
- ~~JOHN P. SPERA~~
- ~~JOSEPH I. VINCENT~~
- ~~JOSEPH J. KREBS, JR.~~
- ~~JOSEPH RODRIGUEZ~~
- ~~JOSEPH SELLERS~~
- ~~JUDGE JOHN J. MOLAISSON~~
- ~~KATHY A. DYER~~
- ~~KIM M. BETTINGER~~
- ~~LA. DEPT. OF NATURAL RESOURCES~~
- ~~LES CHERAMIE~~
- ~~LES HAMMOND~~
- ~~LYDIA CUILLOT~~
- ~~MARRERO LAND & IMPROVEMENT CO.~~
- ~~MARY G. CURRY PH D~~
- ~~MARY LEE PLUMB-MENTJES~~
- ~~MATT SCHWEISBERG~~
- ~~MAURICE E. ANDERSON II~~
- ~~MIKE W. OLINDE~~
- ~~MIMI LAPEYEE~~
- ~~MR. & MRS. BURTON I. KLEIN~~
- ~~MR. & MRS. CORTEZ~~
- ~~MR. & MRS. LESTER I. GREEN~~
- ~~MR. A. J. PLANCHE~~
- ~~MR. ALLAN HIRSCH (A-104)~~
- ~~MR. ARVILL TOUCHET~~
- ~~MR. BLUE WATSON~~
- ~~MR. CORNEL MARTIN~~
- ~~MR. DAVID B. ALLEN~~
- ~~MR. DAVID E. DEARING~~
- ~~MR. DAVID B. WILLIAMS~~
- ~~MR. DAVID W. FRUGE~~
- ~~MR. DELBERT B. HICKS~~
- ~~MR. DON MOORE~~
- ~~MR. EDGAR F. VEILLON~~
- ~~MR. EDWARD COUVILLION, JR.~~
- ~~MR. EOSTER F. CREPPEL~~
- ~~MR. FRANK J. EHRET, JR.~~
- ~~MR. GEORGE NEUSAENGER~~
- ~~MR. GERALD PITRE~~
- ~~MR. HOKE S. HOWARD~~
- ~~MR. HOWARD C. GREEN~~
- ~~MR. HUBERT VONDENSTEIN~~
- ~~MR. J. BURTON ANGELLE~~
- ~~MR. JAMES E. LAWSON~~
- ~~MR. JAMES L. ISENOGLE~~
- ~~MR. JAY I. GREEN~~

- ~~MR. JOE LEBLANC~~
- ~~MR. JOEL LINDSEY~~
- ~~MR. JOHN MEAGHER (A-104)~~
- ~~MR. JOHN W. DAY, JR.~~
- ~~MR. JOSEPH S. YENNI, PRESIDENT~~
- ~~MR. KARI L. MORGAN~~
- ~~MR. KIRK STARK (A-104)~~
- ~~MR. LEROY KIFFE~~
- ~~MR. LLOYD F. GIARDINA~~
- ~~MR. N. BUCKNER BARKLEY, JR.~~
- ~~MR. RICHARD J. HOOGLAND~~
- ~~MR. ROBERT B. EVANS, JR.~~
- ~~MR. RONALD R. BESSOM~~
- ~~MR. ROSS J. VINCENT~~
- ~~MR. THOMAS J. WARD~~
- ~~MR. TIM FORESMAN~~
- ~~MR. TIM KILLEEN~~
- ~~MR. TOM CAVINDER~~
- ~~MR. WILLIAM F. BAITY~~
- ~~MRS. DIANE RIBANDO~~
- ~~MRS. JULIET BERRY~~
- ~~MRS. SUE HAWES~~
- ~~MS. CATHY WINER~~
- ~~MS. ELIZABETH GRIFFIN~~
- ~~MS. JOSEPHINE S. COOPER~~
- ~~MS. LINDA GOLDMAN GREEN~~
- ~~NAT B. KNIGHT, JR.~~
- ~~NATIONAL WILDLIFE FEDERATION~~
- ~~NOLAN CALLAIS~~
- ~~ORIS DANTER~~
- ~~PATRICK EJIKE~~
- ~~PETER H. & CHRISTINE GRABER~~
- ~~RALPH LATAPIE~~
- ~~RANDALL DUPONT~~
- ~~RANDOLPH LACHENY~~
- ~~RANDY WHITE~~
- ~~RAYMOND & DARLENE RODRIGUEZ~~
- ~~RAYMOND ELLIOTT~~
- ~~RIXIE J. HARDY~~
- ~~ROBERT B. EVANS, JR.~~
- ~~ROBERT C. LETTNER~~
- ~~ROBERT E. HEREFORD~~
- ~~ROBERT GRAVES~~
- ~~ROD EMMES~~
- ~~ROGER SWINDLER~~
- ~~RONALD HEBERT~~
- ~~RONALD J. VENTOLA~~
- ~~RONALD L. BABINEAUX~~
- ~~RUTH STONE~~
- ~~SAM DRULLARD~~
- ~~SAM PUGLISE~~
- ~~SHERWOOD M. GAGLIANO~~
- ~~SIDNEY ROSENTHALL~~
- ~~STANLEY MILLAW~~

7)

STEVE VALENCE
TAI S. HOTVELT
TERRY W. HOWEY
THOMAS C. MICHOT
THOMAS H. HEITMAN
TOMMY MILLER
U. S. FOREST SERVICE
VIEUX CARRE COUNCIL FOR A
WAYNE ALLEMAND
WAYNE CROCHET
WAYNE SIMMONS
WEBSTER B. GRIFFIN, JR.
WEBSTER B. GRIFFIN, SR.
WILLIAM E. STREET
WILLIAM M. HEMETER, M. D.
WILLIAM MARTEN
WILLIAM MITCHELL
WILLIAM S. PERRET
MR. & MRS. J. T. GOSS
DR. DAVID A. WHITE

B. PUBLIC COORDINATION

**B.I PUBLIC HEARING TRANSCRIPT AND WRITTEN
STATEMENTS SUBMITTED DURING HEARING**

PUBLIC HEARING
BY THE
UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

CONCERNING
A PROPOSED CLEAN WATER ACT SECTION 404(c) DETERMINATION
FOR THE BAYOU AUX CARPES SWAMP AREA

JUNE 18, 1985
7:00 p.m.
COUNCIL CHAMBERS, GRETNA COURTHOUSE
GRETNA, LOUISIANA

REGISTRATION

OPENING REMARKS BY HEARING OFFICER

Paul Seals, Regional Counsel
EPA Region 6 - Dallas, Texas

INTRODUCTION AND BACKGROUND

Barbara A. Keeler
EPA Region 6 - Dallas, Texas

TECHNICAL FINDINGS

VEGETATIVE ASSOCIATIONS

David R. Williams
Lockheed - Las Vegas, Nevada

ECOLOGICAL CHARACTERIZATION

Delbert B. Hicks and Thomas R. Cavinder
EPA Region 4 - Athens, Georgia

FISH AND WILDLIFE

Dr. Thomas C. Michot
U.S. Fish and Wildlife Service
Lafayette, Louisiana

RECREATION

Mr. James L. Isenogle, Superintendent
Jean Lafitte National Historical Park

PUBLIC COMMENTS

CLOSING REMARKS BY HEARING OFFICER

MEETING Bayou aux Carpes
Gretna, Louisiana

DATE June 18, 1985

PLEASE PRINT

NAME	ADDRESS	PHONE	REPRESENTING
1 Patrick S. Jike	U.N.O P.O. Box 1021	-	U.N.O
2 FELIX C. MADUKA	U.N.O. BOX 826	-	U.N.O.
3 BENJAMIN OBI	UNO BOX 1050	-	U.N.O.
4 STANLEY MILLER	P.O. BOX 60267, N.O., LA. 70160	-	C.O.E OBSERVER
5 MAURICE E ANDERSON	PC Box 484, HARVEY 70059	-	CHAMBER OF COMMERCE
6 James L. Tenegele	423 Canal St., N.O., LA. 70130		Natl. Park Service
7 Thomas C. Micht	Box 4305 Laf., LA 70502		USFWS
8 George E Neusaenger	423 Canal St NOLA		Natl Park Serv.
9 Webster B. Saffin	5201 Webberville Expwy, Metairie La 70072		
10 Webster B. Saffin	6201 Evelina St.		Metairie, La. 70072
11 Webster B. Saffin	Box 328-B Rt 1		Metairie, La 70072
12 Chris Danta	424 BELLANGER		HARVEY LA. 70058
13 Colmie Good	5501 Bundy #121		NOLA 70127
14 Sam Drillard	1442 Choctaw Av., Met. 70005		
15 David Marschall	1260 Main St. Baton Rouge, La. 70802		Coastal Environments, Inc.
16 Kim M. Bettiger	1260 Main St. B.R., LA 70802		Coastal Env., Inc.
17 Wayne Crochet	P.O. Box 397, Harvey LA. 70059	316-5757	Harvey Canal Ind. Assn.
18 W. J. H. H. H.	1260 Main St. BR. LA. 70802		Coastal Environments Inc.
19 SHERWOOD M. GAGLIANO	1260 MAIN ST., BR, LA. 70802		Coastal Environments, Inc.
20 DOUGLAS MOORE	4700 AVENUE U Galveston Tx 77550		National Marine Fisheries Service
21 JOSEPH J. KRESS	9616 Robt W Lake River Ridge La		Grassy Point Auth
22 Peter H. Graber	2738 Cedar Creek St. Metairie, LA 70072		Crown Point Civic Assoc
23 Christine Graber	" " " " "		Crown Point Civic Assoc
24 RANDALL DuPont	(Billy Tauzin) 2439 Manhattan Blvd, Suite 304 Harvey, LA 70058		

MEETING Bayou aux Carpes
Gretna, Louisiana

DATE June 18, 1985

PLEASE PRINT

NAME	ADDRESS	PHONE	REPRESENTING
1 FRANK MONTEFERRANTE	LA DEPT. NATURAL RES. COASTAL MANAGEMENT	342-7511	
2 HAROLD MOLAISON	33 WILLOW	361-1056	Self & client
3 Eleanor & Neilson	4616 S. ROMAN LINE		
4 Barbara Price	Metairie, LA.		Self
5 Mary R. Hopkins	Metairie, La.		Self
6 William Keen	Jefferson for		Fund for Church
7 Ernest J. Fassin	9th Jefferson Ave District		
8 John Knight	President -		
9 Kathy G. Dyer	7507 Scottwood Dr.		Summary please
10 Fred Langeman	3116 Cedar Dr.		Mayor
11 ROGER SWINLER	NEW ORLEANS		CORPS OF ENGIN Met. La. 70005
12 Tom Heitman for Congressman Bob Livingston	111 Veterans St.		700 FRIENDS OF JEAN LAFITTE PARK
13 JOSEPH I. VINCENT	1041 FARRINGTON DR, MARRERO, LA 70072		
14 Charlotte Fremoux	305 Cuddihy Drive Metairie LA 70005		League of Women Voters of Jefferson Parish
15 Steve Valence	554 AVE "A" Westwego, La.		70094
16			
17			
18			
19			
20			
21			
22			
23			
24			

MEETING Bayou aux Carpes
Gretna, Louisiana

DATE June 18, 1985

PLEASE PRINT

NAME	ADDRESS	PHONE	REPRESENTING
1 Terry H. Howey	P.O. B. 44124 Baton Rouge LA 70804	504-342-7591	La. Dept. Nat. Res.
2 John J. Malaison	2517 VULCAN ST. HARVEY, LA, 70058		myself
3 Suzanne James	1781 Lafreniere N.O. La 70122		Corps of Engineers.
4 Jim Kallen	400 Royal St. (504)	568-5689	La DWF
5 Gregory Breeland	808 Colonial Rd		myself
6 William Martin	6022 Pitt NOLA		myself
7 M. Haghghi	P.O. Box 488		myself.
8 Rpl. LITNER	PO BOX 1351, MARRERO		UNO (MYSELF)
9 Rod E Emmer	1260 Marist BR, LA 70802		-
10 BARRY KOHL	1522 LOWERLINE ST. NOLA.		Orleans Audubon
11 Rixie J. Hardy	3100 Blonchard Dr. Chalmette		Corps of Engr
12 Ralph Latawiec	400 Roync ST N.O. La.		La. Dept W & F.
13 John E. Parker	628 Distrey Bldg N.O. La		Parker & Parker
14 Juliet W. Berry	4117 Ames Blvd.		Britania Civic Org. Assoc.
15 [unclear]	5480 CANAL RD	342-2498	BRATONIA CIVIC ORG ASSOC
16 Mary Le Plum-Martyr	5512 Camp St N.O.	891-4156	self
17 Corby V. Martyr	5512 Campno	891-4156	self
18			
19			
20			
21			
22			
23			
24			

MEETING Bayou aux Carpes
Gretna, Louisiana

DATE June 18, 1985

PLEASE PRINT

NAME ADDRESS PHONE REPRESENTING

1 GARY COLNET 4320 HAMILTON ST 482-7310 —

2 ~~Mrs~~ Diane Ribando Rt. 1, Box 333-B 689-3691 Self

3 Nelson J. Callan 604 Garden Rd, Murren 341-3974 ^{W.B. Sports Club}

4 Les Hammond 813 NE 27 Av Hallandale, FL 33009

5 ~~Oil and Gas Bldg~~

6 ~~1120 Tulane Ave, Suite 1200~~

SEIS PROS New Orleans ~~70112~~

8 Meeting summary ~~Longwood Va.~~

9 Tommy Miller 385 mallard dr. Sidell 525 5549

10 (see question)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

at
meeting
summary

MEETING Bayou aux Carpes
Gretna, Louisiana

DATE June 18, 1985

PLEASE PRINT

	NAME	ADDRESS	PHONE	REPRESENTING
1	<i>Lydia Meillet</i>	<i>301 Highway Dr</i>	<i>837-7632</i>	<i>N.O. Sierra Club</i>
2	<i>Gary Kelley</i>	<i>7010 Milne Blvd. N.O. LA 70124</i>	<i>282-5116</i>	<i>Orleans Audubon</i>
3	<i>IRVIN GOLDMAN</i>	<i>151 MEADOWCREST</i>	<i>392-3171</i>	<i>GRETNALA 70053 LANDMARK</i>
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				

MEETING Bayou aux Carpes
Gretna, Louisiana

DATE June 18, 1985

PLEASE PRINT

	NAME	ADDRESS	PHONE	REPRESENTING
1	HOWARD GREEN	7809 AIRLINE MET	737 2777	
2	MARY G. CURRY	3330 N. Causeway Blvd.	Met, LA 70002	Jefferson Parish
3	D.L. MORROW	RT 1 Box 332 C	MARRERO	LA 70072
4	JACQUES J. CREPPEL	2334 RAMSEY DR.	N.O., LA.	70114
5	J. Wozner	5610 Chatham Dr.	NOLA	70122
6	Cecilia D. Stafford	2148 Selma St.,	NOLA	70122 personal interest
7	Denise Vallan	6410 Lafayette St.	N.O.	LA 70122
8	LESTER GREEN	5612 CHESTNUT ST.	N.O.	LA 70115
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
PUBLIC HEARING

In the Matter of:

PROPOSED DETERMINATION TO PROHIBIT,
DENY OR RESTRICT THE SPECIFICATIION,
OR THE USE FOR SPECIFICATION, OF AN
AREA AS A DISPOSAL SITE

SECTION 404(c)
CLEAN WATER ACT
(33 U.S.C.1251 et seq)

Council Chambers,
Gretna Courthouse,
Gretna, Louisiana

Pursuant to notice, the public hearing in the
above-entitled matter began at 7:00 p.m.

PRESIDING:

PAUL SEALS, Esq.
Regional Counsel,
EPA Region 6,
Dallas, Texas

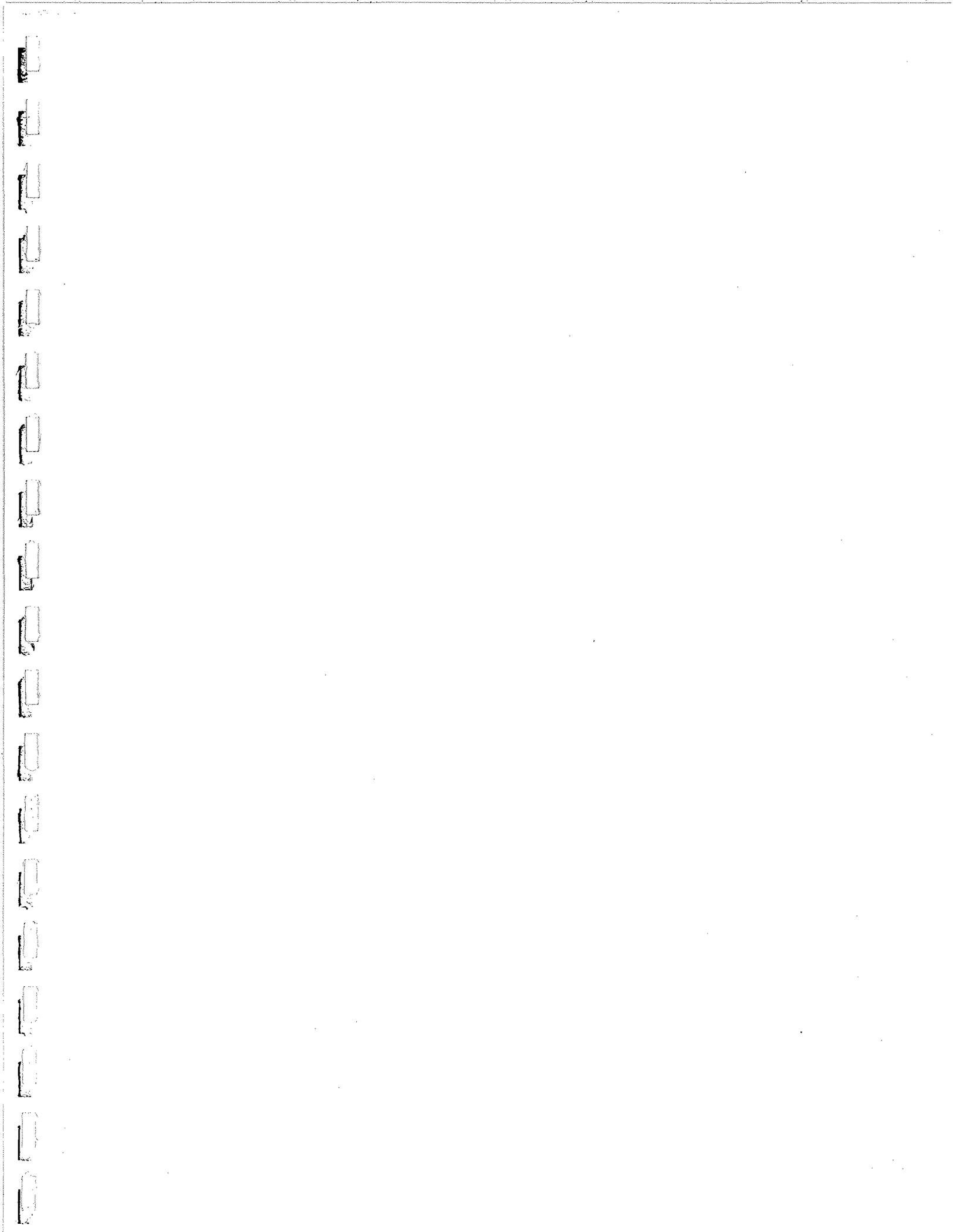
APPEARANCES:

On Behalf of EPA Region 6:

BARBARA A. KEELER,
Environmental Protection Specialist
Region 6,
First International Building,
1201 Elm Street,
Dallas, Texas 75270

Tuesday,
June 18, 1985

AT ONCE
COURT REPORTERS
234 LOYOLA AVE.
SUITE 421
NEW ORLEANS, LA. 70112
504 525 6866



C O N T E N T S

	<u>REMARKS BY:</u>	<u>PAGE</u>
1		
2	<u>REMARKS BY:</u>	
3	Barbara A. Keeler	10
4	David R. Williams	19
5	Delbert B. Hicks	24
6	Dr. Thomas C. Michot	30
7	James L. Isenogle	35
8	Harold Molaison	40
9	John J. Molaison	55
10	Nat B. Knight, Jr.	61
11	Buckner Barkley	61
12	Diane Ribando	69
13	David W. Fruge	76
14	Edgar Viallon	80
15	Webster B. Griffin	84
16	Sidney Rosenthal, Jr.	85
17	Wayne Crochet	90
18	Donald Moore	92
19	Barry Kohl	96
20	Fritz Wagner	98
21	Joseph K. Krebs, Jr.	102
22	Tim Killeen	106
23	Joseph Vincent	108
24	Peter Graber	112
25	Charlotte Fremaux	115

C O N T E N T S (Continued)

	<u>REMARKS BY:</u>	<u>PAGE</u>
1		
2	<u>REMARKS BY:</u>	
3	A.J. Planche	118
4	Maurice Anderson	122
5	Lydia Guillot	126
6		
7	- - -	
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

1
2 HEARING OFFICER SEALS: Good evening. My name is
3 Paul Seals and I am Regional Counsel of the Region VI of the
4 Environmental Protection Agency with offices in Dallas, Texas.

5 I have been designated by the Regional Administrator
6 to be the Presiding Officer tonight.

7 Before we begin with the presentations, I request
8 that if any of you haven't registered, please do so at this
9 time. Please indicate whether or not you wish to make a
10 statement.

11 This hearing is being held in accordance with the
12 Regulations developed to implement Section 404(c) of the Clean
13 Water Act.

14 The purpose of this hearing is to receive comments
15 from the public and other interested persons or agency
16 representatives. Such comments should be directed toward
17 whether or not the Environmental Protection Agency should
18 prohibit an area known as the Bayou aux Carpes swamp from
19 future use as a disposal site under Section 404(c).

20 EPA has historically recognized this area as a
21 sensitive, valuable wetland worthy of protective measures and,
22 yet, continually subject to project proposals which could
23 adversely affect its wetland characteristics.

24 EPA's decision to initiate the 404(c) process
25 came about at this particular time, partly as a result of

1 recent judicial action. A suit was filed in 1977 by landowners
2 who were interested in seeing a project which originated in
3 the 1960's as a Corps flood control project. The Harvey Canal-
4 Bayou Barataria Levee Project. They wanted to see it completed
5 as it was originally designed.

6 This original design included levee building,
7 construction of a pumping station and the closure of some
8 waterways. Over the years, EPA continually objected to the
9 original project design because of the significant adverse
10 effects on this productive wetland ecosystem.

11 In 1975, EPA recommended a modified design which
12 would replace the dams with floodgates and which would require
13 that if a pumping station was needed for flood control, it
14 would be operated so as to maintain the integrity of the
15 wetlands.

16 The latest step in the landowners lawsuit occurred
17 in the United States District Court for the Eastern District
18 of Louisiana. Judge Lansing Mitchell issued an order, which
19 in part, allowed EPA until December 18th, 1984 to invoke
20 404(c) on the project as originally designed.

21 On December 18th, 1984, EPA initiated the 404(c)
22 process with respect to the original project and that portion
23 of the Bayou aux Carpes swamp owned by these landowners.

24 Subsequently, EPA initiated the 404(c) process
25 for an additional area adjoining that property but outside

1 the area being considered in the specific case before the
2 District Court.

3 Together, both of these tracts comprised the
4 approximately 3,000 acre tract which is the subject of the
5 Notice and the Public Hearing.

6 I would like to just touch on the background of the
7 Federal Government's role regulating the use of waters and
8 wetlands for disposal sites.

9 Natural waterways and lands bordering those waters
10 have long been recognized as important components of our
11 nation's natural resources. In 1972, in recognition of the
12 importance of wetlands, Congress amended the Federal Water
13 Pollution Control Act, commonly referred to as the Clean Water
14 Act, expressing a clear commitment by the Federal Government
15 to restore and maintain the chemical, physical and biological
16 integrity of the nation's waters.

17 Section 404(a) of the Clean Water Act granted the
18 authority to the Secretary of the Army to issue permits for
19 the discharge of dredged or fill materials into waters of
20 the United States, so long as that discharge activity complied
21 with the U.S. Army Corps of Engineers regulations and EPA's
22 404 guidelines developed in accordance with Section 404(b).

23 Such guidelines emphasized the need to screen all
24 applications for permits through a careful examination of
25 available alternatives and biological impacts of a proposed

1 action.

2 Section 404(c) of the Clean Water Act, the section
3 of the Act that we are specifically dealing with tonight,
4 states that the Administrator of EPA is authorized to prohibit,
5 deny or restrict the use of any defined area as a disposal
6 site whenever he determines, after notice and opportunity for
7 Public Hearing, that the discharge of such materials into
8 such area will have an unacceptable, adverse effect on
9 municipal water supplies, shellfish beds and fishery areas,
10 wildlife or recreational areas.

11 It is in accordance with the requirements of
12 Section 404(c) regulations and in the interest of obtaining
13 public views on this matter, that we are having the hearing
14 tonight.

15 EPA's Regional Administrator is proposing to
16 prohibit an area known as the Bayou aux Carpes swamp from
17 future use as a disposal site.

18 We are asking for your comments on the proposal,
19 which could result in the denial of any future applications
20 for Section 404 permits for the discharge of dredged or fill
21 materials in wetlands in the area in question.

22 We are also soliciting comments on whether or not
23 the impacts of any such proposed disposal operations would
24 represent unacceptable adverse effects as described in
25 Section 404(c).

1 We are, therefore, asking you to provide us with
2 any technical information, as well as your personal views,
3 on potential impacts of the proposed work.

4 As for the agenda for tonight's hearing, I think
5 most of you picked up one at the registration desk.

6 We will first begin with Ms. Barbara Keeler, who is
7 seated at my right, an environmental protection specialist
8 with the Region VI. She will make a short presentation
9 describing 404(c) regulations and will outline some of the
10 major events influencing our proposed action.

11 She will also introduce other representatives of
12 the Federal Agencies who will be making presentations this
13 evening.

14 We will then take a short break, which you may use
15 to visit with Government speakers and look over the maps
16 that are around the room.

17 After the break, I will allow any of the affected
18 landowners or their representatives to present their
19 information.

20 I will then open the hearing for other comments.
21 I will recognize speakers generally in the order we received
22 their registration cards. Any person giving a statement at
23 this hearing may be represented by Counsel, if desired, but
24 there is to be no cross-examination of any hearing participant.

25 As Presiding Officer, I shall reserve the right,

1 however, to make appropriate inquiries of any participant as
2 is necessary for the hearing record.

3 We plan to conclude the hearing tonight and will
4 stay until it's complete, whatever the time, in order to give
5 everyone who wishes to make a presentation, the opportunity
6 to do so.

7 We have a considerable amount of material to cover
8 and many comments to hear tonight, so we request that you make
9 your oral statements as brief as you can without omitting
10 pertinent information. We would encourage you to provide us
11 with written comments, either tonight or by mail to our Region
12 VI office. Anyone needing that address can obtain it at the
13 registration desk.

14 As of tonight, the comment period will close on
15 August the 2nd, which I believe is a Friday, so that we need
16 your written comments by that date. I say "as of tonight"
17 because we have pending before Judge Mitchell, who I mentioned
18 earlier, a request that he grant an extension of time for the
19 Agency to complete this process that we have initiated so far
20 and if, in fact, the Judge does grant that time extension,
21 we will be notifying all the folks who have registered tonight
22 and let them know that they will have additional time to
23 provide their written comments to the Agency.

24 I'd like to call your attention to the fact that
25 we are transcribing the comments made at this hearing, so

1 please state your name and who you represent and if you are
2 appearing in a representative capacity and, please, speak
3 directly into the microphone we have provided for your
4 statements.

5 At this time, before I introduce Ms. Keeler, I'd
6 like to recognize for the folks that are here tonight,
7 representing Congressman Billy Tauzin, is Randall Duplant.
8 He's in the back of the room there.

9 In addition, representing Congressman Bob
10 Livingston, Tom Hiteman. I believe he's here in the front row.

11 In addition, we have Steve Valance from the
12 Westwego City Council. Right here on the front row, and
13 Ernest Tauzin, from the West Jefferson Levee District, the
14 former Mayor of Westwego, is here tonight.

15 With that, Ms. Keeler.

16 REMARKS

17 BY

18 BARBARA KEELER

19 Good evening. My name is Barbara Keeler and I am
20 employed by the United States Environmental Protection Agency
21 at the Region VI Office in Dallas, Texas.

22 My role in this case has been to serve as the
23 Project Officer for the Environmental Services Division.

24 As Mr. Seals indicated, I will summarize the Clean
25 Water Act, Section 404(c) regulations and the events which

1 brought us to this public meeting. I will begin by discussing
2 the regulations, which are entitled Denial or Restriction of
3 Disposal Sites, Section 404(c) Procedures. They may be found
4 in the Code of Federal Regulations, Title 40, Part 231. I
5 have a limited number of copies of these regulations available
6 to distribute.

7 The process established by these regulations
8 provides that an EPA Regional Administrator is authorized to
9 recommend to the EPA Administrator in Washington, D.C. that
10 any water of the U.S. already specified by the U.S. Army Corps
11 of Engineers as a disposal site for dredged or fill material
12 be withdrawn from specification. It also authorizes the
13 Regional Administrator to recommend that the Administrator
14 prohibit, deny or restrict the use of any area for the present
15 or future discharge of any dredged or fill material into the
16 waters of the U.S.

17 In this case, EPA is considering restricting or
18 prohibiting the use of the Bayou aux Carpes site for present
19 or future discharge of dredged or fill material. There is
20 no Section 404 permit application currently under review
21 by the Corps or EPA for fill activities in the Bayou aux
22 Carpes site. The decision being considered is whether or
23 not EPA will prohibit or restrict the future issuance by the
24 Corps of any or all Section 404 permits for this area.

25 This decision would involve similar restrictions

1 or prohibitions on the implementation of Federal projects
2 which would involve similar discharges.

3 According to the regulations, the criteria to be
4 used in making this type of recommendation are four-fold.
5 It must be shown that the discharge of dredged or fill
6 material would be likely to result in the following:

7 Firstly, significant degradation of municipal water
8 supplies;

9 Secondly, significant loss of or damage to shellfish
10 beds or fishery areas, including spawning and breeding areas;

11 Thirdly, significant loss or degradation to
12 wildlife and;

13 Fourthly, significant loss or damage to recreation
14 areas.

15 In evaluating the unacceptability of projected
16 impacts, consideration should also be given to the relevant
17 portions of the 404(B)(1) guidelines found in the Code of
18 Federal Regulations, Title 40, Part 230. These guidelines
19 provide the substantive physical, chemical and biological
20 criteria used in evaluating the proposals for discharges
21 regulated under Section 404 of the Clean Water Act.

22 Section 404(C) proceedings began in this instance
23 when Regional Administrator Dick Whittington notified the
24 New Orleans District Engineer and the property owners,
25 beginning on December 18th, 1984 that he intended to initiate

1 the 404(C) process.

2 The Corps and the property owners were provided
3 with a period of time in which to consult with the Regional
4 Administrator in order to demonstrate that no unacceptable
5 adverse effect would occur or that corrective actions to
6 prevent adverse effects would be taken.

7 The regulations provide, however, that if the
8 Regional Administrator is not satisfied, he is to proceed
9 with his proposed determination.

10 On May 10th, 1985, EPA Region VI issued a public
11 notice of the proposed determination that specification of the
12 Bayou aux Carpes site be withdrawn or that the area should be
13 restricted or prohibited for use as a disposal site because
14 of the unacceptable adverse environmental effects which could
15 occur.

16 The public notice also announced tonight's public
17 meeting, which was scheduled in order to fully inform the
18 public of the EPA decisions currently being considered and to
19 provide the public and any other interested parties, another
20 opportunity to participate in this process.

21 At this point, no decision has been made by EPA.
22 The Regional Office is still studying the situation and is
23 soliciting your input.

24 After considering all information heard this
25 evening and submitted in writing during the comment period,

1 the Region will either withdraw the proposed determination or
2 prepare a recommended determination to prohibit, deny or
3 restrict the use of this site.

4 At that point, the Region's decision would be
5 reviewed by the Administrator in Washington, D.C., who is
6 responsible for making the final determination.

7 Before the final determination is made, the
8 Administrator will provide the property owners and the Corps
9 an opportunity for consultations, similar to that previously
10 provided at the Regional level.

11 Notice of the final determination will be published
12 in the Federal Register.

13 In order to further explain the context in which
14 EPA is conducting this public meeting tonight, I will now
15 briefly outline some of the major events influencing our
16 current involvement.

17 First of all, we must examine the very long history
18 of one particular project, which is generally known as the
19 Harvey Canal-Bayou Barataria Levee Project.

20 In 1961 the Court proposed this flood control
21 project for the Westbank of Jefferson Parish. A portion of
22 the original project design included construction of levees
23 around the Bayou aux Carpes site, construction of a pumping
24 station at the mouth of Bayou aux Carpes, closure of some
25 waterways and excavation of some drainage ditches.

1 After assurances of local cooperation were provided
2 by Jefferson Parish, the Corps approved the project and issued
3 an environmental impact statement, or EIS, in 1970.

4 The EIS recommended that the project be constructed
5 as originally designed. By 1973, much of the levee work had
6 been completed and all of the Federal funding contribution
7 had been expended.

8 In 1974, local interests completed the closure of
9 the Bayou aux Carpes opening to Bayou Barataria using a clam
10 shell fill.

11 In 1974, the Corps ordered a halt to these
12 construction activities in order to conduct a Section 404
13 review and to hold a public hearing. That review was completed
14 in March of 1975, when the New Orleans District Engineer
15 issued a statement of findings which recommended that the
16 project proceed to completion under the original design and
17 that the pumping station be installed at Bayou aux Carpes.

18 However, in a letter dated April 25, 1975, EPA
19 Region VI replied with certain objections and concluded that
20 "the permanent blocking of Bayou des Familles and Bayou aux
21 Carpes and the subsequent draining of the interior, would
22 result in the irretrievable loss of valuable wetlands, have
23 an unacceptable adverse impact on wildlife and recreation
24 areas and would not be in the public interest."

25 Additional discussion between EPA and the Corps

1 ensued and in March, 1976, a team of EPA scientists conducted
2 a field study which supported the Region's April 25, 1975
3 position.

4 Thereafter, the Corps reaffirmed their original
5 position several times. Then in November of 1976, General
6 Drake Wilson, Deputy Director of Civil Works, directed that the
7 dams at Bayou aux Carpes and Bayou des Familles be removed
8 and the pumping station at Bayou aux Carpes be abandoned.

9 This position was consistent with the previous EPA
10 recommendations for a modified project.

11 Thereafter, several lawsuits were filed by a group
12 of landowners who sought to set aside General Wilson's November
13 16, 1976 finding, in order that the project might be completed
14 according to the original design.

15 One of the most recent events in this case occurred
16 September 19, 1984, when U.S. District Court Judge Lansing
17 Mitchell issued an order directing EPA to decide within 90
18 days whether to invoke the provisions of Section 404(C) of the
19 Clean Water Act with regard to the originally designed
20 project.

21 Accordingly, Regional Administrator Dick
22 Whittington initiated the 404(C) process with respect to that
23 portion of the Bayou aux Carpes swamp owned by the parties
24 involved in that particular lawsuit.

25 In the following weeks, as ownership records were

1 researched, an additional area adjoining that, the other
2 properties, EPA initiated the 404(C) process for an additional
3 area that adjoined those properties.

4 All of these tracts were included in the original
5 Harvey Canal-Bayou Barataria Levee Project and together they
6 comprise the approximately 3000 acre tract, which is the
7 subject of this particular public meeting.

8 In addition to that Harvey Canal-Bayou Barataria
9 Levee Project, EPA has been involved in two other major
10 project reviews involving the discharge of dredged or fill
11 material within this same tract.

12 EPA conducted extensive negotiations during an EIS
13 Section 404 permit review process for the Marrero-Lafitte
14 Waterline project.

15 As a result, a Memorandum of Agreement, or MOA, was
16 signed in November of 1979 by EPA and Jefferson Parish. The
17 MOA delineated several Prohibited Service Areas, one of which
18 included the Bayou aux Carpes study area that we are
19 discussing tonight. These Prohibited Service Areas were
20 created in order to alleviate EPA's concern that the Waterline
21 Project might have induced development which would encroach
22 upon significantly important wetlands.

23 And in yet another case, EPA notified the Corps
24 on April 26, 1984, that the preferred levee alignment for the
25 Westbank Hurricane Protection Levee Project was environmentally

1 unacceptable, due to the projected significant adverse impact
2 to water quality and wetland habitat.

3 This was also an area which would include the
4 Bayou aux Carpes site we are studying now.

5 On June 20, 1984, the Corps denied the Parish
6 request for a permit to construct a levee along the preferred
7 alignment and instead, issued a permit for another alignment
8 which would not adversely affect the Bayou aux Carpes site.

9 These three project cases serve to illustrate that
10 EPA has historically recognized the Bayou aux Carpes site as
11 a sensitive and valuable wetland worthy of special protective
12 measures in response to project proposals which could
13 adversely affect its wetland characteristics.

14 I thank you for your attention.

15 Now, I'll ask David Williams to describe the project
16 location and the infra-red aerial photography he produced in
17 order to study the vegetative associations.

18 Mr Williams is employed as a Principal Scientist
19 by Lockheed Engineering and Management Services Company,
20 Inc. and he was contracted by EPA's Environmental Monitoring
21 Systems Laboratory in Las Vegas.

22 Mr. Williams.
23
24
25

1 just a moment, are visible in blue, green and red tones.

2 Okay. For a variety of different reasons, the
3 different species and associations of vegetation reflect
4 different energies in different ways. There's a unique
5 patterns of tone and texture and other image characteristics
6 and I've been doing photo interpretation for about fifteen (15)
7 years now and there's usually -- well, I've always found a
8 very unique signature -- that's what we call it -- a signature
9 is a unique combination of image qualities and this is how I
10 went about mapping the vegetation. That's one of the things
11 that I did.

12 I took a field trip out to the area and visited a
13 representative sample of locations that would give me a feel
14 for the different types of vegetation, then I'd go back and
15 compare that to what I see on the photos and develop these
16 signatures and then, once I have accomplished that, I can map
17 the remainder of the vegetation in the study area.

18 Just to give you a regional -- of course, this is
19 going up Bayou Barataria, going up this way (indicating).
20 This is Highway 3134 from North to South and this is Bayou
21 des Familles, Bayou aux Carpes, the small town of Crown Point.
22 Here is the Plaquemine-Jefferson Parish line coming up through
23 here. (Using pointer to indicate areas on map.)

24 Okay. We broke out roughly eighteen(18) categories
25 of vegetation. I just want to briefly touch on each one of

1 those, if we might.

2 There is some agricultural lands here. There's a
3 ridge down here on the Southwest side of the study area and
4 most of it is occupied by bottomland hardwood and we have a
5 small portion of pasture land, agriculture, down in this
6 area.

7 Bull Tongue marsh, a very luxuriant almost monotypic
8 stand here of bull tongue marsh up here in the Northern part
9 and also the Southern part.

10 We also had a mixed emergence, which is things
11 like -- if you're familiar with wetlands plants -- pacopa
12 and

13 Alongside the bull tongue there are some admixtures
14 of the bull tongue and mixed emergence in this area and down
15 here we also have some mixed emergence and some mixing with
16 the bull tongue.

17 There's quite a bit of forest wetlands in the area,
18 all through this area here we have bald cypress and then also
19 occasionally mixed with tupelo, water tupelo. We have cypress
20 and willow mixture. We have aquatic duckweed. You've seen
21 that. The little green plants floating on top of the surfaces.

22 And then the grasslands associated with the levee,
23 the levee, of course, runs from approximately this location
24 all the way around up here to the Estelle pumping station
25 and canal right here.

1 So there are some grasslands associated with that
2 but primarily willows and mixtures of willow and maple. This
3 is about a foot elevation higher than the adjacent swamp.

4 Of course, this area over here to the West is part
5 of the Jean Lafitte Historical Park.

6 Okay. Generally, the result, there is about 3200
7 acres. Of the 3200 acres on the study area, about 648 acres
8 were in what might be termed marsh, or is march, that is, and
9 the 2190 acres of forested and shrub wetland within the area.

10 The scale of this photo-mosaic is one-inch is 542
11 feet. I'll just put that in.

12 We produced three overlays. One is a vegetation
13 type map. Then we have geographical names, references and
14 significant drainage units and then, the third one was just
15 the boundaries, the land boundary and during the break, I'll
16 stick around here and if you have any questions, I'll be happy
17 to answer them for you.

18 Thank you.

19 MS.KEELER: Thank you, Mr. Williams.

20 Delbert Hicks will now present the findings from
21 the Hydrological, Chemical and Biological Assessment of the
22 Bayou aux Carpes site, which he performed for Region VI, with
23 the assistance of Tom Cavinder.

24 Mr. Hicks and Mr. Cavinder are employed by EPA
25 Region IV and work out of the Environmental Research

1 Laboratory in Athens, Georgia.

2 Mr. Hicks is an Aquatic Biologist who has performed
3 the field studies and technical analyses for numerous 404
4 project proposals involving coastal wetlands, has provided
5 expert testimony in numerous court hearings on wetland matters
6 and was a principal investigator in four other Section 404(C)
7 cases.

8 In fact, due to their key roles in most of the
9 Agency's previous 404(C) projects, Mr. Hicks and Mr. Cavinder
10 have credentials which are unsurpassed in this type of work.

11 Mr. Cavinder is an Environmental Engineer who has
12 been employed by EPA since 1971. He serves as a Senior
13 Project Engineer and provides regional expertise on the
14 engineering, hydraulic, hydrological and water quality effects
15 of coastal estuarine wetland projects. He has also worked
16 on previous 404(c) cases and has had experience as an expert
17 witness in court cases involving wetland issues. Both
18 gentlemen served on the EPA team which surveyed the Bayou aux
19 Carpes site for Region VI in 1976.

20 Mr. Hicks.

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
REMARKS

BY

DELBERT B. HICKS

As she mentioned, my involvement began in 1976 and it was due to a request by the then Regional Administrator, Mr. John White.

At that time I believe it would be fair to say that an individual who would be motoring down the Barataria Waterway, looking at the West side of the river, would see this dike system and might say, "I wonder what's behind there?" and if he was told Bayou aux Carpes exists there and that's a swamp and fresh water area, he would logically assume and say, "Well, how can that survive diked in in such a manner?"

Possibly this was some of the thinking and concerns that Mr. White had when he asked us to visit the site and draw upon available information, generously supplied by the Corps of Engineers, and we conducted a site visit via helicopter and we walked through some of the areas and then we reviewed extensive documentation concerning the biology and the hydrology of this particular area.

From this effort, we concluded the Bayou aux Carpes system was indeed a viable and functional wetland area. We also felt that many of the key roles that it played in this ecology were vital to the Barataria Bay estuary, which has been recognized as probably one of the most important fishery production zones in Louisiana.

1 Many of the functions that we identified were
2 obvious to us, based on our examination of the information and
3 one, the types of plants involved showed signs of high level
4 productivity. The water regime was such that they were not
5 stressed. Furthermore, the ability of this large area to retain
6 surface water in somewhat of a storage capacity would, then,
7 in turn, supply to the estuary as an intermediary process,
8 was a recognized function.

9 And finally, and probably foremost, was the
10 community of animals dwelling in the marsh itself, including
11 wildlife and fish.

12 Well, since that time, roughly eight years ago,
13 the Regional Administrator of today asked the same team to
14 return to the site and elaborate in greater detail some
15 functions that we reported on in our 1976 study.

16 And that's the purpose of my presence tonight, is
17 to give you the benefit of what we found. I will treat it in
18 summary form but anyone who wish to see the details of our
19 study and findings, you need only leave your name and address
20 with Ms. Keeler and we will be happy to supply you with the
21 document of the study.

22 If you will allow me a moment here, I'd like to
23 step over to this photograph here and speak to a couple of
24 key features of this site.

25 I encourage you at the break to take a look at

1 the photograph, because it really puts into perspective the
2 extensiveness of the dikes and the areas where we find a
3 hydrological connection between the swamp that drains itself
4 and the Barataria Waterway and, of course, as many of you know,
5 the Barataria Waterway leads to the bay itself.

6 Now, although the project area is bound on the
7 perimeter by dikes, there does exist a primary connection for
8 the water to flow through and that isd what we call the
9 Southern Gas Natural Gas Pipeline and it is a man-made canal
10 that penetrates into the swamp area where its mouth located
11 somewhat to the East of the original Bayou aux Carpes drainage
12 water course.

13 One aspect that drives the water in this system
14 in terms of vertical motion and its horizontal distribution,
15 is the wind. The second factor is tide. Based on our studies,
16 the tidal energies involved in this site are quite small.
17 The average tide range we measured was in the area of about
18 .3 to .4 feet and that conforms very well with the established
19 tide range expected for that area through NOS studies.

20 As I said, wind is the principal factor that causes
21 water to move in this system. The water levels in the
22 Barataria Waterway, based on long-term water level records
23 maintained by the Corps of Engineers and our site evaluation,
24 indicates that levels of change, elevations in the Barataria
25 Waterway are sufficient to flow into the Bayou aux Carpes

1 area at least fifty percent of the time.

2 Now, secondly, the mere fact that these elevations
3 are of such magnitude, they also tend to retain water or hold
4 water back in the swamp. Now, this period of flooding or
5 potential flooding occurs primarily from May to October and
6 that correlates well with the wind direction and intensities
7 that are characteristic of this area. We find that Southerly
8 driven winds are the main factor bringing water in from the
9 Barataria Bay system and dispersing it into the Barataria
10 Waterway and that probably explains the fact that even though
11 in the winter, in January when we were making our survey, we
12 found the water draining from the marsh was higher in chlorides
13 than the adjoining Barataria Waterway, which means it's
14 saltier. The salt logically would be derived during the
15 summer and fall periods when water is pushed up into this
16 vicinity of the Barataria Waterway. The salt content shows
17 up in the standing water in the marsh.

18 Which brings us to another point. The fact that
19 the residual salt or the brackish water leaving the site
20 indicates the long-term storage capacity of this particular
21 swamp area.

22 Now, with the rise and fall of the water levels
23 in the Bayou aux Carpes, there is a hydrologic mechanism
24 available for the distribution of matter and energy between
25 Barataria Waterway and the swamp. As the water level rises,

1 material from Barataria Bay, such as vital nutrients, are
2 pushed into the swamp area. Now, the ability for the water
3 to leave the Southern Natural Gas Pipeline, comes through
4 numerous breaks in the burns established that were established
5 when the pipeline was constructed, at the ends of these
6 exploration canals where there is no fill, so water can move
7 back and forth.

8 As the water leaves the site, it carries with it a
9 load of organic matter which we describe in general as
10 detritus. It's a recognized fact that this detritus emerges
11 from the system and disperses in the estuary and fuels what
12 we call a detrital-based economy proficient shelters. These
13 animals literally graze this material and extract the vital
14 energy in terms of protein from it and it is a mainstay in
15 their diet.

16 This pathway also allows for the movement of fish
17 into and out of Bayou aux Carpes. Our sampling of the
18 interior waters, open waters, yield a wide diversity of fishes,
19 including estuarine dependent species, such as the^{van} anchovy,
20 the blue crab and another form of crab known as yucca, which
21 is the fiddler.

22 As an interesting note, the blue crab only spawns
23 offshore and the eggs and larvae migrate inward and they
24 penetrate into these upper reaches where they maintain a
25 section of their life history until they reach a certain size,

1 then they back out of the system.

2 Now, our list is by no ways complete in terms of
3 identifying the type of estaurine dependent species that occur
4 in here. Records from the Corps of Engineers, records from
5 scientists that have done work for the National Park Service
6 show that that list includes striped mullet, spot and a variety
7 of fresh water forms, many of which are, of course, important
8 commercially and recreationally.

9 In summary of the study efforts that we have put
10 into Bayou aux Carpes, it was our conclusion that the data
11 we provided corroborates our earlier conclusions of 1976 that
12 the Bayou aux Carpes system is a vital, functional and
13 important marsh area, marsh swamp area, not only for local
14 production of fish and shellfish but, also, for the bay
15 itself, Barataria Bay.

16 Thank you.

17 MS. KEELER: Thank you.

18 Dr. Thomas Michot of the U.S. Fish and Wildlife
19 Service in Lafayette assisted us in our evaluation of two of
20 the 404(C) criteria, the impacts to fish and wildlife
21 resources. Dr. Michot received a doctoral degree in Zoology
22 from LSU in 1981 and has worked with the Fish and Wildlife
23 Service since that time. He's conducted five habitat
24 evaluation procedure analyses on major water resources
25 projects and will tell us about one of those.

1 (zero) indicates that a cover type provides little or no
2 potential habitate for the evaluation species, whereas a
3 value of 1.0 indicates that the habitate provides an optimum
4 amount of food, cover and/or other life requisites.

5 An interagency team assisted the Service in its
6 development of the methodology and in the collection of field
7 data for the HEP analysis. Other agencies represented by
8 biologists on the team included the National Park Service,
9 U.S. Army Corps of Engineers and Louisiana Department of
10 Wildlife and Fisheries. A representative of the EPA also
11 participated as an ex-officio member of the team.

12 For the purpose of the HEP analysis, the study area
13 was divided into five habitat types. These include
14 bottomland hardwood, wooded swamp, scrub-shrub wetlands,
15 fresh marsh and upland forested habitat. The team selected
16 seven evaluation species based on their ecological position
17 in the community, that is, trophic level, habitat requirements
18 and taxonomic grouping, as well as their recretaional,
19 commercial and aesthetic values.

20 Those species were gray squirrel, pileated
21 woodpecker, mink, wood duck, great egret, American alligator
22 and muskrat.

23 A total of 31 environmental parameters was
24 measured in the field to obtain input data for the
25 suitability models. We measured such variables as percent

1 canopy closure of mast-producing trees, percent of year with
2 surface water present, mean summer water depth and mean
3 height of woody vegetation, to mention only a few.

4 These parameters were measured on 48 one-tenth
5 acre plots systematically located on 12 randomly selected
6 transects.

7 Field data were collected by the evaluation team
8 during March 20 through March 26, 1985. For the purposes of
9 this presentation only, Habitat Suitability Index values were
10 converted to a scale of 1 to 10; 10 is considered optimum.

11 Bottomland hardwood and wooded swamp habitats
12 rated moderate to high in value for all species evaluated.
13 Bottomland hardwood habitat rated 7 for mink and pileated
14 woodpecker and 8 for gray squirrel.

15 Wooded swamp rated 6 as great egret nesting and
16 feeding habitat, 8 as wood duck breeding and wintering and
17 pileated woodpecker habitat, and 10 as mink habitat.

18 Upland forested habitat, spoil banks adjacent to
19 canals, rated less than 1 for gray squirrel and 2 for
20 pileated woodpeack but this habitat was found to be optimum
21 as mink habitat.

22 The scrub-shrub wetlands were characterized by
23 tree canopy closure of less that 30 percent, shrub canopy
24 closure of greater than 30 percent and a dense layer of
25 emergent herbaceous vegetation. This habitat type was found

1 to be optimum as wood duck wintering habitat, with a rating
2 of 10. It also rated 7 as alligator habitat, 4 as great
3 egret nesting and feeding habitat and 3 as wood duck breeding,
4 muskrat and mink habitat.

5 Fresh marsh rated 7 for alligator, 4 for mink and
6 it rated 3 as muskrat habitat and great egret feeding habitat,
7 and 1 as wood duck wintering habitat.

8 Personnel from the Fish and Wildlife Service and
9 National Park Service conducted fish sampling on the study
10 area on April 17 and 18, 1985.

11 Twenty-three (23) species of finfish and three (3)
12 species of shellfish were collected at seven sampling sites.
13 The most abundant species were forage species such as
14 mosquitofish, least killifish, sailfin molly, threadfin shad,
15 and golden topmissow; thousands of these fishes were collected
16 and they were present at virtually all stations.

17 Also common were predatory species such as
18 largemouth bass, spotted gar, warmouth, yellow bass and bowfin.
19 Use of the area by estaurine species is evidenced by the
20 presence of bay anchovy, tidewater silverside, striped mullet
21 and blue crab in the samples. Year-round sampling would
22 have probably revealed use by other estaurine species, such
23 as gulf menhaden.

24 Seventy wildlife species were identified during
25 trips to the area in October of 1985 and March 1985. We

1 observed nine species of amphibians, including amphiuma, green
2 tree frog and bullfrog. Ten species of reptiles were
3 identified, including the Gulf Coast box turtle, broad-banded
4 water snake and western mud snake; 18 American alligators
5 were observed on the area.

6 Forty-five species of birds were identified in the
7 study area. Some of the more common species were little blue
8 heron, great egret, wood duck, red-shouldered hawk, barred
9 owl, pileated woodpecker, red-bellied woodpecker, Caroline
10 chickadee, tufted titmouse, Carolina wren, northern parula
11 and common yellowthroat.

12 Also sighted on the area were the bald eagle,
13 American swallow-tailed kite and osprey. Six mammal species
14 were identified including swamp rabbit, nutrie, northern
15 raccoon and white-tailed deer.

16 In summary, our findings indicate that the Bayou aux
17 Carpes wetlands are of high value to a diversity of fish and
18 wildlife species characteristic of other productive freshwater
19 wetlands in coastal Louisiana.

20 Thank you.

21 MS. KEELER: Thank you, Dr. Michot.

22 Mr. James Isenogle will conclude our technical
23 presentations. Mr. Isenogle is the Superintendent of the
24 Jean Lafitte National Historical Park and he will highlight
25 some of the factors involved in our review of another of the

1 404(C) criteria -- that of impacts upon recreation areas.

2 REMARKS

3 BY

4 JAMES L. ISENOGLE

5 Thank you, Barbara.

6 The 3000 acre swamp is, as Tommy pointed out, an
7 important nursery area, a rich source of nutrients and
8 detritus, a hydrological buffer and a source of clean
9 freshwater release to the estuarine environment. The swamp
10 is also a productive wetland habitat in its own right.

11 These areas of concern have been addressed by
12 Tommy and he represents an organization that is at least as
13 concerned as the National Park Service and certainly has more
14 authority to speak on behalf of those values and has certainly
15 more detailed technical data as to those resources than we
16 do.

17 The National Park Service's area of grave and
18 specific concern and our area of greatest expertise is in
19 describing the direct short and long-range effect of the
20 project on the Barataria Unit of the Jean Lafitte National
21 Historical Park. Those effects promise to be extensive and
22 profound. They also threaten the ability of this Unit of the
23 Park to fulfill its purpose as defined by the law
24 authorizing its establishment.

25 First, you should understand that a significant

1 part of the Barataria Unit -- actually, everything between
2 Bayou des Familles and the LaRose-Lafitte Highway -- is in
3 the drainage area of the Bayou aux Carpes swamp. This is
4 about a thousand acres.

5 Within that thousand acre area are about 300 acres
6 of well-established, virgorous and maturing bald cypress
7 swamp. This swamp is an excellent example of such an
8 environment in that it supports a full range of flora and
9 fauna associated with that habitat. It is especially valuable
10 to the public in this National Park because it is accessible
11 by highway and easily and safely visited by an all-weather
12 trail which leads, via a system of boardwalks, virtually to
13 the heart of the swamp. This trail, the route of ranger
14 guided nature walks, is a key feature of the public appeal
15 of this Unit. Of the 700,000 who visited the Barataria Unit
16 in 1984, it's estimated that 26,000 walked this trail from
17 the end of April of 1984, when it was opened.

18 Even before the National Park was authorized in
19 1978, the dependency of the swamp now located within the Park
20 and the remainder of the Bayou aux Carpes swamp and its value
21 as a wetland, was documented by an agreement supervised by
22 the U.S. District Court in the District of Columbia, between
23 a consortium of environmental organizations and a group of
24 Federal and State Agencies who were engaged in planning,
25 designing, building and permitting the construction of the

1 LaRose-Lafitte Highway. That agreement, dated May 29, 1977,
2 requires, among other things, that the highway would be
3 constructed in a way that will

4 "ensure that the natural water
5 flow of the area is not impaired."

6 The highway subsequently constructed to those
7 specifications, albeit imperfectly, and the surface water
8 connection remains via the Bayou aux Carpes swamp to
9 tidewater.

10 If it were possible to complete the Bayou aux
11 Carpes project as it was originally planned, the swamp east
12 of the natural levee, Bayou des Familles, would be drained.
13 For several years after being drained, an episode of
14 subsidence would ensue and the existing cypress-tupelo gum
15 forest would die, due to the extreme change in the water
16 table and the remaining shallow, stagnant ponds would prevent
17 the growth of seedlings. The area would probably become a
18 series of shallow, open ponds with the intervening land
19 covered with flood tolerant shrubs.

20 The soil types in this area could be expected
21 to subside as much as eight (8) feet with the loss of ground
22 water.

23 The landscape would change dramatically and
24 development of any kind would be curtailed until the
25 environment again approached something approximating

1 equilibrium. Attempts that might be considered to maintain
2 the water elevation in the Park after it is separated from
3 tidewater, would produce essentially the same result in
4 terms of habitat and scenery, possibly with somewhat reduced
5 degrees of subsidence.

6 Intensive management to try to reproduce natural
7 hydrological cycles, assuming it were possible to find
8 sources of suitable water, if it were possible to find means
9 to deliver it and it were possible to find a method of
10 allowing run-off, it might possibly perpetuate existing
11 conditions but the expenses, the uncertainty of success and
12 the incompatibility of the whole concept of a contrived
13 quasi-natural environment with the purpose of the National
14 Park militate against this kind of program.

15 Second, everyone involved should also be aware
16 that if the project plan includes draining Bayou des Familles,
17 that bayou is now connected with the Gulf of Mexico.
18 Apparently at one time the bayou was obstructed in Crown
19 Point and its upstream tributary, Bayou Coquille, was
20 blocked by a failed culvert under Louisiana Route 45. Both
21 those obstructions to the natural flow have been removed
22 and the natural, historical water connection is re-established.

23 Bayou des Familles cannot be drained in its
24 present natural configuration.

25 To return it to its previous condition, would be

1 to return it to a stagnant back water in the Park and then
2 drain it dry, thus triggering subsidence and destroying
3 natural riparian habitat inside the Park.

4 Bayou Coquille, deprived of its connectin with
5 tidal flow through Bayou des Familles, would return to its
6 previous silt and weed-choked condition. Loss of these
7 open waterways would eliminated an important recreational
8 fishing resource and about five miles of the Park's existing
9 eight-mile canoe/piroque trail.

10 Third, he Bayou aux Carpes project would so
11 profoundly impact the aquatic system of the Barataria Unit
12 of the Park as to invite serious questions as to the area's
13 viability as a part of the National Park System.

14 It should be noted that Public Law 95-625, the law
15 that authorized the Park, also established a park
16 protection zone contiguous to the core of the Barataria Unit.
17 The purposes of this zone are to

18 "Protect the following values of
19 the core area: (1) Fresh water
20 drainage patterns from th Park
21 protection zone into the core
22 area; (2) Vegetative cover; (3)
23 Integrity of econological and
24 biological systems;and (4) Water
25 and air quality."

1 what has been and should be put into commerce some of the
2 most vital land in the Parish of Jefferson.

3 I, at this time, want to pass around an aerial
4 photo showing the land that's involved in this particular
5 hearing. I see that and you look at the Bayou aux Carpes map
6 and it looks like a big bayou and a lot of waterways.
7 Actually, you will have an opportunity, gentlemen, to pass
8 these up so the Board can look at these particular photos and
9 you will see that it is nothing but good high land in many
10 instances. There is a few low spots but look at it and take
11 a chance to see it.

12 Now, also at this time, I have formulated in
13 written fashion a letter to this hearing in which I have
14 enclosed the findings of General McIntyre and also Colonel
15 Hunt. For the record at this time -- would you pass these up
16 there --

17 Now, in these letters you will note -- let's
18 take the one for Richard Hunt -- and remember, we're talking
19 about a project that originated in 1960. The Corps of
20 Engineers has expended its one million (1,000,000) dollars.
21 There is no additional money to be expended by the Corps.
22 Judge Wicker of the 24th Judicial District Court has ordered
23 the Parish of Jefferson to complete this project. Judge
24 Lansing Mitchell has also ordered, in his decision and it
25 was a final judgment and it was that the Parish go ahead

1 and complete it and the only thing happened, there was a
2 reconsideration, at which time you gentlemen, all of which
3 are working for the Government, and you all then were brought
4 in to give your opinion as to why this particular project,
5 which has been approved -- and if you will note that in both
6 of these letters there is the recommendation, back in '74
7 by General McIntyre -- he approved it on one basis and one
8 basis only, what is to the best public interest. Both of
9 them.

10 We can talk about fish and we can talk about birds
11 and fill all kinds of pictures up on that but if we was to
12 do that, we would not at this time have an opportunity to
13 know what has happened in Jefferson Parish.

14 Up above Harvey, Gretna, Marrero, everyone of
15 these areas that you see here now is the same kind of land
16 that is projected in those photos that I've given you. Look
17 at those photos and you can see that it is all good, high
18 land. It is cypress, tupelo gum et cetera. But the Bayou
19 aux Carpes area, when we gave to it -- when the landowners
20 gave to the Corps of Engineers a 300-foot right-of-way in
21 order to put flood protection -- and God knows we needed it
22 here -- in order to put flood protection along the
23 intercoastal and along Harvey Canal, they gave 300-foot all
24 the way and the Corps then went out and spent their million
25 dollars and built the levee, cutting away a part of that

1 300-foot and then, after they were finished, in regards to
2 it, the Parish went ahead and wanted to go forward and put
3 the pumping station, because that was one of the
4 considerations that the landowners required. You give us a
5 pumping station and we'll give you the land.

6 And the Corps and everybody else -- that was
7 before there was an EPA. That didn't come in until '68 or
8 '72 and then went into '74 -- at which time you gentlemen
9 all came in on the picture -- but at that particular time,
10 what was the big question? What is to the best public
11 interest of this land?

12 And you had General McIntyre, General Wilson.
13 You've had Colonel Hunt, Hiberger and all of them, the whole
14 bunch have all set and gave reasons, written reasons.
15 That's why -- why do you think Judge Wicker and why do you
16 think Lansing Mitchell, those Judges, gave a judgment telling
17 the Parish to go ahead with it, you're obligated to it,
18 there's nothing else you can do because it is to the best
19 public interest and in those letters that you have in that
20 file which I've just given to you, it specifically sets
21 forth -- and I read to you -- this is what Colonel Hunt said:

22 "The overall project provides
23 for levee construction to protect
24 against high tides, interior drainage
25 facilities to accommodate the run-off

1 which the levees would intercept.

2 First lift construction of levee

3 has been completed."

4 Now, this is May 13, 1974.

5 "First lift construction of the

6 levee has been completed. Failure

7 to construct the pumping station

8 would seriously impair the function

9 of an benefits realized from the

10 overall project.

11 I have reviewed the project plan

12 in its entirety."

13 Now, he's head of the District Engineers at this

14 time.

15 "Based on this review, I have concluded

16 that completion of the project will

17 fulfill a clearly perceived need for

18 flood protection in the area. It is

19 my conviction that any adverse

20 environmental impact as described

21 in a Final Impact Statement, are

22 not of sufficient magnitude to warrant

23 that the necessary protection be

24 forgone."

25 Yet, you gentlemen just got up there and talked

1 about some of these environmental impacts has to do with
2 some of these more or less birds and also fish, which I, as
3 resident and know this area and have hunted it and walked it
4 and know what its like, assure you that it is -- it does not
5 -- if there's any fish in there, it's only in a few of the
6 low areas and there's very little of that and as far as the
7 his final statement, he says;

8 "I conclude that the overall public
9 interest will be best served by the
10 orderly completion of this project."

11 Now, you know what really got me is when you
12 made the meeting and I called to the Federal Water Control
13 Act, under which this 404(c) is being called. It
14 specifically provides in paragraph 7.14, Public Interest.
15 I don't see one word here about the public interest being
16 affected in this call.

17 It also specifically provides in 9,
18 "In addition, if the Administrator of
19 EPA indicates any attempt to prohibit
20 or restrict the use of a proposed
21 dredging/disposal area, the report
22 shall contain the effect of not using
23 the proposed disposal area on
24 navigation, economic and industrial
25 development and foreign and domestic

1 commerce in the affected regions."

2 I submit, gentlemen, when you put this out, for
3 some reason you didn't want industry, you didn't want Belle
4 Promenade, whose got the largest commercial enterprise up
5 there in Marrero, you didn't want any of the industries
6 located along the Harvey Canal, you didn't want any of the
7 -- even Allen Callendar Air Field, which is just opposite,
8 you didn't want Stonebridge, which are property owners right
9 across the Harvey Canal, directy opposite this property; you
10 didn't want them there to show you what is the value of this
11 land along the Harvey Canal and along the Intercoastal
12 Canal.

13 In all of that, when you made that statement, when
14 you put this out, you should have made it broad enough to
15 cover what the Act provides for. I say this particular
16 deal is illegal, is unwanted and should not have been -- it
17 should have included both of those aspects. What is for the
18 best public interest and should have put what is to the
19 industrial and also to the commercial use of this property.

20 Now, taking that into consideration, I feel that
21 after looking at those pictures, after notifying that
22 everyone, every instance, every Judge, everone who has been
23 with the Corps, all of those tha I've named to you, Colonel
24 Hiberger, Colonel Hunt, General Wilson, General McIntyre,
25 all of them have approved this project and the only thing

1 now, even the final decision between Lansing Mitchell, he
2 said go ahead and finish that project. The only reason why
3 it's not done is because of a reconsideration request so the
4 EPA has got to give some opinion and I wonder, when I get
5 to thinking, when you look at what is the basis of taxation
6 for Jefferson Parish, do you think you're going to be able
7 to get any revenues and taxation out of that land out there
8 if you put it in the wetland status.

9 Do you think you're going to have residents?
10 Do you think you're going to have industry? Do you think
11 you're going to have jobs? What do you think is the future
12 of this country? Do you think the environmentalists are
13 going to be the future of this country? When you've got
14 on the opposite side, just facing this land, land all along
15 -- with industry -- all long the Harvey Canal, along the
16 Intercoastal Canal. The same kind of land that you're talking
17 about here.

18 Are you going to take it out of commerce all as
19 a result of one hearing? My particular way of looking at it,
20 I estimate the valuation of an EPA statement -- and this
21 wouldn't even be one per cent based on the other ninety-nine
22 per cent of the people who are interested in jobs and
23 interested in economy and interested in industry and
24 recreation, when you take everything into consideration --
25 so you've got a hearing, you've got a 404(c) hearing about

1 depositing spoils in navigable streams. I disagree with that
2 because there are no spoils to be deposited in that fashion.
3 There's nothing here where we're going to deposit anything.
4 We've already built the levee. We've already enclosed the
5 shell bank. We've already paid for the pumping station.
6 Everything is in order to have it done, yet -- and Judge
7 Mitchell has ordered it to be done -- then by
8 reconsideration, we've got this 404(c) hearing and that's
9 where we stand here today, gentlemen.

10 And as I see it, regardless of what you should
11 say in reference to it -- I don't doubt they may have some
12 instances whee some of the nutrients and so forth, which,
13 by the way, the only way it gets in there now is from the
14 Mississippi River, the water comes through the Intercoastal,
15 it comes through Harvey Canal and you know where that water
16 comes from? It comes directly from the Mississippi River.
17 And it goes up that pipeline canal, a man-made canal, in
18 reference to it but if you put the Bayou aux Carpes pumping
19 station, you will adequately develop and provide drainage
20 for the whole of the West Bank, from Marrero down. The
21 Estelle Pumping Station can't do it.

22 You saw when we had the floods before, they sued
23 Jefferson Parish for ninety million (90,000,000) dollars.
24 If this pumping station would have been in Bayou aux Carpes,
25 there wouldn't have been a dime's worth of damage because

1 beamed to ground stations where they
2 are stored on magnetic tape. Computers
3 are used to enhance and combine the
4 color data in various ways from the
5 final process data and the images
6 are reconstructed on film.

7 Such images have proved to be very
8 useful in mapping and monitoring the
9 earth's resources.

10 What the color means -- "

11 And this is the important facet because it shows
12 on here that the land you will see that's in the Bayou aux
13 Carpes area, is red land. Land that is somewhat familiar to
14 the kind of land that is on the opposite side of Lake
15 Pontchartrain. Land that's been in New Orleans in the area
16 down in lower Algiers that's all subject now to being
17 developed. It's the same kind of land that -- practically the
18 same kind of land that we are sitting on here now.

19 " -- the colors that are seen are
20 all artificial, although some resemble
21 natural colors as they would look from
22 space. Clear or stream waters in the
23 image look dark blue or black. When
24 crowded with sediment, they appear light
25 blue or green.

1 Living areas, including roads
2 and bare soils range from blue to
3 white. Clouds are white and their
4 shadows black. Vegetation is
5 represented in shades of pink and
6 red, since the chlorophyll in all
7 plants reflect infrared light
8 strongly.

9 Swamps may look purple where a
10 plant is red and water blue, are
11 mixed. Different combinations of
12 false colors may be used in these
13 images to highlight features of
14 interest."

15 Do you know why this is done? Image by the
16 Environmental Research Institution up in Michigan, when they
17 let you have this particular map, you can study it and you
18 can see New Orleans and you look at those various colors and
19 you see the colors in the area I've marked down here, Bayou
20 aux Carpes, you'll have an opportunity to determine for
21 yourself that the land that we're talking about is land that
22 should be put in commerce and not land that should be
23 categorically taken out of commerce and it would be a
24 to the Parish of Jefferson, which depends upon this kind of
25 of land for its -- well, its activities and its future

1 development.

2 Thank you very much for listening to me and at
3 this time, I would like to give to you this particular
4 Earthscape map and let you look it over in making your final
5 determination and I hope it is in accordance with what every
6 other official has done and every Judge has done, to go
7 ahead and put that pumping station in and let the Parish of
8 Jefferson grow.

9 Thank you.

10 MR. SEALS: Mr. Molaison, the photos that you've
11 given us, are they for the permanent record?

12 MR. MOLAISSON: For the permanent record. It even
13 shows that portion of it down in there that shows the Bayou
14 aux Carpes area and I noticed that Bayou aux Carpes area,
15 if I look in there, it look to me like you've got a Carpes
16 area that's about 300 feet wide but if you look at the
17 Bayou aux Carpes area, you notice that it is completely green.
18 There's no vegetation. There's nothing on there. That's
19 an aerial photo just taken in 1982.

20 But I'd like you to have this also, in making
21 your determination.

22 Thank you.

23 MR. SEALS: Thank you.

24 Mr. John J. Molaison.

25

REMARKS

BY

JOHN J. MOLAISSON

I'm John J. Molaison. I am the Judge of the 2nd Parish Court and I'm here for myself.

I am a landowner and I own less than one-half of one percent of the area that you are in the process of studying and I would like to ask a question of Ms. Keeler.

You stated to this forum when we opened up that it was not pre-determined. I want you to reaffirm that to these people right now because I notice in your call that was signed by Frances Phillips -- I can read -- I've been reading pleadings for a long time -- and if this doesn't look like it's pre-determined, I'd like to know how you came to that conclusion.

Can you answer that question?

MR. SEALS: Judge, if I may. I know you directed it to Ms. Keeler.

The Public Notice that was issued and the Federal Register Notice that was published on May 17th of this year --

MR. MOLAISSON: I beg to disagree with you. I know you're calling me down to order. She's the one that made the statement. We never had a chance to question her. I'd like to ask it so that I can ask her questions concerning this -- I mean, so that I can make statements

1 concerning this question.

2 MR. SEALS: The language in the Federal Register
3 Notice, if you look at it, says that the Regional
4 Administrator has made a proposed recommendation and that
5 proposed recommendation included language that said -- and
6 I'm going to paraphrase it -- that he is of the opinion
7 that certain things will happen that could lead -- which
8 the purpose of that notice and I was one of the folks who
9 reviewed this when it was put together -- the intent behind
10 it was that it was a proposal and it had to do with potential
11 impacts. That was the purpose of the public meeting tonight,
12 to solicit --

13 MR. MOLAISSON: Mr. Seals, since you're the
14 Chairman, I'd like you to read that to these people. It's
15 the last page. I'll give you the copy. Let him read it.

16 MR. SEALS: I'm reading from the Federal Register
17 and it has the same language and it starts off under the
18 Title: Proposed Determination.

19 MR. MOLAISSON: And continue.

20 MR. SEALS: "Based on a thorough
21 site evaluation, coordination with
22 other Agencies and knowledgeable
23 individuals and review of the
24 literature, the Regional Administrator
25 of Region VI is of the opinion that

1 issuing permits for 404 activities
2 to be conducted in the wetlands in
3 question could result in unacceptable
4 adverse effects on shellfish beds
5 and fishery areas, wildlife and
6 recreational areas."

7 And I think that the use of the word "could"
8 clearly indicates to me and we intended it to indicate to the
9 public that it was a potential impact for which we were
10 still studying and we were soliciting public input.

11 MR. MOLAISSON: Impact. Okay.

12 I have been a resident here all my life and I've
13 served the people in my area for nineteen (19) years a Judge.
14 I see a panel in front of me that I think is not qualified.
15 There's no economists, no planners, no people to determine
16 what is the best interest of the people.

17 I see a bunch of paid employees.

18 Mr. Isenogle, he has a conflict of interest.
19 He has a Park that's just a few feet away from it. Here's
20 a man on the payroll and if he doesn't make an issue, he
21 doesn't get paid. And these are the people that's going
22 to determine what's for the best interest of Jefferson
23 Parish.

24 None of you witnessed nor experienced the
25 Hurricane Betsy or the floods that came down here. Your

1 life was not in jeopardy but you didn't take that into
2 consideration when you rendered these kind of judgments.

3 Mr. Hicks says that he notices that they've got
4 salinity in the water. It's subject to the tide and it's
5 going into this area. Of course, I've been here all my life.
6 He hasn't been here, because I could tell from the way he
7 talked. He hasn't taken into consideration the effect of
8 the Barataria Seaway going out with the water coming out.
9 He hasn't witnessed the vegetation that has been lost from
10 Grand Isle all the way to Bayou Dupont and I'm only talking
11 a few miles away from this piece of property.

12 The Park that you are presently regulating will
13 be subject to a great deal of salt. You're not going to have
14 a freshwater Park. You're going to have a saltwater Park.
15 And something has to be done.

16 We have a levee. We have a retainment. But in
17 your decision, this project should be condemned. Now that
18 makes a lot of sense.

19 You've overlooked all of the interests of
20 Jefferson Parish. The Federal Government had the gall to
21 file a lawsuit against Jefferson Parish alleging a sixty-
22 eight (\$68,000,000) million dollar loss as a result of
23 flooding. Yet this was part of our drainage program.

24 The very program that was designed to alleviate
25 any flooding conditions but it was stopped. It was stopped

1 by two Governmental Agencies. The Corps of Engineers and
2 the EPA.

3 Now, we were fighting this lawsuit since 1972.
4 The EPA has been around but they never saw fit to join the
5 lawsuit until Judge Mitchell decided to render a judgment.
6 And then all of a sudden you call a 404 hearing, so that
7 you can try to stop the project. I don't think you acted
8 in good faith.

9 Now, I defended this country. Served it for four
10 years. I've served it as a Judge for nineteen (19) years
11 and I'm proud of the United States but I'm not proud of you
12 gentlemen and I'm not proud of the Agency's actions. I think
13 you should take a long look at it and think of the people
14 that's sitting out here. The people that have to live here
15 day in and day out.

16 But still you can go back to Houston or Dallas or
17 wherever your office is. This is just a little stop on the
18 way but this is the place these people have to live.

19 When a hurricane comes, Ms. Keeler is not going
20 to come out and bail them out but you have the ability
21 right now to recommend that this project can be completed.
22 What the best interest of Jefferson Parish is, is that it
23 should be completed.

24 You come up and you talk about a few species of
25 wildlife. You didn't say that they were extinct. No.

1 They're not extinct. They are not in jeopardy. They're not
2 going to be diminished by this project.

3 A couple of years ago it was the alligators. They
4 were on the endangered specie and I came to some public
5 hearings and they were saying that the alligators were so
6 scarce that we were not going to have any alligators. Now,
7 we wish that they were gone. They overrun everything.

8 So, evidently, some figures was miscalculations
9 on someone's part. I think that this body should be
10 addressing the situation of which is for the best interest
11 of Jefferson Parish.

12 Number two, I'd like for you to be consistent in
13 your actions. I can take you down just a few feet away,
14 a few miles away from this area, on Bayou Barataria, and you
15 have permitted the very thing that you're trying to stop
16 here, which we don't propose to do because the levee has
17 already been built.

18 But I've seen subdivisions built, waterfront lots.
19 Subdivisions being built that you have inundated this area.
20 You didn't tell -- I'd like for you to put that in the
21 report, that if you proceed South you've got communities,
22 thriving communities right adjacent to this area. To the
23 North, thriving communities. To the East, thriving
24 communities. Yo have taken a pothole and -- what is to the
25 West? The Park.

1 I am wondering -- I have my serious doubts whether
2 you're going to suppress the value of this land. I'm sure
3 you wouldn't want to buy it because this is Governmental
4 action hinging on some proposed sale.

5 Now, you couldn't be acting in collusion; could
6 you?

7 And I want you to deny it. I think the record
8 stinks.

9 That's all I have to say and I'm not proud of you.

10 MR. SEALS: Mr. Nat B. Knight, Jr.

11 MR. KNIGHT: I'm not going to speak.

12 MR SEALS: Okay.

13 MR. SEALS: For the record, Mr. Knight indicated
14 he didn't not have a presentation.

15 Mr. Crippell?

16 MR. CRIPPELL: I'll pass.

17 MR. SEALS: After reading all the Court records, I
18 feel you're part of the family.

19 Mr. Barkley?

20 REMARKS

21 BY

22 BUCKNER BARKLEY

23 My name is Buckner Barkley and I am President of
24 Marrero Land Improvement Association.

25 We are an interested party in connection with this

1 hearing due to the expansion of the area, as I appreciate
2 it, in the Bayou aux Carpes area. Some of our property
3 has been included as the area which is proposed to have a
4 prohibition of denial of specification.

5 Gentlemen, I don't know how many people will
6 speak tonight and in the interest of saving time and assuming
7 that the letters are of record, we received a letter from
8 Mr. Whittington on February the 21st, I believe, indicating
9 that he proposed to go forward with a 404(c) proceeding and
10 also indicating that he intended to issue a prohibition or
11 indications were that the determination would be made to
12 prohibit any dredge and fill activities in the particular
13 area in question and we responded by letter at the
14 beginning of March.

15 That letter pretty well sets forth our position.
16 I'm not in a position, frankly, to respond to the
17 technical aspects of the study that was made, that led up
18 to the issuance of the public notice and the indication that
19 could, as you indicate, Mr Seals, result in a prohibition
20 or -- I think as we all call it, a 404(c) veto.

21 For purposes of the public record, I feel that
22 we need to at least formally protest because in our
23 original response to Mr. Whittington, we asked that we be
24 either furnished to afforded an opportunity to review the
25 data on which Mr Whittington had drawn some conclusions.

1 I understand the semantics that you're referring
2 to tonight, about "could" and not "will" and not "shall" but
3 the import of those letters was quite clear that the EPA
4 fully intended, unless convinced to the contrary, to
5 exercise their 404(c) veto power.

6 We did not receive a response to our March letter
7 until we received a notice with the findings and proposed
8 actions by Mr. Whittington. Subsequently, ourselves, as
9 well as some of the other landowners involved in the Bayou
10 aux Carpes area arranged to have a member of the firm of
11 Steimley and Associates, in Dallas, come and review all of
12 the data upon which this determination was to be made. As
13 far as I know, in checking with Mr. LeBlanc, who is our
14 attorney as well as the attorney for a number of the
15 landowners, Mr. Railey was advised that there basically
16 either was no information available or it was not in a
17 sufficient form. It was in a draft form and it really
18 wouldn't do him any good to review it in that draft form
19 because that draft form could well change between the time he
20 saw it and the time of the hearing.

21 Now, that situation occurred, gentlemen, a week
22 ago. So, from a technical scientific standpoint, I really
23 can't respond if that is the germane issue before you
24 tonight.

25 I would like to make a few comments with respect

1 to the whole project.

2 I think that the determination that Mr. Whittington
3 has to make is, not are there going to be impacts or adverse
4 impacts, they have to be unacceptable, adverse effects -- if
5 I am quoting the language correctly -- I'm sure my colleagues
6 will correct me if I'm wrong, or you will -- but the point
7 I'm trying to make and the point we made in our letter was,
8 what does unacceptable mean and I think when you or when Mr.
9 Whittington has to make his ultimate judgment, if he hasn't
10 already, unacceptability has to take in consideration more
11 than just environmental preservation aspects.

12 And each individual situation, I think, has to be
13 reviewed and not just with the environmental aspect in mind.
14 Now, the history of this project has been related to the
15 public at large tonight. I'm sure most of the people here
16 are very familiar with it but it is a project that goes
17 back into the '70's. Today is 80 per cent complete. The
18 only thing remaining to be done, basically, is to dress
19 levees and install the pumping station.

20 This particular area is not out in the middle of
21 the marsh. It's in a populated area of the West Bank of
22 Jefferson Parish and it is an area that is important to the
23 future growth of the West Bank.

24 I'm suggesting to you that these are matters and
25 facts and issues that need to be thrown into the overall

1 pot in making these decisions.

2 Again, with the idea of time in mind and I'm sure
3 there are other speakers, let me just make a layman's comment
4 based to some extent on some of the comments that were made
5 by Mr. Whittington with respect to the environmental aspects.
6 And I won't argue with some of the conclusions and some of
7 the statements that he has made, some of which were based
8 on studies made in this State.

9 We have a very serious problem in this State. I
10 think everyone recognizes it. It's loss of wetland areas
11 but I suggest to you gentlemen that the losses of wetlands
12 are really not due to development, real estate development,
13 if you will. They are due to coastal erosions, salt water
14 intrusion, all as a result of a multiplicity of things.

15 I would suggest to you and I am not a scientist,
16 obviously, that if -- I would like to see the EPA's energies
17 and resources put to the task of solving the question of
18 salt water intrusion because I would suggest to you, based
19 upon 7.5 square miles per year of loss of wetland, in the
20 true wetland areas, which is basically 4800 acres per year,
21 that's where the problem is and this particular issue,
22 although it may be very big and it may be very real in a
23 number of people's eyes, it is miniscule, in my estimation,
24 in the overall problem that we have.

25 Again, I would like to see -- and I am not

1 familiar with what programs EPA may have on the drawing
2 board or implemented or otherwise -- but that's where the
3 problem is because if we don't solve that problem, the Bayou
4 aux Carpes area in due course, will be the Gulf of Mexico.

5 So, a little bit of an ironic twist to this
6 particular project is, if you let this project go to
7 completion, you may change the character of the land.
8 There's no question, if you put it under pump and drain it,
9 from the vantage point and prospective of fish and wildlife,
10 they're going to lose all of that habitat, one way or another.
11 At least, if you finish this project, that habitat will be
12 there. There may be real estate development involved but I
13 still tend to think that human beings and animals, you know,
14 can basically exist together.

15 So, I think it's an ironic twist that if we don't
16 solve the bigger problem, what we're doing here tonight
17 really is of no particular moment, because Bayou aux Carpes
18 will be gone. The Bayou aux Carpes area will be gone and
19 this Courthouse may be sitting on the edge of the Gulf of
20 Mexico.

21 So, though it may not be germane to this hearing,
22 I would urge that the EPA address itself to and assist this
23 area, as well as the State of Louisiana, in solving the
24 bigger problem, rather than concentrating efforts on this
25 particular aspect of your 404(c) or your 404 proceeding.

1 Now, for the record, I feel it's important to
2 point out to you that by your exercise, assuming it's proper,
3 your exercise of a 404(c) veto, you have totally destroyed
4 or taken away from me the ability to do anything.

5 Now, in the findings or the comments of Mr.
6 Whittington, either in the letter that he wrote us
7 individually or in his public notice hearing, he said, "the
8 only activity taking place in the area would be habitat
9 enhancement" , so I have not been afforded any opportunity
10 to even begin a 404(c) proceeding, for whatever use and
11 purpose I may want to put the land.

12 That, to me, does not appear to be in the great
13 American way, a fair way to approach -- this is basically
14 the only hearing in which I could possibly be involved and
15 I'm trying to suggest to you that you all take into
16 consideration other issues, other than the environmental
17 impacts and aspects of this particular project.

18 So, for the record, I have to object to the EPA's
19 proposal to take an action that basically eliminates my
20 right to ever be heard through a normal 404(c) proceeding.

21 Again, I would ask that you give the comments
22 and the positions of our letter due consideration and
23 deliberation, and I thank you for your time.

24 MR. SEALS: Mr. Barkley, in response to some of
25 your comments; I appreciate the fact that the Consultant was

1 not afforded-- the materials were not available to him when
2 he came to Dallas and, in fact, as of today, I don't know if
3 all the materials have been provided them but we intend, if
4 he hasn't gotten them already, for him to get them in the
5 very near future and that is one of the reasons that the
6 regulations basically provide a 15-day comment period after
7 a hearing like tonight, that we have extended at least 45
8 days and, hopefully, if Judge Mitchell goes along with us, it
9 will be an even longer period, which will allow you and any
10 other interested persons, an opportunity to review all the
11 information that was done by EPA and the U.S. Fish and
12 Wildlife Service to make their comments.

13 In addition, when a recommendation is made to the
14 Administrator and not just for the purposes of discussion
15 and not to prejudice any decision, there will also be an
16 opportunity for the affected landowners to have a
17 consultation -- an opportunity for consultation with the
18 Administrator before the Agency makes the final decision.

19 So, I mean, there still are several opportunities
20 for you to effectively participate in the process.

21 MR. BARKLEY: Well, I appreciate that, Mr. Seals,
22 but I assume that you can appreciate my feelings, that
23 this is not something that occurred overnight and the
24 position of EPA has been known back to the '70's and basic
25 conclusions were drawn on data and et cetera back in the

1 '70's and they have been consistent. It just seemed to us
2 that with all the data in hand since 1970 something, it
3 should have been available to us and this a relatively short
4 time period within which to basically respond in a positive
5 manner.

6 But I thank you.

7 MR. SEALS: That concludes the statements from the
8 landowners and representatives of landowners; unless there's
9 anyone else in the audience in that category.

10 (No response.)

11 MR. SEALS: If not, then we will proceed to the
12 other interested persons and there are quite a number of
13 folks who have indicated a desire to speak.

14 What I'll do is read off three names so that you
15 will have an indication of when your turn is going to come
16 up.

17 The first three speakers are Diane Ribando,
18 Robert C. Letner and Felix C. Maducca, if I can read the
19 handwriting.

20 Ms. Ribando.

21 REMARKS

22 BY

23 DIANE RIBANDO

24 Gentlemen. I'd like to submit the attached
25 letter and petitions to be included in this hearing report.

1 You'll notice when you get this that the
2 statement was first submitted on July 23rd, 1976. I'm sure
3 that some of the people that signed this original petition
4 have since moved away from Crown Point or changed sides in
5 the issue. However, as the outgoing President of Crown
6 Point Civic Corporation, I am convinced that the present
7 feelings and attitudes of the majority of those who signed
8 almost ten years ago have continued to protest this project.

9 This was written for the original hearing with
10 Major General John W. Morris, Chief of Engineers, Army Corps
11 of Engineers.

12 "I am writing to you in reference
13 to the Corps of Engineers issuing
14 a permit for the Bayou aux Carpes
15 pumping station in connection with
16 the Harvey Canal-Bayou Barataria
17 Flood Protection Levee.

18 I am enclosing a petition with 180
19 signatures of people who live in this
20 tiny community or are land owners who
21 plan to live here in the near future,
22 requesting that the Bayou aux Carpes
23 pumping station not be used as a means
24 of drainage of Crown Point or Ida
25 Plantation and that Bayou des Familles

1 be opened and allowed to flow into
2 Bayou Barataria. The people signing
3 this petition we feel sure constitute
4 a majority of the residents here,
5 since it is a very small community.

6 At the present time the levee is
7 cut through Crown Point leaving the
8 majority of citizens outside the
9 enclosure. It was cut through the
10 land of Mr. Alex Pitre without his
11 knowledge or permission. He has since
12 been paid by the State for his property
13 but no settlement has been made with
14 the Corps of Engineers. Bayou des
15 Familles and Bayou aux Carpes are
16 dammed, stagnated and overflowing with
17 water lilies. These bayous were widely
18 used by people of the area for boating
19 and fishing and will in the future be
20 used for drainage ditches to the
21 pumping station, if this project is
22 carried out.

23 The drainage bond issue that was
24 passed to provide drainage through
25 the Parish is, in effect, money that

1 is being used to drain uninhabited
2 swamp land that is owned by former
3 Councilman Harold Molaison and his
4 friends.

5 Only 27 present homes will be served
6 by the pumping station.

7 In September of 1974 Burk and
8 Associates, Incorporated of New Orleans,
9 Louisiana presented to the Jefferson
10 Parish Department of Drainage and
11 Sewerage an environmental assessment
12 of this flood protection levee in
13 which projected population growth to
14 the year 2000 in the West Bank can be
15 served by land presently drained and
16 leveed.

17 This did not include 5000 acres of
18 Churchhill Farms which can be added to
19 the total acreage available.

20 In their assessment, Burk and Associates
21 also pointed out that an acceptable
22 solution could be had by putting the
23 flood protection levee at alternative
24 levee location "B" where a levee of
25 five foot is presently protecting

1 inhabited areas in connection with
2 the already existing Estelle Pumping
3 Station and also providing 7000 acres
4 of land for future development.

5 People who live in Crown Point
6 along the Intercoastal Canal have a
7 terrific erosion problem which could
8 be helped by a levee rightly placed.
9 Instead, they are completely left
10 out of the plans.

11 We cannot understand how these
12 things have happened to our community
13 and feel that our rights have been
14 denied in speaking with public
15 officials about this matter. I say
16 this because the previous petition
17 which was signed by 95 per cent of
18 the residents of Crown Point, asking
19 that this action not be taken when it
20 was first brought to their attention,
21 was accepted by Mr. Molaison and Mr.
22 Eagan, at that time Council President,
23 and the representatives of the people
24 were promised a hearing with the
25 Corps of Engineers. They were never

1 provided with the hearing and the
2 copies of the petitions mysteriously
3 disappeared from sight. Until the
4 public hearing was held eight years
5 later, they were not given a chance to
6 express their views.

7 Because of the above-mentioned
8 circumstances, we can only conclude that
9 this is a scheme to develop privately
10 held lands at public expense and the
11 issue is being clouded by insistence
12 that this is necessary for hurricane
13 protection. Hurricane protection is
14 needed for the places where people live,
15 not for uninhabited swamps.

16 In the literature that is put out by
17 the Corps of Engineers you use the
18 slogan "The Corps Cares". General
19 Morris, if we could only believe that
20 this is true.

21 You can right the wrong that has been
22 done to the people of Crown Point by
23 denying a permit to the Bayou aux
24 Carpes pumping station and taking
25 the dams out at Bayou aux Carpes and

1 Bayou des Familles.

2 We will be waiting for a reply from
3 you that you are seriously taking our
4 objections under consideration."

5 With a copy to Mrs. Lindy Boggs. And these are
6 the original 180 petitions. I've checked through it again
7 and I notice that three of the people have since moved from
8 the community and one, maybe, who has changed his stand if
9 he were approached. I didn't have time to approach him
10 about it again, so that's why I included the statement that
11 some of them may not -- but I've been in close contact with
12 most of these people through the Civic Corporation and
13 their views have not changed, to my knowledge.

14 MR. SEALS: Do you have a position with the
15 Association? I'm sorry I missed that.

16 MS. RIBANDO: I'm the outgoing President. I'm
17 also a member now.

18 MR. SEALS: What you just read, does that reflect
19 your personal views?

20 MS. RIBANDO: Yes, and the petition -- it's
21 worded in the petition also.

22 MR. SEALS: So your views haven't changed either?

23 MS. RIBANDO: No.

24 MR. SEALS: Thank you.

25 I don't Mr. Letner or Mr. Maducca in the

1 audience, so we'll move on to the next person which is
2 -- rather, the next three. Patrick Ejike, Benjamin C. Orby.
3 Are either one of those two here?

4 (No response.)

5 MR. SEALS: The next three speakers, David W.
6 Fruge, Edgar F. Viallon and Webster B. Griffin, Jr.

7 REMARKS

8 BY

9 DAVID W. FRUGE

10 Good evening. My name is David Fruge. I'm
11 presenting a statement here tonight on behalf of Mr. James
12 W. Pulliam, Jr., who is Regional Director of the U.S. Fish
13 and Wildlife Service in Atlanta, Georgia. My statement
14 represents the views of the Fish and Wildlife Service on
15 EPA's proposal to prohibit the Bayou aux Carpes swamp from
16 future use as a disposal site.

17 The Service has been involved in studies of the
18 Corps of Engineers project called the Harvey Canal-Bayou
19 Barataria Project, since 1962. The Service has consistently
20 expressed concern that the originally proposed project with
21 its levees and associated pumping station, would result in
22 the drainage of the extensive and valuable wetlands found
23 in the Bayou aux Carpes area. That concern was expressed
24 in numerous reports from the service to the Corps of
25 Engineers.

1 both its projected effects on habitat and the environment
2 and its value in economic terms.

3 The project under consideration tonight fails to
4 meet any of the accepted criteria. Environmentally, it is
5 a disaster. The entire Barataria Bay estuary system, which
6 accounts for twenty-five (25) per cent of the commercial
7 fish landings yearly in our country, is threatened from all
8 sides. From the South comes the threat of salt water
9 intrusion. From the North comes sewerage, urban runoff and
10 continued loss of fresh water and detritus, due to leveeing
11 and drainage of wetlands.

12 Economically, the project is expensive, both in
13 terms of direct cost and cost that would generate as a result
14 of completion. It would probably be conservative to
15 estimate the cost of a levee system and pumping station to
16 adequately drain and subsequently protect the project area,
17 at twenty-five (\$25,000,000) million 1985 dollars. The
18 Jefferson Parish claims it cannot find eighteen (\$18,000,000)
19 million dollars for hurricane protection levees to protect
20 already developed areas.

21 It would seem there is little question that money
22 could be found to levee an area where no one lives and
23 which, according to Population Dynamics Study, is not needed
24 for foreseeable population growth.

25 There is also to be considered the effects of the

1 project on the Jean Lafitte National Historical Park. 1087
2 acres within the boundaries of the Park would be drained by
3 the project, in effect, completely ruining the only National
4 Park in our State, and one for which fifty (\$50,000,000)
5 million dollars was authorized by Congress for land
6 acquisition.

7 Completion of the project would therefore result
8 in the public twice paying exorbitant prices for the same
9 land, yet getting it ruined, rather than in pristine
10 condition.

11 We can only conclude now, as we did eleven years
12 ago, that this project would exist solely for the benefit
13 of landowners and would cause irreparable and considerable
14 loss to the general public in environmental, recreational,
15 economic, psychological terms.

16 We conclude by strongly requesting that this
17 project not be completed. That the Bayou aux Carpes swamp
18 remain in a natural state and that the illegally constructed
19 closure at Bayou aux Carpes be removed, so that the
20 sportsmen once again may have easy access to the area.

21 Thank you very much.

22 MR. SEALS: Mr. Griffin.

23 Mr. Griffin will be followed by Mr. Sydney
24 Rosenthal and Mr. Wayne Crochet, I believe.

25

REMARKS

BY

WEBSTER B. GRIFFIN, Jr.

Good evening. My name is Webster B. Griffin, Jr.

I am here on behalf of the West Bank Sportsmen's Conservation Club of which I am 1985 President. I am representing a club of over 90 members, who live in the Marrero/Crown Point/Lafitte areas.

These are avid fishermen, hunters, trappers et cetera. We have unanimously voted to write EPA on this issue and take a stand on this particular interest.

The Barataria Basin needs all the freshwater supply it can possibly get because of saltwater intrusion and urbanization is increasing the loss of wetlands annually, which presently is 49 square miles yearly along the Louisiana Coast.

This 3000 acre site is important to the diminishing wildlife habitat that is plaguing our coastal swamps and marsh. The drainage of this area will burden the taxpayers by the expenditure of some ten (\$10,000,000) million dollars for pumps and levees. If drainage continues, even more pollution will result, adversely affecting sports fishing, hunting, commercial fishing, trapping and recreation.

A National Park is at stake. Jean Lafitte

1 National Historical Park is adjacent to this acreage site,
2 split by the Lafitte-Larose Highway. There is a sheet flow
3 of water between the Park and the area in question. To drain
4 this area would result in drainage of the Park. Also, Bayou
5 des Familles, a navigable waterway, flows through the Park
6 and would become nothing more than a drainage ditch.

7 We of the West Bank Sportsmen and Conservation
8 Club ask that EPA utilize its authority under Section 404(c)
9 to prevent this catastrophe from taking place.

10 Thank you very much for this opportunity to speak
11 with you this evening.

12 REMARKS

13 BY

14 SIDNEY ROSENTHAL, Jr.

15 Good evening. I am Sidney Rosenthal, Jr., a
16 resident of Jefferson Parish. My address is 617 Jefferson
17 Park Avenue.

18 I appear tonight as Field Agent for the Fund
19 for Animals, an International Animal Welfare organization
20 with over 70,000 members nationally, and I am here to
21 confirm its previously presented position on this very same
22 project.

23 That position was given in a twelve-page
24 memorandum which set forth the illegalities and
25 improprieties of the Harvey Canal-Bayou Barataria levee and

1 the associated drainage program.

2 Let's consider some of the factors that have changed
3 and some of the factors that remain the same, all of which
4 were pertinent then and are pertinent now, with this same
5 project.

6 As the Fund maintained then, this project still is
7 not a hurricane protection project. It is a speculative
8 drain and fill project intended to profit a small group
9 of landowners who used their political influence to have land
10 put into commerce, supposedly, at taxpayers' expense.

11 Let me mention that nobody, no citizen, no
12 landowner, is entitled to have his land put into commerce
13 at public expense. There is no obligation and there is no
14 loss when a project which they undertake to do so, fails.

15 The flooding which this levee was supposed to
16 protect and which we were told was going to happen,
17 fortunately did not occur because the phony levee which was
18 built and which is eroded now at less than a foot, in many
19 instances, would not have protected against any such
20 flooding.

21 In confirmation of our previous position, flooding
22 has occurred on the West Bank but it has occurred because
23 of rainfall, not because of hurricane surge through this
24 area. Mention was made that if this levee had been built,
25 there would have been protection and that there would have

1 been natural drainage. Well, gentlemen, there were two
2 levees between the populated area of Jefferson Parish and
3 this area which stopped such flooding, so that's nonsense.

4 The lands which this pumping station is supposed
5 to drain are still inundated, as they were then and we
6 maintain that any project to drain inundated lands is stupid
7 and nonsensical, unless you consider it as being a method of
8 drying out, draining and preparing land for future use. It
9 then becomes an instrument of development and this is in
10 direct opposition to the Executive Order which still remains
11 in force relative to development and flood plains.

12 There are still no habitable dwellings in the
13 area despite the fact that we were told that this was an area
14 which was going to develop and flood protection was needed.

15 The pipeline canal is still open, as it was then
16 and the area is still contiguous and continuous with Bayou
17 Barataria and with the estuary and it is, therefore, still
18 subject to 404 and it is still subject to the flood plain
19 Executive Orders.

20 Let's consider those things which have changed
21 since then.

22 First, and probably most important, the proposed
23 hurricane protection levee has been moved North so that the
24 "V" shaped levee is the Southernmost boundary and this is
25 the Northern boundary of the Bayou aux Carpes swamp. The

1 area that we're talking about now is now outside of the levee
2 which is proposed by the Corps of Engineers, recognizing
3 that this area should not be drained, recognizing that it is
4 an area that should not be considered for development. Are
5 you gentlemen giving 404 permits in unprotected areas these
6 days? I didn't think you were.

7 Secondly, and again important, 1100 acres of this
8 wetland are now public access lands, part of the Jean Lafitte
9 National Park. This is a complete change. That these lands
10 are important to the public is attested by the fact that
11 last month the visitation count in the area was over 50,000.
12 This is without any facilities whatsoever in the Jean Lafitte
13 Park. Our visitors center is now under way and trails are
14 being developed in that area. We anticipate that this
15 visitors count will double when these facilities are
16 completed.

17 The area depends upon its wetlands characteristics
18 for its uniqueness and its interest to the public. 404
19 permits in this area, the draining of this area, as you've
20 been told, is going to destroy that. Is this the public
21 interest? You bet it is.

22 You know, back when we opposed this project in
23 1974, we were the voices in the wilderness, crying out for
24 environmental sense and it was so pleasing tonight to hear
25 the thing that we said then, substantiated by you gentlemen

REMARKS

BY

DONALD MOORE

1
2
3
4 Mr. Seals, members of the panel, I am Donald Moore,
5 Area Supervisor for Environmental Assessment of the National
6 Marine Fisheries Service for Louisiana and Texas and I'm
7 from Galveston, Texas.

8 I have here a statement for the Southeast Region
9 of the National Marine Fisheries Services.

10 The National Marine Fisheries Service -- and it
11 was addressed to -- it is addressed to your Regional
12 Administrator, Mr. Whittington --

13 "Dear Mr. Whittington,

14 The National Marine Fisheries Service
15 has reviewed your proposal to prohibit
16 the Bayou aux Carpes swamp and marsh
17 from future use as a dredged or fill
18 material disposal site.

