REPORT OF NATURAL RESOURCES STEERING COMMISSION

PURSUANT TO EXECUTIVE ORDER JML 24-77

OCTOBER 7, 2024

EXECUTIVE SUMMARY

On February 2, 2024, Governor Landry issued Executive Order JML 24-13 (EO-13), directing the Department of Energy and Natural Resources (DENR) to investigate consolidation and reorganization of the state's natural resources management and regulatory regime. DENR pursued legislation during the 2024 regular session to prepare the groundwork for reorganization. Following the initial due diligence under EO-13, Governor Landry sought to expand input and scope of the review by creating the Natural Resources Steering Commission (NRSC) to conduct a thorough review of the state's natural resource management and provide a report of the NRSC's findings and approved recommendations to the Governor by October 15, 2024, to provide the NRSC an opportunity for stakeholder outreach, public comments, and a public meeting where the NRSC can publicly adopt the recommendations contained in this report. This report summarizes all submissions from the NRSC working groups and from public comment to identify needs and analyze those data points developing a strategic outlook for reorganization. This report recommends modernizing DENR by reducing confusion under unclear statutes and regulation and ensure that functions of the department are intuitive and accessible to the public. Specifically, it proposes structuring the department to include three offices, each considering the capability of the administrative functions at DENR to provide support to the entirety of the State's natural resources management and regulatory structure. This report suggests investigating the creation of an entity like the Coastal Protection and Restoration Agency (CPRA) to pursue flood protection and prevention projects outside of the coastal area. Furthermore, the NRSC recommends retaining the steering commission on a permanent basis for strategic oversight of all aspects of natural resources management moving forward and provides a recommended organizational framework to execute proposed recommendations. The following paragraphs describe the needs of the State's natural resources management and regulatory structure, and the outline of a proposed plan in further detail by working groups. The NRSC recommends all of these matters for consideration under the final report to EO-13.

REPORT OF NRSC PUBLIC HEARINGS

On June 18, 2024, all working groups presented their findings to the NRSC for potential ways to reorganize DENR. A detailed listing of all recommendations made by the working groups is attached to this report as Appendix A. In summary, the working groups recommended the NRSC review and recommend high level organizational and logistical questions. All issues of day-to-day workflow, specific budgetary changes, and personnel charts were recommended for further review. Some groups, however, did provide the NRSC with specific recommended options for reorganizing offices.

On September 20, 2024, the NRSC held a second meeting for the purposes of public engagement and adoption of the recommendations contained in this report. Each docket report was adopted unanimously by the members of the NRSC. The NRSC also allowed for verbal public

comments at the meeting. Three verbal public comments were made, all of which were generally supportive of the recommendations contained in this report and requested continued public engagement.

Synopsis of Public Comments

The NRSC accepted written public comment through July 9, 2024, following its June 18th meeting. During the comment period, eight comments were submitted which are attached to this memorandum as Appendix B. Comments cover the breadth of issues addressed by the NRSC, from groundwater to coastal issues. Commenters were concerned about recommendations to reduce the CPRA advisory board or to restructure it towards a financial advisory board. Commenters were generally supportive of the CPRA plan to investigate funding by increasing offshore revenue. Commenters overwhelmingly supported the strategic planning proposed by the Office of the Secretary and of moving the legal functions all into one organizational unit.

Commenters were supportive of the Natural Resources Trust Authority and provided examples from other states as models. Commenters further were supportive of consolidating groundwater and surface water management into the Office of Land and Water, but also stated the urgent need to create a state plan for groundwater management, including a state water budget and master plan for water resources. Finally, commenters were supportive of the Energy office goal to maximize Federal grant opportunities but were not supportive of DENR leveraging the expertise of CPRA to assist in administration of these grants.

The NRSC accepted written public comments for one week prior to the second meeting on September 20, 2024. During the comment period of September 13 – 19, eight public comments were submitted. The public comments are attached to this report as Exhibit D. A large number of public comments were directed towards the forthcoming tactical report by DENR. The NRSC will forward these comments to DENR to be incorporated and addressed in the DENR report. All public written comments were summarized and incorporated or otherwise addressed on the record at the September 20, 2024, meeting of the NRSC.

Recommendations for Reorganization

Following the June 18, 2024, public hearing and public comment period, the working groups were asked to respond to any outstanding questions. The responses of each working group are attached hereto as Appendix C.

After reviewing the presentations to the NRSC and subsequent responses provided by the working groups, in light of the priorities established in Executive Order JML 24-13, one possible option rises to the fore.

The DRIVE Initiative prioritizes efficiency and coordination amongst all agencies associated with natural resources management. This efficiency and coordination is, to a large degree, not present in the current structure. Therefore, the model proposed for reorganization is based on several separate business units working towards a common goal. This entity would be a cross-functional and cross-agency commission, termed for purposes of this report as the Steering Commission ("Commission"). It would be comprised of five voting members, together representing those interests and functions identified during the DRIVE Initiative as paramount for an integrated system of natural resources governance and it would perform the steering functions of the NRSC on a permanent basis. The five voting members of the Commission would be: (1) a commissioner representing coastal activities, (2) a commissioner representing statewide interests on natural resources and energy resiliency and infrastructure, (3) a commissioner representing finance, economic development, and planning, (4) a commissioner representing the head of the Department of Energy & Natural Resources, and (5) a commissioner representing energy resources management.