19 Information enclosed with the
20 announcement of this Public Meeting
21 indicates that the area is a wooded
22 swamp and marsh habitate with tidal
23 exchange. Nutrients and detritus,
24 formed by the breakdown of vegetative
25 matter, serve as fundamental elements

1 in the food web of the area or are
2 exported via Bayou des Familles
3 and Bayou Baratavia and the Gulf
4 Intracoastal Waterway to estuarine
5 areas downstream. Access into the
6 project area by estuarine-dependent
7 marine species, is available through
8 the same routes, and via the pipeline
9 canal just northeast of Bayou aux
10 Carpes. Observation of bay anchovy,
11 striped mullet, threadfin shad,
12 tidewater silverside and blue crab
13 in the area this April by the U.S.
14 Fish and Wildlife Service biologists
15 provided recent evidence of ingress
16 by estuarine organisms. Marshes
17 and swamps such as these in this
18 area also serve an important function
19 of water quality maintenance, and
20 hydrological buffering, including
21 stormwater runoff retention.

22 We agree with the findings in your
23 section entitled POTENTIAL ADVERSE
24 IMPACTS OF SECTION 404 PERMIT ACTIVITIES
25 that: (1) the direct water quality

1 effects resulting from the discharge
2 of dredged or fill material could
3 significantly and adversely affect
4 the functions and values currently
5 characterizingg this wetland system;
6 (2) many important finfish and
7 shellfish species are adversely
8 impacted by alterations to the
9 physical-chemical environment during
10 critical stages in their life cycles;
11 (3) hydrological isolation would
12 unacceptably diminish the current
13 fish and wildlife potential of the
14 immediate site and areas further
15 downstream would be adversely affected
16 because the site would no longer be
17 available as a nursery area, or for
18 nutrient and detrital contributions
19 or water quality maintenance functions;
20 (4) draining this site would have
21 unacceptable adverse effects on the
22 ecological characteristics of the
23 eastern wetland portions of the
24 Barataria Unit of the Jean Lafitte
25 National Historical Park; and (5)

1 drainage and conversion of this
2 area also would contribute
3 significantly to the cumulative
4 wetland losses currently being
5 experienced in coastal Louisiana
6 in general, and in the Barataria
7 Basin in particular.

8 In view of the above-mentioned
9 adverse impacts, as well as the
10 Bayou aux Carpes swamp being a part
11 of the Barataria Basin which is
12 losing wetlands much faster than the
13 national average, the National Marine
14 Fisheries Service strongly supports
15 your proposal, under Section 404(c)
16 of the Clean Water Act, to prohibit
17 the specification of this wetland
18 site for discharge of dredged or fill
19 materials.

20 Thank you for the opportunity to
21 present this statement.

22 Sincerely yours."

23 And I have signed it for Richard J. Hooland, Chief,
24 Environmental Assessment Branch, Southeast Region of the
25 National Marine Fisheries Service, and I will give you the

1 original of the letter right here.

2 MR. SEALS: Thank you.

3 Dr. Kohl.

4 REMARKS

5 BY

6 BARRY KOHL

7 My name is Barry Kohl. I am a member of the Board
8 of Directors of the Orleans Audubon Society and I am
9 representing the Society's 1500 members, many of whom live
10 in Jefferson Parish.

11 We support EPA's position that the Bayou aux
12 Carpes swamp should be prohibited from further dredge and
13 fill operations.

14 The Bayou aux Carpes project, which is part of
15 the Harvey Canal-Bayou Barataria Levee Project, was initiated
16 under the guise of flood protection but its real purpose,
17 which has been made patently clear, is to drain the swamp for
18 commercial and residential development. Landowners have
19 emphasized this in court many times and here this evening.

20 Not only will the project destroy some of the
21 last cypress-tupelo swamp in Jefferson Parish, but this
22 destruction will be done at public expense. A direct
23 subsidy to the landowners and local politicians who own
24 portions of this swamp.

25 Members of the Orleans Audubon Society frequently

1 use the Bayou aux Carpes area for fishing and recreation.
2 The Ring Levee Trail swamp which is in the Jean Lafitte
3 National Park will be drained by this project, as well as 1100
4 acres of public land east of Highway 45.

5 Public funds ought not to be used to destroy public
6 lands. The Lafitte National Park is used by thousands of
7 local residents and visitors from out-of-state. It is
8 certainly an important asset to Jefferson Parish.

9 We oppose the drainage of Bayou aux Carpes for the
10 following reasons:

11 Judge Lansing Mitchell stated in his legal
12 opinion of August the 8th, 1980, that the Bayou aux Carpes
13 swamp is a valuable wetland that should be preserved. The
14 Lafitte Waterline Agreement prohibits connecting the Bayou
15 aux Carpes area with the Parish water supply.

16 Based on SCS soil survey for Jefferson Parish, a
17 major portion of the Bayou aux Carpes project area has
18 underlying soils unfit for residential or commercial
19 construction, sewers or streets.

20 Increased development in this area would place
21 additional burdens on the Parish's sewerage treatment
22 facilities.

23 The adverse impact resulting from the project would
24 be in violation of Public Law 95-625, designed to preserve
25 and protect the ecological and biological systems in the

1 core area of the Lafitte National Park.

2 In conclusion, the Orleans Audubon Society opposes
3 any drainage or conversion of the Bayou aux Carpes swamp
4 wetlands to non-wetlands. We oppose the disposal of spoil
5 in this area and the alteration of the natural water flow.

6 The illegal Bayou aux Carpes dam must be removed.
7 It blocked a navigable waterway of the United States and
8 had prohibited public use of the Bayou.

9 We can assure you that our organization, which
10 has opposed this project since 1972, will continue to fight
11 any plan which would adversely affect the Lafitte National
12 Park or the hydrology of the swamp.

13 Thank you.

14 MR. SEALS: Dr. Wagner.

15 Dr. Wagner will be followed by Joseph J. Krebs
16 and Ralph Latapie.

17 REMARKS

18 BY

19 FRITZ WAGNER

20 Thank you. Good evening, ladies and gentlemen.
21 I am Fritz Wagner, Chairman of the Delta Region Preservation
22 Commission, a citizens commission which advises the Park
23 staff on the development of the Lafitte National Historical
24 Park.

25 I would like to read to you a resolution that was

1 recently passed by the Commission.

2 "Whereas, the Barataria Estuary is
3 one of the most productive aquatic
4 ecosystems in the world and,
5 Whereas, the productivity of the
6 fishery resources in the estuary
7 has sustained a lifestyle that has
8 contributed to the cultural diversity
9 of the Mississippi delta region, and
10 Whereas, the pollution of the estuary's
11 water resulting from inadequately
12 treated and untreated sewerage, has
13 resulted in the closing of some
14 shellfishing areas, and
15 Whereas, the level of pollution is
16 apparently increasing, and
17 Whereas, residential and commercial
18 developments are taking place at an
19 accelerating rate in locations
20 outside the areas served by sewerage
21 collection and treatment systems, and
22 Whereas, soil and climatological
23 conditions are generally poorly suited
24 for on-site sewerage treatment and
25 disposal, and

1 Whereas, the productivity of the
2 Barataria ecosystem is dependent
3 upon the expanse and vitality of the
4 freshwater wetlands in its basin, and
5 Whereas, the Bayou aux Carpes swamp is
6 an integral part of the Barataria
7 ecosystem, and

8 Whereas, the predisposition of landowners
9 toward draining wetlands for development
10 has contributed to massive rates of
11 loss of such environments in the
12 Barataria Basin, and

13 Whereas, the Ring Levee Swamp in the
14 eastern part of the Barataria Unit of
15 the Jean Lafitte National Historical
16 Park is part of the surface
17 hydrologgic system of the Bayou
18 aux Carpes project area, and

19 Whereas, the surface drainage pattern
20 of the Bayou des Familles system has
21 been changed since the original Bayou
22 aux Carpes project was planned and
23 the existing, natural, drainage
24 pattern of the Bayou des Familles,
25 including Bayou Coquille, is the

1 central surface water system of the
2 Barataria Unit of the Park, and
3 Whereas, the Bayou aux Carpes project
4 would, if carried out, significantly
5 and adversely affect water quality
6 in the Barataria estuary; eliminate
7 approximately 3000 acres of wetlands
8 from the aquatic environment of the
9 estuary; and drain 1087.51 acres
10 in the Jean Lafitte National Historical
11 Park, and
12 Whereas, the Environmental Protection
13 Agency is empowered by Section 404(c)
14 of the Clean Water Act to intervene
15 in situations which will have
16 unacceptable adverse effect on municipal
17 water supplies, shellfish beds and
18 fishery areas, wildlife or recreation
19 areas, and
20 Whereas, the Delta Region Preservation
21 Commission is instructed in Public Law
22 95-625 to "inform interested members
23 of the public, the State of Louisiana
24 and its political subdivisions, and
25 interested Federal Agencies with

1 respect to existing and proposed
2 actions and programs having a material
3 effect on the perpetuation of a
4 high-quality natural and cultural
5 environment in the delta region".
6 Now therefore be it resolved, that
7 the Delta Region Preservation
8 Commission urges the Environmental
9 Protection Agency to exercise its
10 authority under Section 404(c) and
11 deny any permits for the discharge
12 of fill in the Bayou aux Carpes
13 wetlands."

14 Thank you very much. I'll leave a copy for your
15 records.

16 REMARKS

17 BY

18 JOSEPH J. KREBS, Jr.

19 I am Joseph J. Krebs, Jr. I am President of the
20 Greater Jefferson Port Authority and I speak here tonight
21 on behalf of that organization.

22 The Greater Jefferson Port Authority is an Agency
23 of the State of Louisiana charged with the economic
24 development of Jefferson Parish.

25 The State of Louisiana and the Parish of

1 Jefferson have unfortunately one of the highest rates of
2 unemployment in the United States. We can ill afford
3 action by any Agency, Federal, State or local, that adversely
4 impacts the economic development of Jefferson Parish, either
5 now or in the future.

6 The main support to the economy of the
7 metropolitan New Orleans area have been the Port, tourism
8 and the oil and gas industry.

9 On the West Bank of Jefferson Parish, the
10 primary supports to the economy have been the oil and gas
11 industry, particularly those portions of it that are marine
12 related and other maritime related industries.

13 The action that the Environmental Protection
14 Agency proposes to take would foreclose forever the use of
15 some 20,000 feet of frontage along the Gulf Intercoastal
16 Waterway, or as you call it in the Public Notice, Bayou
17 Barataria.

18 This portion of the Bayou is an integral portion
19 of the Gulf Intracoastal Waterway and allows this property
20 access to some 15,000 miles of navigable waters with depths
21 of over three (3) meters throughout the United States,
22 stretching from the Alleghenies to the Rockies.

23 The property being considered is immediately south
24 of the junction of the Harvey Canal leg of the Intracoastal
25 Waterway and the alternate Algiers cutoff route to the

1 Mississippi River. It is strategically located to allow
2 a choice of accesses to the Mississippi.

3 The economic development of Jefferson Parish and
4 particularly of West Jefferson, will depend upon the
5 development of our maritime resources. To properly develop
6 these resources and to achieve any type of viability for
7 the economy of Jefferson Parish will require that this land
8 along the Gulf Intracoastal Waterway ultimately be placed
9 into some of commercial or industrial use.

10 To permanently remove the land immediately
11 abutting the Intracoastal Waterway from the inventory of
12 potential water-oriented sites, would do irreparable harm to
13 the economy of Jefferson Parish.

14 The Port Authority recognizes the very important
15 role the seafood industry plays in the economy of Jefferson
16 Parish and we are very much aware of the necessity of
17 maintaining adequate spawning and breeding grounds to protect
18 this industry. We do, however, find it difficult to
19 understand the unique value of these wetlands which have
20 been separated from the main system of marshes by a levee
21 project for over twenty (20) years. Of course, with the
22 exception of several small openings in the Bayou Barataria
23 or the Intracoastal Waterway.

24 We question whether there exists a threat of
25 unacceptable adverse effects on this entire 3000 acre tract

1 so as to justify the invokin of the very harsh, seldom-used
2 404(c) veto power of the Environmental Protection Agency.

3 Failure to exercise the veto will not exempt any
4 of the property involved from obtaining the appropriate
5 permit, administered by the Department of the Army under
6 Section 10 of the Rivers and Harbors Act of 1899 and Section
7 404 of Public Law 92-500, Section 103 of Public Law 92-532.

8 We feel that the permitted action, under the
9 normal procedure of the U.S. Corps of Engineers will permit
10 a balancing of all factors necessary to be considered before
11 allowing this property to be put into commerce.

12 We feel it is important that the social and
13 economic impact be considered and that the environmental
14 impact not be assessed in a vacuum. It is obviously possible
15 to fill an area along the Intracoastal Waterway of relatively
16 small proportions without any great impact on the wetlands
17 or on the fishing industry of the State of Louisiana. Even
18 if the impact of the removal of some of the acreage from the
19 wetlands would have significant impact on the fishing
20 industry, it is not necessarily true that the impact would
21 be unacceptable and not in the best interest of the people
22 of Jefferson Parish and of the United States of America.

23 We believe that the veto action is unwarranted
24 and overbroad. The impact on the wetlands by failure to
25 exercise the veto has not been demonstrated, in our opinion,

1 and a thorough study would not prove that this impact would
2 be unacceptable to the extent that would justify this action.

3 The public interest of the people of Jefferson
4 Parish will best be served by preserving the right to develop
5 and use this property; particularly along the Gulf
6 Intracoastal Waterway, subject, of course, to the provisions
7 of Section 404 as administered by the U.S. Army.

8 Thank you very much.

9 REMARKS

10 BY

11 TIM KILLEEN

12 My name is Tim Killeen and I am biologist with the
13 Louisiana Department of Wildlife and Fisheries and I would
14 like to read a letter from our Department to the U.S.
15 Environmental Protection Agency in Dallas, Texas, regarding
16 the proposal to prohibit the area known as Bayou aux Carpes
17 swamp from future use as dredged or fill material disposal
18 site.

19 "Gentlemen;

20 Our staff has reviewed the proposal
21 as described in the EPA letter
22 dated May 10, 1985. We agree that
23 using the area for dredged or fill
24 material disposal site would have
25 detrimental effects on the fish and

1 wildlife resources of the area, which
2 is a part of the Barataria Bay
3 estuarine system. We agree that such
4 use would result in the direct loss
5 of fish and wildlife habitat, loss
6 of detrital materials and fresh water
7 to the system, potential decrease in
8 fish food items, loss of buffering
9 capacity and loss of recreational
10 opportunities.

11 Therefore, the Louisiana Department
12 of Wildlife and Fisheries supports
13 the EPA proposal to prohibit the area
14 known as the Bayou aux Carpes swamp
15 from future use as a dredged or fill
16 material disposal site.

17 Signed,

18 William S. "Corky" Perret
19 Assistant Secretary,
20 Louisiana Department of Wildlife
21 and Fisheries."

22 Thank you.
23
24
25

1 MR. SEALS: The next three speakers will be Joseph
2 Vincent, Peter Graber and Mimi Lafevre.

3 REMARKS

4 BY

5 JOSEPH VINCENT

6 My name is Joseph Vincent. These comments are
7 being submitted on behalf of myself and on behalf of the
8 Friends of Jean Lafitte National Park for inclusion into the
9 written record of this Public Hearing.

10 I am completely certain that every comment I
11 have to make tonight is one which I have made many times in
12 the past. I only hope that tonight is the last time that I
13 will have to make them in regard to the Bayou aux Carpes
14 swamp.

15 If memory serves me correctly, we believed the
16 battle for this swamp to have been won seven or eight years
17 ago when General Wilson for the U. S. Army Corps of Engineers
18 was determined that the planned leveeing and drainage of
19 the swamp was strictly a land reclamation project and in no
20 way needed for either flood control or hurricane protection.
21 This fact was, of course, perfectly obvious to anyone with
22 sight, yet it took years for the point to get across to our
23 Government Agencies and elected officials.

24 Now, like some legendary vampire or firebird,
25 this absurd project has risen from the ashes to be battled

1 once again. Only this time, I firmly believe the tide has
2 turned completely in favor of those with common sense and
3 that the vampire no longer has any teeth.

4 This project was originally devised as a typical
5 scheme to force taxpayers to pay for the drainage,
6 destruction and development of irreplaceable wetlands, just
7 as they had been since the inception of Jefferson Parish
8 and, in fact, well over a million dollars was wasted in the
9 first phase of the project. Luckily, along came the Clean
10 Water Act of 1972 and local citizens groups began to fight
11 for the rights of the public.

12 In that first phase, illegal work was performed
13 in violation of the Rivers and Harbors Act of 1899 and the
14 illegal dam across Bayou aux Carpes has yet to be removed.

15 In light of today's knowledge of the importance
16 of wetlands to the Barataria estuary and the continued
17 fantastic losses of such wetlands, I cannot imagine that
18 any Government agency on any level would issue a permit for
19 such a project.

20 I have attached a list from a Joint Public Notice
21 issued by the State of Louisiana, the U.S. Army Corps of
22 Engineers, of criteria used to determine merit or demerit of
23 an application to destroy wetlands. According to every one
24 of those criteria, this project can never be allowed to be
25 completed.

1 In addition, there are the added facts that
2 illegal work was performed and that the project would
3 literally devastate the only National Park in the State of
4 Louisiana, Jean Lafitte National Historical Park. The fight
5 for the Park began no later than 1963 and is continuing today
6 as the Park continues to be threatened from all sides.

7 The Bayou aux Carpes swamp is distinctly unique
8 in that its value has been recognized by every Government
9 Agency involved on every level and by every public interest
10 group. Even the most rapacious of all Government bodies,
11 the Jefferson Parish Council, has recognized that the swamp
12 should not be drained and this is evidenced by the Jefferson
13 Parish Coastal Zone Management Program, by the recommended
14 West Bank Hurricane Protection Alignment and by the Agreement
15 signed between the Parish and the EPA to prohibit the use of
16 the Lafitte Waterline for any development in the Bayou aux
17 Carpes swamp.

18 Rather than individually explain each of the
19 dozens of reasons why the swamp should not be drained, I
20 would simply like to refer all interested parties to the large
21 volume of studies and surveys done in the Parish in the last
22 fifteen (15) years, all of which relate either directly or
23 indirectly to the Bayou aux Carpes swamp and all of which
24 support our contention that the swamp must not be harmed or
25 drained: (1) the State and Federal feasibility studies on

1 the creation of Jean Lafitte Park; (2) the Burk and
2 Associates studies on the placement of a hurricane protection
3 levee made in 1974; (3) the studies on the relocation of
4 the Ames pumping station; (4) a soil survey of the West Bank
5 of Jefferson Parish by the U.S. Soil and Conservation Service
6 done in 1978; (5) a soil survey of Jefferson Parish by the
7 U.S. Soil and Conservation Service done in 1980; (6) EPA's
8 draft EIS on waste water treatment facilities for the West
9 Bank of Jefferson Parish, done in February 1982; (7) the
10 Jefferson Parish CZM proram document dated June 1982; (8) EPA's
11 supplemental draft EIS on wastewater treatment facilities for
12 the West Bank of Jefferson Parish, dated August 1983; (9) the
13 draft EIS on the West Bank Hurricane Protection Levee dated
14 February 1984; (10) the study by John Day of the LSU Center
15 for Wetlands Resources on the effects of the drainng of the
16 Bayou aux Carpes on Jean Lafitte National Historical Park,
17 completed just this year; (11) the entire record of public
18 hearinggs and the hearings before the Senate Committee on
19 Parks on the creation of Jean Lafitte National Historical
20 Park.

21 I have probably left out some of the studies that
22 were done. There have been many. All clearly indicate the
23 same thing; the swamp must not be drained, nor should anyone
24 forget perhaps the most important thing, the tremendous
25 detrimental effect suffered by local residents every time

1 another natural area is lost. There are quite literally only
2 a few places left to hunt and fish and these areas are under
3 greater pressure every day, due to continued loss of habitat
4 and huge increases in population.

5 Lastly, I would like to request that we be sent
6 a copy of the written transcript of this hearing, as soon
7 as it becomes available to the public.

8 Thank you.

9 MR. SEALS: For the benefit of our Reporter, we will
10 take five minutes at this time.

11 (Short recess.)

12 MR. SEALS: The next three speakers are Peter H.
13 Graber, Mimi Lafaire, I believe, and Charlotte Fremaux.

14 REMARKS

15 BY

16 PETER GRABER

17 My name is Peter Graber. I am the current
18 President of the Crown Point Civic Corporation. I originally
19 had not intended on making any remarks this evening due
20 to the fact that Diane Ribando, the outgoing President of the
21 Civic Corporation had fairly and eloquently stated the
22 position of the current membership of the Corporation, but
23 there are some comments that I must respond to that were
24 addressed earlier this evening, specifically by Judge
25 Molaison and Councilman Molaison.

1 another natural area is lost. There are quite literally only
2 a few places left to hunt and fish and these areas are under
3 greater pressure every day, due to continued loss of habitat
4 and huge increases in population.

5 Lastly, I would like to request that we be sent
6 a copy of the written transcript of this hearing, as soon
7 as it becomes available to the public.

8 Thank you.

9 MR. SEALS: For the benefit of our Reporter, we will
10 take five minutes at this time.

11 (Short recess.)

12 MR. SEALS: The next three speakers are Peter H.
13 Graber, Mimi Lafaire, I believe, and Charlotte Fremaux.

14 REMARKS

15 BY

16 PETER GRABER

17 My name is Peter Graber. I am the current
18 President of the Crown Point Civic Corporation. I originally
19 had not intended on making any remarks this evening due
20 to the fact that Diane Ribando, the outgoing President of the
21 Civic Corporation had fairly and eloquently stated the
22 position of the current membership of the Corporation, but
23 there are some comments that I must respond to that were
24 addressed earlier this evening, specifically by Judge
25 Molaison and Councilman Molaison.

1 Specifically, there was mention made that the
2 area in question is strictly high ground with a couple of
3 lowlying areas. Well, I live in that area and I've got to
4 wonder if the Judge and the Councilman have been there, if
5 that's the way they characterize the area. That area sure
6 look like, just beyond my backyard, sure is swamp as far as
7 you can see. It's swamp and I've really got to wonder if
8 they've ever been out to that area, if only to survey their
9 land holdings.

10 MR. HOWARD MOLAISON: May I object here? Let him
11 see those pictures. If he can make that statement after
12 looking at those, he's a damn liar. Look at those pictures
13 and if you don't see nothing else in it there but a swamp
14 area, you're lying.

15 MR. SEALS: Mr. Moliason --

16 MR. HOWARD MOLAISON: Those pictures were taken
17 in '82.

18 MR. JOHN MOLAISON: I'd like to know when he
19 went on it. It's been posted --

20 MR. SEALS: We're going to proceed in a nice,
21 orderly fashion.

22 MR. HOWARD MOLAISON: Let him see the pictures,
23 though, for him to make that statement.

24 MR. SEALS: The pictures will be available for
25 him to see them after he finishes making his statement.

1 MR. JOHN MOLAISON: And I'll say this, my topic
2 was never part of that. He should apologize to me about it.

3 MR. HOWARD MOLAISON: Just consider the source.

4 MR. JOHN MOLAISON: He's distorting the facts.

5 MR. GRABER: I would simply note that if the
6 Councilman and the Judge are offended by what I have to say,
7 I am sorry. I am just merely presenting my position.

8 I would additionally note that the decision of
9 Judge Mitchell was mentioned several times by some of the
10 landowners as supporting their position. I have a copy of
11 Judge Mitchell's decision with me and I have read it several
12 times and from the history of the case that I know, when this
13 matter first came to trial, Judge Mitchell ruled against the
14 landowners. The matter went up to the Fifth Circuit on appeal
15 and it was reversed on some technical grounds and remanded
16 for further hearings.

17 From reading Judge Mitchell's decision, I truly
18 get the impression that if Judge Mitchell was here today and
19 not bound by his position as being the trial Judge of the
20 matter, which is still proceeding in Federal Court, that he
21 would be against the project and my reading, at an attorney,
22 which I also happen to be, of this opinion, is that Judge
23 Mitchell truly wanted to rule against this project but due
24 to the fact that the Jefferson Parish Council and the U.S.
25 Army Corps of Engineers refused to authorize any further

1 funds for either one of the projects, that he was forced to
2 rule as he did.

3 Finally, it seems to clear to me from what we've
4 heard today that the issue of hurricane and flood protection
5 is really just a cover in this matter and I really have to
6 wonder if the landowners involved here would be here speaking
7 on behalf of flood control and hurricane protection if they
8 were not, in fact, the owners of the land and would stand to
9 profit from the completion of this project.

10 Thank you.

11 REMARKS

12 BY

13 CHARLOTTE FREMAUX

14 My name is Charlotte Fremaux. I am President of
15 the Jefferson Parish League of Women Voters. I am long-time
16 resident of Jefferson Parish and for a number of years was
17 a science teacher.

18 I'd like to read this statement, if I may.

19 "The League of Women Voters of
20 Jefferson Parish appreciates this
21 opportunity to present the following
22 comments to the United States
23 Environmental Protection Agency on
24 its proposal to prohibit the future
25 use of the Bayou aux Carpes swamp

1 area as dredged and fill material
2 disposal site. The League has presented
3 statements and given testimony a number
4 of times in the past, supporting the
5 protection of the Bayou aux Carpes
6 wetlands and urged consideration of the
7 biological and hydrological importance
8 of denying alteration of these unique
9 marsh habitats.

10 The League believes land, air and
11 water are basic, finite global
12 resources and a wise stewardship in
13 directing their use is critical to
14 the present and future well-being.

15 Of unusual importance are regions
16 such as wetlands that nourish and
17 support renewable wildlife, provide
18 recreation and improve water quality.

19 We support the denial of Section
20 404(c), Clean Water Act, permits for
21 the dredge and disposal activities
22 in the Bayou aux Carpes swamp area
23 for the following reasons:

24 The importance of this wetland
25 system to the adjacent and interconnected

1 surrounding ecosystems for habitat,
2 nutrients, other waterways and water
3 quality. The value of every swamp
4 as a nursery for estuarine-dependent
5 species, particularly when the dramatic
6 loss of wetlands is taken into
7 consideration.

8 The ability of this type of vegetation,
9 soil and topography do function as a
10 factor in flood control.

11 The deep concern for the impact of
12 development and drainage on subsidence
13 with loss of homes, roads, services and
14 undue burden on local government to
15 provide relief.

16 The need to support the recreational
17 opportunities of the Jean Lafitte
18 National Historical Park. The League
19 believes that Jefferson Parish has wetland
20 areas of natural beauty and resource
21 bounty which require understanding
22 and direction in their management and
23 protection. Preserving Bayou aux
24 Carpes swamp acreage is both beneficial
25 and advocated."

1 Thank you for your consideration.

2 MR. SEALS: The next three speakers will be A.J.
3 Planche, Maurice Anderson and Robert Hereford.

4 REMARKS

5 BY

6 A.J. PLANCHE

7 Good evening. My name is A. J. Planche. I am
8 President of the Barataria Civic Improvement Association.

9 The officers and members of the Barataria Civic
10 Improvement Association would like to go on record as opposing
11 the issuing of a 404 permit to drain the Bayou aux Carpes
12 swamp.

13 There is no law in the State Constitution or the
14 Jefferson Parish Charter which says that the taxpayer must
15 pay for and provide pumping stations and levees and drainage
16 for privately owned swamps and wetlands.

17 The resolution ordering and calling for the
18 election to provide bond money for the levee and the Bayou
19 aux Carpes pumping station was submitted by then Jefferson
20 Parish Councilman Harold Molaison, who is one of the
21 landowners of the Bayou aux Carpes swamp. I hereby enclose
22 the resolution.

23 The Proposition on the ballot did not specify
24 where the pumping station would be built in Drainage District
25 #1. Only that \$3,650,000 would be spent on drainage in
District#1.

1 We don't believe that the 869 people who voted for
2 the bond issue would have, had they known that the project
3 was to drain swamps and not provide drainage or flood
4 protection except for privately owned swamps, which swampland,
5 after being drained at citizens expense, would be profitably
6 developed.

7 Subsequent petitions passed in the Estelle and
8 Crown Point areas clearly show that people who lived in closed
9 proximity to the Bayou aux Carpes swamp and pumping station
10 were overwhelmingly opposed to it.

11 Although there were 869 votes recorded for issuing
12 of the bond to build a pumping station to drain the district
13 in District #1, those petitions showed that more 1400 people
14 in the Estelle area and approximately ninety (90) per cent
15 of the citizens in the Crown Point area, were opposed to it.

16 Today, eighteen years later, we're still trying to
17 prove that we don't need flood protection for swamps. It is
18 swamps which acts as a buffer to provide flood protection.

19 We call upon the EPA and the Corps of Engineers
20 and the State Department of Natural Resources to stop this
21 unwanted project now.

22 Furthermore, the United States Congress has
23 created Louisiana's only National Park, the Jean Lafitte
24 National Historical Park, located in Jefferson Parish,
25 adjoining the Bayou aux Carpes swamp. The draining of this

1 swamp would have a devastating effect on the Park's Ring
2 Levee Trail, the planned canoe trail and the water quality
3 of the Park, because of the dams, pumps and the levees that
4 the project will need. Also, development of this swamp
5 will destroy over 3000 acres of cypress-tupelo fresh water
6 swamp, which is the largest of the three cypress-tupelo
7 swamps left in the entire Jefferson Parish area.

8 The others are being pressed by development by
9 also.

10 We feel that keeping this area in its natural
11 state, it will provide local citizens a prime area for outdoor
12 recreation activities.

13 This area in the past has been heavily used by
14 trappers, fishermen, hunters and the like. Perch, bass and
15 other fresh water fish abound in the bayous. Crawfish,
16 alligators, frogs et cetera are also very plentiful.

17 It is the habitat of a large number of deer,
18 rabbit, squirrel, mink, racoon and various game animals.
19 Flocks of waterfowl, including wood ducks, use the area for
20 nesting and feeding.

21 As there are many members of our organization who
22 have used the Bayou aux Carpes area for such outdoor
23 activities, we strongly believe it would be in the best
24 interest of the general public to deny this Section 404
25 permit.

1 I have one resolution here by the President of
2 the Council and I would just like to read it a little bit
3 and then submit it.

4 This was passed on August 8, 1984 by present
5 resolution.

6 "A resolution supporting and
7 commending the actions of the
8 Louisiana Congressional Delegation
9 in their efforts to develop an
10 Outer Continental Shelf revenue-
11 sharin formula which will aid
12 Louisiana parishes in managing
13 its coastal zone.

14 WHEREAS, the wetland area of
15 Louisiana, the country's largest and
16 most productive, is responsible for
17 more than 1.5 billion pounds of
18 seafood, from forty to sixty per cent
19 of the nation's fur harvest, twenty
20 per cent of the nation's crab catch
21 and second largest oyster harvest
22 in the United States and a shrimping
23 industry values in excess of 150 million
24 dollars, all renewable resources."

25 I'd like that to become a part of our record.

1 Thank you.

2 MR. SEALS: Mr. Anderson.

3 REMARKS

4 BY

5 MAURICE C. ANDERSON

6 I'm Maurice C. Anderson. I'm the current Chairman
7 of the West Bank Council of the Chamber of New Orleans and
8 the River Region and I'd like to say just one thing that
9 will go along with the resolution that I have.

10 That ninety-six (96) per cent of the East Bank of
11 Jefferson has been developed and yet sixty-three (63) per
12 cent of the West Bank has yet to be developed.

13 Now, we've got eighteen to nineteen per cent
14 unemployment in the Harvey Canal area. You're looking at
15 an endangered specie. Don't kick us while we're down.

16 I'd like to read this. This is a resolution that
17 was passed last week by the West Bank Council of the
18 Chamber, which reaffirms our position and a resolution that
19 we made in 1965 and again in 1975.

20 "WHEREAS, the Chamber of New Orleans
21 and the River Region is a non-profit
22 organization dedicated to advancing
23 the business and professional interests
24 of the membership of over 6000
25 businesses; and,

1 WHEREAS, the West Bank Council of the
2 Chamber of New Orleans and the River
3 Region has full authority and interests
4 in matter of local policy; and,
5 WHEREAS, the construction and location
6 of levees designed for flood protection
7 is of great importance to the business
8 and professional interests on the West
9 Bank of Jefferson Parish; and,
10 WHEREAS, the local, state and Federal
11 governments are presently involved in
12 levee projects in this area served by
13 the West Bank Council; and,
14 WHEREAS, the Harvey Canal-Bayou
15 Barataria Levee Project received
16 favorable support in the form of a
17 position and in subsequent communications
18 from the West Bank Council in 1975;
19 and,
20 WHEREAS, the Harvey Canal-Bayou
21 Barataria Levee Project is eighty
22 (80) per cent complete and was
23 authorized by the Federal Government
24 and intended to provide hurricane
25 and flood protection to business and

1 industry as well as local residents
2 and that this project has been
3 ordered by the State Courts of
4 Louisiana and that the installation
5 of the planned Bayou aux Carpes
6 Pumping Station has been determined
7 to be in the best interest of the
8 citizens of the area; and,
9 WHEREAS, these interests are vital
10 to the economic development of the
11 West Bank Jefferson Parish by protecting
12 for future use such areas already
13 limited by shortages of developable
14 land and by the international economy;
15 Now therefore be it resolved, that
16 the West Bank Council of the Chamber
17 of New Orleans and the River Region
18 reaffirms its previous position
19 in favor of the completion of the
20 Harvey Canal-Bayou Barataria Levee;
21 and,
22 BE IT FURTHER RESOLVED that the
23 West Bank Council's present position
24 now calls for the immediate completion
25 of this project finding that the

1 Environmental Protection Agency should
2 not accept the determination of a
3 negative impact upon the estuarine
4 system because of this project's
5 minimum impact upon the ecosystem
6 and the considerable losses possible
7 to human life and property in the
8 absence of adequate flood protection
9 provided by the Harvey Canal-Bayou
10 Barataria Levee; and,

11 BE IT FURTHER RESOLVED that the West
12 Bank Council of the Chamber of New
13 Orleans and River Region urges the
14 local government of Jefferson Parish,
15 the Parish State Legislative
16 Delegation, the Governor of the State
17 of Louisiana, the Louisiana
18 Congressional Delegation and the U.
19 S. Army Corps of Engineers to support
20 the immediate completion of the
21 Harvey Canal-Bayou Barataria Levee
22 project."

23 Thank you.
24
25

1 MR. SEALS: Lydia Guillot.

2 REMARKS

3 BY

4 LYDIA GUILLOT

5 My name is Lydia Guillot and I am representing the
6 more than 2000 members of the Delta Chapter of the Sierra
7 Club.

8 The Sierra Club is a national environmental,
9 conservation, recreation and educational organization
10 that is very active in Louisiana.

11 In recent years, the Sierra Club members have made
12 extensive use of the Bayou aux Carpes wetlands and surrounding
13 areas.

14 The nearby Barataria Unit of Jean Lafitte National
15 Park is the site of frequent Sierra Club outings that
16 include canoeing, hiking and nature walks. These outings
17 are heavily attended by the general public, as well as by
18 Club members.

19 We have come to know the area as the most
20 pristine and biologically rich freshwater wetland within easy
21 access of New Orleans. We hope to see it preserved as such.

22 We, therefore, support the EPA's proposal that
23 the Bayou aux Carpes swamp be protected from future leveeing,
24 filling and pumping.

25 Furthermore, we request that the existing illegal

1 dam at the south end of Bayou aux Carpes be removed.

2 Thank you.

3 MR. SEALS: That concludes the list of folks who
4 had indicated on their registration card that they desired
5 to make a presentation.

6 Is there anyone in the audience who would like to
7 add anything? Including those who have spoken previously,
8 if you feel you didn't have an adequate opportunity to speak,
9 you can bring up items now.

10 (No response.)

11 MR. SEALS: I don't see anyone raising their hand
12 or coming forward, so with that, I just have a few closing
13 remarks.

14 Basically, to thank all of you for putting up with
15 us. It's now almost 11:00 o'clock. We've been at it for
16 some time now. Almost four hours.

17 And, as I said earlier, we will keep the record
18 open until at least August the 2nd. As I said, we will know
19 very shortly whether or not we will have an extension of the
20 time from Judge Mitchell, in which case, we will indicate to
21 everyone who has registered, by a letter, telling them of a
22 later comment date.

23 If there is anyone who may have been interested
24 in presenting a statement but did not or anyone who would
25 want to add any other comments to the comments we heard

1 tonight, you are urged to get those comments to us as soon
2 as possible, within the comment period.

3 Finally, the Regional Administrator's decision
4 will be based on a review of the administrative record and
5 that record not only includes the information that we
6 presented tonight and that we received from the public and
7 the landowners, but also written comments, technical data,
8 historical materials, agency policy and other pertinent
9 materials and we will be compiling an administrative record
10 in the Regional Office and that will be available for
11 public inspection.

12 In the event that the Regional Administrator
13 recommends to the administrator that specification of this
14 site be prohibited or restricted, the landowners will be
15 provided an opportunity for consultation prior to the final
16 determination.

17 This hearing is now officially closed.

18 (Whereupon, the hearing in the above-entitled
19 matter was closed at 10:55 p.m.)

20
21
22
23
24
25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This is to certify that the foregoing proceedings before the Environmental Protection Agency on June 18, 1985, at Gretna, Louisiana, were had as herein appears and represent a true and correct copy of the statements made;

That this is the original of those proceedings for the files of the Environmental Protection Agency.

 Maryo L. Hopkins CSR/CVR

Dated: June 28, 1985
At: New Orleans, Louisiana

HAROLD L. MOLAISON & ASSOCIATES

ATTORNEYS AT LAW

310 HUEY P. LONG AVENUE - SUITE #1

GRETNA, LOUISIANA 70053

PHONE: 366-4336

June 18, 1985

NOTARY PUBLIC

Associates:

HAROLD E. MOLAISON
J. WILLIAM STARR

U. S. Corps of Engineers
Public Hearing - 404(c)
Gretna Courthouse
Gretna, Louisiana 70053

Gentlemen:

This hearing comes as a result of an order issued by Judge Lansing Mitchell in the law suit entitled "Jacques Creppel, et al Vs. The United States Army Corps of Engineers, et al". Judge Mitchell issued a judgment in favor of the landowners ordering the U. S. Corps to issue a permit to complete the pumping station. This pumping station was in the original Harvey Canal-Bayou Barataria Project since the year 1960. The Corps has completed its part of the project by putting up the levee, the Parish has enclosed the Bayou Aux Carpes area since 1976, the contract for the pumping station has been let and the contractor paid to install, and the pumps have been purchased. Judge Thomas Wicker of the District Court issued orders to the Parish to complete the pumping station. A re-consideration of Judge Mitchell's order was requested in order to get an expression from the EPA. The EPA has ordered this 404(c) hearing.

For your information, Colonel Rush, Colonel Heiburg, General MacIntyre and General Wilson have at various times approved the Project.

At this time I want to advise you that the National Park Services has shown an interest to acquire a portion of the land in this Project, including the Bayou Aux Carpes entrance to be put in the Jean Lafitte National Park. The landowners have met and have given written approval to the purchase by the Park, and are awaiting the decision of the Interior Department as to whether or not they will acquire this area. Naturally, your decision as to whether or not you will invoke a 404(c) finding and put the land in a wetland status will, in my opinion, have a financial effect on the valuation of the land. For your information, this land is presently and has been subject to drainage, road lighting, amusement and water taxes, and various other taxes, both state and parish, for the last 35 years. I submit that in making your

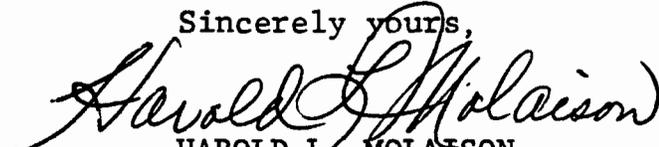
Corps of Engineers
404(c) Hearing
June 18, 1985
Page -2-

decision it should be based primarily on what is known as the principle of "WHAT IS THE BEST PUBLIC LAND USE INTEREST." The small environmental effect on supposedly fish, birds and hunters, is very insignificant when compared to the industrial, recreational, residential and commercial use of this 3,700 acre tract. This tract fronts on the Harvey Canal and Intracoastal Canal. Its development is vital to the growth and well-being of all citizens of Jefferson Parish, State of Louisiana and the United States. It is a means of generating numerous jobs, industrial and commercial activities, and a great deal of revenues through taxation, so vital to the well-being of Jefferson Parish, the State of Louisiana and the United States of America.

I am requesting that you exercise fairness, equity and good sound reasoning when you make your determination as to the best public interest and the best public use of the 3,700 acres. I am submitting to you herewith a copy of the report of Colonel Hunt of May 13, 1974, in which he has specifically sets forth that this project should be completed as originally planned. I am also submitting the report of General McIntyre of October 30, 1975, in which he specifically sets forth that the project should be completed as originally planned. I suggest that at this date of 1985, their views along with the previous colonels, together with Judge Mitchell and Judge Wicker's views be adopted, and the Parish of Jefferson be allowed to enjoy the benefits of this land area.

I sincerely thank you gentlemen for listening to me and giving me the opportunity to express my views, and hope that you will have an open mind when making your decision as to what is the best public land use and interest and why a 404(c) hearing should not delay or stop this project initiated in 1960.

Sincerely yours,


HAROLD L. MOLAISSON

OFFICE OF THE CHIEF OF ENGINEER
WASHINGTON, D.C. 20314

REPLY TO
ATTENTION CF:

DAEN-CWO-C

30 October 1975

Mr. Sheldon Meyers
Director, Office of Federal Activities
Environmental Protection Agency
Waterside Mall
401 M Street, S. W.
Washington, D. C. 20460

Dear Mr. Meyers:

I am writing to you in reference to a Federal project where our respective field offices have been unable to resolve their differences. The matter in question is whether the proposed disposal of dredge material for the Harvey Canal-Bayou Barataria Levee project conforms with Section 404 of the Federal Water Pollution Act of 1972 (FWPA) and Regulation 33 CFR 209.145.

The Harvey Canal-Bayou Barataria Levee is being constructed under the continuing authority delegated to the Chief of Engineers by Section 205 of Public Law 87-374. The project report recommending construction was approved by the Office of the Chief of Engineers on 22 January 1964. Assurances of local cooperation provided by the Jefferson Parish Council were accepted on behalf of the United States on 15 August 1963. Construction was initiated on 22 September 1971 and the allowable maximum Federal expenditure ceiling of \$1 million has been expended. The Jefferson Parish Council has expended over \$5 million on the project to date, and it is reasonable to assume that, in the absence of impediments beyond the Council's control, the Council will perform all actions required under the assurances and bring the project to completion. The Council was, in fact, actively engaged in bringing the project to completion when interrupted by the request of the Corps, on 5 November 1974, to allow compliance with 33 CFR 209.145 adopted in July 1974 pursuant to Section 404 of FWPA.

The project comprises two distinct subareas--(see inclosed sketch) one which was afforded some degree of levee protection and drainage prior to approval of the Harvey Canal-Bayou Barataria Levee, and one which was un-leveed and undrained. Justification of the project was based on increased land values (land enhancements) which would result from the increased potential for development induced by the levees and additional drainage facilities to be constructed.

Incl B

DAEN-CWO-C
Mr. Sheldon Meyers

30 October 1975

The approved plan includes a requirement for the Council to construct a closure dam and pumping station in Bayou Aux Carpes. The pumping station would operate to drain the area previously unleveed and undrained, making possible the projected land use changes in that area which serve to support the project justification. The Council has constructed the closure dam and the pumping station is under contract, its construction apparently delayed only by the Corps review of the project under section 404 of FFWA.

The Regional Administrator, Environmental Protection Agency (EPA), Region VI, has declined to approve disposal sites necessary for the project unless a floodgate is substituted for the pumping station and operated to exclude only flood waters. By this action, EPA seeks to maintain tidal interchanges through Bayou Aux Carpes, thus foreclosing project-induced land use changes in the area and preserving the existing wetlands. It follows that, if the conditions which EPA seek to impose are adopted, the project benefits attributed to land enhancement in the presently undrained area will not be realized and the project justification will be impaired.

The Council has been advised of the conditions under which EPA will approve the necessary disposal areas. By resolution adopted 17 July 1975, the Council has established that the proposed conditions are unacceptable. They opt for completion of the project as originally planned. It is evident that they will not voluntarily appropriate moneys to complete the project in accordance with the conditions laid down by EPA.

The Department of the Interior has raised the possibility that the project may be in conflict with the Endangered Species Act of 1973. Coordination between staff members indicates that the area will not be classified as critical habitat. The species in question are the American alligator and the Southern Bald Eagle. No active Southern Bald Eagle nests are known to be located within the project area, although two such nests exist nearby. The project will not impact unfavorably on these two sites.

The Council has provided over \$3 million toward implementing the project as originally approved. They have performed to date as required under duly executed and accepted assurances. The area is contained within a legally constituted drainage district designed as Consolidated Drainage District No. 1. Property owners have been taxed for approximately 25 years to provide drainage for the area. A local bond issue was passed in the amount of \$3,600,000 in April 1967 to provide funds for the project. \$1 million in Federal funds and \$3 million in local interest funds have been expended. An estimated \$1 million, which includes the Bayou Aux Carpes pumping station and Phase II Levee construction, will be required to complete the project. Therefore 80% of the total required funds for the project have already been expended.

DAEN-CWO-C

30 October 1975

Mr. Sheldon Meyers

Fishing and hunting values of the 8,000 acre segment that previously had some degree of levee protection and drainage will not be appreciably affected by the Federal project. These values have been and will continue to be impaired by development now occurring without the Federal levee.

Waterfowl are the principal wildlife species of the 3,700 acres that are unleveed and undrained, but their use of the area is sporadic. Sport fish are of the freshwater variety. In close proximity to the project area are large areas which offer excellent fishing and hunting. The questionable area is primarily suited for such recreational purposes; however, most of the land is posted and hunting is not allowed. The number of people who actually fish the area is not presently known.

Prior to modification associated with the Harvey Canal - Bayou Barataria levee project, the area was a freshwater marsh and swamp capable of supporting some sport and commercial fishing and hunting. This wetland was part of the Barataria Bay Estuary system and contributed freshwater, nutrients, and detritus to the coastal system and served as a nursery for some estuarine organisms. At the present time the Bayou Aux Carpes area is an inclosed system supporting freshwater fish. Most of the area surrounding the bayou is Cypress-Tupelogum swamp. A bull tongue marsh lies north and east of the mouth of the bayou. When the area is drained its wetlands character will be forfeited.

In a letter dated 5 February 1975, the Fish and Wildlife Service (F&WS) of the Department of the Interior recommended that no further construction on the project be performed and that the closure at Bayou Aux Carpes be removed. The F&WS considered, in the 5 February 1975, letter, that "fish and wildlife resources within these wetlands are presently of high value" and "freshwater fishes important for sports and commercial purposes utilize the canals . . ." This contrasts from their previous comments. On 13 September 1962 the F&WS, upon review of plans for the project, wrote "Fish and wildlife species are those associated with swamps and freshwater marsh. The value of these resources is, in general, low." On 29 November 1962 the F&WS wrote "The Bureau is of the opinion that further development of levees as now considered by your office would incur little more damage to fish and wildlife resources than that which will result from local interest construction . . . No further studies by the Bureau are considered necessary unless additional changes are made in project plans." No changes have been made in the project plan.

BAEN-CNO-C
Mr. Sheldon Moyers

30 October 1973

Bayou Des Familles and Bayou Aux Carpes are near the upper limits of the tidal influence of the Gulf of Mexico. The tidal variation at the town of Barataria, 5 miles closer to the Gulf of Mexico than these bayou, is only 0.25 foot. Therefore, it would seem unlikely that the tidal action of Bayou Des Familles and Bayou Aux Carpes would influence the seafood industry in the Gulf. Actually the bayous in question are in the uppermost part of the Barataria Bay estuary system and do furnish some detritus to the system, but the contribution is not sufficient to exert any measurable influence on seafood production.

The principal adverse environmental ^effects will come about after the closures of Bayou Aux Carpes and the construction of the pumping station which will provide the area with flood protection. The construction of the pumping station in combination with the levee system will finally result in the loss of wetland fish and wildlife habitat within the project area.

We recognize the value of wetlands and it is our announced policy to protect ecologically valuable wetlands from being destroyed unless the public interest requires otherwise. We further recognize that if the project was being formulated today that an entirely different approach might well be taken. We believe, however, after considering all factors pertaining to this particular project, that allowing local interests to complete the construction is in the public interest. Our conclusion is based on the following factors: (1) the project was approved in 1964 (2) the project is about 80% complete (3) the property owners have been taxed for 25 years to provide drainage (4) nothing in the record sustains a finding that completion of the project, as originally formulated, risks severe environmental harm.

Your comments are requested.

Sincerely,

1 Incl
As stated

KENNETH E. MCINTYRE
Brigadier General, USA
Deputy Director of Civil Works

CF:
LOWER MISSISSIPPI VALLEY DIVISION
NEW ORLEANS DISTRICT

LMNOD-SP(L.T.M.A.)767

MEMORANDUM FOR RECORD

SUBJECT: Permit Application by Jefferson Parish for Bayou
Aux Carpes Pumping Station and Associated Work

1. Reference is made to:

- a. ENG Form 4345 dated 18 February 1974.
- b. Review of Reports titled "Harvey Canal-Bayou Barataria
Levee, Louisiana," dated 20 September 1963.
- c. Engineer Regulation 1145-2-303, dated 3 April 1974, titled
"Permits for Activities in Navigable Waters or Ocean Waters."
- d. Environmental statement titled "Harvey Canal-Bayou Barataria
Levee, Louisiana," dated 2 November 1970.

2. By reference "a" above, Jefferson Parish Department of Drainage and Sewerage applied for Federal permit to construct a pumping station in Bayou Aux Carpes near Crown Point, Louisiana; to dredge in Bayous Aux Carpes and Barataria; and to construct a closure levee across Bayou Aux Carpes adjacent to the proposed pumping station. After receipt of reference "a" a tentative decision to assert jurisdiction under Section 10 of the River and Harbor Act of 1899 was taken and a public notice issued.

3. The work described above is an integral part of the project described in reference "b" and was approved by the Chief of Engineers on 22 January 1964 under authority of Section 205 of the Flood Control Act of 30 June 1948 as amended by Section 205 of the Flood Control Act of 23 October 1952.

4. Reference "b" required (in paragraphs 22c and 24c and on the general map and Plate I) that local interests construct a pumping station at the location proposed in reference "a."

5. Current regulations governing the regulatory permit programs in ER 1145-2-303, reference "c," were published and became effective on 3 April 1974. Paragraph (e)(1)(ii)(3) of reference "c" specifically excludes Civil Works activities of the Corps of Engineers from the

000070

authorization requirements of the regulatory permit programs of the Corps of Engineers. Accordingly, I conclude that the tentative assertion of jurisdiction under Section 10 was inappropriate and should be revoked.

6. It is my determination that revocation of permit jurisdiction in this case is not detrimental to the total public interest. A draft environmental statement, see reference "d," was prepared for the overall project, including the subject pumping station, and coordinated with appropriate agencies. All comments and views received as a result of coordination were incorporated into the final environmental statement, which was filed with the Council on Environmental Quality on 14 December 1970.

7. The overall project provides for levee construction to protect against high tides, and interior drainage facilities to accommodate the runoff which the levee would intercept. First lift construction of the levee has been completed. Failure to construct the pumping station would seriously impair the function of, and benefits realizable from, the overall project. I have reviewed the project plan in its entirety. Based on this review, I have concluded that completion of the project will fulfill a clearly perceived need for flood protection in the area. It is my conviction that the adverse environmental impacts as described in the final environmental statement are not of sufficient magnitude to warrant that the necessary flood protection be foregone. I conclude, therefore, that the overall public interest will be best served by the orderly completion of the project.

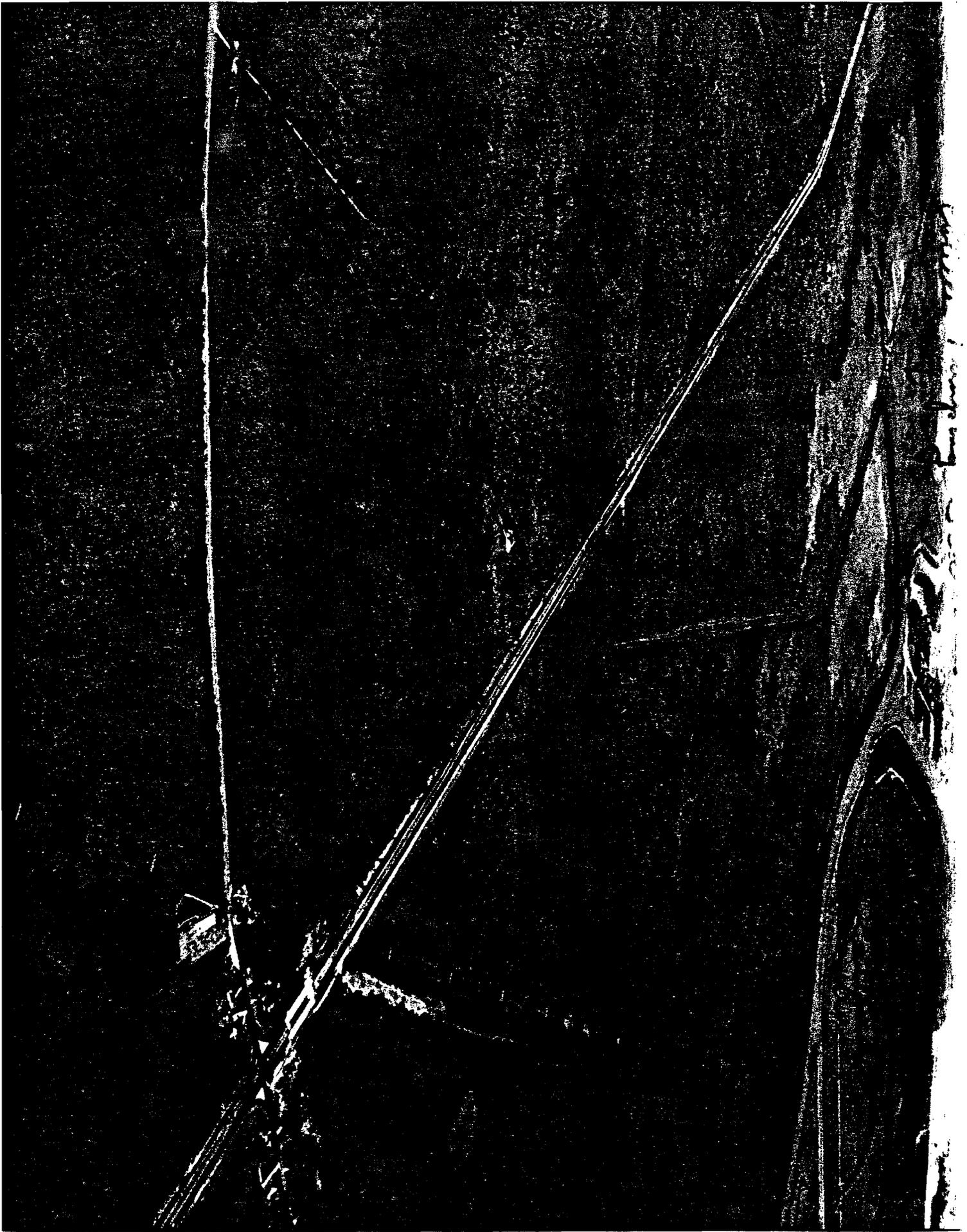
8. In view of the foregoing, I have directed the Chief, Permits and Statistics Branch, Operations Division, to return the subject application to the Jefferson Parish Department of Drainage and Sewerage and advise the Director that a permit will not be required.

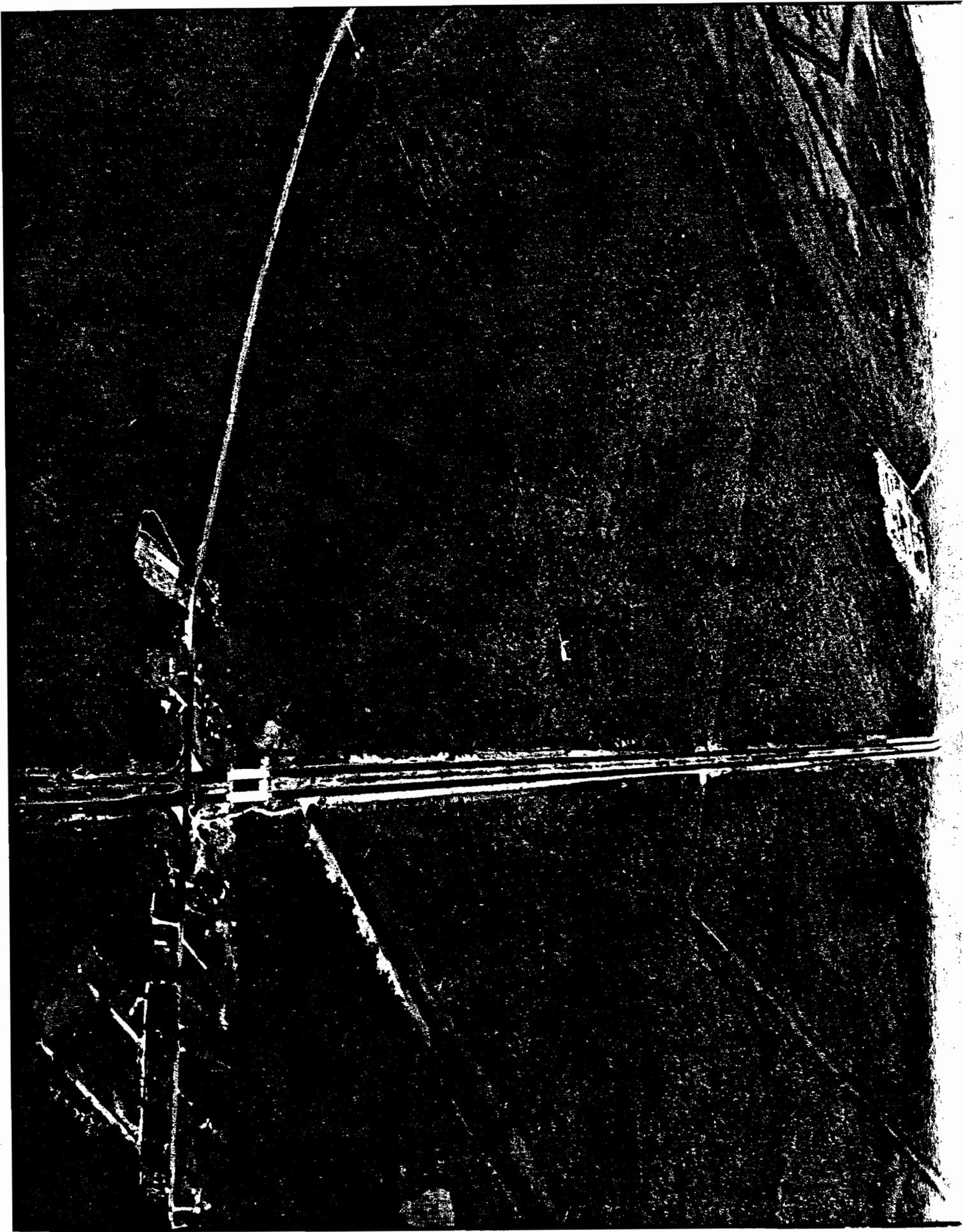
DATE

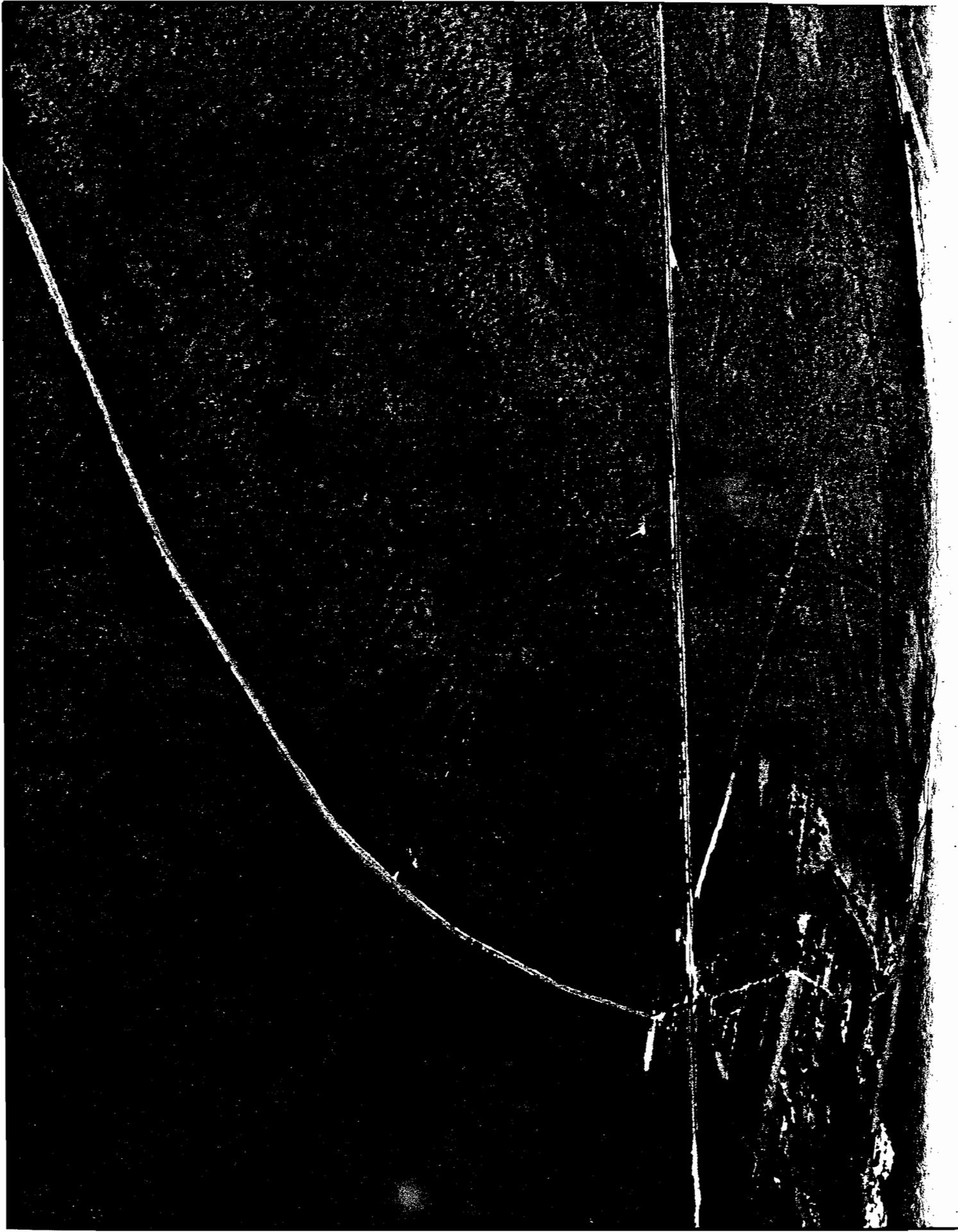
13 May 74

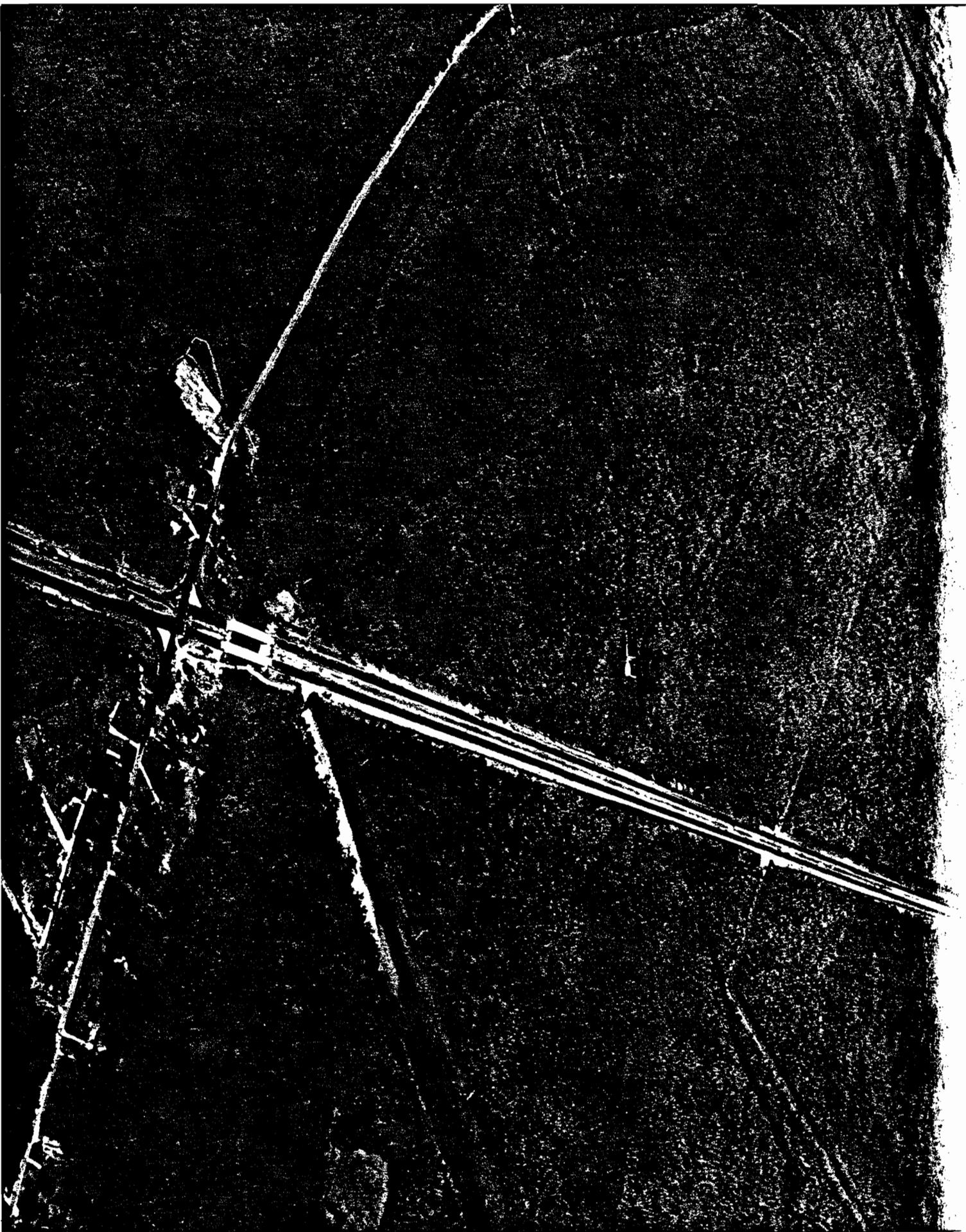
Richard L. Hunt

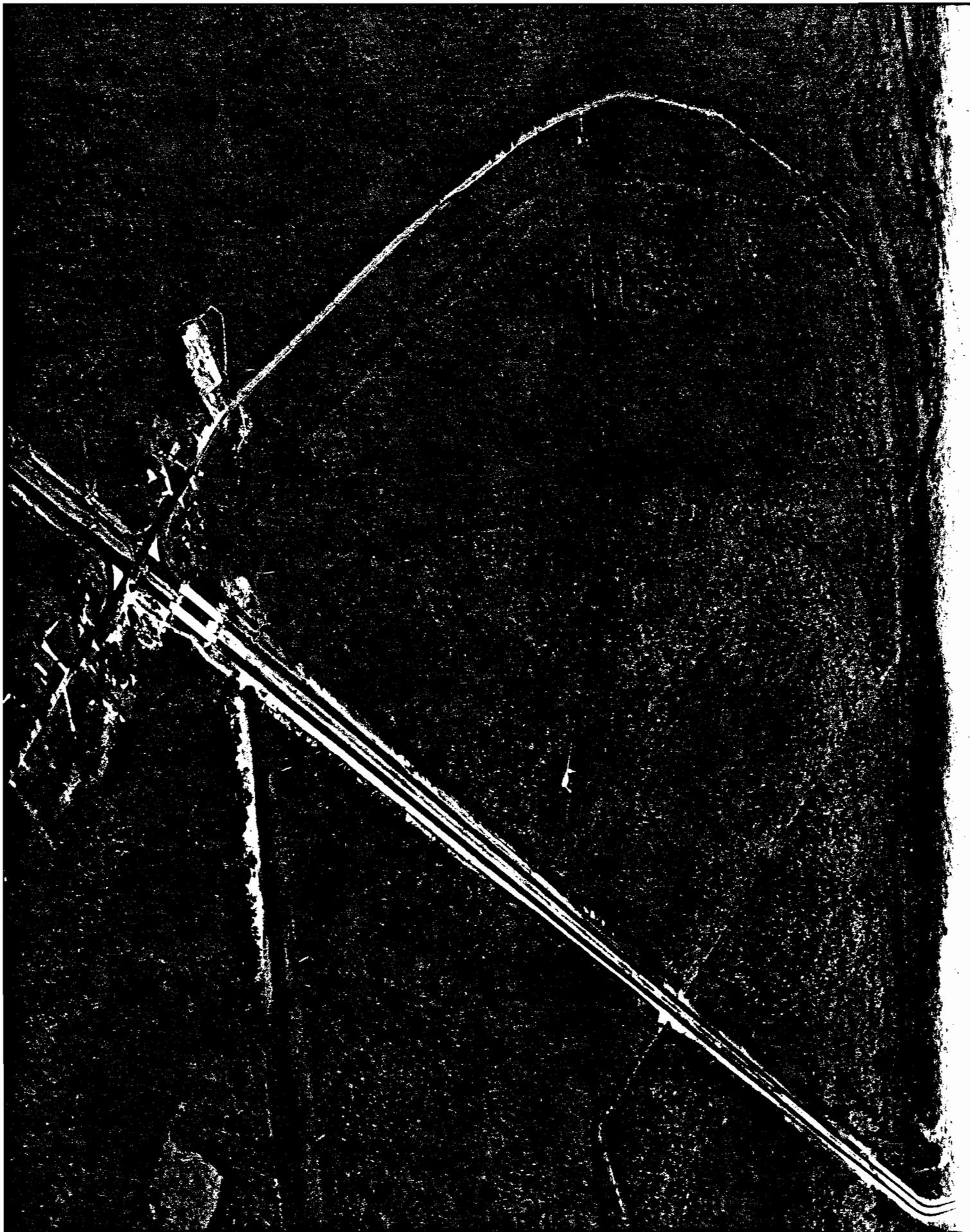
RICHARD L. HUNT
Colonel, CE
District Engineer

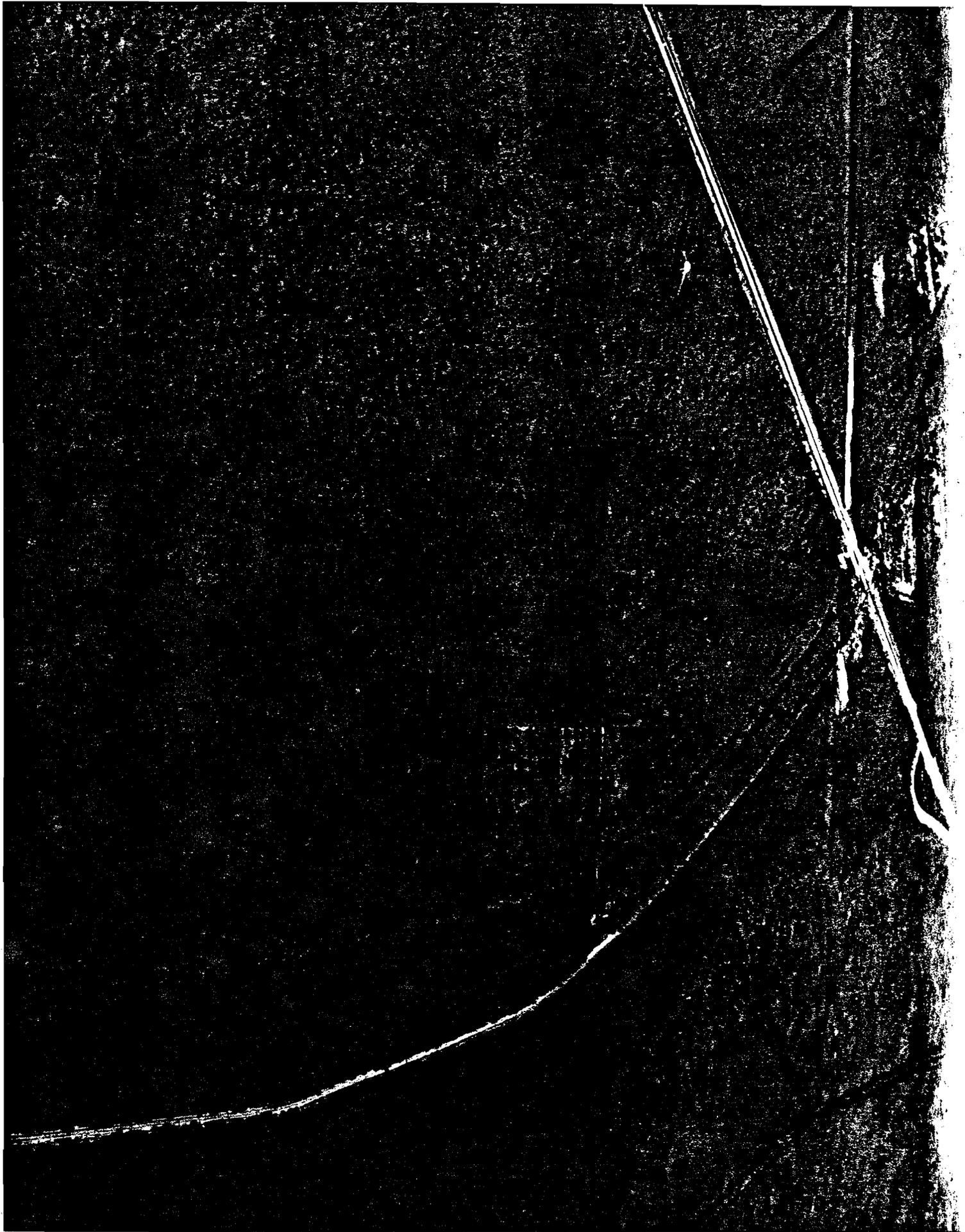












*Consolidated
Drainage District*

The following resolution was offered by Mr. Harold L. Molaison
and seconded by Mr. James J. Laforest :

RESOLUTION NO. 11,109

A resolution providing for examining and counting the votes, examining and canvassing the returns and proclaiming the result of the special election held in Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, on Saturday, April 29, 1967.

BE IT RESOLVED by the Jefferson Parish Council, acting as the governing authority of Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana:

SECTION 1. That this governing authority do now proceed in open and public session to examine the votes cast at the special election held in Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, on Saturday, April 29, 1967, to authorize the incurring of debt and issuance of bonds of said Drainage District; to examine and count said votes in number and amount, examine and canvass the returns and declare the result of said special election as provided by law.

SECTION 2. That a Proces Verbal of the canvass of the returns of said special election shall be made and that a certified copy thereof shall be forwarded to the Secretary of State, Baton Rouge, Louisiana, who shall record the same in his office; that another certified copy thereof shall be forwarded to the Clerk of Court and Ex-Officio Recorder of Mortgages in and for the Parish of Jefferson, Louisiana, who shall record the same in the Mortgage Records of said Parish; and that another copy thereof shall be retained in the archives of this Council.

SECTION 3. That the result of said election shall be promulgated by publication in the manner provided by law.

This resolution having been submitted to a vote, the vote thereon was as follows:

Barataria Civic Ass.
5014 Ehret Rd.
Marrero, La. 70072

YEAS: 6

NAYS: None.

ABSENT: (1) Ackel

And the resolution was declared adopted on this, the 4th day of
May, 1967.

/s/ Frank J. Deemer
Clerk

/s/ Chas. J. Egan, Jr.
Chairman

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY.

Frank J. Deemer

FRANK J. DEEMER, PARISH CLERK
JEFFERSON PARISH COUNCIL

PROCES VERBAL

PROCES VERBAL OF THE CANVASS OF THE VOTES CAST AT THE SPECIAL ELECTION HELD IN CONSOLIDATED DRAINAGE DISTRICT NO. 1 OF THE PARISH OF JEFFERSON, LOUISIANA, ON SATURDAY, APRIL 29, 1967.

BE IT KNOWN AND REMEMBERED that on Thursday, May 4, 1967, at two (2:00) o'clock p.m., at its regular meeting place, the Jefferson Parish Council Chambers, New Courthouse Building, Gretna, Louisiana, the Jefferson Parish Council, acting as the governing authority of Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, and being the authority ordering the special election held therein on Saturday, April 29, 1967, with the following members present:

Hon. Charles J. Egan, Jr., Chairman, and Councilmen Beauregard H. Miller, Jr., James J. Laforest, Harold L. Molaison, Anton Pilney and Jacob H. Sciambra;

There being absent: Councilman George J. Ackel;

did, in public session examine and count the votes in number and amount, did examine and canvass the returns and declare the result of the said special election, there having been submitted at said election the following proposition, to-wit:

PROPOSITION

Shall Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, incur debt and issue bonds to the amount of Three Million Six Hundred Fifty-Six Thousand Dollars (\$3,656,000.00), to run twenty-five (25) years from date thereof, with interest at a rate not exceeding six per centum (6%) per annum, for the purpose of constructing drainage works within and for said Consolidated Drainage District, and acquiring the necessary lands, equipment and machinery therefor, title to which shall be in the public?

There was found by said count and canvass that the following votes in number and the following amounts in valuation of property had been cast at the said special election IN FAVOR OF and AGAINST, respectively, the proposition as hereinabove set forth at the following polling places, to-wit:

The polling places above specified being the only polling places designated at which to hold the said special election, it was therefore shown that there was a majority of 869 votes in number representing an assessed valuation of \$ 704,959.50 in amount cast IN FAVOR OF the proposition as hereinabove set forth.

THEREFORE, the Jefferson Parish Council, acting as the governing authority of Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, did declare and proclaim and does hereby declare and proclaim, in open and public session, that the proposition hereinabove set forth was duly carried by a majority in both number and amount of the votes cast by the qualified voters, resident property taxpayers, voting at the said special election held in said Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, on Saturday, April 29, 1967.

THUS DONE AND SIGNED at Gretna, Louisiana, on this, the 4th day of May, 1967.

Frank J. Deener
Clerk

Chas. Longpre
Chairman

MEMBERS, JEFFERSON PARISH COUNCIL

Chas. Longpre
Laura L. Hoffman
Robert S. Cloutier

Arthur Perry
Francis W. White
Jimmy Lafont

566
869
-1535

PROCLAMATION

I, CHARLES J. EAGAN, JR., Chairman of the Jefferson Parish Council, State of Louisiana, do hereby announce and proclaim the result of the special election held in Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, on Saturday, April 29, 1967, as ascertained by the canvass of the votes cast at said special election, made by the said Jefferson Parish Council, acting as the governing authority of said District, assembled at its regular meeting place, the Jefferson Parish Council Chambers, New Courthouse Building, Gretna, Louisiana, on Thursday, May 4, 1967, at two (2:00) o'clock p.m., which canvass showed the following result upon the proposition submitted at the said special election, to-wit:

PROPOSITION

Shall Consolidated Drainage District No. 1 of the Parish of Jefferson, Louisiana, incur debt and issue bonds to the amount of Three Million Six Hundred Fifty-Six Thousand Dollars (\$3,656,000.00), to run twenty-five (25) years from date thereof, with interest at a rate not exceeding six per centum (6%) per annum, for the purpose of constructing drainage works within and for said Consolidated Drainage District, and acquiring the necessary lands, equipment and machinery therefor, title to which shall be in the public?

There was found by said count and canvass that the following votes in number and the following amounts in valuation of property had been cast at the said special election IN FAVOR OF and AGAINST, respectively, the proposition as hereinabove set forth at the following polling places, to-wit:

look here!

Edwards

BAYOU AND CANAL
PUBLIC HEARING 6-18-88

Resolution by Council for Wetland Protection
August 8, 1984

On motion of Mr. Evans, seconded by Mr. Hof,
the following resolution was offered:

RESOLUTION NO. 51399

A resolution supporting and commending the actions of the Louisiana Congressional Delegation in their efforts to develop an Outer Continental Shelf (OCS) revenue-sharing formula which will aid Louisiana parishes in managing its coastal zone.

WHEREAS, the wetland area of Louisiana, the country's largest and most productive, is responsible for more than 1.5 billion pounds of seafood, from 40-60% of the nation's fur harvest, 20% of the nation's crab catch, the second largest oyster harvest in the United States, and a shrimp industry valued in excess of 150 million dollars (all renewable resources); and

WHEREAS, Louisiana's coastal wetlands also serve as much as 10% of the continental population of migratory ducks and geese and millions of migratory songbirds; and

WHEREAS, these wetlands, along with the barrier islands, are protective in nature and are instrumental in reducing the storm surges associated with hurricanes; and

WHEREAS, the oil and gas industry is essential to the economy and well-being of the United States; and

WHEREAS, Louisiana's offshore production represents 94% of all OCS production in the United States; and

WHEREAS, many of the support services for OCS production are stationed adjacent to these wetlands; and

WHEREAS, the concept of the coastal zone management centers around the critical balancing of the renewable and nonrenewable resources listed above without the placement of undue hardship upon either; and

WHEREAS, because of the geological makeup of the wetlands of Louisiana, these areas are considered to be extremely fragile from an environmental standpoint; and

WHEREAS, the offshore oil and gas industry has been impacting this environmentally fragile zone since the late 1940's; and

WHEREAS, these impacts have adversely affected Louisiana's renewable resource base and hurricane protection associated with these wetlands; and

WHEREAS, many studies have documented the bleak future of our wetlands if action is not taken to reduce these impacts; and

WHEREAS, these studies have indicated that projects for long-term management of our wetlands, which will in turn protect our upland areas, will be extremely costly; and

WHEREAS, the interior states of the nation receives 50% of the revenues produced from federal lands found within their respective boundaries; and

WHEREAS, the State of Louisiana receives no revenues from OCS production; and

WHEREAS, there is a Senate bill presently in the U. S. Congress which may provide some relief to Louisiana by formulating a system of sharing OCS revenues with coastal states.

NOW, THEREFORE, BE IT RESOLVED by the Jefferson Parish Council of Jefferson Parish, Louisiana, acting as governing authority of said Parish:

SECTION 1. That the Council hereby recognizes the impact OCS activities have had on the wetlands of Louisiana.

SECTION 2. That the Council hereby acknowledges the actions of the Louisiana Congressional Delegation in their efforts to obtain a fair and equitable formula for the sharing of OCS revenues generated off the Louisiana coast.

SECTION 3. That the Council hereby commends the Louisiana Congressional Delegation for its foresight and recognition of the crisis situation which exists in Coastal Louisiana.

SECTION 4. That the Council hereby offers any support or technical assistance within its power to assist Louisiana

Barataria Civic Ass.
5014 Ehret Rd.
Marrero, La. 70072

Barataria Civic Assn.
5014 Euret Rd.
Marrero, La. 70072

Congressional Delegation in transmitting the true picture of the impact OCS activities have had and will continue to have on Coastal Louisiana.

SECTION 5. That a copy of this resolution be sent to United States Senator J. Bennett Johnston, United States Senator Russell Long, United States Congressman Billy Tauzin, United States Congressman Buddy Roemer, United States Congresswoman Lindy Boggs, United States Congressman Robert L. Livingston, United States Congressman Jerry Huckaby, United States Congressman Henson Moore, United States Congressman John Breaux, Louisiana Governor Edwin Edwards, and President of the United States, Ronald Reagan.

The foregoing resolution having been submitted to a vote, the vote thereon was as follows:

YEAS: 7 NAYS: None ABSENT: None

This resolution was declared to be adopted on this the 8th day of August, 1984.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY

Dolores H. Gonzales

DOLORES H. GONZALES
PARISH CLERK
JEFFERSON PARISH COUNCIL



United States Department of the Interior

NATIONAL PARK SERVICE
SOUTHWEST REGION
P.O. Box 728
Santa Fe, New Mexico 87501

*MSC: 6W
60RC
6A
6D*

[Handwritten signature]

IN REPLY REFER TO:

L7619(SWR-PE)

AUG 7 1985

Mr. Dick Whittington, P.E.
Regional Administrator
U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

EPA
REGION VI
OFFICE OF REGIONAL
ADMINISTRATION

RECEIVED
AUG 9 2 23 PM '85

Dear Mr. Whittington:

This responds to your proposed determination to prohibit, deny or restrict the specification of the Bayou aux Carpes swamp, Jefferson Parish, Louisiana, as a disposal site under Section 404(c) of the Clean Water Act. The following comments are provided on a technical assistance basis.

We strongly recommend that the use of Bayou aux Carpes as a disposal site be prohibited. We have grave and specific concerns involving the short and long-term adverse effects of the proposed disposal project on the Barataria Unit of Jean Lafitte National Historical Park. Those effects would be extensive and profound and would also threaten the ability of the Barataria Unit to fulfill its purpose as defined by the law authorizing its establishment.

A significant part of the Barataria Unit, everything between Bayou des Familles and the Larose-Lafitte Highway, is in the drainage area of the Bayou aux Carpes swamp. Within that 1,000-acre area, there are 300 acres of well-established, vigorous, and maturing bald cypress swamp. This swamp is an excellent example of such an environment in that it supports the full range of flora and fauna associated with that habitat. It is especially valuable to the public because it is accessible from the highway and is easily and safely visited by an all-weather trail which leads, via a system of boardwalks, into the heart of the swamp. This trail, the route of ranger-guided nature walks, is a key feature of the Barataria Unit. Of the 700,000 visitors to the unit in 1984, it is estimated that 26,000 walked this trail after the end of April when the trail opened.

Even before the national park was authorized in 1978, the dependency of the residual swamp now located within the park upon the larger swamp now located outside the park, and its value as wetland, was documented by an agreement supervised by the U.S. District Court in the District of Columbia between a consortium of environmental organizations and a group of Federal and state agencies who were engaged in planning for, designing, building and permitting the construction of the Larose-Lafitte Highway. That agreement of May 29, 1977, required that the highway be constructed in a way that will "...ensure that the natural water flow of the area is not impaired." The highway was subsequently constructed to those specifications, albeit imperfectly; and tidal interchange continues to occur.

RECEIVED
AUG 12 11 41 AM '85

If it were possible to complete the Bayou aux Carpes project as it was originally planned, the swamp east of the natural levee of Bayou des Familles would be drained. For several years after being drained, an episode of subsidence would ensue. The existing cypress-tupelo forest would die due to the extreme change in water table; and the remaining shallow, stagnant ponds would prevent the growth of seedlings. The area would probably become a series of shallow, open ponds with the intervening land covered with flood tolerant shrubs. The soil types in this area could be expected to subside as much as 8 feet with the loss of groundwater. The landscape would change dramatically, and development of any kind would be curtailed until the environment again approached something approximating equilibrium. Attempts that might be considered to maintain the water elevation in the park after it is separated from tidewater would produce essentially these same results in terms of habitat and scenery, with somewhat reduced degrees of subsidence. Intensive management to try to reproduce natural hydrological cycles (assuming it were possible to find sources of suitable water, the means to deliver it, and a method of allowing run-off) might possibly perpetuate the existing condition. However, the expense, the uncertainty of success and the incompatibility of the whole concept of a contrived, quasi-natural environment with the purpose of the park dictate against this type of program.

It should also be noted that Bayou des Familles is now connected with the Gulf of Mexico, especially if project plans include draining the bayou. Apparently at one time, Bayou des Familles was obstructed in Crown Point; and its upstream tributary, Bayou Coquille, was blocked by a failed culvert under Louisiana Route 45. Both those obstructions to the natural flow have been removed, and the natural, historical water connection is re-established. Bayou des Familles should not be drained in its present, natural state. To return it to its previous condition would be to return it to a stagnant backwater in the park, and then drain it dry, thus triggering subsidence and destroying natural riparian habitat inside the park. Bayou Coquille, deprived of its connection with tidal flow through Bayou des Familles, would return to its previous silt and weed-choked condition. Loss of these open waterways would eliminate an important recreational fishing resource and about 5 miles of the park's existing 8-mile canoe/pirogue trail.

The Bayou aux Carpes project would profoundly impact the aquatic system of the Barataria Unit of Jean Lafitte National Historical Park and invite serious questions as to the area's viability as part of the National Park System. It should be noted that the public law authorizing the park's establishment (Public Law 95-625) also established a park protection zone contiguous to the core of the Barataria Unit. The purposes of this zone are to "...protect the following values in the core area: (1) fresh water drainage patterns from the park protection zone into the core area; (2) vegetation cover; (3) integrity of ecological and biological systems; and (4) water and air quality." If the Bayou aux Carpes project were to proceed, those values in much of the core area would be quite literally destroyed.

Based on these factors, the National Park Service urges the Environmental Protection Agency to exercise its authority under Section 404(c) of the Clean Water Act to deny the permit that would trigger the destruction of a major part of the Jean Lafitte National Historical Park.

We appreciate the opportunity to provide this technical assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Kerr". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert I. Kerr
Regional Director,
Southwest Region

SIERRA CLUB
NEW ORLEANS GROUP
CONSERVATION COMMITTEE
1719 PENISTON ST.
NEW ORLEANS, LA 70115

E.P.A. PUBLIC MEETING
RE: BAYOU AUX CARPES SWAMP

JUNE 18, 1985

I represent the more than 2000 members of the Delta Chapter of the Sierra Club. The Sierra Club is a national environmental conservation, recreation and education organization that is very active in Louisiana. In recent years, Sierra Club members have made extensive use of the Bayou aux Carpes wetlands and surrounding areas. The nearby Barataria Unit of Jean Lafitte National Park is the site of frequent Club outings that include canoeing, hiking, and nature walks. These outings are heavily attended by the general public as well as by Club members. We have come to know the area as the most pristine and biologically rich freshwater wetland within easy access of New Orleans. We hope to see it preserved as such.

We therefore support the EPA's proposal that the Bayou aux Carpes swamp be protected from future leveeing, filling, and pumping. Furthermore, we request that the existing illegal dam at the south end of Bayou aux Carpes be removed.

Thank you.

Lydia Guillot

RESOLUTION
WEST BANK COUNCIL
THE CHAMBER/NEW ORLEANS AND THE RIVER REGION
JUNE 13, 1985

WHEREAS, The Chamber/New Orleans and the River Region is a non-profit organization dedicated to advancing the business and professional interests of its membership of over 6000 businesses; and,

WHEREAS, the West Bank Council of The Chamber/New Orleans and the River Region has full authority and interests in matters of local policy; and,

WHEREAS, the construction and location of levees designed for flood protection is of great importance to the business and professional interests on the West Bank of Jefferson Parish; and,

WHEREAS, the local, state and federal governments are presently involved in levee projects in the area served by the West Bank Council; and,

WHEREAS, the Harvey Canal-Bayou Barataria Levee project recieved favorable support in the form of a position and in subsequent communications, from the West Bank Council in 1975; and,

Resolution

June 13, 1985

Page 2

WHEREAS, the Harvey Canal - Bayou Barataria Levee project is 80% complete and was authorized by the federal government and intended to provide hurricane and flood protection to business and industry as well as to local residents and that this project has been ordered by the state courts of Louisiana and that the installation of the planned Bayou Aux Carpes Pumping Station has been determined to be in the best interest of the citizens of the area; and,

WHEREAS, these interests are vital to the economic development of West Bank Jefferson Parish by protecting for future use such areas already limited by shortages of developable land and by the international economy;

Now therefore be it resolved, that the West Bank Council of The Chamber/New Orleans and the River Region reaffirms its previous position in favor of the completion of the Harvey Canal-Bayou Barataria Levee; and,

WBC Resolution

June 13, 1985

Page 3

Be it further resolved that the West Bank Council's present position now calls for the immediate completion of this project finding that the Environmental Protection Agency should not accept the determination of negative impact upon the estuarine system because of this project's minimum impact upon the ecosystem and the considerable losses possible to human life and property in the absence of adequate flood protection provided by the Harvey Canal - Bayou Barataria Levee; and,

Be it further resolved, that the West Bank Council of The Chamber/New Orleans and the River Region urges the local government of Jefferson Parish, the Parish State Legislative Delegation, The Governor of the State of Louisiana, the Louisiana Congressional Delegation and the U. S. Army Corps of Engineers to support the immediate completion of the Harvey Canal - Bayou Barataria Levee project.

**BARATARIA CIVIC
IMPROVEMENT ASSOCIATION
5014 EHERT RD.
MARRERO, LOUISIANA 70072**

June 7, 1985

U.S. ENVIRONMENTAL PROTECTION AGENCY
FEDERAL ACTIVITIES BRANCH
1201 ELM STREET
DALLAS, TEXAS 75270
MR. DICK WHITTINGTON
REGIONAL ADMINISTRATOR

RE: E.P.A. PUBLIC HEARING JUNE 18, 1985
Bayou Aux Carpes Swamp Drainage Project
Jefferson Parish Louisiana 70072

Dear Sir:

The officers and members of the Barataria Civic Improvement Association would like to go on record as opposing the issuance of a 404 Permit to allow drainage of the Bayou Aux Carpes Swamps.

There is no law in the State Constitution or in the Jefferson Parish Charter which says that the tax payers must pay for and provide pumping stations, levees and drainage for privately owned swamps and wetlands.

The resolution ordering and calling for the election to provide bond money for the levees and the Bayou Aux Carpes Pumping Station was submitted by the Jefferson Parish Councilman Harold Molaison, who was and is one of the owners of the Bayou Aux Carpes Swamp. (Resolution #11.109 Enclosed.)

The proposition on the ballot did not specify where the pumping station would be built in Drainage District One, only that (\$3,656,000.00) dollars would be spent on drainage in District One. We don't believe that the 869 people who voted for the bond issue would have, had they known that the project was to drain swamps, and would not provide drainage or flood protection except for privately owned swampland. Which swampland, after being drained at Citizen's expense, could be profitably developed.

Subsequent petitions passed in the Estelle and Crown Point areas clearly showed that the people who lived in close proximity to the Bayou Aux Carpes Pumping Station were overwhelmingly opposed to it.

**BARATARIA CIVIC
IMPROVEMENT ASSOCIATION
5014 EHERT RD.
MARRERO, LOUISIANA 70072**

Page 2

RE: E.P.A. PUBLIC HEARING JUNE 18, 1985
Bayou Aux Carpes Swamp Drainage Project
Jefferson Parish Louisiana 70072

Although there were 869 yes votes recorded for issuance of bonds to build a pumping station in Drainage District One, those petitions showed that more than 1400 people in the Estelle area and approximately 90% of the citizens of the Crown Point area were opposed to it.

Today, eighteen years later, we are still trying to prove that we don't need flood protection for swamps. It is the swamps, which acts as a buffer that provides flood protection.

We call upon the E.P.A., The Corps of Engineers, and the State Department of Natural Resources to stop this unwanted project now.

Furthermore, the United States Congress has created Louisiana's only National Park, The Jean Lafitte National Historical Park. Being located in Jefferson Parish adjoining the Bayou Aux Carpes Swamp, the drainage of said swamp will have a devastating effect on the Park's Ring Levee Trail, the Planned Canoe Trail, and the water quality of the park; because of the dams, pumps and the levees that this project will need. Also development of this swamp will destroy over three thousand acres of cypress-tupelo fresh water swamp which is the largest of the three cypress-typelo swamps left in the entire Parish of Jefferson. The others are being pressed for development also.

We feel that keeping this area in its natural state can and will provide local citizens a prime area for outdoor recreational activities. This area in the past has been avidly used by trappers, fishermen, and hunters alike. Bass, perch and other freshwater fish abound in the bayous. Crawfish, alligators, frogs, et cetera are also very plentiful. It is the habitat of large numbers of deer, rabbit, squirrel, mink, racoon, and various game animals. Flocks of waterfowl, including wood ducks, use the area for feeding and nesting.

As there are many members in our organization who have used the Bayou Aux Carpes Area for such outdoor

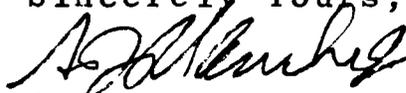
**BARATARIA CIVIC
IMPROVEMENT ASSOCIATION
5014 EHERT RD.
MARRERO, LOUISIANA 70072**

Page 3

RE: E.P.A. PUBLIC HEARING JUNE 18, 1985
Bayou Aux Carpes Swamp Drainage Project
Jefferson Parish, Louisiana 70072

activities, we strongly believe it would be in the best
interest of the general public to deny this Section
404 Permit.

Sincerely Yours,



A.J. Planche Jr.
President

**BARATARIA CIVIC
IMPROVEMENT ASSOCIATION**

5014 EHERT RD.
MARRERO, LOUISIANA 70072

Page 2

RE: E.P.A. PUBLIC HEARING JUNE 18, 1985
Bayou Aux Carpes Swamp Drainage Project
Jefferson Parish Louisiana 70072

Although there were 869 yes votes recorded for issuance of bonds to build a pumping station in Drainage District One, those petitions showed that more than 1400 people in the Estelle area and approximately 90% of the citizens of the Crown Point area were opposed to it.

Today, eighteen years later, we are still trying to prove that we don't need flood protection for swamps. It is the swamps, which acts as a buffer that provides flood protection.

We call upon the E.P.A., The Corps of Engineers, and the State Department of Natural Resources to stop this unwanted project now.

Furthermore, the United States Congress has created Louisiana's only National Park, The Jean Lafitte National Historical Park. Being located in Jefferson Parish adjoining the Bayou Aux Carpes Swamp, the drainage of said swamp will have a devastating effect on the Park's Ring Levee Trail, the Planned Canoe Trail, and the water quality of the park; because of the dams, pumps and the levees that this project will need. Also development of this swamp will destroy over three thousand acres of cypress-tupelo fresh water swamp which is the largest of the three cypress-typelo swamps left in the entire Parish of Jefferson. The others are being pressed for development also.

We feel that keeping this area in its natural state can and will provide local citizens a prime area for outdoor recreational activities. This area in the past has been avidly used by trappers, fishermen, and hunters alike. Bass, perch and other freshwater fish abound in the bayous. Crawfish, alligators, frogs, et cetera are also very plentiful. It is the habitat of large numbers of deer, rabbit, squirrel, mink, racoon, and various game animals. Flocks of waterfowl, including wood ducks, use the area for feeding and nesting.

As there are many members in our organization who have used the Bayou Aux Carpes Area for such outdoor

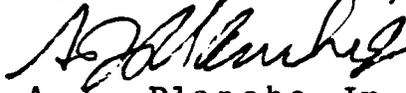
**BARATARIA CIVIC
IMPROVEMENT ASSOCIATION**
5014 EHERT RD.
MARRERO, LOUISIANA 70072

Page 3

RE: E.P.A. PUBLIC HEARING JUNE 18, 1985
Bayou Aux Carpes Swamp Drainage Project
Jefferson Parish, Louisiana 70072

activities, we strongly believe it would be in the best
interest of the general public to deny this Section
404 Permit.

Sincerely Yours,



A.J. Planche Jr.
President

June 18, 1985
1041 Farrington Dr.
Marrero, La. 70072

U. S. Environmental Protection Agency
Federal Activities Branch
1201 Elm St.
Dallas, Texas 75270

Dear Sir(s) or Madame(s):

These comments are being submitted on behalf of myself and on behalf of the Friends of Jean Lafitte National Park for inclusion into the written record of the Public Hearing on the fate of the Bayou aux Carpes swamp scheduled for June 18, 1985 at 7:00 P.M. in the Jefferson Parish Council Chambers in Gretna, Louisiana.

I am completely certain that every comment I have to make tonight is one which I have made many times in the past; I only hope that tonight is the last time I will have to make them in regard to the Bayou aux Carpes swamp. If memory serves me correctly, we believed the battle for this swamp to have been won 7 or 8 years ago when a General Wilson from the U. S. Army Corps of Engineers determined that the planned leveeing and drainage of the swamp was strictly a land reclamation project, and in no way needed for either flood control or hurricane protection. This fact was of course perfectly obvious to anyone with sight, yet it took years for the point to get across to our government agencies and elected officials. Now like some legendary vampire or firebird, this absurd project has risen from the ashes to be battled once again. Only this time, I firmly believe that the tide has turned completely in favor of those with common sense, and that the vampire no longer has any teeth. If he does, they will this time be knocked out of his head.

This project was originally devised as a typical scheme to force taxpayers to pay for the drainage, destruction, and development of irreplaceable wetlands, just as they had been since the inception of Jefferson Parish. And in fact, well over a million dollars was wasted in the first phase of the project. Luckily, along came the Clean Water Act of 1972, and local citizens' groups began to fight for the rights of the public. In that first phase, illegal work was performed in violation of the Rivers and Harbors Act of 1899, and the illegal dam across Bayou aux Carpes has yet to be removed.

In light of today's knowledge of the importance of wetlands to the Barataria estuary and the continued fantastic losses of such wetlands, I cannot imagine that any government agency on any level would issue a permit for such a project. I have attached a list from a Joint Public Notice issued by the State of Louisiana and the U. S. Army Corps of Engineers of the criteria used to determine the merit/demerit of an application to destroy wetlands; according to every one of those criteria, this project can never be allowed to be completed. In addition, there are the added facts that illegal work was performed, and that the project would literally devastate the only national park in the state of Louisiana, the Jean Lafitte National Historical Park. The fight for the park began no later than 1963, and is continuing today, as the park continues to be threatened from all sides.

The Bayou aux Carpes swamp is distinctly unique in that its value has been recognized by every government agency involved on every level, and by every public interest group; even the most rapacious of all government bodies - the Jefferson Parish Council - has recognized that the swamp should not be drained, and this is evidenced by the Jefferson Parish Coastal Zone Management Program, by the recommended Westbank Hurricane Protection alignment, and by the agreement signed between the Parish and the EPA to prohibit the use of the Lafitte water line for any development in the Bayou aux Carpes swamp.

Rather than individually explain each of the dozens of reasons why the swamp should not be drained, I would simply like to refer all interested parties to the large volume of studies and surveys done in the parish in the last fifteen years, all of which relate either directly or indirectly to the Bayou aux Carpes swamp, and all of which support our contention that the swamp must not be harmed or drained:

- 1) the state and federal feasibility studies on the creation of Jean Lafitte Park;
- 2) the Burke and Associates studies on the placement of a hurricane protection levee made in 1974;
- 3) the studies on the relocation of the Ames pumping station;
- 4) a soil survey of the West Bank of Jefferson Parish by the U. S. Soil & Conservation Service done in 1978;
- 5) a soil survey of Jefferson Parish by the U. S. Soil and Conservation Service done in 1980;

- 6) EPA's Draft EIS on wastewater treatment facilities for the West Bank of Jefferson Parish done in February, 1982;
- 7) the Jefferson Parish CZM Program document dated June, 1982;
- 8) EPA's Supplemental Draft EIS on wastewater treatment facilities for the West Bank of Jefferson Parish dated August, 1983;
- 9) the Draft EIS on the Westbank Hurricane Protection Levee dated February, 1984;
- 10) the study by John Day of the LSU Center for Wetlands Resources on the effects of the draining of the Bayou aux Carpes swamp on Jean Lafitte National Historical Park completed just this year;
- 11) the entire record of public hearings and the hearings before the Senate Committee on Parks on the creation of Jean Lafitte National Historical Park.

I have probably left out some of the studies done; there have been many. All clearly indicate the same thing - the swamp must not be drained. Nor should anyone forget perhaps the most important thing, which is the tremendous detrimental effect suffered by local residents every time another natural area is lost. There are quite literally only a few places left to hunt and fish, and these areas are under greater pressure every day due to continued losses of habitat and huge increases in population. We can't afford to lose this one.

Thank you.

Joseph I. Vincent
 Joseph I. Vincent, Chairman
 Friends of Jean Lafitte National
 Park

P.S. Please send me a copy of the written transcript of this hearing as soon as it becomes available to the public.

PG. 11
1853484

State of Louisiana Coastal Use Permit Criteria

The decision on whether or not to issue a coastal use permit will be based on an evaluation of the probable impacts of the proposed activity in accordance with the state policies outlined in R.S. 49:213.2. The decision will reflect the national concern for both protection and utilization of important resources. The decision must be consistent with the state program and approved local programs for affected parishes and must represent an appropriate balancing of social, environmental and economic factors. All factors which may be relevant to the proposal will be considered; among these are flood and storm hazards, water quality, water supply, feasible alternative sites, drainage patterns, historical sites, economics, public and private benefits, coastal water dependency, impacts on natural features, compatibility with the natural and cultural setting and the extent of long term benefits or adverse impacts.

Certification that the proposed activity will not violate applicable water and air quality laws, standards and regulations will be required before a permit is issued.

Corps of Engineers Federal Permit Criteria

The decision whether to issue a Corps permit will be based on an evaluation of the probable impact 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 reasonable foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and, in general, the needs and welfare of the people.

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

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

~~The applicant has certified that the proposed activity described in the application complies with and will be conducted in a manner that is consistent with the Louisiana Coastal Resources Program. The Department of the Army permit will not be issued unless the applicant received approval or a waiver of the Coastal Use Permit by the Department of Natural Resources.~~



J. BURTON ANGELLE, SR.
SECRETARY
(504) 925-3617

DEPARTMENT OF WILDLIFE AND FISHERIES
POST OFFICE BOX 15570
BATON ROUGE, LA. 70895

EDWIN W. EDWARDS
GOVERNOR

June 18, 1985

U. S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, TX 75270

RE: Public comment on EPA
proposal to prohibit
on area known as the
Bayou aux Carpes swamp
from future use as a
dredged or fill material
disposal site

Gentlemen;

Our staff has reviewed the proposal as described in the EPA letter dated May 10, 1985. We agree that using the area for dredged or fill material disposal site would have detrimental effects on the fish and wildlife resources of the area, which is a part of the Barataria Bay estuarine system. We agree that such use would result in the direct loss of fish and wildlife habitat, loss of detrital materials and fresh water into the system, potential decrease in fish food items, loss of buffering capacity and loss of recreational opportunities.

Therefore the Louisiana Department of Wildlife and Fisheries supports the EPA proposal to prohibit the area known as the Bayou aux Carpes swamp from future use as a dredged or fill material disposal site.

Sincerely,

William S. "Corky" Perret
Assistant Secretary

WSP:WRL:th

cc: J. Burton Angelle
Virginia Van Sickle
Blue Watson
Ralph Latapie
Tim Killeen

MAY 30, 1985

DELTA REGION PRESERVATION COMMISSION
STATEMENT AT EPA PUBLIC HEARING 6/18/85
BAYOU AUX CARPES PROJECT

RESOLUTION

WHEREAS, the Barataria Estuary is one of the most productive aquatic ecosystems in the world, and

WHEREAS, the productivity of the fishery resources in the estuary has sustained a lifestyle that has contributed to the cultural diversity of the Mississippi delta region, and

WHEREAS, the pollution of the estuary's water resulting from inadequately treated and untreated sewerage has resulted in the closing of some shellfishing areas, and

WHEREAS, the level of pollution is apparently increasing, and

WHEREAS, residential and commercial developments are taking place at an accelerating rate in locations outside the areas served by sewerage collection and treatment systems, and

WHEREAS, soil and climatological conditions are generally poorly suited for on-site sewerage treatment and disposal, and

WHEREAS, the productivity of the Barataria ecosystem is dependent upon the expanse and vitality of the freshwater wetlands in its basin, and

WHEREAS, the Bayou aux Carpes swamp is an integral part of the Barataria ecosystem, and

WHEREAS, the predisposition of landowners toward draining wetlands for development has contributed to massive rates of loss of such environments in the Barataria Basin, and

WHEREAS, the "Ring Levee Swamp" in the eastern part of the Barataria Unit of the Jean Lafitte National Historical Park is part of the surface hydrologic system of the Bayou aux Carpes project area, and

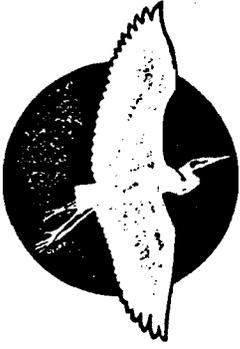
WHEREAS, the surface drainage pattern of the Bayou des Familles system has been changed since the original Bayou aux Carpes project was planned and the existing, natural, drainage pattern of Bayou des Familles, including Bayou Coquille is the central surface water system of the Barataria Unit of the Park, and

WHEREAS, the Bayou aux Carpes project would, if carried out, significantly, and adversely effect water quality in the Barataria estuary; eliminate approximately 3000 acres of wetlands from the aquatic environment of the estuary; and drain 1087.51 acres in the Jean Lafitte National Historical Park, and

WHEREAS, the Environmental Protection Agency is empowered by Section 404(c) of the Clean Water Act to intervene in situations which will have unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreation areas, and

WHEREAS, the Delta Region Preservation Commission is instructed in Public Law 95-625 to "...inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region."

NOW THEREFORE BE IT RESOLVED, THAT the Delta Region Preservation Commission urges the Environmental Protection Agency to exercise its authority under Section 404(c) and deny any permits for the discharge of fill into the Bayou aux Carpes wetlands.



Orleans Audubon Society

A CHAPTER OF THE NATIONAL AUDUBON SOCIETY

STATEMENT PRESENTED AT E.P.A. HEARING

18 JUNE 1985

AT GRETNA, LOUISIANA

In re: Bayou aux Carpes Project, Crown Point, Louisiana.

My name is Dr. Barry Kohl. I am a member of the Board of Directors of the Orleans Audubon Society, and I am representing the Society's 1500 members, many of whom live in Jefferson Parish.

We support EPA's position that the Bayou aux Carpes swamp should be prohibited from further dredge and fill operations.

The Bayou aux Carpes project, which is part of the Harvey Canal - Bayou Barataria Levee Project, was initiated under the guise of flood protection. But its real purpose, which has been made patently clear, is to drain the swamp for commercial and residential development. Landowners have emphasized this in court many times.

Not only will the project destroy some of the last cypress-tupelo swamp in Jefferson Parish, but this destruction will be done at public expense: a direct subsidy to the landowners and local politicians who own portions of this swamp.

Members of the Orleans Audubon Society frequently use the Bayou aux Carpes area for fishing and recreation. The Ring Levee Trail swamp which is in the Lafitte National Park will be drained by the

project as well as 1100 acres of public land east of Highway 45.

Public funds ought not to be used to destroy public lands. The Lafitte National Park is used by thousands of local residents and visitors from out-of-state. It is certainly an important asset to Jefferson Parish.

We oppose the drainage of Bayou aux Carpes for the following specific reasons:

- 1.) Judge Lansing Mitchell stated in his legal opinion (8 August 1980) that the Bayou aux Carpes swamp is a valuable wetland and should be preserved.
- 2.) The flood control project as originally designed is no longer needed. The V-shaped levee to the north is maintained by the Levee District to hurricane standards and provides the protection of the inhabited areas south of Lapalco Boulevard.
- 3.) The Lafitte Waterline agreement prohibits connecting the Bayou aux Carpes area with the Parish water supply.
- 4.) Drainage of the 3700 acre swamp would reduce the valuable nutrients entering the Barataria estuary. These nutrients are used by the many species of commercially important marine creatures - shrimp, crabs, etc.
- 5.) Based on an SCS soil survey for Jefferson Parish, a major portion of the Bayou aux Carpes Project area has underlying soils unfit for residential or commercial construction, sewers or streets.
- 6.) Increased development in this area would place additional burdens on the Parish's sewerage treatment facilities.

8.) The adverse impact resulting from the project would be in violation of Public Law 95-625, designed to preserve and protect the ecological and biological systems in the core area.

In conclusion, the Orleans Audubon Society opposes any drainage or conversion of the Bayou aux Carpes Swamp from wetlands to non-wetlands. We oppose the disposal of spoil in this area and the alteration of the natural waterflow.

The illegal Bayou aux Carpes Dam must be removed. It blocked a navigable waterway of the U.S. and has prohibited public use of the Bayou.

We can assure you that our organization, which has opposed this project since 1972, will continue to fight any plan that would adversely affect the Lafitte National Park or the hydrology of the swamp.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
9450 Koger Boulevard
St. Petersburg, FL 33702

June 17, 1985 F/SER112/PK:gog
409/766-3699

Mr. Dick Whittington, Regional Administrator
U.S. Environmental Protection Agency
ATTN: Federal Activities Branch
1201 Elm Street
Dallas, TX 75270

Dear Mr. Whittington:

The National Marine Fisheries Service (NMFS) has reviewed your proposal to prohibit the Bayou aux Carpes swamp and marsh from future use as a dredged or fill material disposal site.

Information enclosed with the announcement of this Public Meeting indicates that the area is wooded swamp and marsh habitat with tidal exchange. Nutrients and detritus, formed by the breakdown of vegetative matter, serve as fundamental elements in the food web of the area or are exported via Bayou des Familles and Bayou Barataria and the Gulf Intracoastal Waterway to estuarine areas downstream. Access into the project area by estuarine-dependent marine species, is available through the same routes, and via the pipeline canal just northeast of Bayou aux Carpes. Observation of bay anchovy, striped mullet, threadfin shad, tidewater silverside and blue crab in the area this April by the U.S. Fish and Wildlife Service biologists provided recent evidence of ingress by estuarine organisms. Marshes and swamps such as these in this area also serve an important function of water quality maintenance, and hydrological buffering, including stormwater runoff retention.

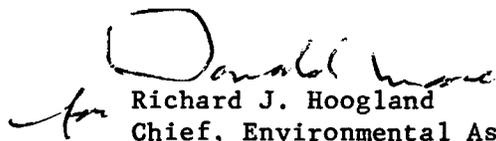
We agree with the findings in your section entitled POTENTIAL ADVERSE IMPACTS OF SECTION 404 PERMIT ACTIVITIES that: (1) the direct water quality effects resulting from the discharge of dredged or fill material could significantly and adversely affect the functions and values currently characterizing this wetland system; (2) many important finfish and shellfish species are adversely impacted by alterations to the physical-chemical environment during critical stages in their life cycles; (3) hydrological isolation would unacceptably diminish the current fish and wildlife potential of the immediate site and areas further downstream would be adversely affected because the site would no longer be available as a nursery area, or for nutrient and detrital contributions or water quality maintenance functions; (4) draining this site would have unacceptable adverse effects on the ecological characteristics of the eastern wetland portions of the Barataria Unit of the Jean Lafitte National Historical Park; and (5) drainage and conversion of this area also would contribute significantly to the cumulative wetland losses currently being experienced in coastal Louisiana in general, and in the Barataria Basin in particular.



In view of the above mentioned adverse impacts, as well as the Bayou aux Carpes swamp being in a part of the Barataria Basin which is losing wetlands much faster than the national average, the NMFS strongly supports your proposal, under Section 404(c) of the Clean Water Act, to prohibit the specification of this wetland site for discharge of dredged or fill materials.

Thank you for the opportunity to present this statement.

Sincerely yours,


Richard J. Hoogland
Chief, Environmental Assessment
Branch

Enclosure

COMMENTS ON BEHALF OF FUND FOR ANIMALS ON BAYOU CARPES PUMPING
STATION HEARING BY E.P.A. JUNE 18, 1984, GRETNA, LA.

GOOD EVENING:

I AM SIDNEY ROSENTHAL JR., A RESIDENT OF JEFFERSON PARISH.
MY ADDRESS IS 617 JEFFERSON PARK AVE., JEFFERSON, LA. I APPEAR
TONIGHT AS FIELD AGENT FOR THE FUND FOR ANIMALS ON BEHALF OF ITS
OVER 70, 000 MEMBERS TO CONFIRM ITS PREVIOUSLY PRESENTED VIEWS ON
THIS SAME PROJECT.

SINCE THE E.P.A. PREVIOUSLY CONSIDERED A PERMIT FOR THIS SAME
PUMPING STATION SOME YEARS AGO, SEVERAL FACTORS AND CONDITIONS
MATERIAL TO THE PERMIT HAVE CHANGED, AND SOME HAVE NOT.

LET US FIRST CONSIDER THOSE WHICH HAVE NOT.

AS THE FUND MAINTAINED THEN THIS PROJECT STILL IS NOT A FLOOD
OR HURRICANE PROTECTION PROGRAM, BUT A DRAIN AND FILL SCHEME
INTENDED TO PROFIT A SMALL GROUP OF LAND SPECULATORS AT FEDERAL
AND LOCAL TAXPAYER EXPENSE.

THE FLOODING, WHICH THIS LEVEE, WAS SUPPOSED TO PROTECT
AGAINST HAS NEVER OCCURED FORTUNATELY, FOR IF IT HAD WHAT WAS AND
IS LEFT OF THE PHONY LEVEE WOULD HAVE BEEN LITTLE PROTECTION.

IN CONFIRMATION OF OUR PREVIOUS POSITION, FLOODING HAS
OCCURED ON THE WEST BANK, BUT IT HAS BEEN FROM RAIN AND
INADEQUATE DRAINAGE, NOT HURRICANE SURGE.

THE SUBMERGED WETLANDS ENCLOSED BY THIS LEVEE AND WITHIN THE
DRAINAGE DISTRICT WHICH THIS PROPOSED PUMP WILL DRAIN ARE STILL
SUBMERGED AND CAUSE US TO REITERATE OUR POSITION THAT PROTECTION
OF INUNDATED LAND FROM INUNDATION IS STUPID AND NONSENSICAL.

THERE ARE STILL NO HABITABLE DWELLINGS OR STRUCTURES IN THE
DRAINAGE AREA.

THE PIPELINE CANAL, OPEN TO THE INTRACOASTAL WATERWAY IS STILL
OPEN AND THE AREA IS STILL CONTIGUOUS AND CONTINUOUS WITH THAT
BODY OF WATER, CAUSING IT TO BE SUBJECT TO SECTION 404 AND THE
EXECUTIVE ORDERS ON FLOOD PLAINS MANAGEMENT AND DEVELOPMENT.

SECTION 404 AND THE EXECUTIVE ORDERS REFERED TO ARE STILL THE
LAW OF THE LAND, DESPITE ALL OF THE LEGAL MUMBO JUMBO YOU ARE
GOING TO HEAR TONIGHT.

NOW LETS CONSIDER THOSDE FACTORS, EVENTS AND CONDITIONS WHICH
HAVE CHANGED.

FIRST AND FOREMOST THE HURRICANE LEVEE PROPOSED BY THE U.S. CORPS OF ENGINEERS PROPERLY HAS AS ITS SOUTHERNMOST ROUTE THE V SHAPED LEVEE RECOGNIZING THAT THE BAYOU CARPES SWAMP IS OUTSIDE THE AREA TO BE PROTECTED. THAT SWAMP CONSTITUTES A LARGE PART OF THE PROJECT AREA. THIS PUMP THEN WOULD, IF APPROVED, DRAIN LANDS WHICH ARE NATURALLY INUNDATED WETLANDS, AND COULD BE CLASSED ONLY AS AN INSTRUMENT OF DEVELOPMENT. THIS PERMIT WOULD THEN BE IN DIRECT OPPOSITION TO THE EXECUTIVE ORDER RELATIVE TO FLOOD PLAIN DEVELOPMENT.

SECONDLY, OVER 1100 ACRES OF THE PROJECT AREA ARE PUBLIC ACCESS LANDS OPEN FOR PUBLIC RECREATION WHICH DEPEND ON THEIR WETLANDS CHARACTERISTICS FOR THEIR UNIQUENESS AND PUBLIC INTEREST. THAT THESE LANDS AND THEIR NATURE ARE OF INTEREST AND IMPORTANCE TO THE PUBLIC IS ATTESTED BY THE MONTHLY VISITATION COUNTS WHICH EXCEED PER MONTH, AND THIS WITH NO FACILITIES. WHEN THE VISITORS CENTER IS COMPLETED THE NUMBER OF VISITORS WILL MORE THAN LIKELY DOUBLE.

THIRDLY, WHEN WE, THAT IS THE FUND AND THE OTHER GROUPS AND INDIVIDUALS ORIGINALLY OPPOSED THIS PROJECT, WE WERE INDEED VOICES IN THE WILDERNESS CRYING OUT FOR ENVIRONMENTAL SENSE. WHAT WE WERE SAYING WAS UNSUBSTANTIATED EXCEPT TO THOSE WHO WERE INVOLVED IN SOME WAY WITH THE WETLANDS, BUT TODAY AND OVER THE YEARS, REGRETABLY MANY OF THE PREDICTIONS WE MADE HAVE COME TO PASS AND EVEN IN THE BARATARIA ESTUARY SHRIMPERS ARE COMPALINING ABOUT REDUCED CATCHES AND PEOPLE ARE SEEING AND RECOGNIZING THE RESULTS OF ENVIRONMENTAL DAMAGE.

THIS SAME DEVELOPMENT MENTALITY HAS, AS WE SAID IT WOULD RESULTED IN CONSIDERABLE DEVELOPMENT IN AREAS OF QUESTIONABLE SOIL CONDITIONS, WITH INADEQUATE SEWERAGE FACILITIES. THE U.S GOVERNMENT HAS BEEN FORCED TO BUY HOUSES ON COUBRA DRIVE BECAUSE OF THE SAME CONDITIONS WHICH COULD DEVELOP IF CONSTRUCTION OCCURS IN THIS PROJECT AREA WHEN DRAINED.

ONE OF THE JUSTIFICATIONS FOR THIS PROJECT WHEN IT WAS FIRST PROPOSED WAS THE NEED FOR EXPANSION OF INDUSTRIAL FACILITIES ALONG THE WATERWAY WHICH IT BORDERS. WELL TODAY, NOW THAT THE PETROCHEMICAL JUGGERNAUT HAS FINISHED RAPING AND PILLAGING THE SOUTHEAST LOUISIANA WETLANDS AND THE OIL GLUT CONTINUES IT HAS MOVED ON LOOKING FOR EASIER AND MORE ATTRACTIVE TARGETS FOR ITS TENDER ATTENTIONS. THIS HAS LEFT THE HARVEY CANAL VIRTUALLY A SHADOW OF ITS FORMER SELF WITH LITTLE NEED OR POSSIBILITY OF EXPANSION. THIS KNOCKS OUT THE MAIN SUPPORT OF ANY JUSTIFICATION, IF THERE EVER WAS ONE FOR THIS DRAINAGE PROJECT.

SINCE E.P.A. WAS AND IS STILL MANDATED BY CONGRESS TO PROTECT THE ENVIRONMENT FOR THE BENEFIT OF THE MAJORITY OF CITIZENS, THE FUND FOR ANIMALS URGES IT TO CONSIDER THE EFFECTS OF DRAINAGE OF THIS WETLANDS ON THE BARATARIA ESTUARY AND THE SEAFOOD INDUSTRY IT SUPPORTS, THE DELETERIOUS EFFECT THIS DRAINAGE WOULD HAVE ON THE SWAMP AND CANOE TRAILS NOW MUCH USED AND ENJOYED BY VISITORS AND LOCALS IN THE JEAN LAFITE NATIONAL PARK, THE SCAM

ALREADY PERPERTRATED ON THE TAXPAYERS OF THER NATION BY THESE SPECULATORS IN HAVING OVER A MILLION DOLLARS SPENT TO BUILD AN ALREADY ERODED LEVEE, AND THE POTENTIALLY DISASTROUS CONSEQUENCES OF DEVELOPMENT IN SUCH AN UNSUITABLE FLOOD PLAIN.

IT ALSO URGES, NO, ENTREATS THE E.P.A. TO, AFTER SUCH CONSIDERATION TO MAINTAIN ITS ORIGINAL POSITION ON THIS PUMPING STATION AND DENY THIS PERMIT.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

POST OFFICE BOX 4305
103 EAST CYPRESS STREET
LAFAYETTE, LOUISIANA 70502

PUBLIC HEARING STATEMENT OF THE U.S. FISH AND WILDLIFE
SERVICE REGARDING THE EPA 404C DETERMINATION
FOR THE BAYOU AUX CARPES SWAMP, JEFFERSON PARISH, LOUISIANA
PRESENTED JUNE 18, 1985

Good Evening. My name is David Fruge. I am presenting this statement on behalf of Mr. James W. Pulliam, Jr., Regional Director of the U.S. Fish and Wildlife Service, Atlanta, Georgia. My statement represents the views of the Fish and Wildlife Service on the proposal by the Environmental Protection Agency (EPA) to prohibit a 3,000-acre wetland area known as the Bayou Aux Carpes swamp from future use as a dredged or fill material disposal site. The proposed action would be taken under Section 404(c) of the Clean Water Act.

The Bayou Aux Carpes wetland complex is located in the vicinity of Crown Point, Louisiana. The Service has been involved in studies of the Corps of Engineers' flood control project, "Harvey Canal-Bayou Barataria, Louisiana", since 1962. The Service has consistently expressed concern that the originally proposed project, with its levees and associated pumping station, would result in the drainage of the extensive and valuable wetlands found in the Bayou aux Carpes area. That concern was expressed in ^{numerous} reports from the Service to the Corps of Engineers dated September 13, 1962; November 29, 1962; August 7, 1970; February 5, 1975; and March 11, 1976. In its report of February 5, 1975, to the Corps of Engineers, the Service recommended that no further construction of the Harvey Canal-Bayou Barataria project be performed. The Service also recommended that the Bayou aux Carpes Pumping Station not be installed, that the existing dam across Bayou aux Carpes be removed, and that no dams be placed across the present gaps in the levee at the Southern Natural Gas Pipeline Canal and Bayou des Familles. Those measures were recommended to prevent drainage of the extensive enclosed wetlands. The original project plans were subsequently modified by the Corps of Engineers to prevent drainage of the enclosed wetlands. However, a recent Federal Court decision would allow construction of the original project, pending the exercise by EPA of its authority under Section 404(c) of the Clean Water Act.

Our concern for the extensive wetlands in the Bayou aux Carpes area is based on their value as habitat for a broad diversity of fish and wildlife. The Service, at the request of the EPA, has conducted a Habitat Evaluation Procedures analysis and additional fish and wildlife inventories of the Bayou aux Carpes area, to assess its value to fish and wildlife resources. A report of our findings has been presented to EPA. The area consists of bottomland hardwoods, wooded swamp, scrub-shrub wetlands, and fresh marsh. These wetlands serve as

valuable habitat to a variety of resident and transient wildlife species. The area serves as actual or potential breeding habitat to the wood duck, osprey, bald eagle, and American alligator, all of which are considered by the Service to be National Species of Special Emphasis (Federal Register, Vol. 48, No. 237, December 8, 1983), as well as to the pileated woodpecker and mottled duck, which have been highlighted by the Service's Regional Resource Plan for the Southeast Region. The area serves as breeding habitat for many other species as well, including white-tailed deer, gray squirrel, swamp rabbit, nutria, mink, great egret, great blue heron, barred owl, common moorhen, least bittern, and prothonotary warbler. The area also provides escape cover and preferred feeding habitat for the above-listed species as well as many other resident and transient wildlife species, including mallard and pintail, both of which have been designated by the Service as National Species of Special Emphasis. A total of 70 wildlife species was observed during the Service's inventory, including 9 species of amphibians, 10 species of reptiles, 45 species of birds, and 6 species of mammals.

The waterways and wetlands in the study area serve as valuable spawning and feeding habitat to numerous fishes and shellfishes. Sampling efforts by Service biologists indicate that some of the more common species in the area include bluegill, warmouth, largemouth bass, yellow bass, spotted gar, bowfin, and a number of forage species. Estuarine species collected in the area by Service biologists include bay anchovy, tidewater silverside, striped mullet, and blue crab. Many of the above-mentioned species, plus red swamp crawfish, are harvested by recreational fishermen in the project area. In addition, the wetlands in the area serve a vital role in providing downstream estuarine waters with organic detritus and nutrients that are essential to maintenance of a high level of productivity of sport and commercial fishes and shellfishes.

The deposition of dredged and fill material will be necessary to complete the Harvey Canal-Bayou Barataria project. This deposition includes additional levee construction and repair or completion of closure dams across Bayou des Familles, the Southern Natural Gas Pipeline Canal, and Bayou aux Carpes. Additional deposition of dredged and fill material would be required for ancillary drainage canals designed to efficiently drain the enclosed wetlands served by the proposed Bayou aux Carpes Pumping Station, a key feature of the original project. The eventual conversion of the 3,000-acre enclosed wetland area to residential and commercial development would also require extensive deposition of dredged and fill material. Even without completion of the original Harvey Canal-Bayou Barataria project, the Bayou aux Carpes wetlands face a serious threat from urban expansion. Such activities would require extensive deposition of dredged and/or fill material in the affected wetlands.

All of the above-described activities would have unacceptable adverse impacts on fish and wildlife resources. The high value of the affected wetlands as feeding, resting, nesting, and/or brood-rearing

habitat for numerous wildlife species would be virtually eliminated. The value of those wetlands as feeding, spawning, and nursery habitat to freshwater and estuarine fishes and crustaceans would also be lost. Other valuable functions served by the enclosed wetlands would be greatly reduced or eliminated; these include flood-storage capability, water quality improvement value, and contribution of nutrients and detritus valuable to the maintenance of the food web in adjacent estuarine waterbodies. The wetlands of an adjacent portion of Jean Lafitte National Historical Park would also be adversely affected by drainage of the area in question.

In view of these considerations, the Service strongly supports the proposed action by EPA to prohibit the specification of the Bayou aux Carpes wetland complex for discharge of dredged or fill materials. However, the Service would support, as an exception to that prohibition, the deposition of dredged or fill material associated with any project specifically designed to preserve or enhance habitat for wetland-associated fish and wildlife.

This concludes our comments. Thank you.

Diane Ribando

Rt. 1 - Box 333 - B

Marrero, LA 70072

June 18, 1985

Gentlemen:

I would like to submit the attached letter and petitions to be included in this hearing.

You will notice that the statement was first submitted on July 23, 1976. I am sure that some of the people who signed this original petition have since moved away or changed their sides; however, as the outgoing president of the Crown Point Civic Corporation, I am convinced that the present feelings and attitudes of the majority of those who signed almost ten years ago, have continued to protect this project.

Sincerely submitted,

Diane Ribando

July 23, 1976

Major General John W. Morris
Chief of Engineers
Army Corps of Engineers
Pentagon
Washington, D. C. 20310

Dear General Morris:

I am writing to you in reference to the Corps of Engineers issuing a permit for the Bayou Aux Carpes Pumping Station in connection with the Harvey Canal-Bayou Barataria Flood Protection Levee.

I am enclosing a petition with 180 signatures of people who live in this tiny community or are land owners who plan to live here in the near future, requesting that the Bayou Aux Carpes Pumping Station not be used as a means of drainage of Crown Point or Ida Planatation and that Bayou des Familles be opened and allowed to flow into Bayou Barataria. The people signing this petition we feel sure constitute a majority of the residents here since it is a very small community.

At the present time the levee is cut through Crown Point leaving the majority of citizens outside the enclosure. It was cut through the land of Mr. Alex Pitre without his knowledge or permission. He has since been paid by the State for his property but no settlement has been made with the Corps of Engineers. Bayou des Familles and Bauyou Aux Carpes are dammed, stagnated and overflowing with water lilies. These bayous were widely used by people of the area for boating and fishing and will in the future be used for drainage ditches to the pumping station if this project is carried through. The drainage bond issue that was passed to provide drainage through the Parish is in effect money that is being used to drain uninhabited swampland that is owned by former Councilman Harold Molaison and his friends. Only 27 present homes will be served by the pumping station. In September of 1974, Burk and Associates, Inc. of New Orleans, La. presented to the Jefferson Parish Department of Drainage and Sewerage an Environmental Assessment of this flood protection levee in which projected population growth to the year 2,000 in the West Bank can be served by land presently drained and leveed. This did not include 5,000 acres of Church-hill Farms which can be added to the total acreage available.

In their assessment Burk and Associates also pointed out that an acceptable solution could be had by putting the flood protection levee at alternative levee location "B" where a levee of 5 foot is presently protecting inhabited areas in connection with the already existing Estelle pumping station and also providing 7,000 acres of land for future development.

People who live in Crown Point along the Intercoastal Canal have a terrific erosion problem which could be helped by a levee rightly placed, instead they are completely left out of the plans.

We cannot understand how these things have happened to our community and feel that our rights have been denied in speaking with public officials about this matter. I say this because a previous petition which was signed by 95% of the residents of Crown Point asking that this action not be taken when it was first brought to their attention, was accepted by Mr. Molaison and Mr. Eagan, at that time Council President, and the representatives of the people were promised a hearing with the Corps of Engineers. They were never provided with the hearing and the copies of the petition mysteriously disappeared from sight. Until the public hearing was held eight years later they were not given a chance to express their views.

Because of the above mentioned circumstances, we can only conclude that this is a scheme to develop privately held lands at public expense and the issue is being clouded by insistence that this is necessary for hurricane protection. Hurricane protection is needed for the places where people live, not for uninhabited swamps.

In the literature that is put out by the Corps of Engineers you use the slogan "The Corps Care". General Morris, if we could only believe that this is true. You can right the wrong that has been done to the people of Crown Point by denying a permit to the Bayou Aux Carpes pumping station and taking the dams out at Bayou Aux Carpes and Bayou Des Familles. I will be waiting for a reply from you that you are seriously taking our objections under consideration.

Very truly yours,

Mrs. Diane Ribando

copy to Lindy (Mrs. Hale) Boggs, . C.

CROWN POINT, LA.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

NAME (SIGNATURE)

ADDRESS

- | NAME (SIGNATURE) | ADDRESS |
|-------------------------|---|
| 1 Emelda Lewis | Rt. 1 Box 337 Marrero Crown Point |
| 2 Doris Watts | Rt 1 Box 312 Marrero La. 70072 |
| 3 Kate Mann | Rt 1 Box 337 D MARRERO LA |
| 4 Bob Kellin | RT 1 BOX 332 B MARRERO LA. |
| 5 John Borison Jr. | Rt 1 Box 361 MARRERO LA Crown Point |
| 6 Louella Borison | Rt. 1 Box 361 Marrero Crown Point |
| 7 Susan Borison | Rt 1 Box 360 Marrero, Crown Point |
| 8 Judy Kellin | Rt 1 Box 332 B Marrero Crown Point |
| 9 Charles Borison Jr. | Rt. 1 Box 360 Marrero, Crown Pt. |
| 10 Miles J. Watts | 2705 DOLORES DR MARRERO <small>LAND OWNER IN CROWN POINT</small> |
| 11 Judy B. Watts | 2705 Dolores Dr Marrero <small>LAND OWNER IN CROWN POINT</small> |
| 12 E. M. Watts | Rt. 1 Box 318 Marrero La. 70072 |
| 13 Mrs E. M. Watts | Rt. 1 Box 318 Marrero La. - 70072 |
| 14 J. E. Huntz | Rt 1 Box 335 Marrero La 70072 |
| 15 Miane Ribando | Rt 1, Box 333-B Marrero La. 70072 |
| 16 Phyllis Breaux | 5521 Niagara Marrero - 70072 <small>Land Owner in Crown Point</small> |
| 17 Kathryn Jester | 5529 Randolph St. Marrero <small>Land Owner in Crown Point</small> |
| 18 Gary Breaux | 5521 Niagara St. Marrero - La. |
| 19 Billy Jester | Rt #1 Box 317 MARRERO LA. |
| 20 Richard J. Jester | 5529 Randolph St. Marrero <small>LAND OWNER IN CROWN POINT</small> |
| 21 William A. Woodley | Rt #1 Box 323 Crown Point La |
| 22 Barbara Vandubord | Rt 1 Box 323 Crown Point La. |
| 23 William Woodley | Rt 1 Box 323 Crown Point La <small>land owner</small> |
| 24 J. B. Cooper | Rt 1 Box 325 B Crown Point |
| 25 Thomas Woodley | Rt 1 - Box 326 Crown Point |
| 26 Geraldine J. Woodley | Rt. 1 - Box 326 Crown Point. |

CROWN POINT, LA.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

NAME (SIGNATURE)

ADDRESS

- | NAME (SIGNATURE) | ADDRESS |
|-----------------------|--|
| 27 Doug Willey | RT-1 Box 315-A Marrero 70072
(PROPERTY OWNER) |
| 28 Ed Plaisance | 5549 HUDSON DR. MARRERO, LOT 40 B IDA PLANTATION |
| 29 Glenn Saunders Jr | RT 1 Box 332 Marrero, La |
| 30 Freddie Darden | RT 1 Box 333 Marrero, La |
| duplicate Peter Klein | RT 1 Box 337D MARRERO, LA |

CROWN POINT, LA.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

NAME (SIGNATURE)	ADDRESS
31 <i>Lionel Jackson</i>	RT1 Box 346 Marrero, La.
32 <i>Mrs. Ouzade Jackson</i>	Rt. 1, Box 346 Marrero, La.
33 <i>Mrs. Ella Jackson</i>	Rt. 1, Box 346 "
34 <i>Bessie Jackson</i>	RT1 Box 326 A "
35 <i>Dorell Jackson</i>	Rt 1 Box 326 A "
36 <i>Quetta Archille Sr</i>	RT1 Box 326 A "
37 <i>Juanita Archille</i>	RT Box 326 A "
38 <i>Mrs. Emelda Pitt</i>	RT1 box 0346 "
39 <i>Mrs. Joseph L Pitt</i>	" "
40 <i>Mrs. Ruth Scott</i>	Box 03221 "
41 <i>Mrs. Keyron Scott</i>	Box 03421 "
42 <i>Mrs. Laureal Jackson</i>	Box 350 B "
43 <i>Delma Dept</i>	Box 0344 Marrero, La.
44 <i>Mr. Peter Jackson</i>	Rt. 1 Box 350 B Marrero, La.
45 <i>Mrs. Ward Jackson</i>	Rt. 1 Box 350 B Marrero, La.
46 <i>Mr. Edward Wallace</i>	RT. 1 Box 350 A Marrero, La.
47 <i>Mrs. Hazel Wallace</i>	RT. 1 Box 350 A Marrero, La.
48 <i>Ralph Walker</i>	Box 347 RT1 Marrero, La.
49 <i>Antoinette Walker</i>	Box 347 RT1 Marrero, La.
50 <i>Delores Moss</i>	Box 34 RT1 Marrero, La.
51 <i>Mr. Harry Jackson</i>	Rt. 1 Box 346 Marrero, La.
52 <i>Marilyn D Archille</i>	RT 1 Box 326 A Marrero, La.
53 <i>Andella Jackson</i>	RT1. Box 327 A
54 <i>James Jackson</i>	2113 Sunnyside, Gretna
55 <i>Rev. Mary Moore</i>	Civil Home Church Home Crown Point
56 <i>Clyde Blackman and</i>	One main street, Crown Point.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

NAME (SIGNATURE)

ADDRESS

57	Alex Patis - Crown Point La	
58	Murphy Priestentach	
59	Ernie A. Willett Jr. Crown Point La,	
60	Warren Couels	Crown Point
61	Amelia Jackson	Crown Point, La.
62	Henry Vincent	Crown Point La.
63	Larry J. Rose	Crown Point La.
64	Victor J. Rose	Crown Point La.
65	Will Adams	Crown Point La.
66	Henry G. Guef	Crown Point La.
	duplicate Will-Rose	Crown Point La.
67	Randy Barnett	Crown Point La.
68	Lorina Zeringue	Crown Point La.
69	Ellen R. Sharp	Crown Point, La.
70	Freddy Adams	Crown Point La.
71	Leopold	Crown Pt. La.
72	Edward Hebert	Crown Point, La.
73	Drew Hebert	Crown Point, La.
74	John P. Munch III	Crown Point, La.
75	Maughan Munch	Crown Point, La.
76	Henry Jackson	Crown Point, La.
77	Martin Shilling	Rita Shilling
78	Nora Liddy	Crown Point, La.
79	Mr. Victor Person	Crown Point, La.
80	Victor Person	Crown Point, La.
81	Bertha Dupin	Crown Point La.
82	Charlie J. A. Cross	Crown Point La.
83	Arabelle Davis	Crown Point
84	Michael Leubner	Crown Point, La.

CROWN POINT, LA.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

NAME (SIGNATURE)	ADDRESS
85 Mr. Alfred Loupe Jr.	Crown Point
86 Alfred Loupe	" " "
87 Gibson P. Austin	Crown Point La
88 Mrs. Gibson P. Austin	Crown Point La
89 Allen Bartholomew	Crown Point
90 Mrs. Gwen James	Crown Point
91 R. O. James	Crown Point
92 Elsie Marshall	Crown Point
93 Benny Bartholomew	Crown Point
94 Leona Bartholomew	Crown Point
95 Ted McCarus	Crown Point,
96 Wanda	Crown Point
97 Brown Maynard	Crown Point
98 Elizabeth K. K.	Crown Point
99 for Crown Point Properties, Inc.	
99 Aurora Loran	
100 Mrs. Gladys J. Curtis	Crown Point,
101 Mr. Carlton Curtis	Crown Point
102 J. H. Spiden	Crown Point
103 Mr. & Mrs. Carl Dignie	Crown Point
104 Paul P. Sr.	Crown Point
105 John P.	Crown Point, La
106 Gary Rose	Crown Point La
107 Aracelo Rom	Crown Point La
108 Horace Contranckis	Crown Point
109 Shirley Contranckis	Crown Point
110 Joseph L. Contranckis	Crown Point
111 Karen Contranckis	Crown Point
112 Victor J. Curtis	

CROWN POINT, LA.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

NAME (SIGNATURE)

ADDRESS

113	Mrs. Albert Defiore	Rt. 1 Box 337 - Marrero, La. 70072
114	Mr. Albert Defiore	Rt. 1 Box 337 Marrero La 70072
115	A. J. Dorman	Rt. 1 Box 338 B Marrero La 70072
116	Mrs. A. J. Dorman	Rt. 1 Box 338 B Marrero, La 70072
117	Mrs. Sylvia Dorman	Rt. 1 Box 339 B Marrero, La 70072
118	Larry Dorman	Rt. 1 Box 338 B Marrero, La 70072
119	Edward J. Dorman	Rt. 1 Box 339 B Marrero, La
120	Barbara Mornier	Rt. 1 Box 337-D Crown Point La 70072
121	Raymond Mornier	Rt. 1 Box 337-D Crown Point La
122	Laird Caulfield	Rt. 1 Box 334 D Marrero La
123	Eldon A. Boudeaux	Rt. 1 Box 334 D Marrero La
124	Wanda Boudeaux	Rt. 1 Box 334 D Marrero La
125	Blanche Sampson	Rt. 1 Box 333 Marrero, La
126	Viola Bendich	Crown Point La
127	George Bendich	Rt. 1 Box 333 Marrero La
128	Walter Pierce	Rt. 1 Box 315 Marrero La
129	Victor M. Billiot	Rt. 1 Box 338 Marrero La
130	Diane Billiot	Rt. 1 Box 338 Marrero, La
131	Gloria B. Price	Rt. 1 Box 343-H Marrero, La
132	Andrew Price	Rt. 1 Box 343-H Marrero, La
133	Percey P. Landry	Rt. 1 Box 339 A Marrero La
134	Andrea Drey	Rt. 1 Box 341 Marrero, La
135	Therese Drey	Rt. 1 Box 341 Marrero, La
136	Jack Defiore	Rt. 1 Box 343-B Marrero, La
137	Catherine Dreyfus	
138	Milroy P. Autin	Box 365 C Marrero La
139	Mrs. Wilber Autin	Box 365 C Marrero La
140	Simon J. Guidry	Box 343-C Marrero, La
141	Eric Guidry	Box 343-C Marrero, La

CROWN POINT, LA.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

	NAME (SIGNATURE)	ADDRESS
142	Lucy Dardar	Rt. 1 Box 405 A Marrero, La. 70072
143	Carol Dardar	" " " " " " " " " " " "
144	Joseph Presteloch	RT. 1 Box 405 B Marrero La. 70072
145	Claudia Presteloch	Rt. 1 Box 405 B Marrero, La. 70072
146	Steve J. Brotherson	Rt. 1 Box 365 B Marrero
147	Michael R. Hanley Sr.	Rt 1 Box 365 B Marrero, La.
148	Sally B. in Athens	R4 Box 365 1/2 B. Marrero La. 70072
149	Mrs. Claude G. Dardar	Rt. 1 Box 405 Marrero, La. 70072
150	Alphonse Guidry Jr.	Rt 1 Box 391 Marrero La.
151	Mrs. Alphonse Guidry Jr.	Rt 1 Box 391 Marrero La.
152	Mr. Peter P. Caulfield	Rt 1 Box 390 Marrero La.

CROWN POINT, LA.

June 21, 1976

To the Jefferson Parish Council and the District Corps of Engineers

We, the undersigned residents of Crown Point, Louisiana, are opposed to the Bayou Aux Carpes Pumping Station as a means of drainage of Crown Point (or) Ida Plantation.

Sufficient drainage can be provided without draining the swamp east of Bayou des Familles which is uninhabited.

We request that Bayou des Familles be opened and allowed to flow into Bayou Barataria.

NAME (SIGNATURE)

ADDRESS

153	Marilyn Fague	RT 1 Box 337A - Marrero, La
154	Lane Fogue	" " " "
155	Mr. Gerald A. Gault	2121 Dartmouth St. (RT 1) A
156	Eric or Helit	RT 1 Box 364 Marrero La
157	Milly Trethewey	RT 1 Box 381A Marrero La
158	London Trethewey	RT 1 Box 381A Marrero La
159	Amelia P. Guillie	RT 1 Box 381B Marrero, La.
160	Lucien Guillie	RT 1 Box 381B Marrero
161	Jimmy J. Williams	RT 1 Box 382A MARRERO, LA
162	Judy Williams	
163	Jimmy E. Viret	RT 1 Box 382A Marrero
164	Fields Viret	
165	Victor Johnson	
166	Wald Johnson Sr.	
167	Brenda Smith	
168	Recky J. Smith Sr.	
169	Barbara Caulfield	Box 383 Marrero LA
170	Arma Bellot	RT #1 Box 384 Marrero, La.
171	Joseph A. Billiot Jr.	RT #1 Box 384 Marrero, La.
172	Maen Mathieu	RT 1 Box 387E Marrero, La.
173	Ratia Labouca	RT 1 Box 387E Marrero, La.
174	HUBERT TRAHAN	RT 1 Box 387E Marrero La
175	Michael Brown	RT 1 Box 386 " "
176	Meyer J. Bonit	RT 1 Box 388 MARRERO, LA.
177	Joseph A. Billiot Sr.	RT #1 Box 395 Marrero La.
178	Miss Joseph A. Billiot, Jr.	RT #1 Box 395 Marrero, La.
179	Mr Whitney A. Coulon	RT 1 Box 393 - Marrero La.
180	Mr " " " "	" " " " "

B.2 ADDITIONAL COMMENTS RECEIVED

EPA. Federal Activities Branch: 6/16/85
Re: Public Comment - Pumping Station
to drain Bayou aux Canes Swamp

This organization has an extraordinary investment in the fight to protect wetlands and riparian habitat around New Orleans and in protecting the environmental integrity of Lake Lafitte National Park, and the whole adjacency. The proposed pumping station which will be spread and the levee and ditches a swamp. You are requested to oppose this project in the public hearing record.

Vina Carre Council
For A Better New Orleans
4106 Dumaine Street
New Orleans, LA 70119

Dear Sir:

I am opposed drawings of the Bayou aux Canes Swamp.

Drawings of this area will reveal damage the levee with National Parks and especially affect the wildlife in this area. Please review this matter more completely before acting.

Yours truly,
Vina Carre Council

Dear E. P. A.

My family and I are opposed to anything that would destroy Bayou aux Canes Swamp and its wildlife.

Thank you
James Sieper

I am opposed to the drainage and
development of the Bayou aux Carpes
Swamp. Development of such will
not only result in unnecessary expense
to the taxpayer, but will result in the
destruction of one of the two remaining
Tupelo, Cypress swamps in Jeff Parish. JWM

I am opposed to the draining
of the Bayou aux Carpes
Swamp.

Wm. E. Street
2712 Elizabeth St.
Marrero, LA 70072

I oppose the draining
of Bayou aux Carpes Swamp.
Gary W. Aliff
Coary W. Aliff
5137 Dulany Oaks
Marrero, La 70072

I am opposed to the
draining of Bayou Aux Carpes
Swamp

X2

Allen Lake
2432 Joffe Rd.
Marine, La. 70072

To DRAIN BAYOU AUX CARPES
WOULD BE A DISASTER
TO THIS AREA.

PLEASE DON'T DO IT!

William Nutchbee Jr
WILLIAM NUTCHBEE JR
4644 AMES BLVD
MARREO, LA
70072

I do not want the Bayou
Aux Carpes Swamp drained.
This is a rich wildlife
area.

Ronald S. Calbreath

I am apposed to the
Draining of Bayou aux Carpes
Swamp

Dominick Muccio
5020 Willowtree
Marrero, La, 70072

I am opposed to the draining
of the SWAMP called
"THE BOUOU AUX CARPES SWAMP"

ALAN PUNCH
2429 ELIZABETH ST
MARRERO, LA.

I am apposed to the
drainage and development of ~~the~~
Bayou aux Carpes swamp.

Randolph A. Lachney

70067

BAF 17e LA

Box 507 E

(Bayou aux Carpes Swamp)

This Area dredged

No way do I want

Dear Sir:

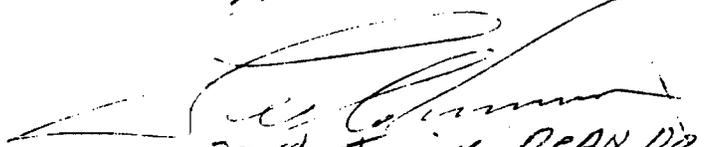
I do not want the

Bayou aux Carpes Swamp

drained. I am Justice

I Am opposed to the
DRAINING OF Bayou aux Carpe
Swamp. This is a Thriving
wild life AREA.

LES Chermania


2748 Jimmy Dean Dr.
MARRIETTE, LA 70072

Dear Sir

I Am AGAINST THE PERMITTING
OF THE REINSTATE OF THE BAYOU DUCK
CARPERS SWAMP, BECAUSE OF ITS EFFECT
ON THE TERN NESTS NEARBY PARK
AND THE WILDLIFE IN THE DIVER

the Bayou

Dear E. R. A.

Don't Dumb Any of the Bayou Area
CARPERS SWAMP AREA, I AM INTERESTED
IN PRESERVING THE AREA, I ALSO HAVE
SEEN A BALD EAGLE NEST IN THE
AREA

Gregg Johnson

I am opposed to the damming
of the Bayou and Lake Swamp.
As it is one of the two swampy
swamps in Jefferson
Parish,

Joseph Rodrigue
3511 One 3rd
Marrero, La. 70072

Dear Sir,
My family and I are opposed
to anything that would destroy
the Bayou and Lake Swamp.
Wildlife, are attracted to it on
the Bayou area which con-
tributes to the abundance
of fish and waterfowl areas.

Wayne & Allmond
5116 Keady
Marrero, La. 70072

Dear Sir

I am against the damming,
leveling and draining of the Bayou and
Lake Swamp because it would
destroy valuable wetlands and wildlife
habitat.

3205 Jennifer Ct
Marrero La 70072
Aubrey A. Millet Jr.

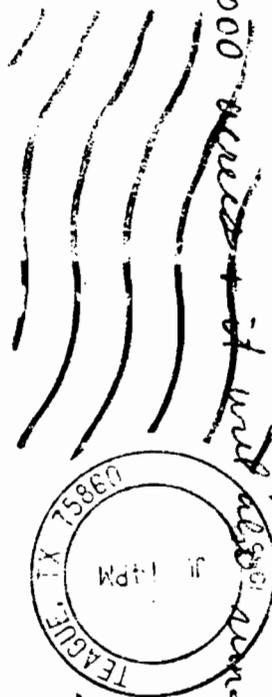
Dear Sir

I AM AGAINST THE DRAINING
OF THE BAYOU AUX CARRES SWAMP
I ENJOY FISHING THERE.

Ronald Wilson

Dear Sir

I oppose the draining of
the Bayou aux Carres Swamp because
it will ruin the Jean LeFite park by draining
3000 acres ~~it will~~ also ruin Donald life



5/3/75

Dear Sir,

I am against the draining
of the Bayou Aux Carres
Swamp because it will destroy
valuable habitat & wild life containing
fish.

John P. Speer CRA
1116 St Michael Dr
Harvey, LA.

3008

Dear E.P.A.

I have written you time & time
again stating how much I enjoy my
friends & I am against any draining,
lowering and draining for any reason Bayou
out Caper Swamp Area. It would destroy
Estuaries & valuable natural wetlands.

Thank you
Donald F. Reynolds

Dear E.P.A.

We are against the draining and
lowering of Bayou Aux Caper swamp
because it would destroy valuable
wetlands and wildlife habitat.

Donna H. Hillman Jr.
834 Ave. G, Westwego, La. 70094

Dear Sirs / Gene M. Russell
in opposition to the
I am writing of the Bayou Aux
proposed draining of the Bayou Aux
Caper Swamp in Crow Point, LA.
Any further loss of this valuable
wet land area will surely cause
irrevocable damage to Louisiana's
E.C.O. Systems - Also a very valuable
portion of Jean Lafitte Nat'l Park will
suffer damage

Dear EPN.

I Am against DRAINING OF
THE BOYON BUX CARPES SWAMP.

Thank You

Bruce Taylor

Dear Sir:

I am against the Damming,
Drainings or Leveeing of the
Boyon Bux Carpes Swamp^s Because it
would Destroy valuable wetlands and
wild life habitat.

John A. Carter
2848 Ashores Dr.
Murren, Va. 20072

I AM OPPOSED TO
THE DRAINING OF THE
BOYAU AUX CARPES
SWAMP NEXT TO,
THE VERN LAFFITE
PARK AS IT WOULD
ALSO BRING PART OF
THE VERN LAFFITE
PARK AND IT WOULD
BE AGAINST THE
ENVIRONMENT ^{of Boyau aux Carpes}
CHARLES R. ETHRIQUE
2416 W. PEARL DR.
MARRERO, Louisiana 70072

Dear E. PAH,

David T. Brown

I feel very strongly
against the destruction of the
wildlife adjacent to the Jean
Lafitte Park to satisfy a few
developers + hunt thousands of
 acres of good habitat.

Dear Sir,

I am against the DRAINING! Leveeing
and Draining of the Boyau aux Carpes Swamp
because it would Destroy valuable wetlands and
wildlife habitat.

John D. Cato
2729 Britannica Dr.
Marrero La. 70072

DEAR SIR

I am a sportsman and
wildlife lover my family and I
are opposed to anything that would
destroy Bayou aux Carpes Swamp
are any of our wildlife habits,
we should be proud of our wetlands.

Johnny Pope

Dear Sir:

We are against the damming, leveeing
and draining of the Bayou Aux Carpes Swamp
because it would destroy valuable wetlands and wildlife
habitat.

M. Stokes

Dear Sir.

I am against the Draining and
Damming of the Bayou Aux Carpes Swamp
because it would destroy valuable
wetlands & Wildlife Habitat.

Marks A. Coates
2729 Britannica Dr.
Marrero, La. 70072

210 Bedford

we are against the damming, flooding
and filling of the Bayou with silt
because it would destroy valuable
marshlands and wildlife habitat

Dear EPA

Dear Sirs:

I am opposed to the damming
of Bayou des Caes because
of the lost fish and game that
will be destroyed. A mill

Dear EPA

We are against the damming,
flooding and filling of the
Bayou des Caes because
because it would destroy
valuable marshlands and wildlife
habitat.

It has very strongly
opposed the destruction of the
account of the wetlands
of the park for public lands
ownership.

Dear EPA

I am opposed to the drawing
of the Bayou Park Center Swamp
for the development of this land
which is the only Swamp & green space
left in Jefferson Parish, & because it
is a good place to fish, & will destroy an
area of wildlife

R P Lewis

Please do not drain the
Bayou Park Center Swamp.

Wynne Simmons
P.O. Box 100
Westwego, La. 70094

DEAN CHRISTEN
Steve Clark
2040 Bryon Dr.
MARIETTA GA 30067

I AM OPPOSED TO THE
DRAWING OF BRYON AUCAMP
SUPP.

I Am opposed to The
DRAWING Bryon Aux Carpenters
Edward H. Kelly
2709 Dunwoody Dr
Marietta GA
341-3414

Will oppose the drawing
of Bryon Aux Carpenters
Supp.



United States Department of the Interior

NATIONAL PARK SERVICE

JEAN LAFITTE NATIONAL HISTORICAL PARK

DELTA REGION PRESERVATION COMMISSION

423 Canal Street - Room 206
New Orleans, Louisiana 70130

DELTA REGION PRESERVATION COMMISSION MEETING MINUTES

MAY 10, 1985

Present: Dr. Fritz Wagner, Chairman; Frank Ehret, Vice-Chairman; Sidney Rosenthal, Dr. Barry Kohl, John Eckerle, Linda Adams, Anthony Majoria, Frank Fernandez, and Mercedes Munster

Absent: Diane Ribando, Joseph Martina, LeRoy Demarest, David Duplantis

Meeting convened at 11:10 AM.

The Chairman referred the first item on the agenda, Construction Programs, to Superintendent Isenogle.

Barataria - Mr. Isenogle reported that the contractor for the visitor center project has until May 20th to complete the contract and, if not, will be subject to penalties for each day delayed. As of now, the job is approximately 43% complete.

Mr. Rosenthal moved that the Commission appoint a select committee to take whatever action is necessary to persuade the contractor to perform appropriately.

Upon further discussions, Mr. Rosenthal added that the Park Service should consider taking the steps necessary, at the time of contract expiration, to proceed with contract default process, place a new contractor on-the-job, and seek penalty fees from the contractor's bonding company.

Mr. Eckerle mentioned that he has received numerous complaints from photographers who are wanting to take photographs of the park at the Coquille site and are not permitted due to construction. Mr. Isenogle explained that an attempt was made to allow visitors

Frank Ehret moved that the Commission send a letter and copy of the September 17th resolution to the Corps of Engineers Office in Vicksburg, addressing the Delta Region Preservation Commission's support in approval of the project with a copy distributed to the Louisiana Federal Delegation.

Motion seconded by Mr. Eckerle and passed by unanimous vote.

Superintendent Isenogle reported that he has requested that the Regional Office to schedule an amendment to the General Management Plan for the Chalmette Unit that would take into account all the new historical research.

Cooperative Agreements

French Quarter - The Park has lost its lease for the Pontalba Building Visitor Contact Station. We must vacate the site by July 1, 1985. GSA is attempting to locate a replacement facility in which a folklife program, similar to that of the World's Fair but on a smaller scale, can be located in the French Quarter. The French Market Corporation site appears to be well suited for our needs.

While negotiations are taking place, the riverboat company has agreed to share their gazebo located near Cafe Du Monde. Tours will continue and programs are planned to maintain public contact. Our long-term object is to find a place we may own or perhaps have donated to the park. This approach is something that should be seriously considered.

Chitimacha Tribe - The Cooperative Agreement with the Chitimacha Indian Tribe has been signed, however, it remains at a stand still. The park will be working with the tribe in cataloging and organizing their museum collections within the next several months.

Big Oak Island - The developers of the New Orleans East Corporation are not proceeding with their economic developments as rapidly as planned, and consequently, there is no access to this site and no facilities or prospects for their construction in the immediate future.

Mr. Rosenthal moved that the Commission refer the matter to the Planning and Program Development Committee, to seek whether there is a need to continue the Cooperative Agreement.

Motion seconded by Mrs. Adams and passed by all present.

WHEREAS, the Louisiana Sanitary Code, Chapter 13, Section 19, Para. 13;019, as promulgated on October 20, 1984, requires a minimum frontage of 125 feet and a minimum residential lot size of 25,000 square feet in such areas, and

WHEREAS, most of the developments in progress do not meet this code, and

WHEREAS, the Delta Region Preservation Commission is instructed in Public Law 96-625 to ... "inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region."

NOW THEREFORE BE IT RESOLVED THAT the Delta Region Preservation Commission invites the attention of the U.S. Environmental Protection Agency, the Louisiana Department of Health and Human Resources, the Louisiana Department of Natural Resources, and the Jefferson Parish Environmental Department, to the water pollution problems in the upper Barataria estuary watershed. We urge them to take every action within their authority to control new development and to correct existing conditions contributing to the pollution of the estuary's waters until the trend toward environmental degradation is reversed and water pollution is no longer a limiting factor in the aquatic productivity of the estuary.

BE IT FURTHER RESOLVED THAT this resolution be broadly distributed to the news media for the purpose of educating the public as to risks to the productivity of the estuary of unplanned, and uncontrolled development.

Mr. Kohl, Chairman of the Committee, moved that the Commission adopt the resolution as stated above. Seconded by Mrs. Munster and passed unanimously.

Mr. Kohl brought to the Commission's attention the fact that Mr. Webb Pierce had applied for an after-the-fact permit for development adjacent to the Core area of the park, and was denied application by the State and issued a cease-and-desist order by the Corps of Engineers. The applicant has since re-applied for a permit under a new proposed development project. Mr. Kohl added the Audubon Society was intending to take legal steps if necessary.

Eunice, Louisiana
February 12, 1985

The following Resolution was introduced by Mrs. Fontenot, seconded by Mr. Peart.

R E S O L U T I O N

BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Eunice, Louisiana, the governing authority of said City in regular session convened:

WHEREAS, the Act of November 10, 1978 (Public Law 95-625 Title IX), authorizes the establishment of satellite historical offices to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources,

BE IT HEREBY RESOLVED that the Mayor of the City of Eunice be authorized to pursue the establishment of such offices in the City of Eunice to perpetuate and promote the Acadian culture.

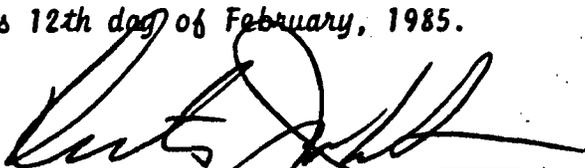
The above and foregoing Resolution having been submitted to a vote, a vote thereon was as follows:

YEAS: Babineaux, Peart, Dupre, Bellow, Fontenot.

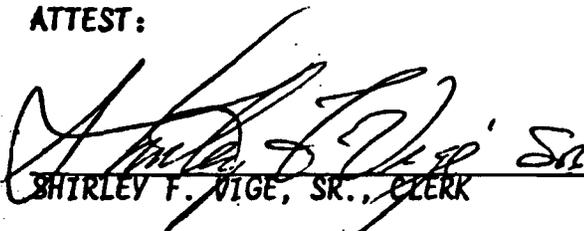
NAYS: None

ABSENT: None.

This Resolution was declared adopted this 12th day of February, 1985.


CURTIS JOUBERT, MAYOR

ATTEST:


SHIRLEY F. VIGE, SR., CLERK

D.B.A.

Bethlyn J. McCloskey

Sena Development

1045 Veterans Blvd.
Metairie, LA 70005

June 12, 1985

RECEIVED

JUN 17 1985

6 ES

U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

Re: Bayou aux Carpes Swamp

Dear Sir:

I am unequivocally opposed to the use of the Bayou aux Carpes Swamp as a spoil disposal site. As the former director of the now defunct Jefferson Parish Environmental Board and a ten year veteran of the Louisiana Coastal Commission, I am very familiar with the project and feel its impact would be even more deleterious now than when first proposed.

In the last ten years the acceleration of our south Louisiana marsh loss has been staggering, particularly in Jefferson and adjacent Plaquemine Parish. As has been pointed out, Louisiana supplies approximately 25% of the nation's seafood, and 44% of this is attributable to the Barataria Bay estuary system. This system is rapidly deteriorating and we must take every step possible to stop any activities which directly destroy acreage and has the potential of indirectly destroying many more in the long term.

Some other figures to be considered are:

More than 40% of the entire United States coastal wetlands are in Louisiana and of the 25 million acres of wetlands in the Mississippi Delta, 81% are gone, mostly from Louisiana.

66%-97% of the majority of our commercial and sport fisheries are esturine dependent at one time in their life.

Louisiana shrimp and menhaden have a worth of \$20 million, \$3.5 billion after processing.

Oysters are valued at \$13 million.

Crabs are valued at \$4 million.

Sport fishing worth is \$100 million.

In addition to the disruption of the estuary, the eventual outcome climax to the filling of the swamp would be more homesites in an area which needs no more human impact.

As a lifelong resident of Jefferson Parish, I strenuously object to having my tax money being spent on roads and facilities in soil not suitable for human living conditions. The area is hurricane prone and a potential disaster site.

In a 1982 study of External Threats to the National Parks by the National Park Service, the Jean Lafitte National Historical Park was one of those parks singled out as having dire problems. This project will jeopardize one of the primary purposes of Louisiana's only National Park which is to protect the headwaters of Louisiana's and the nation's most productive estuary.

If ever any project needs to be stopped, it certainly is the destruction of the Bayou aux Carpes Swamp.

Thank you for inviting me to comment.

Sincerely,

Bethlyn McCloskey
Bethlyn McCloskey

BJM:mdm

cc: Ken Hinman, Director, National Coalition Marine Conservation
Robert Evans, Chairman, Jefferson Parish Council
Joe Yenni, President, Jefferson Parish
John Green, Chairman, Gulf of Mexico Fishery Management Council
Burton Angelle, Secretary, Louisiana Wildlife and Fisheries

add to BARB

July 24, 1985
530 Second St.
Gretna, La 70053

Sir: Re: Bayou Carpes, La/
Crown Point Drainage

Jean Lafitte National Park in Louisiana is a wonderful nat'l resource. Please help us save it from the irresponsible hands of land speculators who want to drain the adjoining swamps and bayous--thus draining the park wetlands.

I have visited the park and it is one of the finest national parks in the nation. Louisiana can be proud of her one nat'l park. But it is being threatened by a few greedy politicians at the expense of a whole nation of people.

Let us believe in our government again.

Thank you,

Mrs. Clarence White

RECEIVED

JUL 31 2 53 PM '85

EPA
REGION VI
OFFICE OF REGIONAL
ADMINISTRATION

E.P.A.
1201 Elm St.
Dallas, Texas 75270

Dear Sirs:

532 Second St.
Gretna, Louisiana
70053

July 27, 1985 RECEIVED

AUG 2 1985

6 ES

I write this letter to ask you to preserve our Louisiana National Parks - The Jean Lafitte National Park, that is presently being threatened with extinction if the Bayou Carpes swamp area is drained.

Having traveled to many national parks areas throughout the U.S., I take pride in stating that Louisiana's Jean Lafitte Nat'l Park is one of the finest natural resources in the nation. It is unique and supports a wide variety of wildlife species. The marsh and swamp wetlands are amongst the most beautiful scenic wildlife areas in the country. It would be a crime to allow a few greedy land speculators to pull the plug on the surrounding swamps in the Crown Point - Bayou Carpes area which would threaten Louisiana's spectacular parks. Please help us protect our resource for the nation, and for future generations.

Thank you. Sincerely, Sevilla Finley

Keeler
cc: Seals
Bentley

LAW OFFICE
NELKIN & PICKLE RECEIVED
(A PROFESSIONAL CORPORATION)
2217 INTERNATIONAL TRADE MART BUILDING
2 CANAL STREET JUN 27 2 50 PM '85
NEW ORLEANS, LOUISIANA 70130

JOSEPH W. NELKIN**
WARREN J. PICKLE*
JULIA E. TAYLOR*

(504) 581-7452

EPA REGION 6

* ADMITTED LOUISIANA
** ADMITTED DISTRICT OF
COLUMBIA, LOUISIANA,
MARYLAND

MARYLAND OFFICE
506 ONE EAST LEXINGTON BUILDING
EAST LEXINGTON & NORTH CHARLES STREETS
BALTIMORE, MARYLAND 21202
(301) 625-0112

RECEIVED

June 19, 1985

JUL 16 1985

6 ES

Mr. Paul Seals, Regional Counsel
Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

RE: Section 404
Determination Hearing
for Bayou Aux Carpes
June 18, 1985 - Gretna
Louisiana

Dear Mr. Seals:

At the Section 404 hearing on June 18, 1985, in Gretna, Louisiana, I made certain remarks in favor of the EPA's proposed determination, in my capacity as President of the Crown Point Civic Association. Because certain people in attendance at the hearing, notably Judge John J. Molaison and Councilman Harold L. Molaison, apparently took offense at some of my comments, I feel the need to clarify what I said separately from the formal statement the Association intends to submit.

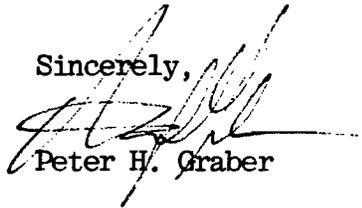
In my presentation, I noted that Councilman Molaison had referred to the three thousand acre tract in question as almost "all good high land with a few low spots". I further noted that I live in the area in question, and as far as I can see, the area in question is almost entirely swamp. At this point, Judge Molaison and Councilman Molaison took extreme exception to my comments, and Judge Molaison demanded an apology from me. The implication in Judge Molaison's demand for an apology from me seems to be that he feels that I have accused him of being a liar to the Agency.

I must stress, and thought that I had done so at the Hearing, that I in no way intended my remarks to be interpreted as meaning that Judge Molaison and Councilman Molaison were lying to the Agency. I simply wished to point out, and I believe that my statements were taken this way by most people in attendance, that in my opinion, the characterization of the land by Councilman Molaison was incorrect. If my characterization of the land proves to be incorrect, and Councilman Molaison's characterization correct, then I am sure that the future record will bear his position out instead of mine.

Page 2
June 19, 1985
RE: Section 404 Hearing

In any event, I am sorry to the extent that anyone might have interpreted my statement to accuse either Judge Molaison or Councilman Molaison of lying to the Agency. It was in no way intended as such. Please attach a copy of this letter to the official record of this hearing.

Sincerely,



Peter H. Graber

PHG/ja

cc: Judge John J. Molaison
Councilman Harold L. Molaison

JULY 16, 1985

ENVIRONMENTAL PROTECTION AGENCY
INTERFIRST TWO BUILDING, 1201 ELM ST.
DALLAS, TEXAS 75270

RECEIVED

JUL 25 1985

6 ES

EPA
REGION VI
OFFICE OF REGIONAL
ADMINISTRATION

RECEIVED
JUL 22 2 31 PM '85

TO WHOM IT MAY CONCERN,

I HAVE LIVED IN MARRERO, LOUISIANA ALL OF MY LIFE. I HAVE PURCHASED A HOME HERE, WITHIN 8 MILES OF THE JEAN LAFITTE NATIONAL HISTORICAL PARK. I LOVE THIS PLACE. I WANTED MY CHILDREN TO GROW UP WITH THE SAME LOVE FOR THEIR HOMETOWN THAT I HAVE. IN THE LAST FIVE YEARS I HAVE WATH WATCHED CONTRACTORS, MOW DOWN THE WOODS THAT I AND MY BROTHERS AND SISTERS PLAYED IN FOR YEARS, TO PUT UP TRACK HOUSES. THEY DROVE WILD LIFE OUT OF THE AREA, THEY HAVE CREATED EYE SOURS WITH THE HOMES THEY BUILT. WHEN THE JEAN LAFITTE PARK WAS CREATED EVERYONE WAS EXCITED. WE NOW MADE A PROGET PROTECTED AREA FOR THE MANY ANIMALS THAT WE GREW UP WITH. NOW SOMEONE WANTS TO MAKE A FAST BUCK BY FILLING IN BAYOU aux CARPES SWAMP. WE FISH THIS BAYOU ON THE WEEKENDS. WHERE WILL MY CHILDREN AND I GO TO ENJOY THE WILDS OF LOUISIANA IF WE ALLOW SOMEONE TO FILL THE BAYOU, HOW WOULD YOU LIKE A DUMP IN THE ONLY PLACE YOU CAN GO FOR TO BE WITH NATURE. THERE HAVE ALLREADY BEEN ENOUGH DISTRUCTION OF THE LAND AND WOODS AROUND HERE, PLEASE PLEASE SAVE OUR BAY OU aux CARPES SWAMP.

TERRY ALIFF
2709 ANNETTE DR.
MARRERO, LA. 70072

504-341-3414

3116 Cleo Dr.
Marrero, La. 70072
July 23, 1985

Environmental Protection Agency
Federal Activities Branch
InterFirst Two Bldg.
1201 Elm St.
Dallas, Texas 75270

Gentlemen:

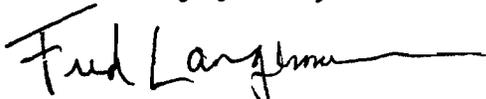
As a resident of the West Bank an an interested individual in the future development of The Jean Lafitte National Historical Park, I'd like to go on record as favoring the invocation of Section 404(c) CWA regarding the Bayou aux Carpes swamp. It would be a mistake to permit this swamp to be drained, thereby endangering the wildlife and the natural characteristics of this resource. Please let me explain.

About nine years ago, when I first moved to Marrero, the West Bank was relatively undeveloped, and I would estimate that in that nine year period ninety-five percent of all the development one can see (and the development is very extensive) along Lapalco Boulevard, the second busiest east-west highway on the West Bank, took place. It would appear that little or no effective restraint was exercised in that development.

While it is true that commercial development makes the lives of those who live in a developed area easier, it does not necessarily follow that the quality of life is made better. The natural environmental beauty of a given area belongs to all of its inhabitants, not just to those few who would profit most from its exploitation. It would seem, fortunately, that the trend in public thinking, especially in the city of New Orleans and its environs, is to preserve and to protect our common heritage.

We hope you will aid us in keeping this precious heritage in tact and not permit the natural characteristics of the land to be so marred and modified as to be completely unrecognizable from that which it enjoyed in its natural state.

Sincerely yours,


FRED LANGEMANN

RECEIVED

JUL 24 1985

6 ES

Dr. David A. White
7120 Willow St. Apt. D
New Orleans, Louisiana 70118

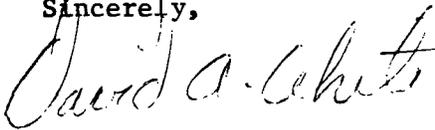
July 4, 1985

U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

Dear Sir:

I am a plant ecologist employed as an assistant professor at one of the New Orleans, Louisiana university's. This letter is to support the no dredge or fill option within the Bayou aux Carpes swamp; the 3000 acre site north of Crown Point, Louisiana. Bayou aux Carpes swamp is well below mean sea level resulting in a high potential for flooding once development has ensued. Please look at the flood history of neighboring communities before you opt to destroy this Cypress swamp.

Sincerely,



David A. White

RECEIVED

JUL 8 1985

6 ES

WIEDEMANN & FRANSEN
A PROFESSIONAL LAW CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW
621 BARONNE STREET
P.O. Box 30648
NEW ORLEANS, LA. 70190-0648

OF COUNSEL
MATTHEW F. BELIN
GEORGE J. G. ROUX
AREA CODE 504
TELEPHONE 581-6180

LAWRENCE D. WIEDEMANN
A. REMY FRANSEN, JR.
CLIFTON A. ADcox
EDMUND W. GOLDEN
C. SCOTT CARTER
ALLAIN F. HARDIN
MICHAEL A. FENASCI
FRITZ WIEDEMANN
W. LLOYD BOWERS
PATRICIA A. GOODWIN
WILLIAM N. HAZLARIS
ROLAND L. BELSOME

August 2, 1985

United States Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, TX 75270

RECEIVED

AUG 6 1985

CEB

Re: EPA Public Hearing to prohibit the drainage and fill-in of the area known as the Bayou Carpes Swamp NE of Crownpoint, Louisiana bordering Bayou Barataria on the west and south and Jean LaFitte National Park on the west, protected under the Clean Water Act of 1992, Section 404(c)

Dear Sirs:

The swamp section of the Jean LaFitte National Park needs to be protected from destruction. Further prevention of natural water flow into the area will be a death sentence to the viability of the area's habitat status for the myriad animals, reptiles, birds and insects. Additionally, the marsh plant life is dependent upon abundant water. This swamp park is so beautiful and to have such an area easily and quickly reached from urban New Orleans is a joy. The park is a wonderful and convenient way for tourists in our area to see and actually be in a true swamp environment. Tourists are vital to our local economy. On a recent visit to the park, I happened to join a ranger guided tour. A man and his wife and their four children from out-of-state were part of the group. The children became very excited about actually seeing snakes, turtles, birds, and insects in the swamp. A very friendly and knowledgeable park ranger answered the children's questions. The family visited the park because they wanted to see a "real" swamp but had very little time to spend in southern Louisiana. The park was the answer.

WIEDEMANN & FRANSEN
A PROFESSIONAL LAW CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW

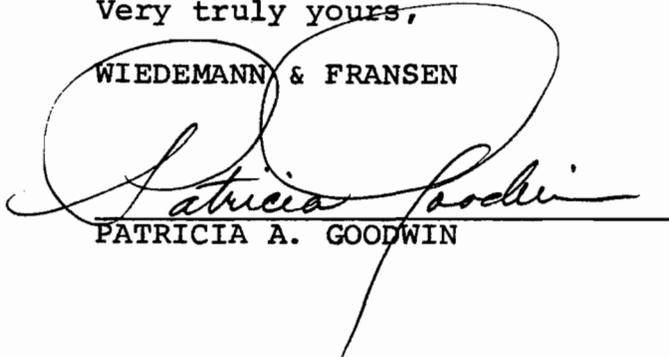
August 2, 1985
U.S. Environmental Protection Agency
Re: Bayou Carpes Swamp
-Page Two-

Please help protect this park that I love and do not allow private greed, which wants to make money from developing the area, to destroy public good.

Thank you for your time and attention.

Very truly yours,

WIEDEMANN & FRANSEN



PATRICIA A. GOODWIN

PAG:jmcf

Aug 13, 1985

Dear EPA -

As a native of Louisiana, living in CA, I am worried that the land developers/speculators who want to drain the Bayou Carpes swamp don't care if they pull the plug out of the Lafitte Nat'l park or Bayou Famille or any of the other delicate and beautiful wetlands. I have seen many national parks around the country, but the Jean Lafitte NATIONAL Park is one of the most beautiful ever. DON'T let a few politicians and speculators cost the citizens of Jefferson Parish millions in fake flood protection so they can make their fortunes on a land grab that will effect all of us.

Sincerely, Kelly E Rogge

RECEIVED

AUG 14 1985

6 ES

8-7-85

U. S. E. P. A.

Federal Activities Branch

1201 Elm Street

Dallas, Texas 75270

Ladies and Gentlemen

Sorry that we were unable to meet with you 6-18-85 at 7 PM.

But to get our opinions in before its too late, or rather our constructive criticism, my wife, neighbors, friends and myself do wish / demand that serious consideration be given to the Jean Lafitte National Historical Park and the pending action to be taken by your agency and the horrible results that may / will occur if E.P.A. "you" permit the draining of Bayou aux Carpes swamp which would also drain Bayou Des Familles and much of the park thus robbing it of its originality (swamps) turning it into a dry bowl, (swamp, low bottom land if drained) that would only flood during serious rain storms that occur down here.

- So please leave it as it is,
a swamp, the natural habitat for
the creatures, animals, reptiles, birds
which we must preserve for our
children, grand children and great
grandchildren of the future yet to
come, so we won't have to take
them to a museum to see a
squirrel, rabbit, hawk, snake and all
the other creatures of swamps.

With serious regards
Gerald Puderer

1558 CLAIR AVE

Neighbors, friends . GRETNIA, LA 70053

Mrs Gerald Puderer

Joan Schmitt

Lester Schmitt

Burnley C. White

Edmund B. Oth

Doc R. Woppreton

David H. Hesel

Mrs. Lester P. Ford (Anna)

Lester Ford

Worco, LA. 70079
Aug. 19, 1985

U.S. E.P.A.
FEDERAL ACTIVITIES BRANCH.
1201 ELM ST.
DALLAS, TEXAS 75270

ATTN: Ms. BARBARA KEELER.

WE SUPPORT EPA'S POSITION THAT THE
BAYOU AUX CARPES SWAMP SHOULD BE
PROHIBITED FROM FURTHER DREDGE & FILL
OPERATIONS.

NOT ONLY WILL THE PROJECT DESTROY SOME
OF THE LAST CYPRESS-TUPOLO SWAMP IN
JEFFERSON PARISH, BUT THIS DESTRUCTION
WILL BE DONE AT PUBLIC EXPENSE.

OUR ORGANIZATION OPPOSES ANY DRAINAGE
OR CONVERSION OF THE SWAMP FROM
WETLANDS TO ~~NON~~ WETLANDS STATUS.



C. TORRES
VICE PRES
ST. CHARLES EDWIOR. COUNCIL
327 MARINO DR.
Worco, LA. 70079

Aug. 11, 1985

RE

U. S. Environmental Protection Agency
Federal Activities Branch
1201 Elm St.
Dallas, Tex. 75270

Dear Sir:

Please substitute this corrected typed statement in lieu of the handwritten statement I mailed on June, 6 of this year concerning the public hearing on June 18 on the 3000 acre Bayou Cazes Swamp project in Jefferson Parish. I understand Aug. 19 is the deadline for statements.

Add the map and news articles that I mailed June 6 to this corrected statement. Thank you very much for conducting the hearing.

Sincerely,
Frank J. Ehrlich Jr. Vice Chm.
Delta Region Preserv. Comm.

Marrero, La.

RECEIVED

AUG 14 1985

6 ES

June 6, 1985

U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm St.
Dallas, Texas 75270

Re: E.P.A. Public Hearing to prohibit the drainage and fill in the area known as the Bayou Carpes swamp northeast of Crown Point, La., bordering Bayou Barataria on the west and south and the Jean Lafitte National Park on the west, under the clean water act of 1972 (Sec. 404c).

Dear Sir:

The 3,000 acre Bayou Carpes cypress tupelo gum swamp and marsh is practically the last of fresh water swamps along with the adjacent swamp in the Jean Lafitte National Historical Park in the upper part of the Barataria Basin. Besides its benefit as part of the Barataria Estuary, one of the most productive aquatic eco-systems in the world that provides the livelihood of thousands of commercial fishermen, oyster fishermen and trappers, as well as hunters, sports-fishermen and nature lovers, it is the habitat for deer, squirrel, rabbit, muskrat, nutria, opossum, raccoon, mink, otter, alligator, loggerhead snapping turtle, crawfish, wood duck, raptors, heron, egret, song birds, and numerous other species of life. The waters of Bayou Carpes abounds with bass, perch, crappie and bowfin and is frequented by sports-fishermen as well as commercial fishermen running catfish lines along the bayou.

Even though the mouth of Bayou Carpes was dammed at its intersection in 1973, under very much public protest, by Jefferson Parish as part of a so-called hurricane protection plan, (now obsolete) it is still a viable contributing beneficiary to the Barataria

Estuary; it is open to Bayou Barataria via an open pipeline canal on the south and to the swamp of the Jean Lafitte National Park by a system of culverts installed during the construction of the segment of Lafitte Larose highway from Estelle to Crown Point to allow street flow of water to circulate between that portion of the swamp that is part of the Park east of the Lafitte Larose highway that bisects it. These culverts were placed as a result of a suit filed against the Louisiana State Dept. of Transportation in federal court in 1977 by the Orleans Audubon Society, the National Wildlife Federation, The Louisiana Wildlife Federation and the Fund for Animals in order for this portion to be built and the remaining plans to continue past Bayou Barataria were defeated.

Since the 3,000 acre Bayou Carpes Swamp is therefore a viable portion of the Barataria Estuary, it should be protected by law from drainage and fill under Section 404c of the Clean Water Act of 1972 as ammended in 1977. If it were drained so will the swamp within the Jean Lafitte Park and would violate Public Law 95-625 of 1978 which created and protects the Jean Lafitte National Historical Park and Park Protection Zone.

The content of the information presented prior to this hearing in no way described the total adverse effect this project would have on the upper part of the estuary. The drainage plan if initiated as described in former parish drainage plans calls for the damming of the open pipeline canal (refer to enclosed map) that flows into Bayou Barataria for which a Section 404 permit would have to be secured through the Corps of Engineers and the Louisiana Costal Zone Management Department. Presently there exists a canal dug in 1973 by Jefferson Parish Drainage Department that connected Bayou Carpes with Bayou Des Familles that presently is closed by construction of the Lafitte-Larose Highway. Here again to connect it would require permitting. The plan further projects the damming of Bayou Des Familles, now an integral part of the water system, approximately one-half mile north of its intersection with

Bayou Barataria. A pumping station is to be installed at the mouth of Bayou Carpes in Bayou Barataria. (See enclosed map). The obsolete erroneous hurricane protection levee, constructed in 1972 from the Estelle Pumping Station several miles northward to Crown Point at a cost of \$1,600,000.00, would have to be rebuilt because of serious subsidence. The cost now would be many millions more. All of the pumps and the steel for the construction of the pumping were constructed off-site and hauled near the pump site in 1974. There were four pumps, each weighing 7 tons at the site on private property. For the past eleven years they have practically disintegrated totally from rust. Today millions more of tax payer's money would be needed to replace them. Let it be of note that there are no homes or camps within this designated area. If drained for development there would be serious subsidence problems that would be costly for maintenance.

If pumps were placed here and put into operation it would not only drain the area in question but will drain all of the swamp west of the Lafitte-Larose Highway in the Jean Lafitte Park since they are all connected (see map attached). Bayou Des Familles, an integral waterway in the Park connecting to Bayou Barataria would become a drainage ditch. Bayou Coquille connects Bayou Des Familles to Kenta Canal that flows into Bayou Barataria. All of these water trails are now in use within the park as canoe trails. To accomplish their purpose Bayou Coquille would have to be dammed or else they would be attempting to circulate the waters of the upper Barataria area. (See attached map.)

The approved general management plan by the National Park Service and the U.S. Dept. of Interior in accordance under Public Law 95-625 1978 which provides water trails through the natural systems area would be violated. Any modification of the drainage plan would still have serious adverse effect on the hydrology and water quality within the Park because of the water interchange of the total area.

When E.P.A. gave final approval of the new large water line to Lafitte, the provisions with Jefferson officials were that it would not induce new development.

Let it be known there are no historic long-time land ownerships of this tract. As the enclosed news articles bear out, it was a land reclamation scheme from the beginning by certain elected officials and their associates back in the sixties: The bond issue in 1967 was made to fit the prescribed land.

There is no need of land to be drained for future development. In the early sixties, approximately 11,000 acres of Cypress Tupelo gum swamp and marsh were drained just north of Bayou Carpes Swamp separated by the so-called V-shaped levee that extends from Highway 45 at the north boundary of the Jean Lafitte Park to Harvey Canal to the east. Approximately 1500 acres have been developed. The rest is still subsiding as of this date.

According to studies done by the Regional Planning Commission in 1977 the West Bank of Jefferson had developed a total of 22,500 acres of land and their figures showed a need for 12,000 more acres by 1995, according to the growth rate index at the time. Development now is almost at a standstill. Dr. Paul Wagner of Burke and Associates completed a study in 1978 for the Jefferson Parish Coastal Zone Management Board on development. He projected a need for 16,000 acres to the year 2,000 but his study showed we had 26,000 acres already leveed and open for development. In 1985, we are not experiencing near this rate of projection, so why should there be a need for already overburdened tax-payers to spend millions to put 3,000 unneeded acres of vital cypress and tupelo gum swamp into commerce and urbanization that would also destroy an established National Park just to fatten the wallets of a handful of people?

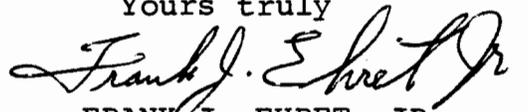
In conclusion, I wish to state that coastal Louisiana is losing approximately 49 square miles of valuable wetlands due to urbanization, salt water intrusion, the oil and gas industry, pollution, dredging, draining and filling, and channelization along with soil subsidence. According to U.S. Fish and Wildlife Service, the present rate of Louisiana Wetlands loss could reduce the commercial shrimp and fish catch by 360 million pounds annually by the year 2010. Let it be known that I began the concept of the Jean Lafitte National Park in 1962 and have worked strenuously with public officials, local, state, and in Congress to develop it such a way that not only

our present citizens will enjoy but for those who come after us in future generations. Many individuals and organizations have played an important role toward the fruition of the Park. Section 901 of Public Law 95-625, November 20, 1978, states the following: "In order to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta Region and to provide for their interpretation in such a manner as to portray the development of cultural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve.

I therefore urge you to use every federal law available to prohibit this project from materializing.

Respectfully Submitted,

Yours truly



FRANK J. EHRET, JR.

5048 Ehret Rd.

Marrero, La. 70072

Copies to: Sen. J. Bennett Johnston
Rep. Lindy Boggs
Rep. Bob Livingston
Rep. Billie Tauzin
Rep. John Breaux
Rep. Henson Moore
Rep. Cathy Long
Col. Eugene Witherspoon, U.S. Corps of Eng.
Parish President Joseph Yenni

RECEIVED

JUL 1 1985

Dear SES

Marrero, La.
June 26, 1985

Thank goodness we have an agency that will stand up to the selfish interest of a few people.

I am against any levee or drainage of the Barataria area. Why destroy an area that is so important to the balance of our estuaries just so a small group of greedy men can profit? They knew the land for what it was when they purchased it, unsuitable to build on, prone to flooding, but still they insist that it be drained for construction. They knew it was a speculative mule and I, as a tax paying citizen, do not feel that they should have consideration over the

general welfare of people that would affect. Why should our taxes be used to subsidize the payment of flood insurance losses? We've had an example of the parishes issuing building permits in unstable areas.

Please continue your fight to protect the rights of the majority of the people and our progeny.

Respectfully,
Brenda (Euras)

Sirs, I wish to express an opinion against the draining and developing the swampland adjacent to the Jean Lafitte National Park.

Sincerely
Joseph C. Sellen
5136 Towering Oaks Ave.
Mosses, La. 70072

The Area has, and is Home to a large number of wildlife, it supports many Hunter, Fisherman, Trappers, and Craters.

Because I have hunted and fished the Area there it should be left as it is.

Sincerely,
Joe Dimareo

To the U.S. Environmental 6/17/85
Protection Agency

Re: Jean Lafitte National Park

Dear Sir:

As a resident of the Greater New Orleans area and a nature lover, I urge you to do what you can to protect the Jean Lafitte National Park from being damaged by developers.

Sincerely, Ruth Stone
8241 Somond Rd
N.O. La 70126

Dear Sirs:

We would like to request that you deny any permit allowing the drainage of the Bayou Aux Carpes Swamps near Crown Point. As we understand it, this drainage will affect the ^{John} Lafitte National Park. We have enjoyed visiting this beautiful area and are very much concerned that damage of this and other wetlands will destroy a vital part of our ecology. The abundant wildlife, fresh water fish and protection from hurricanes, which the wetlands provide are an essential part of our lives here. Please help to protect them and us. Thank you
David & Cindy France

7/1/85

Please deny any permit of draining this land because it will destroy the Lafitte National Park, fishing and all of the beautiful Cypress Swamp Land.

John France
Cindy France
7725 Barataria Blvd
New Orleans, LA

Thank,
Charles Sabourin
7725 Barataria Blvd
New Orleans, LA

TO EPA.
REF. DRAINAGE OF BAYOU AUX CARPES SWAMP

6/29/85

NEAR CROWN POINT, LA. HEARING OF JUNE 18, 1985

Please deny this and all other future permits to drain this swamp. It is very important to wildlife and fish and the cypress swamps in this area. Please do not allow this to happen. This area is also the support of many fishermen and trappers. We join many people in opposing this. We cannot let developers destroy this area, it is one of the last of its kind and the animals (fish, trees etc.) have a right to live, not be killed.
Thank you.
Jeremy & Linda Rousseau

Dear U.S. EPA,

El Adrian H. Bulot R. 3525 CAMINADA
DRIVE, MARRERO, LA, 70072. (504-347-5117)
DISAPPROVE THE DRAINAGE OF THE
BAYOU AUX CARPES SWAMPS NEAR
CROWN POINT, LA,

ADRIAN H. BULOT, JR.
3525 CAMINADA DR. 347-5117
ROSE RIDGE PARK
MARRERO, LOUISIANA 70072

Thank you,

Adrian H. Bulot Jr
June 26, 1985

June 24, 1984

Dear Sir,

I would like to express my opposition to the development of the Bayou Aux Carpes tract. I am very active in civic matters in Jefferson Parish. I attended meetings concerning future development of the West Bank including a study by Jack Different, ordered by the Jefferson Parish Council which was supposed to be a guideline to development and through the year 2005, none of which included this controversial swamp.

I also attended the public hearing you held June 18, 1985 at the Gretna Courthouse, and heard landowners speak of the need to the development to be in the best interest of the community for the people in Jefferson. If they wanted to be of service to a community and provide jobs, they should pool their resources and buy already developed land on either side of the inter-coastal canal and establish businesses that could provide jobs for those who are unemployed due to large companies leaving our area. HARVEY CANAL IS NOT ALIVE AND WELL AS SOME WOULD HAVE YOU BELIEVE

Dear Sir,
This is my request that you stop the drainage of the Bayou Aux Carpes Swamp near Crown Point, Louisiana.
We can support many projects. Please provide the needed support for my children to enjoy as I have.
Thank You

Adrian H. Bulot Jr
4916 Ardmore
Marrero LA 70072

Re: Drainage of Bayou aux Capes Swamp
(Crown Point, Louisiana)

Slowly and surely Louisiana is losing the useful and esthetic wilderness areas with which we were bestowed. The result has been, not only a loss of hunting, fishing, trapping, and leisure land, but also the demise of our way-of-life. Now we are being threatened with a loss of a place to live. Swamp land loss means drainage loss, which means flooding. The post is enclosing both in money & emotion.

U.S. GEOLOGICAL SURVEY
J.C. PISANO - Manager
5301 RANDOLPH ST. LA 70052

To Whom It May Concern: We do not want the Bayou - aux - Capes site, which is 3,000 acre site - north of Crown Point, La adjoining the Jean Lafitte Historical Park, drained.

Raymond & Warkene
Lochevie

Dear E.P.A.,

Please deny any permit allowing the drainage of the Bayou aux Capes swamp near crown point because I have fished the area and I think it should be left as it is. I think drainage of this area will affect the flooding problems in this parish. This area is also a home to a large number of wildlife it supports many hunters, fishermen, trappers & Boaters.

Meredith Lochevie



Orleans Audubon Society

A CHAPTER OF THE NATIONAL AUDUBON SOCIETY

1522 Lowerline St.
New Orleans, La.
70118
24 June 1985

Ms. Barbara Keeler
U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

In re: Bayou aux Carpes Public Hearing, 18 June 1985

Dear Ms. Keeler,

I am enclosing a copy of the Public notice for a Sec. 404 permit to build a pumping station at Bayou aux Carpes. The public notice LMNOD-SP (LTMA)767 outlines the project. The permit was denied by the Corps of Engineers, 28 August 1980.

In my presentation at the public hearing (18 June), I asked that the illegal Bayou aux Carpes dam be removed. The attached findings of fact, dated 19 October 1979 (COE, New Orleans District), gives adequate reasons why the dam should be removed and the wetlands returned to their natural state.

The Orleans Audubon Society would like to be placed on record again as asking for removal of the illegal (unpermitted) dam blocking the waterflow at the mouth of Bayou aux Carpes. Please make this letter and attached documents part of the public hearing record.

Sincerely,

Barry Kohl

Dr. Barry Kohl
Conservation Committee

RECEIVED

JUN 28 1985

BK/gpk

853



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

A-20
A-5

LMNOD-SP(L.T.M.A.)767

12 March 1979

PUBLIC NOTICE

Interested parties are hereby notified that application has been received by the District Engineer for a Department of the Army permit to authorize the following pursuant to Section 10 of the River and Harbor Act of 3 March 1899 (30 Stat. 1151; 33 USC 403) and Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 USC 1344):

PUMPING STATION IN BAYOU AUX CARPES

Name of applicant: JEFFERSON PARISH DEPARTMENT OF PUBLIC UTILITIES, P.O. Box 9126, Metairie, Louisiana 70055.

Location of work: In Bayou Aux Carpes, immediately upstream from its mouth at Bayou Barataria, near Crown Point, Louisiana, in JEFFERSON PARISH, as shown on the attached drawings.

Character of work: Install and maintain a drainage pumping station and dredge and deposit fill material as necessary for construction of the station and completion of the closure fill in Bayou Aux Carpes, as shown on the attached drawings.

A preliminary determination has been made that potential impacts of the proposed work are of enough significance to require preparation of an environmental impact statement (EIS). Assessment of environmental impacts is a continuing process. If it is later determined that the finding as to need for an EIS is revised, an additional public notice will be issued to so advise interested parties.

Plans for the proposed work are now on file in Office of the District Engineer, US Army Engineer District, New Orleans, Foot of Prytania Street, New Orleans, Louisiana, and may be seen by anyone having interest in the matter. Protests to the proposed work, suggestions for modification thereof or objections to it, stating reasons thereof, will be received up to and including 20 April 1979. Letters should contain both the applicant's name and the notice number.

The parish submitted the application for the pumping station in response to an order from the 24th Judicial District Court, State of Louisiana, directing them to do so.

PUB. NOT. MAILED 19 Mar 79

12 March 1979

The decision whether to issue a permit will be based on an evaluation of the probable impact 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; among those are conservation, economics, aesthetic, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Certification that the proposed activity will not violate applicable water quality standards will be required before a permit is issued.

Evaluation of the probable impacts involving deposits of dredged material into navigable waterways will include the application of guidelines established by the Administrator of the Environmental Protection Agency.

No properties listed in 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 or historical sites or data. Copies of this notice are being sent to the State Archeologist, State Historical Preservation Officer and the National Park Service.

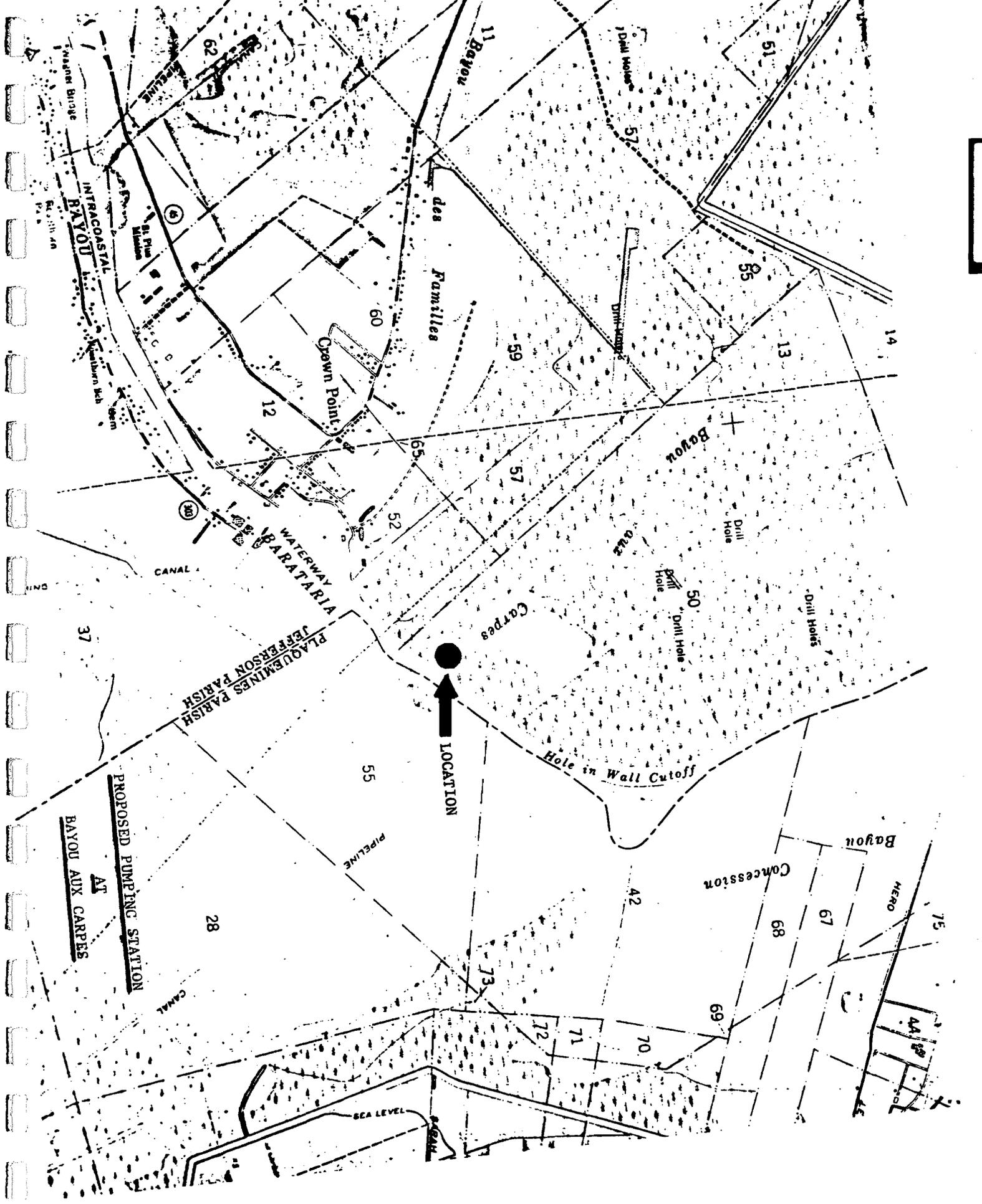
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

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

Our preliminary determination is that the proposed work would neither affect any species listed as endangered by the US Department of Interior nor affect any habitat designated as critical to the survival and recovery of any endangered species.

Although interested parties will be afforded opportunity to comment on the EIS, considerable time will be required to prepare a draft. For this reason, comments on the application are specifically requested within the period prescribed by this notice. Additional opportunity for comment on the draft and final EIS's will be allowed when these documents are prepared and their availability announced by public notice.