The Commission will need legal representation and counsel, as well as administrative expertise. These functions can be performed by the advocate general for natural resources, and (2) the Chief Administrative Officer ("CAO"). The CAO and advocate general will be discussed further in later paragraphs. This proposed structure would allow the advocate general to provide legal counsel to the Commission and the CAO to advise the Commission on budgetary, funding, personnel, and procurement matters. These members and their staffs are intended to provide professional continuity for the Commission regardless of changes in the voting members. The following paragraphs will analyze each member of the commission, and their corresponding subject matter, in further detail.

STEERING COMMISSION

Currently, each agency or office involved in the natural resources management and regulatory structure maintains its own administrative support personnel and operates based on its own planning. However, there is limited coordination between agencies, even though all of the agencies work within the natural resources management and regulatory structure of the Executive Branch. The absence of coordination is likely due to each agency's specific historical programmatic focus and the peculiarities surrounding each program's creation and growth. Regardless of the specific reasons that led to each agency's current structure and the executive branch's overall structure, the current structure lets each agency operate in its own "silo", prohibiting a coordinated, holistic approach. The proposed reorganization plan would create the Commission to coordinate and provide high-level guidance to the State's natural resources management and regulatory agencies akin to the guidance the NRSC is providing to the DRIVE initiative. The commission model improves the current structure by bringing together five voting members who all have a stake in natural resources management to provide the coordination and

support of all natural resources related activities that is lacking in the current structure. The commission model also ensures that all offices represented within the commission work towards a common goal instead of working individually without or with limited consultation or coordination, while still being independent units. The commission model further improves agency efficiency and coordination by ensuring decisions are not made in a vacuum and that the relevant governmental stakeholders are consulted for decisions. The commission model can also provide additional opportunities to engage the public in the state's natural resources management and regulatory oversight, while also ensuring that multiple agencies can identify existing policies that stymie proactive resource management.

Commissioner focused on Statewide Infrastructure, Energy and Resiliency

Energy is of great importance to Louisiana's economy and its citizens. Further, one need echoed by many of the working groups is a lack of comprehensive strategic planning. This commissioner would have a direct hand in crafting a strategic energy plan for the state and in advocating for the pursuit of statewide energy plans on the Commission. This commissioner will also ensure that statewide infrastructure has an active interest in the state's natural resources management, promoting coordination between energy and infrastructure related projects, and taking into account that revenue derived from the state's natural resources provides a funding source for statewide infrastructure projects. Further, this commissioner will ensure that the policy and projects, as well as federal grants, promoted by the energy division will remain an important consideration in the state's natural resources management.

Commissioner focused on The Department of Energy and Natural Resources

As the NRSC and the entire DRIVE Initiative has shown, DENR has paramount interest in the state's natural resources management structure. Therefore, if there is to be a permanent Commission to review and coordinate natural resources management, the head of DENR should most certainly be a member of the Commission. This commissioner will represent DENR's interests pertaining to permitting and enforcement. Other commissioners will represent the management functions of the department and their associated interests, including state mineral and energy leasing.

Commissioner focused on Energy and Resources Management

The Office of Land and Water was created within DENR during the 2024 Regular Session. During the NRSC meeting on June 18th and in their written report, the working group focused on land and water noted that the office's mission had expanded beyond simply management of land and water. The office of land and water now also focuses more on management of all the state's energy and state-owned resources. The breadth of the mission also necessitates a seat on the Commission for a person to represent the interests of this office. The commissioner for energy and

resources management will represent the management functions housed within the DENR and the interest of commercial use of state-owned lands and resources, state minerals, and water management. The inclusion of two commissioners from the Department ensures that the management of the state's energy and natural resources has its own dedicated advocate who can ensure that proper management of the state's natural resources is an issue at the forefront of the Commission.

Commissioner focused on Finance, Economic Development and Planning

During the 2024 regular session, the Natural Resources Trust Authority (Trust) was created within DENR. The Trust is designed to provide a modernized financial security system for energy and natural resources-related projects in the state that is both simpler and more effective. There has also arisen a need for more planning within the natural resources management structure, including financial planning. To incorporate a financial planning process, it makes sense to house a planning function within the administration. Further, both the working groups and NRSC members have expressed interest in engaging in workforce development and economic development. There is certainly a need to engage in workforce and economic development in the natural resources sphere, especially if a state energy plan were to be created. The commissioner for finance, economic development, and planning would represent all of the above interests on the Commission. This commissioner will provide perspective from the Trust as well as the planning division. This commissioner will help guide the state's natural resources management from a standpoint of financial security and ensure the management structure acts in accordance with the state's strategic and tactical plans for natural resources management.

Commissioner Focused on Coastal Activities

Louisiana's coast forms an integral part of any discussions regarding natural resources management. The coast is home to a large part of Louisiana's energy infrastructure and receives funding from energy and natural resources leasing for coastal resiliency and restoration projects. Further, the coast benefits the State not only economically through jobs in multiple industries, but environmentally as a shield against storms and a carbon sink. Therefore, the State's coastal interests must be represented on the Commission. One commissioner, therefore, should be dedicated to representing the state's coastal activities, continuing their focus on the long-term planning for CPRA.

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RECOMMENDATIONS OF WORKING GROUPS

NRSC-1-2024: IMPLEMENTATION

The Implementation working group investigated the state's functions focused on public infrastructure pertaining to flood protection, restoration, and resiliency. These functions are currently distributed among various agencies, including CPRA, DOTD, and local levee districts or other regional bodies. While CPRA has been successful in managing projects within the coastal zone, its success stems from a well-defined separation of functions—policy, planning, and implementation—that occur without direct consideration of funding. Outside the coastal zone, however, there is no equivalent structure, and resources for large-scale projects are limited. This could be streamlined or made more efficient by developing a single entity to be the non-federal sponsor on federally authorized flood risk reduction projects with the U.S. Army Corps of Engineers and other federal entities, as is done within the coastal zone.