Thomas A. Sands
THOMAS A. SANDS
Colonel, CE
District Engineer



LOCATION

JEFFERSON PARISH
PLAQUEMINES PARISH

PROPOSED PUMPING STATION
AT
BAYOU AUX CARPES

AT
BAYOU AUX CARPES

Carpes

Hole in Wall Cutoff

WATERWAY
BARATARIA

CANAL

Crown Point

des Familles

Bayou

Bayou

Bayou

HERO

CONCESSION

INTRACOSTAL
BAYOU

St. Paul
Missions

St. Paul
Missions
Catholic Church

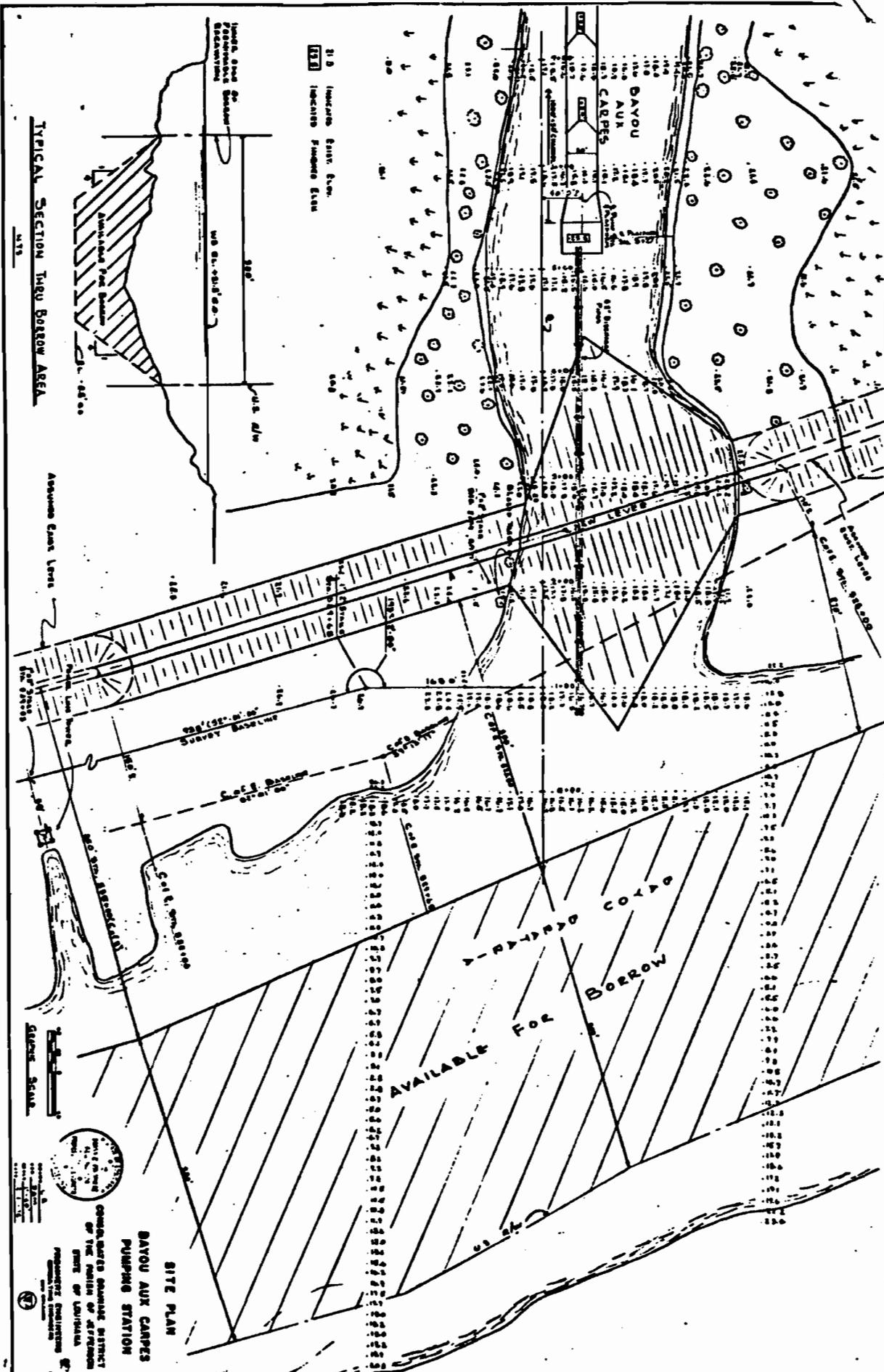
INDEPENDENT BRIDGE

PA. 3111 40

SEA LEVEL

SEA LEVEL





11.0 Indicate Entry Elev.
 11.1 Indicate Paved Elev.

TYPICAL SECTION THROUGH BORROW AREA

Assumed Entry Level

AVAILABLE FOR BORROW

SITE PLAN
BAYOU AUX CANPES
PUMPING STATION
 COMPLETED GRADING DISTRICT NO. 1
 OF THE TOWNSHIP OF AFRICAN
 COUNTY OF LAFOURCA
 PROJECT ENGINEER
 DATE: 11/15/78

28 August 1960

Mr. Joseph S. Yenni, Parish President
Parish of Jefferson
Parish Courthouse
Gretna, Louisiana 70053

Dear Mr. Yenni:

This is in reference to the permit application, numbered above, from Jefferson Parish to construct a pumping station at Bayou Aux Corpes, near Crown Point.

We have determined that, in the overall public interest, this request should not be granted. A copy of the findings of fact upon which this decision was based is attached. Even though the findings of fact is dated 19 October 1979, it reflects my present findings on this application.

I have delayed final action on this application until this date to avoid prejudicing the Jacques J. Creppel, et al. case that has been in the US District Court, and to ascertain whether Judge Lansing Mitchell's findings on this case would affect my decision on the application.

I regret having to take this action, but I believe it is the proper one. If you have any questions please call Messrs. Charles Decker or Roger Swindler of our Regulatory Functions Branch at 838-2255 and 2278, respectively.

Sincerely,

1 Incl
As stated

THOMAS A. SANDS
Colonel, CE
District Engineer

Copies Furnished: with incl
Mr. Robert Evans, President
Jefferson Parish Council
Parish Courthouse
Gretna, LA 70053

Mr. Peter Russo, Director
Jefferson Parish Department of Public Utilities
P.O. Box 9126
Metairie, LA 70055

HQDA (DAEN-CWZ-F) (DAEN-CWO-N) wo/incl
LMVEX, LMVCO-N wo/incl
LMNED wo/incl
LMNPD wo/incl
LMNPA wo/incl

GIVE FILE COPY
TO ROGER

TKS

SYBIL
& BROCK

FILE

R
SWI
LMN

DEC
LMN

Exec
0
8

FILE



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

LMNOD-SP (L.T.M.A.)767

19 October 1979

FINDINGS OF FACT

Waterway No.: (L.T.M.A.)767

Concerning an application for a Department of the Army Permit under Section 10 of the River and Harbor Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. 403) and/or Section 404 of PL 92-500 (86 Stat. 816; 33 U.S.C. 1344), by Jefferson Parish Department of Public Utilities:

1. I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application, as well as the stated views of other interested Federal and non-Federal agencies and the concerned public, relative to the proposed work in navigable waters of the United States and/or in navigable waters.
2. The possible consequences of this proposed work have been studied for environmental effects, social well-being, the public interests and in accordance with regulations published in 33 C.F.R. Parts 320 through 329 and when applicable, the guidelines published in 40 C.F.R. 230. Factors bearing on my review include: navigation, present and prospective; flood heights and beach erosion or accretion; fish and wildlife; water quality; aesthetics and ecology; historic values and recreation; water supply; floodplain use; energy production and distribution; food production and other public interests.
3. Specific information concerning the proposed work follows:
 - a. Name of applicant: Jefferson Parish Department of Public Utilities, P.O. Box 9126, Metairie, Louisiana 70055.
 - b. PMIS Number: JEFFP 11664.
 - c. Location, character, and purpose of proposed work: The location of the project is in Bayou Aux Carpes, immediately upstream from its mouth at Bayou Barataria, near Crown Point, Louisiana, in Jefferson Parish. The permit is to install and maintain a drainage pumping station and dredge and deposit fill material as necessary for construction of the station and completion of the closure fill in Bayou Aux Carpes. The project purposes include flood protection for developed areas along LA Highway 45 and reclamation of approximately 3,100 acres of wetlands for the future growth and development of Jefferson Parish. These purposes are derived from the original plan for the Harvey Canal-Bayou Barataria Project. Land reclamation was eliminated as a Federal

LMNOD-84
SUBJECT: (L.T.N.A.)767
Findings of Fact

19 October 1979

project purpose in 1976 when the pumping station was severed from local assurance. The parish was ordered by a state court to proceed with the project in 1979. The parish has complied with that order by applying to us for a permit. The wetlands are an impacted swamp leveed off from Bayou Barataria.

d. Authority: The work is below the mean high waterline of Bayou Barataria, a navigable water of the United States. The work includes structures in and the discharge of dredged and/or fill material into navigable waters of the United States. Therefore, the proposal is subject to Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act.

The applicant originally applied for a permit to construct the proposed pumping station on February 1974. The application was returned by letter dated 24 May 1974 which advised that the pumping station and associated levee closure are necessary parts of the Federal project for the Harvey Canal-Bayou Barataria Levee. Our position at that time was based on the then existing permit regulations. This latter position was changed by newer regulations at 33 C.F.R. 209.145 (22 July 1974), which generally required that Federal projects which involve discharges of dredged or fill material into waters of the United States be subject to procedural requirements of Section 404 of the Clean Water Act. The project was processed pursuant to Section 404 regulations for Corps' projects thereafter until 1976. After the severance of the pumping station from the Federal project, individual permit requirements become applicable. Processing this permit application is not intended to undermine either the original "Federal project" status of the entire project or the present "Federal project" status of other aspects of the project.

e. Other Federal, state, and local authorizations obtained: A water quality certification from the Louisiana Stream Control Commission is required pursuant to Section 401 of the Clean Water Act. There is no evidence that the applicant has recently applied for the certification nor any indications that the applicant requested current letters of no objection from Louisiana Office of Public Works and the Department of Wildlife and Fisheries.

f. Public participation: A public notice was issued 12 March 1979. One letter in support of this project was received from Harvey Canal Industrial Association, Inc. Several letters of no objection were received in response to the public notice. Copies of all comments to our public notice were forwarded to the applicant on 12 July 1979. The applicant has not furnished any rebuttal. Two of the letters were from

19 October 1979

organized environmental interest groups, the Fund for Animals, Inc., and the Orleans Audubon Society. The primary objections received concerned (1) the destruction of the approximately 3,100 acres of wetlands inside the pumped section, (2) the benefit to landowners and developers at the expense of the taxpayers, and (3) the impact on the proposed Jean Lafitte Park. Several of the objectors requested a public hearing. However, since the permit is being denied, no public hearing has been held or is planned. Neither the applicant nor interested landowners requested a public hearing.

g. Views of state and local authorities: Obviously Jefferson Parish feels there is a need to reclaim and develop the Bayou Aux Carpes swamp. The applicant obtained a letter of no objection from the Louisiana Department of Public Works (now referred to as the Office of Public Works) dated 6 March 1974. This letter is the only letter of no objection received from a state or local agency either for the original 22 February 1974 application or the latest 26 February 1979 application. The applicant has not obtained a water quality certification from the Stream Control Commission nor a letter of no objection from the Department of Wildlife and Fisheries.

h. Views of Federal authorities: The National Park Service by letter dated 19 April 1979 expressed concern for possible project impacts to the proposed Jean Lafitte Park. The National Marine Fisheries Service by their 2 May 1979 letter advised that the operation of the proposed pumping station would adversely affect marine fisheries resources, but since the New Orleans District's (NOD) public notice advised of the need for an environmental impact statement (EIS), they would withhold further comment until they review it. The Fish and Wildlife Service's letter of 18 May 1979 similarly advises that they wish to receive the EIS prior to commenting on the project.

i. Views of the District Engineer on:

- (1) Navigation: Not applicable.
- (2) Harbor lines: Not applicable.

(3) Flood protection: Completion of the levee and installation of the pump station could allow drainage of the existing swamp. The area behind the levee would be protected from flooding. The Harvey Canal-Bayou Barataria project was authorized to prevent flooding. Completion of this Federal project using flood gates rather than a pump station would accomplish flood protection for the existing residential community while protecting swamp integrity.

19 October 1979

- (4) Beach erosion or accretion: Not applicable.
- (5) Fish and Wildlife: See environmental assessment.
- (6) Water quality: If operational, the drainage outfall would probably not have significant adverse effect on downstream water quality. Wetlands serve water cleaning functions, but the swamp's function is possibly slightly impaired in this regard since it is already impacted.

(7) Esthetics: Implementation of the project, as proposed, would do little more to mar the esthetic beauty of the existing swamp than provide an incongruous visual intrusion at the mouth of Bayou Aux Carpes. If the swamp were to be drained by implementation of the proposed project, and other work, much of its esthetic beauty would be lost due to alteration of existing flora and fauna. Subsequent development of the swamp would further destroy the natural esthetic qualities of the area.

(8) Historic values: There are no known sites within the permit area eligible or listed on the National Register of Historic Places, and the proposed work would not impact on any known archeological sites.

(9) Recreation: The 3,100-acre swamp is a valuable fish and wildlife habitat area and contributes nutrients to fish and wildlife populations outside the project area which are enjoyed by the general public. Although the project site may serve for wildlife photography, nature writing or study, bird watching, fishing, and hunting, it is probable that most if not all the area is posted and not readily accessible to the general public.

(10) Economy: Completion of the project could allow residential and commercial development of the area. The drained land would increase the tax base and gross product of Jefferson Parish. Bayou Barataria adjacent to the project is part of the Gulf Intracoastal Waterway which is a high volume interstate commercial navigation artery. Considering the nature of the Gulf Intracoastal Waterway and the proximity of the site to the commercial centers of New Orleans area and the Mississippi River, waterfront commercial property would be very valuable and would contribute to the economy of the region.

(11) Water supply: If development occurs at the site, there would be a need for additional water supply to the area. This project will not directly involve water supply.

19 October 1979

(12) Energy needs: If the swamp area is drained and industrial and/or residential development occurs, there will be a greater local demand for energy. However, it is probable that if industry develops along Bayou Barataria at the worksite much of it would be in support of the oil operations along the Gulf Coast.

(13) Land use classification and coastal zone management plans: Although Louisiana has a Coastal Zone Management Act, the state's plan has not been finalized or approved by the Office of Coastal Zone Management.

(14) Safety: The project is designed for flood protection. The opening in the Southern Natural pipeline canal belies this purpose.

(15) Food requirements: Nutrients produced in the swamp contribute to the overall productivity of fisheries resources. If drained, the area would be used for residential, commercial, or industrial purposes. Its value would be so high as to preclude its use for cropland or pasture.

j. Analysis: Despite the apparent economic benefits that will accrue to the local economy if a permit is issued, we feel that the permit should be denied.

(1) The project calls for a value judgment between preserving and developing the Bayou Aux Carpes swamp. In quantifiable terms, preserving the swamp cannot compare to the economic benefits that will occur, if development proceeds. However, proper weight must be given to unquantifiable natural resources in the decision-making process. Wetlands are a valuable and diminishing national resource. Permitting projects that result in the loss of wetlands must be justifiable. For such projects it must be demonstrated that there is a need for the proposals and that there are no reasonable less damaging alternatives. There is no doubt that Jefferson Parish has a need to grow in the future and could use the 3,100 acres in question. However, there is nonwetland acreage in Jefferson Parish on the westbank of the Mississippi River that is suitable for that development. There are also sizeable nonwetland areas nearby in Orleans Parish in the area below Algiers known as the Lower Coast. See the environmental assessment also.

(2) The project is not compatible with the present Harvey Canal-Bayou Barataria project as modified in 1976. The modified project is for flood protection only and not for drainage of the 3,100-acre Bayou Aux Carpes swamp.

19 October 1979

(3) The permit proposal, presently conceived, is not economically justified. The permit proposal does not call for blocking of the nearby Southern Natural pipeline canal. Without the closure of this canal, the proposed pumping station would only circulate water. The 1976 modified Federal project does not address the closure of this canal, but it would be inconsistent with the spirit of the modified Federal project to now permit the closure of the canal in conjunction with the operation of a pumping station to drain the swamp.

(4) The Bayou Aux Carpes swamp is in a floodplain. Development of the swamp when alternatives to avoid adverse effects and incompatible development in floodplains are available is contrary to Executive Order 11988; see 33 C.F.R. 239 (44 Fed. Reg. 28524(1979)). See also (1) above.

k. Alternatives:

(1) No build: Without the pump station, the Bayou Aux Carpes swamp would not be drained, but the economic benefits such as more jobs, greater parish tax base, and residential and commercial developments would not be realized.

(2) Controlled swamp level management: A pump station/flood-gate arrangement could be constructed that would maintain swamp integrity and offer protection to the existing residential community from flooding both from rain accumulations and tidal surges. However, the parish is under court order to proceed with the project as originally planned and is not free to voluntarily adopt this recommendation.

l. Conclusions:

(1) Implementation of the project could lead to the draining of the 3,100-acre Bayou Aux Carpes swamp.

(2) There are alternative nonwetland sites available to accommodate the development proposed for the 3,100 acres in question.

(3) The proposed project appears to constitute unnecessary alteration of wetlands and floodplains.

(4) The proposed work is inconsistent with the Harvey Canal-Bayou Barataria Federal project, as modified.

(5) The proposed project is not economically justifiable without a closure in the Southern Natural pipeline canal.

LMNOD-SP (L.T.M.A.)767
SUBJECT: Findings of Fact

19 October 1979

(6) Tidal flood protection for the existing residential community can be accomplished by use of floodgates rather than a pumping station (if the Southern Natural pipeline canal is closed).

(7) Since the permit is being denied, there is no need for preparing a final environmental impact statement.

(8) There is no need for a public hearing in rendering the decision.

(9) Required state and local certification and approvals have not been obtained or even applied for recently to our knowledge.

(10) The project could have significant adverse impacts on Jean Lafitte National Park.

4. I find that denial of the Department of the Army Permit as prescribed by regulations published in 33 CFR Parts 320-329 to be in the best public interest and in accordance with our wetland policy.



THOMAS A. SANDS
Colonel, CE
District Engineer

ENVIRONMENTAL ASSESSMENT

LMNOD-SP (L.T.M.A.)767

19 October 1979

Permit application from Jefferson Parish Department of Public Utilities for a pumping station and associated work in Bayou Aux Carpes near Crown Point, Louisiana.

PREPARED BY:

Law Swidler for
M.G.S. MICHAEL G. SKOUGARD
Botanist
Regulatory Assessment Section

REVIEWED BY:

Law Swidler for
LLOYD F. BAEHR, JR., Ph.D.
C/Regulatory Assessment Section

Rog D Swindler
ROGER D. SWINDLER
C/Permits Section

Ronald J. Ventola
RONALD J. VENTOLA
C/Waterways Protection Section

C.W. Decker
C. W. DECKER
C/Regulatory Func Br

C. J. Nettles
C. J. NETTLES
C/Operations Division

Stanley A. Millan
STANLEY A. MILLAN
District Environmental Law
Legal Advisor

Permit File No.: LMNOD-SP (L.T.M.A.)767

Location: In Bayou Aux Carpes, immediately upstream from its mouth at Bayou Barataria, near Crown Point, Louisiana, in Jefferson Parish.

Proposed Action: Dredge and deposit fill material as necessary for construction of a pumping station and completion of a closure in Bayou Aux Carpes and to install and maintain a drainage pumping station.

Environmental setting: The proposed pumping station and closure would be located at the mouth of Bayou Aux Carpes, a natural drainage for an area of wooded freshwater swamp and freshwater marsh. A shell closure has been placed at the mouth of Bayou Aux Carpes and drainage through this source has been eliminated. A natural gas pipeline canal traverses the area east of Bayou Aux Carpes and is connected to the bayou through an oil well canal. Runoff which would have flowed out of the area through Bayou Aux Carpes now flows out through the above-mentioned pipeline canal, which is about 50 to 60 feet in width, deep enough to easily sustain outboard motorboat traffic and is clear of any debris.

A low dredged material disposal bank was found along either side of the pipeline canal and the oil well canal. Vegetation found on these areas include black willow, eastern baccharis, elderberry, Drummond red maple, wax myrtle, bog hemp, lizardtail, water willow, and other species. The banks of the pipeline canal, while generally somewhat higher than the surrounding grade, are broken in places and would not pose an extremely formidable barrier to flow into or out of the areas adjacent to the pipeline canal.

Wooded portions of the area which would be affected by the proposed pumping station are vegetated by baldcypress, tupelogum, Drummond red maple, buttonbush, pumpkin ash, black willow, bulltongue, water hyacinth, palmetto, wax myrtle, pickerelweed, and others. Plants growing in the open marsh portions of the area include bulltongue, softstem bulrush, pickerelweed, smartweed, alligatorweed, water hyacinth, and other species.

The subject area is expected to support a number of furbearers including nutria, river otter, muskrat, raccoon, mink, bobcat, and opossum. Habitat is provided for such game animals as swamp rabbit and gray squirrel. The larger trees in the area provide suitable nesting sites for wood ducks. The American alligator, a threatened - similar in appearance - species, is known to inhabit the area.

The freshwater marshes of the area provide valuable wintering habitat for numerous species of migratory waterfowl, including mallard, black duck, mottled duck, American wigeon, gadwall, northern shoveler, blue-winged teal, green-winged teal, and pintail. Nesting habitat is provided by the marsh for great egret, great blue heron, little blue heron, Louisiana heron, snowy egret, green heron, yellow-crowned night heron, and other bird species.

Sport and commercial fish species such as largemouth bass, black crappie, white crappie, bluegill, warmouth, redear sunfish, gars, bowfin, blue catfish, channel catfish, and buffalofish find spawning, feeding, and nursery habitat in the wooded swamp and marsh during periods of high water.

Environmental Impacts:

a. Primary impact. Approximately 0.67 acre of water bottom would be disrupted by dredging in Bayou Aux Carpes for construction of the intake canal for the pump. An additional small area of bayou bottom will be disrupted by placement of riprap and pilings for construction of the pump platform.

b. Secondary and subsequent impacts. While the primary impact of the proposed project would be insignificant, secondary impacts could be great. The project, as proposed, would do little more than circulate water from the wooded wetland to Bayou Barataria via the proposed pump, and from Bayou Barataria to the wooded wetland via the Southern Natural pipeline canal east of Bayou Aux Carpes. However, closure of the pipeline canal concurrent with, or subsequent to, completion of the proposed pumping station would allow for the possible drainage of the previously described wooded freshwater swamp and marsh which total over 3,100 acres in area. Drainage of this area would result in altered hydrological patterns which would precipitate a succession of the present wetland plant communities to a nonwetland type or types; present wildlife values would be altered or lost; and fishery values would be lost. Succession to nonwetland vegetation associations would remove this area from Corps of Engineers regulatory jurisdiction under Section 404 of the Clean Water Act and allow for the development of the area by residential, commercial, and/or industrial interests. Thus, this project could result in the loss of over 3,100 acres of valuable wetlands.

c. Cumulative impacts The proposed project is in the immediate vicinity of another area which has been leveed and is under pump. That is, the area within the so-called "Vee levee" to the north of the proposed project. Several thousand acres of wetlands were inclosed by the "Vee levee." Drainage of this area by pump has resulted in about two-thirds of the land being converted to nonwetland status to date. The remainder of the area shows signs of stress and, in due time with continued pumping, will surely become "nonwet" in character. Completion of the proposed project, along with already existing work, could result in the complete destruction of this portion of the Barataria Basin wetlands.

Unavoidable Adverse Impacts: Primary impacts of the proposed project, as stated above, would be unavoidable if the project is implemented. Secondary and cumulative impacts of the proposed project can be avoided if the levee is not completed by closure of the pipeline canal and/or its connection to Bayou Aux Carpes.

Alternatives:

a. No action. This alternative would remove all negative environmental impacts of the proposed project. However, it would also result in the loss of all of the projected secondary economic benefits of the proposed project.

b. Alternative sites. In order to achieve the stated project objectives (i.e., flood prevention and water level control), it would be necessary to build the project at the proposed site or in the pipeline canal. No other site would be feasible. Nonwetland sites are available to accommodate the projected population growth though. There is no doubt that Jefferson Parish has a need to grow and that the completion of the proposed project, with the subsequent closure of the Southern Natural pipeline canal, would benefit the Parish. Estimates of nonwetlands and leveed wetlands undergoing succession to nonwetland status range from about 21,000 to 33,000 acres on the west bank of Jefferson Parish. While it may be too simplistic to assume that all of the above noted acreage would be developable, it is plausible to assume that at least 3,100 acres of this acreage would be suitable for any development which would potentially occur in the Bayou Aux Carpes swamp, if drained.

c. Alternative structural solution. The water levels within the existing wetlands, which could be affected by the proposed project, could be maintained and managed by means of a two-way pump station-floodgate arrangement. This would also provide the desired protection from flooding due to rainfall accumulation and tidal surges.

Conclusions:

a. The Bayou Aux Carpes swamp and marsh ecosystem is a valuable unit of freshwater wetlands in and of itself. It also, through the pipeline canal, contributes detrital material utilized in downstream biological productivity in the Barataria Basin ecosystem.

b. The wetland area in question is an important wetland fulfilling several functions deemed valuable by Corps of Engineers regulations (33 CFR 320.4(b)(2)). These functions include 1) food chain production; 2) nesting, spawning, resting, rearing, and general habitat for aquatic and/or terrestrial species; 3) storage area for storm and flood waters; and 4) water purification through natural filtration processes.

c. The project, as proposed, would result in relatively insignificant negative primary environmental impacts.

d. The potential exists for severe negative secondary and cumulative environmental impacts on the Bayou Aux Carpes swamp and marsh ecosystem, if, along with completion of the proposed project, the pipeline canal were closed. This action would require a Corps of Engineers permit under Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act, at this time.

e. Failure to close the pipeline canal in concert with constructing the proposed pumping station would result in the expenditure of several thousands of tax dollars for an ineffective project. Thus, construction of the proposed project is logical only within the context of completion of the entire levee system (i.e., closure of the pipeline canal).

William M. Hemeter, m.d.

7704 Sycamore, New Orleans, La. 70118-4225 (504)865-9792

June 21, 1985

Environmental Protection Agency
1201 Elm St.
Dallas, TX 75270

RECEIVED
JUN 28 1985

Re: Proposed Drainage of Bayou Aux Carpes swamp, Jefferson Parish, La.

Dear Sirs,

I urge you to forbid drainage and development of the Bayou Aux Carpes swamp.

Drainage will really only benefit one person, the developer. Prospective homeowners can easily locate elsewhere, in a less flood prone area, and save the National Flood Insurance program money in potential claims

Forbidding development will allow a continued freshwater source for the delicate foodchain so vital to the fishing industry of the Barataria bay area. Also, I understand the Ring Levee in the Lafitte National Park will be drained as well, denying us an idyllic area in our national park system.

And, finally, our wetland plants and animals don't have the luxury of locating elsewhere, like us humans. I urge you to draw the line now and leave the Bayou Aux Carpes swamp in its current state. Millions of voters, like me, abhor this continued mindless exploitation of our plant and animal neighbors.

Sincerely,

William M. Hemeter
RECEIVED
JUN 28 1985

Bill Hemeter, M.D.

6 ES

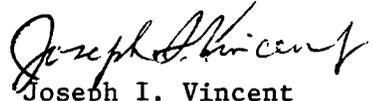
U. S. Environmental Protection Agency
Federal Activities Branch
1201 Elm St.
Dallas, Texas 75270

Dear Sir(s) or Madame(s):

Please include the attached copy of an editorial from the West Bank Guide newspaper into the written record of the public hearing on the fate of the Bayou aux Carpes swamp which was held in Gretna, Louisiana on June 18, 1985.

Thank you very much.

Yours truly,



Joseph I. Vincent
Friends of Jean Lafitte Park

RECEIVED

JUN 28 1985

6 ES

Opinion

West Bank Guide

Published Wednesday and Sunday
by Guide Newspapers

Bob Tartaglione
Publisher

Terry O'Brien
Executive Editor

Dennis Persica
Managing Editor

guidepost

-I TELL YA'
I GOT IT FRC
RELIABLE NEU



Bayou aux Carpes: how not to do public business

Once again the drainage pumps in the weeds have returned to haunt the citizens of Jefferson Parish.

In 1984 a state district court judge ordered the parish to complete a pumping station at the mouth of Bayou aux Carpes near Crown Point because it was authorized and paid for by voters in 1967.

What the voters did not know in 1967 was exactly where this pumping station was or precisely what it would do.

What it has the potential to do is drain 3,000 acres of productive marsh and swamp, including large areas of the Barataria Unit of Jean Lafitte National Historical Park, to the benefit of a few landowners including a former parish council member who proposed the pumping station in the first place.

Supporters of building the pumping station argue that the project is essential to better drainage and hurricane protection.

But the proposition that building a pumping station at the mouth of Bayou aux Carpes will benefit drainage and flood protection in areas north of the V-shaped levee is patently unsound, and the gentlemen who offer it do themselves and their long-standing records of civic commitment a great disservice.

The arguments in favor of the proposal offered by the Harvey Canal Industrial Association and the West Bank Council of the Chamber of Commerce make the landowners' true interests clear. They want land south of the V-shaped levee drained for development at public expense.

To this end, the courts have supported them. The taxes were collected, the bonds were sold, and pumps sit in the weeds in the marshlands of West Jefferson. It is the legal duty of the Jefferson Parish Council to spend the money so-authorized to build this station.

The only escape from this legal trick bag rests with the Environmental Protection Agency, which has the authority to prevent the completion of any project that would drain these wetlands for any purpose. Failing this, the station will be built.

If it must, it should be called not the Bayou aux Carpes Pumping Station. It should be called the Pumps in the Weeds Pumping Station, or perhaps the Molaison Memorial Boondogle.

Let it stand as an object civics lesson for the future citizens of Jefferson Parish, a reminder of the way business was once done here but should not be done again.

Today



Tw
Cen
Wor

BY ELAINE V

cowboy with his buddies when I runs crying to his mama, who scratch and puts a Band-Aid on

From that moment on ol' D. sister's doll, his sister, his knee cuts his finger on the blade of I this book is.)

Rereading the story set me t would be written today. I call Year Man

One day Dan and his friends when a stranger comes up and dope.

"No way!" the boys yell. Th before they call the cops. Then t

Dan pivots with his toy Uzie Jason when he trips on a crac hand on a broken beer bottle so: evening before.

Vertical text on the left margin, possibly a page number or reference.

Handwritten text at the bottom of the page, possibly a signature or note.



July 3, 1985

RECEIVED

JUL 10 1985

GES

U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm St.
Dallas TX 75270

Dear Sirs:

The National Parks and Conservation Association (NPCA) appreciates the opportunity to comment on the proposal to drain the Bayou Aux Carpes, located adjacent to the Jean Lafitte National Historical Park and Preserve.

The Jean Lafitte National Historical Park and Preserve, the only national park in Louisiana, is a valuable wetlands habitat on the northern end of the Barataria estuary. NPCA believes that draining the Bayou would have an extremely adverse impact on Jean Lafitte and its fragile wetlands ecosystem. Swamps and wetlands contain a unique variety of birds, fish and other wildlife which would be in grave danger should the swamp be drained.

Presently, the park is under a tremendous amount of stress from other factors aside from the proposed drainage project. Development and other urban problems are pressing in on the north end of the park, while tests have found dangerous levels of cyanide, arsenic, phenol, dieldrin and other sewage material both within the park boundaries and in waterways leading in to the park. If at all possible, the park should be spared any project which may increase this type of environmental degradation.

The Barataria estuary is an important link in the economic chain of the region, producing a large percentage of the United States' annual commercial seafood catch. If the Bayou Aux Carpes is destroyed, it could play a role in the degradation of this fertile fishing ground. This drainage proposal should be halted until a complete study can be made to assess the impacts this project would have on the Louisiana commercial fishing industry.

Lastly, the Jean Lafitte National Historical Park and Preserve is important not only to the citizens of New Orleans, but to many visitors of the New Orleans area. Being the only national park in Louisiana and easily accessible from the city, the park bears a special responsibility to provide the visitor with an excellent park experience. Any circumstance which could compromise the mission of the park should be scrutinized and alleviated as soon as possible. NPCA believe the Bayou Aux Carpes drainage proposal is an added and unnecessary stress to an already delicate and overburdened national park unit.

Thank you for giving NPCA the opportunity to comment on the Bayou Aux Carpes drainage proposal.

Sincerely yours,

Laura Loomis
Laura Loomis

Director of Grassroots and Outreach

National Parks and Conservation Association
1701 Eighteenth Street, N.W., Washington, D.C. 20009
Telephone (202) 265-2717



Louisiana Wildlife Biologists Association

P. O. BOX 14762

BATON ROUGE, LOUISIANA 70808

2 July 1985

RECEIVED

JUL 5 1985

6 ES

U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

Dear Sir:

Reference is made to your public notice regarding the proposed action to prohibit the use of the Bayou Aux Carpes wetlands from future use as a disposal site under Section 404(c) of the Clean Water Act. The Louisiana Wildlife Biologists Association, with its membership of 150 professional biologists, fully supports your agency in its proposed determination.

The wetlands of the Bayou Aux Carpes area serve as valuable habitat to numerous species of fish and wildlife. The wooded and marsh areas support many species of game and nongame mammals, commercially important furbearers, resident and migratory waterfowl and other game birds, wading birds, raptors, woodpeckers, and song birds. The area also serves as spawning, nursery, and feeding habitat to many species of freshwater and estuarine fishes and shellfishes. In addition, downstream estuaries benefit greatly from the area's contribution of organic detritus and nutrients to the aquatic food web. The area wetlands also serve a vital role in retention of flood waters and improvement of water quality.

The deposition of dredged and fill material in the area wetlands would cause unacceptable and irreparable damage to their above-stated values. This is especially true if such deposition results in drainage of the wetlands and their subsequent development, as is currently planned by local landowners.

The Louisiana Wildlife Biologists Association strongly opposes drainage of the Bayou Aux Carpes wetlands; accordingly, we support your agency's proposed determination that future use of the area as a disposal site be restricted or prohibited. We would no object to deposition of dredged or fill material as part of a plan to preserve or enhance habitat values to fish and wildlife resources. In summary, we feel that your proposed determination should become the final determination.

Thank you for this opportunity to comment.

Sincerely,

Mike W. Olinde
President

THE Chamber
New Orleans and the River Region

June 28, 1985

RECEIVED
JUN 28 1985
6 ES

Dick Whittington, P.E.,
Regional Administrator
U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

Dear Mr. Whittington:

This letter will address the, (EPA Region 6), notification to the U. S. Army Corps of Engineers of your intention to prohibit the area known as the Bayou auxCarpes Swamp from future use as a disposal site under Section 404(c) of the Clean Water Act.

This area, located on the "West Bank" of Jefferson Parish below New Orleans is in desperate need of hurricane and flood protection. Additionally, there is a shortage of developable land throughout the river region. For these reasons, your proposed determination to prohibit the Bayou auxCarpes Swamp from future use as a disposal site for fill material should not become the final determination.

In this regard the following statement has been resolved as a position of the West Bank Council of The Chamber/New Orleans and the River Region:

WHEREAS, The Chamber/New Orleans and the River Region is a non-profit organization dedicated to advancing the business and professional interests of its membership of over 6000 businesses; and,

WHEREAS, the West Bank Council of The Chamber/New Orleans and the River Region has full authority and interests in matters of local policy; and,

WHEREAS, the construction and location of levees designed for flood protection is of great importance to the business and professional interests on the West Bank of Jefferson Parish; and,

Dick Whittington, P.E.,
June 28, 1985
Page 2

WHEREAS, the local, state and federal governments are presently involved in levee projects in the area served by the West Bank Council; and,

WHEREAS, the Harvey Canal-Bayou Barataria Levee project received favorable support in the form of a position and in subsequent communications, from the West Bank in 1975; and,

WHEREAS, the Harvey Canal - Bayou Barataria Levee project is 80% complete and was authorized by the federal government and intended to provide hurricane and flood protection to business and industry as well as to local residents and that this project has been ordered by the state courts of Louisiana and that the installation of the planned Bayou Aux Carpes Pumping Station has been determined to be in the best interest of the citizens of the area; and,

WHEREAS, these interests are vital to the economic development of West Bank Jefferson Parish by protecting for future use such areas already limited by shortages of developable land and by the international economy;

Now therefore be it resolved, that the West Bank Council of The Chamber/New Orleans and the River Region reaffirms its previous position in favor of the completion of the Harvey Canal- Bayou Barataria Levee; and,

Be it further resolved that the West Bank Council's present position now calls for the immediate completion of this project finding that the Environmental Protection Agency should not accept the determination of negative impact upon the estuarine system because of this project's minimum impact upon the ecosystem and the considerable losses possible to human life and property in the absence of adequate flood protection provided by the Harvey Canal - Bayou Barataria Levee; and,

Be it further resolved, that the West Bank Council of The Chamber/New Orleans and the River Region urges the local government of Jefferson Parish, the Parish State Legislative Delegation, The Governor of the State of Louisiana, the Louisiana Congressional Delegation and the U. S. Army Corps of Engineers to support the immediate completion of the Harvey Canal - Bayou Barataria Levee project.

Sincerely,


Maurice "Chip" Anderson II
Council Chairman

MA:pb



6AK-191
6ES
cc: 6W
6ORC
6A
6D

Orleans Audubon Society

A CHAPTER OF THE NATIONAL AUDUBON SOCIETY

June 20, 1985
1041 Farrington Dr.
Marrero, La. 70072

Dick Whittington
Regional Administrator
EPA - Region VI
1st International Bldg.
1201 Elm Street
Dallas, Texas 75270

Dear Mr. Whittington:

On behalf of Orleans Audubon Society and its approximately 1500 members, I would like to thank you for your stand on the Harvey Canal - Bayou Barataria levee, which threatened to drain the Bayou aux Carpes swamp, and for conducting the public hearing in Gretna on June 18th. That hearing and the decision to force the closing of the Westwego garbage dump represent what we perceive as a return of EPA to the wetlands protection process after a rather conspicuous 5 year absence.

In keeping with this new spirit, we hope to be able to get you to consent to becoming involved in another issue of concern to us. Actually, it is not a separate issue, since the area of concern is really part of the same hydrological unit as the Bayou aux Carpes swamp and the Jean Lafitte National Historical Park. I am speaking of an area of wetlands to the southeast of the intersection of the Lafitte-Larose Highway and La. Hwy. 45 in Crown Point, Louisiana which I believe to be about 100 acres in size. Rather than explain the entire issue again, I would like to refer you to the attached copy of a letter I sent to Robert Graves, Director of the Louisiana Department of Transportation & Development, asking for his help. To date, we have not received any response to this letter from the LDOTD, but I did receive a call from Mr. Joel Taylor of the Coastal Management Section of the Louisiana Department of Natural Resources, who informed me that his department was opening an investigation into the case. I have heard no more from him since then.

While we greatly appreciate the action being taken by the Department of Natural Resources, we believe it would greatly improve the situation if EPA also became involved. Perhaps it could be arranged for representatives of the Corps of Engineers, the EPA, the Department of Natural Resources, the Jean Lafitte National Historical Park, and Orleans Audubon to all meet at a convenient place and time to review the situation and the existing documentation, and to subsequently make a joint field trip to the area in question. The longer the issue remains unresolved, the more lasting the detrimental effects on the wetlands involved.

I am enclosing the more pertinent bits of correspondence on the matter for your perusal. Please let me hear from you at your earliest convenience. You may call me at (504)367-6611, ext. 7424 between 8:30 and 4:30.

To slightly change the subject, it was mentioned several times at the public hearing on June 18th that EPA had decided to invoke 404c procedures on both the Bayou aux Carpes swamp and on an adjacent piece of property; that second property was not identified at the hearing. Could you please inform us as to which property

was being alluded to?

Thank you. We look forward to hearing from you.

Yours truly,


Joseph I. Vincent, Member
Conservation Committee
Orleans Audubon Society

cc:

- 1) Robert Graves, LDOTD
- 2) Joel Taylor, La. DNR
- 3) U. S. Army Corps of Engineers
- 4) National Marine Fisheries Service
- 5) U. S. Fish & Wildlife Service
- 6) Supt., Jean Lafitte Natl. Hist. Park
- 7) Sierra Club
- 8) Louisiana Wildlife Federation
- 9) League of Women Voters
- 10) Barataria Civic Improvement Assn.
- 11) National Wildlife Federation
- 12) Water Pollution Control, La. DNR

AUGUST 2, 1985

U. S. ENVIRONMENTAL PROTECTION AGENCY
FEDERAL ACTIVITIES BRANCH
1201 ELM STREET
DALLAS, TEXAS 75270

I WANT TO BESEECH YOU TO PRESERVE THE JEAN LAFITTE
NATIONAL PARK IN LOUISIANA.

WHEN WE COME TO VISIT LOUISIANA WE WANT TO SEE A REAL
SWAMP, NOT SOME LOOK-ALIKE SUBDIVISION.

ENOUGH OF OUR NATURAL RESOURCES ARE BEING DESTROYED OR
POLLUTED, PLEASE CONSIDER OUR FUTURE GENERATIONS AND
LEAVE SOMETHING OF THE PAST TO BLEND WITH THE FUTURE.

SINCERELY,

Dr. L. Denhardt

DR. REV. L. DENHARDT
225 - 25th AVENUE
SANTA CRUZ CA 95062

(408) 476-5632

RECEIVED
AUG 18 1985
6 ES

DANIEL L. MORROW
ATTORNEY AT LAW

614 Second Street - Gretna, Louisiana 70053
366-3551

July 11, 1985

Mr. Dick Whittington
Regional Administrator
EPA Region VI
1201 Elm Street
Dallas, TX 75270

RECEIVED

JUL 19 1985

6 ES

EXPRESS MAIL

RE: WETLAND DETERMINATION OF CREPPEL-PITRE TRACT
JEFFERSON PARISH, LOUISIANA

Dear Mr. Whittington:

The undersigned represents the owners of the abovecaptioned property. Enclosed is a copy of the USGS Bertrandville 7.5 minute quadrangle showing the property boundaries. This property has been included in the proposed CWA Section 404 (c) specification area known as the Bayou Aux Carpes Swamp.

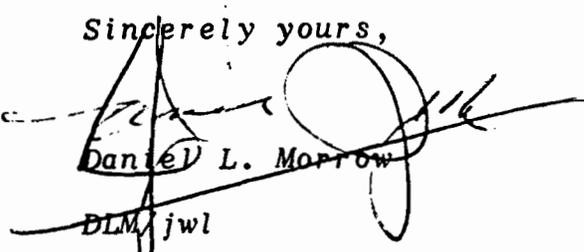
The great majority of this property is not wetlands and, as such, should not be included under a 404 (c) specification. Mr. Michael Rayle of our environmental consultants, Steimle and Associates, contacted Dr. Lloyd Baehr of the Regulatory Assessment Section, New Orleans District-Corps of Engineers on July 10, 1985. Dr. Baehr stated that he did not know of any wetland-non-wetland determination for this property. Likewise, Ms. Barbara Keeler of EPA Region VI was contacted on the same day and she indicated that no formal specification area has been made. A determination must be made before we can legitimately comment on the proposed 404 (c) action. Without this information it is impossible to make timely comments responding to the June 18, 1985 public hearing on the proposed action.

A formal wetland determination on the Creppel-Pitre tract must be made and is requested to be made as soon as possible so that this information can be used to prepare timely comments for the public hearing comment period which ends August 19, 1985. Due to their long experience with the wetlands in Jefferson Parish, particularly in the proposed specification area, it is requested that NOD-COE Regulatory Assessment Section personnel be included in the wetland survey party. Additionally, it is requested that our consultants accompany the survey party while the wetland determination is being made.

Mr. Dick Whittington
July 11, 1985
Page 2

I am looking forward to your timely reply in this matter.
Thanking you for your attention, I am

Sincerely yours,



~~Daniel L. Morrow~~

~~DLM/jwl~~

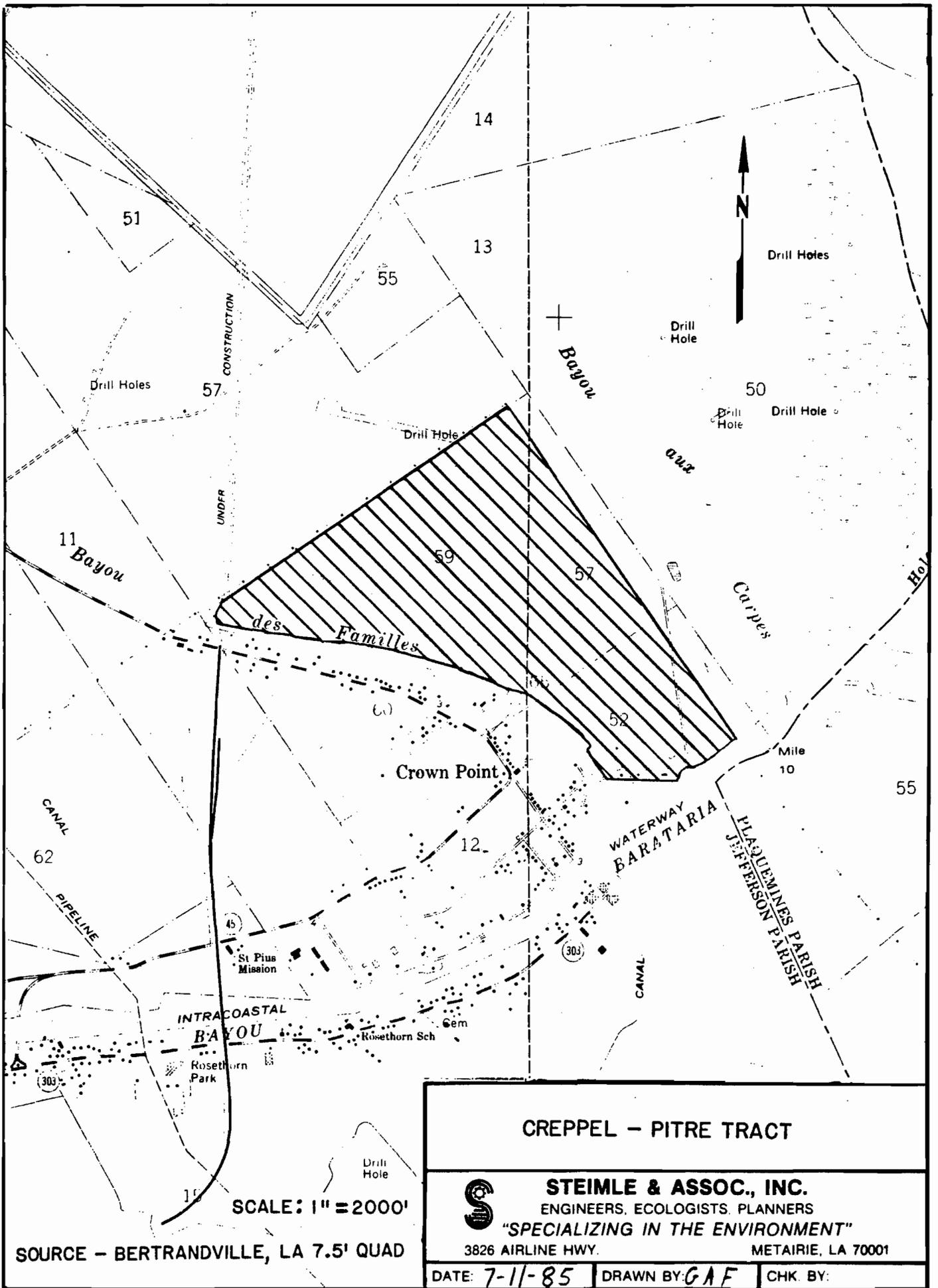
Enclosure

cc: w/enclosures
Dr. Lloyd Baehr
NOD-COE Regulatory Assessment Section

Mr. Harliss Benthul
EPA Region VI Asst. Regional Council

Ms. Barbara Keeler
EPA Region VI - Ecological Services

Mr. Michael Rayle
Steimle & Associates



CREPPEL - PITRE TRACT



STEIMLE & ASSOC., INC.

ENGINEERS, ECOLOGISTS, PLANNERS

"SPECIALIZING IN THE ENVIRONMENT"

3826 AIRLINE HWY.

METAIRIE, LA 70001

DATE: 7-11-85

DRAWN BY: GAF

CHK. BY:

SOURCE - BERTRANDVILLE, LA 7.5' QUAD

DANIEL L. MORROW
ATTORNEY AT LAW

614 Second Street- Gretna, Louisiana 70053
366-3551

August 19, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RECEIVED

AUG 22 1985

6 ES

U. S. Environmental Protection Agency
Federal Activities Branch
InterFirst Two Building
1201 Elm Street
Dallas, Texas 75270

Attention: Harless R. Benthul
Assistant Regional Counsel

RE: PROPOSED SECTION 404(c) DETERMINATION
BAYOU AUX CARPES SWAMP

Gentlemen:

The comments set forth in this letter are submitted on behalf of Foster Creppel and the Estate of Eugene Pitre, the owners of a portion of the land covered by the proposed determination made by EPA, under Section 404(c) of the Clean Water Act (33 USCA Section 1344(c)), to prohibit the area known as the Bayou Aux Carpes Swamp from future use as a dredged or fill material disposal site. The land in question is shown on Exhibit "A" attached hereto. It consists of approximately 600 acres.

These comments are in addition to comments submitted on behalf of Foster Creppel, the Estate of Eugene Pitre, and other landowners by Mr. Joseph E. LeBlanc, Jr., which are incorporated herein by reference. In those comments, Mr. LeBlanc has outlined a number of objections to the proposed determination - both legal and factual. Those objections are adopted herein and will not be repeated. Instead, the purpose of these comments is to establish for the record the unique status of the Creppel-Pitre tract and the extent to which the physical characteristics of this land differ dramatically from other lands within the proposed determination.

The entire basis for the proposed determination lies in the alleged wetland characteristics of the lands in questions and their alleged value for wildlife, fisheries and shellfish (including spawning and

August 19, 1985
Page 2

breeding grounds) and for recreational pursuits. However, large areas of the Creppel-Pitre tract serve none of these functions, for they are not wetlands at all.

In connection with preparing these comments, the undersigned requested that a formal wetlands determination be made upon this land in order to identify the parts of the tract that had no place in this 404(c) proceeding. Although this request was made on July 11, 1985, an on-site wetlands inspection was not made by EPA and the Corps until Monday, August 12, 1985. This was only one week before the close of the period for public comment on August 19. Because of the obvious limitation of time, the undersigned has not yet received a final wetlands determination from either EPA or the Corps. Although a certain amount of information is available, neither the undersigned nor the consultant for the Creppel-Pitre interests, Steimle and Associates, Inc., have received the species composition or abundance data used by EPA to determine the wetland/non-wetland boundary in order to prepare final comments by August 19. The delay in receiving these data and final wetlands determination, together with additional delays caused by bad weather associated with Hurricane Danny, have made it impossible to complete final comments addressing those portions of the tract which are clearly non-wetland and not covered by this 404(c) proceeding. This is certainly good cause for the grant of a further extension of time to the undersigned in order to submit appropriate comments when the necessary data and information has been received. 40 C.F.R. Section 231.4 (f) and Section 231.8. The undersigned hereby requests a further extension of time of ten days after receipt of a final wetlands determination from EPA in which to prepare final comments upon this issue.

For the purposes of these comments, Mr. Michael Rayle of Steimle and Associates has prepared a rough mapping, from field notes and observations made on August 12, of the portions of the Creppel-Pitre tract that are non-wetland. A copy of this determination by Mr. Rayle is attached to these comments as Exhibit "B". The undersigned is also attaching to these comments, as Exhibit "C", a written report from Mr. Rayle which identifies areas on the tract which, although technically classified as wetlands, do not properly fall within the ambit of the proposed determination. These include (1) a narrow band of frontage along Bayou Des Familles (approximately 14 acres), and (2) a former "duck pond" (approximately 3 acres) and a low area in which water has been trapped by construction of the levees for the Harvey Canal-Bayou Barataria Levee Project (approximately 2 acres).

The duck pond and area of entrapment are isolated wetlands which are

August 19, 1985

Page 3

surrounded by high, non-wetland ground and have no hydrologic connection with any waterway or other wetland area. They serve none of the wetland functions described in the proposed determination, and EPA has no data concerning these isolated areas. They lack any significance as wetlands and their filling by the discharge of dredged or fill material can in no way be considered as producing "unacceptable adverse effects", as defined in 40 C.F.R. Section 231.2 (e).

The frontage on Bayou Des Familles should also be excluded from any action taken in this 404(c) proceeding. The information furnished to Mr. Rayle by EPA as representing the underlying data upon which the proposed determination is based contains no data in this area. The only data underlying the proposed determination was from sample stations along canals within the Crowell tract. Moreover, this frontage is in close proximity to development on the other side of the bayou, and development of this frontage would be consistent with existing uses in the area. Because the area is located south of the Jean Lafitte National Park, its development would also not adversely impact values in the Park since drainage is in a southerly direction. Moreover, because there are only about fourteen acres of frontage involved, there is no basis upon which to suggest - much less determine - that the loss of these fourteen acres would have significant adverse effects upon the Barataria estuary.

With respect to the remaining areas of the Creppel-Pitre tract that might be considered wetlands, EPA also has no data to support the proposed determination. Nothing in the information underlying the determination establishes the degree of the Creppel-Pitre property and the areas sampled by EPA. Without such supporting data, there is no basis in fact or law for prohibiting the future use of this area under Section 404(c).

In closing these comments, the undersigned wishes to point out for the record the extent to which Mr. Creppel and Mr. Pitre have been treated unfairly and arbitrarily by the governmental authorities involved in the Harvey Canal-Bayou Barataria Levee Project. These landowners furnished servitudes for the construction of the Project levees and for the closure at Bayou Des Familles and Bayou Aux Capres, without cost to the Parish of Jefferson or to the Corps of Engineers, solely in consideration of the enhancement in land value that would accrue to their properties from completion of the Project, including construction of the pumping station at Bayou Aux Carpes. Pursuant to this agreement, the Project levees have been built. The landowners have fully performed their part of the bargain. However, completion of the Project has been halted by

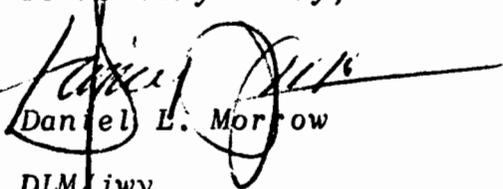
August 19, 1985
Page 4

environmental objections. After lengthy litigation, decisions have now been rendered in both the State and Federal courts directing completion of the Project with the pumping station. As a matter of fundamental fairness, these landowners are entitled to have the Project completed in consideration for the servitudes that they granted and the levees which they allowed to be constructed on their land.

In the case of Mr. Pitre and Mr. Creppel, the damages and loss that they have incurred from the construction of the Project levees have been even greater. The undersigned is attaching, as Exhibit "D", a copy of the Petition for Damages filed on behalf of Mr. Creppel and Mr. Pitre in the proceeding entitled, "Foster Creppel and Eugene Pitre v. The Parish of Jefferson, et al," No. 206-900, 24th Judicial District Court for the Parish of Jefferson, which details the actual damages sustained by these landowners as result of the Project. For the Federal government to propose added restrictions and prohibitions upon the use of this land is unconscionable. It is unfair, it is not right, and the Creppel-Pitre interests can not believe that such action is sanctioned by our law.

We appreciate the opportunity to have been able to submit these comments for the record. The undersigned asks that they be given serious consideration.

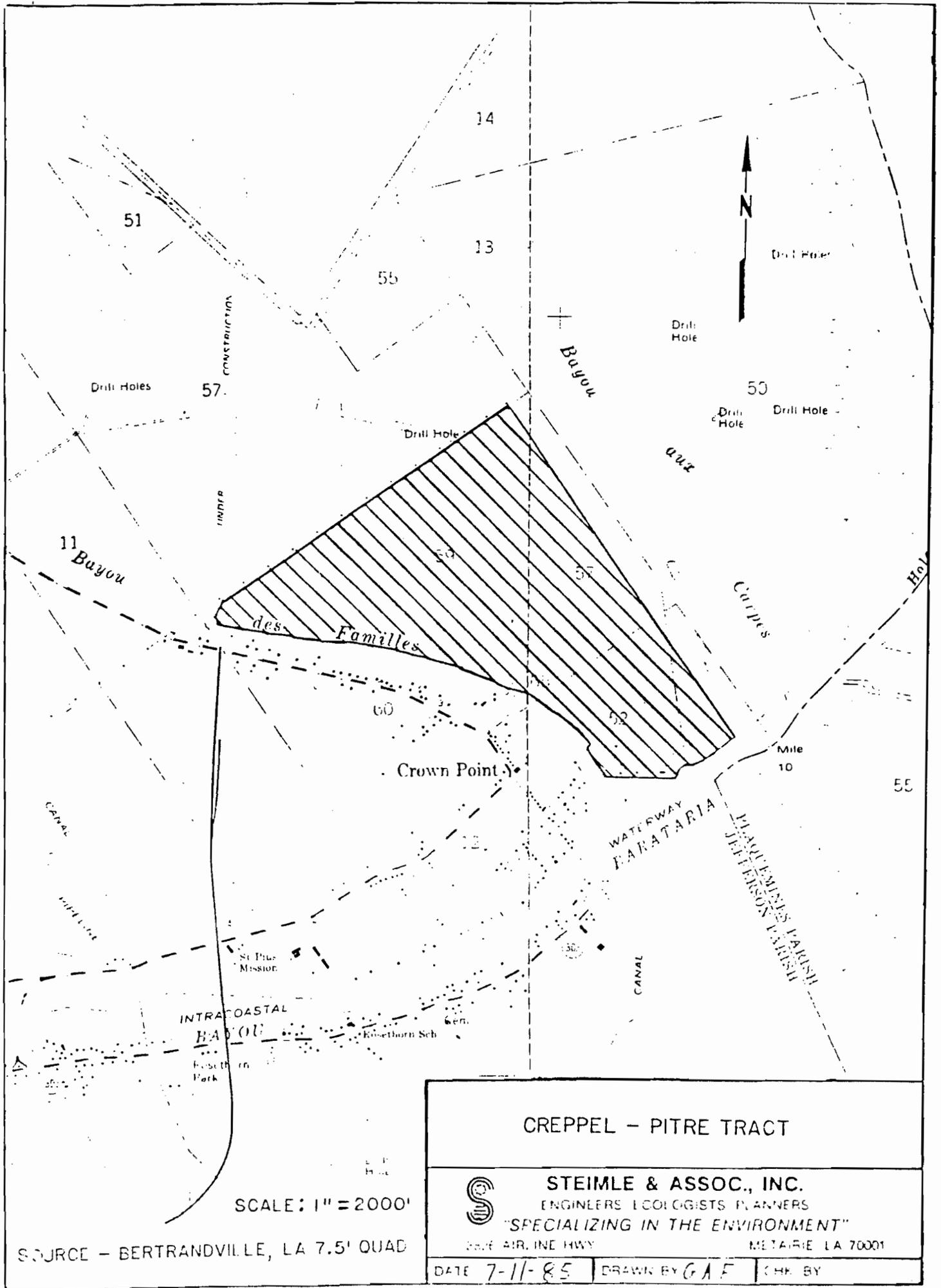
Yours very truly,

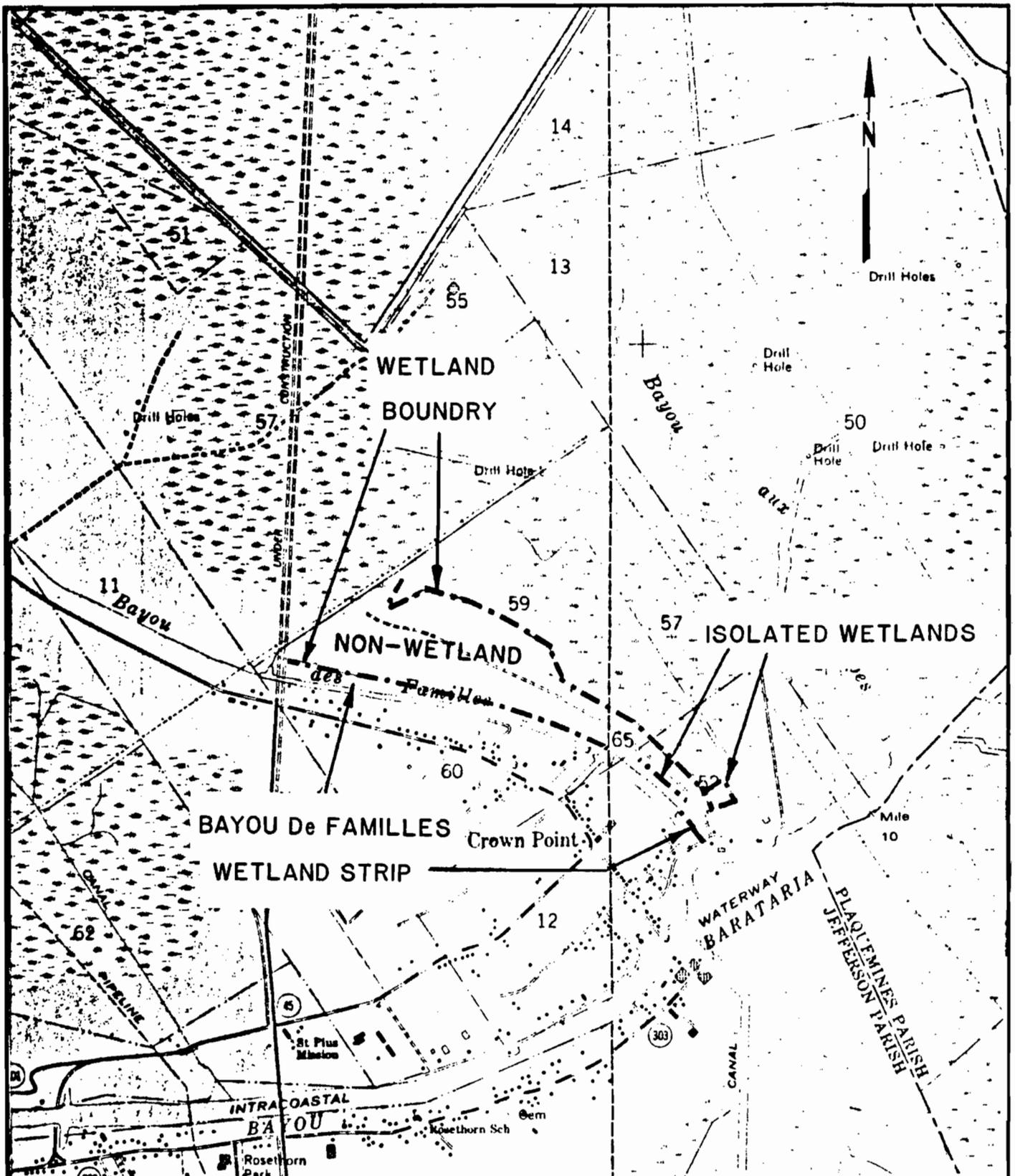

Daniel L. Morrow

- DLM/jwy

Enclosures

cc: Robert A. Pitre, Jr., Esq.
Foster E. Creppel





SCALE 1" 2000'

SOURCE:
BERTRANDVILLE 7.5' QUAD

APPROXIMATE LOCATIONS OF WETLAND
BOUNDARIES CREPPEL-PITRE TRACT



STEIMLE & ASSOC., INC.

ENGINEERS, ECOLOGISTS, PLANNERS

"SPECIALIZING IN THE ENVIRONMENT"

3826 AIRLINE HWY.

METAIRIE, LA 70001

DATE: 8-16-85 DRAWN BY: GAF CHK BY:



STEIMLE & ASSOCIATES, INC.

ENGINEERS, ECOLOGISTS, PLANNERS • SPECIALIZING IN THE ENVIRONMENT

P. O. BOX 865

METairie, LOUISIANA 70004

TELEPHONE 837-2114

August 16, 1985

Mr. Daniel L. Morrow
Attorney at Law
614 Second Street
Gretna, Louisiana 70053

Re: EPA Clean Water Act Section 404 (C)
Bayou Aux Carpes Study

Dear Mr. Morrow:

We have reviewed the above captioned study and other related studies as they concern the Creppel-Pitre tract. For specific comments on the studies, please find enclosed a copy of a letter to Mr. Joseph E. LeBlanc, Jr. which outlines our review of the studies. In general, little or no water quality, hydrological or aquatic biological data are reported from samples taken on this tract. The contribution of this area to the observed nutrient export and fishery nursery functions found in the sampling, which was conducted primarily on the Crowell tract, has not been established. Without these data, no findings as to the value of this tract relative to the study area functions outlined in the EPA report can be made.

The lack of information on the hydrologic regime of the Creppel-Pitre tract coupled with the absence of water quality and biological data do not allow for an evaluation of its contribution to the Barataria estuary fishery resources. The EPA study tends to apply generalized wetland values to the entire study area, sometimes in contradiction of the data gathered and sometimes in the complete absence of data, such as with this tract.

We do not yet have the information to fully comment on the wetland determinations made by EPA on August 12, 1985. Based on preliminary field notes and observations made on that date, certain small apparently isolated wetland areas are located on the tract. These apparently isolated areas would not normally contribute to the typical wetland values that are the basis for the proposed 404 (C) action. Additionally, there was a strip of wetland area adjacent to Bayou De Familles. This relatively small strip is adjacent to upland areas on the north and developed areas south across Bayou De Familles. The contribution of this small area to the Barataria estuary as nursery grounds or as a source of organic material for fishery or shellfish productions would be minor. These factors appear to exclude these areas from consideration under the proposed 404 (C) action.

EXHIBIT "C"



STEIMLE & ASSOCIATES, INC.

Mr. Daniel L. Morrow
Attorney at Law
August 16, 1985
Page 2

Should you have any questions, Please do not hesitate to call. With warmest regards, I am,

Sincerely yours,

STEIMLE & ASSOCIATES, INC.

Michael F. Rayle
Biologist

MFR:fsh

Enclosures

TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON

NO. 206900

SECTION D

FOSTER CREPPEL AND EUGENE PITRE,
Petitioners

versus

THE PARISH OF JEFFERSON AND THE JEFFERSON
PARISH COUNCIL, Defendants

FILED: 11/16/21

DEPUTY CLERK

PETITION FOR SPECIFIC PERFORMANCE,
OR ALTERNATIVELY, FOR DAMAGES

The Petition of Foster Creppel and Eugene Pitre, both persons of the full age of majority and residents of the Parish of Jefferson, State of Louisiana, with respect represents:

I.

Petitioners are citizens of the United States and of the State of Louisiana, and are residents of and owners of real property located within the Parish of Jefferson, State of Louisiana. The location of the property owned by Petitioners herein is outlined in red on the map attached hereto as Exhibit "A".

II.

The Parish of Jefferson is a political subdivision of the State of Louisiana; and the Jefferson Parish Council is the governing authority of the Parish of Jefferson. The Parish of Jefferson and the Jefferson Parish Council are hereby made party defendants herein, and will hereinafter sometimes be referred to, collectively, as the "Parish".

III.

Petitioners seek herein a decree of specific performance, or alternatively, damages, for the following, to wit:

EXHIBIT "D"

IV.

In 1961 the United States Army Corps of Engineers proposed a "small flood control project" for the Westbank of the Parish of Jefferson, under the continuing authority of Section 205 of Public Law 87-874 (33 U.S.C.A. Section 701s), to be designated as the Harvey Canal-Bayou Barataria Levee Project (the "Project"). The Project was to be constructed in two phases: Phase I of the Project was to involve construction of levees upon land which included Landowners' land. Phase II of the Project was to involve the emplacement of dams or dikes across Bayou Aux Carpes and Bayou des Familles, which would result in a temporary entrapment of water and cessation or reduction of natural drainage upon the lands included within the Project, including Petitioners' land, and was to involve the installation of a pumping station at Bayou Aux Carpes to drain the land included within the levees and affected by the closure of the bayous, including Petitioners' property.

V.

As a prerequisite to Corps authorization and approval of the Project, the Parish of Jefferson was required to furnish the Corps with assurances of local cooperation to:

- (a) Provide without cost to the United States all lands, easements, and rights-of-way necessary for construction of the Project including necessary modifications and/or relocation of existing facilities;
- (b) Hold and save the United States free from damages due to the construction work;
- (c) Construction of an additional pumping station with an initial capacity of not less than 154 c.f.s. as provided in the Plan of Improvements and further extensions to pumping capacities as may be necessary for development of the area;
- (d) Maintain and operate all works after completion in accordance with regulations prescribed by the Secretary of the Army.

(emphasis added)

VI.

On or about August 15, 1963, the Parish approved and authorized the construction of the Project and furnished the Corps with

the necessary Assurances of Local Cooperation required to obtain final approval and authorization for the Project. The Assurances of Local Cooperation were furnished by the Parish to the Corps in Authorizing Resolution No. 5515 of the Jefferson Parish Council, dated August 15, 1963, and were accepted and approved by the Corps on February 19, 1964. Thereafter, the Parish executed a formal Act of Assurances on July 20, 1967, pursuant to Resolution No. 11453 of the Parish dated July 13, 1967, and executed another Supplemental Act of Assurances on July 18, 1968, pursuant to Resolution No. 13188 of the Parish, dated July 18, 1968.

VII.

Pursuant to Authorizing Resolution No. 5515, the Parish of Jefferson and Consolidated Drainage District No. 1 for the Parish of Jefferson, on or about April 29, 1967, passed a Drainage Bond Issue in the amount of \$3,600,000.00 to provide the Parish with funds necessary for the construction of the Project. The sum of \$200,000.00 in this Bond Issue was budgeted and allocated especially for construction of the pumping station at Bayou Aux Carpes.

VIII.

Pursuant to Authorizing Resolution No. 5515, and pursuant to its Acts of Assurances and to the Drainage Bond Issue, as set forth above, the Parish of Jefferson also obtained by agreement with Petitioners on May 1, 1969 the rights-of-way and servitudes necessary for construction of the Project. A copy of Petitioners' Servitude Agreement with the Parish is attached hereto as Exhibit "B". This servitude was granted by Petitioners without cost to the Parish, or to the Corps, and solely in consideration of "the benefits and improvements to be derived by Grantors and the enhanced value which will result to Grantors' properties" from completion of the Project, as originally approved and authorized, and which would result in particular from construction of the pumping station at Bayou Aux Carpes, all as shown on the Right-of-Way Plan prepared by the U.S. Corps of Engineers

for the Harvey Canal-Bayou Barataria Levee Project dated September, 1968 (File No. H-8-24727), a copy of which Plan is filed in the office of the Clerk of Court of Jefferson Parish in Plan Book 68, Folio 4 through 4F. Petitioners further show that the execution of the Servitude Agreement with Petitioners was authorized by Resolution No. 11350 of the Jefferson Parish Council, which also recognized the "outright guarantee by the Parish to construct a pumping station at the lower end of Crown Point". A copy of Resolution No. 11350 is attached hereto as Exhibit "C".

IX.

Petitioners show herein that they have fully performed all of their obligations under their Servitude Agreement with the Parish in allowing the excavation of borrow pits and drainage ditches and the construction of levees upon their land for the Project. This excavation and levee construction was completed in 1973, and in 1974 construction of Phase II of the Project began with the closure of Bayou Aux Carpes and Bayou des Familles, and with the purchase of the equipment needed for construction of the pumping station and delivery of that equipment to the vicinity of the pumping station site. Petitioners further show that the Project is now 80% complete and requires only construction of the pumping station at Bayou Aux Carpes for the Parish to fully perform its obligations under the Servitude Agreement with Petitioners, and for completion of the Project as originally approved and authorized.

X.

The Parish, however, has failed and refused to perform its obligations under the Servitude Agreement with Petitioners, and has failed and refused to proceed with construction of the pumping station at Bayou Aux Carpes. In particular, Petitioners show that on or about October 7, 1976, individual officials of the Parish, acting outside of the scope of their authority and directly contrary to the official position of the Parish in support of construction of the pumping station, and in disregard of the obligations of the Parish to Petitioners under the Servitude Agreement to construct the pumping

station and thereby complete the Project, sought to induce the Corps to abandon construction of the pumping station at Bayou Aux Carpes, and to substitute flood gates at Bayou Aux Carpes instead.

XI.

Petitioners further show that although the Corps was willing to proceed with authorization for construction of the pumping station, nevertheless based upon these "unofficial" and "unauthorized" assurances and representations by individual Parish officials that the Parish wished to abandon the pumping station at Bayou Aux Carpes, the Corps issued an order on November 16, 1976 directing that flood gates should be substituted at Bayou Aux Carpes in lieu of the pumping station.

XII.

Petitioners further show that the Parish undertook to implement this Order of November 16th by proceeding with the design of flood gates, but by Order and Judgment of the Court of Appeals for the Fourth Circuit, State of Louisiana, entered on the 31st day of October, 1977, in the proceeding entitled "Jacques J. Creppel, et al. v. The Parish of Jefferson, et al.", Nos. 8896 and 9059 on the Docket of the Court of Appeals for the Fourth Circuit, the Jefferson Parish Council, and the Parish of Jefferson, and Consolidated Drainage District No. 1 of the Parish of Jefferson have been enjoined from expending any of the funds which originated from the Bond Issue Election conducted by the Parish of Jefferson and Consolidated Drainage District No. 1 on April 29, 1967, for any purpose other than that included within the original Project, including the construction of a pumping station at Bayou Aux Carpes, and have been enjoined from abandoning the Project as authorized by Resolution No. 5515 of August 15, 1963, and by such bond issue.

XIII.

Petitioners further show herein that the Project as originally approved and authorized, and as presented to Petitioners by the Parish in obtaining Petitioners' consent and agreement to enter into the Servitude Agreement, expressly provided for construction of the

pumping station at Bayou Aux Carpes, and recognized the "outright guarantee" by the Parish to construct the pumping station. Petitioners further show that it was only from construction of the pumping station at Bayou Aux Carpes that Petitioners were to realize benefits and improvements to their property, and an enhancement in the value of their land, and it was based solely upon the planned construction of the pumping station that Petitioners were induced to grant a servitude to the Parish for the Project, without cost to the Parish, and in consideration of "the benefits and improvements to be derived by Grantors and the enhanced value resulting to Grantors' properties."

XIV.

Petitioners further emphasize again that they have fully performed all of their obligations under the Servitude Agreement in allowing the excavation and construction of levees upon their land, and Petitioners are entitled to a decree of specific performance directing and compelling the Parish to fully comply with its obligations under the Servitude Agreement to construct the pumping station at Bayou Aux Carpes. Petitioners further show that specific performance of the Servitude Agreement is clearly practical and can be easily and readily accomplished. In particular, Petitioners show that funds are available for construction of the pumping station, from the Drainage Bond Issue passed in 1967 to provide funds for the pumping station, and from additional Parish monies set aside and dedicated for construction of the pumping station. Petitioners further show that the equipment necessary for construction of the pumping station has already been delivered to the vicinity of the construction site, and Southbend Contractors, Inc., to whom the contract for the pumping station has been let, is under a legal obligation to proceed with construction upon order from the Parish to do so. Petitioners further show that the Project is now 80% complete, and requires only construction of the pumping station for final completion, and it is no longer possible to restore Petitioners or the parties to their former position prior to execution of the Servitude Agreement, or

prior to the undertaking of the Project. Public interest clearly requires and would be best served by construction of the pumping station and completion of the Project.

XV.

In addition to a decree of specific performance herein, Petitioners further show that as a result of the failure and refusal of the Parish to proceed with construction of the pumping station at Bayou Aux Carpes, Petitioners have suffered delay damages in a total amount of \$50,000.00, and defendants are justly and truly indebted unto Petitioners in that amount.

XVI.

Petitioners further show, and to the extent necessary show and aver in the alternative, that in the event that specific performance should not be awarded, then the failure of the Parish to construct the pumping station at Bayou Aux Carpes is an open and active breach and violation of Petitioners' valid and subsisting Servitude Agreement with the Parish, which would entitle Petitioners to recover damages from the Parish in the particulars hereinafter set forth.

XVII.

As a result of the excavation and levee construction allowed by Petitioners in connection with the Project, Petitioners have physically lost and had "taken" from them at least 11.3 acres of land. This includes approximately 4.26 acres of land along Bayou Barataria approximately 2.74 acres of land along Bayou des Familles; and approximately 4.3 acres of land on the rear line of Petitioners' property, which was used to dig a canal from Bayou des Familles to the "Dry Hole" Canal to link Bayou des Familles with Bayou Aux Carpes. Petitioners further show that the fair market value of this land which has been lost and "taken", based upon current appraisals of comparable properties in the vicinity, is at least \$225,000.00, or such higher amount as may be shown by Petitioners at the trial hereof.

XVIII.

Petitioners further show that the excavation and digging of the canal at the rear of Petitioners' property from Bayou des Familles

to the "Dry Hole" Canal has resulted in a severance of approximately 3 acres from the remainder of Petitioners' property, which has rendered this rear portion of the property useless and without any practical beneficial use for industrial, residential or commercial purposes. Petitioners further show that the fair market value of this land which has been severed and rendered useless, based upon current appraisals of comparable properties in the vicinity, is at least \$60,000.00.

XIX.

Petitioners further show that the excavation and levee construction upon Petitioners' land has resulted in damage to that portion of Petitioners' land on which the levees have actually been constructed, in that the construction of the levees upon that land has deprived Petitioners of all beneficial use of the property for residential, commercial or industrial purposes. This includes approximately 9.28 acres of land, and Petitioners show that the fair market value of this land, based upon current appraisals of comparable property in the vicinity, is at least \$185,800.00.

XX.

Petitioners further show that as a result of the excavation and levee construction allowed by Petitioners in connection with the Project, Petitioners have suffered further damage in the loss of a valuable long term lease of a part of the "Logging Canal", which was closed by the Parish in connection with the Project. This lease provided a monthly rental of \$600.00, and had a remaining term of eight years and the value of the remaining term of this lease was at least \$57,600.00. Petitioners have additionally suffered further damage in the loss of two other leases of portions of the "Logging Canal", each of which was at a rental of \$200.00 per month, for a total loss of \$4,800.00 a year. Since 1973, the date on which the levee construction upon Petitioner's land was completed, Petitioners have suffered damage in the loss of an additional \$19,200.00 in rentals from these two leases.

XXI.

Petitioners further show that the closure of the "Logging Canal" has deprived Petitioners of the right and opportunity of leasing the "Logging Canal" in the future, which could have been leased for a rental of at least \$1,000.00 a month and \$12,000.00 a year, even without taking into account future increases in rentals due to inflation, future growth in the area, increased demand for leasing sites, and individual negotiations of contracts. Over a period of the next 50 years, even without considering the increases as set forth above, and without considering any additional periods of time, Petitioners will suffer damages in the loss of at least \$600,000.00 in rentals because of the loss of opportunity to lease the "Logging Canal".

XXII.

Petitioners further show that the levee construction upon their land has interrupted the natural drainage upon Petitioners' land and caused the increased impoundment and collection of water upon Petitioners' land, all of which it was contemplated would have been removed by construction of the pumping station, and which will not be removed by the installation of flood gates. For this added burden and interference with the drainage of Petitioners' land, Petitioners seek herein to recover damages in the amount of at least \$100,000.00, or in such other higher amount as Petitioners may prove at the trial hereof.

XXIII.

Petitioners further show that as a result of the excavation and levee construction upon their land, and as a result of the increased impoundment and trapping of water upon Petitioners' land, and the interference with drainage upon Petitioners' land, Petitioners have lost a number of oak trees and pecan trees, all of which has decreased the actual and aesthetic value of Petitioners' land. Conservatively speaking, Petitioners estimate that they have lost at least 20 oak trees, and at least 7 pecan trees, the loss of which has damaged

Petitioners in a total amount of at least \$135,000.00, or in such other higher amount as Petitioners may show at the trial hereof.

XXIV.

Petitioners further show that the grant of the Servitude Agreement to the Parish was for the sole consideration of the benefits and improvements to be derived by Petitioners and the enhancement in land value which would have resulted from completion of the Project and construction of the pumping station at Bayou Aux Carpes. In the event that specific performance is not awarded, as sought by Petitioners herein, and if flood gates are installed in lieu of the pumping station, Petitioners will suffer the loss of and will be deprived of these benefits and improvements and of this enhanced value to their property which they bargained and contracted for, and which was their sole and only consideration for entering into the Servitude Agreement. Petitioners further show that at least 50 acres of their property would have received benefits and improvements, and would have been enhanced in value, by construction of the pumping station at Bayou Aux Carpes, and the enhanced and improved value of this property would have been in a total amount of at least \$1,000,000.00, based upon current appraisals of comparable property in the vicinity. Petitioners further show that such damages in the amount of the enhanced and improved value of Petitioners' property which would have resulted from construction of the pumping station at Bayou Aux Carpes were clearly within the contemplation of the parties to the Servitude Agreement at the time of contracting, as illustrated by the clear and unambiguous wording of the Servitude Agreement itself, which recites that "the consideration for the granting of the above mentioned servitudes or easements is hereby declared to be the benefits and improvements to be derived by Grantors and the enhanced value resulting to Grantors' properties which will accrue as a result of the said Harvey Canal-Bayou Barataria Levee Project."

XXV.

Petitioners herein summarize the damages set forth above, as follows:

(a) Damages for the approximately 11.3 acres of land physically lost and taken from Petitioners -- \$225,000.00;

(b) Damages for the severance of approximately 3 acres at the rear of Petitioners' property -- \$60,000.00;

(c) Damages to the approximately 9.28 acres of Petitioners' land upon which levees have been constructed -- \$185,800.00;

(d) Damages for the loss of the Petitioners' long term lease of a part of the "Logging Canal" -- \$57,600.00;

(e) Damages for the loss of Petitioners' two month-to-month leases of the "Logging Canal" -- \$19,200.00;

(f) Damages for Petitioners' loss of the opportunity to lease the "Logging Canal" in the future -- \$600,000.00;

(g) Damages for interruption and interference with the natural drainage upon Petitioners' land -- \$100,000.00;

(h) Damages for Petitioners' loss of at least 20 oak trees and at least 7 pecan trees -- \$135,000.00;

(i) Damages for Petitioners' loss and deprivation of the benefits and improvements, and enhancement in value to Petitioners' property, which was Petitioners only consideration for entering into the Servitude Agreement -- \$1,000,000.00;

ESTIMATED TOTAL DAMAGES: \$2,362,600.00

XXVI.

Petitioners further show, and to the extent necessary show and aver in the alternative, that if the Project is not completed as originally approved and authorized, and if the pumping station

is not constructed at Bayou Aux Carpes, then the excavation and levee construction upon Petitioners' land is without authority and contrary to law, and is wrongful and in the nature of a continuing trespass and invasion of Petitioners' legal rights and rights of property, all of which additionally, and without limitation, entitles Petitioners to damages as set forth above, and as summarized in paragraph XXV hereof.

XXVII.

Petitioners aver amicable demand to no avail.

WHEREFORE, Foster Creppel and Eugene Pitre, Petitioners herein, pray that after due proceedings had judgment be rendered herein in their favor, and against defendants, The Parish of Jefferson and the Jefferson Parish Council, decreeing Specific Performance of Petitioners' Servitude Agreement with the defendants, and directing and compelling the defendants to fully perform all of their obligations under the Servitude Agreement with Petitioners, including the obligation to construct, and to take all steps necessary and possible to obtain construction of, the pumping station at Bayou Aux Carpes, and further awarding Petitioners delay damages in the amount of at least \$50,000.00, or such other higher amount as may be shown at the trial hereof; in the alternative, and only in the event that specific performance should not be awarded herein, and the pumping station at Bayou Aux Carpes should not be constructed, then and in that event that judgment be rendered in favor of Petitioners and against defendants awarding Petitioners the full and true sum of at least \$2,382,600.00, or in such other higher amount as may be shown at the trial hereof; as damages for defendants' active and open breach of the Servitude Agreement in failing and refusing to construct the pumping station at Bayou Aux Carpes, and in inducing the United States

Army Corps of Engineers to abandon construction of the pumping station and to order the installation of flood gates instead, with legal interest thereon from date of judicial demand until paid, and for all costs of these proceedings, and for all general and equitable relief.

Gretna, Louisiana, this ____ day of _____,
1977.

DANIEL L. MORROW
Attorney at Law
614 Second Street
Gretna, Louisiana 70053
Attorney for Plaintiffs

PLEASE SERVE:

1. The Parish of Jefferson, Defendant
through Harry Lee, Parish Attorney
New Courthouse Building
Gretna, Louisiana 70053
2. The Jefferson Parish Council, Defendant
through Harry Lee, Parish Attorney
New Courthouse Building
Gretna, Louisiana 70053

MILLING, BENSON, WOODWARD, HILLYER, PIERSON & MILLER
A PARTNERSHIP INCLUDING PROFESSIONAL LAW CORPORATIONS

ATTORNEYS AT LAW
1100 WHITNEY BUILDING
NEW ORLEANS 70130

TELEPHONE (504) 581-3333
TELECOPIER (504) 581-3000
CABLE "MILLING"
TELEX 584211

August 19, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

U. S. Environmental Protection Agency
Federal Activities Branch
Interfirst Two Building
1201 Elm Street
Dallas, Texas 75270

ATTENTION: Harless R. Benthul,
Assistant Regional Counsel

Re: Proposed Sec. 404(c) Determination
Bayou Aux Carpes Swamp

Gentlemen:

We have been retained on behalf of the landowners listed below to submit comments for the record upon the proposal made by the U. S. Environmental Agency ("EPA"), under the provisions of Sec. 404(c) of the Clean Water Act (33 USCA §1344(c), to prohibit the area known as the Bayou Aux Carpes Swamp from future use as a dredged or fill material disposal site. These comments are submitted on behalf of the following landowners:

(1) The Crowell Tract - This land is owned by Jacques J. Creppel, Karen L. Knight, Kathleen C. Carter, Daniel L. Morrow, Robert Pitre, Robert Pitre, Jr., William Pitre, Dr. Irvin Goldman, Dr. Bernard Goldman, W. H. Mosby II, Mary Giannobile, Dr. B. R. Eubanks, Dr. Robert Fleming, H. Edward Molaison, Lindsey Molaison, Barry Samuel, Mrs. Bernard Samuel, Jr., and Marlene Samuel. The land is shown on Exhibit "A" as Tract A and consists of approximately 1100-1200 acres.

(2) The Dietz Property - This property is owned by Harold L. Molaison, Dr. W. H. Mosby, Dr. Bernard A. Goldman, Toby Marcia Luster, Lina Ann Green, Gary L.

RECEIVED
AUG 20 1985
U.S. ENVIRONMENTAL PROTECTION AGENCY
DALLAS, TEXAS

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Two

Goldman, Marjorie Firestone, John E. Firestone, Jr., Claire Marie Firestone, Mr. Bernard Goldman, Dr. Irvin A. Goldman, Burt Klein, Howard Green, Lester Green, and Jay Green. The land is shown on Exhibit "A" as Tract B and consists of approximately 322 acres.

(3) The Marrero Land & Improvement Association, Ltd. Property - These two tracts are owned by Marrero Land and are shown on Exhibit "A" as Tracts C and E. They consist of approximately 45 acres and 503 acres, respectively.

(4) The Foster Creppel and Estate of Eugene Pitre Property - This tract is owned by Foster Creppel and the Estate of Eugene Pitre and is shown on Exhibit "A" as Tract D. It consists of approximately 144 acres.

The tracts of land owned by these landowners comprise the major part of the area covered by EPA's proposed 404(c) determination. It is these lands that will, for all intents and purposes, be taken out of commerce if the proposed determination should become final. The landowners are setting forth in these comments the various reasons for which they believe the proposed determination is unauthorized, unlawful, and without basis in fact or law. The landowners ask that the proposed determination be withdrawn.

I. Background of the Controversy

This matter involves far more than simply a proposal by EPA to prohibit the use of the Bayou Aux Carpes Swamp for the future discharge of dredged or fill material. The proposed determination is intimately related to a Federal small flood control project - the Harvey Canal-Bayou Barataria Levee Project ("Project") - which was first authorized in 1963 and is now 80% complete. The area subject to the proposed determination is part of the Project area, and the drainage of this land is the last remaining step in completion of the Project.

The landowners are attaching to these comments, as Exhibits 1-29, pertinent documents relating to the history of the Project. Some of the important milestones are as follows:

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Three

(1) The Project was first authorized in 1963 - Exhibit 1.

(2) Assurances of local cooperation were provided by the Parish of Jefferson in 1967 and in 1968 - Exhibits 4 and 6.

(3) Servitudes were voluntarily granted by the landowners - at no cost to the Parish or to the Corps of Engineers - in consideration of the benefits that would accrue to their land from completion of the Project, including the installation of the pumping station of Bayou Aux Carpes - Exhibit 12.

(4) In 1967 a Drainage Bond Issue was passed by the voters of Consolidated Drainage District No. 1 of the Parish of Jefferson for installation of the pumping station at Bayou Aux Carpes - Exhibits 7 and 8.

(5) On November 14, 1970, an Environmental Impact Statement for the Project was filed with CEQ under the provisions of the recently enacted National Environmental Policy Act of 1969. Thereafter, construction upon the Project commenced.

(6) In 1974, construction was halted to allow a review of the Project under Sec. 404 of the Clean Water Act. At this point, the Project was 80% complete. The Project levees had been constructed; the closures had been placed at Bayou Des Familles and at Bayou Aux Carpes; and the pumping station equipment had been purchased by the Parish and delivered to the installation site at Bayou Aux Carpes. The total authorized Federal expenditure of \$1,000,000.00 had been expended, and all costs over this amount (approximately \$3,000,000.00) had been borne, and would continue to be borne, by the Parish of Jefferson, as the local sponsor of the Project.

(7) On January 7, 1975, a 404 hearing was conducted with respect to the remaining aspects of the Project. In March 1975, a Statement of Findings was issued by Colonel E. R. Heiberg, III, the District Engineer of the Corps at the time, supporting completion of the Project - Exhibit 21.

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Four

(8) Objections to the pumping station were then raised by EPA (Exhibit 22). After referral of the EPA objections to the Washington level of the Corps, Brigadier General Kenneth MacIntyre on October 30, 1975 concurred in the Heiberg findings and recommended completion of the Project - Exhibits 22 and 23.

(9) In 1976, a further 404 review was conducted under EPA's new Interim Final 404(b)(1) Guidelines. On June 30, 1976, Colonel Early J. Rush, III, the new District Engineer of the Corps, found compliance with the Guidelines and supported completion of the Project - Exhibit 24.

(10) After further referral of the EPA objections to the Washington level of the Corps, Brigadier General Drake Wilson confirmed support for completion of the Project on August 27, 1976 - Exhibit 25.

(11) On November 16, 1976, General Wilson issued a revised Statement of Findings essentially adopting the EPA objections and directing a modification of the Project to substitute floodgates at Bayou Aux Carpes in lieu of the planned pumping station - Exhibit 26.

(12) On January 4, 1977, suit was instituted by the owners of the Crowell Tract in U. S. District Court in New Orleans to set aside the Wilson Order. In April 1977, these landowners also filed suit in State court to enjoin the Parish of Jefferson from implementing the Wilson Order and seeking a mandatory injunction directing the Parish to proceed with completion of the Project and construction of the pumping station. At this point in time, the total authorized Federal funds for the Project had been expended, and all remaining work was to be carried out by the Parish of Jefferson under its Assurances of Local Cooperation.

The Federal court proceeding was held in abeyance pending the outcome of the State court litigation.

(13) On January 12, 1979, the Honorable Thomas J. Wicker rendered judgment on the merits in the State court proceeding in favor of the landowners permanently enjoining the Parish from abandoning the Project with the pumping

MILLING, BENSON, WOODWARD, HILLYER, PIERSON & MILLER
U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Five

station and issuing mandatory injunctive relief commanding the Parish to proceed with construction of the pumping station. A copy of Judge Wicker's Judgment and Reasons is attached to these comments as Exhibit 30. This Judgment was affirmed by the Louisiana Fourth Circuit Court of Appeals on June 15, 1980. Creppel, et al v. Parish of Jefferson, et al, 384 So.2d 853 (La. App. 4th Cir. 1980). Certiorari was denied by the Louisiana Supreme Court on October 6, 1980, 392 So.2d 689.

Following completion of the State court proceeding, the Federal court litigation went forward. On August 8, 1980, the Honorable Lansing Mitchell entered judgment in favor of the government upholding the Wilson Order. This decision was reversed by the U. S. Court of Appeals for the Fifth Circuit on March 17, 1982. Creppel, et al v. Corps of Engineers, 670 F.2d 564 (5th Cir. 1982). The Fifth Circuit ruled that the Corps could not order a Project modification without obtaining appropriate assurances of local cooperation from the Parish. The Court remanded the matter to the District Court to determine whether such assurances could be obtained. Judge Mitchell in turn remanded the matter back to the Corps for this determination.

(14) On November 3, 1982, the landowners submitted a Memorandum to the Corps addressing the issues to be considered on remand. A copy of this Memorandum, with exhibits "A"- "G" thereto, is attached to these comments as Exhibit 31.

(15) On August 13, 1984, Judge Mitchell entered summary judgment in favor of the landowners and directed the Corps to proceed with completion of the Project and installation of the pumping station. This was based upon the fact that the Parish of Jefferson reiterated its support for completion of the original Project and would not give assurances of local cooperation for the modified Project. A copy of Judge Mitchell's ruling is attached to these comments as Exhibit 32. Upon application for reconsideration, the Corps asked that Judge Mitchell stay the effect of his judgment for a period of time to allow EPA to decide whether to invoke its 404(c) authorities. On December 14, Judge Mitchell entered an Order directing EPA to decide whether to commence a 404(c) proceeding within 90 days, and if a 404

MILLING, BENSON, WOODWARD, HILLYER, PIERSON & MILLER

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Six

proceeding were commenced, that it be completed within nine months thereafter, or on or before September 18, 1985. On December 17, 1984, EPA gave notice of its intent to exercise its 404(c) authorities. By an order entered by Judge Mitchell on June 20, 1985, EPA was granted an additional period of 30 days in which to complete its 404(c) proceeding, until October 18, 1985.

The landowners believe that the above history of the Project is of crucial importance in this proceeding, for it defines the context in which these issues have arisen. It identifies factors which have a strong bearing upon any determination of the "acceptability" of the environmental effects at issue.

With this background in mind, the landowners will now address their specific objections to the proposed determination.

II. There is No Authority For the Exercise of a 404(c) Veto In This Case

In the Federal court litigation Judge Mitchell - following the mandate of the Fifth Circuit in its order of remand - held that the Project must be completed with the pumping station at Bayou Aux Carpes as a matter of law. Judge Mitchell found that environmental objections raised under Sec. 404 could not force a modification of the Project without new assurances of local cooperation from the Parish of Jefferson. EPA can not now use these same environmental objections to force the same kind of Project modification that both the State and Federal Courts have held is prohibited by law.

Moreover, the alleged "unacceptable adverse effects" which are the basis for the proposed determination are the very ones that were the primary justification for authorization and construction of the Project to begin with. Because of the degree of completion of the Project and the extent of investment of public funds and resources, completion of the Project as originally authorized is no longer subject to veto. Sec. 404(c) was never intended to be applied in such a retroactive manner in disregard of the equities of the situation.

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Seven

III. EPA's 404(c) Regulations Are Invalid

Section 404(c) provides that the Administrator may prohibit or withdraw the specification of a disposal site whenever he determines that the discharge of dredged or fill material "... will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife or recreational areas." The crucial determination is whether there will be "unacceptable adverse effects". However, in 40 C.F.R. §231.2(e), EPA has defined the term "unacceptable adverse effect" so narrowly that it precludes the type of balancing process essential to a determination of whether effects are "unacceptable" or not. EPA has defined this phrase solely in environmental terms to mean:

...impact on an aquatic or wetland ecosystem which is likely to result in significant degradation of municipal water supplies (including surface or groundwater) or a significant loss of or damage to fisheries, shellfishing, or wildlife habitat or recreational areas. In evaluating the unacceptability of such impacts, consideration should be given to the relevant portions of the Sec. 404(b)(1) guidelines (40 C.F.R., Part 230).

In this definition, EPA focuses upon the same general "environmental values" that are already taken into account by the Corps in its public interest review and that are described in the EPA's 404(b)(1) Guidelines. EPA has declared that any significant degradation or loss of these environmental values is automatically "unacceptable." Congress, however, clearly intended a more limited exercise of the 404(c) authority. Section 404(c) does not speak in terms of "significant effects" but of "unacceptable effects." Congress' deliberate use of the modifier "unacceptable" contemplates a balancing process in which significant adverse environmental effects^{1/} must be

^{1/}If there are no significant adverse effects, Sec. 404(c) should not come into play at all.

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Eight

weighed and balanced along with all other considerations of the public interest to determine whether such effects are "acceptable" under the circumstances. If every significant environmental effect were intended to be "unacceptable", there would have been no reason to use the word "unacceptable" in the statute. Congress would have simply authorized exercise of the 404(c) authority whenever there would be "significant adverse effects." Congress did not do so. EPA's definition of "unacceptable adverse effect" in 40 C.F.R. §231.2(e) emasculates the statute and renders the 404(c) process meaningless and absurd.

The balancing process required by the standard of "acceptability" involves a consideration of all factors affecting the public interest. The 404(c) decision can not be based upon environmental concerns alone.^{2/} This was explained by the Court in City of New York v. U.S. Environmental Protection Agency, 543 F.Supp. 1084 (S.D.N.Y. 1981), in which the Court construed the somewhat similar standard of "unreasonable degradation" under the Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. §§1401 et seq.):

. . . By its terms, section 1412(a) appears to impose upon EPA a balancing requirement. The Section proscribes, not all dumping, but rather only such dumping, as unreasonably endangers the environment. The term 'reasonable' inherently connotes a weighing of all the relevant circumstances. By enumerating several factors that inevitably conflict--such as the need for dumping and its effect upon the environmental--and requiring the Administrator to consider them, the Act forces EPA to balance the statutory factors.

^{2/}In construing the National Environmental Policy Act, the Supreme Court has similarly held that an agency need not ". . . elevate environmental concerns over other appropriate considerations" Strycker's Bay Neighborhood, Etc. v. Karlen, 444 U.S. 223, 227 (1980); and Baltimore Gas & Electric v. N.R.D.C., 103 S.Ct. 2246, 2253 (1983).

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Nine

Cf. Industrial Union Department, AFL-CIO v. American Petroleum Institute, 448 U.S. 607, 667-71, 100 S.Ct. 2844, 2876-79, 65 L.Ed.2d 1010 (1980) (Powell, J., concurring in part); Appalachian Power Co. v. Train, 620 F.2d 1040, 1046 (4th Cir. 1980); D.D. Bean & Sons Co. v. Consumer Product Safety Commission, 574 F.2d 643, 649 (1st Cir. 1978); Aqua Slide 'N' Dive Corp. v. Consumer Product Safety Commission, 569 F.2d 831, 844 (5th Cir. 1978); Appalachian Power Co. v. Train, 545 F.2d 1351, 1364 (4th Cir. 1976). [emphasis added] (543 F.Supp. at 1089).

See, also, N.R.D.C. v. EPA, 656 F.2d 768, 782-783 (D.C. Cir. 1981).

EPA's attempt to use environmental concerns as the only standard for the 404(c) determination is also invalid for another reason. Whenever an agency seeks to regulate by means of a general "standard" or "guideline", the regulatory scheme must allow for a showing that, in individual cases, other considerations of the "public interest" may require a different result. As the Court pointed out in WAIT Radio v. FCC, 418 F.2d 1153 (D.C. Cir., 1969):

. . . That an agency may discharge its responsibilities by promulgating rules of general application which, in the overall perspective establish the "public interest" for a broad range of situations, does not relieve if of an obligation to seek out the "public interest" in particular, individualized cases. . . [A] general rule, deemed valid because its overall objectives are in the public interest, may not be in the "public interest" [in other cases]. . . (418 F.2d at 1157-1158).

The need for such a showing is rooted in the basic requirement of due process. Southwest Pennsylvania Cable T.V., Inc. v. FCC, 514 F.2d 1343, 1347 (D.C. Cir., 1975); and Community Service, Inc. v. United, 418 F.2d 709, 712 (D.C. Cir. 1969). It is, as the Supreme Court observed in United States v. Allegheny-Ludlum Steel Corporation, 406 U.S. 742 (1972), a necessary adjunct of the regulatory process:

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Ten

. . . It is well established that an agency's authority to proceed in a complex area . . . by means of rules of general application entails a concomitant authority to provide exemption procedures in order to allow for special circumstances. Permian Basis Area Rate Cases, 390 U.S. 747, 784-786, 20 L.Ed.2d 312, 345-347, 88 S.Ct. 1344 (1968). . . (406 U.S. at 755).

See, also, EPA v. National Crushed Stone Association, 449 U.S. 64, 72 (1980); and E. I. Dupont de Nemours and Co. v. Train, 430 U.S. 112, 128 (1977).

EPA's refusal to give any consideration to non-environmental factors also establishes, in effect, an irrebuttable presumption that environmental concerns define "acceptability" in every case. Such a presumption does not pass constitutional muster. Heiner v. Donnan, 285 U.S. 312, 324, 76 L.Ed. 772 (1932); Schlesinger v. Wisconsin, 270 U.S. 230 (1926); and Stanely v. Illinois, 405 U.S. 645, 656-657 (1972). All elements of the "public interest" are relevant to a determination of the "acceptability" of a proposed discharge. A proper weighing of non-environmental factors must be allowed. "If an agency simply ignores issues whose relevance to the public interest is obvious, the agency's decision may be reversed. Michigan Consolidated Gas Co. v. F.P.C., 108 U.S. App. D.C. 409, 431, 283 F.2d 204, 226 (1960), cert. denied, 364 U.S. 913, 81 S.Ct. 276, 5 L.Ed.2d 227 (1960)." Union Mechling Corp. v. United States, 566 F.2d 722, 725 (D.C. Cir. 1975).

In the case here, EPA's conduct of this 404(c) proceeding in accordance with its narrow definition of "unacceptable adverse effect" in 40 C.F.R. §231.2(e) has hopelessly tainted the entire process with invalidity. It has prevented a full and fair consideration of all factors affecting the public interest which is at the heart of any determination of "unacceptability".