To address this, the Implementation working group recommends evaluating a restructuring of multiple offices and that provide restoration and flood risk reduction public infrastructure into distinct functions statewide. These would mirror the CPRA's model, with clear divisions for policy, planning, and implementation. In theory, the Governor's Office of Coastal Activities (GOCA) would continue the high-level strategic planning and policy role, expanding it to take on a comprehensive approach for the entire state's water and natural resource-related construction projects, functioning as a hub for strategic policy and planning with consideration not to dilute a coastal focus. Therefore, a parallel function to CPRA's project planning process for the non-coastal area is necessary, a process separate and apart in mission, with a focus on the non-coastal area, calling the entity Upland Resource Management Authority (URMA), whose mission will focus on non-coastal areas. This function, hereinafter referred to as Upland Planning (UP) will provide strategic direction for non-coastal areas as well as coordinate with CPRA.

This approach would ensure that implementation—handled by CPRA or the newly created URMA—incorporates cohesive management across regions, with clear accountability for both planning and execution.

Planning

As the state's strategic body for water and natural resource management, focused on URMA's mission, UP will become the key driver of strategic oversight and coordination between CPRA and URMA and policy and planning development for URMA. UP will assume responsibility for strategic policy creation, long-term planning, and the evaluation of statewide needs for flood protection, restoration, and resilience outside of the coastal area while CPRA continues its mission within the coastal area. UP's involvement will be layered on top of the existing foundation of planning in existence at CPRA, to ensure coordination between the missions

of the two entities. By building these functions within UP, the state will ensure a consistent, coordinated approach to both coastal and non-coastal water management.

UP will serve as the primary body for assessing statewide water management needs outside of the coastal area and developing comprehensive strategies for coordination between CPRA and URMA. Additionally, UP will work directly with both CPRA and URMA to assess the feasibility and financial implications of proposed projects. Once these evaluations are complete, UP will assist CPRA and URMA on detailed plans for implementation of projects approved and funded by the annual plans of the entities in coordination with UP. This restructuring will ensure that all projects—regardless of location—are rooted in solid planning, with transparent budgeting, and accountability built into the process from the start.

By building these functions, UP will ensure a consistent and coordinated approach between CPRA and URMA on matters of project vetting and funding before implementation begins. This unified planning process will reduce duplication and ensure that CPRA and URMA are working from a shared, clearly defined blueprint with transparent financial boundaries.

CPRA

CPRA will continue as the primary entity responsible for the implementation of coastal projects. However, under this new structure, CPRA's involvement in planning and policy formulation will continue in coordination and collaboration with UP. CPRA's focus will continue to be the planning, development and implementation of projects approved and funded by the authority's annual plan, in coordination with UP. This approach ensures that coastal infrastructure is developed and restored according to well-vetted plans with consideration for the mission of URMA outside of the coastal areas.

The restructuring will allow CPRA to continue to concentrate on the technical and operational aspects of coastal protection, further streamlining the implementation process. However, future funding for CPRA remains a critical concern. As Deepwater Horizon oil spill settlement funds begin to taper, it will be necessary to consider alternative funding sources to ensure CPRA's continues success. Opportunities may exist to utilize funds from the state's natural resources and energy developments, as well as from the Natural Resources Trust Authority (Trust), to address these financial challenges. The NRSC recommends a thorough exploration of funding mechanisms to ensure CPRA's continued success.

URMA

To address the needs of regions outside the coastal area, the NRSC proposes creating the URMA, modeled on CPRA. Currently, the necessary functions to create URMA—such as statewide management of flood risk reduction and water resources infrastructure (i.e. levees,

canals, and flood protection)—are housed within DOTD, isolated from the rest of the state's natural resources management structure. The formation of URMA would centralize these responsibilities and create a direct counterpart to CPRA, focused on non-coastal flood protection.

This restructuring would ensure better coordination between CPRA and URMA through UP, recognizing that water management issues often span coastal and non-coastal regions. The NRSC recommends a comprehensive review of the functions housed in DOTD's Public Works Division to facilitate URMA's creation, as well as an evaluation of other existing governmental entities involved in these efforts, in collaboration with the interested agencies, to establish an effective structure for URMA, ideally with an existing funding source.

Like CPRA, URMA will focus on project design and execution, relying on UP for planning and policy guidance as well as coordination with CPRA. This alignment will ensure that URMA's projects are rooted in solid, well-coordinated strategies, addressing long-standing concerns raised by residents and leaders about flood protection needs north of the coastal zone.

Funding Considerations

Future funding will be an important consideration for both CPRA and URMA. While UP will address coordination of planning and cost assessments, stable financial support will be necessary for both agencies to execute their projects. The Trust could provide a valuable funding mechanism, ensuring the long-term sustainability of both coastal and non-coastal infrastructure efforts.

The NRSC recommends further research into funding opportunities, including leveraging natural resources and energy developments to secure future financial stability. With proper funding in place, CPRA and URMA will be able to address the infrastructure needs of the state in a coordinated and efficient manner.

Conclusion

This new structure, which pursues project execution from a standpoint of coordinated planning, promises a more efficient approach to managing public infrastructure for flood protection and natural resource management. By building on the successful foundation at CPRA, ensuring coordination through UP, and leaving project development and execution to CPRA and URMA, the state can ensure that all projects are thoroughly vetted, funded, coordinated, and strategically sound before implementation. This system will improve coordination, streamline processes, and make more effective use of state resources to meet infrastructure needs both inside and outside the coastal zone.

NRSC-2A-2024: Office of The Secretary

The Office of the Secretary working group was tasked with reviewing the DENR Secretary's Office and its included divisions. The working group identified two key areas requiring attention: restructuring of the legal division and the absence of strategic planning within DENR. The State Energy Office, Oilfield Site Restoration program, and Technology Assessment Office were previously housed in the Office of the Secretary, but all functions related to these programs are being proposed under a different structure. As such, no report will be included in this review on those matters.

Legal Consolidation

Currently, DENR's legal team is dispersed across various offices, resulting in inefficiencies and potential inconsistencies in providing legal support for the department's natural resources management. During the June 18th meeting, the Office of the Secretary working group recommended adopting a governance structure similar to the Solicitor's Office within the Department of the Interior (DOI). The NRSC agrees with this approach and recommends consolidating DENR's legal positions into a single centralized legal office to streamline operations and improve legal oversight.

Under this DOI-like structure, the legal office would provide specialized legal services, including litigation, administrative law, and general counsel functions through clear Standard Operating Procedures (SOPs). One of the key functions of the office will be drafting advisory opinions, which will serve as the formal legal basis upon which the agency acts. These advisory opinions will provide a structured framework to guide DENR's decision-making processes, ensuring that the agency's actions are supported by clear and legally sound reasoning. Advisory opinions will act as a foundation for agency policies and decisions, helping the department navigate complex regulatory matters.

Additionally, the NRSC recommends DENR explore establishing a procedure providing specific impacted parties with a way to request the drafting of or changes to an advisory opinion. As a preliminary step, DENR should consider protocols where the agency's process aligns with practices of the Attorney General's Office. This alignment would allow any DENR work product to be factored into the drafting of an Advisory Opinion, which could affirm, modify, or overturn the legal basis established by the DENR legal office. A mechanism for reconsideration would be necessary to ensure accountability and that all legal interpretations and actions are in line with broader state legal framework.

By centralizing the legal advice process and establishing formal advisory opinions, DENR can ensure that all divisions of government operate on consistent legal footing, minimizing

confusion and reducing the risk of legal challenges. This structure enhances the clarity and transparency of the legal guidance provided to all stakeholders within the department.

Additionally, the NRSC recommends the inclusion of a cross-agency collaboration framework and the development of alternative dispute resolution (ADR) mechanisms. ADR would provide a specialized venue for resolving disputes related to regulated activities, offering a more efficient and cost-effective alternative to traditional litigation. Although this is not a typical function within legal offices, the inclusion of ADR would strengthen DENR's ability to manage disputes efficiently.

Lastly, the NRSC recommends further evaluation with reporting under EO-13 on whether some or all of the proposed legal functions, including ADR, should be performed in consultation and collaboration with the Attorney General, focusing on efficient administration of oversight, coordination, and technical expertise. Further investigation is required to assess the feasibility of such a move, ensuring input from all affected agencies.

Strategic Planning

The absence of strategic planning within DENR has significantly held the agency back from innovation and growth. Without a structured approach akin to CPRA's continuous planning process—comprising a Master Plan, 5-Year Plan, and Annual Plan—DENR lacks the forward-thinking framework necessary to navigate the complex landscape of natural resource management effectively. This gap inhibits the agency's ability to adapt to emerging challenges, collaborate across divisions, and pursue long-term goals.

Currently, the strategic planning policies administered by the Division of Administration offer limited involvement by the Legislature, leaving DENR without a robust process to drive innovation. In contrast, CPRA and GOCA have shown how a well-integrated planning process at the intersection of the Executive and Legislative branches can provide strategic oversight and growth opportunities. By not adopting a similar approach, DENR is missing a critical opportunity to align its regulatory actions with both legislative priorities and executive direction, which is crucial for fostering innovation and adaptability in its policies and programs.

The lack of a formal planning structure has also led to blurred lines between policy development and implementation. This ambiguity restricts DENR from clearly defining its initiatives, resulting in inefficiencies and confusion that prevent the agency from reaching its full potential. A well-defined strategic planning process would create a more intuitive regulatory framework, allowing the Legislature to appropriate funding based on actual, forward-looking needs, while enabling DENR to act decisively and with clear authority, even when immediate funding is unavailable.

By not establishing a continuous planning process similar to CPRA's, DENR has missed opportunities to innovate and grow within the constraints of its complex legal and regulatory environment. The NRSC recommends that DENR adopt a strategic planning process modeled on CPRA's successful integration of Executive and Legislative oversight, to create actionable, long-term strategies that provide a path for innovation and sustainable growth.

To further ensure stability, the NRSC suggests that DENR's strategic planning functions could be housed in a more permanent structure, such as an administrative office. This would help shield strategic initiatives from disruptions caused by changes in leadership and provide a consistent foundation for long-term innovation and growth.

Conclusion

The lack of strategic planning has held DENR back from achieving the innovation and growth needed to meet the challenges of today's energy operating environment. By implementing a strategic planning framework similar to that used by CPRA and GOCA, DENR could unlock its potential for greater innovation, improved collaboration, and more decisive action at the intersection of the Executive and Legislative branches.

Simultaneously, centralizing legal operations within a Legal Office and integrating advisory opinions as the basis for regulatory actions will reduce legal ambiguities and provide the clarity needed to support the agency's growth. Together, these efforts will position DENR to meet future challenges with confidence and improved capacity for innovation.