IV. The 404(c) Process Has Been Unreasonable and Arbitrary

EPA's handling of the 404(c) process in this case has been unreasonable, biased, and arbitrary. The proposed

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Eleven

determination was published by EPA on May 17, 1985. Under 40 C.F.R. §231.3(b)(1), this announcement was supposed to include a summary of the facts on which the proposed determination was based. However, at the time of publication, EPA had not yet completed its gathering and review of the facts. Instead, EPA "rushed to publication" in an obvious expression of the pre-determined and pre-judged decision that it had made. The landowners discovered this when they requested an opportunity to review the background documents relied upon by EPA in reaching the proposed determination. The landowners were advised that certain key documents were not available because the studies had not yet been completed and the data was still being gathered. Despite this, EPA went forward with its proposed determination. This indicates a bias against the landowners and in favor of a recommended determination that also taints the entire process and makes any impartial consideration of the landowners' position by EPA impossible. Copies of the correspondence between Mr. Harless Benthul of EPA, Mr. Michael Rayle of Steimle and Associates, Inc. (the landowners consultants), and the undersigned - dated June 10, 11, 12, and 13, 1985 - are attached to these comments as Exhibit 33.

As further evidence of this EPA bias, the Public Notice solicited public comment only upon whether the proposed determination should become the final determination. EPA wholly ignored the mandate of 40 C.F.R. §231.4(a) that comments also be solicited upon "...corrective action that could be taken to reduce the adverse impact of the discharge..." This is a vital inquiry specified in the regulations that was disregarded by EPA. No comments were solicited upon whether corrective actions could be taken short of total prohibition that might minimize or reduce the adverse impacts of the discharge and still allow some use of the land by the landowners. It is almost as if EPA had no interest in any constructive suggestions along these lines. Again, this failure on the part of EPA taints the entire 404(c) process, for it has precluded a full and fair consideration of possible corrective action that might satisfy the alleged concerns expressed by EPA.

EPA's obligation to consider such corrective action is also a Constitutional requirement. Because

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Twelve

fundamental rights of property and contract are involved which will be taken from the landowners if a 404(c) veto is exercised, EPA is bound to exercise the 404(c) authority in a manner that least intrudes and interferes with the rights of the landowners. Dunn v. Blumstein, 405 U.S. 330, 343 (1972); Shelton v. Tucker, 364 U.S. 479, 488 (1960); N.A.A.C.P. v. Alabama, 377 U.S. 288, 302-303 (1964); and Lynch v. Household Finance Corp., 405 U.S. 538, 92 S.Ct. 1113, 1122 (1972). This requires EPA to restrict use of its 404(c) authority to the minimum extent necessary to reduce any alleged unacceptable adverse effects to "acceptable" levels. This might include limitation of any 404(c) action to certain portions of the area in question (e.g., the Bayou Aux Carpes swamp itself or some other minimum area sufficient to reduce the alleged adverse effects to acceptable levels), or perhaps a Project modification such as that proposed by the landowners and described in Part VI hereof. The point is, EPA has neither solicited comments upon nor given any consideration to any of this. For EPA to have wholly ignored this inquiry indicates an open disregard of its own regulations and the constitutional limitations upon its authority.

V. The Proposed Determination Is Not Supported By The Evidence Relied Upon By EPA

The information upon which EPA has based its proposed determination does not support its broad prohibition against discharge activities throughout the entire Project area. There is insufficient evidence in the record to permit a finding that such action is necessary to avoid alleged "unacceptable adverse effects" upon shellfish beds and fishery areas (including spawning and breeding areas, wildlife or recreational areas. The proposed determination does not describe - nor is it supported by - the kind of site-specific data necessary to support the drastic action of a 404(c) veto.

Most of the record evidence relied upon by EPA simply refers to general wetland values and literature reviews. In its Public Notice, for example, EPA states that "...the area exhibits the hydrological, biological, and soils characteristics typical of a wetland regulated under Sec. 404 of the Clean Water Act...." However, more is

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Thirteen

required under Sec. 404(c) than that the area be a "typical" wetland regulated under Sec. 404. The 404(c) authority is much more narrow than the general permit authority of the Corps of Engineers over wetlands. More definitive findings are required upon very limited parameters, i.e., unacceptable adverse effects upon shellfish beds and fishery areas (including spawning and breeding areas), and wildlife or recreational areas.

Section 404(c) also does not allow "speculation" as to the significance of adverse effects, or as to the extent to which they may occur. 40 C.F.R. §231.2(e) defines "unacceptable adverse effect" as an impact upon an aquatic or wetland eco-system ". . . which is likely to result in significant degradation of municipal water supplies (including surface or ground water) or significant loss of or damage to fisheries, shellfishing, or wildlife habitat or recreation areas. . ." [Emphasis added] The standard for arriving at a "recommended determination" is equally stringent. Although the Regional Administrator is authorized to issue a "proposed determination" when he determines that an "unacceptable adverse effect" could result from the activity in question (40 C.F.R. §231.3(e)), issuance of a recommended determination requires a finding that the discharge of dredge or fill material at the site in question would be likely to have an unacceptable adverse effect (40 C.F.R. §231.5(e)). This standard is not satisfied by descriptions of "typical" wetland values or by assumptions as to possible effects upon downstream estuarine areas which EPA has made no effort to quantify or verify.

The proposed determination is also unsupported and overbroad in that it is based upon very limited sampling within the 3200 acre area covered by the determination. The sampling done by EPA was carried out principally in water bodies in the area of the Bayou Aux Carpes swamp. No data was collected upon other portions of the tracts. This is most notable in the case of the Creppel-Pitre property (Tract "D" on Exhibit "A") and Marrero Land's Estelle property (Tract "E" on Exhibit "A"). Without data from these areas, EPA is unable to show a hydrologic connection with the areas sampled or any connection with the sample results. This precludes any finding that discharge activities in

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Fourteen

these other areas will be likely to result in a significant loss of or damage to fisheries, shellfishing, or wildlife or recreation areas.

The data relied upon by EPA also does not establish the significance of the wetland values that are described in the proposed determination. Aside from general assumptions and speculation about a connection between these lands and the Barataria estuary, there is nothing to indicate the extent or significance of the assumed connection. The proposed determination is also quite conspicuous in its failure to mention that the wetlands in question represent only 3/10 of 1% (.003) of the area tributary to the Barataria Basin - a fact that was noted by the Corps in its earlier Statements of Findings when it concluded that the Project should be completed.

EPA also makes only passing reference to the fact that previous construction upon the Project has essentially sealed off this wetland area and limited its connection to outside waterways to the opening in the levee system at the Pipeline Canal. Spoil banks along interior canals also limit sheet flow within the Project area. EPA has made no effort to take these physical features into account in trying to delineate those portions of the area that might be more closely coupled with the sample stations and other areas that may make only a marginal contribution. EPA has chosen, instead, to assume a significant value for the entire area without site-specific data to make such a finding. The landowners are attaching to these comments, as Exhibit 34, a copy of the report from Mr. Michael Rayle of Steimle and Associates, Inc., a consultant retained by the landowners, which identifies specific areas in which the data relied upon by EPA is either in error or does not support the broad conclusions reached in the proposed determination.

The assumption in the proposed determination as to recreational values is also particularly unfounded. The Public Notice states that "...the public currently has access to portions of the area for certain recreational pursuits through several water courses which pass to the site." However, the property in question is privately owned

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Fifteen

and is not open to public use. For the record of this proceeding, the landowners wish to reaffirm that these areas are not open to the public and are not available for public recreational pursuits. Under these circumstances, there is no alleged "recreational" value that can be used to support the proposed determination. Unauthorized uses of the land can not be considered. Kaiser Aetna v. U.S., 444 U.S. 164 (1979); and Conservation Council of N. Carolina v. Costanzo, 505 F.2d 498, 501-502 (4th Cir. 1974).

EPA also makes reference to the proximity of this area to the Barataria Unit of the Jean Lafitte National Historical Park and suggests that draining the site would have unacceptable adverse effects on the ecological characteristics of and recreational opportunities afforded by these Park areas. However, the connection between the Project area and the Park is a limited one. The Park Service has advised the landowners that "... we are not sufficiently knowledgable of the aquatic environment of the Bayou Aux Carpe wetlands to determine how much of these wetlands, and in what configuration, should be protected to sustain the park's environment." This lack of knowledge is set forth in correspondence between the undersigned and the Department of the Interior relating to a proposal by the landowners for a sale of a portion of this land to the park. The specific reference is found in the letter of August 1, 1985 from Mr. Robert Kerr to the undersigned. Copies of this correspondence are attached to these comments as Exhibit 35. Without such data, there is no basis for EPA to extend the proposed determination to the entire Project area in question.

The proposed determination is also unauthorized because it purports to determine that the alleged adverse effects are "unacceptable" solely upon the basis of environmental concerns and without any consideration of other compelling factors affecting the public interest. It makes a mockery of any supposed determination of "unacceptability" for EPA to ignore (1) the determination of the Parish of Jefferson, as the governing body of the Parish, that the Project should be completed with the pumping station (Exhibit 31 and exhibits "E" and "F" thereto); (2) the support for the completion of the Project expressed by the Harvey Canal Industrial Association (Exhibit 31 and

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Sixteen

exhibit "C" thereto, and comments at the 404(c) Public Hearing), the West Bank Council of The Chamber/New Orleans and the River Region (Exhibit 31 and exhibit "B" thereto, and comments at the 404(c) Public Hearing), and the Greater Jefferson Port Commission (Comments at the 404(c) Public Hearing); (3) the final decision of the State courts of Louisiana directing that the Project be completed with the pumping station; (4) the Drainage Bond Issue passed by the voters of Consolidated Drainage District No. 1 for the pumping station; (5) the decision of Judge Lansing Mitchell in the Federal Court proceeding directing that the Project be completed with the pumping station; (6) the extent of completion of the Project; and (7) the public monies expended on the Project which will be wasted if the primary Project benefits are abandoned.

The landowners also have vested rights of property and contract which can not be ignored. The servitudes granted by the landowners for the Project were given without cost and solely in consideration of the benefits that their land would receive from completion of the Project with the pumping station. The landowners' right and interest in these benefits and enhancement in land value are no mere vague hope or expectancy. The servitudes were actually granted. The Project levees were actually built on their land. The Project has already been brought to 80% completion. The landowners have fully performed their part of the bargain. They have vested rights in the completion of the Project and in the full use of their land which can not be taken from them - at least not without the payment of just compensation. These are factors - and costs to the Federal government - which can not be ignored by EPA and which must be taken into account in any determination of the acceptability of impacts from completion of the Project.

EPA also can not rightly ignore the need to complete the Project to alleviate flooding in the Crown Point area caused by the "trapping" of rainwater behind the Project levees without the pumping station at Bayou Aux Carpes. This "trapping" effect was noted by Judge Wicker in his Reasons for Judgment in the State Court Decision, and the flooding which it causes has been described by Mr. Dan Morrow, a resident of Crown Point (Exhibit 31 and exhibit "G" thereto). These are very real "human" effects which are occurring and must be considered.

U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Seventeen

It was never the intent of the Congress in passing Sec. 404(c) to allow EPA to ignore concerns such as these and arrogate to itself the right to declare the effects from completion of the Project "unacceptable".

VI. Possible Corrective Action Ignored By EPA

As pointed out in Part IV, supra, 40 C.F.R. §231.4(a) requires the Regional Administrator to consider "...corrective action that could be taken to reduce the adverse impact of the discharge." 40 C.F.R. §231.5(d)(2) also requires that any recommended determination include recommendations regarding a final determination "...which shall modify the proposed determination", with a statement of reasons." EPA has ignored these provisions of its own regulations in failing and refusing to explore the possibility of corrective action.

During the course of the 404(c) proceeding, the landowners made a proposal for a Project modification which would involve the sale of a portion of the land in question to the Park and allow development of other portions of the land through installation of the proposed pumping station at the Pipeline Canal instead of at Bayou Aux Carpes. A copy of the letter from the undersigned counsel for the landowners to Secretary of the Interior Donald Hodel is attached to these comments as Exhibit 35. Although in subsequent correspondence Mr. Robert Kerr of the National Historical Park Service has advised that the Park does not have an interest in acquiring this land at the present time (Exhibit 35), this was and is a proposal for Project modification that deserves further inquiry by EPA as a possible limitation upon the extent of any exercise of its 404(c) authority. An indication of the "acceptability" of this proposal is indicated in correspondence from the Honorable Lindy (Mrs. Hale) Boggs, U.S. Representative (D-La.), one of the authors of the legislation for the Jean Lafitte National Historical Park, to Mr. Robert Kerr of the National Park Service, and from the Honorable Henson Moore, U.S. Representative (R-La.), to Secretary of the Interior Donald Hodel expressing support for this proposal. Copies of the letters from Rep. Boggs and Rep. Henson Moore are attached to these comments as Exhibit 36.

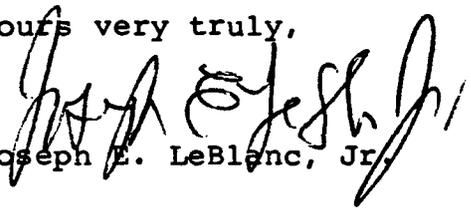
U. S. Environmental Protection Agency
Federal Activities Branch
August 19, 1985
Page Eighteen

Other possible corrective action might include limitation of any 404(c) action to portions of the Project area (e.g., the Bayou Aux Carpes swamp itself, or perhaps some other minimum area which would mitigate the alleged effects to "acceptable" levels), or possibly some other form of Project modification. However, none of this was ever explored or even broached by EPA on the record of this proceeding. The landowners remain willing to discuss any reasonable proposals for modification or corrective action with respect to this Project.

CONCLUSION

This 404(c) proceeding has, from the standpoint of the landowners who will be affected by any action taken, been an exercise in arbitrariness, bias, and unfairness. It is a procedure affecting their property that, as conducted, is unauthorized by law or regulation. For the reasons set forth above, the landowners ask that the proposed determination be withdrawn and that this 404(c) proceeding be ended.

Yours very truly,


Joseph E. LeBlanc, Jr.

cc: The landowners

Marrero Land & Improvement Association, Ltd.
5201 Westbank Expressway • Marrero, La. 70072 • 341-1635

N. Buckner Barkley, Jr.
President

August 19, 1985

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

U. S. Environmental Protection Agency
Federal Activities Branch
InterFirst Two Building
1201 Elm Street
Dallas, Texas 75270

Attention: Harless R. Benthul
Assistant Regional Counsel

Re: Proposed Section 404(c) Determination
Bayou Aux Carpes Swamp

RECEIVED

AUG 21 1985

6 ES

Gentlemen:

These comments are submitted for the record of the above 404(c) proceeding on behalf of Marrero Land and Improvement Association, Ltd. ("Marrero Land"), the owner of two tracts of land located within the area covered by the proposed determination by EPA under Section 404(c) of the Clean Water Act (33 USC §1344(c)) to prohibit the area known as the Bayou Aux Carpes Swamp from future use as a dredged or fill material disposal site. The two tracts of land owned by Marrero Land are shown on Exhibit "A" to these comments as Tracts "C" and "E". They consist of approximately forty-five (45) acres and five hundred three (503) acres, respectively.

These comments are submitted in addition to the comments prepared by Mr. Joseph E. LeBlanc, Jr. on behalf of Marrero Land, among others, which are incorporated herein by reference. In his comments, Mr. LeBlanc has outlined various reasons for which the proposed determination is unlawful and is

August 19, 1985
Page Two

without basis in fact or law. Marrero Land adopts those comments herein and will not repeat them. In these comments, Marrero Land wishes to submit for the record additional considerations with respect to its Tracts "C" and "E".

At the outset of these comments, the undersigned wishes to express thanks and appreciation to Mr. Paul Seales and Mr. Harless Benthul for their courtesy at the Public Hearing held on June 18, 1985 in allowing the undersigned to speak out of turn because of an illness in his family that required him to leave the hearing. The opportunity to present those comments at the hearing was appreciated, and the undersigned asks that serious consideration be given to the comments submitted herein as well.

(1) A review of the data made available by EPA as supporting the proposed determination indicates a lack of information relating to Marrero Land's Tracts "C" and "E". All of the sample points used by EPA to collect data are located along waterways removed from the Marrero Land property. There is no evidence in the record to establish a hydrologic connection between the Marrero Land property and these waterbodies, nor have any data been gathered or collected within or upon the Marrero Land tracts. This lack of tract-specific data precludes any finding of a connection or relationship between the Marrero Land property and the areas sampled, or any finding as to the significance of these tracts to other estuarine areas. Marrero Land is attaching to these comments, as Exhibit "B", a letter dated August 16, 1985 from its consultant, Mr. Michael Rayle of Steimle and Associates, Inc., to Marrero Land confirming this lack of record evidence.

(2) Marrero Land's Tract "E", consisting of approximately five hundred three (503) acres, is also far removed from the Bayou Aux Carpes Swamp that is the obvious focal point of this 404(c) proceeding. There is no basis in the record for including Marrero Land's Tract "E" within a prohibition against future activity that is principally directed at the area of Bayou Aux Carpes. Such action is overbroad and unnecessary.

August 19, 1985
Page Three

(3) Marrero Land is concerned about statements made at the Public Hearing which suggested that completion of the Project was some sort of devious plan for land development. While Marrero Land can not imagine that much credence would be given to such accusations, Marrero Land does wish to set the record straight in these comments. The Project is not a plan for private development, but is a Federal small flood control project which was authorized by the U. S. Army Corps of Engineers and the Parish of Jefferson. The necessary governmental approvals for the Project were given, and a drainage bond issue was passed by the voters of Consolidated Drainage District No. 1 of the Parish of Jefferson to approve the pumping station. Substantial Federal and State monies were spent for these authorized purposes. All of this was done with the full approval of the appropriate governing authorities.

In connection with the Project, Marrero Land also granted a Servitude to allow construction of the Project levees, without cost to the Parish or the Corps, solely in consideration of certain bridge construction across the Sixteenth Street Canal and the enhanced value resulting to its properties which would accrue as a result of the Project. A copy of the Marrero Land Servitude Agreement is attached to these comments as Exhibit "C". Marrero Land has fully performed its obligations under this Agreement. The Project levees have been built. The Project is at present 80% complete. It remains only for the Parish and the Corps to complete the Project by installation of the pumping station at Bayou Aux Carpes. In the context of the Project history, and especially considering Marrero Land's performance under its Servitude Agreement for the Project, the remaining impacts associated with completion of the Project can not be considered as "unacceptable". As a matter of law, constitutional right, and equity, Marrero Land is entitled to have the Project completed.

(4) Marrero Land also wishes to point out that the adverse environmental effects which the proposed determination seeks to prevent - i.e., the drainage and development of the land following installation of the pumping station - were the very benefits that were the primary justification for the Project and which were the basis upon which the public monies to date

August 19, 1985
Page Four

have been spent. EPA can not now use the 404(c) authority as a means of forcing abandonment of the benefits upon which the Project was authorized.

(5) Marrero Land's Tract "E" is also particularly well suited for industrial use and development by reason of the fact that such property borders the Gulf Intracoastal Waterway and is in close proximity to the industrial facilities of the Harvey Canal. The property is well suited for the location of small shipyards generally engaged in small vessel construction, both for fishing and recreational purposes. The ready availability of the tract for such future uses, and the public and private benefits that would accrue from such uses, outweigh any marginal wetland values that may be present and make any adverse effects that may occur "acceptable" under the circumstances.

For the reasons set forth above, as well as for those set forth in the comments of Mr. LeBlanc, Marrero Land submits that the proposed determination should be withdrawn and that this 404 proceeding should be terminated. This is particularly true with respect to Marrero Land's Tract "E".

Marrero Land appreciates the opportunity to submit these additional comments for the record and again asks that they be given serious consideration.

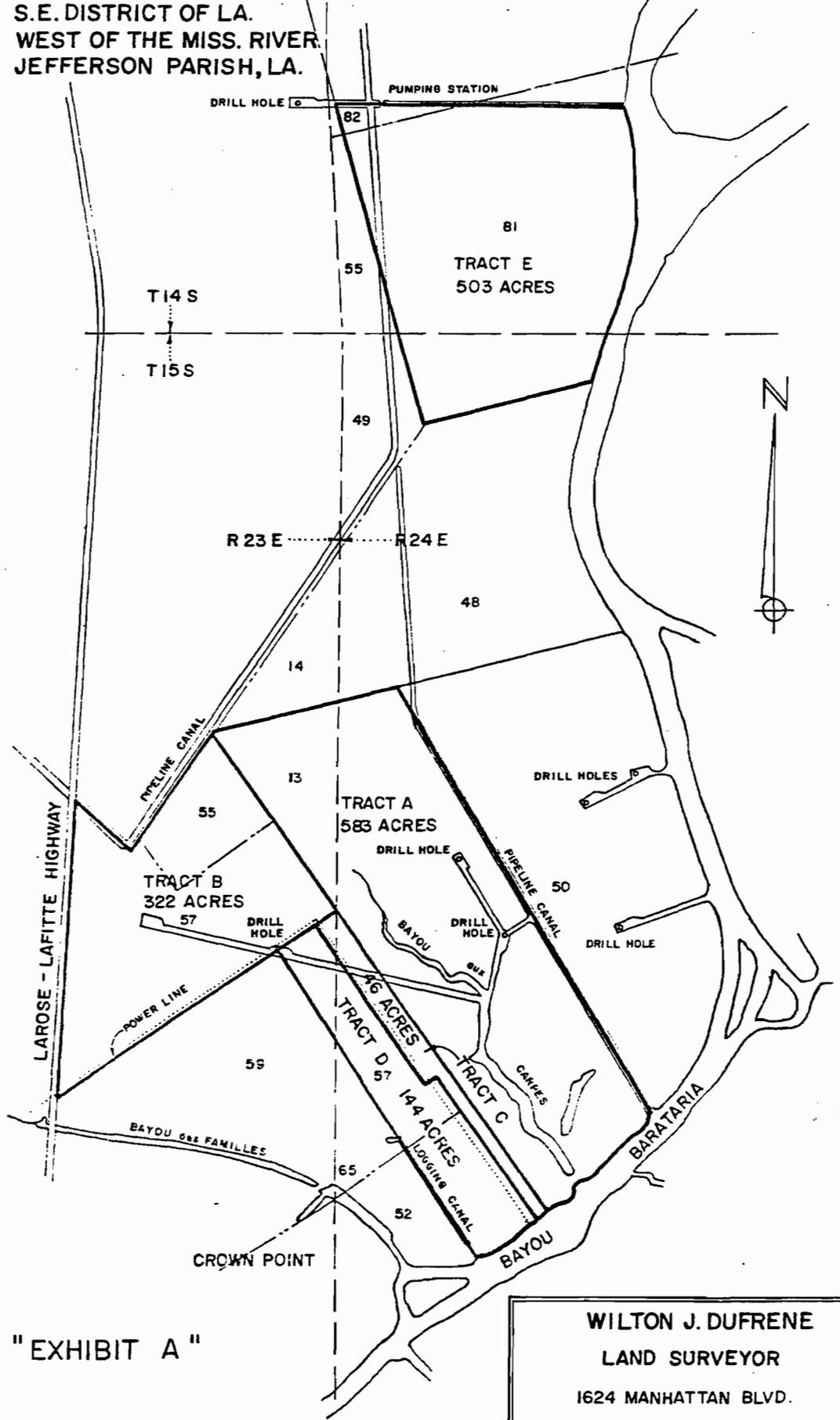
MARRERO LAND AND IMPROVEMENT
ASSOCIATION, LTD.

BY:

N. Buckner Barkley, Jr. by *K.M.H.*
N. Buckner Barkley, Jr. *Exec. V.P.*
President

R 23 AND 24 E, T 14 AND 15 S
S. E. DISTRICT OF LA.
WEST OF THE MISS. RIVER.
JEFFERSON PARISH, LA.

" TRACED FROM THE BERTRANDVILLE QUADRANGLE "



" EXHIBIT A "

WILTON J. DUFRENE
LAND SURVEYOR
1624 MANHATTAN BLVD.
HARVEY, LA. 70059



STEIMLE & ASSOCIATES, INC.
ENGINEERS, ECOLOGISTS, PLANNERS • SPECIALIZING IN THE ENVIRONMENT

P. O. BOX 865 • METAIRIE, LOUISIANA 70004 • (504) 831-2574

August 16, 1985

Mr. Buckley Barkley
Marrero Land & Improvement Association, Ltd.
P. O. Box 605
Marrero, Louisiana 70073

Re: EPA Clean Water Act Section 404 (C)
Bayou Aux Carpes Study

Dear Mr. Barkley:

We have reviewed the above captioned study and other studies completed in connection with the proposed 404 (C) action. Based on the contents of the EPA "Athens" study, very little or no direct data or observations were made on the 503 acre Estelle tract in the northern portion of the study area. The degree of hydrologic connection between this tract and the southern portion of the study area is not established by the study. The contribution of this area to the observed nutrient export and fishery nursery functions found in the sampling which was conducted primarily on the Crowell tract has not been established. Without these data, no findings as to the value of this tract relative to the study area functions outlined in the EPA report can be made.

The lack of information on the hydrologic regime of the Estelle tract coupled with the absence of water quality and biological data do not allow for an evaluation of its contribution to the Barataria estuary fishery resources. The EPA study tends to apply generalized wetland values to the entire study area, sometimes in contradiction of the data gathered and sometimes in the complete absence of data, such as with the Estelle tract. For more specific comments about our review of the studies in this area, we have enclosed a copy of a letter to Mr. Joseph E. LeBlanc dated August 16, 1985.

Should you have any questions or require any additional information, please do not hesitate to call. With best regards, I am,

Sincerely yours,

STEIMLE & ASSOCIATES, INC.

Michael F. Rayle
Michael F. Rayle
Biologist

MFR:fsh

Enclosure

"EXHIBIT B"

480596

FEB 13 1971
RECORDS
JEFFERSON PARISH, LA.
058

D E E D

HARVEY CANAL - BAYOU BARATARIA LEVEE

KNOW ALL MEN BY THESE PRESENTS that:

WHEREAS, the undersigned party owns the property indicated below fronting on Bayou Barataria and/or the Harvey Canal in Jefferson Parish:

<u>NAME OF OWNER</u>	<u>PROPERTY DESCRIPTION AND ACQUISITION</u>
MARRERO LAND AND IMPROVEMENT ASSOCIATION, LIMITED.	That portion of property in Sections 44, 56 and 81 in T14S, R24E, and part of Sections 48 and 52, T15S. R24E, Jefferson Parish, Louisiana.

Being a portion of the same property acquired by Marrero Land and Improvement Association, Limited, in the suit of Marrero Land and Improvement Assn., Ltd. Vs. Emma Boning, widow of Horace H. Harvey, et als, No. 18032 of the docket of the Twenty-Fourth Judicial District Court, by Sheriff's Deed dated June 12th, 1948, registered in COB 256, folio 636, of the Conveyance Records of the Parish of Jefferson, State of Louisiana.

WHEREAS, the U. S. Corps of Engineers has agreed to build a levee and certain drainage ditches on a portion of the property owned by the said property owner on condition that proper rights-of-way be granted by said owner to the Parish of Jefferson; and

WHEREAS, the said owner desires to cooperate with the U. S. Corps of Engineers in connection with the above stated project and in connection therewith desires to grant the servitudes indicated below; and

WHEREAS, the U. S. Corps of Engineers has developed plans and specifications for the construction of said levee, which plans and specifications are captioned "U. S. Army Engineer District, New

COB. BOOK FOLIO SEC.
711 325 1

"EXHIBIT C"

480596

- 2 -

Orleans, Harvey Canal-Bayou Barataria Levee, New Levee, Phase 1', copies of which plans and specifications are on file in the Office of the United States Corps of Engineers at the foot of Prytania Street in New Orleans and are hereinafter for convenience referred to as "SUBJECT PLANS AND SPECIFICATIONS"; and

WHEREAS, the construction of said levee upon said property donated by the undersigned party is for the general good and benefit of all the citizens and property west and north of Bayou Barataria-Harvey Canal.

NOW, THEREFORE, the above named party (hereinafter referred to as "GRANTOR") hereby donates and grants to the Parish of Jefferson (hereinafter referred to as "GRANTEE") a perpetual easement or servitude in, on, over and across the property colored red (for levee construction and maintenance) and the property colored blue (for drainage ditches) shown on Sheets Nos. 2, 4 & 6 of 7 on the right-of-way plan prepared by the U. S. Corps of Engineers for the Harvey Canal-Bayou Barataria Levee Project dated September, 1968 as revised through May 15, 1969 (File No. H-824747), a copy of which plans are attached hereto and made a part hereof, said servitudes or easements being granted for the purpose of constructing, maintaining and operating the Harvey Canal-Bayou Barataria Levee and drainage ditches constructed in connection with said project.

Grantor hereby further grants to Grantee a temporary servitude for a period of five (5) years from the date of this instrument or until Phase I of the contemplated construction under the subject plans and specifications is completed across this property, whichever is earlier, in, on, over and across those areas shown on the above-mentioned plan

BOOK FOLIO SEQ.

711 325 2

prepared by the U. S. Corps of Engineers indicated as disposal, construction or borrow areas on said plan, which disposal, construction and borrow areas are shown by cross-hatching or shading. The disposing, burying or burning of all disposal within the servitude shall be in accordance with the subject plans and specifications.

It is understood and agreed that all timber standing on the property subject to said servitudes or easements after the awarding of the construction contract may be disposed of by the contractor without reimbursement to the owner.

It is further understood and agreed that all utility installments, and any other buildings or structures within the work limits of the said project will be removed or relocated prior to the beginning of construction at the expense of the Parish of Jefferson.

Notwithstanding the granting of the servitudes as herein provided, Grantor shall, in all events, and Grantor does hereby reserve unto itself, its successors, transferees and assigns, the right, at any time, to

- "(a) Cause to be constructed over and across any levee constructed on said servitudes, at an elevation 6.0 feet above Mean Sea Level or higher at Grantor's option, roads, streets, utilities, pipelines, conveyors, conduits, cables, bridges, ramps, marine ways, wharves, piperacks, platforms and other improvements for purposes of ingress and egress to the Harvey Canal (Intracoastal Waterway) or Bayou Barataria from all areas to the West and North of the proposed new levee; provided an application for the proposed work is submitted and permit secured prior to performance of the work and approval by the Corps of Engineers, the State and Parish; and
- "(b) To construct and erect buildings or other improvements, whether the same be temporary or permanent type construction, on the existing levee itself, to be constructed under

the Harvey Canal-Bayou Barataria Levee Project, or abutting same, for the utilization of the waterfront, or to remove the levee for the purpose of building a slip or slips from the Harvey Canal (Intracoastal Waterway) or Bayou Barataria into the adjacent property, provided other forms of protection as described in (C) below are constructed in order that the 'integrity of the levee' as hereinafter defined is preserved and provided further that free access to the levee is provided at all times; and

- "(c) To preserve the integrity of the levee by relocating and constructing an equivalent earthen levee; or by filling land areas adjacent to the levee; or by constructing preserved wood, steel or concrete bulkheads backfilled with earth; or by constructing steel or sheet pile walls; or by constructing concrete floodwalls, separate from or integral with the proposed structures; all providing protection to an elevation of 6.0 feet above mean sea level or higher, at Grantor's option, connecting with the existing levee at both sides of the proposed construction; provided an application for the proposed work is submitted and permit secured from the proper Federal or State agency, whether it be the Corps of Engineers, the State of Louisiana, the Parish of Jefferson, or a combination thereof, prior to performance of the work."

It is further understood and agreed that the fee ownership of all the above described property, including all minerals, shall be reserved to Grantor.

The consideration for the granting of the above mentioned servitudes or easements is hereby declared to be the construction by the Jefferson Parish Council of Jefferson Parish, Louisiana, of a 24' wide vehicular bridge, of piling and concrete construction,

spanning the Sixteenth Street Canal at the prolongation of McArthur Street to provide access to Grantor's property as shown on Sheet No. 2 above referred to, to be constructed prior to cutting of said "drainage ditch" into Sixteenth Street Canal; and also the benefits and improvements to be derived by Grantor and the other citizens and property owners mentioned, and the enhanced value resulting to their properties which will accrue as a result of the said Harvey Canal-Bayou Barataria Levee Project.

NOW, TO THESE PRESENTS, COMES AND INTERVENES the JEFFERSON PARISH COUNCIL OF JEFFERSON PARISH, LOUISIANA, through its Chairman, CHARLES J. EAGAN, JR., which accepts this instrument and the rights granted therein, and binds and obligates the JEFFERSON PARISH COUNCIL OF JEFFERSON PARISH, LOUISIANA, to its obligations herein.

Executed this 17th day of NOVEMBER, 1969.

WITNESSES:

Harry B. Bibe
Robert A. Boudreau

MARRERO LAND AND IMPROVEMENT ASSOCIATION, LIMITED,

BY Louis H. Marrero, III
LOUIS H. MARRERO, III, PRESIDENT

Bilda M. Staples
Carolyn A. LaGrange

PARISH OF JEFFERSON
BY Charles J. Eagan, Jr.
CHARLES J. EAGAN, JR.,
Chairman, JEFFERSON PARISH COUNCIL
OF JEFFERSON PARISH, LOUISIANA.

On motion of Mr. Molaison, seconded by Mr. C.M. Miller, the following resolution was offered:

RESOLUTION NO: 15407

A resolution accepting a servitude granted by Marrero Land & Improvement Association, Ltd. to the Parish of Jefferson for the construction of the Harvey Canal-Bayou Barataria Levee across property owned by Marrero Land & Improvement Association, Ltd.

THE JEFFERSON PARISH COUNCIL HEREBY RESOLVES:

SECTION 1. That this Council accept on behalf of the Parish of Jefferson and the public in general a servitude granted by Marrero Land & Improvement Association, Ltd. for the construction and maintenance of the Harvey Canal-Bayou Barataria Levee Project in the form set forth in a deed dated November , 1969, a copy of which is annexed hereto.

SECTION 2. That Charles J. Eagan, Jr., Chairman of the Jefferson Parish Council, be authorized to execute an acceptance of said servitude in accordance with the foregoing and to sign the instrument referred to above on behalf of the Parish of Jefferson.

The foregoing resolution having been submitted to a vote, the vote thereon was as follows:

YEAS:	7
NAYS:	None
ABSENT:	None

The resolution was declared adopted this the 20th day of November, 1969.

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY.

Frank J. Deemer

FRANK J. DEEMER, PARISH CLERK
JEFFERSON PARISH COUNCIL

tal/ds
11/18/69

RESOLUTION OF THE BOARD OF DIRECTORS
MARRERO LAND AND IMPROVEMENT ASSOCIATION, LIMITED,
MARRERO, LOUISIANA

On motion duly made, seconded and carried, the following resolution was adopted:

RESOLVED: That either LOUIS H. MARRERO, III, President, DOLORES M. HAMMETT, First Vice-President, or ELODIE M. BARKLEY, Second Vice-President of this Corporation, be, and they are hereby authorized, empowered and instructed for and on behalf of Marrero Land and Improvement Association, Limited, to enter into contracts of sale and authorized to sell, for and on behalf of this Company, real estate owned by it, and to sell same either for cash, or on credit secured by Vendor's lien and Mortgage notes.

RESOLVED FURTHER: That they are hereby authorized, empowered and instructed to receive the necessary purchase price for the sale of the property of this Company, and to grant full acquittance and discharge in any and all acts of sale signed by them on behalf of this Association.

RESOLVED FURTHER: That the President of this Corporation, is also hereby authorized, empowered and instructed for and on behalf of Marrero Land and Improvement Association, Limited, to carry on negotiations for the leasing of properties belonging to Marrero Land and Improvement Association, Limited, for such purposes as he may deem fit and proper, and especially for the purpose of entering into oil, gas and mineral leases, and to sign same with full authority to act as granted to him by this resolution.

RESOLVED FURTHER: That the action of the President, First Vice-President, or the Second Vice-President, in carrying out any of the provisions of the foregoing resolution, be, and the same is hereby ratified, affirmed and approved.

I, the undersigned, do hereby certify that the above and foregoing is a true and correct copy of a resolution of the Board of Directors of MARRERO LAND AND IMPROVEMENT ASSOCIATION, LIMITED, adopted at a regular meeting held March 8th, 1961, at which said meeting all members of the Board of Directors were present, and that the same is still in full force and effect, and that it has never been vacated, amended or recalled.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the MARRERO LAND AND IMPROVEMENT ASSOCIATION, LIMITED, on this the 8th day of March, 1961.

Jane M. Walker
SECRETARY

480-596

RESOLUTION OF THE BOARD OF DIRECTORS OF
MARRERO LAND AND IMPROVEMENT ASSOCIATION, LTD.

BE IT RESOLVED that this corporation execute in favor of the Parish of Jefferson a servitude for the construction, maintenance and operation of the Harvey Canal-Bayou Barataria Levee and related drainage ditches across the following described property:

That portion of property in Sections 44, 56 and 81 in T 14 S, R 24 E, and part of Sections 48 and 52, T 15 S, R 24 E, Jefferson Parish, Louisiana, acquired COB 256 Folio 636, Parish of Jefferson.

BE IT FURTHER RESOLVED THAT Louis H. Marrero, III, President of this corporation, be and he is hereby authorized and empowered to execute the aforesaid servitude in the form attached hereto, and further any acts or documents heretofore signed by the said President of this corporation are hereby ratified, confirmed and approved.

C E R T I F I C A T I O N

I, the undersigned, do hereby certify that the above and foregoing is a true and correct copy of a resolution of the Board of Directors of Marrero Land & Improvement Association, Ltd. adopted at a regular meeting held on the 11th day of MARCH, 1970, at which said meeting all members of the Board of Directors were present, and that the same is still in full force and effect, and that it has never been vacated, amended or recalled.

Jesse M. Walker
Secretary

RESOLUTION OF THE BOARD OF DIRECTORS OF
MARRERO LAND AND IMPROVEMENT ASSOCIATION, LTD.

BE IT RESOLVED that this corporation execute in favor of the Parish of Jefferson a servitude for the construction, maintenance and operation of the Harvey Canal-Bayou Barataria Levee and related drainage ditches across the following described property:

That portion of property in Sections 44, 56 and 81 in T 14 S, R 24 E, and part of Sections 48 and 52, T 15 S, R 24 E, Jefferson Parish, Louisiana, acquired COB 256 Folio 636, Parish of Jefferson.

BE IT FURTHER RESOLVED THAT Louis H. Marrero, III, President of this corporation, be and he is hereby authorized and empowered to execute the aforesaid servitude in the form attached hereto, and further any acts or documents heretofore signed by the said President of this corporation are hereby ratified, confirmed and approved.

CERTIFICATION

I, the undersigned, do hereby certify that the above and foregoing is a true and correct copy of a resolution of the Board of Directors of Marrero Land & Improvement Association, Ltd. adopted at a regular meeting held on the 11th day of MARHC, 1970, at which said meeting all members of the Board of Directors were present, and that the same is still in full force and effect, and that it has never been vacated, amended or recalled.

Irene M Walker
Secretary

410396

ACKNOWLEDGMENT

STATE OF LOUISIANA
PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, a Notary Public in and for the aforesaid Parish and State, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared CHARLES J. EAGAN, JR., who, being by me first duly sworn, did depose and say:

That he signed the foregoing instrument for and on behalf of the Parish of Jefferson of his own free will and accord, as the Chairman of the Jefferson Parish Council.

IN WITNESS WHEREOF, said appearer has executed this acknowledgment in my presence and in the presence of the undersigned competent witnesses on this 17th day of November, 1969.

WITNESSES:

Wilder M. Stapler
Pauline A. LaGrange

Charles J. Eagan, Jr.
10/1

Fred M. St
NOTARY PUBLIC

A C K N O W L E D G M E N T

STATE OF LOUISIANA
PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, a Notary Public in and for the aforesaid parish and state, duly commissioned and qualified, personally came and appeared LOUIS H. MARRERO, III, who, being by me first duly sworn, did depose and say that he is the president of Marrero Land & Improvement Association, Ltd., and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that he acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, said appearer has executed this acknowledgment in my presence and in the presence of the undersigned competent witnesses on this 17th day of November, 1969.

WITNESSES:

Harry A. B. [unclear]
[unclear]

Louis H. Marrero, III
LOUIS H. MARRERO, III

Ferdinand M. [unclear],
Notary Public

ACCEPTANCE
OF
SERVITUDES

UNITED STATES OF AMERICA
STATE OF LOUISIANA
PARISH OF JEFFERSON

BE IT KNOWN, That on this 12th day of February,
in the year of our Lord one thousand nine hundred and seventy,
and of the Independence of the United States of America, the one
hundred and ninety-fourth;

BEFORE ME, FERDINAND M. LOB, a Notary Public in and for the
aforesaid parish and state, duly commissioned and qualified, and
in the presence of the undersigned competent witnesses, personally
came and appeared:

PARISH OF JEFFERSON, represented herein by
Charles J. Eagan, Jr., Chairman of the
Jefferson Parish Council, acting herein
under the authority contained in Resolution
No. 15407 adopted November 20, 1969 and
Resolution No. 15729 adopted February 5,
1970, certified copies of which are annexed
hereto;

Who declared that he does hereby accept for and on behalf of
the Parish of Jefferson, the inhabitants thereof and the public
in general the following servitudes granted to the Parish of
Jefferson for the construction and maintenance of the Harvey Canal-
Bayou Barataria Levee Project:

<u>Names of Owners</u>	<u>Date of Servitude</u>	<u>Property Description</u>
Dormal of Louisiana, Inc., et al.	6/2/69	Part of Tracts A, B, C, D, E, F and G on a plan by Gandolfo, Kuhn & Associates, brought up to date as of October 29, 1968, situated in T 14 S, R 23 E and R 24 E, South-eastern District of La., West of the Mississippi River.

<u>Names of Owners</u>	<u>Date of Servitude</u>	<u>Property Description</u>
Foster E. Creppel and Eugene B. Pitre	5/1/69	Portion of Tract C, Peach Orchard Plantation
John J. Molaison, et al.	5/1/69	Portions of ground in the District of Barataria, in Sections 50, 51, 56, 59, 60, 61, 62, 63, 64, 58 and 76, T 15 S, R 24 E, and Section 13, T 15 S, R 23 E, as shown on plan by J. J. Krebs & Sons, Inc., dated December 15, 1967.
Albert D. Harvey, et al.	5/28/69	Portion of Tract 14 on a plan by L. H. Pilie dated January 2, 1860.

The aforesaid servitudes are being recorded in the Conveyance Records of Jefferson Parish simultaneously herewith.

THUS DONE AND PASSED in my office at Gretna, Louisiana, on the day, month and year hereinabove first written, in the presence of the undersigned competent witnesses, who hereunto sign their names with said appearer and me, Notary, after due reading of the whole.

WITNESSES:

Silda M. Staples
Carolyn A. LaGrange

PARISH OF JEFFERSON

By Charles J. Eagan, Jr.
Charles J. Eagan, Jr.
Chairman
Jefferson Parish Council

Ferdinand M. LaF
NOTARY PUBLIC

LAW OFFICE
NELKIN & PICKLE
(A PROFESSIONAL CORPORATION)
2217 INTERNATIONAL TRADE MART BUILDING
2 CANAL STREET
NEW ORLEANS, LOUISIANA 70130

JOSEPH W. NELKIN**
WARREN J. PICKLE*
PETER H. GRABER*

(504) 581-7452

MARYLAND OFFICE
506 ONE EAST LEXINGTON BUILDING
EAST LEXINGTON & NORTH CHARLES STREETS
BALTIMORE, MARYLAND 21202
(301) 625-0112

August 19, 1985

*ADMITTED LOUISIANA
**ADMITTED DISTRICT OF
COLUMBIA, LOUISIANA,
MARYLAND

RECEIVED
AUG 21 1985
OFFICE OF THE
ATTORNEY GENERAL
EPA HEARING

Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

ATTENTION: Mr. Paul Seals

RE: Proposed Section 404(c)
Bayou Aux Carpes
Swamp Area

Dear Mr. Seals:

This letter is being submitted to you in reference to the above captioned matter 33 U.S.C. §1251 et seq. §404(c) public comments pursuant to the Hearing of June 18, 1985, on Bayou Aux Carpes. I am writing to you in my capacity as President of the Crown Point Civic Corporation.

The Crown Point Civic Corporation wishes to once again go on the record as vehemently opposing the completion of the Bayou Aux Carpes pumping station in connection with the Harvey Canal-Bayou Barataria Flood Protection Levee. Reference is made herein to the letter of July 23, 1976, from Ms. Diane Ribando to Major General John W. Morris of the Army Corps of Engineers setting forth the Crown Point Civic Corporations opposition to the project. Nine years have now passed since this letter, and in fact, eighteen years have passed since this project was first proposed. The Crown Point Civic Corporation continues to oppose the completion of the project as proposed, as it has throughout.

The public hearing of June 18, 1985, made it patently clear that the true reason for the proposal of this project is not related in any manner to hurricane protection, but is merely to drain and fill privately owned land at public expense for the benefit of a few land owners. The Crown Point Civic Corporation opposes the completion of this project for the following reasons to-wit:

1. Draining the area in question would destroy a productive wet-land and most likely mean

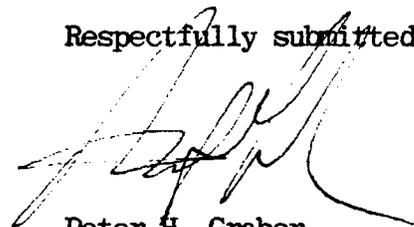
Page 2
August 19, 1984
RE: Bayou Aux Carpes Project

the eventual destruction of the Barataria Unit of the Jean Lafitte National Historical Park, said park being intended to provide an example of marsh land for visitors of the region.

2. Public money should not be allowed to be used for a speculative drain and fill project by a group of persons who exerted political influence to obtain the commencement of the project in the first place.
3. Draining Bayou Aux Carpes would have a significant adverse effect upon surrounding acreage not within the National Park; namely, the significant possibility of soil subsidence resulting in severe damage to existing homes and flooding of areas that are presently not subject to flooding under ordinary circumstances.
4. Drainage of the Bayou Aux Carpes area will have a significant impact upon plant and animal life indigenous to the region.
5. The drainage of the Bayou Aux Carpes area will have the effect of destroying a natural wildlife area that is used by thousands of hunters and campers who wish to preserve this naturalist state, as there is no other comparable camping and hunting area available for such persons within the Southeast Louisiana region.

For the foregoing reasons, the Crown Point Civic Corporation concurs with the proposed determination of May 10, 1985, by the Environmental Protection Agency, and further would hereby go on public record that the proposed determination be made final, thus prohibiting the completion of the Bayou Aux Carpes Project.

Respectfully submitted,



Peter H. Graber,
President
Crown Point Civic Corporation

PHG/ja

CLEAN WATER ACT
Section 404(c) Evaluation

BAYOU AUX CARPES
LOUISIANA



U.S. ENVIRONMENTAL PROTECTION AGENCY
Region 6
Dallas, Texas

September 1985

PART III

CONSULTATION, CONTINUED

B.3 RESPONSIVENESS SUMMARY AND DISTRIBUTION LIST

Environmental Protection Agency
1201 Elm Street
Dallas, Texas

RESPONSIVENESS SUMMARY

August 30, 1985

Bayou aux Carpes Section 404(c) Proceeding

Notice of the EPA Region 6 Proposed Determination and Public Hearing was given by publication May 17, 1985 in the FEDERAL REGISTER, extensive mailings and publication in newspapers of general and local circulation. Prior to the hearing EPA mailed a follow-up notice to major media outlets in the area.

At the public hearing in Gretna, Louisiana, EPA's presentations on the proposed determination was followed by presentations of (1) the National Park Service which strongly supported the proposed determination on the basis of preservation of water quality and other habitat values in the Jean Lafitte National Park and recreational (visitor) use of the park and (2) the U.S. Fish and Wildlife Service report on its Habitat Evaluation Procedure study of the 404(c) tract. In addition, twenty (20) other persons made presentations at the public hearing. Fourteen of these supported the Proposed Determination; six opposed it. Two of those supporting the Proposed Determination represented federal agencies; one represented a Louisiana state agency.

By the close of the comment period, EPA received comments from eighty-one persons on the Proposed Determination as well as comments from federal, state and local agencies. Some of these commentators made statements at the public hearing as well. Comments are summarized and responded to below. All comments are grouped to the extent possible, according to common subject areas for ease of response. This grouping is not meant to indicate any special significance or lack of significance of any comment.

All comments have been carefully considered in reaching the recommended determination. EPA appreciates the contributions of all participants.

A. Comments in Support of the Proposed Determination

1. Implementation of the original Harvey Canal-Bayou Barataria project would result in a loss of habitat in an area which (1) supports numerous species of fish, (2) provides important game and non-game animal habitat and (3) provides recreational use of wetlands due to the presence of abundant wildlife for use by hunters, fishermen, trappers and boaters.

Response: These comments regarding habitat quantity and quality are supported by EPA's field work as reflected in the report of the EPA's Athens, Georgia, field team (the Athens report) and the Fish and Wildlife Service's Habitat Evaluation Procedure report (HEP analysis). Copies of these reports are available at the address listed above. In addition, a discussion of the fish and wildlife habitat values of the study area is contained in the August 30, 1985 Recommended Determination. Use of the waterways for boating and fishing was also deserved by EPA staff during site visits and field work.

II. A number of commenters stated that the 404(c) area is an important link in the commercial seafood production chain as a spawning, nursery and feeding habitat for fish and shellfish and as a source of detritus and nutrients to the aquatic food chain.

Response: EPA's field work (see Athens report) as well as the findings of other scientists indicates that the study area does provide spawning, nursery and feeding habitat for fish and shellfish and a source of detritus and nutrients to the aquatic food chain. The reader is referred to the Recommended Determination for details.

III. A number of commenters noted the proximity of the Section 404(c) study area to the Jean Lafitte National Historical Park and that implementation of the original project including in particular, blocking of Bayou des Familles or other development activities including deposition of dredge or fill material in the study area would compromise the park quality, increase environmental stress on the park. These comments propose that the park should be protected for future generations to experience.

Response: These comments are confirmed and supported by the study, "A Study of the Effects of the Proposed Leveeing and Drainage of the Bayou aux Carpes Swamp on the Barataria Unit, Jean Lafitte National Historical Park" by Dr. John Day, performed for the Parks Service, the statement of Park Director, Mr. James Isenogle, at the Public Hearing, and written comments of the Park Service. EPA accepts these findings as to the impact on the Park. Dr. Day's study is available at the address listed above and is discussed in the Recommended Determination.

IV. A number of commenters noted that maintenance of the 404(c) area in its present state contributes to employment through fishing, trapping and related activities.

Response: While economic considerations and employment are not criteria specifically listed in Section 404(c) which EPA may consider, these comments are supported by studies of various Louisiana scientists who have documented the economic values of fishing (and to a degree trapping) and related activities in the Barataria Basin. Some of those findings are included in the Recommended Determination.

V. A number of commenters noted the aesthetic value of cypress trees and other vegetation types as a reason for not allowing deposition of dredge or fill material or other destruction of the 404(c) area habitat.

Response: While aesthetic values are not a criterion listed in Section 404(c) which EPA may consider the data on visitation of that part of the Barataria unit of Jean Lafitte National Park which is similar to the 404(c) tract tends to substantiate the aesthetic value of such habitat.

VI. A number of commenters noted that in its current state the Section 404(c) study area provides flood protection because it serves as a buffer against flooding. They further state that, were it to be developed it would increase flooding hazards.

Response: EPA has supported flood protection as a legitimate need of the people and businesses of the West Bank of Jefferson Parish. In 1976, EPA agreed to implementation of a project involving a section of the 404(c) study area which would have provided flood protection and at the same time preserved the Bayou aux Carpes wetland area. In 1979, EPA endorsed a hurricane protection levee proposed by the Corps of Engineers for the West Bank. In 1984, EPA again endorsed a hurricane protection levee for the West Bank. EPA further believes that development of wetland areas of Jefferson Parish increases the potentials for flooding hazards of existing developed areas. One of the reasons for this is that the the wetland areas in their natural state provide some degree of buffering of flood stages.

VII. A number of commenters stated that they believed that the development of the 404(c) study area incident to deposition of dredged or fill material in its wetlands is unnecessary.

Response: EPA, in its discussion with Jefferson Parish on the Marerro-Lafitte waterline proposal in the 1970s believed that there was adequate developable land on the West Bank without the necessity of developing wetlands including those of the subject study area. This finding was confirmed by the Corps of Engineers in its 1980 denial of the permit application by Jefferson Parish to complete the original Bayou Barataria-Harvey Canal project.

VIII. One commenter believed the development of the study area would result in unacceptable, adverse impacts on fish and wildlife resources and their habitat.

Response: As evidenced by this recommended determination and the underlying data, EPA has reached the same conclusion.

IX. Some commenters supported the proposed determination and proposed that the dams placed at the mouths of Bayou aux Carpes and Bayou des Familles be removed.

Response: The object of the current proceeding is to ascertain whether or not, given the requirements of Section 404(c), there should be allowed future deposition of dredged or fill material in any wetlands within the subject area or in any waters of the United States in the subject area. EPA's involvement in the Harvey Canal-Bayou Barataria project commenced after the first lift of the levee along Bayou Barataria had been placed and after the dams in question had been constructed. EPA's policy is that the Section 404(c) authorities can only be used to prevent discharges. EPA's current responsibility is to ascertain whether or not the factors giving rise to meeting the Section 404(c) criteria are present so as to preclude the future deposition of dredged or fill material in the study area. Parenthetically, EPA has supported a modified version of the Harvey Canal-Bayou Barataria project which, if implemented would substitute flood gates for the two dams.

X. A number of commenters noted that the Harvey Canal-Bayou Barataria project even if implemented would not provide flood protection.

Response: EPA supported a modified version of the Harvey Canal-Bayou Barataria project in the belief it would help prevent flooding at that time. However, EPA believes there is evidence that wetlands such as the study area provide a natural buffer for flood waters under some circumstance.

B. Comments of those opposed to the Proposed Determination

I. A number of commenters stated that economic development considerations required the implementation of the original project to provide hurricane and flood protection which was needed.

Response: EPA has historically supported flood protection as a legitimate need of the people and businesses of the West Bank of Jefferson Parish. EPA has previously supported a modified version of the Harvey Canal-Bayou Barataria project which would provide flood protection and hurricane protection without, however, incorporating the land reclamation features of the original proposal. In any event economic development and flood protection are not specific factors for EPA consideration under Section 404(c).

II. A number of commenters stated that implementation of the original project was necessary because of a shortage of developable land on the West Bank and that development of the subject tract was vital to economic development of the West Bank of Jefferson Parish.

Response: Economic development is not a criteria listed under Section 404(c) which EPA may take into consideration. Moreover, as noted above (See Comment A VII and Response, above) the Corps of Engineers have previously determined that there is available developable land on Jefferson Parish without intruding into wetlands.

III. Some commenters stated that the public interest required that EPA not carry through on its Proposed Determination.

Response: The language of Section 404(c) refers only to environmental factors. The Clean Water Act elsewhere provides for EPA to consider other factors (such as costs) in establishing criteria for EPA's consideration in its decision-making on other, non-404(c) matters. Thus, EPA, in exercising its authority under Section 404(c) is not required to balance environmental against non-environmental factors. Parenthetically, we note that the Corps of Engineers in 1980, in ruling on a permit application by Jefferson Parish to complete the Harvey Canal-Bayou Barataria project ruled that such was not in the public interest.

IV. One commenter stated that he had not adequate opportunity to present his views in the Section 404(c) proceeding up to the time of the public hearing.

Response: EPA extended the public comment period through and including August 19, providing approximately sixty days after the public hearing for interested parties to review relevant documents and provide comments. In addition the EPA's Section 404(c) regulations specifically provides for consultation with interested parties in the event a recommended determination is made to the Administrator of the agency as in the present case.

V. One landowner made the following comments which will be responded to in sequence.

- a. That EPA's data supporting the Proposed Determination was independent of and not specific to the landowner's tract.

Response: EPA disagrees with this comment in the following particulars. The color infrared photography and the narrative interpretation with ground truthing throughout the subject tract is direct data supporting the proposed determination and this recommended determination. In addition, EPA made one helicopter overflight of the entire tract, and at least two transects were made over the particular landowner's acreage in the course of performing the Habitat Evaluation Procedure (HEP) Analysis. In addition, fish

sampling by the Fish and Wildlife Service as part of the HEP analysis took place immediately adjoining both sides of this particular landowner's tract. With respect to hydrological considerations, EPA's water sampling stations were set strategically to gather transport data on the entire tract, there being no topographical data to indicate that this particular landowner's tract was isolated from the waterways of the tract. Moreover, wetland species grow in the northern part of the particular landowner's tract which would indicate that the hydrological situation permits flooding of sufficient frequency to support that vegetation. The source of this water is Bayou Barataria according to EPA studies (see the Athens report).

- b. This commenter expressed concern about statements made at the public hearing suggesting that completion of the project was some sort of devious plan for land development.

Response: While the Harvey Canal-Bayou Barataria project was originally in part a flood control project, one of its equal original purposes was land reclamation. In fact, land reclamation was one source of benefits upon which it was justified.

- c. This commenter further stated that given the partial completeness of the original project, the landowner had a constitutional right and equitable right to have the project completed.

Response: As found by the two federal courts which have reviewed this project, the Corps of Engineers' November 16, 1976 decision to modify the project brought it into conformity with existing environmental regulation.

- d. This commenter stated that (in contrast to his earlier comment with respect to the "devious plan for land development") the adverse environmental effects EPA seeks to prevent, drainage and development, were the very benefits that were the primary justification for the project and were the basis on which the public monies were spent. This commenter challenges EPA's use of Section 404(c) to force abandonment of the project.

Response: See response to preceding comment.

- e. This commenter stated that EPA's Proposed Determination was at odds with its own scientific findings and observations.

Response: The commenter provided no details of such inconsistency and EPA is not aware of any. EPA believes that the level of study and the implementation of the data are appropriate and suitable for the decision being made. EPA would require more specific information about the perceived inconsistencies in order to provide a more detailed response. See also response to V(c) above.

VI. The representative of additional landowners made a number of comments which are summarized and responded to hereafter.

- a. The background of this matter including the facts that it was originally a federally supported project, assurances of local cooperation were provided, the landowners contributed servitudes for the levees, bond issues were passed and construction was initiated, all provide appropriate background and compelling reasons why that EPA should not now impose §404(c) veto.

Response: All of the above factors and others relating to partial completion of the project were considered by both the United States District Court and the Court of Appeals for the Fifth Circuit at the urging of these same landowners. All of these factors were at least implicitly if not explicitly rejected as reasons to go forward with the original project by both Courts. Both Courts further approved the decision-making of the Corps of Engineers leading to adoption of the modified project by General Wilson in November 1976.

The Court of Appeals for the Fifth Circuit also determined that issues remained unanswered relating to availability of local assurances as to the modified project and the application of Section 404(c) to the original project. The Fifth Circuit could not determine from the record before it "...whether further proceedings in the district court would be appropriate or whether it is necessary to remand the case to the Corps to supplement the record and determine whether the EPA will exercise its veto authority." Further proceedings in the district court, and supplementation of the record by the Corps, were followed by Judge Mitchell's rulings in 1984 which gave EPA the opportunity to commence this proceeding, which is a direct response to one issue raised by the Fifth Circuit.

- c. This landowner characterizes Judge Mitchell's August 13, 1984 ruling as a summary judgment in favor of the landowner.

Response: Judge Mitchell issued a ruling which by its terms is not clear as to whether it is a summary judgment or something else. As originally issued, it did not deal with the Section 404(c) issue raised by the Fifth Circuit.

- d. These landowners comment that Judge Mitchell followed the mandate of the Fifth Circuit in holding that the project must be completed with the pump station as a matter of law.

Response: The Fifth Circuit ruling specifically contemplated the possibility of an EPA veto of the original project pursuant to §404(c). Further, EPA is not in the present instance forcing a modification of the original project which in fact it agreed to in 1976. On the contrary, EPA is now exercising independent Clean Water Act authority as the Fifth Circuit contemplated it might. At this stage the degree of completion of the original project is irrelevant.

- e. These landowners comment that EPA has improperly defined and construed the unacceptable adverse effects language of §404(c) to an unacceptably narrow degree such that it precludes a balancing process which they claim is essential to a determination of whether effects are or are not unacceptable.

Response: EPA has defined unacceptable adverse effect to include an element of significance (which the landowners concede) thereby including some element of balancing in its considerations. However, as discussed above (see Comment III opposed to the proposed determination) EPA is not required by the language of Section 404(c) to balance environmental against non-environmental factors. The cases cited by the landowners in support of their proposition involve statutory language and regulatory schemes different from §404(c).

- f. These landowners further comment that EPA's proposed determination published on May 17 is a culmination of a predetermined and pre-judged decision which EPA rushed to publication. The implication is that the decision was made arbitrarily.

Response: EPA Region 6 staff had a continuing participation and involvement with other governmental scientists who were performing field work and other information gathering up to the time that final reports were available to EPA Region 6 and to the landowners simultaneously at the time of the public hearing. The fact that EPA, to meet a court ordered deadline, issued a notice of its proposed determination before receiving final versions of the reports reflects an effort to meet the deadline, not a pre-determined outcome. The May 10, 1985 notice followed several months of investigative work. The proposed determination was also based upon previous studies and information acquired before the instant proceeding commenced. The record further reflects attempts on the part of EPA to cooperate with the landowners. On June 6, 1985, they asked for an opportunity to review EPA's records. The landowners were allowed to review all records, including draft reports before the June 18 public hearing.

- g. These landowners comment that EPA failed to solicit comments on corrective actions which might have been proposed, referencing 40 C.F.R. Section 231.4(a).

Response: The relevant language of Section 231.4(a) encourages interested parties to comment upon whether the proposed determination should become final and corrective action that could be taken to reduce the adverse effects. EPA's Public Notice of May 17, 1985 focused upon the question whether the proposed determination should become final but did not discourage other comments.

- h. These landowners comment that the proposed determination of May 10, 1985, was not supported by the evidence relied upon by the EPA.

Response: EPA disagrees with this comment and refers the landowners to the various reports previously provided them which EPA is convinced strongly and firmly support the proposed determination and the instant recommended determination. Moreover, EPA refers these landowners to the findings and conclusions of the Corps of Engineers in its 1980 disposition of a Jefferson Parish application for a §404 permit to complete the original project.

- l. These landowners further comment that the land purchase proposal to the Park Service was and is a proposal for project modification that deserves further inquiry by EPA.

Response: EPA believes it would be improper to inject itself into the internal deliberations of the Department of the Interior, that Department having expressed itself on the proposal. EPA decisions under Section 404(c) of the Clean Water Act do not preclude acquisition consideration by the Department of Justice.

- m. These landowners further comment that EPA has failed to explore or broach any alternative proposals which might help to mitigate the alleged effects to an acceptable level.

Response: Throughout EPA's involvement in this matter, it has informally solicited specific proposals from the landowners. Absent any such proposal (except the purchase proposal), EPA has felt that it was fully aware of the views of the landowners on the matters herein as evidenced by their participation in litigation and their proposal to the Park Service which, if acceptable to the Park Service, would deal with only a fraction of the 404(c) study area.

- n. One landowner asserts that the flooding has occurred in the residential area along Bayou des Familles and infers it is attributable to lack of a completed Harvey Canal-Bayou Barataria project.

Response: EPA reiterates that it supported a version of the project which preserved the included wetland resource and provided flood protection.

- o. This commenter stated that EPA's Proposed Determination was at odds with its own scientific findings and observations.

Response: See response to comment V.e, above.

C. COMMENTS OF THE CORPS OF ENGINEERS

By letter of August 15, 1985, the New Orleans District Corps of Engineers stated to EPA (as had been verbally indicated to EPA previously) that an area of the Bayou aux Carpes Swamp had been designated (with EPA consent in some form) as a Corps of Engineers dredge disposal site for the Gulf Intercoastal Waterway as shown on a drawing enclosed with the the letter. It was further stated this

segment of the waterway had never been dredged and likely would not require maintenance in the near future. The area indicated on the enclosed drawing would encompass a land area approximately one/fifth of the total acreage of the subject area, extending westward from Bayou Barataria from a point at the Estelle Canal on the north to Bayou aux Carpes on the south.

Response: EPA considers the instant recommended determination to be dispositive of any earlier views of EPA on the subject of deposition of dredge or fill material on the subject area hereafter and cannot agree to continued designation of the area adjacent to Bayou aux Carpes as a Dredge Disposal Site. The designated area is large enough to be significant relative to the 404(c) tract in its entirety. Further, use of the site for this purpose raises equitable problems if all other similar uses are prohibited.

MEMO TO FILE

DATE: June 27, 1985

SUBJECT: Follow-up to Bayou aux Carpes Public Hearing

FROM: Barbara A. Keeler ~~via~~
Technical Assistance Section (6ES-FT)

June 20, 1985 - returned call to Mr. Tommy Miller with Seispros (a geo-chem firm employed by Superior Oil). He wanted to know how the proposed 404(c) restrictions might affect oil and gas operations. I explained the 404(c) process, the decision currently being considered, and the effects on 404 activities of a 404(c) prohibition or restriction. Mr. Miller seemed to understand and requested a copy of my statement made at the public hearing, since he arrived late. He was going to advise Superior Oil about the situation.

June 26-27, 1985 -

<u>Mailed copies of</u>	<u>to</u>
Athens report	Mark Fulse Kim Bettinger Don Moore Sid Rosenthal Dave Williams Tommy Michot Jim Isenogle George Neusaenger
FWS-HEP	Mark Fulse Don Moore Sid Rosenthal Del Hicks Dave Williams Jim Isenogle
Las Vegas IR narrative	Don Moore Sid Rosenthal Del Hicks Tommy Michot Jim Isenogle
John Day Study	Don Moore Sid Rosenthal

June 28 - July 1, 1985

Rosemary Henderson will establish a public information depository with the University of New Orleans. The depository will contain copies of technical studies prepared by or for EPA, copies of Federal Register Notices and other pertinent information, as well as a copy of the public hearing transcript when it becomes available.

*Distribution List for Responsiveness Summary
and Recommended Determination*

Adrian H. Bulot, Jr.
Alan Punch
Allen Parks
Anthony P. Nuccio
Aubrey A. Guillot, Jr.
Barry Kohl
Benjamin C. Obi
Bo Ledit
Brenda Evans
C. Torres
Joan Phillips
Cecilia D. Stafford
Charles Laborie
Charlotte Fremaux
Clarisse White
Col. Eugene S. Whitherspoon
Conrad V. Mentjes
Coralie Good
Daniel L. Morrow
David & Cindy Freeman
David Marschall
Dean Christen
Denise Vallon
Desmond Gailbeau, Jr.
Diane Ribando
Dominick L. Nuceio
Dr. & Mrs. John E. Firestone
Dr. David A. White
Dr. Fritz Wagner
Dr. Howard Marshall
Dr. John K. Moore, Jr.
Dr. Lloyd F. Baehr
Dr. Tom Davidson
Dr. Tommy Michot
Ed Williams
Edgar F. Veillon
Edward Aliff
Ernest Tassin
Felix C. Maduka
Frank Monteferrante
Fred Langeman
Gary Couret
Gary Kelley
Gary W. Aliff
Gene M. Russell
General Thomas A. Sands
George E. Neusaenger
Gordon L. Reynolds
Greg Johnson
Gregory Breerwood
Harold L. Molaison
Henry Dart
Honorable Billy Tuzin
Honorable Bob Livingston
Honorable Edwin Edwards
Honorable J. Bennett Johnston
Honorable Russell B. Long
Howard Green
Irvin Goldman
J. E. Myers
J. C. Pisano
Jacques J. Creppel
James H. Finger

James Leeper
Jimmy & Linda Lassaie
John E. Parker
John P. Spera
Joseph I. Vincent
Joseph J. Krebs, Jr.
Joseph Rodriguez
Joseph Sellers
Judge John J. Molaison
Kathy A. Dyer
Kim M. Bettinger
Les Cheramie
Les Hammond
Lydia Guillot
Mary G. Curry Ph.D.
Mary Lee Plumb-Mentjes
Matt Schweisberg
Maurice E. Anderson II
Mike W. Olinde
Mimi Lapeyee
Mr. & Mrs. Burton L. Klein
Mr. & Mrs. Cortez
Mr. & Mrs. J. T. Goss
Mr. & Mrs. Lester L. Green
Mr. A. J. Planche
Mr. Allan Hirsch
Mr. Arvill Touchet
Mr. Blue Watson
Mr. Cornel Martin
Mr. David B. Allen
Mr. David E. Dearing
Mr. David R. Williams
Mr. David W. Fruge
Mr. Delbert B. Hicks
Mr. Don Moore
Mr. Edgar F. Veillon
Mr. Edward Couvillion, Jr.
Mr. Foster E. Creppel
Mr. Frank J. Ehret, Jr.
Mr. George Neusaenger
Mr. Gerald Pitre
Mr. Hoke S. Howard
Mr. Howard C. Green
Mr. Hubert Vondenstein
Mr. J. Burton Angelle
Mr. James E. Lawson
Mr. James L. Isenogle
Mr. Jay I. Green
Mr. Joe Leblanc
Mr. Joel Lindsey
Mr. John Meagher
Mr. John W. Day, Jr.
Mr. Joseph S. Yenni
Mr. Karl L. Morgan
Mr. Kirk Stark
Mr. Leroy Kiffe
Mr. Lloyd F. Giardina
Mr. N. Buckner Barkley, Jr.
Mr. Richard J. Hoogland
Mr. Robert B. Evans, Jr.
Mr. Ronald R. Bessom
Mr. Ross J. Vincent
Mr. Thomas J. Ward
Mr. Tim Foreman

Mr. Tim Killeen
Mr. Tom Cavinder
Mr. William F. Baity
Mrs. Juliet Berry
Mrs. Sue Hawes
Ms. Cathy Winer
Ms. Elizabeth Griffin
Ms. Josephine S. Cooper
Ms. Linda Goldman Green
Nat B. Knight, Jr.
Nolan Callais
Oris Danter
Patrick Ejike
Peter H. & Christine Graber
Ralph Latapie
Randall Dupont
Randolph Lacheny
Randy White
Raymond & Darlene Rodriguez
Raymond Elliott
Rixie J. Hardy
Robert B. Evans, Jr.
Robert C. Lettner
Robert F. Hereford
Robert Graves
Rod Emmes
Roger Swindler
Ronald Hebert
Ronald J. Ventola
Ronald L. Babineaux
Ruth Stone
Sam Drullard
Sam Puglise
Sherwood M. Gagliano
Sidney Rosenthal
Stanley Millaw
Steve Valence
Tai S. Hotvelt
Terry Aliff
Terry W. Howey
Thomas H. Heitman
Tommy Miller
Wayne Allemand
Wayne Crochet
Wayne Simmons
Webster B. Griffin, Jr.
Webster B. Griffin, Sr.
William E. Street
William M. Hemeter, M. D.
William Marten
William Mitchell
William S. Perret

B.4 INFORMATION DEPOSITORY

July 2, 1985

Mr. Kenneth E. Owen, Head
Louisiana Collection
Earl K. Long Library
University of New Orleans
Lakefront
New Orleans, Louisiana 70148

Dear Mr. Owen:

In response to your letter of June 20, 1985, we will be pleased to have your library serve as a depository for printed information relating to EPA's proposal to invoke the provisions of Section 404(c) of the Clean Water Act on an area known as the Bayou aux Carpes swamp. We have enclosed several documents to be included in your collection and will be submitting others as they are developed.

We ask that you publicize their availability to the library patrons and clearly identify their location.

Thank you for your offer of cooperation with our efforts to keep the public informed as the project progresses.

Sincerely yours,

Clinton H. Spotts, Chief
Federal Activities Branch

Enclosures

B.5 PRESS RELEASE

United States
Environmental Protection
Agency

Region 6
Office of Public Awareness (6AP)
First International Building
1201 Elm Street
Dallas, TX 75270

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

ROGER MEACHAM
(214) 767-2630



Environmental News

FOR IMMEDIATE RELEASE

June 5, 1985

The Environmental Protection Agency (EPA) has proposed prohibiting the future disposal of dredged or fill material in the Bayou aux Carpes swamp because of potential damage to the fragile wetlands area.

The Bayou aux Carpes tract lies within Barataria Basin, south of New Orleans, on the West Bank of Jefferson Parish. The 3,000-acre site is north of Crown Point and it adjoins the Jean Lafitte National Historical Park.

While the Corps of Engineers issues permits for water and land-clearing projects that include dredge and fill activities, the EPA has authority, under provisions of Section 404 of the Clean Water Act, to restrict or prohibit disposal in environmentally sensitive areas. EPA also is responsible for developing the guidelines the Corps uses in reviewing dredge and fill and other "404 permit" applications.

Dick Whittington, EPA's Regional Administrator, said, "We face the difficult task of balancing growth and development with protecting wetlands in Louisiana. We believe the environmental damage that could result from dredge and fill activities in the area, primarily from drainage of the wetlands, would be unacceptable."

Whittington notified the Corps and affected landowners on December 18, 1984 that he was considering the prohibition. Landowners, who were interested in seeing the Corps' 1960s flood control project completed as originally designed, filed suit in 1977 to continue the project. The original design included levee-building, construction of a pumping station, and closure of some waterways.

Over the years, EPA and other environmental agencies objected to the original project because of potential damage to the wetlands.

In 1975, EPA recommended a modified design which would replace the dams with flood gates and would require that, if a pumping station were needed for flood control, it would be operated in a way that would protect the wetlands. EPA also recommended similar protection modifications for

--more--

two other large-scale projects proposed for the same area: the Marrero-Lafitte Waterline Project and the West Bank Hurricane Protection Levee Project.

EPA will hold a public meeting about its proposed action on June 18. It will begin at 7:00 p.m. in the Council Chambers of the Gretna Courthouse, Second Avenue and Derbigny Street, Gretna. The meeting will continue until everyone who wishes to speak has been heard. EPA requests that, if possible, everyone who wishes to speak also bring a written copy of comments and questions.

Written comments can be sent to the Federal Activities Branch-6ES-F, EPA, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

#

United States
Environmental Protection
Agency

Region 6
Office of Public Awareness (6AA)
First International Building
1201 Elm Street
Dallas, TX 75270

Official Business
Penalty for Private Use
\$300

Postage and
Fees Paid
Environmental
Protection
Agency
EPA-335



B.6 NEWSPAPER ARTICLES

Dallas Morning News

EPA may force cancellation of drainage project

Associated Press

BATON ROUGE, La. — After 10 years of court fights, a big wetlands drainage and development project next to Jean Lafitte National Park faces cancellation by the Environmental Protection Agency.

At issue is a plan to drain 3,000 acres of wetlands in Jefferson Parish, which would require protection levees to allow for development.

Landowners have maintained that the project also would provide hurricane protection.

Before making a final decision, a public hearing will be held Tuesday in the Gretna Courthouse.

West Bank Guide

For and about West Bankers

SUNDAY, JUNE 23, 1985 GRETN, LA.

Landowners, environmentalists clash over wetland

By MARK FOLSE

Landowners and environmentalists clashed Tuesday night over a plan to block development of land in the Bayou aux Carpes area south and east of the V-shaped levee in Marrero.

A state district court judge ordered Jefferson Parish last year to complete a drainage and levee project authorized by voters in 1967 but never built, a project sportsmen, fisheries officials and environmentalists charge will drain productive wetlands for private development at public expense.

The federal Environmental Protec-

tion Agency has begun a little-used procedure to block any action to drain and fill the land even before anyone has applied for a Corps of Engineers permit. A public hearing held Tuesday night at the Gretna Courthouse is part of the EPA's proceedings.

The landowners, including former parish councilmember Harold Molaison, Second Parish Court Judge John J. Molaison and Buck Barkley of Marrero Land and Improvement Association Ltd., say the EPA's plan is counter to the best interest of the parish.

Judge Molaison also hinted that the landowners consider EPA's action il-

legal because it ignores the possible economic impact of banning development of the land.

At issue are the claims of the landowners, who say the area is needed for expansion of waterfront commercial areas from the Harvey Canal and for continued residential development versus the claims of environmentalists and sportsmen who charge draining the area would destroy a productive wetland and mean the eventual destruction of the Barataria Unit of the Jean Lafitte National Historical Park.

"This is land that should be put in commerce and should not be taken categorically out of commerce,"

Judge Molaison told the EPA hearing officers.

The landowners say they are particularly concerned about the potential for expansion of the Harvey Canal industrial area south along the ICW.

"The close proximity of this area to the area of our concern is the reason for our organization being on record in support of completion of this project," Wayne Crochet of the Harvey Canal Industrial Association said.

The project is also supported by the West Bank Council of the Chamber of Commerce.

But area residents and environmentalists charge the pumping

station project is a scheme to develop private land at public expense.

"This project is not a hurricane protection project. It is a speculative drain and fill project by a group of persons who used their political influence at public expense," Sidney Rosenthal of the Fund for Animals said.

Former councilmember Molaison sat on the parish council when the drainage project was put before the voters and refused to recuse himself from votes on the project although he owned an interest in the Molaison tract at the time.

"Consider that this whole project was nothing but a scam perpetuated

on the people of this parish and the people of this nation," Rosenthal said.

Others, including the Delta Regional Preservation Commission and the Friends of Jean Lafitte National Historical Park, oppose the project because it could result in the eventual drainage of the entire Barataria Unit of the park, which is intended to preserve a marsh environment.

No decision is expected from the EPA until later this year. Written comments on the proposal to block any plans to drain and fill the area will be accepted by the EPA until August.

Bayou aux Carpes: how not to do public business

Once again the drainage pumps in the weeds have returned to haunt the citizens of Jefferson Parish.

In 1984 a state district court judge ordered the parish to complete a pumping station at the mouth of Bayou aux Carpes near Crown Point because it was authorized and paid for by voters in 1967.

What the voters did not know in 1967 was exactly where this pumping station was or precisely what it would do.

What it has the potential to do is drain 3,000 acres of productive marsh and swamp, including large areas of the Barataria Unit of Jean Lafitte National Historical Park, to the benefit of a few landowners including a former parish council member who proposed the pumping station in the first place.

Supporters of building the pumping station argue that the project is essential to better drainage and hurricane protection.

But the proposition that building a pumping station at the mouth of Bayou aux Carpes will benefit drainage and flood protection in areas north of the V-shaped levee is patently unsound, and the gentlemen who offer it do themselves and their long-standing records of civic commitment a great disservice.

The arguments in favor of the proposal offered by the Harvey Canal Industrial Association and the West Bank Council of the Chamber of Commerce make the landowners' true interests clear. They want land south of the V-shaped levee drained for development at public expense.

To this end, the courts have supported them. The taxes were collected, the bonds were sold, and pumps sit in the weeds in the marshlands of West Jefferson. It is the legal duty of the Jefferson Parish Council to spend the money so-authorized to build this station.

The only escape from this legal trick bag rests with the Environmental Protection Agency, which has the authority to prevent the completion of any project that would drain these wetlands for any purpose. Failing this, the station will be built.

If it must, it should be called not the Bayou aux Carpes Pumping Station. It should be called the Pumps in the Weeds Pumping Station, or perhaps the Molaison Memorial Boondogle.

Let it stand as an object civics lesson for the future citizens of Jefferson Parish, a reminder of the way business was once done here but should not be done again.

Issues agenda

The West Bank Guide's issues agenda is a list of those issues that, in the opinion of the Guide's editors, are the top priorities for the West Bank.

- *Jean Lafitte National Park*
- *West Bank hurricane protection levee*
- *Improved library services*
- *Revitalization of Gretna*
- *Drainage and flood control*
- *Rational land-use planning and zoning*
- *Mass transportation, roads and bridges*
- *Schools and education*
- *Sewage treatment and water purification*
- *West Bank civic center*
- *Economic progress*
- *Public safety*
- *Government finance*

The Guide publishes the agenda from time to time as a reminder to public officials and citizens that these issues still cry out for attention. The Guide also will occasionally address these issues in news stories and in editorials and opinion columns.

Public comment on these issues is welcome.

To comment or suggest other issues for inclusion in the agenda, write:

Managing Editor
West Bank Guide
P.O. Box 354
Gretna, La. 70054

6/24
copy SWR dh
file

Draining of swamp is fought

Times Recorder 6/19/85

By TOM FRAZER
West Bank bureau

The 3,000-acre Bayou Aux Carpes swamp on the West Bank is almost all "good high land," and should be developed commercially, Harold L. Molaison, a landowner and former Jefferson Parish councilman, said Tuesday at an Environmental Protection Agency hearing.

The hearing was conducted to get public comment on a proposal to prevent the Bayou Aux Carpes swamp from being used as a dredge and fill area in an effort to protect the wetlands there.

Molaison said that the project began 25 years ago when the late U.S. Rep. Hale Boggs persuaded the Corps of Engineers to build the Harvey Canal-Bayou Barataria Levee and Jefferson Parish agreed to dam Bayou Aux Carpes as it enters Bayou Barataria and to install a pumping station there.

Although environmentalists interested in saving wetlands so far have blocked the project's completion, Molaison said both state and federal court decisions have ordered it finished as originally planned.

However, Dr. Barry Kohl, a board member of the Orleans Audubon Society, said the project was initiated "under the guise of flood protection. But its real purpose, which has been made patently clear, is to drain the swamp for commercial and residential development."

Kohl said that not only will the project destroy some of the last cypress-tupelo swamp in Jefferson Parish, "but this destruction will be done at public expense: a direct subsidy to landowners and local politicians who own portions of this swamp."

Kohl said members of the Orleans Audubon Society frequently use the Bayou Aux Carpes area for fishing and recreation. He said the Ring Levee Trail swamp in Lafitte National Historical Park will be drained if the project is completed, as well as 1,100 acres of public land east of Louisiana 45.

"Public funds should not be used to destroy public lands," Kohl said.

Judge John J. Molaison, brother of the former councilman, said the EPA was prejudiced in its call for the public hearing and its consideration of banning the Bayou Aux Carpes area from development. Judge Molaison said he owns less than one-half of one percent of the area in question.

He said the federal government "had nerve" filing a \$68 million suit against Jefferson Parish to recover flood insurance payouts, pointing out that the government halted the Bayou Aux Carpes project that he described as a flood control project.

Going on the record favoring the EPA's proposed action to halt development in the swamp was Dr. Fritz Wagner, chairman of the Delta Region Preservation Commission, a citizens advisory board to nearby Jean Lafitte Historical Park.

Wagner said draining wetlands traditionally "has contributed to massive rates of loss of such environments in the Barataria Basin."

The EPA will accept written comments on its proposal until Aug. 2, officials said.

FINAL (EVENING) EDITION
TIMES - PICAYUNE
STATES - ITEM
NEW ORLEANS, LA

DAILY
BOX 6000 B.R. LA. 70006
METROPOLITAN
Press Clipping Bureau of La.

JUN -5 --85

EPA proposes to halt Jeff wetlands project

By The Associated Press

BATON ROUGE — The Environmental Protection Agency proposed action Tuesday that would kill a major wetlands drainage and development project next to Jean Lafitte National Park.

A plan to drain 3,000 acres of wetlands in Jefferson Parish and erect protection levees to allow for development has been tied up in court fights for 10 years.

Landowners have maintained that the project also would provide hurricane protection.

But environmentalists have argued that the project would

damage the Barataria estuary, which is the most productive estuary in North America.

Before making a final decision to order the project halted, EPA will hold a public hearing at 7 p.m., June 18 in the Gretna Courthouse.

The wetlands that would be put inside levees and drained are in the headwaters of the estuary and provide vital nutrients to Barataria Bay, said Barry Kohl of the New Orleans Audubon Society.

There is more than enough land available for development in Jefferson Parish, Kohl argued. Large areas of wetlands have

already been drained and put in levees.

"There ought to be land use planning, and there isn't in Jefferson Parish," said Kohl, who added that the same is true all over Louisiana.

Vital areas like this one need to be set aside as a greenbelt, he said.

"We face the difficult task of balancing growth and development with protecting the wetlands of Louisiana," said EPA Regional administrator Dick Whittington. "We feel the environmental damage that could result from dredge and fill activities in this area — primarily from

drainage of the wetlands — would be unacceptable."

Environmentalists have long fought the proposal to block Bayou Aux Carpes and other waterways in the area, because of their importance to the Barataria estuary and because the area to be drained is widely used for fishing and other recreation.

While the Army Corps of Engineers has the authority to issue permits for dredge and fill projects, EPA also has the authority under the Clean Water Act to prohibit such actions in environmentally sensitive areas, said Roger Meacham of EPA.

Last August, U.S. District Judge Lansing Mitchell ruled that the project could go on unless EPA exercised its right to stop the work.

Meacham said that some work apparently was done illegally on the project in the mid-1970s, including the erection of a shell dam.

JUN -6 --85

EPA says West Bank project

By TOM FRAZER
West Bank bureau

A major West Bank wetlands drainage and development project that began more than 20 years ago faces cancellation by the U.S. Environmental Protection Agency.

At issue is a plan to drain 3,000 acres of wetlands in Jefferson Parish east of Jean Lafitte National Historical Park and north of Crown Point.

The EPA has proposed a ban on using dredged or fill material

in the Bayou aux Carpes swamp because of potential damage to the fragile wetlands area, said a Dallas spokesman for the federal agency.

Landowners who wanted to see the Army Corps of Engineers' flood control project — proposed in the early 1960s — completed as originally designed filed suit in 1977 to continue the project. The original design included the corps' building of the Harvey Canal-Bayou Barataria levee, Jefferson Parish's construction of a pumping station and the clo-

sure of Bayou des Familles and Bayou aux Carpes.

In 1967, Jefferson residents approved a \$3.6 million bond issue to build a shell levee closing the mouth of Bayou aux Carpes and to install a pumping station on top of the levee.

Landowners have said blocking the project will cause the bond money to be wasted. Most of the pumping station supplies and pumps were delivered to the site a number of years ago and remain among the weeds.

The corps' levee was completed

threatens wetlands

in 1973, but, over the years, it sank back to ground level. Then, lawsuits by environmentalists challenging the project halted further work before the pumping station could be installed.

For years, EPA and other environmental agencies have objected to the original project because of the potential damage to the wetlands.

Dick Whittington, EPA's regional administrator, said, "We believe the environmental damage that could result from dredge and fill activities in the area, pri-

marily from drainage of the wetlands, would be unacceptable."

Landowners contend that the project would provide hurricane protection.

But environmentalists argue that the project would damage the Barataria estuary, the most productive in North America.

Before making a final decision, the EPA will receive suggestions at a public hearing June 18 in the Gretna Courthouse.

Written comments may be sent to the Federal Activities Branch, 6ES-F EPA, 1201 Elm St., Dal-

las, Texas, 75270. (214) 767-2716:

Barry Kohl of the New Orleans Audubon Society said there are other lands available for development in Jefferson Parish. Large areas of wetlands have already been drained and encircled by levees, he said.

Last August, U.S. District Judge Lansing Mitchell ruled that the project could go on unless EPA exercised its right to stop the work.

The EPA is expected to decide on the dredge and fill prohibition by August.

EPA says project threatens wetlands

By TOM FRAZER
West Bank bureau

June 6, 1985

A major West Bank wetlands drainage and development project that began more than 20 years ago faces cancellation by the U.S. Environmental Protection Agency.

At issue is a plan to drain 3,000 acres of wetlands in Jefferson Parish east of Jean Lafitte National Historical Park and north of Crown Point.

The EPA has proposed a ban on using dredged or fill material in the Bayou aux Carpes swamp because of potential damage to the fragile wetlands area, said a Dallas spokesman for the federal agency.

Landowners who wanted to see the Army Corps of Engineers' flood control project — proposed in the early 1960s — completed as originally designed filed suit in 1977 to continue the project. The original design included the corps' building of the Harvey Canal-Bayou Barataria levee, Jefferson Parish's construction of a pumping station and the closure of Bayou des Familles and Bayou aux Carpes.

In 1967, Jefferson residents approved a \$3.6 million bond issue to build a shell levee closing the mouth of Bayou aux Carpes and to install a pumping station on top of the levee.

Landowners have said that blocking the project would cause the bond money to be wasted.

'We believe the environmental damage that could result ... primarily from drainage of the wetlands, would be unacceptable.'

Dick Whittington,
EPA regional administrator

Most of the pumping station supplies and pumps were delivered to the site a number of years ago and have remained among the weeds.

The corps' levee was completed in 1973, but, over the years, it sank back to ground level. Then, lawsuits by environmentalists challenging the project halted further work before the pumping station could be installed.

For years, EPA and other environmental agencies have objected to the original project because of the potential damage to the wetlands.

"We face the difficult task of balancing growth and development with protecting wetlands in Louisiana," said Dick Whittington, EPA's regional administrator. "We believe the environmental damage that could result from dredge and fill activities in the area, primarily from drainage of the wetlands, would be unacceptable."

Landowners contended that the project would provide hurricane protection.

But environmentalists argued

that the project would damage the Barataria estuary, the most productive estuary in North America.

Before making a final decision, the EPA will receive suggestions at a public hearing June 18 in the Gretna Courthouse. It will begin at 7 p.m. in the Council Chambers.

Written comments may be sent to the Federal Activities Branch, 6ES-F EPA, 1201 Elm St., Dallas, Texas, 75270. (214) 767-2716.

Barry Kohl of the New Orleans Audubon Society said there are other lands available for development in Jefferson Parish. Large areas of wetlands have already been drained and encircled by levees, he said.

Vital areas like this one need to be set aside as a greenbelt, he said.

Last August, U.S. District Judge Lansing Mitchell ruled that the project could go on unless EPA exercised its right to stop the work.

The EPA is expected to decide on the dredge and fill prohibition by August.

EPA proposal would kill drainage ²³⁶ project

By BOB ANDERSON
Environmental editor

The U.S. Environmental Protection Agency proposed action Tuesday that would kill a major wetlands drainage and development project adjacent to Jean Lafitte National Park.

The proposal to drain 3,000 acres of wetlands in Jefferson Parish and erect protection levees to allow for development has been tied up in court fights for 10 years.

Landowners have maintained that the project also would provide hurricane protection.

But environmentalists have argued that the project would damage the Barataria estuary, which is the most productive estuary in North America.

The wetlands that would be leveed and drained are in the headwaters of that estuary and provide vital nutrients to Barataria Bay, said Barry Kohl of the New Orleans Audubon Society.

There is more than enough land available for development in Jefferson Parish, Kohl maintained. Large areas of wetlands have already been drained and leveed.

"There ought to be land use planning, and there isn't in Jefferson Parish," said Kohl, who added that the same is true all over Louisiana.

Vital areas like this one need to be set aside as a greenbelt, he said.

"We face the difficult task of ballancing growth and development with protecting the wetlands of Louisiana," said EPA Regional Administrator Dick Whittington. "We feel the environmental damage that could result from dredge and fill activities in this area — primarily from drainage of the wetlands — would be unacceptable."

Environmentalists have long fought the proposal to block Bayou Aux Carpes

(See WETLANDS, 12B)

Wetlands

(Continued from 1B)

and other waterways in the area, because of their importance to the Barataria estuary and because the area to be drained is widely used for fishing and other recreation.

While the Corps of Engineers has the authority to issue permits for dredge

and fill projects, EPA also has the authority under the Clean Water Act to prohibit such actions in environmentally sensitive areas, said Roger Meacham of EPA.

Last August, U.S. District Judge Lansing Mitchell ruled that the project could go on unless EPA exercised its right to stop the work.

STATE TIMES, BATON ROUGE, 6/5/85

EPA proposes action to kill wetlands drainage project

The U.S. Environmental Protection Agency on Tuesday proposed action that would kill a major wetlands project adjacent to Jean Lafitte National Park.

The proposal to drain 3,000 acres of wetlands in Jefferson Parish and to construct protection levees to allow for development has been tied up in court fights for 10 years.

Landowners have maintained that the project also would provide hurricane protection.

But environmentalists have argued that the project would damage the Barataria estuary, which is the most productive estuary in North America.

The wetlands that would be drained are in the headwaters of that estuary and provide vital nutrients to Barataria Bay, said Barry Kohl of the New Orleans Audubon Society.

There is more than enough land available for development in Jefferson Parish, Kohl maintained. He said that large areas of wetlands have already been drained and leveed.

"We face the difficult task of balancing growth and development with protecting the wetlands of Louisiana," said EPA Regional Administrator Dick Whittington. "We feel the environmental damage that could result from dredge and fill activities in this area — primarily from drainage of the wetlands — would be unacceptable."

Study of dredging dies in House panel

By ED ANDERSON
Capital bureau

BATON ROUGE — A resolution calling on the Army Corps of Engineers to study the environmental effects of shell dredging in Lake Pontchartrain died Thursday in a House committee.

The House Natural Resources Committee rejected the measure 7-3.

Rep. Kernan "Skip" Hand, R-Kenner, sponsor of the resolution, said committee members were heavily lobbied by members of the shell dredging industry who want to continue dredging in the lake and other waters.

The measure would put the Legislature on record in favor of a policy of improving "the chemical, physical and biological integrity of the waters of the state."

It also would have called on the Corps of Engineers to prepare an environmental impact statement on shell dredging throughout

Louisiana and to advise the Legislature on the consequences of continued dredging.

Rep. Manuel Fernandez, D-Chalmette, said he opposed the resolution because the corps might send Louisiana the bill for the study. He also reminded the committee that a suit over shell dredging in Louisiana is pending in the federal courts.

He described the resolution as "a bunch of bunk."

Rep. Ted Haik Jr., D-New Iberia, told the panel, "It's about time we call on the Army Corps of Engineers to be responsive to our citizens."

Hand said Lake Pontchartrain "is the most important recreational resource we have in the New Orleans area. We need to look to restoring the lake and bringing it back to the way it was."

A-26 Friday, June 7, 1985 The Times-Picayune/The States-Item

3 La. water projects lose by one vote

By The Associated Press

WASHINGTON — Three water projects in Louisiana were among 31 Army Corps of Engineers projects chopped from a supplemental appropriations bill by the House on Thursday.

The House voted by the narrowest of margins — 203-202 — to delete the projects, dubbed "pork barrel" by opponents.

The sponsors of the water-project appropriations had attempted to acquire the money before the projects received authorization. In that way, the money already would have been set aside when the projects were authorized.

The Louisiana projects eliminated from the bill were for flood control and land acquisition in the Atchafalaya Basin, deep-draft navigation for the Mississippi River ship channel from New Orleans to Baton Rouge and a

flood-control project for the Pearl River in the Slidell area.

Also eliminated was a channel-improvement project for Gulfport Harbor in Mississippi.

The action was a defeat for Appropriations Committee Chairman Jamie Whitten, D-Miss., and a victory for House members attempting to end a traditional buddy system for deciding where dams are built and harbors are deepened.

The victory was engineered by Rep. Bob Edgar, D-Pa.

Stripped from the bill were 31 projects that had been approved by Appropriations but had not been authorized by the Public Works and Transportation Committee, as is required by the congressional budget process.

Here's how the House delegation from Louisiana voted on the roll call to delete the water projects:

For: Rep. Buddy Roemer, D-La.
Against: Reps. Lindy Boggs, John Breaux, Cathy Long and Billy Tauzin, all D-La., and Bob Livingston and Henson Moore, both R-La.

Absent or not voting: Rep. Jerry Huckaby, D-La.

Jeff fights Lafitte's exemption

By JOE DARBY
West Bank bureau

The Jefferson Parish Council decided to oppose a bill in the Legislature that would exempt the town of Jean Lafitte from state sanitation codes by allowing it to grant permits for septic tanks.

A state law forbids construction of septic tanks on lots of less than 25,000 square feet or those having less than 125-foot fronts. Few lots in Lafitte are that large.

Lafitte has no sewerage system.

Because of a crackdown on the state septic tank law, Jefferson Parish has stopped issuing permits for septic tanks in the Lafitte area.

But town officials are still issuing permits within their jurisdiction, parish officials said.

The bill by state Reps. J. Chris Ullo, D-Marrero and Frank J. Patti, D-Belle Chasse, is apparently an attempt to ease legal pressures on the town.

Parish Councilman James E. Lawson Jr. proposed a resolution opposing the bill, but Councilman Lloyd F. Giardina argued vehemently that the resolution would be interfering in Lafitte's internal affairs.

But, Parish Attorney Hubert Vondenstein said Jefferson Parish is just entering into a legal consent agreement with the U.S. Environmental Protection Agency which pledges that the parish will stop polluting West Bank waterways.

Parish Sewerage Director Dennis Butler said the parish is going to spend from \$3 million to \$4 million to build sewerage mains to Lafitte. But Lafitte residents will have to approve frontal property assessments to pay for local sewerage lines when it is time to tie the town into the parish's system.

He said people who invest a lot of money in septic tanks now are not likely to be willing to vote for a sewerage assessment a year or two from now.

A-24 Friday, June 7, 1985 The Times-Picayune/The States-Item

METRO NEWS

C. AGENCY COORDINATION

C.1 FEDERAL COORDINATION



United States Department of the Interior

FISH AND WILDLIFE SERVICE

JACKSON MALL OFFICE CENTER

300 WOODROW WILSON AVENUE, SUITE 3185

JACKSON, MISSISSIPPI 39213

November 13, 1984

IN REPLY REFER TO:
Log No. 4-3-85-044

Mr. Clinton B. Spotts
Environmental Protection Agency
InterFirst Two Building
1201 Elm Street
Dallas, Texas 75270

Dear Mr. Spotts:

This responds to your letter of October 22, 1984, requesting endangered species information for the vicinity of Bayou aux Carpes swamp.

The endangered bald eagle (Haliaeetus leucocephalus) is known to nest in the general vicinity of Bayou aux Carpes swamp. At least three bald eagle nests have been documented within a 10 mile radius of this area. Prior to any construction in Bayou aux Carpes a thorough search should be conducted for bald eagle nesting activity.

For further endangered species coordination on this project, please contact our office, telephone 601/960-4900, FTS 490-4900.

We appreciate your participation in the effort to protect endangered species.

Sincerely yours,

Dennis B. Jordan
Field Supervisor
Endangered Species Field Office

cc: Department of wildlife & Fisheries, New Orleans, LA
ES, FWS, Lafayette, LA

RECEIVED

NOV 15 1984

6 ES



United States Department of the Interior
FISH AND WILDLIFE SERVICE

POST OFFICE BOX 4305
103 EAST CYPRESS STREET
LAFAYETTE, LOUISIANA 70502
November 14, 1984

Ms. Barbara Keeler
Environmental Protection Specialist
Federal Activities Branch
Environmental Protection Agency
1201 Elm Street
Interfirst 2 Bldg. 6ES-F
Dallas, Texas 75270

Dear Ms. Keeler:

Reference is made to United States District Judge Lansing L. Mitchell's decision of August 9, 1984, concerning the "Harvey Canal-Bayou Barataria Levee, Louisiana" project, sometimes referred to as the Bayou aux Carpes Project. The following is a brief synopsis of involvement of the Fish and Wildlife Service (FWS) in that project.

1. In a May 14, 1962 letter, dated to the FWS Regional Director (Atlanta, Georgia), the District Engineer (DE), New Orleans Corps District (NOD), provided a description of the proposed improvements in the Harvey Canal-Bayou Barataria area and requested FWS comments on that proposal. By letter dated September 13, 1962, the Acting FWS Regional Director provided the DE with the requested comments, recommending that an alternate plan be adopted, providing storm protection for the northern half of the area originally proposed to be protected. Such an alternative would exclude the southern portion of the original work area from levee protection, thereby preserving a large segment of wooded swamp and marsh habitat.
2. On September 26, 1962, the DE requested that the FWS Regional Director review and provide comments on revisions of the aforementioned plan. The FWS Acting Regional Director, by letter dated November 29, 1962, reiterated the FWS concern that levee construction would lead to wetland reclamation and eventual loss of wildlife value in the area to be enclosed.
3. By letter dated June 4, 1970, the DE requested FWS comments on the subject project and 13 other authorized projects, pursuant to Section 102 (c) of the National Environmental Policy Act of 1969. The Regional Director, by letter dated August 7, 1970, commented on a draft environmental statement prepared for the project. The FWS reiterated its concern for the irreversible loss of fish and wildlife habitat that would result from project implementation.

4. On March 7, 1974, NOD issued Public Notice LMNOD-SP (L.T.M.A.)767. The applicant, Jefferson Parish Department of Drainage and Sewerage, requested a Department of the Army permit to construct and maintain a pumping station, including associated dredging and filling for levee closure of Bayou aux Carpes. The Public Notice stated that the effects of the project were included in the Final Environmental Impact Statement (FEIS) for the Harvey Canal-Bayou Barataria Levee, Louisiana project. By letter to the DE dated April 1, 1974, the FWS requested the opportunity to review the aforementioned FEIS before commenting on the Public Notice.
5. In a June 17, 1974, letter to the FWS Regional Director, the DE stated that the Harvey Canal-Bayou Barataria Levee, Louisiana project is part of a civil works project of the Corps of Engineers and, therefore, would not require a Section 404 permit. However, the Corps held a public hearing on January 7, 1975, to obtain comments on the proposed disposal of dredged material in connection with the Harvey Canal-Bayou Barataria Levee, Louisiana project. On February 5, 1975, the FWS Regional Director, recommended to the DE that no further construction of the dike (levee) system be allowed, that the application for a permit to install a pumping station at Bayou aux Carpes be denied, and that the existing dam across Bayou aux Carpes be removed. The basis for this recommendation was that the proposed action would result in the drainage of an estimated 2,175 acres of productive wetlands and their associated fish and wildlife habitat.
6. In a letter to the DE dated March 11, 1976, the Regional Director restated the FWS recommendations on the proposed project (i.e., that the pumping station not be installed and that the existing dam located at the mouth of Bayou aux Carpes be removed).
7. By letter dated March 31, 1976, the DE transmitted to the FWS Regional Director the Statement of Findings on the project. Although the DE had recommended construction of the project as proposed, over the objections of the FWS, the matter had been forwarded to the Chief of Engineers for resolution.
8. On November 16, 1976, Brigadier General Drake Wilson, Chief of Engineers, issued a revised Statement of Findings which adopted an alternative plan. This alternative plan ordered that the earthen plugs located across Bayou aux Carpes and Bayou des Familles be removed and be replaced with movable floodgates, and stated that the proposed pumping station would no longer be required.