NRSC-2B-2024: Boards and Commissions

The Boards and Commissions working group was tasked with a review of statewide boards and commissions related to natural resources. In the 2024 regular session, a statewide review of all natural resources boards and commissions was set for 2026, to be led by DENR. The working group recommended creation of a zero-basis review structure for all boards and commissions related to natural resources, to eliminate CLEER, and to reduce the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation by half of its members. The working group recommended a reduction of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation to optimize its efficiency. Public comments voiced concern for the reduction of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation and support for its current structure. The NRSC requests the Governor to evaluate whether a reduction in membership of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation is advisable. The NRSC otherwise recommends that staff of DENR prepare a zero-basis review plan for natural resources boards and commissions and that CLEER be eliminated based on lack of action over the past few years.

NRSC-3-2024: Office of Management and Finance

The Office of Management and Finance working group was created to review the management and finance functions across natural resources management, in collaboration with CPRA management personnel. The working group recommended collaboration between DENR and CPRA to enhance DENR's capabilities to administer the influx of federal grant funds. Further, the working group recommended further investigation to create a workflow which allows CPRA and DENR to collaborate on grant support through the Indefinite Delivery Indefinite Quantity (IDIQ) process while not diluting CPRA. The working group otherwise recommended no change to the administrative structure of DENR.

Currently, all administration functions for natural resources management are housed within the Undersecretary's office of DENR. During the 2024 regular session, the Natural Resources Trust Authority (Trust) was created, which is to be housed within the Undersecretary's office. The Trust will be discussed further in the following paragraphs. The creation of the Trust provides additional opportunity and additional workload to the Undersecretary's office. Given the expanded role of the Undersecretary's Office, the NRSC recommends that the position of Undersecretary be changed to Chief Administrative Officer to better reflect the nature of the office.

Further, as referenced in the previous section, the need for strategic planning across natural resources management has become obvious through the DRIVE Initiative. Such planning will also require working across governmental boundaries to encompass the breadth of all natural resources management. The above section regarding the Office of the Secretary considers the utility of housing strategic planning functions within the administrative offices of DENR. If the planning functions are housed within the administrative office, the office will need additional flexibility going forward to perform these necessary functions in addition to its current role.

The functions of planning across agency lines and intergovernmental boundaries creates challenges which are difficult to overcome in a traditional agency structure. The NRSC recommends that further due diligence be executed and reported under EO-13 for the Governor to consider. Given the complexities under the Division of Administration, along with the budgeting process, any proposed administrative and planning functions will require multi-year implementation plan.

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NRSC-3A-2024: Natural Resources Trust Authority

The Natural Resources Trust Authority ("Trust") was created in Act 727 of the 2024 regular session, to be housed in the Undersecretary's Office of DENR and overseen by the Undersecretary. The NRSC recommends the Trust enhance its appeal to legislators and stakeholders by focusing on transparency, oversight, and sound fund administration. A key strategy involves engaging the Legislative Auditor's Office (the "Auditor") to ensure accountability in financial management. Regular audits conducted by the Auditor will review fund use, investments, and project financing, providing ongoing transparency and demonstrating fiscal responsibility. The Trust should consider clearly establishing the State Mineral and Energy Board as having vested authority with clear oversight, thus bolstering financial oversight by regularly monitoring fund allocation and decision-making processes in a public setting. To promote public trust, developing real-time public facing information on fund disbursement, revenue generation, and investment performance, ensuring legislators and the public have easy access to the financial activities will help. Additionally, performance audits will assess whether the Trust is meeting its long-term strategic goals, such as supporting energy projects, including their decommissioning. Regular reporting mechanisms will provide the Auditor with updates on fund administration, ensuring transparency in the management of infrastructure projects, coastal restoration, energy development, and natural resource management.

Effective fund administration is critical to the Trust's success. A dedicated financial management team will oversee fund allocation, investment strategies, and compliance with state regulations. Funds will be segregated for different projects, such as energy development and coastal restoration, allowing the Auditor to track the use of public money clearly and efficiently. The Trust will also establish investment guidelines, developed in collaboration with the Bond Commission, State Treasury, and the Legislative Auditor, to balance investment returns with environmental considerations. A comprehensive financial risk management program will be implemented to identify and mitigate potential risks, safeguarding funds from unnecessary financial and political exposure.

By enhancing transparency and financial oversight, the Trust will gain legislative support, as lawmakers will be reassured that public funds are being managed responsibly and in alignment with the state's strategic goals. This commitment to regular audits and transparent management will also increase public confidence in the Trust's fiscal discipline. Accountability to all stakeholders, including local governments, industry partners, and the public, will be ensured through ongoing audits and performance reviews.

To implement these improvements, the Trust should formalize the Legislative Auditor's involvement in conducting annual audits and overseeing financial activities. A Trust Oversight Committee should be formed to review financial decisions regularly, and a financial transparency dashboard should be developed to provide real-time tracking of fund disbursement and

investments. Performance audits should be conducted to ensure that the Trust is achieving its strategic goals in energy and resource sustainability, infrastructure resilience, and economic development. Finally, robust fund management practices, including risk management and the segregation of funds, will be adopted to ensure the proper use of public funds.

By prioritizing transparency and engaging the Legislative Auditor, the Trust will demonstrate accountability and fiscal responsibility, solidifying its credibility with legislators, stakeholders, and the public.

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NRSC-4-2024: Office of Conservation

The Office of Conservation working group was tasked to review all functions located within the current Office of Conservation (OC). The working group recommended moving certain programs within OC to Enforcement, and any permitting functions elsewhere within the Department to OC. This proposed change makes sense given the streamlining of all functions within DENR and creates an office focused solely on permitting. The NRSC recommends that OC be renamed the Office of Permitting to better reflect its new mission.