General Wilson's order was upheld by Judge Lansing L. Mitchell's decision of August 16, 1980, in a United States District Court, Eastern District of Louisiana, civil action (Jacques Creppel et al.

versus U.S. Army Corps of Engineers et al.). However, as you are aware, Judge Mitchell in August 1984, ruled that Jefferson Parish will not provide the local assurances for the modified project and is, in fact, required by a Louisiana State Court judgement to proceed with the original project as planned.

Implementation of the Harvey Canal-Bayou Barataria Levee, Louisiana project as originally proposed would lead to the drainage and eventual development of approximately 2,800 acres (according to our latest measurements) of wooded swamp and fresh marsh (semipermanently flooded palustrine forested wetlands and palustrine emergent wetlands, respectively, according to Cowardin et al., 1979).

The project area was most-recently inspected by an FWS biologist on October 16, 1984. The predominant species in the wooded swamp area consisted of baldcypress; red maple and tupelogram were also present. Species present in the fresh marsh included smartweed, bulltongue, Cyperus spp., spikerush and cattail. Numerous species of birds were sighted, including anhinga, little blue heron, snowy egret, great blue heron, white ibis, white-eyed vireo, common yellowthroat, summer tanager, Carolina chickadee, Carolina wren, red-shouldered hawk, and osprey. Also, a bald eagle, classified as an endangered species by the FWS, was sighted over the project area. Although a nest was not sighted, the possibility that one exists in the Bayou aux Carpes swamp cannot be ruled out; an aerial survey of the area is needed to determine if a nest exists.

The project area wetlands provide valuable habitat to a variety of wildlife, including seven species considered by the FWS to be National Species of Special Emphasis (Federal Register, Vol. 48, No. 237, December 8, 1983). These species include wood duck, mallard, pintail, ring-necked duck, osprey, bald eagle, and the American alligator. The project area also provides habitat for the mottled duck and the pileated woodpecker, species which have been highlighted by the FWS's Regional Resource Plan for the Southeast Region. The project area wetlands also provide habitat for numerous other migratory birds, other than those which have been sighted, including green-winged teal, blue-winged teal, American wigeon, rails, gallinules, owls and numerous passerine birds. Commercially important furbearers including nutria, mink, muskrat, river otter, raccoon, bobcat and game mammals such as white-tailed deer, gray squirrel, and swamp rabbit are also known or believed to be supported by these wetlands. In addition to the American alligator, other reptiles and amphibians known or expected to occur in the project area include red-eared turtle, common snapping turtle, southern painted turtle, alligator snapping turtle, and bull frog.

Portions of the project-area wetlands also provide nursery and feeding habitat for numerous species of recreationally and commercially important freshwater and estuarine fishes and shellfishes such as gar, bowfin, blue catfish, channel catfish, numerous species of sunfishes, striped mullet, and southern flounder, and blue crab. Red swamp crawfish are also present in the wooded swamp. The project area wetlands also provide organic detritus to nearby estuarine waters, thereby contributing to the production of estuarine-dependent fishes and shellfishes. These wetlands also provide floodwater storage and

serve a vital water quality function by removing excess nutrients and sediments, thus reducing potential pollution of adjacent waters.

The Bayou aux Carpes swamp lies within the Barataria Basin, an extremely productive area for commercial fishes and shellfishes. The upper portion of this basin is currently experiencing accelerated eutrophication; this condition is expected to lead to further water quality declines in the area as development of wetland areas increases (Gael and Hopkinson 1979). As previously stated, placement of the pump as originally proposed would lead to the development of some 2,800 acres of these wetlands and, as such, would increase the nutrient load and decrease the nutrient buffering capacity of the basin. Thus, the project would lead to further deterioration of the water quality of the upper Barataria Basin.

As a result of Judge Mitchell's latest decision, extensive drainage and future development of the valuable wetlands of the referenced project area appears to be a real possibility. The FWS contends that the purpose of the project, i.e., providing flood protection to developed areas from hurricanes and other storms, can be accomplished without extensive wetland destruction.

It appears obvious that once again our respective agencies must become actively involved with this project, due to the severe impacts that its completion would have on productive wetlands. Should your agency decide to take an active role in coordinating efforts to minimize such impacts, this office would be most willing to assist you. Also, we would appreciate your advising our office of any new developments concerning this project.

Sincerely yours,

Gerald W. Bodin

Gerald W. Bodin
Acting Field Supervisor

cc: FWS, Atlanta, GA (AHR/ES)

LITERATURE CITED

Cowardin, Lewis M., Virginia Carter, Francis C. Golet, and Edward T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. Fish and Wildlife Service, Office of Biological Services, Washington, D.C., 103 pp.

Gael, B.T., and C.S. Hopkinson. 1979. Drainage density, land-use and eutrophication in Barataria Basin, Louisiana. Pages 147-163 in J.W. Day Jr., D.D. Culley Jr., R.E. Turner and A.J. Mumphrey Jr., eds. Proceedings of the third coastal marsh and estuary management symposium. Louisiana State University Division of Continuing Education, Baton Rouge, La.



United States Department of the Interior
FISH AND WILDLIFE SERVICE

POST OFFICE BOX 4305
103 EAST CYPRESS STREET
LAFAYETTE, LOUISIANA 70502

April 5, 1985



Mr. William Millhouser
Office of Ocean and Coastal Resources Management
3300 Whitehaven Ave. N.W.
Page Building 1
Washington, D.C. 20235

Dear Mr. Millhouser:

Reference is made to the Final Jefferson Parish, Louisiana, Coastal Zone Management Program (latest revision) dated November 1984. The Fish and Wildlife Service (FWS), after a cursory review of the document, provides the following comments on a technical assistance basis.

With regard to the West Bank Management Unit, we are concerned that existing wetlands west of of the Bayou des Familles ridge are included in a unit planned for development. FWS concerns in that area were addressed in a April 30, 1984, letter (copy attached) to the U.S. Army Corps of Engineers, New Orleans District (NOD) regarding the proposed West Bank Hurricane Protection Levee. Also included in the West Bank Management Unit are about 1,000 acres of wetlands north of the so-called "V"-shaped levee; our concern regarding further destruction of those wetlands was expressed in our February 22, 1985, letter to the NOD (copy attached).

With regard to the Bayou aux Carpes Management Unit, we support Jefferson Parish's position (page II-9) that one of the major goals for the unit is to maintain its ecological and hydrological integrity and their policy that land reclamation activities in areas not presently fast lands be discouraged (page II-10). However, it is not clear from the document exactly which areas would qualify as fast lands. The document points out in another section (page VI-4, Section I) that wetlands that are already leveed and modified should be developed in accordance with an overall comprehensive plan of priorities, and that modified wetlands should be given priority for development. However, neither the areas nor the comprehensive plan have been identified in the document. We are of the opinion that the Bayou aux Carpes wetlands should not be considered fast lands or modified wetlands. Our concerns relative to this sensitive and valuable area were expressed in our November 14, 1984, letter to Ms. Barbara Keeler of the Environmental Protection Agency in Dallas, Texas (copy attached).

We recommend that the discrepancies discussed above be rectified prior to final approval of Jefferson Parish's Coastal Zone Management Program.

Please contact Dr. Thomas Michot of this office if we can be of further assistance in this matter.

Sincerely yours,



David W. Fruge
Field Supervisor

cc: La. Dept. of Wildlife and Fisheries, Baton Rouge, LA
La. Dept. of Natural Resources (CMD), Baton Rouge, LA
NMFS, Galveston, TX
EPA, Dallas, TX
Jean Lafitte National Historical Park, New Orleans, LA



United States Department of the Interior

NATIONAL PARK SERVICE

SOUTHWEST REGION

P.O. Box 728

Sante Fe, New Mexico 87501

cy: P. Keeler
B. Keeler
RECEIVED
AUG 7 11 41 AM '85
OFFICE
EPA REGION 6

REPLY REFER TO:

L1425 (SWR-OLR)

AUG 1 1985

Mr. Joseph E. LeBlanc, Jr.
Attorney at Law
1100 Whitney Building
New Orleans, Louisiana 70130

Dear Mr. LeBlanc:

This is in response to your letter of July 25.

The National Park Service is not interested in acquiring the land in question. We are very much interested in protecting the natural values of the core area of the Barataria Unit. Public Law 95-625 established a "park protection zone" for that purpose and authorized changes to its boundary, with the consent of Jefferson Parish. The legislation is clear in its intent to protect a list of values in the core area (refer to Section 902(c) of P.L. 95-625) by controlling actions of landowners through "...a set of guidelines or criteria applicable to the use and development of properties within the park protection zone to be enacted and enforced by the State or local units of government."

We have Jefferson Parish's proposal to consent to expand the boundaries of the "park protection zone." The Parish also reaffirms its decision not to enact or enforce any restrictions upon the use of private property in the zone. Under those conditions there is little purpose in pursuing any modifications to the boundary.

We have provided information to the Environmental Protection Agency which describes the surface water connection between Bayou aux Carpes swamp and wetlands in the core area. While we are convinced of that interdependence, we are not sufficiently knowledgeable of the aquatic environment of the Bayou aux Carpes wetlands to determine how much of those wetlands, and in what configuration, should be protected to sustain the park's environment.

The park environment is only one of the public interests that the Environmental Protection Agency is to consider in the 404(c) proceedings. Others may be more expansive in their requirements for protection of the Bayou aux Carpes wetlands.

Sincerely,

/s/ Robert I. Kerr

Regional Director,
Southwest Region

cc:

Superintendent, Jean Lafitte

Mr. Harless Benthul, EPA Dallas ✓

Mr. Hubert Vondenstein, Parish Attorney

Ms. Elizabeth Griffin, COE - N.O. District



United States Department of the Interior

NATIONAL PARK SERVICE

SOUTHWEST REGION

P.O. Box 728

Santa Fe, New Mexico 87501

6ES ✓
ca: 6W
6ORC
6A
6D

IN REPLY REFER TO:

L7619(SWR-PE)

AUG 7 1985

Mr. Dick Whittington, P.E.
Regional Administrator
U.S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

RECEIVED
AUG 12 1985
CES

RECEIVED
AUG 9 2 23 PM '85
OFFICE OF THE
ADMINISTRATOR
EPA
REGIONAL OFFICE
DALLAS

Dear Mr. Whittington:

This responds to your proposed determination to prohibit, deny or restrict the specification of the Bayou aux Carpes swamp, Jefferson Parish, Louisiana, as a disposal site under Section 404(c) of the Clean Water Act. The following comments are provided on a technical assistance basis.

We strongly recommend that the use of Bayou aux Carpes as a disposal site be prohibited. We have grave and specific concerns involving the short and long-term adverse effects of the proposed disposal project on the Barataria Unit of Jean Lafitte National Historical Park. Those effects would be extensive and profound and would also threaten the ability of the Barataria Unit to fulfill its purpose as defined by the law authorizing its establishment.

A significant part of the Barataria Unit, everything between Bayou des Familles and the Larose-Lafitte Highway, is in the drainage area of the Bayou aux Carpes swamp. Within that 1,000-acre area, there are 300 acres of well-established, vigorous, and maturing bald cypress swamp. This swamp is an excellent example of such an environment in that it supports the full range of flora and fauna associated with that habitat. It is especially valuable to the public because it is accessible from the highway and is easily and safely visited by an all-weather trail which leads, via a system of boardwalks, into the heart of the swamp. This trail, the route of ranger-guided nature walks, is a key feature of the Barataria Unit. Of the 700,000 visitors to the unit in 1984, it is estimated that 26,000 walked this trail after the end of April when the trail opened.

Even before the national park was authorized in 1978, the dependency of the residual swamp now located within the park upon the larger swamp now located outside the park, and its value as wetland, was documented by an agreement supervised by the U.S. District Court in the District of Columbia between a consortium of environmental organizations and a group of Federal and state agencies who were engaged in planning for, designing, building and permitting the construction of the Larose-Lafitte Highway. That agreement of May 29, 1977, required that the highway be constructed in a way that will "...ensure that the natural water flow of the area is not impaired." The highway was subsequently constructed to those specifications, albeit imperfectly; and tidal interchange continues to occur.

If it were possible to complete the Bayou aux Carpes project as it was originally planned, the swamp east of the natural levee of Bayou des Familles would be drained. For several years after being drained, an episode of subsidence would ensue. The existing cypress-tupelo forest would die due to the extreme change in water table; and the remaining shallow, stagnant ponds would prevent the growth of seedlings. The area would probably become a series of shallow, open ponds with the intervening land covered with flood tolerant shrubs. The soil types in this area could be expected to subside as much as 8 feet with the loss of groundwater. The landscape would change dramatically, and development of any kind would be curtailed until the environment again approached something approximating equilibrium. Attempts that might be considered to maintain the water elevation in the park after it is separated from tidewater would produce essentially these same results in terms of habitat and scenery, with somewhat reduced degrees of subsidence. Intensive management to try to reproduce natural hydrological cycles (assuming it were possible to find sources of suitable water, the means to deliver it, and a method of allowing run-off) might possibly perpetuate the existing condition. However, the expense, the uncertainty of success and the incompatibility of the whole concept of a contrived, quasi-natural environment with the purpose of the park dictate against this type of program.

It should also be noted that Bayou des Familles is now connected with the Gulf of Mexico, especially if project plans include draining the bayou. Apparently at one time, Bayou des Familles was obstructed in Crown Point; and its upstream tributary, Bayou Coquille, was blocked by a failed culvert under Louisiana Route 45. Both those obstructions to the natural flow have been removed, and the natural, historical water connection is re-established. Bayou des Familles should not be drained in its present, natural state. To return it to its previous condition would be to return it to a stagnant backwater in the park, and then drain it dry, thus triggering subsidence and destroying natural riparian habitat inside the park. Bayou Coquille, deprived of its connection with tidal flow through Bayou des Familles, would return to its previous silt and weed-choked condition. Loss of these open waterways would eliminate an important recreational fishing resource and about 5 miles of the park's existing 8-mile canoe/pirogue trail.

The Bayou aux Carpes project would profoundly impact the aquatic system of the Barataria Unit of Jean Lafitte National Historical Park and invite serious questions as to the area's viability as part of the National Park System. It should be noted that the public law authorizing the park's establishment (Public Law 95-625) also established a park protection zone contiguous to the core of the Barataria Unit. The purposes of this zone are to "...protect the following values in the core area: (1) fresh water drainage patterns from the park protection zone into the core area; (2) vegetation cover; (3) integrity of ecological and biological systems; and (4) water and air quality." If the Bayou aux Carpes project were to proceed, those values in much of the core area would be quite literally destroyed.

Based on these factors, the National Park Service urges the Environmental Protection Agency to exercise its authority under Section 404(c) of the Clean Water Act to deny the permit that would trigger the destruction of a major part of the Jean Lafitte National Historical Park.

We appreciate the opportunity to provide this technical assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert I. Kerr". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert I. Kerr
Regional Director,
Southwest Region



United States Department of the Interior

NATIONAL PARK SERVICE

JEAN LAFITTE NATIONAL HISTORICAL PARK

DELTA REGION PRESERVATION COMMISSION

423 Canal Street - Room 206
New Orleans, Louisiana 70130

6ES ✓
ocibw
6DCL
6ORC
6A
6D

June 12, 1985

RECEIVED

JUL 8 1985

6 ES

JUN 11 1985
RECEIVED

Honorable Evelyn Blackmon
Louisiana House of Representatives
Health and Welfare Committee
P.O. Box 1056
West Monroe, Louisiana 71291

Dear Ms. Blackmon:

The Delta Region Preservation Commission is a statutorially authorized citizen's advisory group for the Jean Lafitte National Historical Park.

In that capacity, the Commission has taken a strong position in favor of the protection of water quality throughout the delta region and particularly in the Barataria estuary.

There are several bills introduced to this session of the State Legislature which will, if enacted, reduce the effectiveness of existing State law as it regulates the development of property in areas not serviced by approved community sewage treatment and disposal systems. They reduce minimum required lot size to half, or less, of the present requirement. The bills we are recommending be defeated are: SB 45 by Senator Bares; SB 741 by Senator Ginn; HB 1707 by Representatives Ensminger and Crosby; and HB 1905 by Representative Ullo.

Senate Bill 965, as amended, by Senator Swearingen is recommended to your favorable consideration because it clarifies and makes more workable the existing law.

House Bill 1038, sponsored by many Representatives is also recommended because it clarifies the process of enforcing the State law.

Your assistance in this regard will be important to Louisiana's quality of life into the future, and will also be very much appreciated.

Sincerely,

Fritz Wagner
Fritz Wagner,
Chairman

cc: Members, Delta Region Preservation Commission
Environmental Protection Agency, Dallas, Texas
Regional Director, Southwest Region
Jefferson Parish Council
Jefferson Parish Environmental Department

RECEIVED

JUN 24 1985

6 ES

6-54

Same letter addressed to:

Louisiana House of Representatives

Honorable Frank J. Patti
Honorable Wilford D. Carter
Honorable Thomas Brady
Honorable Garey Forster
Honorable Jon D. Johnson
Honorable Louis W. Ivon
Honorable Johnny Jackson
Honorable Francis C. Heitmeier
Honorable Edward Ripoll
Honorable Manuel A. Fernandez
Honorable Charlie DeWitt
Honorable Margaret Lowenthal
Honorable H.J. Kember, Jr.
Honorable Jewel J. Newman
Honorable Eddie A. Doucet
Honorable Kernan A. Hand
Honorable Charles D. Lancaster, Jr.
Honorable Charles Cusimano
Honorable Quentin Dastugue
Honorable John A. Alario, Jr.
Honorable J. Chris Ullo
Honorable Joseph F. Toomy
Honorable Terry Gee
Honorable N.J. Damico
Honorable James Donelon
Honorable John J. Hainkel, Jr.
Honorable Mary Landrieu
Honorable Diana E. Bajoie
Honorable Edward J. D'Gerolamo
Honorable Avery Alexander
Honorable Emile Bruneau, Jr.
Honorable E. Henry Heaton, Jr.
Honorable Charles R. Jones
Honorable Arthur A. Morrell
Honorable Alphonse Jackson, Jr.
Honorable Bruce Lynn
Honorable W. James Singleton

Louisiana State Senate

Honorable Gregory Tarver
Honorable Lawson Swearingen
Honorable Leonard J. Chabert,
Honorable Ron Landry
Honorable M.A. "Mike" Cross
Honorable Gerry Hinton
Honorable F.E. "Hand" Lauricella
Honorable Ken Hollis
Honorable Elwyn J. Nicholson
Honorable Fritz Windhorst
Honorable Thomas Casey
Honorable William J. Jefferson
Honorable Ben Bagert, Jr.
Honorable Dennis Bagneris
Honorable Nat Kiefer
Honorable Samuel B. Nunez, Jr.



United States Department of the Interior
NATIONAL PARK SERVICE
JEAN LAFITTE NATIONAL HISTORICAL PARK
423 Canal Street - Room 206
New Orleans, Louisiana 70130

*cy. Collins
Smith
Jan 5*

IN REPLY REFER TO:

W1823
(x)L76

August 22, 1984

RECEIVED

AUG 29 1984

6 ES



Memorandum

To: Regional Director, Southwest Region
Attn.: Associate Regional Director, Park Operations

From: Superintendent

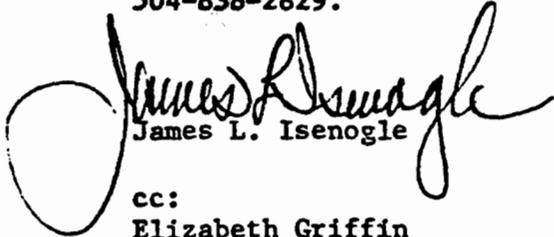
Subject: Court Ruling re Bayou aux Carpes Swamp

Prior to the authorization of the Park, Jefferson Parish began the leveeing, damming, and purchase of pumps preparatory to draining the subject swamp. Their project was interrupted by litigation. We aren't privy to the details of the original complaint, the earlier rulings, the basis of the appeal, or any of the intervening court proceedings. We are only superficially aware of the legal implications of the recent ruling. It appears, however, that the net result is that the federal court has ruled that the project should proceed as originally planned. That would result in draining the swamp.

Enclosed is a map that illustrates the threat to Park values that action would represent. The culverts installed under the Larose-Lafitte highway were installed at the insistence of environmentalists and ourselves to maintain tidal connections between the larger swamp outside the Park and the residual swamp in the Park. They can also serve as a conduit for draining the Park's eastern swamp. The existing ditch between Bayou des Familles and the Bayou aux Carpes swamp would connect the drained swamp with unlimited water sources outside the Park via waterways in the Park, thus working against the pumps.

The obvious and unacceptable remedy to these two problems would be to isolate the Park hydrology from the Bayou aux Carpes surface water regime with structures. This would be unacceptable because the tidal interchange and run-off, i.e., surface water dynamics, are an important factor in the viability and productivity of the Park's wetlands. This kind of interdependence was recognized in the Park's authorizing legislation in the form of the park protection zone. The law also allows changes to the boundary of that zone, with the concurrence of Jefferson Parish officials. That concurrence is unlikely to materialize as it relates to including the subject area.

We would appreciate your and the solicitor's review of this situation for advice and assistance in protecting the Park's resources. The Corps of Engineers is debating whether to appeal the recent ruling. The attorney handling the case for them is Elizabeth Griffin at 504-838-2829.


James L. Isenogle

cc:
Elizabeth Griffin
Corps of Engineers

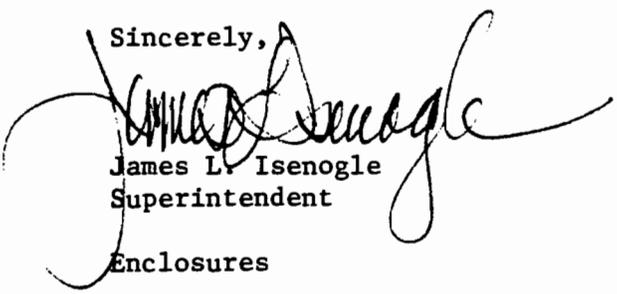
Harless Benthall
Environmental Protection Agency

Some may suggest that the part of the park which is in the Bayou aux Carpes swamp can be protected by installing water control structures at the culverts under the LaRose-Lafitte Highway and thus maintain the desired water level in the park's swamp. There is a growing body of knowledge that indicates that this technique, i.e. isolation of a segment of wetlands from natural sheet flow and tidal action deprives that segment of essential nutrients and the hydrological regime it requires to survive through vegetative growth and germination of new plants. The long-term effect is open water. The existing condition in that area are those of a recovering (it has been logged) but robust bald cypress swamp. We will develop additional descriptive material and data to project the future of the park's swamp if it were (1) drained or (2) severed from Bayou aux Carpes but kept wet.

Please also note in the enclosed general management plan on page 18, and the map opposite, our planned management of the swamp as a "protected representative natural community subzone". The "environmental education group use site" shown on the plan opposite page 12, and described on page 15, would rely heavily on this swamp as an educational resource. We have already installed a trail, our "Ring Levee" trail into the swamp and it has proven to be very popular as an opportunity for the public to see a cypress swamp conveniently and safely. Guided tours by park interpreters are provided at 10:00 A.M. and 3:00 P.M. on weekdays and at 10:00 A.M., 1:00 P.M., and 3:00 P.M. on weekends.

The legislation authorizing the establishment of the park is copied in the general management plan beginning on page 65.

Sincerely,



James L. Isenogle
Superintendent

Enclosures

cc:
Regional Director, Southwest Regional Office
U.S. Fish and Wildlife Service, Lafayette Field Office
Corps of Engineers
Attn.: Elizabeth Griffin



United States Department of the Interior
NATIONAL PARK SERVICE
JEAN LAFITTE NATIONAL HISTORICAL PARK
423 Canal Street - Room 206
New Orleans, Louisiana 70130

IN REPLY REFER TO:

October 30, 1984

RECEIVED

NOV 2 1984

Ms. Barbara Keeler
Environmental Protection Agency
1201 Elm Street
Dallas, Texas 75720

6 13

Dear Ms. Keeler:

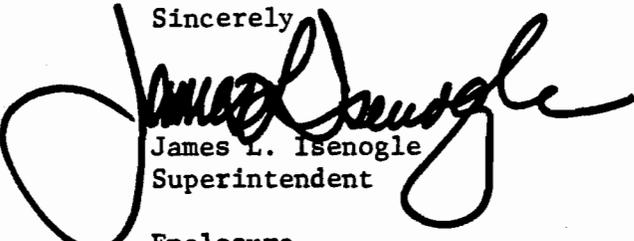
We have, since we began offering guided walks on the Ring Levee Trail in the Bayou aux Carpes swamp, experienced an average of a little over 19 people per trip. These tours have been in progress since last April and are now offered twice daily during the week and three times each weekend day.

Visitation to the Barataria Unit in general has grown from 6,802 in 1981; 13,667 in 1982; 277,330 in 1983; and, through September of this year, it was 588,773.

We have as of this date acquired 6,101.23 acres of the 8600 acres authorized by Public Law 95-625 as amended. The area acquired includes most of that part of the Bayou aux Carpes drainage and swamp lying within the authorized Park boundary.

Enclosed are materials pertaining to the study just begun by John Day at the LSU Center of Wetland Resources and a map illustrating the Park's authorized boundary and the 6,101 acres currently in public ownership.

Sincerely,


James L. Isenogle
Superintendent

Enclosure



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
9450 Koger Boulevard
St. Petersburg, FL 33702

June 17, 1985 F/SER112/PK:gog
409/766-3699

Mr. Dick Whittington, Regional Administrator
U.S. Environmental Protection Agency
ATTN: Federal Activities Branch
1201 Elm Street
Dallas, TX 75270

RECEIVED

JUL 2 1985

6 ES

Dear Mr. Whittington:

The National Marine Fisheries Service (NMFS) has reviewed your proposal to prohibit the Bayou aux Carpes swamp and marsh from future use as a dredged or fill material disposal site.

Information enclosed with the announcement of this Public Meeting indicates that the area is wooded swamp and marsh habitat with tidal exchange. Nutrients and detritus, formed by the breakdown of vegetative matter, serve as fundamental elements in the food web of the area or are exported via Bayou des Familles and Bayou Barataria and the Gulf Intracoastal Waterway to estuarine areas downstream. Access into the project area by estuarine-dependent marine species, is available through the same routes, and via the pipeline canal just northeast of Bayou aux Carpes. Observation of bay anchovy, striped mullet, threadfin shad, tidewater silverside and blue crab in the area this April by the U.S. Fish and Wildlife Service biologists provided recent evidence of ingress by estuarine organisms. Marshes and swamps such as these in this area also serve an important function of water quality maintenance, and hydrological buffering, including stormwater runoff retention.

We agree with the findings in your section entitled **POTENTIAL ADVERSE IMPACTS OF SECTION 404 PERMIT ACTIVITIES** that: (1) the direct water quality effects resulting from the discharge of dredged or fill material could significantly and adversely affect the functions and values currently characterizing this wetland system; (2) many important finfish and shellfish species are adversely impacted by alterations to the physical-chemical environment during critical stages in their life cycles; (3) hydrological isolation would unacceptably diminish the current fish and wildlife potential of the immediate site and areas further downstream would be adversely affected because the site would no longer be available as a nursery area, or for nutrient and detrital contributions or water quality maintenance functions; (4) draining this site would have unacceptable adverse effects on the ecological characteristics of the eastern wetland portions of the Barataria Unit of the Jean Lafitte National Historical Park; and (5) drainage and conversion of this area also would contribute significantly to the cumulative wetland losses currently being experienced in coastal Louisiana in general, and in the Barataria Basin in particular.



(2)

In view of the above mentioned adverse impacts, as well as the Bayou aux Carpes swamp being in a part of the Barataria Basin which is losing wetlands much faster than the national average, the NMFS strongly supports your proposal, under Section 404(c) of the Clean Water Act, to prohibit the specification of this wetland site for discharge of dredged or fill materials.

Thank you for the opportunity to present this statement.

Sincerely yours,


for Richard J. Hoogland
Chief, Environmental Assessment
Branch

Enclosure

USFWS, DES, Lafayette
USFWS, Atlanta
LA Dept. of Wildlife
LA Shrimp Assn.
LA Wildlife Fed.
LA DNR
Gotech, Inc.
~~Sierra Club, J. Phillips~~
EPA, Dallas
Dr. Michael Crezee
F/SER11
File

Spate

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Lincoln Center, Suite 881 • 5401 W. Kennedy Blvd.
Tampa, Florida 33609 • Phone: 813/228-2815

July 12, 1985

00.JUL.85*003090

Mr. Richard Whittington
Regional Administrator
U.S. Environmental Protection Agency
1201 Elm Street
Dallas, Texas 75270

Dear Mr. Whittington:

This responds to your Notice of Public Meeting requesting comments on the proposal by EPA to prohibit the future use of the 3000-acre Bayou aux Carpes Swamp, north of Crown Point, Louisiana, as a dredged or fill disposal site. I regret not being able to attend the public meeting, but offer for the record the following comments on behalf of the Gulf of Mexico Fishery Management Council (GMFMC).

The GMFMC, established by the Magnuson Fishery Conservation and Management Act, is responsible for the best use of fishery resources in the Fishery Conservation Zone of the United States. Many offshore fishery resources (e.g., penaeid shrimp) require estuarine habitats or their products during some part of their life cycle. Based on information provided by the National Marine Fisheries Service in their June 17, 1985, letter to you and the information attached to the public meeting notice, the Bayou aux Carpes Swamp provides many vital benefits to fishery resources under our purview. For example, the swamp provides habitat for fishery resources, a source of nutrients to downstream estuaries, and water quality maintenance functions that help to provide better habitat conditions downstream. The swamp also provides various hydrological functions of benefit to fishery production. Accordingly, we agree with your findings under POTENTIAL ADVERSE IMPACTS OF SECTION 404 PERMIT ACTIVITIES.

In view of the above, the 3000-acres Bayou aux Carpes Swamp area should be protected. Accordingly, we strongly endorse EPA's action under Section 404 (c) of the Clean Water Act to prohibit the future use of the swamp as a dredged or fill material disposal site. The GMFMC commends the EPA for this extremely valuable habitat conservation effort.

Sincerely yours,

John M Green
John M. Green
Chairman *by JMG*

JMG:wlb

cc: Col. Eugene S. Weatherspoon
Joe Lindsley
James Pulliam
Richard Hoogland
Don Moore
Mississippi/Louisiana Habitat Advisory Panel
Gulf Council
Staff

RECEIVED

JUL 13 1985

G.M.C.



United States
Department of
Agriculture

Soil
Conservation
Service

3737 Government Street
Alexandria, Louisiana
71302

July 29, 1985

Ms. Barbara Keeler (6ES-F)
EPA Region 6
1201 Elm Street
Dallas, Texas 75270

Dear Ms. Keeler:

Subject: Hydric Soils - Bayou aux Carpes Area

According to the attached definition of hydric soils, the soil series Sharkey is considered hydric. If the area is undrained and exhibits hydrophytic vegetation, it would be considered wetland.

We are also pointing out that the Commerce soils that are frequently flooded for long durations are also considered hydric. Therefore if Commerce soils occur in a frequently flooded position for long durations, are undrained, and have hydrophytic vegetations, the soils would be considered wetland.

In reviewing the soil survey maps of the area in question, we agree that it may be necessary to refine or delineate some areas of Sharkey clay flooded and Fausse soils between the regular Sharkey mapping unit and the Barbara soils.

If you need a soil scientist to assist you, please let us know.

Sincerely,

B. Arville Touchet
State Soil Scientist

RECEIVED

JUL 31 1985

6 ES



The Soil Conservation Service
is an agency of the
Department of Agriculture



United States
Department of
Agriculture

Soil
Conservation
Service

P.O. Box 2890
Washington, D.C.
20013

*HSR Harry
H. Horace
Dan
No. 1 Gene*

Back to Arville

Subject: SOI - Minutes of June 25-27, 1985 meeting of Hydric Soils Committee **Date:** June 28, 1985

To: P. R. Johnson, MWNTC, SCS, Lincoln, NE **File Code:** *B.C.F. 7/3/85*
Arville Touchet, State Soil Scientist, SCS, Alexandria, LA
 W. B. Parker, National Wetlands Inventory, FWS, St. Petersburg, FL
 Del Fanning, Department of Agronomy, University of Maryland, College Park, MD
 W. H. Patrick, Jr., Laboratory for Wetland Soils and Sediments, Louisiana State University, Baton Rouge, LA
 Carl Thomas, Ecological Sciences Division, SCS, Washington, DC
 Keith Schmude, Resources Inventory Division, SCS, Washington, DC
 Richard Guthrie, Department of Agronomy and Soils, Auburn University, Auburn, AL
 Bill Sipple, EPA, Washington, DC
 D. R. Sanders, USAE Waterways Experiment Station, Vicksburg, MS
 Lucian Langan, WNTC, SCS, Portland, OR

We had another very productive meeting. All members were present except Carl Thomas and Richard Guthrie. Here is what we accomplished:

1. We reviewed all of the comments we received from the NTC's and the comments from the states that they sent to us or that the states sent to us directly. From the comments and those of the committee, we revised the definition of hydric soils and the criteria (enclosed).
2. We developed a glossary of terms used in the definition of hydric soils (enclosed).
3. We developed a schedule for preparation and distribution of the hydric soils list (enclosed).
4. We developed a procedure for adding or deleting soils from the list of hydric soils (enclosed).

Keith

KEITH K. YOUNG
 Chairman, National Technical Committee
 for Hydric Soils
 Phone (202) 382-1808

cc: Paul M. Howard, Deputy Chief, Technology
 Ralph J. McCracken, Deputy Chief, Assessment and Planning

INTRODUCTION

The list of hydric soils contains soils that are sufficiently wet under undrained conditions to support the growth and regeneration of hydrophytic vegetation. The list includes hydric soils that are either drained or undrained; therefore, not all areas of hydric soils support hydrophytic vegetation. In some soil series only those phases that are ponded or are frequently flooded for long or very long duration meet the criteria for hydric soils.

The list was developed by applying selected criteria to soil properties documented in Soil Taxonomy and Soil Interpretations Records (SOI-5).

This list will have a number of agricultural and non-agricultural applications. These include land-use planning, conservation planning, mapping, classifying and delineating wetlands, mitigation planning, and assessment of potential wildlife habitat.

DEFINITION OF HYDRIC SOIL

A hydric soil is a soil that in its undrained condition is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of hydrophytic vegetation.

CRITERIA FOR HYDRIC SOILS

1. All Histosols except Folists, or
2. Soils in Aquic suborders, Aquic subgroups, Albolls, Salorthids, or Pell great groups of Vertisols that are:
 - a. somewhat poorly drained and have water table less than 0.5 ft from the surface at some time during the growing season, or
 - b. poorly drained or very poorly drained and have either:
 - (1) water table at less than 1.0 ft from the surface at some time during the growing season if permeability exceeds 6.0 in/hr in all layers within 20 inches, or
 - (2) water table at less than 1.5 ft from the surface at some time during the growing season if permeability is equal to or less than 6.0 in/hr in all layers within 20 inches, or
3. Soils that are ponded during any part of the growing season (a "+" appears in the depth to water table column of the SOI-5 record and "MONTHS" includes a growing season month), or
4. Soils that are frequently flooded for long duration or very long duration during the growing season.

SCHEDULE FOR PREPARING AND DISTRIBUTING THE LIST OF HYDRIC SOILS

<u>Activity</u>	<u>Who</u>	<u>When</u>
Reprogramming the new criteria	Terpstra	July 30
Transmit new list to committee	Terpstra	July 30
Review list, clear for distribution	Committee	Aug 10
Send bulletin to states, NTC's	McCracken	Aug 10
Distribute list to states (by state) and to NTC'a (by NTC)	Terpstra	Aug 15

GLOSSARY OF TERMS USED IN DEFINING HYDRIC SOILS

- anaerobic:** a situation in which molecular oxygen is absent from the environment.
- drained:** a condition in which ground or surface water has been removed by artificial means.
- flooded:** a condition in which the soil surface is temporarily covered with flowing water from any source, such as streams overflowing their banks, runoff from adjacent or surrounding slopes, inflow from high tides, or any combination of sources.
- frequently flooded:** a class of flooding in which flooding is likely to occur often under usual weather conditions (more than 50 percent chance of flooding in any year, or more than 50 times in 100 years).
- growing season:** the portion of the year when soil temperatures are above biologic zero (5 degrees C), as defined by Soil Taxonomy. The following growing season months are assumed for each of the soil temperature regimes:
- | | |
|------------------|-------------------|
| Isohyperthermic: | January-December |
| Hyperthermic: | February-December |
| Isothermic: | January-December |
| Thermic: | March-October |
| Isomesic: | January-December |
| Mesic: | April-October |
| Frigid: | June-September |
| Cryic: | June-August |
| Pergelic: | July-August |
- hydrophytic vegetation:** plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- long duration (flooding):** a duration class in which inundation for a single event ranges from 7 days to 1 month.
- permeability:** the quality of the soil that enables water to move downward through the profile, measured as the number of inches per hour that water moves downward through the saturated soil.
- phase, soil:** a subdivision of a soil series based on features (e.g. slope, surface texture, stoniness, and thickness).
- ponded:** a condition in which water stands in a closed depression. The water is removed only by percolation, evaporation, or transpiration.
- poorly drained:** water is removed from the soil so slowly that the soil is saturated periodically during the growing season or remains wet for long periods.
- saturated:** a condition in which all voids (pores) between soil particles are filled with water.
- soil series:** a group of soils having horizons similar in differentiating characteristics and arrangements in the soil profile, except for texture of the surface layer.
- somewhat poorly drained:** water is removed slowly enough that the soil is wet for significant periods during the growing season.
- very long duration (flooding):** a duration class in which inundation for a single event is greater than 1 month.
- very poorly drained:** water is removed from the soil so slowly that free water remains at or on the surface during most of the growing season.
- water table:** the zone of saturation at the highest average depth during the wettest season. It is at least six inches thick and persists in the soil for more than a few weeks.

PROCEDURE FOR ADDING OR DELETING SOILS FROM THE LIST OF HYDRIC SOILS

If soils are on the list of hydric soils that should be removed or soils that are not on the list that should be listed, gather as much supporting data as is available to make your case and either:

1. Submit the rational and the proposed changes in the criteria along with your supporting data to the chairman of the Hydric Soil Committee, or
2. Submit the rational and proposed changes in the SOI-5 or definition of the series through the regular SCS update procedures (see National Soils Handbook).

October 18, 1984

David Bearing, Esquire
Land & Natural Resources Division
U.S. Department of Justice
Federal Bldg. Room No. 4446
Twelfth & Pennsylvania N.W.
Washington, D.C. 20530

Re: Creppel, et al vs. Army Corps of Engineers
Civil 77-28 Eastern District Louisiana

Dear David:

This will confirm our telephone conversation of October 16, 1984 regarding an EPA field survey of areas involved in the referenced litigation. An EPA employee from Region 6, one from EPA headquarters and two New Orleans Corps of Engineers staff members conducted an aerial, land and water survey of the tract involved in the Creppel litigation on Friday, October 17, 1984. The presence of the consultants who represent the landowners throughout the day and the questions they asked rendered the survey substantially less helpful than it would have been without their participation. In addition, the time spent the day before in coordinating with the consultants detracted from our preparation for the trip.

It seems clear that the consultants' understanding of their role was radically different from ours and it causes us to sincerely regret having taken the courteous and precautionary step of advising the landowners' counsel of our visit to the tract.

We request that blanket permission be obtained from the landowners for EPA employees representative and contractors as well as other agency representatives to visit the tract without prior notification to the landowners or their counsel and without the presence of either. We consider this essential if we are to meet the deadlines discussed with Judge Mitchell on September 15, 1984.

We anticipate that either EPA employees or others on our behalf may wish to be on the tract as early as October 25, 1984 and would appreciate having this permission by then.

Thank you for your cooperation.

Sincerely,

Warless W. Denton
Associate Regional Counsel

January 21, 1985

Mr. John Volz
United States Attorney
Eastern District of Louisiana
Hale Boggs Federal Building, Rm. 210
500 Camp Street
New Orleans, Louisiana 70130

Ref: Creppel, et al v. Corps of Engineers
Civ. No. 77-25
Eastern District of Louisiana

Dear Mr. Volz:

During the week of January 14, 1985, it became necessary to obtain an order from Judge Lansing Mitchell allowing entry by LPA field investigators onto lands involved in the Creppel case. This was made necessary because of a last minute reversal of previously given permission to enter.

The effective assistance of Mr. William Baity, Chief, Civil Division was instrumental in obtaining the necessary order on January 16, 1985. We are appreciative of Mr. Baity's help which was provided on short notice and with limited prior involvement in the case.

Sincerely,

Paul Seals
Regional Counsel

bcc: Barbara Keeler (6ES-FT)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
INTERFIRST TWO BUILDING, 1201 ELM STREET
DALLAS, TEXAS 75270

Mr. David E. Dearing, Attorney
Environmental Defense Section
US Department of Justice
Washington, D.C. 20530

Ref: Creppel, et al vs. U.S. Army Corps of Engineers

Dear Mr. Dearing:

This is to advise you, pursuant to rulings by Judge Mitchell on September 19, 1984, that we have made a decision to initiate a Clean Water Act Section 404(c) proceeding with respect to the actions proposed in connection with the Harvey Canal-Bayou Barataria project as it relates to the tract involved in the Creppel litigation (and adjoining acreage as well).

We have decided to initiate the process after review of information available to us from the mid-1970s proceedings in which EPA was involved to a limited extent, a recent visit to the tract by members of my staff, review of information from the U.S. Army Corps of Engineers District Office in New Orleans and discussions with the U.S. Fish and Wildlife Service and the National Park Service. While additional studies will be required to verify that the proposed activities will have the unacceptable adverse impacts contemplated in Section 404(c), we are convinced we should initiate the process.

In accordance with representations made to Judge Mitchell on September 19, 1984 you are hereby requested to advise him that we will initiate the Section 404(c) process in due course with a view toward completing this process within nine months of December 18, 1984.

Sincerely yours,

Dick Whittington, P.E.
Regional Administrator

Research Laboratory, the U. S. Fish and Wildlife Service, and the National Park Service, which may assist EPA for the purposes of investigation, are hereby entitled to and shall be authorized and permitted to have entry upon the following described property, said premises located in the Eastern District of Louisiana and known as: The Bayou aux Carpes swamp, being that tract as outlined on the map attached hereto as Exhibit A.

IT IS FURTHER ORDERED that the Order issued herein shall be for the purpose of an entry, inspection, photographing and sampling, pursuant to 33 U.S.C. Section 1318, consisting of the following:

1. Entry to, upon or through the above described premises, to inspect, sample, view, test and evaluate the wetland characteristics and impacts thereon of the Harvey Canal-Bayou Barataria project.
2. Sample and seize soil and vegetation and collect water samples, make measurements of water quantity and quality and evaluate wildlife existence and habitat, and recreational use.
3. Take such photographs of the premises above described as may be required or necessary.
4. Perform any other studies deemed necessary by the inspecting party to environmentally evaluate

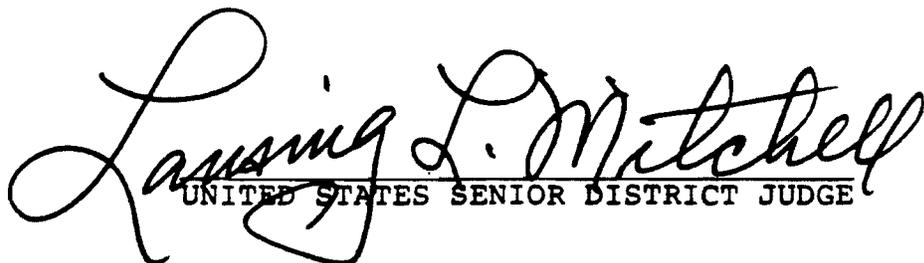
and determine the extent and quality of wetlands subject to Section 404, Clean Water Act, and to assist in implementation of the US EPA's Clean Water Act Section 404(c) proceeding.

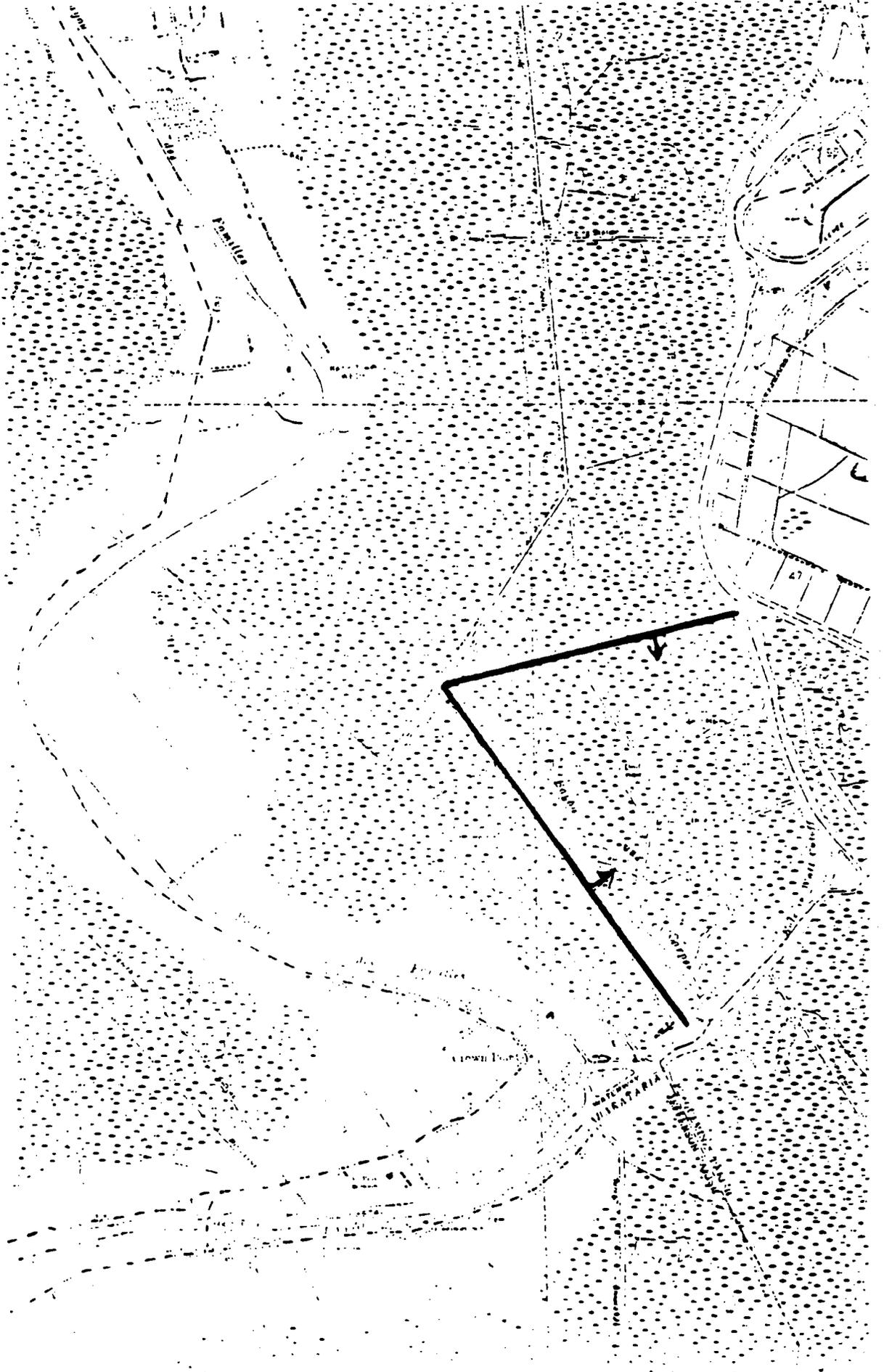
IT IS FURTHER ORDERED that a copy of this Order shall be posted at the place(s) of entry on the premises and carried on the person(s) of the inspector(s) at all times while on the premises.

IT IS FURTHER ORDERED that all entry and inspection rights authorized herein shall be valid until September 18, 1985.

IT IS FURTHER ORDERED that the United States Marshal is hereby authorized and directed to assist the representatives of the US EPA in such manner as may be reasonable, necessary and required.

New Orleans, Louisiana, this 16th day of January, 1985.


UNITED STATES SENIOR DISTRICT JUDGE



GOVERNMENT
EXHIBIT
A



1-10-83
to the

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



REPLY TO
ATTENTION OF:

LMNOC

8 September 1983

Mr. Harless Benthul, Attorney
Environmental Protection Agency, Region VI
First International Building
1201 Elm Street
Dallas, Texas 75202

Dear Harless:

Inclosed please find a copy of the Corps' final report on remand in the
Creppel, et al. v. Corps of Engineers, et al., Civil No. 77-25, U.S.D.C., E.D. La.

Sincerely,

Joseph A. Towers
Joseph A. Towers
District Counsel

Incl
as

FINAL STATUS REPORT

On September 17, 1982, Judge Lansing Mitchell of the United States District Court for the Eastern District of Louisiana, remanded a final order of the Corps of Engineers dated November 16, 1976, to the Corps for further proceedings in light of the decision in Creppel et al. v. Corps of Engineers, 670 F.2d 564 (5th Cir. 1982). The November 16, 1976 final order, which superseded interim findings by the Corps, modified the Harvey Canal - Bayou Barataria Small Flood Control Project, by substituting floodgates for a pumping station. The final order was challenged by a group of landowners whose property would have been subjected to drainage by the pumping station. Creppel, et al. v. Corps of Engineers, No. 77-25 (U.S.D.C., E. D. La). When the District Court granted summary judgment for the Corps, the landowners appealed and it was this appeal that resulted in the remand. The District Court's remand order required the Corps to supplement the record as follows:

- a. The ability and willingness of the Parish of Jefferson to furnish the necessary assurances of local cooperation to implement the modified project, as described in the Wilson Order;
- b. Whether Section 404 of the Clean Water Act prohibits completion of the project;
- c. Whether the U. S. Environmental Protection Agency (EPA) would exercise its veto authority under Section 404(c) of the Clean Water Act to prevent completion of the project; and
- d. Any additional facts pertaining to the project which the Corps determines may bear upon the public interest.

Part one of this document is the Corps' response to the remand to supplement the record; part two contains the Corps' comments for informational purposes only, to materials submitted by counsels for plaintiffs.

PART ONE: FINAL STATUS REPORT ON REMAND

A. Local Assurances

On June 16, 1982, I wrote a letter (enclosure 1) to Joseph Yenni, President of the Jefferson Parish Council, asking whether the Parish was willing to provide the necessary assurances for the small flood control project provided for by the November 16, 1976 final order. On July 28, 1982, Robert B. Evans, Jr., Council Chairman, responded to my letter, stating that under a state court injunction, the Parish is barred from ever providing the required assurances (enclosure 2).

In conclusion, Jefferson Parish is unable to provide necessary local assurances at this time, although such was not the case at the time the final order was issued (enclosure 3).

October 18, 1964

Ms. Elizabeth Griffin
Office of Counsel
U.S. Corps of Engineers
Post Office Box 80267
New Orleans, Louisiana 70160

Dear Ms. Griffin:

Re: Creppel, et al v. COE, et al, no. 77-26
Eastern District, Louisiana

As you know, EPA Region 6 is working toward a decision on or before December 18, 1964, as to whether to initiate a Section 404(c), Clean Water Act, proceeding with respect to the Harvey Canal - Bayou Barataria project. The help of the New Orleans District on a field survey on October 12, 1964, is appreciated.

We believe the District has accumulated over the years, substantial data and factual material about the area involved which will aid EPA in its decision. I therefore request copies of all studies, documents, field notes or other data which would aid in characterizing the area associated with the Harvey Canal, Bayou Barataria project as to its hydrology, biology, botany, its soils and water quality characteristics.

Thank you for your cooperation.

Sincerely,

15/
Harless R. Lentz
Associate Regional Counsel

cc: David Deering, DDC
Barbara Keeler, IFA

B. Applicability of Section 404 of the Clean Water Act, 33 U.S.C. 1344

Section 404 of the Clean Water Act became law on October 18, 1972. On July 22, 1974, the Corps promulgated regulations, 33 C.F.R. 209.145, regarding the applicability of Section 404 and the review required thereunder, to Federal projects.

On October 18, 1974, the Corps determined that Section 404 and the Corps regulations governing Federal projects were applicable to the Harvey Canal - Bayou Barataria Small Flood Control Project (enclosure 4). The United States District Court and the United States Court of Appeals upheld that determination.

Section 404 does not mandate a particular result; however, the applicable regulations provide the criteria and factors to be considered during the course of a Section 404 review. Applying those criteria and factors to the original Harvey Canal - Bayou Barataria Small Flood Control Project concept, I conclude that a Harvey Canal - Bayou Barataria Project that would include a pumping station and would result in the unnecessary drainage of the existing wetlands would be inconsistent with Section 404 and applicable regulations and guidelines. The project set forth in the November 16, 1976 final order would not result in drainage of the valuable and productive wetlands (enclosure 5) in the project area, but would still provide flood protection benefits.

C. Possibility of EPA Veto

After reviewing the correspondence in the record with EPA, I find that the Corps modified the original Harvey Canal - Bayou Barataria Small Flood Control Project concept, at least in part, in response to EPA's objections (enclosure 6). The resultant project is that set forth in the November 16, 1976 final order. In response to the Court's remand order and the Fifth Circuit opinion, the Corps wrote to EPA to ascertain whether EPA would exercise its Section 404(c) veto authority with regard to the small flood control project in the November 16, 1976 final order (enclosure 7). On February 4, 1983, EPA responded that it would not exercise its Section 404(c) authority as to that project (enclosure 8). Since earlier correspondence made it clear that EPA objected to the original project concept due to the wetland resource losses it would cause, the Corps did not believe that it was necessary to inquire of EPA as to whether it would exercise its Section 404(c) authority as to that concept.

D. Public Interest Review

The Corps reviewed the original record leading to the November 16, 1976 final order and found that all the relevant factors affecting the public interest had been considered. The Corps does not view there to be any new factors affecting the public interest outcome of this case.

PART TWO: CORP'S COMMENTS TO MATERIALS SUBMITTED BY PLAINTIFFS

Counsel for plaintiffs submitted materials to the Corps that they claimed bore on the public interest (enclosures 9 and 10). The Corps, in an effort to be accommodating to plaintiffs' concerns, reviewed these materials. It was concluded that they do not bear on the public interest, that they are irrelevant, that some were already decided in the Corps favor and are res judicata, and that they are beyond the scope of the remand. While the Corps does not concede that these materials are part of the record of the November 16, 1976 final order that is the subject of the remand, or that they are relevant, or are properly part of this matter, the Corps will summarize the results of its evaluation of these materials.

Mr. Leblanc's Submission

Mr. Joseph LeBlanc Jr.'s submission is a memorandum consisting of seven parts. These parts will be addressed in the order presented therein.

A. The State Court Decision

This has already been discussed in Part one, Section A of the Corps' Final Status Report.

B. Additional Support for the Pumping Station

Mr. LeBlanc has submitted a resolution passed by the Westbank Council of the Chamber/New Orleans and River Region, dated June 6, 1979, and a resolution passed by the Harvey Canal Industrial Association, dated April 5, 1979, calling for completion of the project as originally conceived. He has also submitted a petition signed by citizens of Crown Point, Lafitte, and Barataria, dated September 9, 1977, requesting that levees be built where needed in Crown Point, Lafitte, and Barataria; that existing levees be strengthened to hurricane strength; and that pumps be installed at the following locations: in Lafitte south of Goose Bayou, one on the 20 arpent line north of Goose Bayou, one on Rosethorn Road, two on Barataria with revetments being built along both sides of Bayou Barataria, and a pump at Bayou Aux Carpes in Crown Point.

While these documents show that there was some support in 1977 and 1979 for the construction of the pumping station at Bayou Aux Carpes, they are irrelevant to the public interest determination that was made at the time of the issuance of the November 16, 1976 final order. Furthermore, the construction of the pumping station would not eliminate or even reduce the flooding in Crown Point, Lafitte, or Barataria since these towns are located outside of the project area (enclosure 11).

C. The Question of Assurances

This has already been discussed in Part one, Section A of the Corps' Final Status Report.

D. The Trapping of Rainwater in the Project Area

This section was reviewed by this District's Engineering Division, Hydraulics Branch. I shall summarize their comments in response to the statements contained therein.

Under the final order, floodgates are to be installed at Bayou Aux Carpes instead of a pumping station. Mr. LeBlanc states that the floodgates were designed to be closed during periods of high tides and during the approach of hurricanes. Although the floodgates have not been designed as yet, it is the Corps understanding that it is intended for the floodgates to be closed during high tides (enclosure 12, paragraph 2.b).

Mr. LeBlanc claims that the existing closure at Bayou Aux Carpes has caused flooding to the land behind the levee and that the closing of the floodgates would produce the same results. This is incorrect. Trapping of rainwater is due to elevated tides and not because of the closure at Bayou Aux Carpes. Furthermore, the difference in the amount of trapped rainfall for a floodgate versus the proposed pumping station is very small due to the size of the proposed pump and the fact that the area could not be pumped down in advance to provide storage capacity for future rainfall (enclosure 12, paragraph c).

Mr. LeBlanc has suggested that the Corps has photographs depicting flooding on the West Bank of Jefferson Parish. This District's Engineering Division, Hydraulics Branch, has provided photographs taken in 1977 showing flooding in the Woodmere Subdivision (south of LaPalco Boulevard) and two photographs showing flooding in an area in or near the project area (enclosures 13 and 14). Attached at enclosure 15 are photographs provided by this District's Operations Division showing flooding in the Woodmere Subdivision in April 1980.

E. The Pumping Station at Bayou Aux Carpes would materially aid the drainage on the West Bank

Mr. LeBlanc claims that construction of the pumping station at Bayou Aux Carpes would materially aid the Parish drainage efforts in freeing pumping capacity at affected stations and thereby allow removal of surface waters faster, and with less risk of flooding. This is incorrect. The "V"-levee to the north of the swamp forms an impermeable barrier to overland flow of drainage. In other words, the swamp is a separate hydrologic unit from that area because of barriers to the flow of water. Operation of a pumping station installed at Bayou Aux Carpes would only pump flood waters out of the swamp. Such a pumping station would not improve the removal of surface waters from areas which are not hydrologically connected to the swamp or that do not discharge their drainage waters into the swamp. The addition of a pumping station at Bayou Aux Carpes cannot improve the drainage of surface waters from Harvey, Westwego, Estelle, Woodmere, Bayou Estates, or any other area on the west bank of Jefferson Parish (enclosure 12, paragraph f).

F. Under the Wilson Order the Landowners Would Receive no Benefits from the Project

Mr. LeBlanc contends that if the floodgates were to be installed in lieu of the pumping station, all of the benefits and consideration that the landowners were to receive would be lost. This contention is contrary to the findings of both the Federal District Court and the Fifth Circuit, which found that the November 16, 1976 final order did provide the landowners with flood control benefits, even though it eliminated reclamation of the swamp. Mr. LeBlanc opines that the Bayou Aux Carpes swamp is isolated and privately owned, has no significant functions relating to the public use and, therefore, it is in the public interest to complete the project with the pumping station, hopefully to drain and develop the area.

The Bayou Aux Carpes swamp is not a self-contained ecosystem. It is connected to the Gulf Intracoastal Waterway and the Barataria estuary via the Southern Natural Gas Pipeline Canal. This District's Operations Division, Regulatory Assessment Section prepared an environmental assessment, dated October 19, 1979, in connection with the Corps denial of Jefferson Parish's permit application for a pumping station at Bayou Aux Carpes (enclosure 16). This document concluded, inter alia, that the Bayou Aux Carpes swamp and marsh area was a valuable wetland area in and of itself, and that it contributed detrital material utilized in the biological productivity in the Barataria ecosystem. The report also concluded that the swamp and marsh area was an important wetland fulfilling several functions, such as, food chain production, nesting, spawning, rearing, and general habitat for aquatic and/or terrestrial species, storage area for storm and flood/waters, and water purification. These conclusions have been reaffirmed by the Corps' recent inspection and evaluation of the swamp and marsh area (See enclosure 5).

The Bayou Aux Carpes swamp is an environmentally vital area which serves important purposes relating to fish and wildlife, recreation, and other elements of the general public interest. As such, it constitutes a valuable and productive public resource whose unnecessary destruction should be discouraged as contrary to the public interest.

In addition to the ecological functions of the swamp and marsh area, it appears that these wetlands, in conjunction with properly designed and operated floodgates, could serve as a storage area for ponded rainfall thereby precluding flooding to the inhabited areas along the Bayou des Familles Ridge (enclosure 12, paragraph g).

In conclusion, the swamp does serve the public interest in its existing state. It contributes to the viability of the Barataria ecosystem, and can function as an integral part of a small flood control project.

G. Section 404 does not Prohibit Completion of the Project with the Pumping Station

This has already been discussed in Part One, Section B of the Corps' final report.

Mr. Molaison's Submission

Mr. Harold Molaison has submitted a letter which is an informal discovery request beyond the bounds of the remand order. While the Corps does not concede that this letter is part of the record of the November 16, 1976 final order or that it is properly a part of these remand proceedings, the Corps will provide its comments to the requests for production of documents.

Paragraph 1 requests the production of any written studies, reports, findings, and projections for drainage and flood protection of the Harvey, Marrero, Estelle, and Crown Point area from 1975 to 1985, including the Corps projection of population of said area. This request is irrelevant to the subject matter of these proceedings since the areas of Harvey, Marrero, Estelle, and Crown Point are located outside of the project area (enclosure 17).

Paragraph 2 requests the production of any findings and/or reports made to any governmental agency or headquarters regarding the need for flood protection along the Gulf Intracoastal Waterway. The "Review of Reports for the Harvey Canal - Bayou Baratavia Levee, Louisiana," dated September 20, 1963, has already been filed into the record. No additional findings or reports have been located.

Paragraph 3 requests the production of any and all statements, pictures, aerial photos, and findings of the Corps on the 1978-1980 flood damages on the West Bank of Jefferson Parish in Harvey, Marrero, Estelle, and the Crown Point area. Any flooding occurring in these areas is irrelevant to these proceedings since they are located outside of the project area; however, the Corps has found 2 photographs which show flooding in 1980 in the vicinity of Crown Point, in or near the project area. These are attached at enclosure 14.

Paragraph 4 requests the production of any reports or findings made by the Corps regarding evaluation of the marine life in the Bayou Aux Carpes area. This request was submitted to this District's Planning Division, Environmental Analysis Branch, for comment. There are no Corps' reports or findings regarding marine life in the Bayou Aux Carpes swamp. However, trawl samples taken 5 miles westward of the Southern Natural Gas Pipeline Canal, in Bayou Segnette on August 27, 1974, showed the presence of bay anchovies, Gulf menhaden, blue crabs, mud crabs, and the hog choker. These species would be expected to utilize the pipeline canal (enclosure 18, paragraphs 1 and 2).

Paragraph 5 requests the production of any Corps' permits issued to the Jefferson Parish Drainage Department for the digging and widening of the canal beyond the "V"-levee and the enlargement of the "V"-levee. This request was submitted to this District's Operations Division, Permits Section. No permits were located for the "V"-levee or the borrow canal since they were built prior to the time that the Corps exercised jurisdiction in that area (enclosure 19).

Paragraph 6 requests the production of the Corps' letter requesting Jefferson Parish to furnish local assurances for the project as provided for in the November 16, 1976 final order, together with the Parish's response to that request. These letters are attached at enclosures 1 and 2.

Enclosures

- 1 - June 16, 1982 Corps letter.
- 2 - July 28, 1982 Jefferson Parish letter.
- 3 - November 16, 1976 final order.
- 4 - October 18, 1974 Corps letter with-reply.
- 5 - 1983 Report on Bayou Aux Carpes Wetlands.
- 6 - EPA Correspondence 1975-76 in globo.
- 7 - November 12, 1982 Corps letter.
- 8 - February 4, 1983 EPA letter.
- 9 - Mr. LeBlanc's submission.
- 10 - Mr. Molaison's submission.
- 11 - Quad Sheets.
- 12 - April 1, 1983 Engineering Division Comment.
- 13 - Photos
- 14 - Photos
- 15 - Photos
- 16 - October 19, 1979 EA
- 17 - Project Map (1974)
- 18 - February 25, 1983 Planning Division Comment.
- 19 - January 21, 1983 Operations Division Comment.
- 20 - Court Order dated June 30, 1983.
- 21 - Supplemental Molaison's Status Report Requirement.

LMNED-DL (18 Jan 83)

SUBJECT: Proceedings in Remand re: Creppel, et al. v. U.S. Army Corps of Engineers et al, Civil No. 77-25 (E.D. LA)

TO Ofc of Counsel

FROM C/Engr Div

DATE 1 Apr 83
Mr. Lee/gsm/2717

CMT 2

1. As requested, inclosures 2 and 3 have been reviewed and our response is provided below. I understand that Planning Div and Operations Div have been requested separately to respond to questions pertaining to their area of expertise.

2. Inclosure 2, (memorandum of 3 Nov 82).

a. Page 4, question 1. The towns of Crown Point, Lafitte and Barataria are south and outside of the Harvey Canal - Bayou Barataria project limits (see incl 5).

b. Page 6, question 2. The floodgates have not been designed, to our knowledge, however, the intent is for the floodgates to be closed during high tides.

c. Page 6, question 3. The statement that "the land behind the levee experiences severe flooding from the "trapping" of rainwater..." is not true. Flooding has been no more severe since closure of Bayou Aux Carpes than before the closure was made. The "levee" referred to in this section is not continuous and permits the area to communicate with tide water in Bayou Barataria through two water courses, the pipeline canal and Bayou des Familles gap. Thus rainwater can be "trapped" within the area only if its egress from the area is prevented by elevated tides. If the floodgate were installed and the levee completed, the outflow of rainwater from the area would be via Bayou Aux Carpes through the floodgate to the extent that tidal stages would permit. Obviously, drainage of the ponded rainfall by a pumping station would be little affected by tidal stages. However, the difference in the peak level of ponded rainfall for a floodgate versus a pumping station would be very small in view of the size of the proposed pump and the fact that the area cannot be "pumped down" in advance to provide storage capacity for future rainfall.

d. Page 7, question 4. Photos were taken in the vicinity of Woodmere in 1977 after Hurricane Babe and are attached as incl 6. We have identified a few photos taken in 1980 which show flooding in the vicinity of Crown Point, in or near the project area. These photos are attached as incl 7.

e. Pages 7 and 8, question 5. Flooding from high tides could have been reduced if the gaps in the levee had been closed preventing tidal inflow. Rainfall water could then have been removed by the pumping station. Whether or not this would result in less flooding would depend on the size of the pumping station relative to the area to be drained and on the system of ditches and canals which would collect the water and deliver it to the pumping station. If the 154 cfs pump was installed as plaintiff wants and the existing water level is allowed to remain as is to protect the ecosystem, and all the levee gaps closed, such a pump could remove about 1 inch of water from the 3,700 acre tract every 24 hours. Thus the pump would have an insignificant effect on flood stages. Installing the pumping station without closing the remaining gaps in the levee at the pipeline canal and Bayou des Familles would be ineffective since high waters could still enter the area through these two openings in the levees. In this case, the pumps would just recirculate the water from Bayou Barataria.

Paragraph 7 requests the Corps to comment on the 2 photographs made by Giaise Studio on October 31, 1980. Most of the items on these photographs appear to be correctly identified, except that the "V"-levee is on the south side of the canal (enclosure 12, paragraph 3.b), and there is no pumping station as labelled on Plate 1. (enclosure 18, paragraph 3)

Paragraph 8 requests Corps action, reports, and records regarding the 1978, 1979, or 1980 flood damages resulting in the 74 million dollar claim by the United States Government Flood Program against the Parish of Jefferson, the Harvey, Marrero, and Estelle portion. This request refers to the suits entitled U.S.A. v. Parish of St. Bernard et al., Civil No. 81-1808, consolidated with U.S.A. v. Parish of Jefferson, et. al., Civil No. 81-1810, U.S.D.C., E.D. La. These suits involve issues entirely separate and distinct from the subject matter of this remand. Furthermore, the third party claim asserted against the Corps of Engineer was dismissed on June 30, 1983 (enclosure 20).

Paragraph 9 requests the production of any reports or findings in possession of the Corps regarding the project area, including levee upkeep, maintenance, protection, flood findings, elevations, and any engineering data of record from 1976 to the present. All pertinent records and findings regarding the subject matter of this litigation have already been filed into the record. No further engineering studies have been conducted, nor has any data been collected since the completion of the Federal portion of the small flood control project. Items such as, levee upkeep and maintenance, are the responsibility of Jefferson Parish (enclosure 12, paragraph 3.c).

On June 9, 1983, the Corps met with opposing counsel to give them an opportunity to provide additional comments before the filing of the final status report. Mr. LeBlanc had no additional comments. Mr. Molaison submitted a "Supplemental Status Report Requirement" (enclosure 21).

The information requested in paragraphs 1, 2, and 5 of enclosure 21 is irrelevant to the subject matter of these proceedings. Contrary to Mr. Molaison's implication, the letters referred to in paragraphs 3 and 4 merely state that the Corps determined that the provisions and the regulations implementing Section 404 of the Clean Water Act were applicable to the subject project, although individual Section 404 permits were not required for construction of the pumping station and associated works (levees and two interceptor ditches).

Based on the foregoing, it is apparent that plaintiffs' basic contention is that completion of the project, as originally conceived, would not only solve flooding problems on the West Bank of Jefferson Parish, but would also reclaim the swamp. This contention is incorrect. Neither benefit can be fully realized without future additional work. Any work occurring in navigable waters would require individual Section 10 and/or 404 permits.

Robert C. Lee
Colonel, Corps of Engineers
District Engineer

1 Apr 83

SUBJECT: Proceedings in Remand re: Creppel, et al. v. U.S. Army Corps of Engineers, et al, Civil No. 77-25 (E.D. LA)

f. Page 8, question 6. The natural drainage on the west bank of Jefferson Parish is toward the Gulf. In some areas drainage is pumped against the natural slope of the land. The "V" levee to the north of this area is a high impermeable barrier to overland flow of drainage. That is, the area in question is a separate hydrologic unit because of man-made barriers to the flow of water. Therefore, construction of the Bayou Aux Carpes pumping station would not help the remainder of the parish since it would only pump flood waters from within the area bounded by the "V" levee to the north, Highway 45 to the west and the Barataria Bayou (Harvey Canal) levee to the east. Since no other areas discharge their drainage waters into this area, the addition of this pumping station could not improve the efficiency of the other drainage systems on the west bank. To reiterate, the addition of the pumping station at Bayou Aux Carpes can in no way improve the removal of surface waters from Harvey, Westwego, Estelle, Woodmere, Bayou Estates or other areas of the west bank of Jefferson Parish since these areas are separate drainage systems not connected to Bayou Aux Carpes. The only need for this drainage is a small area of Jefferson Parish wherein a number of families have occupied an area which due to subsidence will have increasing problems with gravity drainage and tidal flooding as coastal Louisiana sinks.

g. Page 10, question 7. The area between the "V" levee, Hwy. 45 and Bayou Barataria is essentially a large sump except for the area along the Bayou des Familles ridge. The area that is currently wetlands is also at a lower elevation than the inhabited areas along the Bayou des Familles ridge. A project for drainage with floodgates instead of a pumping station could conceivably be designed to allow sufficient storage in the uninhabited wetland areas such that ponded rainfall would not cause flooding of the ridge when the floodgates were closed during an abnormally high tide event. The water would then be drained through the floodgates after the tide receded. The same type system could operate with a pump instead of floodgates. The advantage of the floodgates is the ability to maintain the wetland area in its present condition with tidal exchange with Bayou Barataria. The Bayou Aux Carpes swamp is still connected to Bayou Barataria and the remainder of the Barataria Bay Estuary through the pipeline canal and Bayou des Familles. Thus the swamp is still part of that ecosystem.

3. Inclosure 3, letter of 27 Oct 82 to Colonel Lee.

a. Item 3. Refer to para 2d above concerning photos of the area. High water marks from the flood event of Apr 80 were surveyed in the Harvey and Marrero areas (incl 8).

b. Item 7. The photos were reviewed. Most of the items listed on the attached photographs appear to be correctly identified, except that the "V" levee is on the south (Bayou Aux Carpes) side of the canal which flows to the Estelle Pumping Station.

c. Item 9. All federal construction of the Harvey Canal-Bayou Barataria Project was completed prior to 1976. No further engineering studies have been conducted, nor

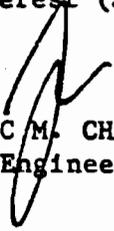
MNED-DL

1 Apr 83

SUBJECT: Proceedings in Remand are: Creppel, et al. v. U.S. Army Corps of Engineers,
et al, Civil No. 77-25 (E.D. LA)

Has any engineering data, such as elevations, been collected by Engineering Division since completion of the Federal portion of this project. Maintenance and completion of the project is the responsibility of local interest (Jefferson Parish).

3 Incl
added 4 incl
5-8. as


FREDERIC M. CHATRY
Chief, Engineering Division

LMNPD-RE (26 Jan 83)

SUBJECT: Proceedings in remand re: Creppel et al, v. U. S. Army Corps of Engineers, et al, Civil No. 77-25 (E.D.LA)

TO District Counsel

FROM C/Plng Div

DATE 25 Feb 83 CMT 2

Mrs. Hawes/kal/2518

1. Pages 10 - 11 of the LeBlanc submission state that the Bayou au Carpes area is isolated and no estuarine areas are critically dependent on it. The Bayou au Carpes swamp is not a self-contained ecosystem; it is connected to the GIWW and thus, the Barataria Bay estuary via the Southern Natural Gas Pipeline Canal (SNGPC). It exports nutrients and detritus to the estuarine system. The au Carpes swamp serves as a nursery area for estuarine fish and shellfish. No sampling has been conducted in the SNGPC, but trawl samples taken 5 miles westward in Bayou Segnette on 27 Aug 74 showed the presence of juvenile anchovies, menhaden and blue crabs. These organisms would be expected to utilize the SNGPC. The au Carpes swamp is presently slightly below average in comparison to other swamps in the Barataria ecosystem. However, its value would increase to average or above if Bayou au Carpes was reopened and the SNGPC was further opened to allow greater access to aquatic organisms.
2. The Molaison submission requested reports on marine life in the Bayou au Carpes area. We have no samples that show marine life in the au Carpes swamp. However, a sample taken in Bayou Segnette on 27 Aug 74 showed the following:

Channel catfish	2 adult
Bay anchovy	abundant juvenile and adult
Gulf menhaden	2 juvenile
Blue crab	9 juvenile
Bluegill	2 adult
Blue catfish	7 juvenile and adult
Mud crab	1 adult
Hog choker	1 adult

The same organisms would probably be in the SNGPC.

3. The Molaison submission asks for comments on two aerial photos. Plate 1 has a label at Bayou au Carpes and the GIWW that says "pumping station." There is no pumping station there; it is only proposed. All other labels on this plate and Plate 2 seem correct.
4. If you have any questions, please call Sue Hawes at ext. 2518.

3 Incl
wd incl 4
1. - 3. nc

for CLETIS R. WAGAHOFF
Chief, Planning Division

DISPOSITION FORM

For use of this form, see AR 340-15; the proponent agency is TAGO.

REFERENCE OR OFFICE SYMBOL

SUBJECT

NOC

Proceedings in Remand in Creppel, et al. v. U.S. Army Corps of Engineers, et al., Civil No. 77-25, (E.D.LA)

C/Permits Section

FROM Ofc of Counsel

DATE 18 Jan 83

CMT 1

Ms Griffin/jt/2831

Attached at inclosure 1 is a brief summary of the issues involved in the subject action.

Inclosure 2 is a copy of a letter, with photographs, which was submitted by Harold Blaison, attorney for one group of plaintiffs.

Please provide, if possible, the information required in paragraph 5 of the letter. If information cannot be provided, please explain why.

I request that you provide your comments as soon as possible since this information will be needed by this office in order to complete its final report to the court.

2 Incl

Ms Griffin
TOWERS

TO: OFC OF COUNSEL

FROM: C/PERMITS SECTION

21 JAN 83

CMT 2

SWINDLER 2278

1. WE CAN NOT LOCATE ANY PERMITS FOR THE "V"-LEEVE OR THE BORROW CANALS. THE V-LEEVE AND THE BORROW CANAL APPEAR ON THE "NEW ORLEAN" 1:62,500 QUADRANGLE MAP. DATED 1967. PARTS OF THE "V" LEEVE APPEAR TO BE LOCATED ON SPOIL BANKS ASSOCIATED WITH DEPARTMENT OF THE ARMY PERMITS (LTMA) 428 AND (LTMA) 482 ISSUED IN 1958 AND 1960, RESPECTIVELY. IT THEREFORE, APPEARS THE WORK WAS PERFORMED BETWEEN 1960 AND 1967. MS LAURA SWILLEY CALLED THE PARK TODAY AND PARK PERSONNEL STATE THAT MR JOSEPH RUSSO SAID WORK WAS PERFORMED IN 1960.
2. THE "V"-LEEVE AND THE BORROW CANAL WERE BUILT PRIOR TO THE TIME THE CORPS EXERCISED JURISDICTION IN THE AREA. PERMITS (LTMA) 428 AND (LTMA) 482 WERE ISSUED TO APPROVE THESE PROJECTS' CONNECTIONS WITH THE INTERCOASTAL WATERWAY, A WATERWAY WE EXERCISE JURISDICTION IN PROR TO 1960.
3. THE AREA INSIDE THE "V"-LEEVE IS NOT SUBJECT TO SECTION 10 JURISDICTION, BUT IS SUBJECT TO SECTION 404 JURISDICTION IN WETLANDS. CONSEQUENTLY DREDGING INSIDE THE LEEVE CAN BE PERFORMED WITHOUT A CORPS PERMIT. THE LEEVE MAY ALSO BE ENLARGED VERTICALLY PROVIDED NO DREDGED OR FILL MATERIAL IS PLACED IN WATERS OF THE UNITED STATES.

WILL
ADD 4

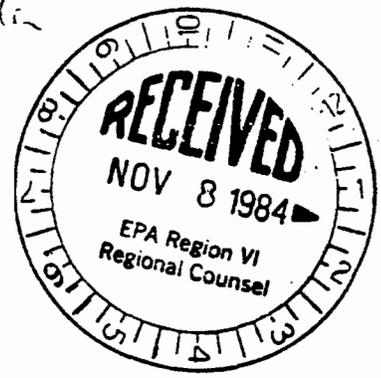
3. MAP
4. LTMA 428
5. LTMA 482
6. MAP

R. SWINDLER
C/PERMIT SECTION

ENCLOSURE 19

A FORM AUG 80 2496

Cy Barbara Kertin



1983 Report on Bayou aux Carpes Wetlands

Separate helicopter and boat trips were made to the Bayou aux Carpes area in Jefferson Parish, Louisiana, on 14 June and 14 July 1983, respectively. The area visited is shown on the inclosed map.

The general boundaries of the area were noted. The Bayou des Familles ridge is located on the west of the area, the "Vee-levee" is on the part of the north and west, and a low grade dredged material embankment extends from the Estelle pumping station outfall canal on the north of the area along the Intracoastal Waterway (IWW) on the east and around to near the mouth of Bayou des Familles.

The size of the subject area is approximately 3,850 acres. Generally, it is composed of 2,530 acres of swamp, 540 acres of fresh marsh, and 780 acres of bottomland hardwoods. There is tidal exchange/influence via the pipeline canal opening at the IWW.

Major hydrological features of the area include Bayou aux Carpes, which has a shell plug at its intersection with the IWW, two long oil exploration canals off of the bayou, and an approximately two-mile segment of the Southern Natural Gas pipeline canal which connects both to the IWW and the bayou and serves as the swamp's primary tidal connection to the Barataria estuary. Minor features include two trenasses, one which connects to the Estelle pump outfall canal, and two short, closed oil exploration canals. The main source of fresh water is rainfall with concomitant runoff and sheetflow through this wetland system. Flows are restricted under the Crown Point-Estelle highway.

Vegetation composition (including relative abundances) and animals and/or their signs were noted at each location observed and as shown on the inclosed map.

Aerial and ground photographs were taken as needed.

Information on relative abundance is shown as follows:

(A) = abundant	> 50%	coverage or influence
(C) = common	> 30%	" "
(F) = frequent	> 15%	" "
(I) = infrequent	< 10%	" "
(R) = rare	1 - 5%	" "

Area A - Located at and south of the Estelle pumping station and along the dredged material embankment of the outfall canal.

Water's edge along canal - water hyacinth (F), floating water primrose (I), elephant ears (F-C), and marshmallow (I).

Embankment - black willow (C), elderberry (C), eastern baccharis (F), coffeeweed (I), giant ragweed (F-C).

Fresh marsh south of embankment - water hyacinth (C), bulltongue (A), carex (F), smartweed (I), water pennywort (F), (4" to 18" standing water).

Animals included - redwing blackbird, common grackle, snowy egret, cattle egret, American bittern, little green heron, nutria, American alligator, swamp rabbit.

Area B - Located where the N-S trenasse intersects with Estelle pump outfall canal.

Areas adjacent to trenasse at canal - black willow (C), elephant ear (F), floating water primrose (I), smartweed (C), (4" to 12" water). Opening not clearly defined due to dense vegetation, but appeared hydrologically connected to canal.

Area C - Approximately 1,500 feet south of outfall canal along IWW.

At IWW - elephant ear (I-F), rattlebox (I), black willow (C), smartweed (C), canna (I-F).

On embankment adjacent to marsh-swamp - black willow (F), Drummond red maple (F), elderberry (F), green ash (I).

Marsh-swamp area -

Trees -shrubs - baldcypress (saplings and mature trees 14" to 18" DBH) (F), black willow (C), green ash (I), Drummond red maple (I), buttonbush (I), rattlebox (I-F).

Other vegetation included - water pennywort (C), frogbit (I), mosquito fern (C), duckweed (A), frogfruit (F), water hyacinth (F), Juncus (I), marshmallow (I), smartweed (F), boghemp (I), canna (I), loosestrife (I), sugarcane cutgrass (I-R) (1" to 12" water).

Animals included - Louisiana heron, snowy egret, little green heron,

mottled duck, water moccasin, red-shouldered hawk, great egret, Mississippi kite, crayfish, various species of frogs.

Area D - Located at first oil exploration canal closure and IWW.

Dredged material embankments - black willow (A) elderberry (C) waxmyrtle (I) eastern baccharis (F).

Vegetation in canal - water hyacinth (A).

Area adjacent to canal - baldcypress-tupelogum-Drummond red maple swamp.

Area E - Fresh marsh bisected by pipeline canal.

Embankment adjacent to canal - eastern baccharis (C), blackberry (C), elephant ears (F).

Marsh area - bulltongue (A), softstem bulrush (F), cattail (I-F), spikerush (F), smartweed (I), alligatorweed (I-F), waterhyssop (I), black willow saplings (I), rattlebox (I). Area in peak of biomass production.

Animals included - nutria and trails abundant, redwing blackbird, mottled duck, common egret.

Area F - General habit on and near embankments adjacent to pipeline canal and within.

Embankment - black willow (C), green ash (I), Drummond red maple (F),

baldcypress (F), water hyacinth (F), elephant ears (F). Embankments appeared that they were overtopped at very high water stages, otherwise normal exchange occurs through intermittent breaks in the embankments and also through the canal connecting the pipeline canal to Bayou aux Carpes on the west.

Within canal - water hyacinth (C), fanwort (F), coontail (C-A)

Animals on banks/in canal included - American alligator, nutria, water moccasin, matrix, snowy egret, redeer turtle.

Area G - Cross-connecting canal from pipeline canal to Bayou aux Carpes. Generally same vegetation as rest of embankment vegetation. Dense water hyacinth growth noted in canal. The area adjacent to canal embankments is baldcypress-tupelogum swamp with standing water (4" to 12").

Area H - Sections 13 and 55 below "Vee-levee" seen from helicopter only. The area is a dense stand of baldcypress-tupelogum with standing water.

Area I - Sections 11, 51, and 57 below "Vee-levee" seen mostly from helicopter but two previous field trips made to Bayou des Familles ridge area. The bottomland hardwoods ridge blends to a baldcypress-tupelogum-Drummond red maple swamp further east.

Bottomland hardwoods - hackberry (F-C), American elm (F), Drummond red maple (F-C), green ash (I-F), persimmon (I-R), baldcypress (I), water oak (F), Carpinus (F-C), live oak (I-R), boxelder (I), deciduous holly (I-F), buttonbush (I-F), elderberry (I), palmetto (F-C), pokeweed (I-R), blackberry (I-F), boghemp (F-C), rd tail (F-C), broadleaf panicum (F-C), trumpet creeper (F).

peppervine (I), muscadine vine (F), smartweed (F), shield fern (F), dayflower (C).

Swamp - baldcypress (F-C), tupelogum (C), Drummond red maple (I-F), green ash (F), Virginia willow (I), buttonbush (I), palmetto (I), water hyacinth (F-C) duckweed (C).

Area J - Large fresh marsh area just south of Estelle pump outfall canal and just east of pipeline canal as seen from the helicopter.

Vegetation included - bulltongue (A), smartweed (C), frogfruit (I), spikerush (C-A), mosquito fern (F), duckweed (F), water pennywort (C), water hyacinth (F), willow saplings (C), rattlebox (I).

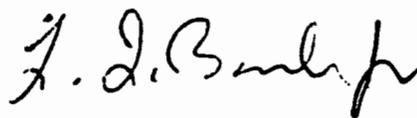
Animals included - nutria and signs throughout the marsh, egrets, herons, mottled duck.

Generally, it was observed that within this diverse ecosystem, there are many cover types in close proximity with good admixture of species. There is considerable biomass production.

Based on the observations made on the field trips, the Bayou aux Carpes swamp and marsh area is considered a normally functioning, viable wetland community exhibiting many important wetland and aquatic values. These values would include serving as an important area for biotic productivity and cycling of detritus and nutrients associated with the formation and maintenance of area food chains and food webs; providing feeding, cover, nesting, reproduction, and nursery habitat for associated and dependent biota; this wetland system

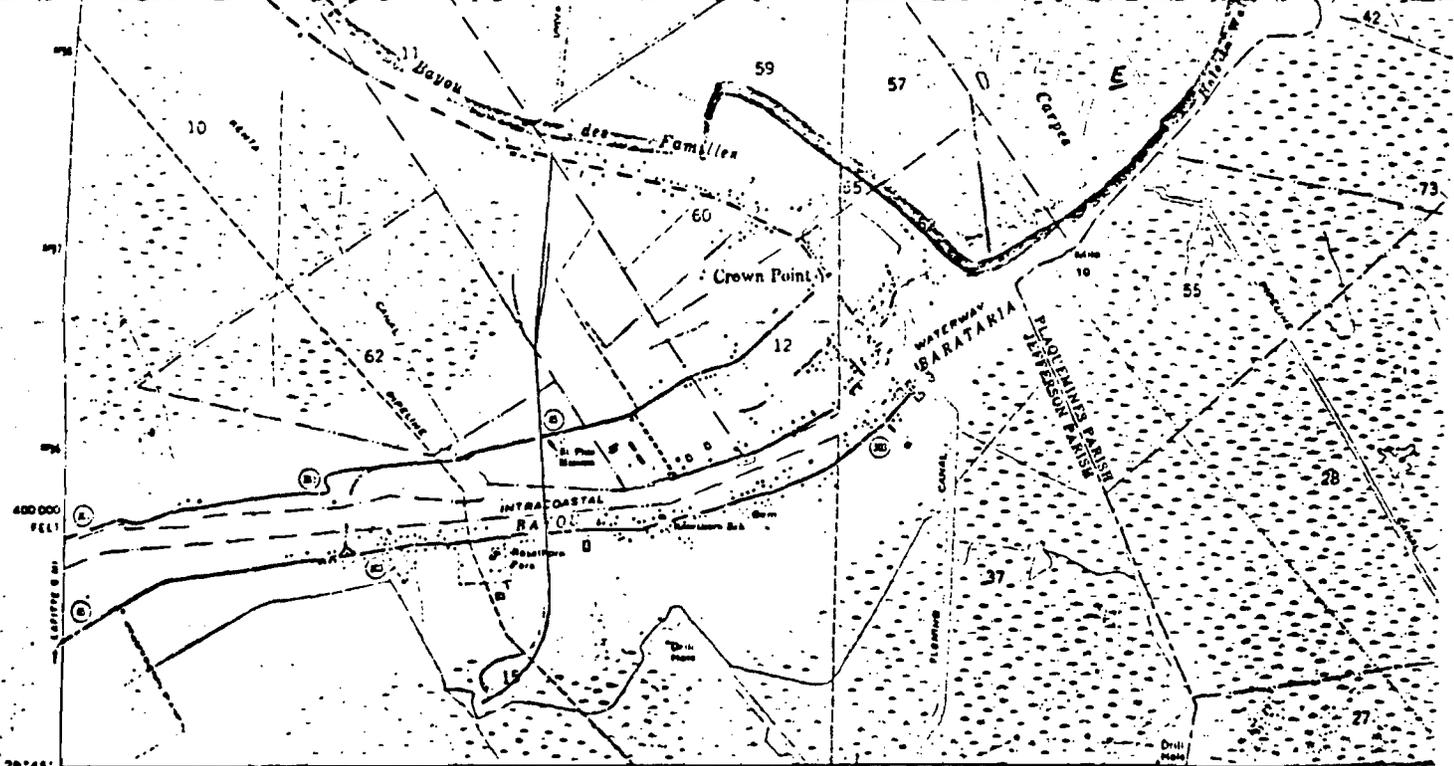
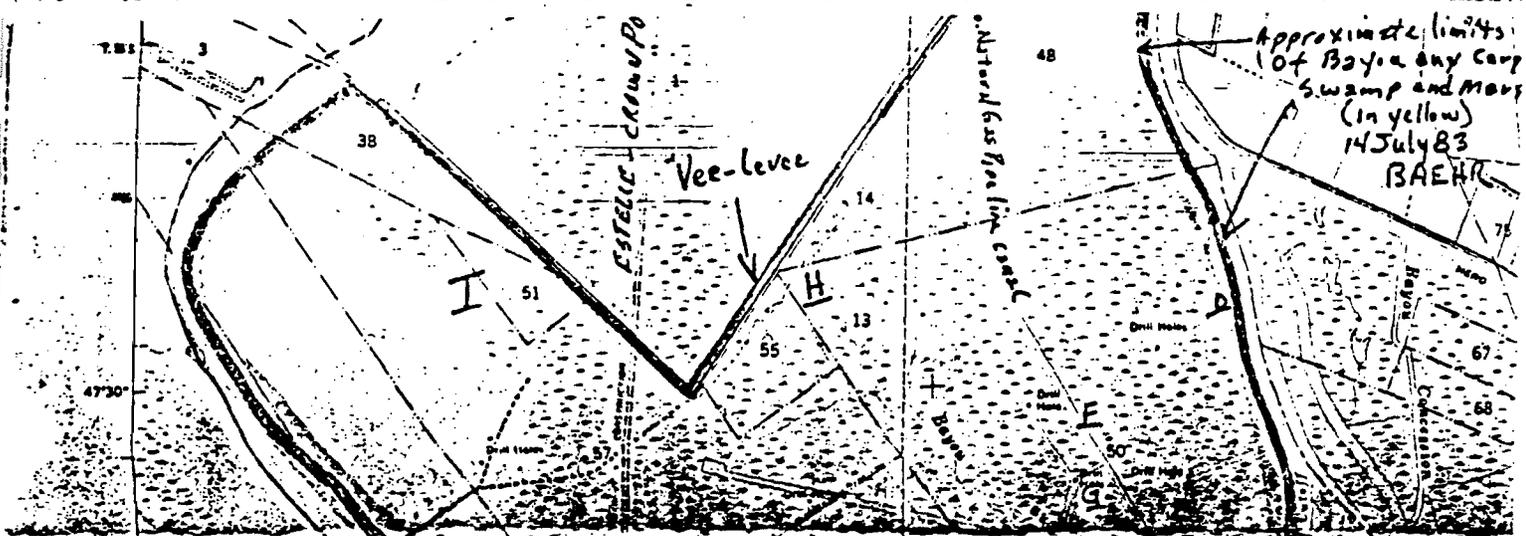
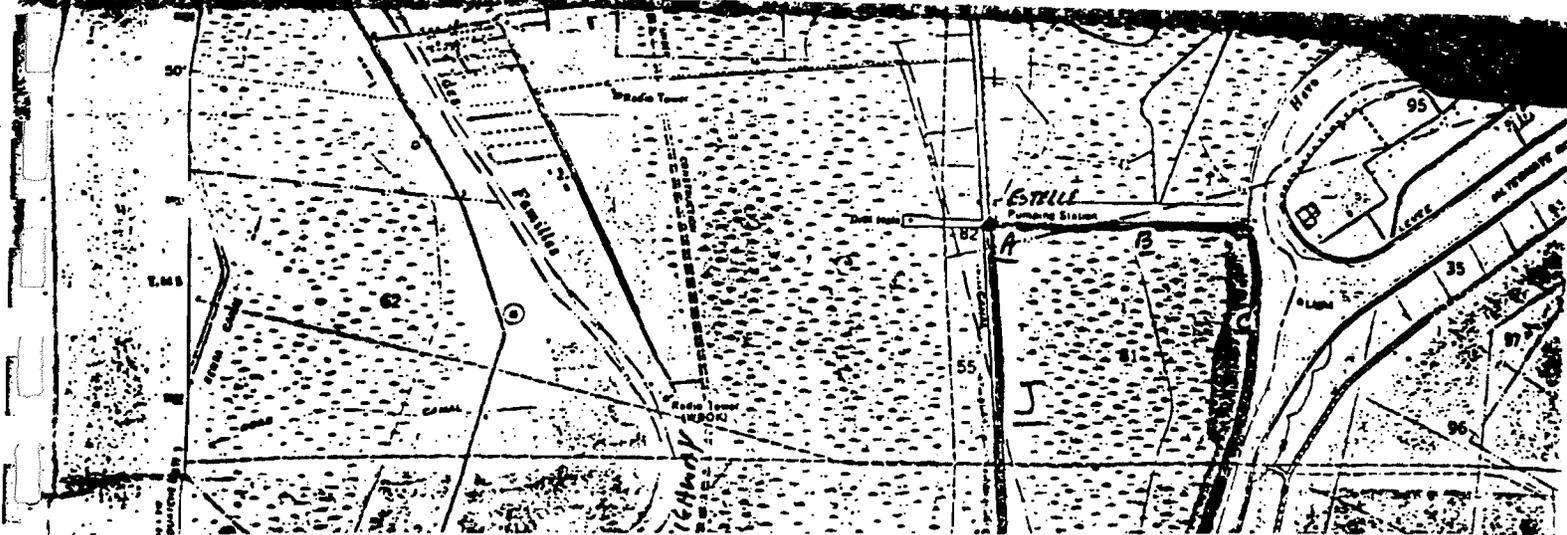
wetland system (especially relative to size) has its own major influence on area drainage, sediment patterns, salinities, and flushing characteristics; the system, with or without the dredged material embankments, provides significant protection against erosion and storm damage; the system provides storage area for storm and flood waters; fluctuation of water quality parameters such as dissolved oxygen, temperature, turbidity, and nutrient loading are regulated primarily by development of periodic fresh water heads due to rainfall received by the system. Apparently, movement of these turbid waters through the wetlands and out of the pipeline canal maintains adequate water quality levels to support viable growth and revegetation of the marsh and swamp components (self-maintaining system); this wetland ecosystem provides opportunities for consumptive recreation such as duck hunting, fishing and trapping.

The Bayou aux Carpes swamp and marsh ecosystem is considered an important and integral segment of the upper Barataria Basin estuary. Generally, I am in concurrence with the 19 Oct 79 Environmental Assessment of the Bayou aux Carpes area prepared by LMNOD-SA.



L. F. Baehr, Jr.

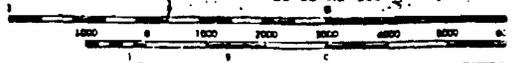
Chief, Regulatory Assessment Section
Regulatory Functions Branch
Operations Division



Mapped, edited, and published by the Geological Survey
 Control by USGS and USC&GS

Planimetry by photogrammetric methods from aerial photographs taken 1964. Topography by plane-table surveys 1966. Supersedes map dated 1951.

Selected hydrographic data compiled from USC & GS Charts 1271 (1966) and 875 (1962). This information is not intended for navigational purposes.
 Polyconic projection, 1927 North American datum
 10,000-foot grid based on Louisiana coordinate system, south zone
 1000-meter Universal Transverse Mercator grid local zone 15, shown in blue



CONTOUR INTERVAL 5 FEET
 NATIONAL GEODETIC VERTICAL DATUM OF 1929
 DEPTH CURVES AND SOUNDINGS IN FEET
 GULF COAST LOW WATER DATUM
 THE RELATIONSHIP BETWEEN THE TWO DATUMS IS VARIABLE
 THROUGHOUT THE SHEET AND PRESENTS THE APPROXIMATE LINE OF MEAN HIGH
 TIDE. THE MEAN RANGE OF TIDE IS APPROXIMATELY 10 FEET.
 THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS

70: John Wilson,
Brig. Dallas

STATEMENT OR
REVISED STATEMENT OF FINDINGS

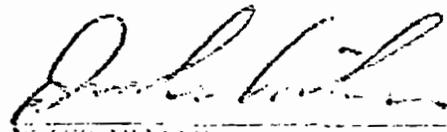
Hayvey Canal-Bayou Barataria Levee Project, Louisiana

I have reviewed the revised Statement of Findings on the Hayvey Canal-Bayou Barataria project prepared by the New Orleans District Engineer and the application of the 1977 Section 401 guidelines to this project. I note that IFA continues to object to the project as originally designed after many discussions and site visits. I conclude that the flood control purposes of this project can be readily achieved and that the objectives and requirements of the Federal Water Pollution Control Act Amendments of 1977 and Section 401(b) guidelines for this project will be satisfied if the project proceeds as follows:

- a. The flood control dikes along Bayou Barataria will be completed to their project design elevation and maintained by Jefferson Parish.
- b. The northern dikes closing Bayou aux Carpes and Bayou des Perilles will be removed and replaced with movable flood gates to restore and maintain normal water flows. Work is to be accomplished by Jefferson Parish, but operation of the gates will be in accordance with a plan approved by the District Engineer, New Orleans.
- c. The proposed pumping station is no longer required.

I find that the revised project is a reasonable balance between the need to provide protection from hurricane-induced flooding and the need to protect a productive wetland.

16 Nov 1977
DWD


DRAKE WILSON
Brigadier General, USA
Deputy Director of Civil Works

RECEIVED

NOV 18 1976

6AEP





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

LMNOD-SP (L.T.M.A.)767

19 October 1979

FINDINGS OF FACT

Waterway No.: (L.T.M.A.)767

Concerning an application for a Department of the Army Permit under Section 10 of the River and Harbor Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. 403) and/or Section 404 of PL 92-500 (86 Stat. 816; 33 U.S.C. 1344), by Jefferson Parish Department of Public Utilities:

1. I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application, as well as the stated views of other interested Federal and non-Federal agencies and the concerned public, relative to the proposed work in navigable waters of the United States and/or in navigable waters.
2. The possible consequences of this proposed work have been studied for environmental effects, social well-being, the public interests and in accordance with regulations published in 33 C.F.R. Parts 320 through 329 and when applicable, the guidelines published in 40 C.F.R. 230. Factors bearing on my review include: navigation, present and prospective; flood heights and beach erosion or accretion; fish and wildlife; water quality; aesthetics and ecology; historic values and recreation; water supply; floodplain use; energy production and distribution; food production and other public interests.
3. Specific information concerning the proposed work follows:
 - a. Name of applicant: Jefferson Parish Department of Public Utilities, P.O. Box 9126, Metairie, Louisiana 70055.
 - b. PMIS Number: JEFFP 11664.
 - c. Location, character, and purpose of proposed work: The location of the project is in Bayou Aux Carpes, immediately upstream from its mouth at Bayou Barataria, near Crown Point, Louisiana, in Jefferson Parish. The permit is to install and maintain a drainage pumping station and dredge and deposit fill material as necessary for construction of the station and completion of the closure fill in Bayou Aux Carpes. The project purposes include flood protection for developed areas along LA Highway 45 and reclamation of approximately 3,100 acres of wetlands for the future growth and development of Jefferson Parish. These purposes are derived from the original plan for the Harvey Canal-Bayou Barataria Project. Land reclamation was eliminated as a Federal

LMNOD-SP (L.T.M.A.)767
SUBJECT: Findings of Fact

19 October 1979

project purpose in 1976 when the pumping station was severed from local assurance. The parish was ordered by a state court to proceed with the project in 1979. The parish has complied with that order by applying to us for a permit. The wetlands are an impacted swamp leveed off from Bayou Barataria.

d. Authority: The work is below the mean high waterline of Bayou Barataria, a navigable water of the United States. The work includes structures in and the discharge of dredged and/or fill material into navigable waters of the United States. Therefore, the proposal is subject to Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act.