Currently, OC holds permitting, compliance, and enforcement functions within divisions of jurisdiction. This structure has become outdated over time and not kept up with the additional duties that have been added over the past 40 years, meaning that it is not as efficient or as effective as it optimally could be. Under the current system, a member of the public may need to obtain permits from multiple offices and divisions to be able to do business in the state. There also can be overlap and duplication in permitting, or unnecessary delays due to lack of clarity on the permitting process. The NRSC finds that there is a need for modernizing OC to focus on the conservation of the state's natural resources through properly siting and organizing permitting and compliance activities.

The proposed permitting office can streamline the permitting process and oversee those permitting functions currently overseen by: (1) the pipelines division of OC, (2) Office of Coastal Management sections, (3) engineering division of OC, (4) injection and mining division of OC, and (5) 404 permitting if received. Creating one office to manage all permitting functions will not only streamline the functions of DENR but will also provide a more intuitive interface with government for industry while still providing the protection of a robust permitting system. The NRSC therefore recommends that the restructuring of all permitting functions into the proposed Office of Permitting be pursued.

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NRSC-5-2024: Office of Land and Water

The Office of Land and Water working group reviewed how best to structure the newly created office of Land and Water. The working group recommended moving all energy-related state lands functions to DENR as well as considering how to cooperate with other agencies to manage all state-owned minerals. The working group also testified that DENR's audit capability is lacking with respect to minerals management, causing lost revenue. During the NRSC meeting and in written reports, the Land & Water working group repeatedly stated that the Office of Land & Water, created in the 2024 regular session, likely has expanded its mission beyond simple management of land and water.

Therefore, there is likely a need to take those functions envisioned to be in the office of Land & Water and expand the scope to encompass management of all statewide resources, in terms of quantity, especially in energy. For the purposes of this report the office will hereinafter be referred to as "State Resources". The NRSC recommends that the Office of Land and Water be renamed to better reflect its purpose using an intuitive term of art for all statewide resources used in energy (water, land, minerals). The Office of State Resources would oversee state lands, energy and commercial related management, minerals & energy leasing/agreements, and statewide water management as to quantity. Statewide water management will be phased in over time, as rulemaking authority will be necessary. Statewide water management includes both surface and ground water and will likely require a strategic planning process. The NRSC recommends that DENR consider how to utilize current structure to effectively manage statewide groundwater and surface water as to quantity in the interim.

The NRSC recommends that DENR staff consider if an existing body, such as the Water Resources Commission, could be utilized to assist in creating a statewide water management regime. The royalty management for the State, currently housed in Mineral Resources, likely also should be included in the proposed Office of State Resources. Further, a proposed commercial resources division could house those functions at the office of state lands, which have already been transferred to the office of Land & Water and should continue into State Resources. The NRSC therefore, recommends that a broader office be established to manage the quantity of Louisiana's natural resources as described above. As a preliminary recommendation, an Office of State Resources be housed within DENR incorporating state lands, energy and commercial related lands management, minerals & energy leasing/agreements, and statewide management of surface and groundwater as to quantity.

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NRSC-6-2024: Office of Energy

The Office of Energy working group was tasked with review of the new Office of Energy, which was created from the State Energy Office (SEO). The SEO was previously housed within the Office of the Secretary at DENR but was made a separate office in the 2024 regular session. Currently, the energy office houses technology assessment and federal grants as their main functions. The SEO has recently received an influx of federal funding but does not have the administrative capacity to administer these grants on its own and also pursue the energy policy envisioned in its current state. The office's current functions are necessary, but more functions are needed within the office for effective natural resources management. For example, there is no statewide energy plan.

Statewide energy planning is necessary to provide the state's natural resources with guidance and attainable goals for energy policy and planning. The drafting and management of a statewide strategic energy plan could be housed within the new energy office. Further, both the working groups and NRSC commissioners have seen the need for coordination with the Public Service Commission (PSC) on matters of power and energy. Coordination with the PSC could help address regulatory gaps related to competitiveness, similar to how the Federal Energy Regulatory Commission (FERC) operates at the federal level. Additionally, stronger alignment with the PSC could establish a clear state position on energy matters and allow Louisiana to pursue its interests, particularly in decisions affecting competition in a manner akin to FERC's approach. Further, there is also a dire need to revive strategic partnerships and develop new ones, such as the Water Institute, Center for Energy Studies, and the Louisiana Geological Survey, creating significant opportunity for management of geologic and engineering data with a goal of developing a national lab. Lastly, a workforce and economic development function could also utilize strategic partnerships within the energy office. Further, there is a need for a focus on resiliency, as the influx of Federal grants focused on resiliency has shown.

Creating a standalone energy office within DENR prioritizes energy within the natural resources management structure. However, the energy office is not limited by regulatory programs thus may be afforded more priority and flexibility if it were to be moved to the Executive Department or combined with other functions. For example, considering how to integrate the Chief Resiliency Officer position, or function, could be used to great effect in a reorganized energy office, whether located within DENR or at the Executive Department. The NRSC recommends that the DENR continue exploring how to efficiently incorporate these functions as part of EO-13 and the Governor seriously consider moving some or all of the functions contained within the proposed Office of Energy to the Executive Department or remain at the agency.

NRSC-7-2024: Office of Enforcement

The Office of Enforcement working group was tasked with reviewing the newly created Office of Enforcement within DENR. The working group recommended moving all enforcement functions to the new office and to investigate any unintended consequences, such as financial issues or loss of statutory authority. Currently, there is no one location for enforcement within DENR. Enforcement functions, much like permitting functions, are spread across the agency. This structure can result in inefficiency from overlap and duplication, as well as a lack of a clear path forward for non-compliant operators.

The proposed Office of Enforcement, created during the 2024 regular session, can remedy this situation. Modernizing and streamlining all enforcement functions into one office will help prevent inefficiency from duplication of efforts and will provide a well-defined pathway for operators who have gone out of compliance. As part of this process, Office of Enforcement should explore ways to notify other agencies of ongoing enforcement actions, such as Louisiana Economic Development, Department of Environmental Quality, to name a few. By notifying other agencies, the magnitude of enforcement increases without a need for statutory changes. Further, the DENR should prioritize technological solutions and ways to incorporate into other agencies' existing processes to efficiently administer their programs, especially on matters that other state agencies are sophisticated. For example, DENR should explore ways for debt collection, bankruptcy, audits, and other matters related to the financial operations of its regulated community.

Overall, the NRSC agrees the Office of Enforcement should oversee enforcement of federal programs, state programs, management of district offices, and should further explore audit and debt recovery functions for the state's natural resources management based on existing agency systems. An initial step should be determining whether the audit function provides an opportunity to recover revenue which might otherwise never be realized by the state. A more efficient administration of the audit function immediately provides increased auditing capability, a matter raised by the Land & Water working group at the NRSC's meeting. In conclusion, the NRSC recommends the Office of Enforcement be given authority over enforcement of DENR's existing state and federal programs, management of all district offices, and over the auditing functions located within DENR. However, the NRSC formally requests the DENR continue investigation of ways for collaboration and notification within existing state government protocols, focusing on communication and efficient administration using technology.

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CONCLUSION

In conclusion, the Steering Commission and a streamlined DENR, along with the accompanying support functions described above, is the NRSC's recommended path forward. The state's natural resources management structure contains five major components: (1) energy, resiliency, and coastal activities, (2) public infrastructure, (3) administration, (4) legal, and (5) the permitting, management, and enforcement functions within DENR. The NRSC's recommendations address each issue while considering all public comments on the matter. The Commission and accompanying offices proposed herein fulfills the DRIVE goals of enhanced cooperation and collaboration while consolidating the State's natural resources management regime into one place where all actions can be coordinated by a five-member panel representing the breadth of natural resources management functions. Further, the proposed modernization of DENR's functions into distinct dedicated offices will streamline internal workflow and provide simpler interaction for external users. The structure proposed herein also addresses public comments in ensuring CPRA remains independent and improves the function of all offices within the state's natural resources management structure.

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APPENDICES

Appendix A: Summary of All Recommendation by Working Groups

Jeff Landry
Governor

State of Louisiana
OFFICE OF THE GOVERNOR
P.O. BOX 94004
BATON ROUGE
70804-9004

To: Natural Resources Steering Commission

From: J. Clay Parker

Date: August 21, 2024

Re: Recommendations from Working Groups – NRSC

Dear Commissioners,

I am pleased to report that the first NRSC meeting went off without a hitch. Thanks to our meticulous planning, we were able to mitigate any potential issues. As you remember, you were provided presentations from eight working groups, organized by the following docket numbers:

- NRSC-1-2024: Implementation (CPRA)
- NRSC-2A-2024: Office of the Secretary
- NRSC-2B-2024: Boards and Commissions
- NRSC-3-2024: Office of Management and Budget
- NRSC-3A-2024: Natural Resources Trust Authority
- NRSC-4-2024: Office of Conservation
- NRSC-5-2024: Office of Land and Water
- NRSC-6-2024: Office of Energy
- NRSC-7-2024: Office of Enforcement

The working groups also provided written reports which contained detailed recommendations and supporting analysis. I have compiled a list of recommendations made by the working groups for your use, review, and consideration as you contemplate the proposed reorganization of the Department of Energy and Natural Resources(DENR). These recommendations constitute a summary of all recommendations made by the working groups both orally at the meeting and in the written reports.

NRSC-1-2024: Implementation

Recommendations for NRSC review and decision:

- Consider alternative funding sources for CPRA beyond 2031.
- Develop a plan for collaboration between CPRA, DENR, and the Water Institute on data management and sharing.

- Three possible alternatives for implementation:
    - Maintain statewide implementation structure with no changes.
    - Restructure implementation under multiple agencies statewide.
    - Combine all statewide implementation into one agency.

NRSC-2A-2024: Office of The Secretary

Recommendations for immediate action:

- Place all department legal staff within the legal division under the Office of Secretary.
- Develop shared mission statement and strategic plan to create department-wide culture.
- Develop and execute a strategy to upgrade department technology.
- Pursue unclassified authority for future hires.

Recommendation for NRSC review and decision:

- Consider options for a mission statement for DENR.
- Consider opportunities to pursue unclassified authority for future hires and create a pathway to achieving the goal.

NRSC-2B-2024: Boards and Commissions

Recommendations for NRSC review and decision:

- Reduce CPRA advisory board (by ½).
- Eliminate CLEER due to lack of meetings since 2022.

For further analysis and review:

- Create a zero basis review structure for all boards. First review to be 2026 based on HB 810.

NRSC-3A-2024: Office of Management and Finance

Recommendations for immediate action:

- Collaborate with CPRA to enhance the capabilities of DENR to manage the influx of Federal funds through training, streamlining the contract/RFP process, and sharing providing support.

Recommendations for NRSC review and decision:

- Review the budgetary structure of DENR with the understanding of budget units and the ability to move funds between programs and offices/divisions but not budget units absent legislative approval.