The applicant originally applied for a permit to construct the proposed pumping station on February 1974. The application was returned by letter dated 24 May 1974 which advised that the pumping station and associated levee closure are necessary parts of the Federal project for the Harvey Canal-Bayou Barataria Levee. Our position at that time was based on the then existing permit regulations. This latter position was changed by newer regulations at 33 C.F.R. 209.145 (22 July 1974), which generally required that Federal projects which involve discharges of dredged or fill material into waters of the United States be subject to procedural requirements of Section 404 of the Clean Water Act. The project was processed pursuant to Section 404 regulations for Corps' projects thereafter until 1976. After the severance of the pumping station from the Federal project, individual permit requirements become applicable. Processing this permit application is not intended to undermine either the original "Federal project" status of the entire project or the present "Federal project" status of other aspects of the project.

e. Other Federal, state, and local authorizations obtained: A water quality certification from the Louisiana Stream Control Commission is required pursuant to Section 401 of the Clean Water Act. There is no evidence that the applicant has recently applied for the certification nor any indications that the applicant requested current letters of no objection from Louisiana Office of Public Works and the Department of Wildlife and Fisheries.

f. Public participation: A public notice was issued 12 March 1979. One letter in support of this project was received from Harvey Canal Industrial Association, Inc. Several letters of no objection were received in response to the public notice. Copies of all comments to our public notice were forwarded to the applicant on 12 July 1979. The applicant has not furnished any rebuttal. Two of the letters were from

19 October 1979

organized environmental interest groups, the Fund for Animals, Inc., and the Orleans Audubon Society. The primary objections received concerned (1) the destruction of the approximately 3,100 acres of wetlands inside the pumped section, (2) the benefit to landowners and developers at the expense of the taxpayers, and (3) the impact on the proposed Jean Lafitte Park. Several of the objectors requested a public hearing. However, since the permit is being denied, no public hearing has been held or is planned. Neither the applicant nor interested landowners requested a public hearing.

g. Views of state and local authorities: Obviously Jefferson Parish feels there is a need to reclaim and develop the Bayou Aux Carpes swamp. The applicant obtained a letter of no objection from the Louisiana Department of Public Works (now referred to as the Office of Public Works) dated 6 March 1974. This letter is the only letter of no objection received from a state or local agency either for the original 22 February 1974 application or the latest 26 February 1979 application. The applicant has not obtained a water quality certification from the Stream Control Commission nor a letter of no objection from the Department of Wildlife and Fisheries.

h. Views of Federal authorities: The National Park Service by letter dated 19 April 1979 expressed concern for possible project impacts to the proposed Jean Lafitte Park. The National Marine Fisheries Service by their 2 May 1979 letter advised that the operation of the proposed pumping station would adversely affect marine fisheries resources, but since the New Orleans District's (NOD) public notice advised of the need for an environmental impact statement (EIS), they would withhold further comment until they review it. The Fish and Wildlife Service's letter of 18 May 1979 similarly advises that they wish to receive the EIS prior to commenting on the project.

i. Views of the District Engineer on:

(1) Navigation: Not applicable.

(2) Harbor lines: Not applicable.

(3) Flood protection: Completion of the levee and installation of the pump station could allow drainage of the existing swamp. The area behind the levee would be protected from flooding. The Harvey Canal-Bayou Barataria project was authorized to prevent flooding. Completion of this Federal project using flood gates rather than a pump station would accomplish flood protection for the existing residential community while protecting swamp integrity.

19 October 1979

- (4) Beach erosion or accretion: Not applicable.
- (5) Fish and Wildlife: See environmental assessment.
- (6) Water quality: If operational, the drainage outfall would probably not have significant adverse effect on downstream water quality. Wetlands serve water cleaning functions, but the swamp's function is possibly slightly impaired in this regard since it is already impacted.
- (7) Esthetics: Implementation of the project, as proposed, would do little more to mar the esthetic beauty of the existing swamp than provide an incongruous visual intrusion at the mouth of Bayou Aux Carpes. If the swamp were to be drained by implementation of the proposed project, and other work, much of its esthetic beauty would be lost due to alteration of existing flora and fauna. Subsequent development of the swamp would further destroy the natural esthetic qualities of the area.
- (8) Historic values: There are no known sites within the permit area eligible or listed on the National Register of Historic Places, and the proposed work would not impact on any known archeological sites.
- (9) Recreation: The 3,100-acre swamp is a valuable fish and wildlife habitat area and contributes nutrients to fish and wildlife populations outside the project area which are enjoyed by the general public. Although the project site may serve for wildlife photography, nature writing or study, bird watching, fishing, and hunting, it is probable that most if not all the area is posted and not readily accessible to the general public.
- (10) Economy: Completion of the project could allow residential and commercial development of the area. The drained land would increase the tax base and gross product of Jefferson Parish. Bayou Barataria adjacent to the project is part of the Gulf Intracoastal Waterway which is a high volume interstate commercial navigation artery. Considering the nature of the Gulf Intracoastal Waterway and the proximity of the site to the commercial centers of New Orleans area and the Mississippi River, waterfront commercial property would be very valuable and would contribute to the economy of the region.
- (11) Water supply: If development occurs at the site, there would be a need for additional water supply to the area. This project will not directly involve water supply.

19 October 1979

(12) Energy needs: If the swamp area is drained and industrial and/or residential development occurs, there will be a greater local demand for energy. However, it is probable that if industry develops along Bayou Barataria at the worksite much of it would be in support of the oil operations along the Gulf Coast.

(13) Land use classification and coastal zone management plans: Although Louisiana has a Coastal Zone Management Act, the state's plan has not been finalized or approved by the Office of Coastal Zone Management.

(14) Safety: The project is designed for flood protection. The opening in the Southern Natural pipeline canal belies this purpose.

(15) Food requirements: Nutrients produced in the swamp contribute to the overall productivity of fisheries resources. If drained, the area would be used for residential, commercial, or industrial purposes. Its value would be so high as to preclude its use for cropland or pasture.

j. Analysis: Despite the apparent economic benefits that will accrue to the local economy if a permit is issued, we feel that the permit should be denied.

(1) The project calls for a value judgment between preserving and developing the Bayou Aux Carpes swamp. In quantifiable terms, preserving the swamp cannot compare to the economic benefits that will occur, if development proceeds. However, proper weight must be given to unquantifiable natural resources in the decision-making process. Wetlands are a valuable and diminishing national resource. Permitting projects that result in the loss of wetlands must be justifiable. For such projects it must be demonstrated that there is a need for the proposals and that there are no reasonable less damaging alternatives. There is no doubt that Jefferson Parish has a need to grow in the future and could use the 3,100 acres in question. However, there is nonwetland acreage in Jefferson Parish on the westbank of the Mississippi River that is suitable for that development. There are also sizeable nonwetland areas nearby in Orleans Parish in the area below Algiers known as the Lower Coast. See the environmental assessment also.

(2) The project is not compatible with the present Harvey Canal-Bayou Barataria project as modified in 1976. The modified project is for flood protection only and not for drainage of the 3,100-acre Bayou Aux Carpes swamp.

19 October 1979

(3) The permit proposal, presently conceived, is not economically justified. The permit proposal does not call for blocking of the nearby Southern Natural pipeline canal. Without the closure of this canal, the proposed pumping station would only circulate water. The 1976 modified Federal project does not address the closure of this canal, but it would be inconsistent with the spirit of the modified Federal project to now permit the closure of the canal in conjunction with the operation of a pumping station to drain the swamp.

(4) The Bayou Aux Carpes swamp is in a floodplain. Development of the swamp when alternatives to avoid adverse effects and incompatible development in floodplains are available is contrary to Executive Order 11988; see 33 C.F.R. 239 (44 Fed. Reg. 28524(1979)). See also (1) above.

k. Alternatives:

(1) No build: Without the pump station, the Bayou Aux Carpes swamp would not be drained, but the economic benefits such as more jobs, greater parish tax base, and residential and commercial developments would not be realized.

(2) Controlled swamp level management: A pump station/flood-gate arrangement could be constructed that would maintain swamp integrity and offer protection to the existing residential community from flooding both from rain accumulations and tidal surges. However, the parish is under court order to proceed with the project as originally planned and is not free to voluntarily adopt this recommendation.

l. Conclusions:

(1) Implementation of the project could lead to the draining of the 3,100-acre Bayou Aux Carpes swamp.

(2) There are alternative nonwetland sites available to accommodate the development proposed for the 3,100 acres in question.

(3) The proposed project appears to constitute unnecessary alteration of wetlands and floodplains.

(4) The proposed work is inconsistent with the Harvey Canal-Bayou Barataria Federal project, as modified.

(5) The proposed project is not economically justifiable without a closure in the Southern Natural pipeline canal.

LMNOD-SP (L.T.M.A.)767
SUBJECT: Findings of Fact

19 October 1979

(6) Tidal flood protection for the existing residential community can be accomplished by use of floodgates rather than a pumping station (if the Southern Natural pipeline canal is closed).

(7) Since the permit is being denied, there is no need for preparing a final environmental impact statement.

(8) There is no need for a public hearing in rendering the decision.

(9) Required state and local certification and approvals have not been obtained or even applied for recently to our knowledge.

(10) The project could have significant adverse impacts on Jean Lafitte National Park.

4. I find that denial of the Department of the Army Permit as prescribed by regulations published in 33 CFR Parts 320-329 to be in the best public interest and in accordance with our wetland policy.



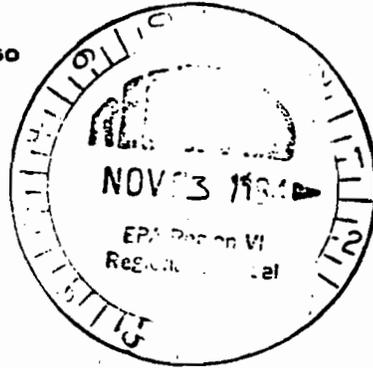
THOMAS A. SANDS
Colonel, CE
District Engineer



REPLY TO
ATTENTION OF

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

November 13, 1984



Office of Counsel

Mr. Harless Benthul, Esquire
Environmental Protection Agency, Region VI
Interfirst Two Building
201 Elm Street
Dallas, Texas 75270

Dear Harless:

Enclosed is the information gathered by the District's Engineering Division,
as per your request of October 18, 1984.

I am not sending you copies of the memos prepared by our Planning and Operations
Divisions since those documents have already been forwarded to Barbara Keeler.

If I can be of further assistance please let me know.

Sincerely,

for Liz
Joseph A. Towers
District Counsel

enclosures

NOV 13 1984

RESEARCH SUMMARY

- Harvey Canal - Bayou Barataria Project -

Attachment 1 is a map showing the location of three stage recorders and a staff gage in the area of interest. The time is too short to provide a complete record of 8:00 a.m. readings, but at Attachment 2 you will find a copy of the annual highs and lows for these stations. At Attachment 3 is a tabulation of mean high and low water for Bayou Barataria at Lafitte. If EPA needs additional data, it will take about two weeks to generate a hard copy of the 8:00 a.m. readings for the period of record. Information available on water quality and soil types in the area are contained in the Draft EIS "West Bank Hurricane Protection Levee, Jefferson Parish, Louisiana," dated February 1984 (Attachment 4)

2. We have researched our files and find the best source of soils data available at this site is given in a set of COE plan drawings. These drawings are entitled Gulf Intercoastal Waterway, Harvey Canal - Bayou Barataria Levee, New Levee, Phase I, sheets 6 of 9 and 9 of 9. These are dated January 1971, and are filed under number H-8-2474B. It is thought that Jefferson Parish had soil borings taken for a pump station at this site in the last ten years.

4 Attachments

us

ANNUAL HIGHEST AND LOWEST STAGES

INTRACOASTAL WATERWAY AT HARVEY LOCK (LA.)

LOCATION, LAT. 29-58-31, LONG. 90-05-02, STEEL STRUCTURE ON CANALSIDE TAILBAY WALL, (STA. 7620007.)

GENERAL INFORMATION, PRIOR TO 1974 GAGE ZERO WAS AT M.L.G. ~~3000000~~

STAGE IN FEET

GAGE ZERO IS AT M.S.L. (1974 ADJ.)

YEAR MONTH AND DAY HIGHEST STAGE MONTH AND DAY LOWEST STAGE

YEAR	MONTH AND DAY	HIGHEST STAGE	MONTH AND DAY	LOWEST STAGE
1925	NOV 6	2.50	DEC 28 A	0.20
1926	AUG 21	2.80	MAR 4	0.50
1927	MAY 1	2.50	DEC 20	0.40
1928	JUN 6	3.10	JAN 3 A	0.40
1929	MAR 15 A	2.80	DEC 25	0.70
1930	JUN 3	2.80	AUG 6	0.10
1931	OCT 7	2.50	JUN 16	0.20
1932	MAY 20	2.70	MAR 13 A	0.30
1934	NOV 22	2.80		
1935	NOV 8 A	2.90	JAN 31 A	0.80
1936	JAN 3	3.00	NOV 27	0.80
1937	OCT 3 A	3.80	NOV 19	0.50
1938	APR 9	3.10	NOV 29	0.60
1939	FEB 26	2.80	JAN 27	0.70
1940	FEB 18	3.20	JAN 26 A	0.50
1941	OCT 5	3.60	MAR 18	0.60
1942	FEB 16 A	3.00	JAN 10	0.60
1943	SEP 20	3.90	FEB 16	0.70
1944	APR 27 A	3.20	FEB 13 A	0.80
1945	APR 2 A	3.00	FEB 1	0.80
1946	MAR 21	3.50	FEB 27	1.00
1947	MAY 29	3.20	FEB 5 A	1.10
1948	MAR 6	4.00	JAN 18	0.90
1949	MAR 30 A	3.60	DEC 1	0.90
1950	JAN 6	3.50	NOV 5 A	1.10
1951	MAR 29	3.40	DEC 27 A	1.00
1952	FEB 24	2.90	OCT 29 A	0.90
1953	JUN 28 A	3.20	DEC 15 A	1.00
1954	SEP 17	3.50	DEC 7	0.70
1955	FEB 6	3.20	MAR 27	0.60
1956	SEP 24	3.10	JAN 7	0.20
1957	JUN 28 A	3.40	DEC 12	0.80
1958	SEP 21	3.20	DEC 15	0.80
1959	JUN 1	3.80	JAN 10 A	1.00
1960	MAY 6	3.20	JAN 23	1.00
1961	SEP 13	4.35	JAN 22	0.80
1962	MAR FEB 2	2.98	DEC 13	0.69
1963	SEP 18	3.09 Q	FEB 16	0.75
1964	OCT 4	4.41 Q	FEB 11	1.04
1965	SEP 12	3.94	MAR 21	0.57
1966	FEB 13	3.37	DEC 27	1.15
1967	DEC 11	3.31	JAN 9 A	1.30
1968	APR 5	3.35	MAR 2	1.19
1969	AUG 20	3.56	JAN 11	1.37
1970	OCT 13	3.70	FEB 21	1.04
1971	FEB 12	3.87	JAN 20	1.02
1972	MAY 13	3.80	JAN 17	1.82
1973	APR 18	4.39	JAN 12	1.17
1974	SEP 9	2.80 Q	MAR 25	0.56
1975	FEB 23 A	2.97	MAR 3	0.50
1976	JUN 7	2.63	JAN 28 A	0.05
1977	SEP 6	3.51 Q	FEB 12	0.95
1978	May 4	1.65	Feb 24	-0.60
1979	Mar 23	2.92	Feb 7	-0.76
1980	Apr 14	3.20 2.85 A max	Dec 26	0.10 39.90
1981	Feb 22	2.90	Jan 14	-0.85
1982	Dec 4	3.20	Jan 7	0.13
1983	Apr 7	3.12	Dec 31	0.24

1930

M.L.G. from 1925-1973
Gage zero

-1.27 M.S.L.

A = AND LATER DATE(S)

Q = Stage affected by hurricane

1975-1980 Avg Annual High 2.59 NGVD

Avg Annual Lowest 0.74 NGVD

1977 A + 2

ANNUAL HIGHEST AND LOWEST STAGES

INTRACOSTAL WATERWAY AT ALGIERS LOCK (LA.)

LOCATION, LAT, 29-54-43, LONG, 89-58-20. ON SOUTHWEST CORNER OF CANALSIDE TAILWAY WALL, (STA. 7624004.)

GENERAL INFORMATION. PRIOR TO 1974 GAGE ZERO WAS MINUS 0.22 FOOT, M.S.L. STAGES SHOWN BELOW, PRIOR TO 1974, HAVE BEEN ADJUSTED TO M.S.L.

STAGE IN FEET

GAGE ZERO IS AT M.S.L., (1974 ADJ.)

YEAR	MONTH AND DAY	HIGHEST STAGE	MONTH AND DAY	LOWEST STAGE	
1957	JUN 28	3.80 Q	JAN 19 A	1.00	0.0
1958	SEP 22	3.60	FEB 10 A	0.80	-0.2
1959	MAY 31	4.20	JAN 17	1.20	0.53
1960	MAY 7	3.58	JAN 23	1.03	0.04
1961	SEP 13	4.97	JAN 21	1.04	
1962	APR 28	3.50	DEC 13	0.73	-0.57
1963	NOV 23	3.20	FEB 16	0.89	-0.11
1964	OCT 4	4.85 Q	JAN 15	0.96	-0.02
1965	SEP 12	4.36	SEP 4	-0.64 Q	-1.09
1966	FEB 12	4.01	NOV 5 A	1.11	0.11
1967	FEB 6	3.93	FEB 25	1.11	0.11
1968	OCT 24	3.53	MAR 4	1.14	0.14
1969	AUG 30	3.95	JAN 5 A	1.40	0.40
1970	JUN 1	3.92	FEB 21	1.30 R	0.30
1971	SEP 16	4.60 Q	JAN 20	1.30	0.30
1972	MAY 13	4.16	FEB 20	1.64	0.54
1973	APR 18	5.31	JAN 12	1.71	0.71
1974	JAN 25	2.86	FEB 26	-0.11	
1975	MAY 8	3.02	FEB 7	0.00	
1976	DEC 25	2.18	JAN 18	-0.29	
1977	SEP 6	3.62 Q	JAN 19	-0.55	
1978	AUG 29	2.49 Q	FEB 23	-0.34	
1979	JUL 26	2.82	FEB 2	-0.90	
1980	APR 13	4.00	MAR 2	-0.75	
1981	FEB 10	3.05	JAN 15	-0.90	
1982	DEC 4	3.54	JAN 11	-0.41	
1983	MAR 7	3.41	DEC 25	-0.65	

A = AND LATER DATE(S)

Q = Stage affected by hurricane

R = Stage from incomplete record

1957-1973
-1.00

ANNUAL HIGHEST AND LOWEST STAGES

BAYOU BANATARIA AT BANATARIA, LA.

LOCATION, LAT, 29-48-29, LONG, 90-07-56, ON TEXAS OIL CO, WHARF AT JUNCTION WITH BAYOU VILLARS,
(STA. 8275007.)

STAGE IN FEET

GAGE ZERO IS AT M.L.W.

YEAR	MONTH AND DAY	HIGHEST STAGE	MONTH AND DAY	LOWEST STAGE
1952	MAY 19	3.16	NOV 28	0.79
1953	DEC 10	3.10	JAN 12	0.71
1954	SEP 17	2.96	DEC 20	0.58
1955	FEB 6	2.84	JAN 14	0.68
1956	JUN 15	3.11	JAN 13	0.30
1957	JUN 28 A	3.38	JAN 19	0.53
1958	SEP 21	3.28	FEB 10	0.65
1959	MAY 31	3.83	JAN 17	0.88
1960	MAY 6 A	3.12	JAN 23	0.72
1961	SEP 13	4.12	JAN 21	0.74
1962	MAY 1	2.87	DEC 31	0.45
1963	NOV 22	2.92	FEB 16	0.59
1964	OCT 4	4.38 Q	JAN 15	0.65
1965	SEP 11	3.53 Q	SEP 9	0.20 U
1966	FEB 12	3.48	DEC 25	0.90 R
1967	OCT 31	3.32	JAN 9	0.43
1968	APR 4	3.36	MAR 4	0.82
1969	MAY 8	3.28	JAN 5 A	1.00
1970	JUN 1	3.44	JAN 4 A	1.12 R
1971	SEP 16	3.92	JAN 20	1.12 R
1972	MAY 12	3.70	JAN 16	1.36
1973	APR 26	4.29 Q	FEB 10	1.40
1974		3.90 U	FEB 26	1.19
1975	MAY 8	3.90	JAN 21	1.54
1976	May	3.32 U	NOV 30	1.40 R
1977	Sep 6	4.65 Q	Feb 16	1.03 R
1978	Aug 8	3.69 Q	Feb 23	1.09
1979	SEP 21	3.72	NOV 30	1.30
1980	APR 13	4.60	MAR 2	1.12
1981	Feb 11	2.19	Jan 12	-0.29
1982	Dec 28	2.15	Apr 23	0.35
1983	Apr 7	2.50	Dec 27	0.00

A AND LATER DATE(S)

Q = Stage affected by hurricane
R = Stage from incomplete record
U = Stage from high water mark

1950-81 Avg. High 4.00
(3.22 MSL)

Avg. Low 1.03
(0.25 MSL)

ANNUAL HIGHEST AND LOWEST STAGES

BAYOU BARATARIA AT LAFITTE, LA.

LOCATION, LAT, 29-40-06, LONG, 90-06-36, ON WHARF OF NICKS PLACE AND BOAT-LAUNCHING RAMP AT
HARRERO AND FOURTH STREETS. (STA. 8287507.)

STAGE IN FEET

GAGE ZERO IS AT M.S.L.

YEAR	MONTH AND DAY	HIGHEST STAGE	MONTH AND DAY	LOWEST STAGE
1956	JUN 13	2.20	JAN 12 A	- 0.00
1957	JUN 27 A	2.90	JAN 17 A	- 0.10
1958	SEP 20	2.80	JAN 2	0.00
1959	MAY 31	2.30	JAN 17	0.00
1960	MAY 5 A	2.10	NOV 15	0.20
1963	SEP 17	2.14 Q	DEC 24	- 0.32 R
1964	OCT 4	4.04 Q	JAN 15	- 0.20 R
1965	SEP 10	3.35 QB	JAN 17	- 0.33
1966	FEB 12	2.60	NOV 2	- 0.17
1967	OCT 30	2.83	FEB 25	- 0.01
1968	MAY 12	2.25	MAR 4	- 0.10
1969	MAR 23	2.51	NOV 20	- 0.08
1970	OCT 13	2.75	JAN 7	- 0.31
1971	SEP 16	2.82 R	APR 7	0.05
1972	MAY	2.83	FEB 20	0.09
1973	SEP 6	3.66 Q	JAN 29	0.04
1974	MAY 22	3.04 R	FEB 26	-0.02 R
1975	MAR 7	3.00 R	MAR 12	0.57
1976	APR 18	2.68 R	FEB 7	0.19
1977	Apr 21	3.06 R	Jan 19	-0.24
1978	Aug 29	2.78 Q	Feb 22	0.03
1979	JUL 27	3.00	FEB 1	0.16
1980	APR 13	3.60	MAR 2	-0.17
1981	Feb 2	2.37	Jan 12	-0.41
1982	Dec 4	3.04	Jan 11	-0.43
1983	Jun 28	2.50	Dec 25	-0.68

A = AND LATER DATE(S)

Q = Stage affected by hurricane

R = Stage from incomplete record

CODE No.: 82875

STATION: BAYOU BARATARIA AT LAFITTE

GAGE ZERO: 0 msl

YEAR	MEAN STAGE FROM MEAN LOW	* MEAN HIGH WATER	* MEAN LOW WATER	EXTREME HIGH	EXTREME LOW
1963		1.25	0.92	2.14	-0.32
1964		1.32	0.97	4.04	-0.20
1965		1.44	1.09	3.35	-0.33
1966		1.48	1.09	2.60	-0.17
1967		1.57	1.20	2.83	-0.01
1968		1.44	1.01	2.25	-0.10
1969		1.47	1.05	2.51	-0.08
1970		1.58	1.21	2.75	-0.31
1971		1.54	1.17	2.82	0.05
1972		1.72	1.41	2.83	0.09
1973		1.93	1.58	3.66	0.04
1974		1.82	1.56	3.04	-0.02
1975		1.99	1.67	3.00	0.57
1976		1.44	1.07	2.68	0.19
1977		1.68	1.29	3.06	-0.24
1978		1.59	1.23	2.78	0.03
1979		1.76	1.51	3.00	0.16
1980		1.78	1.42	3.60	-0.17

Mean high water thru year 1980: 1.60

MEAN low water THRU YEAR 1980: 1.25

* = BASED ON DAILY MEAN LOW STAGES



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VI
INTERFIRST TWO BUILDING, 1201 ELM STREET
DALLAS, TEXAS 75270

DEC 17 1984

CERTIFIED MAIL -- RETURN RECEIPT REQUESTED -- P 660 688 850

Colonel Eugene S. Witherspoon
District Engineer
U.S. Army Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160-0267

Ref: Creppel, et al vs. Corps of Engineers
Civil Action No. 77-25
U.S. District Court
Eastern District of Louisiana

Dear Colonel Witherspoon:

As you are aware, Judge Mitchell ruled on September 19, 1984 that the Environmental Protection Agency would be granted a period of ninety days in which to decide whether or not to initiate a Clean Water Act, Section 404(c) proceeding with respect to the activities contemplated pursuant to the Harvey Canal--Bayou Barataria project. We have reviewed information available to us as a result of the proceedings in the late 1970's regarding the Harvey Canal--Bayou Barataria project and material (both historic and recent) available from the New Orleans Corps District office. We have also consulted with the U.S. Fish and Wildlife Service and the National Park Service.

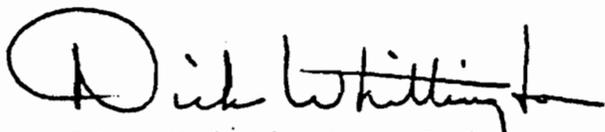
Based upon all the foregoing information I have decided to initiate a Section 404(c) proceeding with respect to the tract involved in the Creppel litigation (and possibly adjacent areas) which would be affected by the Harvey Canal--Bayou Barataria project. For purposes of the Section 404(c) proceeding, the area affected is within the area shaded on the enclosed map. I have so notified the Department of Justice by letter and have requested that the Department notify Judge Mitchell of our decision.

Please be advised that pursuant to regulations found in 40 CFR Section 231.3(a)(1) and (2), I intend to issue a public notice of a proposed determination to prohibit or withdraw the specification, or to deny, restrict or withdraw the use for specification of areas within the Creppel tract and adjacent tracts for the

present or future discharge of any dredged or fill material as contemplated in the Harvey Canal--Bayou Barataria project. Note that 40 CFR Section 231.3(a)(2) allows 15 days from receipt of this notice for a demonstration that no unacceptable adverse effects will occur.

By copy of this letter I am also notifying Mr. Joseph LeBlanc and Mr. Harold Molaison, attorneys for the landowners in the Creppel litigation of my intentions. We also will notify affected landowners (if any) other than those involved in the Creppel litigation as soon as we can identify them.

Sincerely yours,



Dick Whittington, P.E.
Regional Administrator

Enclosure

cc: Honorable Russell B. Long
 Honorable J. Bennett Johnston
 Honorable Billy Tauzin
 Honorable Bob Livingston
 ✓ Honorable Edwin Edwards, Governor of Louisiana
 ✓ Jefferson Parish President
 ✓ Jefferson Parish Council Chair
 ✓ Jefferson Parish West Bank Councilmen
 ✓ Don Moore, National Marine Fisheries Service
 ✓ David Dearing, US Department of Justice
 ✓ Dave Fruge, US Fish & Wildlife Service
 ✓ James Isenogle, National Park Service
 ✓ B. Arvill Touchet, Soil Conservation Services
 ✓ Louisiana Department of Environmental Quality
 ✓ Louisiana Department of Natural Resources
 ✓ Joseph LeBlanc, Esquire
 ✓ Harold Molaison, Esquire
 ✓ Commander, Corp of Engineers LMAYD

Mr. David Dearing
U.S. Department of Justice
Land & Resources, Room 4445 (phone: 8-633-2741)
Washington, D.C. 20530

Mr. Joe LeBlanc, Attorney
Milling, Benson, Woodward, Hillyer & Pierson
1100 Whitney Building
New Orleans, Louisiana 70130

Mr. Harold Molaison, Attorney
310 Huey T. Long Avenue
Gretna, LA 70053

Mr. James Isenogle
U.S. Department of the Interior
National Park Service
423 Canal Street, Room 206
New Orleans, Louisiana 70130

BG Thomas A. Sands, Commander
U.S. Army Corps of Engineers
Post Office Box 80
Vicksburg, Miss. 39180-0080

December 18, 1984

MEMO TO THE FILE

SUBJECT: Creppel Litigations/404(c) Proceedings

On the morning of December 18, 1984, I placed a call to Liz Griffin, Attorney, Office of Counsel, New Orleans District Corps of Engineers. Ms. Griffin was out and I left a message for her to call me.

At approximately 1:15 PM, Ms. Griffin returned by call during which time I advised her that the Regional Administrator had on December 17, 1984, signed a letter to Colonel Witherspoon advising him of the initiation of the Section 404(c) process with respect to the acreage involved in the Creppel litigation and adjacent acreage as well. I explained that as best as we could find out the Creppel Plaintiffs own a relatively small portion of the tract but that the nature of the contiguous resource required that we protect the entire Layan aux Carpes swamp area as defined in a map attached to the letter. I described the boundaries of the tract to Liz during the phone conversation.

I also advised her that the letter was being distributed to a number of people including the congressional delegation, state agencies and the governor's office as well as Jefferson Parish officials and the Division Engineer's office.

I called Liz' attention to the 15-day period during which the demonstration of no-adverse impact may be made and indicated that additional landowners who were notified could have the same 15-day period. Ms. Griffin expressed appreciation for the phone call.

By: Harless E. Benthel (6040-0)

ROUTING AND TRANSMITTAL SLIP

ROUTING AND TRANSMITTAL SLIP		ACTION
1 TO (Name, office symbol or location) BARBARA KEELER	INITIALS	CIRCULATE
	DATE	COORDINATION
2	INITIALS	FILE
	DATE	INFORMATION
3	INITIALS	NOTE AND RETURN
	DATE	PER CON-VERSATION
4	INITIALS	SEE ME
	DATE	SIGNATURE
<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">JUN 24 1985</p> <p style="text-align: center;">6 ES</p>		
<p>REMARKS</p> <p>BARBARA,</p> <p>ATTACHED AS PER CONVERSATION AT JUNE 18 HEARING.</p> <p>OUR "PUBLIC INTEREST" REVIEW OF ALL FACTORS INDICATED DENIAL OF PERMIT.</p> <p>PLS SEND ME A COPY OF H.E.P. AND TRANSCRIPT WHEN AVAILABLE.</p> <p>GIVE ME A CALL IF YOU NEED ANYMORE OUT OF OUR FILE. TKS MUCH</p> <p style="text-align: center;">ROGER</p> <p style="text-align: center;">Do NOT use this form as a RECORD of approvals, concurrences, disapprovals, clearances, and similar actions.</p>		
FROM (Name, office symbol or location) R. D. SWINDLER CORPS NEW ORLEANS		DATE
		PHONE 504 838 2278

MILLING, BENSON, WOODWARD, HILLYER, PIERSON & MILLER

A PARTNERSHIP INCLUDING PROFESSIONAL LAW CORPORATIONS

ATTORNEYS AT LAW
1100 WHITNEY BUILDING
NEW ORLEANS 70130

DIRECTORY #:
FILE DRAWER #:
CROSS REF:
SENT TO: MAY 28 1985
DATE REC'D:

TELEPHONE (504) 581-3333
TELECOPIER (504) 581-3000
CABLE "MILLING"
TELEX 884211

May 23, 1985

Mr. Donald Hodel
Secretary of the Interior
Interior Building
Washington, D.C. 20240

Re: Jean Lafitte National Historical Park (PL 95-625)
Jefferson Parish, Louisiana

Dear Secretary Hodel:

This letter is written on behalf of certain owners of land located on the Westbank of Jefferson Parish, Louisiana near the eastern boundary of the core area of the Jean Lafitte National Park (the "Park"). The land in question is shown on the enclosed map.

The ownership of this land is as follows:

(1) The Crowell Tract - This land is owned by Jacques J. Creppel, Karen L. Knight, Kathleen C. Carter, Daniel L. Morrow, Robert Pitre, Robert Pitre, Jr., William Pitre, Dr. Irvin Goldman, Dr. Bernard Goldman, W.H. Mosby II, Mary Giannobile, Dr. B. R. Eubanks, Dr. Robert Fleming, H. Edward Molaison, Lindsey Molaison, Barry Samuel, Mrs. Bernard Samuel, Jr., and Marlene Samuel. The land is shown on Exhibit "A" as tract A and consists of approximately 1100-1200 acres.

(2) The Dietz Property - This property is owned by Harold L. Molaison, Dr. W.H. Mosby, Dr. Bernard A. Goldman, Toby Marcia Luster, Lina Ann Green, Gary L. Goldman, Marjorie Firestone,

M. TRUMAN WOODWARD, JR. WAYWOOD H. HILLYER, JR. G. HENRY PIERSON, JR. JOSEPH B. MILLER MICHAEL J. MOLONY, JR. DAVID CONROY WILSON S. SHIRLEY, JR. JOHN C. CHRISTIAN CLAUDE E. HALL GUY C. LYMAN, JR. J. HENRY PHILLIPS III LAWRENCE K. BENSON, JR. NEAL O. HOBSON WAYWOOD H. HILLYER III F. FRANK FONTENOT WILLIAM C. GANSEL HERSCHEL L. HAAS III CHARLES A. SNYDER RICHARD A. WHANN EMILE A. WAGNER III	CHARLES O. MARSHALL, JR. JOSEPH E. LEBLANC, JR. JAMES K. IRVIN MILTON S. BELL M. HAMPTON CARVER HENRY BERNSTEIN JOHN T. NESSER III W. RICHARD HOUSE, JR. KENNEDY J. BILLY, JR. KATHERINE GOLDMAN JOSEPH W. LOONEY J. GRANT COLEMAN M. TAYLOR DARDEN HENRY KING CHARLES F. SEABOLT GEORGE B. JURGENS III DAVID M. CULBERT JOHN W. COLBERT FREDERICK J. PLAGER III FRANK A. TESSIERO
---	---

PROFESSIONAL LAW CORPORATIONS EXCEPT

J. CLIFFORD RODILLIO MELANIE MILLER LEWIS BRUCE R. HOEFER, JR. JOHN M. GOLDEN DEBRA A. COLE MARGUERITE K. KINGSMILL LOUIS SIMON II GERALD J. HUFFMAN, JR. DAVID N. SCHELL, JR. ANDREW PODOBNICK LINDSAY ELLIS LANAUX DAVID S. BLAND PATRICK A. TALLEY JOSEPH S. SCHWERTZ, JR. WILLIAM T. FINN ROBERT S. DIETZ GERARD J. SONNIER	MICHAEL R. C. RIESS J. PATRICK GAFFNEY ELIZABETH D. WALL PATRICIA A. KRESS ANNE GAIENNIE SUSAN NOPKINS MEYERS F. SCOTT RAISER ROBERT J. BURVANT MICHAEL G. DAIT PATRICK M. WARTELLE GEORGE B. IRVINE III LISA L. FOUNTAIN STEPHEN C. CARLETON JOHN F. LANDRUM CAROL M. MUSTON ALFRED G. DUNCAN III
---	---

ELIZABETH RIDNOUR HARR
JOHN P. EVERETT
JOHN W. WOOLFOLK, JR.
OF COUNSEL

Mr. Donald Hodel
May 23, 1985
Page 2

John E. Firestone, Jr., Claire Marie Firestone, Mr. Bernard Goldman, Dr. Irvin A. Goldman, Burt Klein, Howard Green, Lester Green, and Jay Green. The land is shown on Exhibit "A" as tract B and consists of approximately 322 acres.

(3) The Marrero Land & Improvement Association, Ltd. Property - These two tracts are owned by Marrero Land and are shown on Exhibit "A" as tracts C and E. They consist of approximately 46 acres and 503 acres, respectively.

(4) The Foster Creppel and Estate of Eugene Pitre Property - This tract is owned by Foster Creppel and the Estate of Eugene Pitre and is shown on Exhibit "A" as tract D. It consists of approximately 144 acres.

The property described above is a part of the project area for the Harvey Canal/Bayou Baratavia Levee Project ("Project"), a small flood control project for the Westbank of Jefferson Parish that was authorized in 1963. The Project was brought to 80% completion in 1974 before it was halted by litigation relating to the environmental impacts that would result from installation of the planned pumping station at Bayou Aux Carpes (located within tract A) and drainage of the affected project area. After 7 years of litigation, judgments have been rendered in both the State and Federal courts directing completion of the Project with installation of the pumping station at Bayou Aux Carpes.

The most recent Federal court ruling was rendered by Judge Lansing Mitchell on August 13, 1984 in the proceeding entitled Creppel, et al v. Corps of Engineers, et al, Civil Action No. 77-25, U.S. District Court, Eastern District of Louisiana. Judge Mitchell subsequently amended his judgment to allow the Environmental Protection Agency ("EPA") 90 days in which to decide whether to commence a proceeding under Sec. 404(c) of the Clean Water Act (33 U.S.C. §1344(c)) to determine whether to veto completion of the Project with the pumping station. On December 18, 1984, EPA gave notice to the Court - and has given notice to most of the affected landowners - of its intent to institute a 404(c) proceeding. In that process, EPA may determine to prohibit use of all or part of the area for completion of the Project, or it may determine that, under the circumstances of this case and given the past equities of the

Mr. Donald Hodel
May 23, 1985
Page 3

Project, the adverse impacts from completion of the Project would not be "unacceptable".

The landowners listed above are aware of a strong interest on the part of Park officials in a possible acquisition of portions of the Project area in the vicinity of Bayou Aux Carpes. The wetland values in this area are reportedly considered by Park officials to be of prime interest to the Park and, it is felt, would greatly enhance areas of the Park open to active use by the public. Without in any way expressing agreement with these views, the landowners believe that a possible acquisition by the Park of certain portions of the Project area may not only satisfy the interests of the Park, but may also satisfy the 404(c) concerns of EPA and afford a basis for a Project modification that would allow completion of the Project to the satisfaction of all concerned. In an effort to explore these possibilities, the landowners wish to determine the interest of the Park in purchasing certain of the lands described on Exhibit "A".

The area that would be covered by the sale would include the entirety of Tract B (the Dietz Property), Tract C (the Marrero Land Property), and Tract D (the Foster Creppel-Estate of Eugene Pitre Property), and the portion of Tract A (the Crowell tract) located west of Pipeline Canal and shown on Exhibit A as containing approximately 583 acres. The proposal for sale would be subject to the following conditions, limitations, and reservations:

(1) The offer of sale would be contingent upon the reaching of an agreement between the landowners and the Park as to the price to be paid and would be subject to the landowners' reservation in perpetuity of any and all mineral rights, together with the right to explore for, extract, and develop such minerals (including reasonable access upon the property conveyed to the extent necessary for the exercise of such rights).

(2) The proposed sale would be made expressly subject to (and would be of no effect without) a modification of the Project (and withdrawal of 404(c) concerns) to allow its completion under the following conditions:

Mr. Donald Hodel
May 23, 1985
Page 4

(a) The closure at Bayou Aux Carpes could be removed and the bayou opened to use by the public.

(b) The pumping station originally proposed at Bayou Aux Carpes would be transferred and installed at the Pipeline Canal shown on Exhibit "A".

(c) Development of all lands in the Project area east of the Pipeline Canal would be authorized. This area would be drained by the pumping station to be located at the Pipeline Canal (and such other pumping stations in the area as may be needed for effective drainage), with the proviso that such development would include appropriate "best management practices" plans to prevent drainage of any waters from the developed areas into the above lands acquired by the Park.

(d) A new levee would be constructed, as necessary, to separate the Pipeline Canal and the land to the east thereof from the lands acquired by the Park.

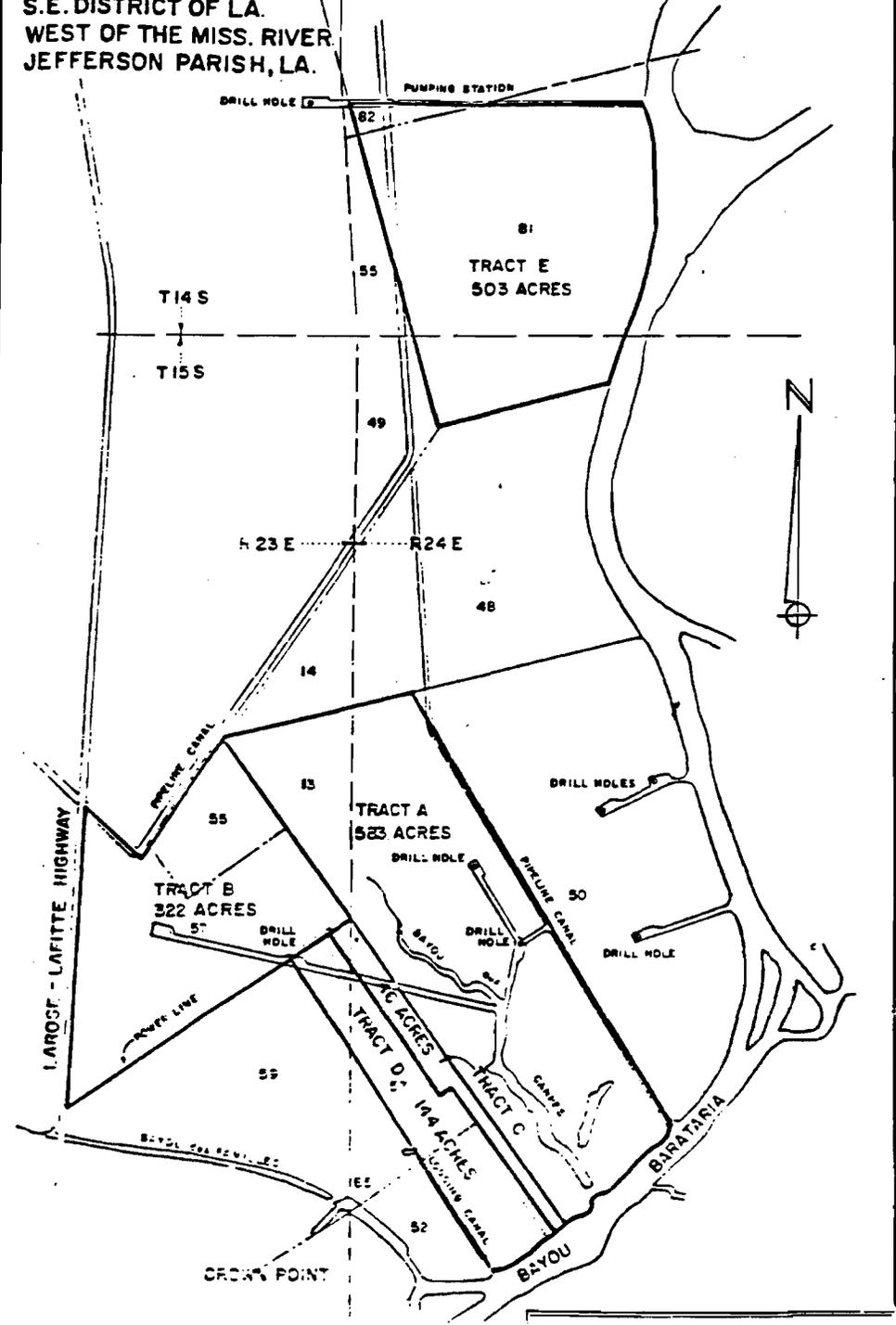
(e) The landowners would reserve from the property proposed to be conveyed a servitude, easement, and right-of-way over a 1000 foot deep band of water frontage along Bayou Baratavia from the Pipeline Canal westerly to Crown Point for the development and use of such area, provided that such development would include appropriate "best management practices" plans to prevent drainage of waters from such development into the above lands acquired by the Park.

(f) The transfer to the Park would be without prejudice to - and would have no effect or impose any restriction upon - the use and development of land in the Crown Point area located west of the Logging Canal (at the western border of Tract D). This land is basically high ground and is prime land for beneficial use and development.

(g) Access to the area to be developed on the eastern side of the Pipeline Canal would be provided by means of a road or roads from the Lafitte-LaRose Highway in the vicinity of the northern portion of the Dietz property.

R 23 AND 24 E, T 14 AND 15 S
S.E. DISTRICT OF LA.
WEST OF THE MISS. RIVER
JEFFERSON PARISH, LA.

"TRACED FROM THE BERTRANDVILLE QUADRANGLE



Permit File No.: LMNOD-SP (L.T.M.A.)767

Location: In Bayou Aux Carpes, immediately upstream from its mouth at Bayou Barataria, near Crown Point, Louisiana, in Jefferson Parish.

Proposed Action: Dredge and deposit fill material as necessary for construction of a pumping station and completion of a closure in Bayou Aux Carpes and to install and maintain a drainage pumping station.

Environmental setting: The proposed pumping station and closure would be located at the mouth of Bayou Aux Carpes, a natural drainage for an area of wooded freshwater swamp and freshwater marsh. A shell closure has been placed at the mouth of Bayou Aux Carpes and drainage through this source has been eliminated. A natural gas pipeline canal traverses the area east of Bayou Aux Carpes and is connected to the bayou through an oil well canal. Runoff which would have flowed out of the area through Bayou Aux Carpes now flows out through the above-mentioned pipeline canal, which is about 50 to 60 feet in width, deep enough to easily sustain outboard motorboat traffic and is clear of any debris.

A low dredged material disposal bank was found along either side of the pipeline canal and the oil well canal. Vegetation found on these areas include black willow, eastern baccharis, elderberry, Drummond red maple, wax myrtle, bog hemp, lizardtail, water willow, and other species. The banks of the pipeline canal, while generally somewhat higher than the surrounding grade, are broken in places and would not pose an extremely formidable barrier to flow into or out of the areas adjacent to the pipeline canal.

Wooded portions of the area which would be affected by the proposed pumping station are vegetated by baldcypress, tupelogum, Drummond red maple, buttonbush, pumpkin ash, black willow, bulltongue, water hyacinth, palmetto, wax myrtle, pickerelweed, and others. Plants growing in the open marsh portions of the area include bulltongue, softstem bulrush, pickerelweed, smartweed, alligatorweed, water hyacinth, and other species.

The subject area is expected to support a number of furbearers including nutria, river otter, muskrat, raccoon, mink, bobcat, and opossum. Habitat is provided for such game animals as swamp rabbit and gray squirrel. The larger trees in the area provide suitable nesting sites for wood ducks. The American alligator, a threatened - similar in appearance - species, is known to inhabit the area.

The freshwater marshes of the area provide valuable wintering habitat for numerous species of migratory waterfowl, including mallard, black duck, mottled duck, American wigeon, gadwall, northern shoveler, blue-winged teal, green-winged teal, and pintail. Nesting habitat is provided by the marsh for great egret, great blue heron, little blue heron, Louisiana heron, snowy egret, green heron, yellow-crowned night heron, and other bird species.

Mr. Joseph S. Yenni, Parish President
Parish of Jefferson
Parish Courthouse
Gretna, Louisiana 70053

Dear Mr. Yenni:

This is in reference to the permit application, numbered above, from Jefferson Parish to construct a pumping station at Bayou Aux Corpes, near Crown Point.

We have determined that, in the overall public interest, this request should not be granted. A copy of the findings of fact upon which this decision was based is attached. Even though the findings of fact is dated 19 October 1970, it reflects my present findings on this application.

I have delayed final action on this application until this date to avoid prejudicing the Jacques J. Creppel, et al. case that has been in the US District Court, and to ascertain whether Judge Lansing Mitchell's findings on this case would affect my decision on the application.

I regret having to take this action, but I believe it is the proper one. If you have any questions please call Messrs. Charles Decker or Roger Swindler of our Regulatory Functions Branch at 838-2255 and 2278, respectively.

Sincerely,

THOMAS A. SANDS
Colonel, CE
District Engineer

1 Incl
As stated

Copies Furnished: with incl
Mr. Robert Evans, President
Jefferson Parish Council
Parish Courthouse
Gretna, LA 70053

Mr. Peter Russo, Director
Jefferson Parish Department of Public Utilities
P.O. Box 9126
Metairie, LA 70055

HQDA (DAEN-CWZ-F) (DAEN-CWO-N) wo/incl
LMVEX, LMVCO-N wo/incl
LMNED wo/incl
LMNPD wo/incl
LMNPA wo/incl

GIVE FILE COPY
TO ROGER

TKS

SYBL
& BRICE

Sport and commercial fish species such as largemouth bass, black crappie, white crappie, bluegill, warmouth, redear sunfish, gars, bowfin, blue catfish, channel catfish, and buffalofish find spawning, feeding, and nursery habitat in the wooded swamp and marsh during periods of high water.

Environmental Impacts:

a. Primary impact. Approximately 0.67 acre of water bottom would be disrupted by dredging in Bayou Aux Carpes for construction of the intake canal for the pump. An additional small area of bayou bottom will be disrupted by placement of riprap and pilings for construction of the pump platform.

b. Secondary and subsequent impacts. While the primary impact of the proposed project would be insignificant, secondary impacts could be great. The project, as proposed, would do little more than circulate water from the wooded wetland to Bayou Barataria via the proposed pump, and from Bayou Barataria to the wooded wetland via the Southern Natural pipeline canal east of Bayou Aux Carpes. However, closure of the pipeline canal concurrent with, or subsequent to, completion of the proposed pumping station would allow for the possible drainage of the previously described wooded freshwater swamp and marsh which total over 3,100 acres in area. Drainage of this area would result in altered hydrological patterns which would precipitate a succession of the present wetland plant communities to a nonwetland type or types; present wildlife values would be altered or lost; and fishery values would be lost. Succession to nonwetland vegetation associations would remove this area from Corps of Engineers regulatory jurisdiction under Section 404 of the Clean Water Act and allow for the development of the area by residential, commercial, and/or industrial interests. Thus, this project could result in the loss of over 3,100 acres of valuable wetlands.

c. Cumulative impacts The proposed project is in the immediate vicinity of another area which has been leveed and is under pump. That is, the area within the so-called "Vee levee" to the north of the proposed project. Several thousand acres of wetlands were inclosed by the "Vee levee." Drainage of this area by pump has resulted in about two-thirds of the land being converted to nonwetland status to date. The remainder of the area shows signs of stress and, in due time with continued pumping, will surely become "nonwet" in character. Completion of the proposed project, along with already existing work, could result in the complete destruction of this portion of the Barataria Basin wetlands.

Unavoidable Adverse Impacts: Primary impacts of the proposed project, as stated above, would be unavoidable if the project is implemented. Secondary and cumulative impacts of the proposed project can be avoided if the levee is not completed by closure of the pipeline canal and/or its connection to Bayou Aux Carpes.

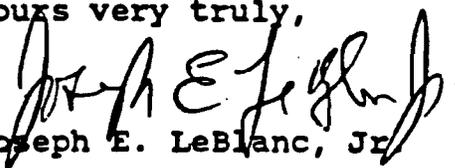
Mr. Donald Hodel
May 23, 1985
Page 5

(h) Such other conditions as may be necessary to effectuate the purposes and intent of the Project modification described above.

This proposal is necessarily a preliminary one that is expressly conditioned upon the Project modification described above. The landowners also understand that changes would have to be made in the boundaries of the Park Protection Zone in connection with acquisition of the land described herein by the Park. The landowners have reviewed this proposal with appropriate officials of the Parish of Jefferson, and the Parish has expressed a willingness to agree to an expansion of the boundaries of the Park Protection Zone - in accordance with Sec. 902(f) of Public Law 95-625 - to include the land purchased by the Park under the above proposal and in connection with the Project modification described above.

The purpose of the landowners at this time is to determine the interest of the Department of the Interior in the purchase proposed herein. The position of the Park with respect to the acquisition is a factor that may have considerable bearing upon concerns expressed by EPA in the 404(c) proceeding described above. Because EPA is operating under certain court-ordered time restraints with respect to this 404(c) proceeding, we would appreciate your response to this letter as soon as possible. The landowners are, of course, available to meet with you or representatives of the Park Service at any time to discuss this matter in greater detail and to answer any questions that you may have. This proposal is, of course, made without prejudice to the position of the landowners in the 404(c) proceeding and without admission of any nature whatsoever. The landowners reserve all rights in connection with that proceeding and with the Federal court litigation described above.

Yours very truly,


Joseph E. LeBlanc, Jr.

JEL, JR./cgb
cc: See attached Sheet

ENVIRONMENTAL ASSESSMENT

LMNOD-SP (L.T.M.A.)767

19 October 1979

Permit application from Jefferson Parish Department of Public Utilities for a pumping station and associated work in Bayou Aux Carpes near Crown Point, Louisiana.

PREPARED BY:

Michael G. Skougard
MICHAEL G. SKOUGARD
Botanist
Regulatory Assessment Section

REVIEWED BY:

Lloyd F. Baehr, Jr.
LLOYD F. BAEHR, JR., Ph.D.
C/Regulatory Assessment Section

Roger D. Swindler
ROGER D. SWINDLER
C/Permits Section

Ronald J. Ventola
RONALD J. VENTOLA
C/Waterways Protection Section

C. W. Decker
C. W. DECKER
C/Regulatory Func Br

C. J. Nettles
C. J. NETTLES
C/Operations Division

Stanley A. Hillan
STANLEY A. HILLAN
District Environmental Law
Legal Advisor

Alternatives:

a. No action. This alternative would remove all negative environmental impacts of the proposed project. However, it would also result in the loss of all of the projected secondary economic benefits of the proposed project.

b. Alternative sites. In order to achieve the stated project objectives (i.e., flood prevention and water level control), it would be necessary to build the project at the proposed site or in the pipeline canal. No other site would be feasible. Nonwetland sites are available to accommodate the projected population growth though. There is no doubt that Jefferson Parish has a need to grow and that the completion of the proposed project, with the subsequent closure of the Southern Natural pipeline canal, would benefit the Parish. Estimates of nonwetlands and leveed wetlands undergoing succession to nonwetland status range from about 21,000 to 33,000 acres on the west bank of Jefferson Parish. While it may be too simplistic to assume that all of the above noted acreage would be developable, it is plausible to assume that at least 3,100 acres of this acreage would be suitable for any development which would potentially occur in the Bayou Aux Carpes swamp, if drained.

c. Alternative structural solution. The water levels within the existing wetlands, which could be affected by the proposed project, could be maintained and managed by means of a two-way pump station-floodgate arrangement. This would also provide the desired protection from flooding due to rainfall accumulation and tidal surges.

Conclusions:

a. The Bayou Aux Carpes swamp and marsh ecosystem is a valuable unit of freshwater wetlands in and of itself. It also, through the pipeline canal, contributes detrital material utilized in downstream biological productivity in the Barataria Basin ecosystem.

b. The wetland area in question is an important wetland fulfilling several functions deemed valuable by Corps of Engineers regulations (33 CFR 320.4(b)(2)). These functions include 1) food chain production; 2) nesting, spawning, resting, rearing, and general habitat for aquatic and/or terrestrial species; 3) storage area for storm and flood waters; and 4) water purification through natural filtration processes.

c. The project, as proposed, would result in relatively insignificant negative primary environmental impacts.

d. The potential exists for severe negative secondary and cumulative environmental impacts on the Bayou Aux Carpes swamp and marsh ecosystem, if, along with completion of the proposed project, the pipeline canal were closed. This action would require a Corps of Engineers permit under Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act, at this time.

e. Failure to close the pipeline canal in concert with constructing the proposed pumping station would result in the expenditure of several thousands of tax dollars for an ineffective project. Thus, construction of the proposed project is logical only within the context of completion of the entire levee system (i.e., closure of the pipeline canal).



DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P. O. BOX 80287
NEW ORLEANS, LOUISIANA 70160

H-26
A-5

LMNOD-SP(L.T.M.A.)767

12 March 1979

PUBLIC NOTICE

Interested parties are hereby notified that application has been received by the District Engineer for a Department of the Army permit to authorize the following pursuant to Section 10 of the River and Harbor Act of 3 March 1899 (30 Stat. 1151; 33 USC 403) and Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 USC 1344):

PUMPING STATION IN BAYOU AUX CARPES

Name of applicant: JEFFERSON PARISH DEPARTMENT OF PUBLIC UTILITIES, P.O. Box 9126, Metairie, Louisiana 70055.

Location of work: In Bayou Aux Carpes, immediately upstream from its mouth at Bayou Barataria, near Crown Point, Louisiana, in JEFFERSON PARISH, as shown on the attached drawings.

Character of work: Install and maintain a drainage pumping station and dredge and deposit fill material as necessary for construction of the station and completion of the closure fill in Bayou Aux Carpes, as shown on the attached drawings.

A preliminary determination has been made that potential impacts of the proposed work are of enough significance to require preparation of an environmental impact statement (EIS). Assessment of environmental impacts is a continuing process. If it is later determined that the finding as to need for an EIS is revised, an additional public notice will be issued to so advise interested parties.

Plans for the proposed work are now on file in Office of the District Engineer, US Army Engineer District, New Orleans, Foot of Prytania Street, New Orleans, Louisiana, and may be seen by anyone having interest in the matter. Protests to the proposed work, suggestions for modification thereof or objections to it, stating reasons thereof, will be received up to and including 20 April 1979. Letters should contain both the applicant's name and the notice number.

The parish submitted the application for the pumping station in response to an order from the 24th Judicial District Court, State of Louisiana, directing them to do so.

PUB. NOT. MAILED 19 MAR 79

12 March 1979

The decision whether to issue a permit will be based on an evaluation of the probable impact 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; among those are conservation, economics, aesthetic, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Certification that the proposed activity will not violate applicable water quality standards will be required before a permit is issued.

Evaluation of the probable impacts involving deposits of dredged material into navigable waterways will include the application of guidelines established by the Administrator of the Environmental Protection Agency.

No properties listed in 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 or historical sites or data. Copies of this notice are being sent to the State Archeologist, State Historical Preservation Officer and the National Park Service.

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.

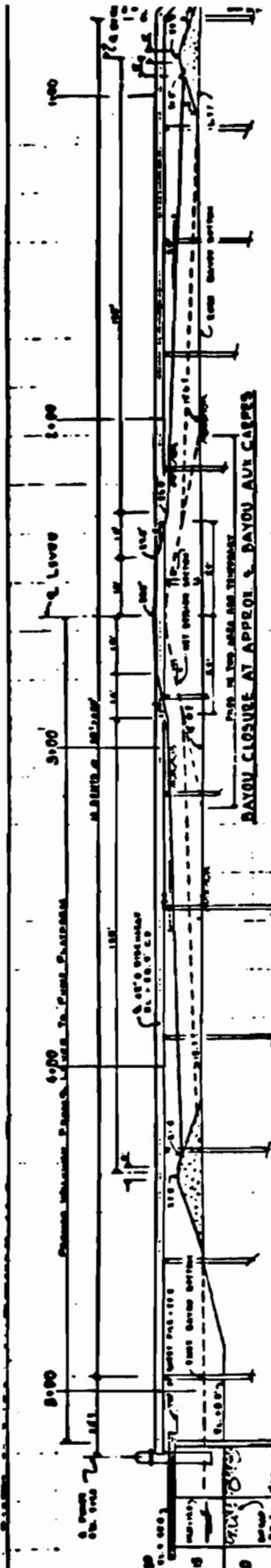
You are requested to communicate the information contained in this letter to any other parties whom you deem likely to have interest in the matter.

Our preliminary determination is that the proposed work would neither affect any species listed as endangered by the US Department of Interior nor affect any habitat designated as critical to the survival and recovery of any endangered species.

Although interested parties will be afforded opportunity to comment on the EIS, considerable time will be required to prepare a draft. For this reason, comments on the application are specifically requested within the period prescribed by this notice. Additional opportunity for comment on the draft and final EIS's will be allowed when these documents are prepared and their availability announced by public notice.


THOMAS A. SANDS
Colonel, CE
District Engineer

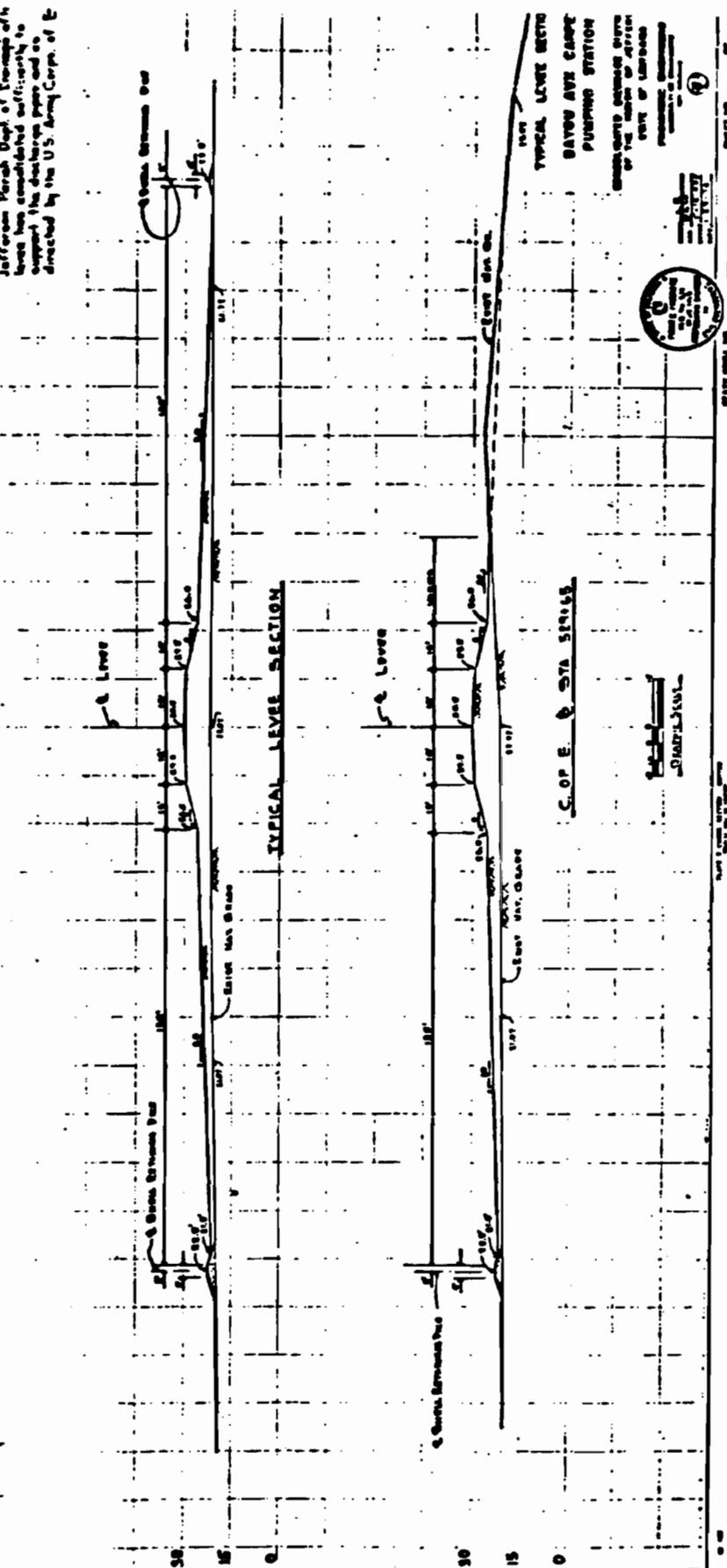




Note: All pile in area designated for temporary pile shall be removed by the Jefferson Parish Dept. of Engineering. Level has established sufficiently to support the diaphragm piles and as directed by the U.S. Army Corps of E.

BAYOU CLOSURE AT APPROX. S. BAYOU AVE CROSSING

TYPICAL LEVEL SECTION



TYPICAL LEVEL SECTION

C. OF E. @ STA 5194.65

TYPICAL LEVEL SECTION
BAYOU AVE CROSSING
PUMPING STATION
 ENGINEERING DEPARTMENT
 STATE OF LOUISIANA
 NEW ORLEANS, LA.



SHADY LANE

NO. 12345

STATE OF LOUISIANA

NEW ORLEANS, LA.

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

STATION: STA 5194.65

DESIGNED BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

DATE: 10/1/55

SCALE: 1" = 10'

PROJECT: BAYOU AVE CROSSING

MEMO FOR THE RECORD

On 12 Oct 1984 the following representatives of EPA and COE toured the Bayou au Carpes area:

Lloyd Baehr	NOD Operations
Sue Hawes	NOD Planning
Barbara Keeler	EPA Region VI
Martin Mayer	NOD Operations
Matt Schwaisberg	EPA Washington

A helicopter overflight was made from 7-8 am and the area was traversed on foot and by boat from 9 am until noon (see accompanying map for route). At 2 pm the party walked the Ring Levee Nature Trail in Jean Lafitte National Park.

The marsh south of the Estelle Canal had extensive amounts of Solidago sempervirens; other common plants were Hydrocotyle ranunculoides, Eleocharis parvula, Sagittaria falcata, Alternanthera philoxeroides, and Polygonum sp. The marsh just to the east of Bayou au Carpes was predominately S. falcata with Typha sp. and Panicum hemitomon also present. Adjacent to Bayou des Familles there is a fairly broad natural ridge at approximately +5 NGVD. Species such as Quercus virginiana, Celtis laevigatis, Liquidambar styraciflua, Quercus nigra and Salix nigra were present. The low natural levees of Bayou au Carpes and banks of dredged material along canals were vegetated with S. nigra, Baccharis halimifolia and Iva frutescens. The balance of the area is a healthy swamp with Taxodium distichum and Nyssa aquatica predominating and Acer rubrum and Fraxinus pennsylvanica also present. Clearings in the swamp were covered with S. falcata. The swamp was wet throughout. Floating and submerged aquatics in the waterways were: Ceratophyllum demersum, Lemna minor, Wolffia sp.; and Cabomba caroliniana.

The Southern Natural Gas Pipeline Canal (SNGPC), Bayou au Carpes, and east-west canal have numerous low spots in their banks where normal high water can enter the swamp.

An experimental trammel net sample was taken at Station 1. The net was fished for approximately 2 hours and one adult Dorosoma petenense (180 mm) and one adult male Callinectes sapidus were taken.

Bayou au Carpes was seined just north of the plug with a 20-foot minnow seine with the following results:

Callinectes sapidus 2 juvenile (80 mm and 90 mm)
Lepomis sp. 13 juvenile (25 - 40 mm)
Gambusia affinis 26 adult (17-29mm)
Roccus mississippiensis 1 juvenile (110mm)
Heterandria formosa 3 adults (15-16 mm)
Palaemonetes kadiakensis 29 adult
Anisoptera nymph. 1

RECEIVED

OCT 31 1984

G ES

A plankton tow was made at Station 1 with a Wisconsin Plankton Sampler with the following results.

Ostracoda - numerous
Cyclopoid copepodids numerous
Ceriodaphnia sp. 10
Hyalrella azteca 1
Macrocyclops sp. 5
Cyclopoida numerous
Wolffia sp. numerous
Lemna minor numerous

In conclusion, the Bayou au Carpes area is a healthy swamp-marsh-bayou-canal complex that is connected to the rest of the Barataria estuary by the SNGPC. The fact that we caught juvenile and adult C. *sapidus* indicates that estuarine organisms utilize the area. It can also be assumed that nutrients and detritus exit the area via the SNGPC.

S. Hanes
29 Oct 84

MEMO TO THE FILE

1. Tim Morton and Sue Hawes of Planning Division visited the Bayou au Carpes area on 26 April 76.
2. Bayou au Carpes was clogged with water hyacinth from the plug as far north as you could see. The S. N. Gas pipeline canal was open, but so completely clogged with water hyacinth that the boat could not enter. The 2 short oil canals north-east of the pipeline canal were plugged by the Harvey Canal - Bayou Barataria levee. The "levee" was in very poor shape with trees growing out of it and eroding severely in places.
3. Three alligators were noted in the Estelle Canal. A mottled duck and 2 wood ducks were noted in the Bayou au Carpes swamp. An indigo bunting³ a yellowthroat were found on the plug. Juvenile blue crabs were caught in the Estelle Canal.
4. The marsh East of Bayou au Carpes was vegetated with bulltongue, alligator - wood, water hyacinth and maidencane. Baccharis was noted in higher areas. The swamp consisted of predominately bald cypress with water hyacinth and duckwood floating under it and Juncus and Cyperus, and pennywort also present. The plug was rattlebox, coffeeweed and butterweed.
Vegetated with

Suzanne Hawes
Suzanne Hawes



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

REPLY TO
ATTENTION OF:

August 15, 1985

RECEIVED

AUG 21 1985

6 ES

Operations Division
Dredging Planning

Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

Gentlemen:

The Environmental Protection Agency (EPA) held a public hearing on June 18, 1985, in Gretna, Louisiana, for the purpose of obtaining comments on the Proposal to Prohibit Bayou aux Carpes Swamp from Use as a Dredge Disposal Site. Representatives from the U.S. Army Corps of Engineers attended the meeting.

Our comments concerning your proposal are as follows:

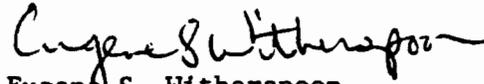
a. Part of the Bayou aux Carpes Swamp has been designated as the Corps of Engineers dredge disposal site for the Gulf Intracoastal Waterway (GIWW) as shown on the enclosed drawing. This segment of the waterway has never been dredged after initial construction and most likely will not require maintenance in the near future. However, we feel that it is necessary to keep this disposal area available for future maintenance dredging.

b. There are fewer areas being left available for dredge disposal for our maintenance projects. Without an adequate disposal area in this segment, dredging would be prevented and consequently have a significant adverse impact on the benefits of the GIWW. The necessary public notice, 404 Permit, and statement of findings were previously completed as required and are enclosed for your information.

c. If future maintenance dredging becomes necessary in this area, our disposal plan will include an interagency disposal inspection in which various interested agencies will participate and agree upon methods of disposal that would have the least adverse impact on wetlands. The EPA will be invited to participate in this inspection. The Corps of Engineers requests that the EPA allow us to retain the required disposal site in this area.

If you have any questions concerning this matter, please feel free to contact me.

Sincerely,



Eugene S. Witherspoon
Colonel, Corps of Engineers
District Engineer

Enclosures

Statement of Findings

Operation and Maintenance Work on the Gulf Intracoastal Waterway; Petit Anse, Tigre, and Carlin Bayous; and Bayou Grosse Tete, Louisiana

1. I have reviewed and evaluated, in light of the overall public interest, all pertinent data concerning the proposed action as well as the stated views of other interested agencies and the concerned public relative to the practicable alternatives available for operating and maintaining these projects for adequate capability for existing and future navigation. The proposed actions include:
 - a. Maintenance of the Gulf Intracoastal Waterway (GIWW) and the Morgan City-Port Allen Alternate Route to a depth of -12 feet mean low gulf (m.l.g.) and to a width of 125 feet.
 - b. Maintenance of the section of the GIWW from Lake Borgne to the Mississippi River to a depth of -12 feet m.l.g. and to a width of 150 feet.
 - c. Maintenance of Bayous Petit Anse and Carlin to a depth of -9 feet m.l.g. and to a width of 80 feet.
 - d. Maintenance of the Avery Canal segment to a depth of -7 feet m.l.g. and a width of 60 feet.
 - e. Maintenance of Bayou Grosse Tete to a depth of -5 feet mean low water and a width of 60 feet.
 - f. Operation and maintenance of the eight locking structures in the GIWW system.
 - g. Dredging along all segments of the waterways will be accomplished with a bucket dredge using the cast and stack method of disposal, or with a cutterhead pipeline dredge utilizing combinations of floating and shore pipeline to transport dredged material to the disposal sites. Dredged material will be deposited in areas along both sides of these waterways. Specific locations for dredging and disposal will be determined as maintenance dredging is required.
2. The possible consequences of all alternatives have been studied for environmental, social well-being, and economic effects, including regional and national economic development and engineering considerations, world trade, and the production of natural energy resources.

3. Structural alternatives to the proposed action consist of alternative procedures for the disposal of dredged material and the no-action alternative; i.e., the cessation of maintenance operations. No nonstructural alternatives were determined.

a. Dredged material disposal alternatives.

- (1) Deposition onto adjacent and unconfined areas.
- (2) Semicontrolled deposition.
- (3) Confined deposition.
- (4) Confined deposition onto wetlands and upland areas.
- (5) Casting and stacking.
- (6) Deposition onto easement lands.

b. No-action alternative. No feasible structural alternatives to the proposed maintenance dredging were determined that would allow continued use of these waterways.

4. I have carefully reviewed and evaluated the real and potential impacts of the alternatives listed above. The proposed disposal sites have been reviewed in accordance with guidelines promulgated by the Administrator, Environmental Protection Agency, in conjunction with the Secretary of the Army, pursuant to Section 404 (b) of the Federal Water Pollution Control Act of 1972, Public Law 92-500.

5. In my evaluation, the following factors were considered pertinent:

a. Environmental considerations. I considered alternative plans for maintenance dredging and found that certain environmental effects will be unavoidable regardless of the disposal technique used.

b. Social well-being considerations. None of the maintenance alternatives considered nor the no-action plan would impact on the social well-being of the area as favorably as the selected plan. Increased employment opportunities (both direct and indirect) tend to provide higher income levels, increased leisure time, and an improvement in the standard of living of those in the area of influence.

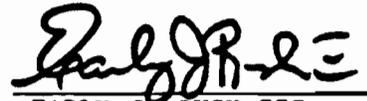
c. Engineering considerations. It is my judgment that, from an engineering standpoint, the proposed action represents the most feasible and efficient method of continuing to maintain these channels to project dimensions.

d. Economic considerations. Maintenance of the channels is desirable for the continued economic development of the region and the nation. In conjunction with this development, beneficial impacts would include increases in employment opportunities and higher incomes, thereby improving the overall quality of life.

6. I find that the action proposed as described in section 1 of the environmental statement is based on thorough analyses and evaluation of practicable alternative courses of action for achieving the stated policy, statutes, and administrative directives; and that, on balance, the total public interest will best be served by the continued maintenance and operation of these projects.

27 Sep 1976

DATE

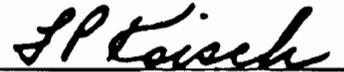


EARLY J. RUSH III
Colonel, CE
District Engineer

I concur in the preceding statement of findings.

2 Nov 76

DATE



F. P. KOISCH
Major General, USA
Division Engineer

I concur in the preceding Statement of Findings.

18 Jan 1977

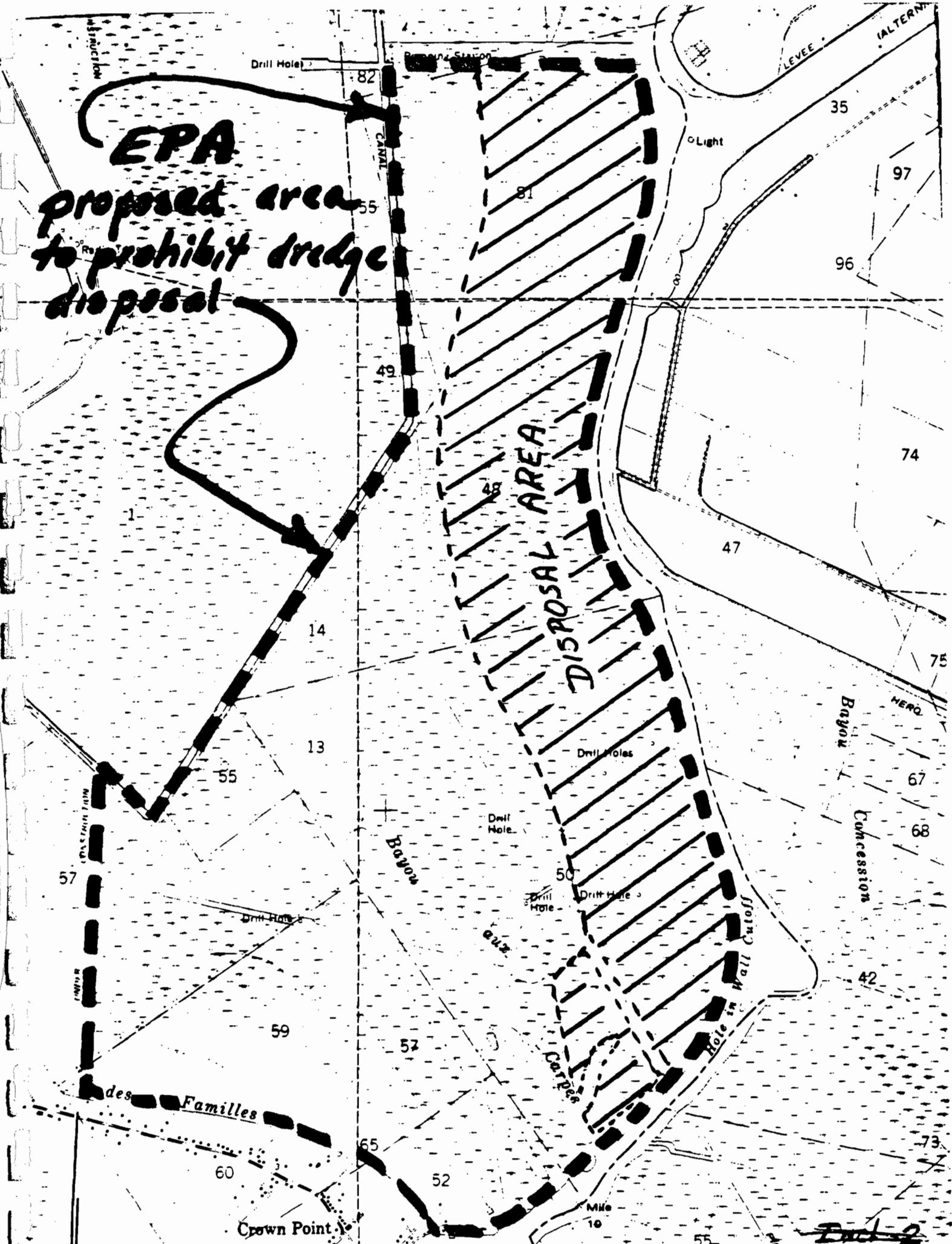
DATE



DRAKE WILSON
Brigadier General, USA
Deputy Director of Civil Works

EPA
proposed area
to prohibit dredge
disposal

DISPOSAL AREA





DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P. O. BOX 80287
NEW ORLEANS, LOUISIANA 70180

LMNOD-N (Gulf Intracoastal Waterway, Mississippi River to Atchafalaya River Section, Louisiana.) 26 August 1975

PUBLIC NOTICE

Interested persons are hereby notified that the US Army Corps of Engineers, New Orleans District, proposes to continue essential maintenance dredging of a section of the Federally authorized Gulf Intracoastal Waterway (GIWW) between the Mississippi River and the Atchafalaya River in Louisiana.

Maintenance dredging along this section of the GIWW is in a portion of the Federally authorized project, "Gulf Intracoastal Waterway Between Apalachee Bay, Florida, and Mexican Border." Construction and maintenance was authorized by the River and Harbor Act of 24 July 1946, Senate Document 242, 79th Congress, 2nd Session, and prior River and Harbor Acts.

This notice is issued in accordance with provisions of Title 33 Code of Federal Regulations, Part 209.145, effective 22 July 1974, which established policy, practice, and procedure to be followed on Federal dredging projects involving disposal of dredged material in navigable waters.

PROJECT DESCRIPTION: The attached drawing sheets show the channel routing, proposed disposal sites, and general topography along the GIWW between New Orleans and Morgan City, Louisiana. This 95.3-mile-long section begins at Harvey lock (mile 0) and proceeds south through Harvey Canal No. 1 to Bayou Barataria. Mileages referenced in this section are west of Harvey Lock (W.H.L.). An alternative route is provided from the Mississippi River through Algiers Lock approximately 10 miles down river from Harvey Lock. This 9.3-mile-long canal intersects Harvey Canal No.1, 6.8 miles south of Harvey Lock. The GIWW proceeds westerly from Bayou Barataria at Barataria, Louisiana and intersects Harvey Canal No. 2 below Lake Salvadore; it continues southwesterly crossing Bayou Lafourche at Larose and then continues westerly through the Larose-Bourg cut-off canal to Houma, Louisiana. The GIWW then continues westerly through a land cut of approximately 20 miles where it enters Bayou Cocodrie (which becomes Bayou Black); it then passes through Bayou Chene and Bayou Boeuf to Morgan City, Louisiana. Channel dimensions throughout the subject section of the GIWW are maintained to a depth of -12 feet, mean low gulf (m.l.g) datum and a width of 125 feet.

[Handwritten signature]

DISPOSAL SITES: The proposed disposal sites shown on the attached drawings are those which have been used during previous maintenance dredging; no other marshland areas will be used for disposal of dredged materials. Maintenance dredging in this section of the GIWW is done periodically in short non-continuous reaches ranging from about 1/2 to 2 miles in length. All of the disposal sites are not used during each dredging period because shoaling does not generally occur in the same location each year. Dredged material is deposited in dikes areas along both banks of the waterway. Dikes may also be required along lateral streams, canals, and sloughs to prevent siltation which would alter or prohibit natural drainage or water exchange in adjacent marshlands. Controlled spillgates will be constructed in front dikes to permit dredged water to return to the waterway after solid material settles. When maintenance dredging is performed in the first 2.5 miles of Harvey Canal No. 1, dredged material is transported through a long shoreline pipe, utilizing a booster pump, and deposited in deep waters of the Mississippi River. This deep-water disposal area is also used when maintenance dredging is performed in the forebay of Harvey Lock. The Algiers alternate route has not required maintenance dredging since construction was completed in 1954. When maintenance dredging is required in this reach, temporary disposal easements will be obtained in the areas which were used during construction. Dredged material disposal from any maintenance required in the Algiers Lock reach of the GIWW will be made in substantially the same manner as is done at Harvey Lock. The disposal areas that were used during construction are adjacent to the waterway. None of these proposed disposal areas have been designated by the Environmental Protection Agency (EPA).

FREQUENCY, QUANTITIES AND TYPE OF MATERIAL DREDGED: Maintenance dredging has been required in this section of the GIWW at about 2 year intervals. As previously stated, the entire length of this section of the waterway is not dredged during each dredging period; only small segments require maintenance dredging. About 620,000 cubic yards of shoaling material was removed each time this section was dredged. The shoaling material consists of fine-grained sand, silt, small amounts of clay, logs, and other debris.

METHOD OF DREDGING: Maintenance dredging in this section of the GIWW is done with a cutterhead pipeline dredge utilizing combinations of floating and shore pipeline to transport dredged material to the disposal sites.

PROPERTY ADJACENT TO DISPOSAL SITES: Intense industrial development has occurred along Harvey Canal No.1, and considerable residential and some industrial development is in process along the Algiers alternate route. Between the intersection of these canals and Lafitte, Louisiana numerous residential dwellings adjoin the GIWW. Low-lying marshes are adjacent to the disposal areas between Lafitte and Bayou Lafourche; the Barataria and Delta Farms oil and gas fields are situated on the southerly side of the waterway. Through the Larose-Bourg cutoff

reach and into Houma, Louisiana, the marshlands adjoin both sides of the waterway; the Lake Long and Bourg gas fields adjoin the north bank of the waterway at miles 45 and 50 W.H.L., respectively. Through the city of Houma, Louisiana, between miles 56 and 61 W.H.L., industrial facilities are situated on both banks. West of Houma the GIWW continues through low-lying marshes to Morgan City, Louisiana. Numerous industrial facilities are situated along the north bank through the Bayou Chene segment of the GIWW from mile 86.5 W.H.L. to the western limit of dredging in this section at mile 95.3 W.H.L. Several oil and gas fields are located near or adjacent to the GIWW between Houma and Morgan City, Louisiana.

DREDGING BY OTHER: Along this section of the GIWW there are a large number of wharves, boat slips, well location canals, and privately maintained intersecting canals which require periodic maintenance dredging. An annual estimate of the amount of dredging performed by others cannot be made because the permits granted for initial construction of these many facilities usually provides for maintenance of them without providing for reporting of quantities of materials removed after completion. Based on average annual quantities removed by the Government throughout this 95.3 mile-long section, it is reasonable to anticipate that not more than 50,000 cubic yards of shoaling material is removed by others each year.

ENVIRONMENTAL IMPACT STATEMENT AND RELEVANT CONSIDERATIONS: The draft Environmental Impact Statement (EIS) covering continuance of Federal maintenance of the Gulf Intracoastal Waterway (GIWW) is scheduled for filing in August 1975. Inasmuch as proposed continuance of annual maintenance is essential to keeping this important route open, the work will be performed where necessary as the coordination and preparation of the EIS proceeds.

Data collection and studies are in progress to produce a fully responsive environmental evaluation of near term and long term maintenance work proposed in this waterway. Water and sediment quality sampling is being augmented to permit increasingly representative analysis and assessment of prevalent conditions. The tangible impacts and alternatives of continuing maintenance work are being critically examined to identify any substantive barriers and devise and employ rational measures to reduce adverse environmental impacts. The proposed work is being evaluated for its probable impact on the environment, affected ecological systems, human health and welfare, amenities, and economic potentials.

CULTURAL CONSIDERATIONS: Both the National Register of Historic Places and the known listing of sites in the State of Louisiana Historical Preservation Plan have been consulted. The National Register currently lists no specific sites that would be affected. Known archeological sites will not be disturbed by this proposed maintenance inasmuch as the areas to be dredged are confined to the dimensions and routing established for construction and the disposal areas have been redefined to avoid

impingement upon such sites. Any other archeological sites that may be encountered in the performance of the work will be preserved as provided by law. There are no known consequences of the work that would affect any of Louisiana's designated scenic rivers.

COORDINATION: A copy of this notice is being sent to the following listed agencies for coordination purposes:

Region VI, Environmental Protection Agency
Regional Director, US Fish and Wildlife Service
Regional Director, National Park Service
Regional Director, Bureau of Outdoor Recreation
Commander, Eighth Coast Guard District
Louisiana Wild Life and Fisheries Commission
The Stream Control Commission of Louisiana
State of Louisiana, Department of Public Works

Other Federal, State, and local organizations, including US Senators and Representatives of Louisiana, are also sent copies of this notice and asked to participate in coordinating this proposed work.

DETAILED PLANS: Plans, typical of the proposed work, are on file in the Office of the District Engineer, US Army Engineer District, New Orleans, Foot of Prytania Street, New Orleans, Louisiana, and may be examined by anyone having an interest in them.

SPECIAL QUALIFICATIONS: Interested persons may submit protests or objections to the proposed work or suggest modifications as follows:

Any person who has an interest which may be affected by the disposal of this dredged material may request a public hearing. The request must be submitted in writing to the District Engineer by 26 September 1975 and must clearly set forth the interest which may be affected and the manner in which the interest may be affected by this activity.

Inasmuch as the proposed maintenance work involves the discharge of dredged materials into navigable waters:

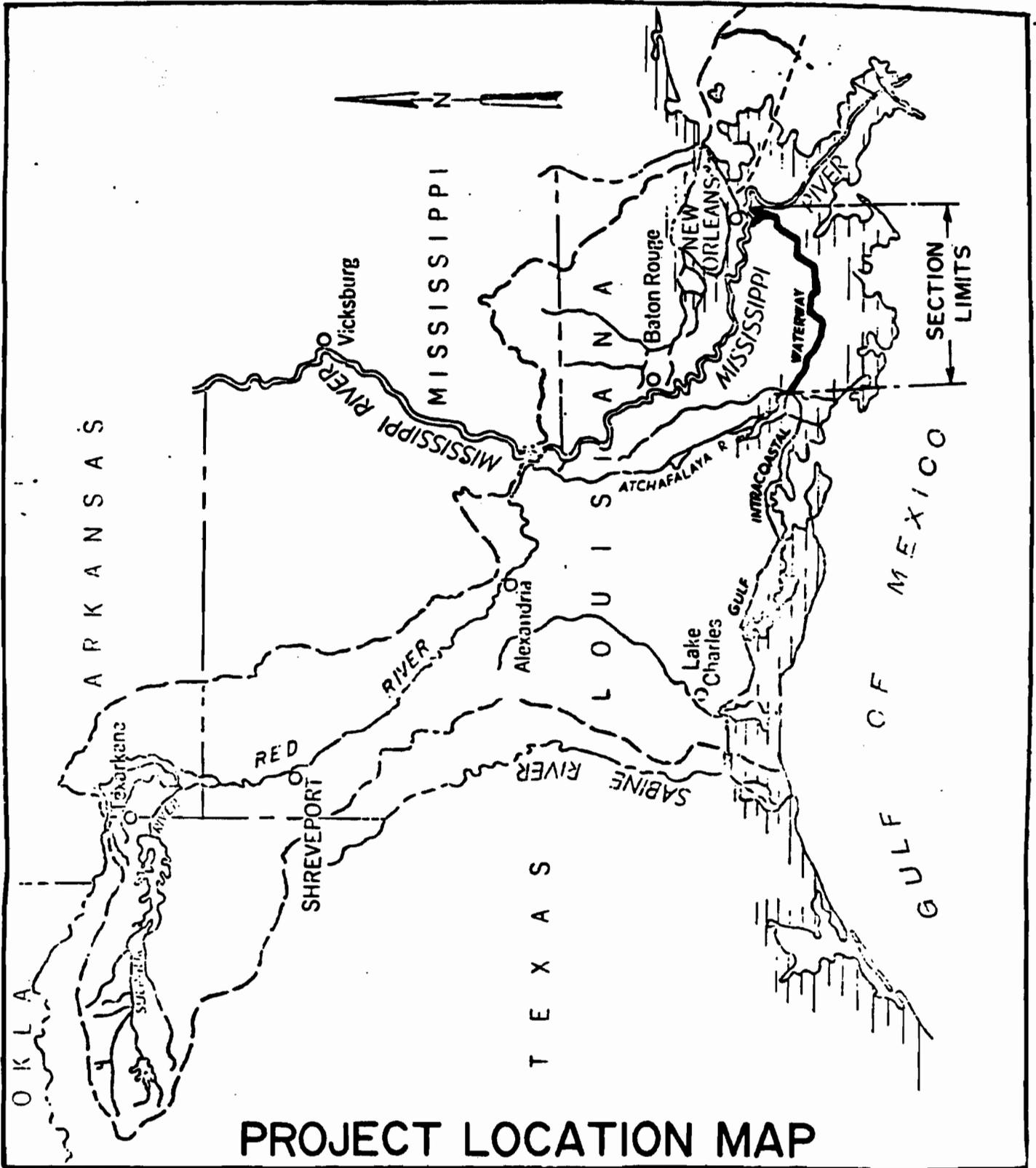
Designation of the proposed disposal sites for dredged material associated with this Federal project shall be made through the application of guidelines promulgated by the Administrator EPA in conjunction with the Secretary of the Army. If these guidelines alone prohibit the designation of this proposed disposal site, any potential impairment to the maintenance of navigation, including any economic impact on navigation and anchorage which would result from the failure to use this disposal site, will also be considered.

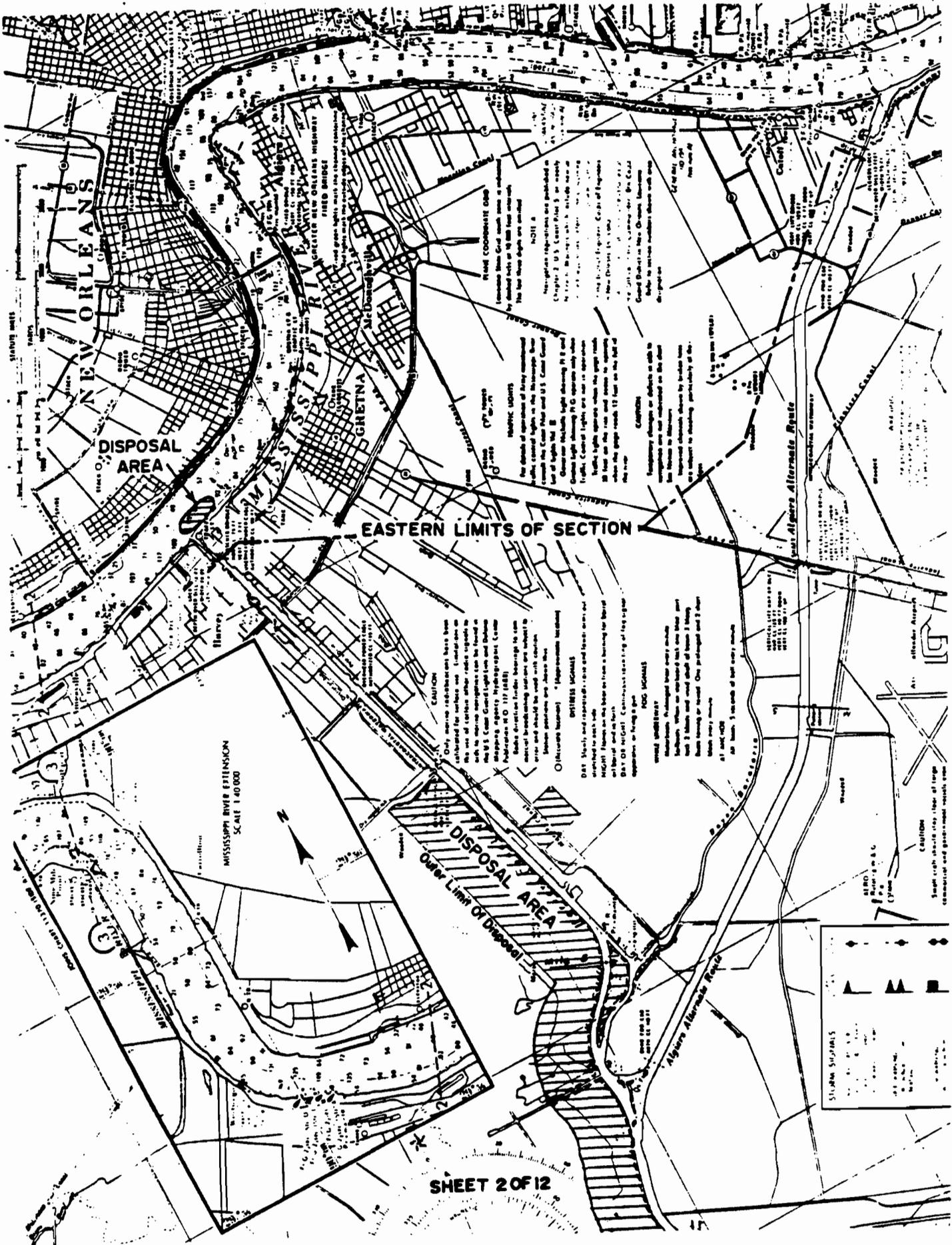
You are requested to communicate the information contained in this notice to any other parties who may have an interest in the proposed activities.



E. R. HEIBERG III
BG, USA
District Engineer

12 Incl
Drawings





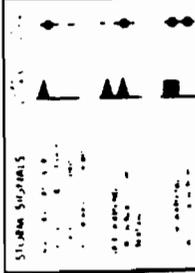
DISPOSAL AREA

EASTERN LIMITS OF SECTION

DISPOSAL AREA

MISSISSIPPI RIVER BRIDGE
SCALE 1:1000

ALBERTA ALTERNATE ROUTE



PLANE COORDINATE GRID
 The grid shown on this drawing is a coordinate grid. The grid lines are spaced at 100-foot intervals. The grid is based on the U.S. Coast and Geodetic Survey datum. The grid is used to locate points on the drawing. The grid is shown in the upper right corner of the drawing.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

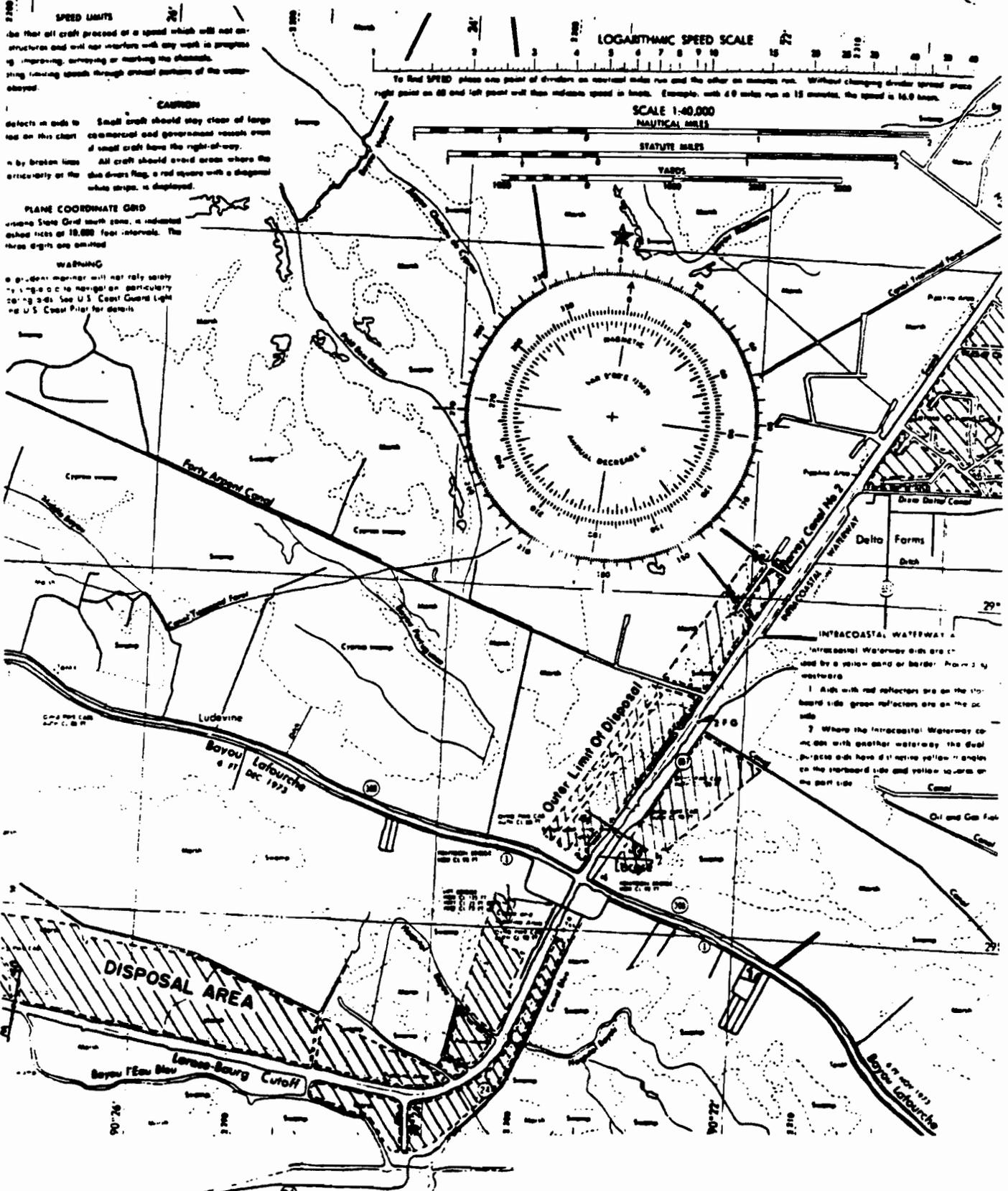
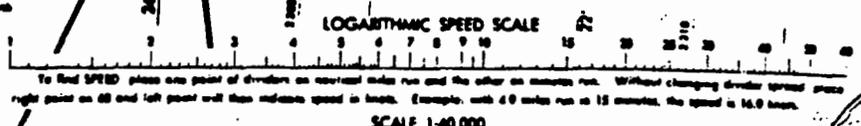
CAUTION
 The details of operation of heavy machinery are not shown on this drawing. The operator should refer to the manufacturer's instructions for the correct use of the machinery. The operator should also refer to the U.S. Coast and Geodetic Survey datum for the correct use of the grid.

SPEED LIMITS
 No motor craft proceed at a speed which will not endanger structures and will not interfere with any work in progress of improving, surveying or marking the channels.
 No towing vessels through narrow portions of the waterway.

CARRIAGE
 Small craft should stay clear of large commercial and government vessels even if small craft have the right-of-way.
 All craft should avoid areas where the buoyage flag, a red square with a diagonal white stripe, is displayed.

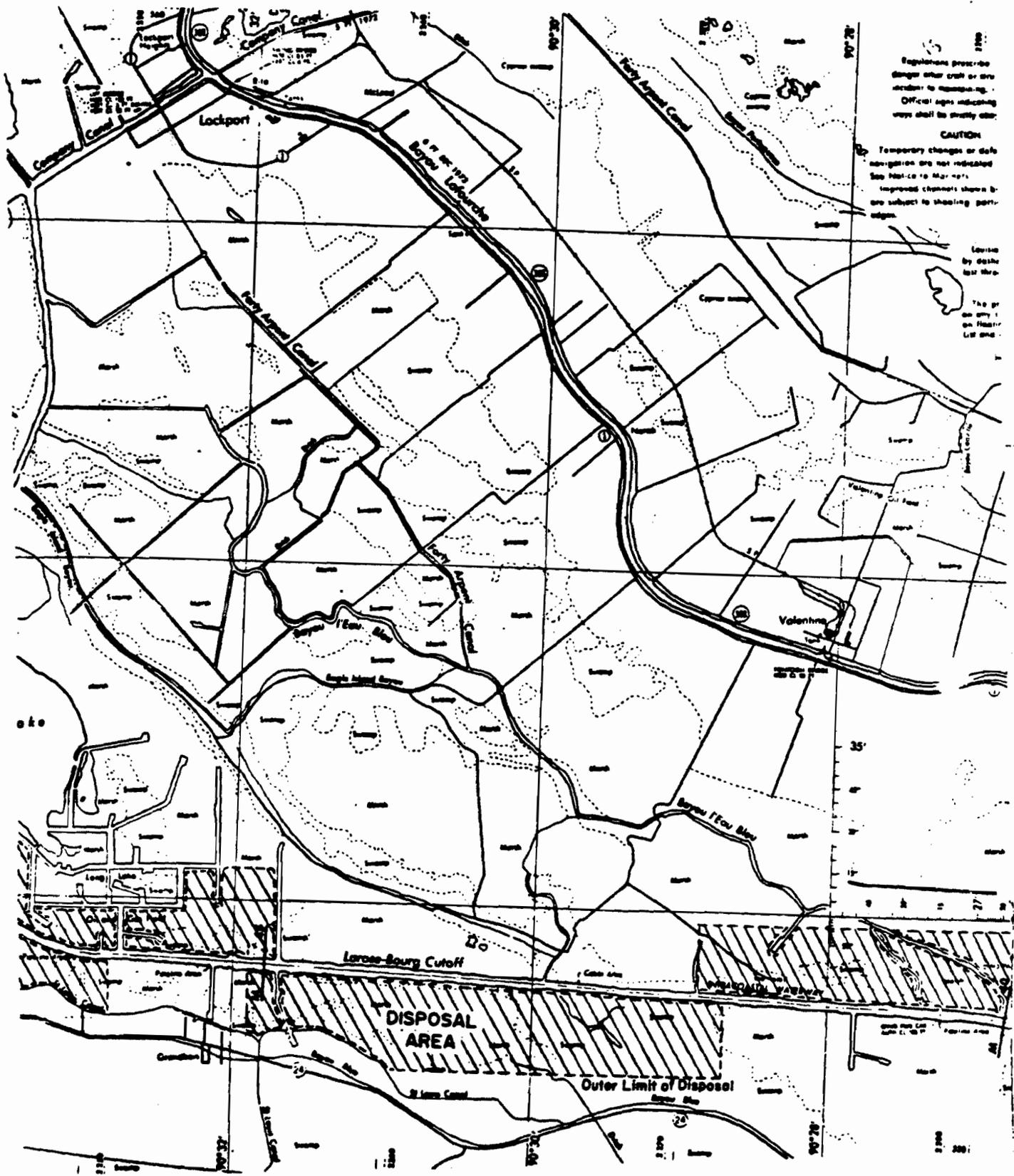
PLANE COORDINATE GRID
 This chart uses the State Grid north zone, a indicated dashed lines at 10,000 foot intervals. The three digits are omitted.

WARNING
 A prudent mariner will not rely solely on this chart for navigation. Particularly during bad weather U.S. Coast Guard Light House U.S. Coast Pilot for details.



INTRACOASTAL WATERWAY
 Intracoastal Waterway aids are marked by a yellow band or border. From 1 to 200 yards:
 1. Aids with red reflectors are on the starboard side, green reflectors are on the port side.
 2. Where the Intracoastal Waterway connects with another waterway the dual purpose aids have a diamond yellow triangle on the starboard side and yellow squares on the port side.

DISPOSAL AREA

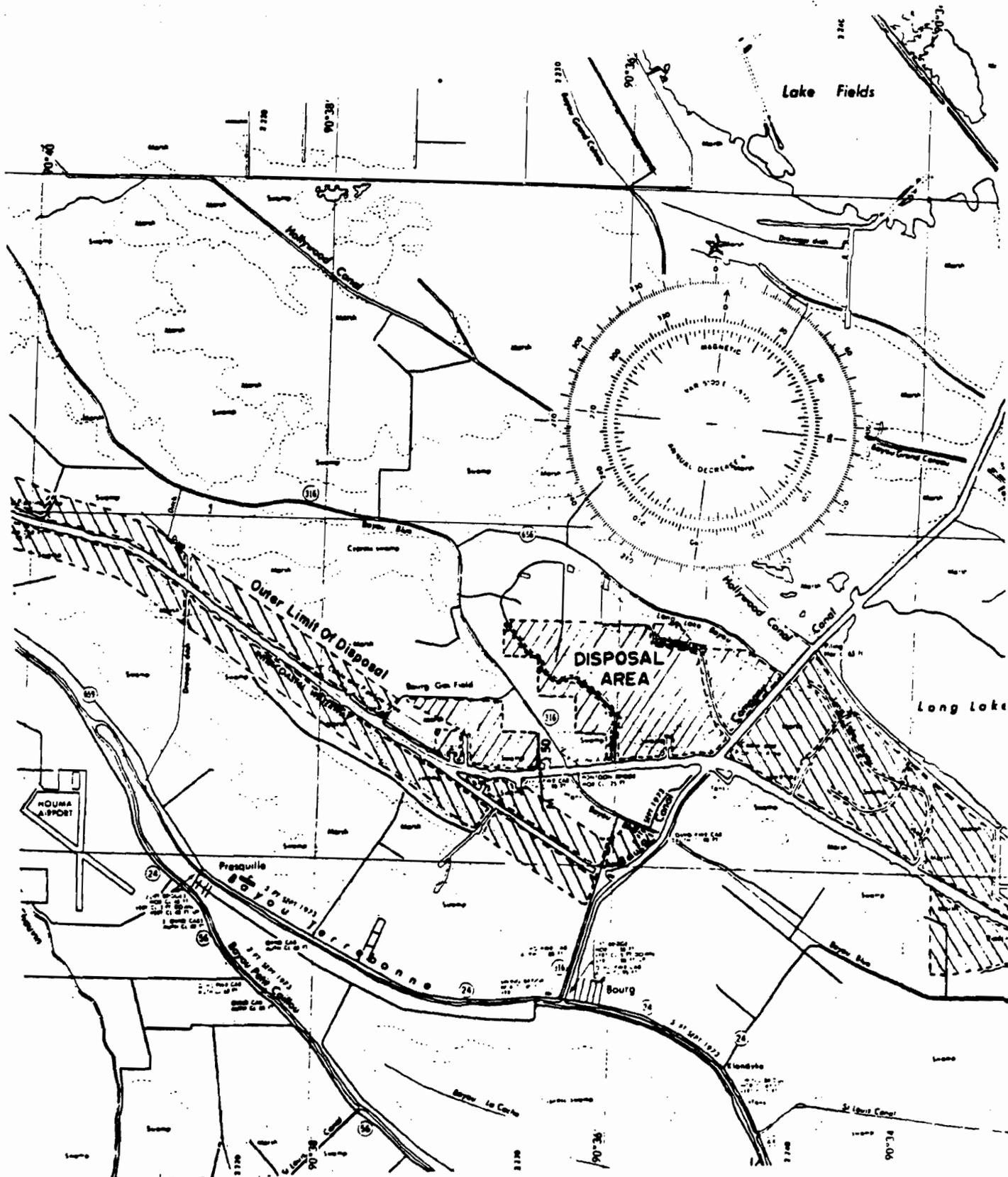


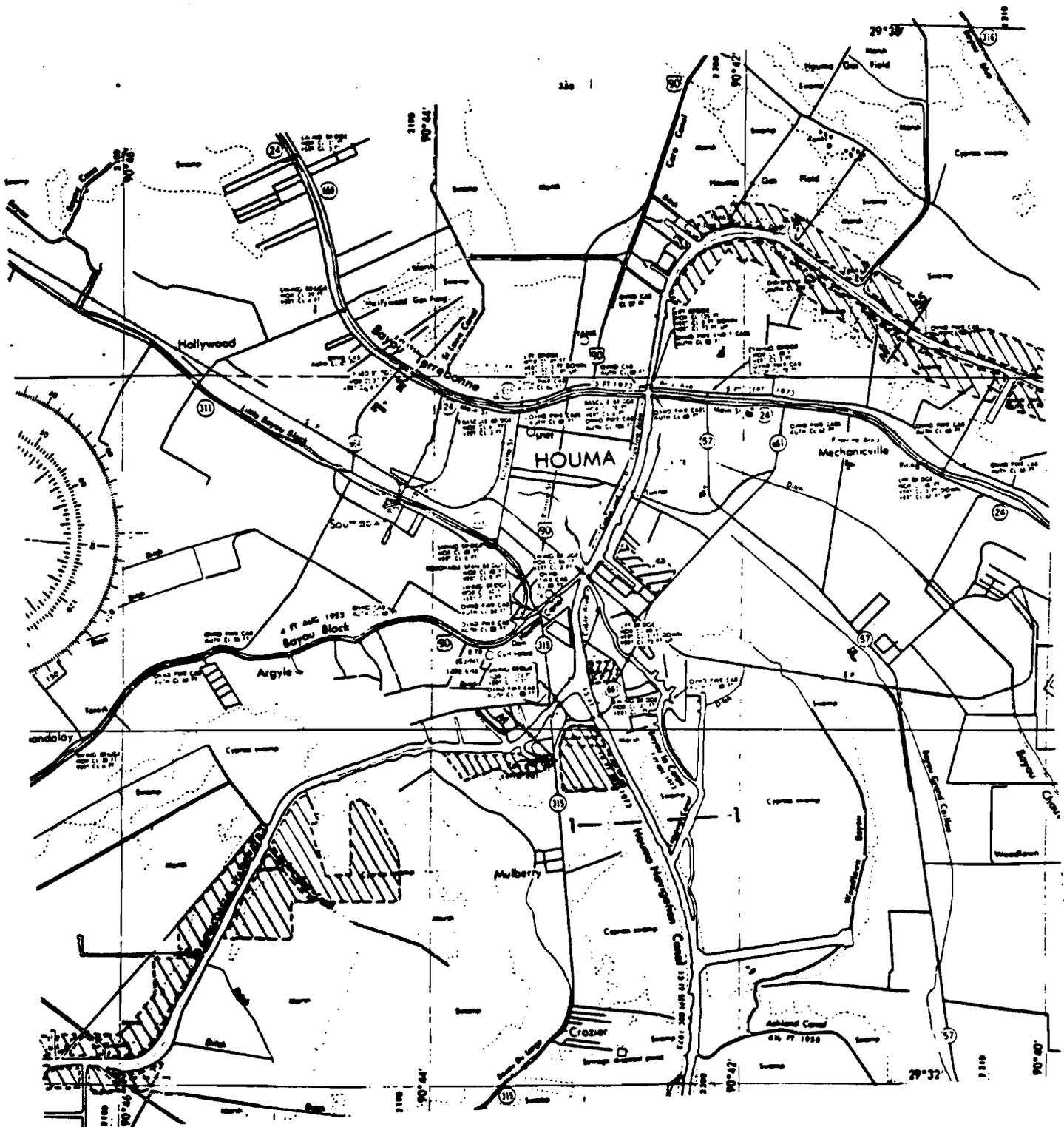
Regulations prescribe
 danger after dark or in
 accident to navigation.
 Official signs indicating
 ways shall be strictly obeyed.

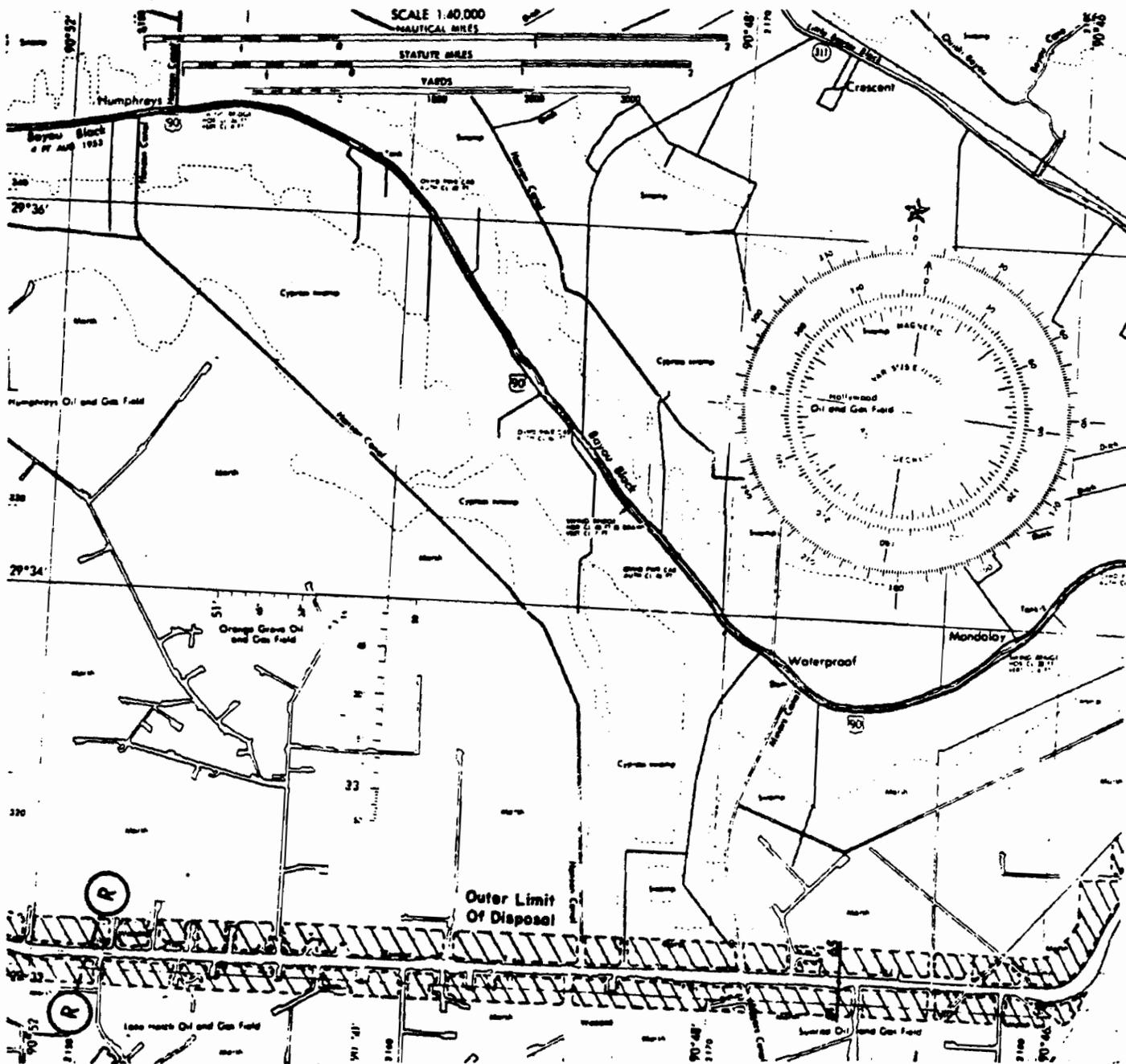
CAUTION
 Temporary changes or date
 expiration are not indicated.
 See Notices to Mariners.
 Improved channels shown
 are subject to shoaling peri-
 ods.

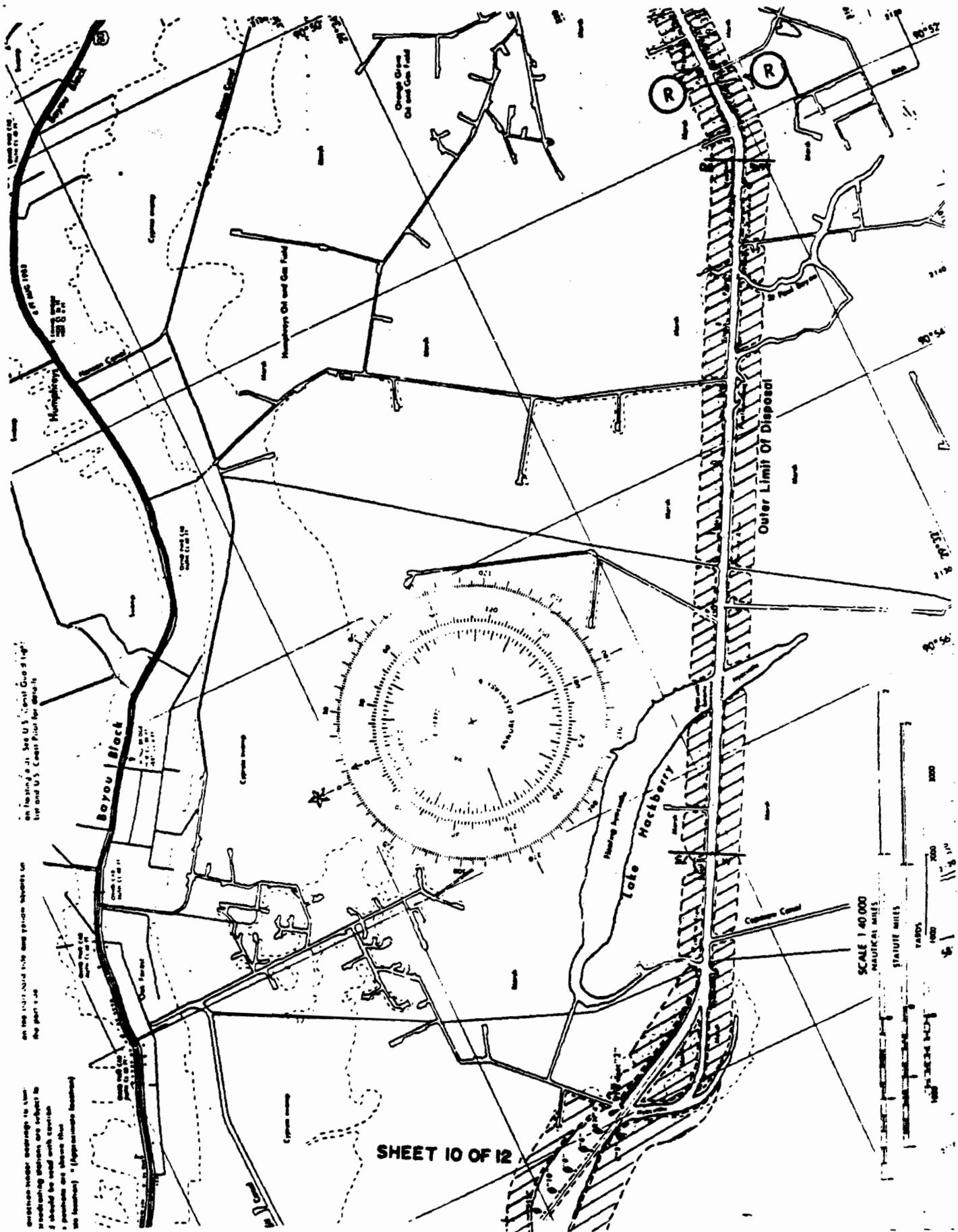
Course
 by date
 last thro

The pr
 on floor
 List and









on the part of the land shown above on the part of the U.S. Coast Pilot for Alaska

on the part of the land shown above on the part of the U.S. Coast Pilot for Alaska

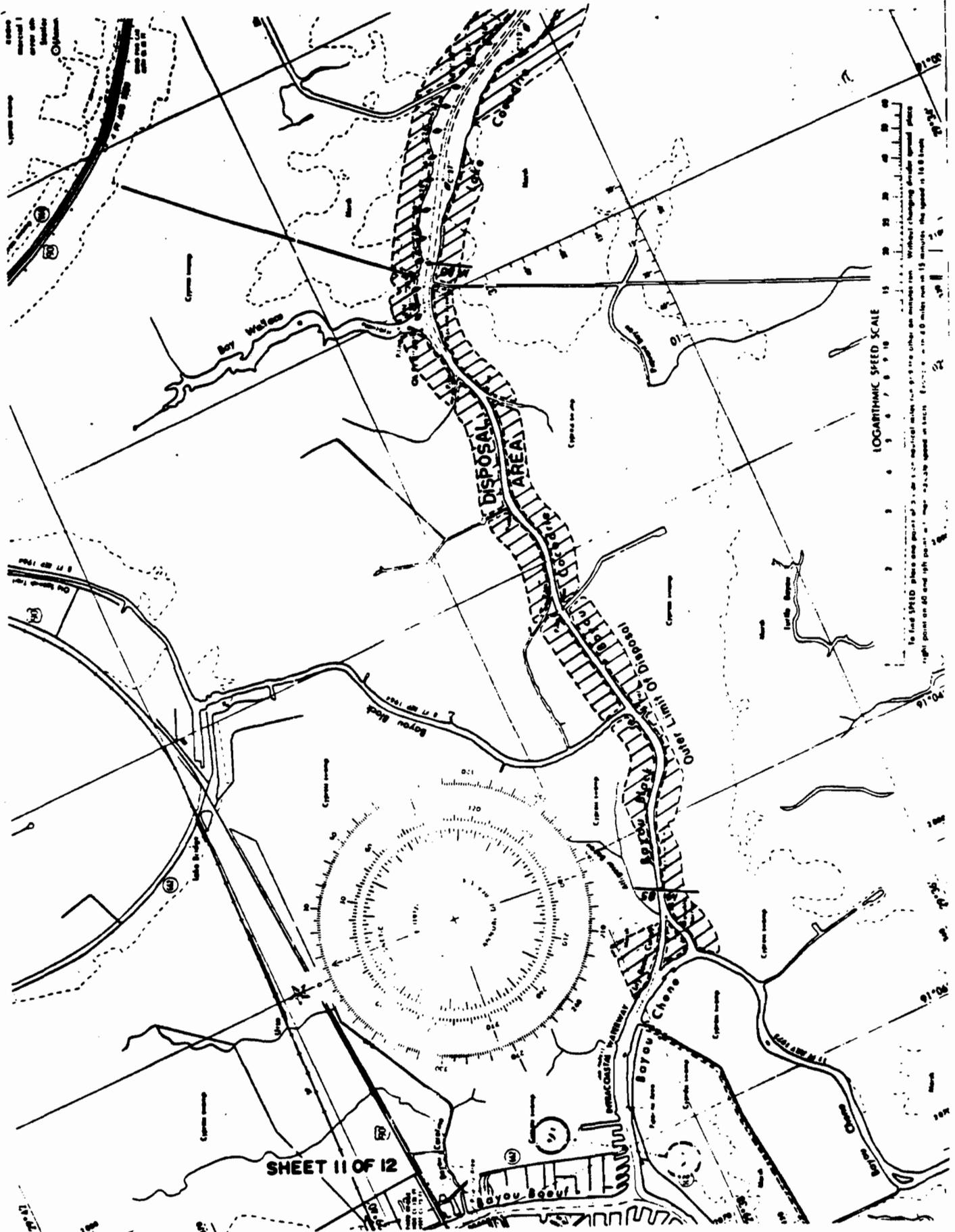
SECTION NUMBER: 100000
 SHEET NUMBER: 100000
 DATE: 1963

SHEET 10 OF 12

SCALE 1:40,000
 NAUTICAL MILES
 STATUTE MILES



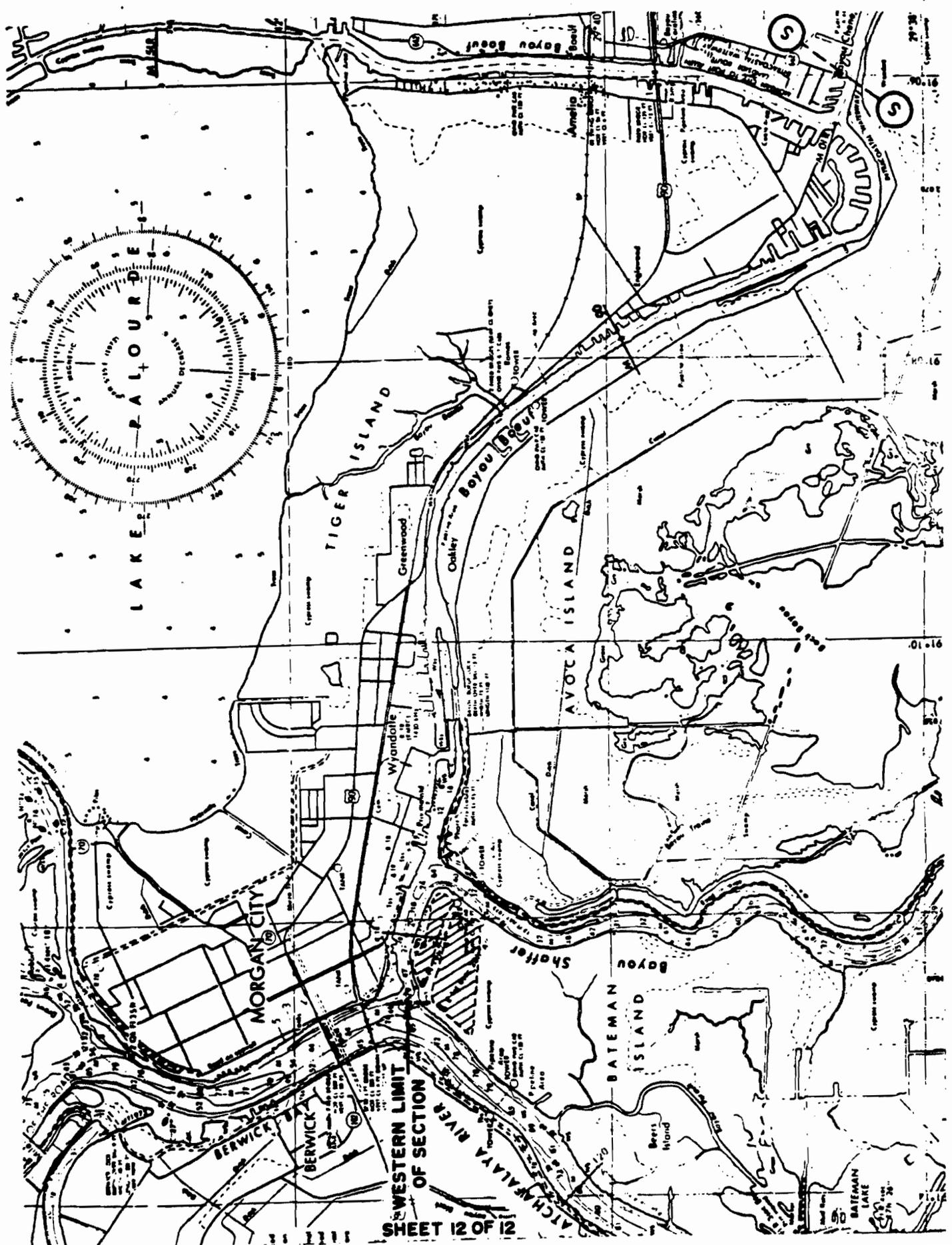
11.8



LOGARITHMIC SPEED SCALE

To find SPEED, place one point of S. on 1.0, and other on distance in miles. Without changing divider spread place right point on 40 and left point on map. S.W. speed in knots. Example: in 40 miles run in 15 minutes, the speed is 16.0 knots.

SHEET 11 OF 12



SECTION 404(b)(1) EVALUATION

Operations and Maintenance Dredging, Gulf Intracoastal Waterway, Apalachee Bay, Fla., and the Mexican Border; Mississippi River to the Atchafalaya River, Louisiana Section.

1. INTRODUCTION. This evaluation describes and assesses the impacts of periodic maintenance dredging and the disposal of dredged material along the Gulf Intracoastal Waterway (GIWW) between the Mississippi River and the Atchafalaya River. Dredged material is deposited along both banks of the waterway throughout this section. Dredged material is contained by dikes in some areas and is allowed to spread thinly in others. All of the disposal sites have been used previously. The discharge of dredged material into "Waters of the United States" and into the adjacent wetlands is subject to the provisions of the Federal Water Pollution Control Act of 1972 (PL92-500), Section 404(b)(1), and the amended Clean Water Act of 1977 (PL95-217). Impacts on the surrounding areas are addressed in the 4 February 1977 Final Environmental Impact Statement which includes operation and maintenance of the GIWW and associated control structures.

2. PROJECT DESCRIPTION. The GIWW within the New Orleans District extends from Lake Borgne Light No. 29 east of New Orleans to the Sabine River, a distance of 384 miles, and 64 miles through the Port Allen to Morgan City Alternate Route. The section being evaluated is 95.3 miles long. The channel is maintained to a depth of 12 feet (plus allowable overdepth and advance maintenance) and 125 feet wide.

Review of Compliance (Sec. 230.10(a)-(d)).

Preliminary 1/

Final 2/

A review of the project indicates that:

a. The discharge represents the least environmentally damaging practicable alternative and if in a special aquatic site, the activity associated with the discharge must have direct access or proximity to, or be located in the aquatic ecosystem to fulfill its basic purpose (if no, see section 4 and information gathered for EA alternative);

YES

NO *

YES NO

b. The activity does not appear to; 1) violate applicable state water quality standards or effluent standards prohibited under Section 307 of the CWA; 2) jeopardize the existence of Federally listed endangered or threatened species or their habitats; and 3) violate requirements of any Federally designated marine sanctuary. (if no, see section 4b and check responses from resource and water quality certifying agencies);

YES

NO *

YES NO

c. The activity will not cause or contribute to significant degradation of waters of the U. S. including adverse effects on human health, life stages of organisms dependent on the aquatic ecosystem, ecosystem diversity, productivity and stability, and recreational, aesthetic, and economic values (if no, see section 4);

YES

NO *

YES NO

d. Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem (if no, see section 7).

YES

NO *

YES NO

Proceed to Section 4

*1/, 2/ See page 6

Technical Evaluation Factors (Subparts C-F)

N/A Not Signifi- Signifi-
 cant cant*

a. Physical and Chemical Characteristics of the Aquatic Ecosystem (Subpart C).

- 1) Substrate impacts.
- 2) Suspended particulates/turbidity impacts.
- 3) Water column impacts.
- 4) Alteration of current patterns and water circulation.
- 5) Alteration of normal water fluctuations/hydroperiod.
- 6) Alteration of salinity gradients.

		X	
		X	
		X	
X			
X			
		X	

b. Biological Characteristics of the Aquatic Ecosystem (Subpart D).

- 1) Effect on threatened/endangered species and their habitat.
- 2) Effect on the aquatic food web.
- 3) Effect on other wildlife (mammals, birds, reptiles and amphibians).

		X	
		X	
		X	

c. Special Aquatic Sites (Subpart E).

- 1) Sanctuaries and refuges.
- 2) Wetlands.
- 3) Mud flats.
- 4) Vegetated shallows.
- 5) Coral reefs.
- 6) Riffle and pool complexes.

		X	
		X	
		X	
		X	
X			
X			

d. Human Use Characteristics (Subpart F)

- 1) Effects on municipal and private water supplies.
- 2) Recreational and Commercial fisheries impacts.
- 3) Effects on water-related recreation.
- 4) Aesthetic impacts.
- 5) Effects on parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves.

		X	
X			
X			
		X	
		X	

Remarks: Where a check is placed under the significant category, preparer add explanation below.

Proceed to Section 5

See page 6

Evaluation of Dredged or Fill Material (Subpart G) 3/

a. The following information has been considered in evaluating the biological availability of possible contaminants in dredged or fill materials. (Check those appropriate.)

- 1) Physical characteristics
- 2) Hydrography in relation to known or anticipated sources of contaminants
- 3) Results from previous testing of the material or similar material in the vicinity of the project
- 4) Known, significant, sources of persistent pesticides from land runoff or percolation
- 5) Spill records for petroleum products or designated (Section 311 of CWA) hazardous substances
- 6) Other public records of significant introduction of contaminants from industries, municipalities or other sources
- 7) Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities
- 8) Other sources (specify)

List appropriate references.

- 1. Aug. 26, 1975, Public Notice.
- 2. Mar. 21, 1979, State of Louisiana Water Quality Certification.
- 3. Oct. 1975, Statement of Findings.
- 4. Feb. 4, 1977, Final EIS.
- 5. Oct. 1975, Water Quality and Sediment Analyses.
- 6. Various Local, State and Federal Agency Coordination.

b. An evaluation of the appropriate information in 5a above indicates that there is reason to believe the proposed dredge or fill material is not a carrier of contaminants, or that levels of contaminants are substantively similar at extraction and disposal sites. The material meets the testing exclusion criteria. YES NO*

Proceed to Section 6

*See page 6

Disposal Site Delineation (Sec. 230.11(f)).

a. The following factors as appropriate, have been considered in evaluating the disposal site.

- 1) Depth of water at disposal site
- 2) Current velocity, direction, and variability at disposal site
- 3) Degree of turbulence
- 4) Water column stratification
- 5) Discharge vessel speed and direction
- 6) Rate of discharge
- 7) Dredged material characteristics (constituents, amount, and type of material, settling velocities)
- 8) Number of discharges per unit of time
- 9) Other factors affecting rates and patterns of mixing (specify)

Confined and semi-confined disposal site allows retention which is adequate not to exceed the LPC using applicable initial mixing zone computations.

List appropriate references.

- 1. Aug. 26, 1975, Public Notice.
- 2. Mar. 21, 1979, State of Louisiana Water Quality Certification.
- 3. Oct. 1975, Statement of Findings.
- 4. Feb. 4, 1977, Final EIS.
- 5. Oct. 1975, Water Quality and Sediment Analyses.
- 6. Various Local, State and Federal Agency Coordination.

b. An evaluation of the appropriate factors in 6a above indicates that the disposal site and/or size of mixing zone are acceptable YES NO*

7. Actions to Minimize Adverse Effects (Subpart II).

All appropriate and practicable steps have been taken, through application of recommendation of Sec. 250.70-230.77 to ensure minimal adverse effects of the proposed discharge. List actions taken. YES NO*

- 230.70 Utilization of previously used disposal sites to minimize adverse impacts.
- 230.71 Retention in confined disposal areas when possible to reduce suspended particulates.
- 230.72 Leaving material within containment areas when possible to reduce leaching and erosion.
- 230.73 Adhering to initial mixing zone calculations to meet the Limiting Permissible Concentrations.
- 230.74 Employing Appropriate machinery and methods of transport of material for discharge.
- 230.75 Avoiding sites having unique habitat or endangered species habitat.
- 230.76 Locating the disposal site outside of the vicinity of public water supply intakes.
- 230.77 Conforming with all regulatory compliance requirements.

N.B. Return to section 3 for final stage of compliance review. See also note 3/, page 6 .

*See page 6.

actual Determination (Sec. 230.11).

review of appropriate information as identified in items 4-9 above indicates that there is minimal potential for short or long-term environmental effects of the proposed discharge as related to:

- Physical substrate at the disposal site (review sections 4a, 5, 6, and 7 above). YES NO
- Water circulation, fluctuation and salinity (review sections 4a, 5, 6, and 7). YES NO
- Suspended particulates/turbidity (review sections 4a, 5, 6, and 7). YES NO
- Contaminant availability (review sections 4a, 5, and 6). YES NO
- Aquatic ecosystem structure and function (review sections 4b and c, 5, and 6). YES NO
- Disposal site (review sections 4, 6, and 9). YES NO
- Cumulative impact on the aquatic ecosystem. YES NO
- Secondary impacts on the aquatic ecosystem. YES NO

Findings

- The proposed disposal site for discharge of dredged or fill material complies with the Section 401(b)(1) guideline
- The proposed disposal site for discharge of dredged or fill material complies with the Section 404(b)(1) guidelines with the inclusion of the following conditions:
 - Effluent from contained and semi-contained disposal areas will not exceed the LPC after allowance for initial mixing.

- The proposed disposal site for discharge of dredged or fill material does not comply with the Section 404(b)(1) guidelines for the following reason(s):
 - 1) There is a less damaging practicable alternative
 - 2) The proposed discharge will result in significant degradation of the aquatic ecosystem
 - 3) The proposed discharge does not include all practicable and appropriate measures to minimize potential harm to the aquatic ecosystem

*A negative, significant, or unknown response indicates that the permit application may not be in compliance with the Section 404(b)(1) Guidelines.

1/ Negative responses to three or more of the compliance criteria at this stage indicate that the proposed projects may not be evaluated using this "short form procedure." Care should be used in assessing pertinent portions of the technical information of items 4 a-d, below before completing the final review of compliance.

2/ Negative response to one of the compliance criteria at this stage indicates that the proposed project does not comply with the guidelines. If the economics of navigation and anchorage of Section 404(b)(2) are to be evaluated in the decision-making process, the "short form evaluation process is inappropriate."

3/ If the dredged or fill material cannot be excluded from individual testing, the "short-form" evaluation process is inappropriate.

10. EVALUATION RESPONSIBILITY.

a. This evaluation was prepared by: Tom F. Pendergraft
TOM F. PENDERGRAFT

Position: Civil Engineer

Date: 7 April 1982

b. This evaluation was reviewed by: Rixie J. Hardy
RIXIE J. HARDY

Position: Chief, Navigation Branch

Date: 8 Apr 82

Signature H. R. Schore
HENRY R. SCHORE
Asst Chief, Operations Division

C.2 STATE COORDINATION



B. Keeler

EDWIN W. EDWARDS
GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WILDLIFE AND FISHERIES

B. JIM PORTER
SECRETARY

March 22, 1985

United States Environmental Protection Agency
c/o Mr. Harless R. Benthul
1201 Elm Street
Dallas, Texas 75270

Dear Mr. Benthul:

We appreciate your letter of February 21, 1985 informing this office of the Creppel, et al vs. Corp of Engineers Civil Action No. 77-25. By inherent sovereignty the State of Louisiana owns all naturally navigable bodies of water. Any activity adversely affecting the navigability of Bayou Barataria, Bayou Aux Carpes, or Bayou des Familles, or permanently encroaching upon the beds of these streams would be a serious concern to the State of Louisiana. The Louisiana State Land Office has two main objections to such activities. The first concern is that the general public will be restricted from using a public body of water. The second concern is that any encroachment on State owned waterbottoms may result in our relinquishing title and/or mineral rights to these waterbottoms.

Act 645 of the 1978 Louisiana Legislature empowered the State Land Office to review and permit encroachments on state owned waterbottoms. By this Act and its statutes any further work on this project should have a permit from this office. I am also sending a copy of your letter to our Coastal Management Division for their review and comments.

Thank you again for your letter and please keep me informed on this and other similar matters. If I can be of service to you, please let me know.

Sincerely,

Karl L. Morgan

KLM:aj



State of Louisiana

J. BURTON ANGELLE, SR
SECRETARY
ISO-41 925-3617

DEPARTMENT OF WILDLIFE AND FISHERIES
POST OFFICE BOX 15370
BATON ROUGE, LA. 70895

EDWIN W. EDWARDS
GOVERNOR

June 18, 1985

RECEIVED

JUL 1 1985

6 ES

U. S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, TX 75270

RE: Public comment on EPA
proposal to prohibit
on area known as the
Bayou aux Carpes swamp
from future use as a
dredged or fill material
disposal site

Gentlemen;

Our staff has reviewed the proposal as described in the EPA letter dated May 10, 1985. We agree that using the area for dredged or fill material disposal site would have detrimental effects on the fish and wildlife resources of the area, which is a part of the Barataria Bay estuarine system. We agree that such use would result in the direct loss of fish and wildlife habitat, loss of detrital materials and fresh water into the system, potential decrease in fish food items, loss of buffering capacity and loss of recreational opportunities.

Therefore the Louisiana Department of Wildlife and Fisheries supports the EPA proposal to prohibit the area known as the Bayou aux Carpes swamp from future use as a dredged or fill material disposal site.

Sincerely,



William S. "Corky" Perret
Assistant Secretary

WSP:WRL:th

cc: J. Burton Angelle
Virginia Van Sickle
Blue Watson
Ralph Latapie

State of Louisiana



EDWIN W. EDWARDS
GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

B. JIM PORTER
SECRETARY

July 10, 1985

Mr. Dick Whittington, P. E.
Regional Administrator
Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, Texas 75270

RECEIVED

JUL 23 1985

6 ES

RE: C850381
Bayou aux Carpes
Jefferson Parish, LA

Dear Mr. Whittington:

Members of my staff met with Ms. Barbara Keeler of your office on May 3rd, 1985, and attended the public hearing conducted on June 18, 1985 in Gretna, Louisiana concerning the proposed use of Section 404(C) of the Clean Water Act to prohibit future spoil disposal in the Bayou aux Carpes drainage area. The value of this wetland area as an integral part of the Barataria Estuary was established by the Habitat Evaluation Procedure as performed by the U. S. Fish and Wildlife Service (Michot, 1985). These wetlands provide not only important wildlife habitat, but act as nursery grounds for many estuarine dependent species of recreational and commercial value to the State of Louisiana.

Our analysis of this area (see enclosed maps) by the Map Overlay Statistical System (MOSS) shows that although large changes in wetland types have not occurred between 1956 and 1983 (see attached Table 1), there has been an increase in open water areas (labels beginning with "R"), and uplands (labels with "U"). This area which is largely cypress-tupelo swamp (Table 1) plays a vital role in the functioning of the estuarine system by contributing organic matter and acting as a buffer between adjacent developed areas and the lower estuary. We visualize this area as being an important element in the upper Barataria estuary and will be considered a key component of the system when the Louisiana Department of Natural Resources initiates a future study for special area management of the upper Barataria basin.

In addition it is the policy of this office, as supported by coastal use guidelines 2.1, 2.4, 2.5, 4.1, 4.2 and 4.3, to avoid the filling and segmentation of productive wetlands unless part of an approved marsh management or development plan. Therefore, this 404C action is consistent with the Louisiana Coastal Resources Program pursuant to Section 307(C)(3)(A) of the Coastal Zone Management Act and the NOAA Consistency Regulations 15 CFR Subpart D.

Mr. Dick Whittington, P.E.
Bayou aux Carpes
Page Two

We appreciate the opportunity to comment on this worthwhile effort and look forward to working with you in the future. If you have any questions concerning this please contact Mr. Frank Monteferrante of my staff at (504) 342-7591.

Sincerely,



C. G. Groat
Assistant to the Secretary

CGG/FJM/se

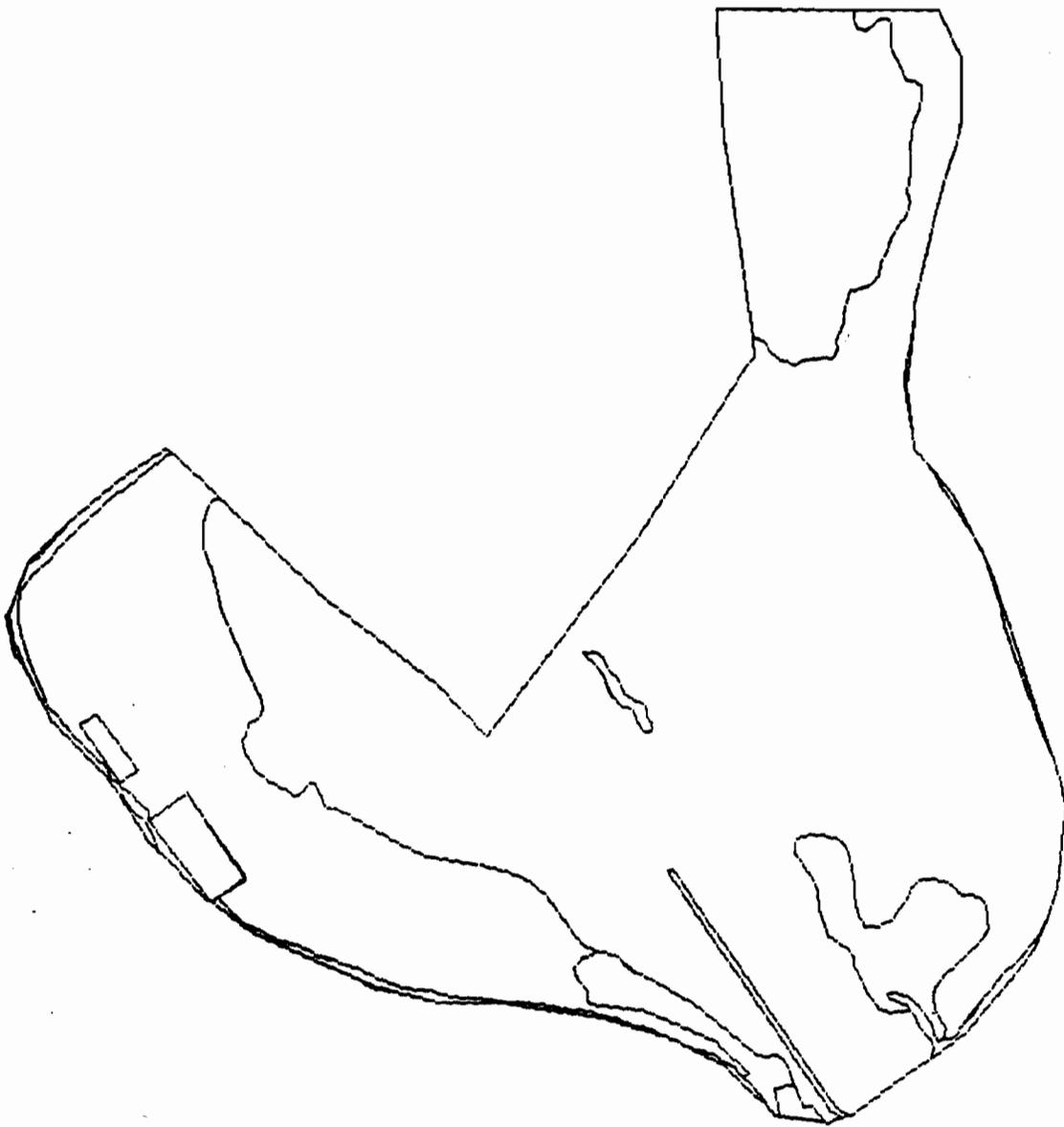
Enclosures: 1. Maps
2. (Table 1)
3. Appendix 5

cc: Mr. Fruge, USFWS
Mr. Isenogle, Jean Lafite National Park
Mr. Don Moore, NMFS
Mr. Ron Ventola, COE

References

- Gosselink, J. G. 1984. The ecology of delta marshes of coastal Louisiana: a community profile. U. S. Fish and Wildlife Service. FWS/OBS-84/09.
- Michot, T. C. 1985. Fish and wildlife resources of the Bayou aux Carpes drainage area, Jefferson Parish Louisiana. Technical Report. U. S. Fish and Wildlife Service, Division of Ecological Services, Lafayette, LA.
- Wicker, K. M. 1980. Mississippi Deltaic Plain Region ecological characterization: a habitat mapping study. A user's guide to the habitat maps. U. S. Fish and Wildlife Service, Office of Biological Services. FWS/OBS-79/07.

BAYOU AUX CARPES 1956



BAYOU AUX CARPES 1983

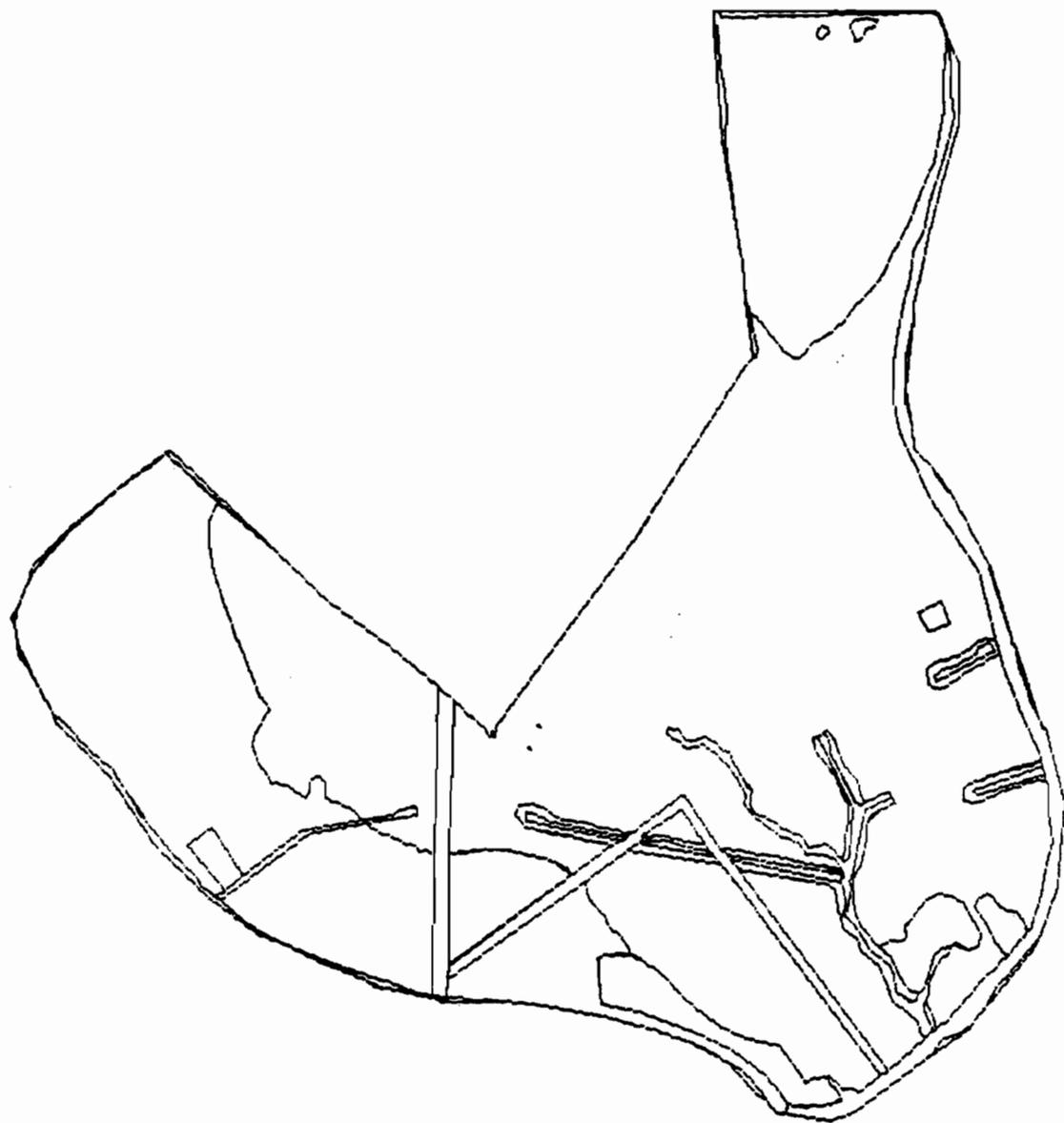


TABLE 1. BAYOU AUX CARPES HABITAT CHANGES

<u>Habitat</u>	<u>Acres</u>		<u>Percent</u>		<u>Percent Change</u>
	<u>1956</u>	<u>1983</u>	<u>1956</u>	<u>1983</u>	
PDV		49.71		1.30	±1.3
PEM	506.55	466.89	13.21	12.18	-1.03
PF012	2391.78	2094.86	62.39	54.65	-7.74
PF013	753.56	828.07	19.66	21.60	±1.94
R10W	21.87		0.57		-0.57
R10WX	13.37	9.14	0.35	0.24	-0.11
R2AB5		50.31		1.31	±1.31
R2AB50		6.68		0.17	±0.17
R20W	44.08		1.15		-1.15
R20W0		10.29		0.27	±0.27
R20WX		0.15		0.00	0.00
UDV1	6.79	168.42	0.18	4.39	±4.21
UDV10		8.23		0.21	±0.21
UDV2	95.49	70.80	2.49	1.85	-0.64
UF015		69.68		1.82	±1.82

(From: Wicker, 1980)

APPENDIX 5

GLOSSARY OF HABITAT LABELS

MARINE

M2W: Marine Subtidal Open Water

Open water bodies with high wave energy and salinities exceeding 30 ppt. Because of the influence of freshwater discharges from the Mississippi, Pearl, Atchafalaya, and other rivers, the only marine habitats labeled in the Mississippi Deltaic Plain Region are located south and east of the Mississippi and Louisiana barrier islands.

M2B2: Marine Intertidal Beach/ Bar Sand/Shell

Wave reworked sand and shell materials on the Gulfward side of the Mississippi and Louisiana barrier islands. Sand dunes on the barrier islands that are below 5 ft in elevation and have little or no vegetation are also classified as beach.

M2C2: Marine Subtidal Unconsolidated Bottom Sand

Sandy, shallow water unvegetated flats, wash-over fans, and bars on the bayward side of the barrier islands.

ESTUARINE

E1W: Estuarine Subtidal Open Water

A nonchannelized embayment, pond, lake, etc., having salinities which can fluctuate greatly in response to the freshwater inputs or high evaporation rates. Generally, the salinity is more than 0.5 ppt and less than 30 ppt. Because of the large

into the coastal and near-shore regions of the Mississippi Deltaic Plain Region, all offshore waters except those south and east of the Mississippi barrier and Louisiana Chandeleur Islands are labeled estuarine. Water bodies located in nonfresh marshes are also labeled estuarine.

E1OWt: Estuarine Subtidal Open Water Tidal

A naturally channelized body of water having a salinity of 0.5 ppt or greater during the period of average annual low flow; a tidal channel or abandoned distributary channel.

E1OWx: Estuarine Subtidal Open Water Excavated

An excavated estuarine water body (e.g. lake, pond, borrow pit, canal, marina) constructed and utilized for purposes other than oil and gas activities.

E1OWh: Estuarine Subtidal Open Water Impounded/Diked

An artificially leveed and impounded body of water having a salinity above 0.5 ppt. Abandoned reclamation sites that have become flooded are also labeled as being artificially impounded in order to distinguish them from natural water bodies.

E1OWo: Estuarine Subtidal Open Water Oil/Gas/Minerals

An excavated or impounded estuarine water body

oil-, gas-, or sulphur-related industries (e.g., brine discharge pits, rig cuts, pipeline canals).

E2EM: Estuarine Intertidal Emergent Vegetation

A wet grassland vegetated by salt-tolerant species. This label is used on the 1950s habitat maps to designate all non-fresh marshes (saline, brackish, and intermediate) because there are no adequate data to designate individual marsh types. This category is sometimes interspersed with open water bodies that are too small, discontinuous, and numerous to be individually delineated.

E2EMd: Estuarine Intertidal Emergent Vegetation Partially Drained/Ditched

A non-freshwater marsh that has been ditched and partially drained but which still supports nonfresh wetland flora.

E2EM5N4: Estuarine Intertidal Emergent Vegetation Narrow-leaved Persistent Regular Tidal Regime Polyhaline

A saline marsh commonly containing the narrow-leaved persistent species oystergrass (Spartina alterniflora), blackrush (Juncus roemerianus), batis (Batis maritima), and saltgrass (Distichlis spicata) (Chabreck and Linscombe 1978).

E2EM5N4d: Estuarine Intertidal Emergent Narrow-leaved Persistent Vegetation Regular Tidal Regime Polyhaline Partially Drained/Ditched

A saline marsh that has been ditched and partially drained or is in the process of

being drained, but which still supports saline marsh vegetation.

E2EM5N4s: Estuarine Intertidal Emergent Narrow-leaved Persistent Vegetation Regular Tidal Regime Polyhaline Spoil

A saline marsh that has developed on spoil deposited in an estuarine water body. This habitat is common in Mississippi, particularly near Pascagoula.

E2EM5P5: Estuarine Intertidal Emergent Vegetation Narrow-leaved Persistent Irregular Tidal Regime Mesohaline

A brackish marsh commonly containing narrow-leaved persistent species: wiregrass (Spartina patens), three-cornered grass (Scirpus olneyi), and coco (Scirpus robustus) (Chabreck and Linscombe 1978).

E2EM5P5d: Estuarine Intertidal Emergent Vegetation Narrow-leaved Persistent Irregular Tidal Regime Mesohaline Partially Drained/ Ditched

A brackish marsh that has been ditched and partially drained, or is in the process of being drained but still supports the wetland flora.

E2EM5P6: Estuarine Intertidal Emergent Vegetation Narrow-leaved Persistent Irregular Tidal Regime Oligohaline

An intermediate marsh that commonly contains bulltongue (Sagittaria sp.), cattail (Typha sp.), sawgrass (Cladium jamaicense), roseau cane (Phragmites australis), bull-whip (Scirpus californicus) and wild millet (Echinochloa walteri) (Chabreck and Linscombe 1978).

E2EM5P6d: Estuarine Intertidal Emergent Vegetation Narrow-leaved Persistent Irregular Tidal Regime Oligohaline Partially Drained/ Ditched

An intermediate marsh that has been ditched and partially drained or is in the process of being drained but still supports wetland flora.

E1AB: Estuarine Subtidal Aquatic Bed

A submerged aquatic bed of unknown species composition in an estuarine water body.

E1AB1: Estuarine Subtidal Aquatic Bed Submergent Algal Vegetation

Submerged algal vegetation in an estuarine water body. The location of these beds was obtained from Montz (1979, ongoing research) and L. N. Eleuterius (1973, 1979).

E1AB2: Estuarine Subtidal Aquatic Bed Submergent Vascular Vegetation

Submerged vascular vegetation in an estuarine water body. The location of these beds was obtained from Montz (1979, ongoing research) and L. N. Eleuterius (1973, 1979).

E1AB1/2: Estuarine Subtidal Aquatic Bed Submergent Algal/Submergent Vascular Vegetation

An intermixture of submerged algal and submerged vascular vegetation in an estuarine water body. The location of these beds was obtained from Montz (1979, ongoing research) and L. N. Eleuterius (1973, 1979).

E1AB5: Estuarine Subtidal Aquatic Bed Floating

Floating aquatic mats are usually water hyacinths (Eichhornia crassipes) that have been flushed out of freshwater environments into low salinity estuarine water bodies. They can persist for a short period of time until increased salinities kill them.

E2FL: Estuarine Intertidal Flat

An unvegetated geologic deposit of unknown composition in a low energy, estuarine environment.

E2FL2: Estuarine Intertidal Flat Sand/Shell

Unvegetated sand and/or shell deposits in estuarine areas with low wave and tidal energy regimes. Frequently, these are wash-over fans behind barrier islands.

E2FL3: Estuarine Intertidal Flat Mud

Unvegetated mud deposits in estuarine areas with low wave and tidal energy regimes. These are common in protected, broken marsh environments and on the perimeter of the lower Mississippi River Delta.

E2FL3/4: Estuarine Intertidal Flat Mud/Organic

Unvegetated organic and mud deposits in estuarine areas with low wave and tidal energy regimes. They are commonly found in broken marsh areas subject to shallow water flooding such as the perimeter of the Lower Mississippi River Delta and the deteriorating former

fresh and intermediate marsh areas experiencing increased salinities.

E1UB2: Estuarine Subtidal Unconsolidated Bottom Sand

Unconsolidated and unvegetated sand deposits in shallow estuarine waters. They are commonly associated with shifting barrier islands.

E2UB3/4: Estuarine Intertidal Unconsolidated Bottom Mud/Organic

Wave cut terraces in unvegetated, organic and mud deposits along eroding estuarine marsh shorelines.

E2RF2: Estuarine Intertidal Reef Mollusc

Irregularly shaped deposits of living and/or dead oysters in estuarine environments. The greatest concentration of reefs occurs south of Marsh Island, in Southwest Pass (Vermilion Parish) and west of Point au Fer, Louisiana.

E2BB2: Estuarine Intertidal Beach Sand/Shell

Wave reworked sand and/or shell material along a land-water interface in an estuarine environment.

E2RS2r: Estuarine Intertidal Rocky Shore Boulder Artificial

Man-made deposits of boulders used in the construction of rip-rap bulkheads and jetties.

E2SS3: Estuarine Intertidal Scrub/Shrub Mangroves

Black mangroves (Avicennia germinans) are the only salinity tolerant trees in coastal Louisiana, but they rarely reach more than 3 m

(10 ft) in height and are therefore classified as shrubs. They occur most commonly along the Louisiana coast between Terrebonne Bay and Red Fish Pass, and along the Chandeleur Islands.

LACUSTRINE

L10W: Lacustrine Limnetic Open Water

A large, deep body of fresh water with an area greater than 8 ha (20 ac) and a depth greater than 6 ft. Only those lakes with the 6 ft contour line shown on USGS topographic maps were so labeled.

L20W: Lacustrine Littoral Open Water

A large, shallow body of fresh water with an area greater than 8 ha (20 ac) and a depth less than 6 ft. Virtually all lakes in the Mississippi Deltaic Plain Region are shallow and appear on USGS topographic maps as being less than 6 ft deep. Their shallowness is also documented in Barrett (1970).

L20Wx: Lacustrine Littoral Open Water Excavated

A large, shallow body of fresh water that was created by artificial excavation. These are most commonly irregularly shaped borrow pits in coastal Louisiana and Mississippi. Some large gravel and sand mining pits, especially in Mississippi, are also labeled L20Wx.

L20Wh: Lacustrine Littoral Open Water Diked/Impounded

A large, shallow body of fresh water that has been artificially impounded by

means of damming or diking. Large, abandoned and flooded reclamation sites in freshwater areas of coastal Louisiana were labeled as impounded to indicate their artificial, rather than natural, origin.

2.0: Lacustrine Littoral Open Water Oil/Gas/Mineral

A large, shallow body of fresh water that was constructed either by impoundment or excavation for use in the oil, gas, sulphur, or other mineral industries.

2.1: Lacustrine Littoral Aquatic Bed

Mats of aquatic vegetation in large shallow bodies of fresh water. This label is used where it is not possible to distinguish between vegetated flats, submerged or floating aquatics. This habitat type is most common in formerly fresh environments experiencing saltwater intrusion.

2.1AB2: Lacustrine Littoral Aquatic Bed Submergent Vascular

Submerged vascular flora located in large shallow bodies of fresh water. The location of the few submerged aquatic habitats that are designated in Louisiana were obtained from Montz (1979, ongoing research).

2.1AB5: Lacustrine, Littoral Aquatic Bed Floating

Floating aquatic mats usually water hyacinths or duckweed, present on large shallow bodies of fresh water. Their location frequently shifts in relation to wind

direction and flooding currents, and in winter these mats die and sink below the surface.

L2FL3: Lacustrine Littoral Flat Mud

Expanses of unvegetated mud deposits along the shore or in shallow portions of large freshwater lakes.

L2FL3/4: Lacustrine Littoral Flat Mud/Organic

Expanses of unvegetated mud and organic deposits along the shore or in shallow portions of large freshwater lakes.

PALUSTRINE

POW: Palustrine Open Water

A nonchannelized, naturally occurring body of fresh water less than 8 ha (20 ac) in area; a pond.

POWx: Palustrine Open Water Excavated

An artificially excavated, nonchannelized body of fresh water less than 8 ha (20 ac) in area, including farm ponds, borrow pits, and ponds left from mining operations.

POWh: Palustrine Open Water Diked/Impounded

An artificially impounded, nonchannelized body of fresh water less than 8 ha (20 ac) in area. This includes dammed farm ponds and small reservoirs. In coastal Louisiana, diked but abandoned and flooded reclamation sites in freshwater areas are also labeled POWh.

- PAB2:** Palustrine Aquatic Bed Submerged Vascular
- Submerged vascular flora located in a small, fresh-water body.
- PAB5:** Palustrine Aquatic Bed Floating
- A floating aquatic mat, frequently water hyacinths or duckweed, in a small, fresh-water body.
- PAB5o:** Palustrine Aquatic Bed Floating Oil/Gas/Mineral
- A floating aquatic mat in an artificially created pond used by the oil, gas, or mineral industry.
- PFL2:** Palustrine Flat Sand/Shell
- A deposit of sand and/or shell in a shallow, still water area of a small body of fresh water.
- PEM:** Palustrine Emergent Vegetation
- A freshwater marsh dominated by such species as maidencane (Panicum hemitomon), pennywort (Hydrocotyle sp.), pickerelweed (Pontederia cordata), alligatorweed (Aiternanthera philoxeroides), and bulltongue (Sagittaria sp.) (Chabreck and Linscombe 1978). Because the coastal marshes contain a mixture of broad-leaved and narrow-leaved persistent vegetation no sub-class was assigned to this marsh type on the habitat maps.
- PEI'd:** Palustrine Emergent Vegetation Partially Drained/Ditched
- A former fresh water marsh that has been ditched and partially drained or is in
- the process of being drained but which still supports wetland flora.
- PSS1:** Palustrine Scrub/Shrub Broad-leaved Deciduous
- A freshwater wetland dominated by broad-leaved deciduous scrubs and shrubs. Habitats commonly include pioneering willows and cottonwoods (Populus deltoides) on recently accreted batters, and in partially drained freshwater marshes. Marshes being invaded by eastern baccharis (Baccharis halimifolia), hackberry (Celtis laevigata), button bush (Cephalanthus occidentalis), and palmetto (Sabal minor) are also labeled PSS1. No attempt was made to distinguish between naturally occurring scrub/shrub wetlands and reclaimed wetlands being pioneered by shrubs.
- PSS1/2:** Palustrine Scrub/Shrub Broad-leaved Deciduous/Needle-leaved Deciduous
- The freshwater wetlands dominated by broad-leaved and needle-leaved deciduous scrubs and shrubs. This includes shrubs as well as saplings (young trees less than 6 m [20 ft] high). This particular classification is most common in the lower Mississippi River Delta where young willows and cypress less than 6 m (20 ft) high are pioneer species on newly accreted lands. PSS1/2 also includes some partially drained wetlands. Because of the difficulty in distinguishing between naturally occurring and partially drained wetlands with shrubs no distinction was made between the two habitat types of different origin but similar species composition.

IS1/3:

Palustrine Scrub/Shrub
Broad-leaved Deciduous/
Broad-leaved Evergreen

A freshwater wetland dominated by broad-leaved deciduous and broad-leaved evergreen scrubs and shrubs. These can be both natural and partially drained wetlands. Common species include eastern baccharis, young willows, wax myrtle (Myrica cerifera), and palmetto. No attempt was made to discern the difference between natural and drained wetlands containing shrubs.

PF01/3:

River and the Pearl, Pascagoula, and Escatawpa rivers of Mississippi are dominated by these species. Aquatic beds and emergents may characterize the understory.

Palustrine Forested Broad-leaved Deciduous/Broad-leaved Evergreen

Wetland forests dominated by broad-leaved deciduous and broad-leaved evergreen trees. These areas, while below 5 ft in elevation, are better drained than backswamps and are commonly found on subsiding natural levees and between wetter bottomland hardwoods and drier mixed levee and upland forests. Common species in such environments include live oak (Quercus virginiana), sweetgum (Liquidambar styraciflua), magnolia (Magnolia sp.), and hackberry (Celtis laevigata). Large cut-over areas of Devil's Swamp, Mississippi, which contain maple (Acer rubrum) and swamp bay (Persea palustris) are labeled PF01/3.

PF01:

Palustrine Forested Broad-leaved Deciduous

A broad-leaved, deciduous forest in a freshwater wetland environment. This includes battures containing willows and cottonwood and bottomland hardwood forest habitats subject to frequent flooding. In Louisiana, these habitats are usually below the 5 ft contour. Exceptions are the bottomland hardwoods on the upper Pearl River floodplain and small areas of the upper Pascagoula River floodplain in Mississippi, which are often above 5 ft in elevation but are wetlands because of poor drainage.

PF01/2/3:

Palustrine Forested Broad-leaved Deciduous/Needle-leaved Deciduous/Broad-leaved Evergreen

A wetland forest containing a mixture of broad-leaved and needle-leaved deciduous and broad-leaved evergreen trees. Frequently such bottomland hardwood forests are transition zones between the deep-water backswamp and the better drained mixed levee and upland hardwoods. Common species in these forests are cypress, tupelogram, red maple, green ash (Fraxinus pennsylvanica var. lanceolata), and live oak.

PF01/2:

Palustrine Forested Broad-leaved Deciduous/Needle-leaved Deciduous

A deep-water swamp containing mostly broad-leaved deciduous and needle-leaved deciduous trees. Most areas so labeled on the habitat maps contain cypress (Taxodium distichum) and tupelogram (Nyssa aquatica). Swamps in the intertributary basins of the Mississippi

PF03/4:	Palustrine Forested Broad-leaved Evergreen/Needle-leaved Evergreen	contain emergents, aquatic beds, or early successional stages of the climax habitat that has been removed.
	Live oak and pine (<u>Pinus</u> sp.) forests bordering the marshes, rivers, and lakes north of Lake Pontchartrain, Louisiana, and in Mississippi. These areas are wetlands because of poor drainage resulting from their location within floodplains which may be above 5 ft in elevation.	
PF01/3/4:	Palustrine Forested Broad-leaved Deciduous/Broad-leaved Evergreen/Needle-leaved Evergreen	
	In the study area, these poorly drained forested wetlands are confined primarily to the Louisiana coastal zone north of Lake Pontchartrain and to Mississippi. On USGS topographic maps, they appear as green-colored swamp patterns along narrow streams in upland areas. The common species are bottomland hardwood trees such as the live oak, maple, and green ash, as well as pines.	
PF02/4:	Palustrine Forested Needle-leaved Deciduous/Needle-leaved Evergreen	
	More common in the study area in Mississippi than in Louisiana, these forested wetlands are characterized by baldcypress, pond cypress and pines. They are (<u>Taxodium distichum</u> var. <u>nutans</u>) found on sandy soils having a high water table and poor drainage.	
PDV:	Palustrine Developed	
	A cleared, regularly maintained, and usually linear right-of-way through a wetland forest or scrub/shrub habitat. These areas usually	
		RIVERINE
		R10W: Riverine Subtidal Open Water Fresh water, contained within a natural channel, which is influenced by tidal action.
		R10Wx: Riverine Subtidal Open Water Excavated Fresh water, contained within an excavated channel, which is influenced by tidal action. These channels are often used for navigation or drainage.
		R10Wo: Riverine Subtidal Open Water Oil/Gas/Mineral Fresh water, contained within an excavated channel, which is influenced by tidal action. Such canals are constructed and utilized by oil, gas, sulphur, and other mineral-related industries to convey the pipelines or drilling equipment.
		R20W: Riverine Lower Perennial Open Water Permanent, non-tidal fresh water, contained within a natural channel.
		R20Wx: Riverine Lower Perennial Open Water Excavated Permanent, non-tidal fresh water, contained within an excavated channel. These channels are used for navigation or drainage.
		R20Wo: Riverine Lower Perennial Open Water Oil/Gas/Mineral Permanent, non-tidal fresh water, contained within an

excavated channel. Such canals are constructed and utilized by oil, gas, sulphur, and other mineral-related industries to convey the pipelines and drilling equipment.

Riverine Intermittent Open Water

Infrequently flowing fresh water, contained within a natural channel. This habitat type is located only in the upper reaches of tributary streams especially on the Pleistocene Terrace north of Lake Pontchartrain.

Riverine Intermittent Open Water Excavated

Infrequently flowing fresh water, contained within an excavated channel. These are usually channelized natural waterways or drainage canals, most of which are located on the Pleistocene Terrace north of Lake Pontchartrain.

Riverine Tidal Flat

A flat of unknown composition located in tidally influenced, fresh water contained within a natural channel.

Riverine Tidal Flat Mud

A mud flat located in tidally influenced, fresh water contained within a natural channel.

Riverine Tidal Beach/Bar Sand/Shell

A sand and/or shell bar in tidally influenced, permanently flowing fresh water contained within a natural channel.

R2BB2: Riverine Lower Perennial Beach/Bar Sand/Shell

A sand and/or shell bar in tidally influenced, permanently flowing fresh water contained within a natural channel.

R1RS2r: Riverine Tidal Rocky Shore Boulder Artificial

A man-made, rocky shore composed of boulders in tidally influenced fresh water contained within a natural channel; a jetty.

R1AB2: Riverine Tidal Aquatic Bed Submerged Vascular

A submerged vascular vegetation bed such as widgeon-grass (*Ruppia maritima*) growing in tidally influenced fresh water contained within a natural channel.

R1AB5: Riverine Tidal Aquatic Bed Floating

A floating aquatic bed, usually water hyacinth or duckweed, in tidally influenced fresh water contained within a natural channel.

R1AB5o: Riverine Tidal Aquatic Bed Vegetation Oil/Gas/Mineral

A floating aquatic bed, usually water hyacinth or duckweed, in tidally influenced fresh water contained within a channel excavated by the mineral industry.

R1AB5x: Riverine Tidal Aquatic Bed Floating Excavated

A floating aquatic bed, usually water hyacinth or duckweed, in tidally influenced fresh water contained within an excavated channel.

R2AB5: Riverine Lower Perennial Aquatic Bed Floating

A floating aquatic bed, usually water hyacinth or duckweed, in permanent, non-tidal fresh water contained within a natural channel.

R2AB5o: Riverine Lower Perennial Aquatic Bed Floating Oil/Gas/Mineral

A floating aquatic bed, usually water hyacinth or duckweed, in permanent, non-tidal fresh water contained within a channel excavated by the mineral industry.

R2AB5x: Riverine Lower Perennial Aquatic Bed Floating Excavated

A floating aquatic bed, usually water hyacinth or duckweed, in permanent, non-tidal fresh water contained within an excavated channel.

UPLAND

UDVI Upland Developed Urban/Residential/Commercial/Industrial

Residential, commercial, urban, and industrial developments on an upland site or in areas protected from flooding by levees and drainage canals.

UDV1o: Upland Developed Commercial/Industrial Oil/Gas/Mineral

Industrial development associated with the mineral industry. This habitat type includes drilling complexes onshore and some refining sites.

UDV2: Upland Developed Agriculture/Pasture/Modified Grasslands

Non-wetland areas being cultivated for crops, maintained as pasture, or left as grasslands. In Mississippi, some of the grasslands may be seasonally wet. While some cultivated sites may be subject to seasonal flooding, they are not considered wetland habitats because non-wetland species composition is maintained through management.

UDV2e: Upland Developed Agriculture/Pasture/Modified Grasslands Reclaimed Wetland

Louisiana and, to a lesser extent, Mississippi have areas of former wet grasslands that have been diked, ditched, drained and put into cultivation, pasture, or nonwet grasslands. Usually pumping and active management must be maintained to prevent such areas from converting to wetlands. The rice fields in the western portion of the study area that are reclaimed wetlands are labeled UDV2e, while those on naturally occurring non-wetlands are labeled UDV2. Reclaimed bottomland hardwoods and swamps are not designated as UDV2e.

UDV3: Upland Developed Unvegetated Land/Spoil/Disposal Sites

Regardless of elevation, areas that have been altered and cleared of vegetation through disposal of spoil or non-liquid waste materials or cleared for various reasons, including mining, are labeled UDV3. Natural plant succession on such sites is often interrupted because of constant disturbance. Some low-lying, reworked, unvegetated shell middens in the marsh may also be labeled UDV3.

UDV: Upland Developed

A relatively narrow, cleared, regularly maintained, usually linear, right-of-way through an upland, forested, or scrub/shrub habitat. Such areas are vegetated, but frequent maintenance prohibits establishment of climax vegetation.

USS1: Upland Scrub/Shrub Broad-leaved Deciduous

Well-drained, formerly cleared uplands or recently drained wetlands that have been invaded by broad-leaved deciduous scrubs and shrubs. On naturally occurring upland sites, these are mixed hardwoods, while in former wetlands willow, hackberry, and Chinese tallow (Sapium sebiferum) are the more common invaders.

USS1/3: Upland Scrub/Shrub Broad-leaved Deciduous/Broad-leaved Evergreen

Well-drained, formerly cleared upland or recently drained wetlands that have been invaded by broad-leaved deciduous and broad-leaved evergreen species. On natural uplands these are mixed hardwoods, including live oak and wax myrtle. On drained wetlands, the more common invaders are willow, hackberry, Chinese tallow, and wax myrtle.

US1s: Upland Scrub/Shrub Broad-leaved Deciduous Spoil

Spoil deposits of varying elevation that are better drained than the surrounding wetlands and which commonly support young willows and shrubs such as iva (Iva frutescens) and eastern baccharis. Often the more

recently vegetated spoil deposits are labeled USS1s and the more mature deposits that had remained elevated are labeled USS1/3s to indicate their greater species diversity, especially the invasion of broad-leaved evergreen species such as wax myrtle.

USS1/3s: Upland Scrub/Shrub Broad-leaved Deciduous/Broad-leaved Evergreen Spoil

Spoil deposits of varying elevation that are better drained than the surrounding wetlands and which commonly support young willows, iva, baccharis, wax myrtle, and sometimes yaupon (Ilex vomitoria). Usually such spoil deposits in saline environments have a variety of scrubs/shrubs, herbs, and grasses.

UF01s: Upland Forested Broad-leaved Deciduous Spoil

All spoil deposits of varying elevation which are vegetated by broad-leaved deciduous trees. Willow, Chinese tallow, and hackberry are common species on such better drained man-made sites. Upland, mixed levee hardwoods can be the climax species on spoil deposits that remain elevated (Monte 1978).

UF01/3: Upland Forested Broad-leaved Deciduous/Broad-leaved Evergreen

Elevated, better drained sites on natural levees and terraces that support broad-leaved deciduous and broad-leaved evergreen trees. On USGS topographic maps, such sites are shown to be above 5 ft in elevation and are colored green but without a swamp pattern. The common

species of mixed hardwoods are oaks, pecans and hickories (Carya spp.). This category may include some temporarily flooded wetlands.

UFC3: Upland Forested Broad-leaved Evergreen

Well-drained upland sites, usually above 5 ft in elevation on USGS topographic maps, which support broad-leaved evergreen trees. Such areas are often dominated by live oak and include cheniers (abandoned beach ridges) and Indian middens.

UF01/3/4: Upland Forested Broad-leaved Deciduous/Broad-leaved Evergreen/Needle-leaved Evergreen

Well-drained upland sites on the Pleistocene Terrace which are vegetated by a mixture of broad-leaved deciduous, broad-leaved evergreen, and needle-leaved evergreen trees (e.g., mixed upland hardwoods and pines).

UF03/4: Upland Forested Broad-leaved Evergreen/Needle-leaved Evergreen

Well-drained upland sites on

the Pleistocene Terrace vegetated by a mixture of broad-leaved deciduous and needle-leaved evergreen trees (e.g., primarily live oak and pines).

UF03/4s: Upland Forested Broad-leaved Evergreen/Needle-leaved Evergreen Spoil

Spoil deposits in upland areas on the Pleistocene Terrace which are vegetated by live oaks, magnolias (Magnolia grandiflora), and pines. These deposits are frequently the result of canal or major highway construction projects.

UF04: Upland Forested Needle-leaved Evergreen

Broad expanses of natural and cultivated stands of pine on the well-drained upland sites of the Pleistocene Terrace north of Lake Pontchartrain and in Mississippi.

UGRp: Upland Grasslands Beach Dunes

Vegetated beach dunes above 5 ft in elevation, located primarily on the barrier islands.

State of Louisiana



DEPARTMENT OF NATURAL RESOURCES DIVISION OF STATE LANDS

EDWIN W. EDWARDS
GOVERNOR

B. JIM PORTER
SECRETARY

July 19, 1985

RECEIVED

JUL 25 1985

6 ES

Environmental Protection Agency
Federal Activities Branch
InterFirst Two Building
1201 Elm Street
Dallas, Texas 75270

To Whom It May Concern:

I wish to state the position of this office, the Division of State Lands, regarding the work on the area known as the Bayou Aux Carpes swamp. This work will have a profound effect upon the streams known as Bayou Aux Carpes and Bayou des Familles. As the beds and bottoms of these streams belong to the State of Louisiana, including mineral rights, we must object to any actions that would encroach upon the beds of these waterways. To protect our interest, we request that a survey be made delineating the boundary between state ownership and private before construction begins. Should anyone have any questions they should contact this office.

Sincerely,

Karl L. Morgan

Karl L. Morgan

KLM:aj

C.3 LOCAL COORDINATION



JEFFERSON PARISH LOUISIANA

OFFICE OF THE COUNCIL
ROBERT B. EVANS, JR., CHAIRMAN
P.O. BOX 9
GRETNA, LOUISIANA 70054
504-367-6611

3330 N. CAUSEWAY BLV
P.O. BOX 8550
METAIRIE, LA. 70011
(504) 834-7700

July 28, 1982

Colonel Robert C. Lee
C.E.
District Engineer
Department of the Army
New Orleans District, Corps of Engineers
P.O. Box 60267
New Orleans, Louisiana 70160

RE: L.M.N.O.C.
HARVEY CANAL - BAYOU BARATARIA LEVEE PROJECT, LOUISIANA

Dear Colonel Lee:

Your letter of June 15, 1982, addressed to Mr. Joseph Yenni, Parish President, requests a response from the Parish as to whether the Parish has executed local assurances for the modified Harvey Canal - Bayou Barataria Levee project or alternatively, whether the Parish intends to execute local assurances for said modified project.

During our review of this matter in order to respond to your inquiry, it was concluded that the obvious preference of the Parish would be to complete the project as originally planned. The Parish's efforts towards the original project included the usual local assurances required on federal projects plus assurances that all costs in excess of the one million dollar federal limitation would be borne by the Parish of Jefferson. The Parish acquired necessary rights of way, the consideration for said acquisitions being the benefit to be derived by the grantors from the project as originally planned. Additionally, residents of Jefferson Parish voted for and approved a 3.6 million dollar bond

issue, part of which included funds for the construction of the pumping station at Bayou aux Carpes, and a contract was let for and equipment purchased for said pumping station. These actions, on the part of the Parish, clearly demonstrate the Parish's interest and commitment to the Harvey Canal - Bayou Barataria levee project as originally planned. At this date the Parish is still willing to make every reasonable effort to fulfill its commitments given in the form of local assurances to the U.S.; its commitments to the grantors of rights of way; and its commitments to the residents and tax payers who voted for the bond issue and are paying tax millages to retire said indebtednesses.

In November of 1974 the Corps requested Jefferson Parish to cease all phase II construction on the original project. A section 404 review was initiated by the Corps and it was conveyed to the Parish of Jefferson in October of 1976 that pursuing the section 404 review for the project as originally planned would result in an EPA veto and/or lengthy litigation with environmental organizations. A modified project including flood gates and no pumping station was discussed and favorably received by the Parish of Jefferson. The Parish of Jefferson's willingness to proceed with the project, as modified, is evidenced by the adoption of resolution #29913 on the 21st day of April, 1977 wherein the Parish appointed a consultant to design flood gates to be installed at Bayou aux Carpes and Bayou des Familles. No local assurances were given by the Parish of Jefferson to the modified project, possibly due to the fact that the modified project is poorly defined as to scope. In fact, Colonel Rush's letter to Douglas A. Allen, Parish President, dated March 25, 1977, suggests that the Parish officials meet with the representatives of interested environmental organizations in an attempt to arrive at recommendations regarding flood gates. Colonel Sands in his Findings of Fact, L MNOD-SP (L.T.M.A.) 767 dated 19 October 1979, page 6 states:

"A pump station/flood-gate arrangement could be constructed that would maintain swamp integrity, and offer protection to the existing residential community from flooding both from rain and accumulations of tidal surges."

Obviously, the adoption of Resolution #29913 appointing a consultant was an attempt on the part of the Parish to properly define the modified project so that the Parish could consider its ability to proceed with the project as modified.

Immediately after the adoption of Resolution #29913 appointing a consultant to design flood gates, litigation was instituted in the matter of Jacques J. Creppel, et al. versus the Parish of Jefferson, et al. #199-345, 24th J.D.C. This litigation has resulted in a final judgment of the state court enjoining and

January 11, 1985

Mr. Ron Besson
President
Board of Commissioners
West Jefferson Levee District
403 Barrataria Blvd.
Marrero, La. 70072

Dear Mr. Besson:

By letter of December 17, 1984, Mr. Dick Whittington, Regional Administrator of EPA, Region 6, announced the commencement of a Section 404(c) Clean Water Act proceeding with respect to a tract the Westbank of Jefferson Parish known as the Bayou aux Carpes swamp. Copies of this notice were sent to Jefferson Parish officials and I enclose a copy for your information.

In the course of implementing this proceeding it will be necessary for EPA employees and their representatives (consisting primarily of employees of other governmental agencies) to perform investigations on the site consisting of examinations pertaining to water quality, aquatic and plant life and soil characteristics. During the course of these investigations it will be necessary for these investigations to take place on Parish property and/or property which may be under the control of the West Jefferson Levee District. Please be advised that these investigations may commence as early as January 16, 1985. For your information, our authority for conducting such investigations is Section 309(a) of the Federal Clean Water Act.

If you have questions about the foregoing, please contact me at 214/767-9973. Thank you for your cooperation.

Sincerely,

Harless R. Penthu
Assistant Regional Counsel

Enclosure

January 14, 1968

Mr. Peter Russo
Director of utilities
Jefferson Parish
Post Office Box 5120
Metairie, Louisiana 70001

Dear Mr. Russo:

By letter of December 17, 1964, Mr. Dick Whittington announced that EPA was instituting a Clean Water Act Section 404(c) proceeding with respect to a tract of land located on the Jefferson Parish Westbank, known as the Bayou aux Carpes swamp. Copies of this notice were distributed to Jefferson Parish officials and it is my understanding that you are aware of it.

In carrying out this proceeding, it will be necessary for EPA employees and representatives of EPA (consisting primarily of employees of other government agencies) to perform certain investigations and examinations on the tract. Please be advised that part of this investigation may take place on Parish property such as rights of way, levees, etc. I spoke to Mr. Hubert Yonkerstein, the Parish attorney on January 10, 1968 who advised me that our conduct of these investigations on Parish property would be no problem. These investigations may commence as early as January 16, 1968. For your information, the authority for our going so is Section 301(c) of the Federal Clean Water Act.

If you have questions about any of the foregoing, please contact me at 214/767-5973.

Thank you for your cooperation in this matter.

Sincerely,

Harless K. Benthal
Assistant Regional Counsel

cc: Mr. Hubert Yonkerstein, Parish Attorney

bcc: Barbara Keeler, (EFS-FT)

cy: B. Keelin

INTER-OFFICE COMMUNICATION

DATE Jan. 14, 1985

Lloyd F. Giardina, Coun.-at-Lge., Dists. 1 & 2

To Hubert Vondenstein, Parish Attorney

Subject: Attached letter

In line with copy of December 27, 1984 letter from Mr. Harless R. Benthul of the EPA, attached, I would appreciate your researching and supplying the information requested by him.

Thank you.

Lloyd F. Giardina
LLOYD F. GIARDINA

LEG/rl/ehv
Attachment

cc: Mr. H. R. Benthul



UNITED STATES ENVIRONMENTAL PROTECTION
REGION VI
INTERFIRST TWO BUILDING, 1201 ELM STREET
DALLAS, TEXAS 75270

RECEIVED
COUNCIL SERVICE
NEW RECEIVED BLDG.
COUNCIL OFFICE
JAN 2 12 15 PM '85

December 27, 1984

Mr. Lloyd F. Giardina
Councilman at Large
c/o Westbank Courthouse
P. O. Box 9
Gretna, La. 70054

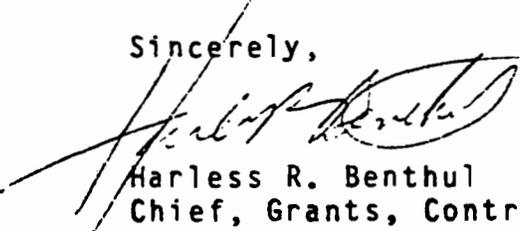
Dear Councilman Giardina:

I trust that you have by now received your copy of Mr. Whittington's December 17, 1984 letter to Colonel Witherspoon which announced EPA's initiation of a Clean Water Act Section 404(c) procedure regarding the Bayou Aux Carpes swamp tract. The affected tract is that outlined in the topographical map attached to Mr. Whittington's letter. A copy is enclosed for your reference.

Pursuant to our conversation of December 20, 1984, I request and will very much appreciate your assistance in identifying the owners of the tract.

Best wishes for the New Year.

Sincerely,


Harless R. Benthul
Chief, Grants, Contracts and
General Administration Branch.

Enclosure



200 BARATARIA BLVD.
MARRERO, LA 70072

COMMISSIONERS

THOMAS ALARIO
THERON J. BERGERON
FRANCIS BOFFONE
EUGENE FITCHUE
JACK MCCLANAHAN
FRANK L. MUSCARELLO
LIAM J. SCHEFFLER, III

VICE-PRESIDENT
PHILIP J. LOYACANO



PRESIDENT
RONALD R. BESSON

GENERAL COUNSEL
OWEN J. BORDELON, JR

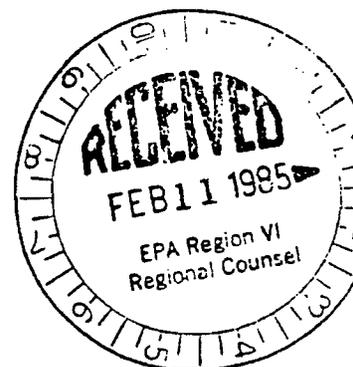
OFFICE MANAGER
EVELYN DUFRENE

EXECUTIVE DIRECTOR
ERNEST J. TASSIN

PHONE
(504) 340-0318

February 8, 1985

Mr. Harless R. Benthul
Assistant Regional Counsel
United States Environmental Protection Agency
Region VI
InterFirst Two Building
1201 Elm Street
Dallas, Texas 75270



Dear Mr. Benthul:

This office is in receipt of your letter dated January 11, 1985, with attachments, pertaining to investigations consisting of examinations pertaining to water quality, aquatic and plant life and soil characteristics, on a tract of land in Jefferson Parish known as the Bayou aux Carpes swamp.

Please be advised that the Board of Commissioners of the West Jefferson Levee District grant the United States Environmental Protection Agency right of entry upon property under the control of the West Jefferson Levee District, as described in the above referenced letter.

In the future, right of entry upon any land under the jurisdiction of this Board should be obtained prior to actual entry.

If we may be of assistance to you in completing this project, please contact this office.

Sincerely,

Ronald R. Besson
President

RRB/bd

xc: La. DOTD Office of Public Works, New Orleans
La. DOTD Office of Public Works, Baton Rouge

March 26, 1985

Mr. Byrne K. Dyer, III
Assistant Parish Attorney
Jefferson Parish
New Courthouse
Post Office Box 9
Gretna, Louisiana 70056

Your reference 251-14, EPA request for names and addresses of
Dear Mr. Dyer:

Thank you for your letter dated January 29, 1985 and enclosed
material by which you furnished information on ownership of
property on the west bank of Jefferson Parish. We have since
issued to those owners a notice of the pending Clean Water Act
Section 404(c) proceeding which was initiated in December, 1984.

Based on the information you provided us and complementary in-
formation we had believed that Herrero Land Company owned acreage
from the east-west canal from L'Ange Barrataria to the Estelle
Pump Station South all the way to the tract owned by the litigants
in the Creppel litigation. In the response to the notice sent to
Herrero Land Company, Mr. Buck Barkley enclosed a map, a copy of
which is enclosed which indicates a tract owned by someone else
between Herrero acreage and the Creppel acreage.

I have since spoken to Mr. Barkley who told me he thought the
Harvey Canal Land Company owned this tract but no longer does
so. I have placed a phone call to Harvey Land Company to try to
ascertain to whom they sold the tract. In the meantime I would
very much appreciate if you could check to see if there have been
recent conveyances filed that might indicate ownership of this
tract. For aid in identification I have cross-matched in the
the area of interest on the enclosed map.

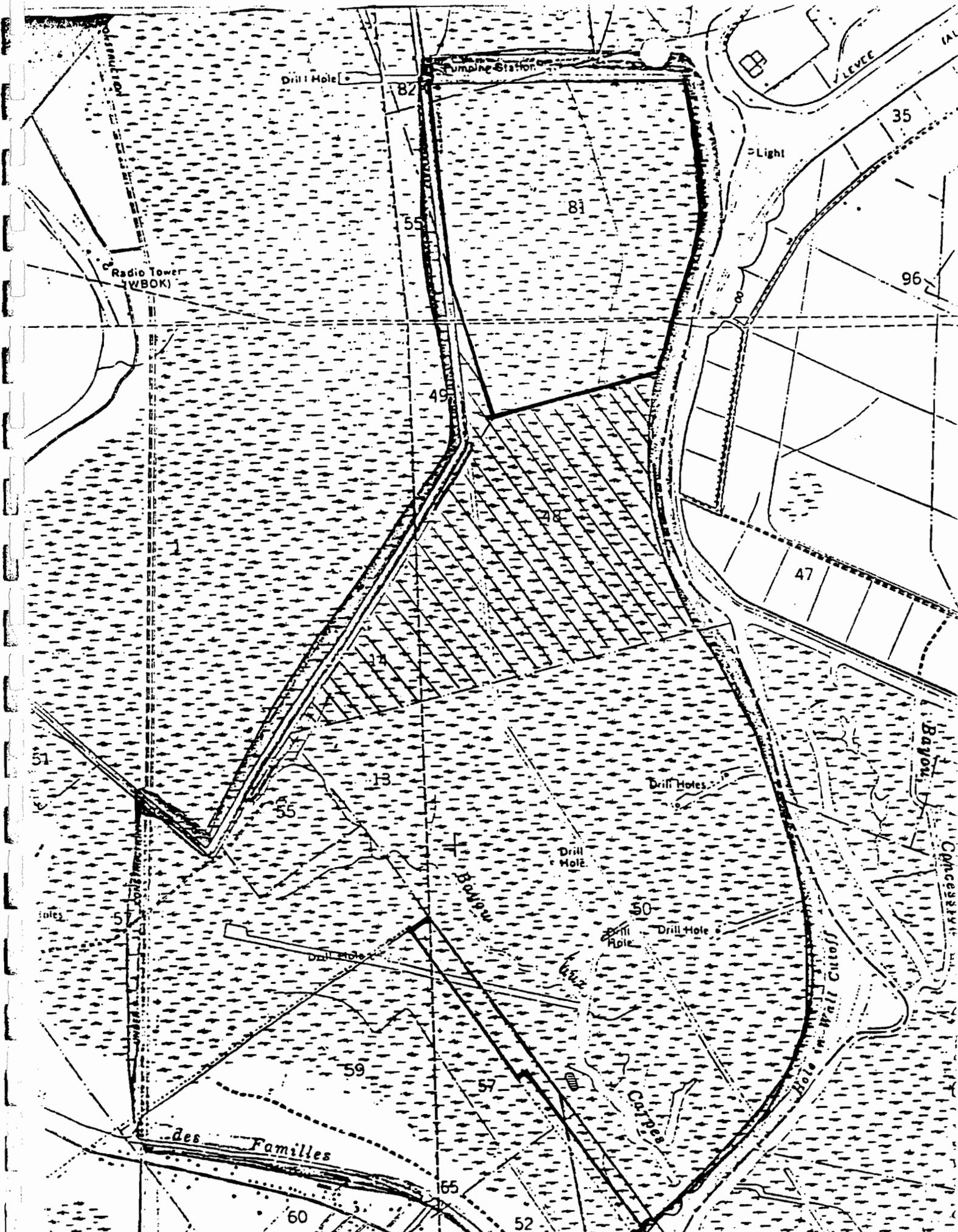
Thank you again for your previous assistance and continued co-
operation.

Sincerely,

Harless K. Pentz
Associate Regional Counsel

Enclosure

bcc: Paul Seals, Barbara A. Keeler (6ES-FT)



Drill Hole

82

Pumping Station

Light

81

55

35

Radio Tower (WBOK)

96

49

A7

Bayou

Drill Holes

Drill Hole

50

Drill Hole

Bayou

53

55

Drill Hole

59

55

des Familles

65

60

52

Drill Hole

CONCRETE



JEFFERSON PARISH

3330 N. Causeway Blvd., Rm. 303
P. O. Box 8550
Metairie, Louisiana 70011
504-834-7700

JOSEPH S. YENNI
PARISH PRESIDENT

MARY G. CURRY, PH.D.
ENVIRONMENTAL IMPACT OFFICER

25 June 1985

U. S. Environmental Protection Agency
Federal Activities Branch
1201 Elm Street
Dallas, TX 75270

Re: BAYOU AUX CARPES Swamp Proposed Determination to Prohibit, Deny, or
Restrict the Specification, or the Use for Specification, as a Disposal
Site.

Dear Sir:

The Parish of Jefferson would like to have the attached letter made a part
of the record of the referenced project.

Sincerely,

Mary G. Curry, Ph.D.

RECEIVED

JUN 28 1985

6 ES

cc. Mr. Hubert A. Vondenstein, Parish Attorney
Mr. Robert B. Evans, Jr., Council Chairman
Mr. Bruce D. Burglass, Sr., Director, Environmental Department



JEFFERSON PARISH LOUISIANA

OFFICE OF THE COUNCIL
ROBERT B. EVANS, JR., CHAIRMAN
P.O. BOX 9
GRETNA, LOUISIANA 70054
504-367-6611

3330 N. CAUSEWAY BLVD
P.O. BOX 8550
METAIRIE, LA. 70011
(504) 834-7700

July 28, 1982

Colonel Robert C. Lee
C.E.
District Engineer
Department of the Army
New Orleans District, Corps of Engineers
P.O. Box 60267
New Orleans, Louisiana 70160

RE: L.M.N.O.C.
HARVEY CANAL - BAYOU BARATARIA LEVEE PROJECT, LOUISIANA

Dear Colonel Lee:

Your letter of June 15, 1982, addressed to Mr. Joseph Yenni, Parish President, requests a response from the Parish as to whether the Parish has executed local assurances for the modified Harvey Canal - Bayou Barataria Levee project or alternatively, whether the Parish intends to execute local assurances for said modified project.

During our review of this matter in order to respond to your inquiry, it was concluded that the obvious preference of the Parish would be to complete the project as originally planned. The Parish's efforts towards the original project included the usual local assurances required on federal projects plus assurances that all costs in excess of the one million dollar federal limitation would be borne by the Parish of Jefferson. The Parish acquired necessary rights of way, the consideration for said acquisitions being the benefit to be derived by the grantors from the project as originally planned. Additionally, residents of Jefferson Parish voted for and approved a 3.6 million dollar bond

issue, part of which included funds for the construction of the pumping station at Bayou aux Carpes, and a contract was let for and equipment purchased for said pumping station. These actions, on the part of the Parish, clearly demonstrate the Parish's interest and commitment to the Harvey Canal - Bayou Barataria levee project as originally planned. At this date the Parish is still willing to make every reasonable effort to fulfill its commitments given in the form of local assurances to the U.S.; its commitments to the grantors of rights of way; and its commitments to the residents and tax payers who voted for the bond issue and are paying tax millages to retire said indebtednesses.

In November of 1974 the Corps requested Jefferson Parish to cease all phase II construction on the original project. A section 404 review was initiated by the Corps and it was conveyed to the Parish of Jefferson in October of 1976 that pursuing the section 404 review for the project as originally planned would result in an EPA veto and/or lengthy litigation with environmental organizations. A modified project including flood gates and no pumping station was discussed and favorably received by the Parish of Jefferson. The Parish of Jefferson's willingness to proceed with the project, as modified, is evidenced by the adoption of resolution #29913 on the 21st day of April, 1977 wherein the Parish appointed a consultant to design flood gates to be installed at Bayou aux Carpes and Bayou des Familles. No local assurances were given by the Parish of Jefferson to the modified project, possibly due to the fact that the modified project is poorly defined as to scope. In fact, Colonel Rush's letter to Douglas A. Allen, Parish President, dated March 25, 1977, suggests that the Parish officials meet with the representatives of interested environmental organizations in an attempt to arrive at recommendations regarding flood gates. Colonel Sands in his Findings of Fact, L MNOD-SP (L.T.M.A.) 767 dated 19 October 1979, page 6 states:

"A pump station/flood-gate arrangement could be constructed that would maintain swamp integrity, and offer protection to the existing residential community from flooding both from rain and accumulations of tidal surges."

Obviously, the adoption of Resolution #29913 appointing a consultant was an attempt on the part of the Parish to properly define the modified project so that the Parish could consider its ability to proceed with the project as modified.

Immediately after the adoption of Resolution #29913 appointing a consultant to design flood gates, litigation was instituted in the matter of Jacques J. Creppel, et al. versus the Parish of Jefferson, et al. #199-345, 24th J.D.C. This litigation has resulted in a final judgment of the state court enjoining and

prohibiting the Parish of Jefferson from abandoning the project as originally planned. The court further ordered the Parish to proceed with immediate construction of the pumping station at Bayou aux Carpes as provided in the original project. The State Court, in its written reasons for judgment, stated that the fact that the Council had represented to voters that the pumping station would be built as part of the project funded by the bond issue requires the holding that the pumping station construction cannot be abandoned merely on threat of stoppage by federal authority, but must be continued until the authority with supremacy exercises that power (which has never been used previously in any case). Abandonment based on hearsay (a reference to EPA threat of veto conveyed by General Wilson) cannot be approved, and the citizens of the drainage district are entitled to injunctive relief.

In view of this judgment, the Parish of Jefferson is presently enjoined from taking any action which would be an indicia, or a step towards, abandonment of the original project. Such an action would obviously place the Parish of Jefferson in the position of being in contempt of Court. Colonel Sands, in his aforementioned Findings of Fact, LMNOD-SP (L.T.M.A.) 767 dated 19 October 1979, recognized that the Parish of Jefferson was not free to voluntarily adopt the modified project because of the existing State Court judgment.

The supremacy clause of the U.S. Constitution may resolve the present dilemma of the Parish of Jefferson once a final federal decision exists.

Very truly yours,

Original Signed By ROBERT B. EVANS, JR."

Robert B. Evans, Jr.
Council Chairman

RBE/smb