For further analysis and review:

- Explore utilizing the IDIQ process of CPRA by integrating DENR-specific services in future RFP's.
- Create a workflow which allows prioritization of work if CPRA staff are to be utilized in the IDIQ process.
- Consider training DENR staff to utilize the existing IDIQ structure at CPRA.

NRSC-3B-2024: Natural Resources Trust Authority

Recommendations for NRSC review and decision:

- Establish a separate account specifically for financial security funds.
- Allow for a cash equivalent for financial security via letter of credit, performance bond, or cash.
- Index the coupon rate of financial security instruments to a benchmark rate such as CPI or 10 year bond curve.
- Eliminate blanket bonds as an option for financial security.

For further analysis and review:

- Financial Security
  - Maintain a cash reserve/liquidity pool from cash equivalents.
  - Create a system of well-specific cash equivalents.
  - Establish escrow accounts to deposit cash equivalents.
  - Implement stringent and regular reporting and audit requirements.
  - Customize financial assurance agreements for each well.
  - Integrate NRTA cash equivalents with existing regulatory platforms.
- Insurance
  - Create a type of insurance policy for each well as an option for financial security.
  - Treat each well as an individual policy holder with individual risks and premiums.
  - Conduct comprehensive risk assessment for each well. Employ actuarial analysis to estimate future liability and the appropriate level of reserves for each well.
  - Have operators pay premiums like any other insurance policy.
  - Define coverage terms and conditions, including closure, pugging, abandonment, remediation, etc.
  - Allow operators to file claims against the policy for covered risks.
  - Establish a regulatory oversight regime.
  - Investigate options for risk pooling and reinsurance. Similar to life insurance.

NRSC-4-2024: Office of Conservation

Recommendations for immediate action:

- Move solar permitting/decommissioning from office of the secretary to Conservation.
- Move pipeline safety to Enforcement.
- Move 411 program to Enforcement.
- Move oilfield site restoration to enforcement.
- Move fuel team to office handling resource management/emergency response.
- Move voluntary surface water CEAs to Land & Water.
- Move fishgear compensation program to enforcement.
- Move underwater obstruction program to enforcement.

Recommendations for NRSC review and decision:

- Create an organizational chart and workflow within the Office of Enforcement to appropriately house the enforcement functions of the current office of Conservation and Office of Coastal Management.
- Create a reorganization plan to move the water well drillers program away from Conservation to the new office of Land & Water to reduce overlap.
- Consider forming a partnership between DENR and the Center for Energy Studies to increase capacity for data collection, management, and analysis.

NRSC-5-2024: Office of Land and Water

Recommendations for immediate action:

- Merge all land, mineral resources, and water functions within DENR into new office of land and water.

Recommendations for NRSC review and decision:

- Consider options for moving state lands functions to DENR, one being a move of three people into a division and one being a move of multiple people into a larger office.
- Consider the inclusion of a power division, analysis indicates power may not be applicable.
- Consider cooperative agreements with other agencies to manage minerals for all land-owning agencies.
- Consider an investment-based approach to mineral income collection and acreage conflicts resolution to increase revenue to the new office.

NRSC-6-2024: Office of Energy

- Pursue collaboration with the Center for Energy Studies and CPRA for back-office support.
- Pursue inclusion in CPRA's procurement process to efficiently administer upcoming grants awarded by the Federal government.
- Create publicly accessible databases with the Center for Energy Studies.

NRSC-7-2024: Office of Enforcement

Recommendations for immediate action:

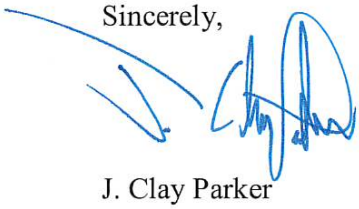
- Move all enforcement programs from their current location to office of enforcement.
- Appoint an assistant secretary to run the office.
- Create divisions of "Oil and Gas/Injection Wells/Pipelines, Surface Mining, and Coastal".

Recommendations for NRSC review and decision:

- Consider allocation of funds across offices, as some divisions may have to split funds when they are moved to Enforcement.
- Consider review of statutory authority to ensure authority over enforcement is not lost.
- Devise a procedure to ensure the reassignment of district offices does not create gaps in regulation.

I hope this list of recommendations will assist you in your work as charged in Executive Order JML 24-13. Please do not hesitate to reach out to me if you have any questions, would like to discuss the underlying reports and analysis, or need any assistance. Thank you.

Sincerely,



J. Clay Parker

Appendix B: Public Comments to June 18, 2024, NRSC Meeting

ExxonMobil Recommendations: HB 810 of the 2024 Louisiana Regular Session

Creating the Offices of Enforcement, Energy, and Land and Water within the

Louisiana Department of Energy and Natural Resources

HB 810 of the 2024 Regular Legislative Session reauthorizes the Department of Energy and Natural Resources (LDENR) and provides for its organization, offices, powers, duties, and functions. HB 810 also creates and provides for the functions of the following new offices within LDENR:

(1) The office of enforcement.

(2) The office of energy.

(3) The office of land and water.

Office of Enforcement

HB 810 tasks the office of enforcement with inspecting the regulated community and enforcing laws and regulations within the DENR's jurisdiction. However, HB 810 does not further provide for enforcement procedures or penalties that may be assessed. Thus, provisions will need to be created both in regulation and in statute to provide for the assessment of penalties, and the calculation thereof.

Though not directly applicable to LDENR potential enforcement proceedings for violations of regulations and statutes for LDENR programs, La. R.S. 30:2025 regarding LDEQ enforcement proceedings may be instructive in creating similar provisions for LDENR enforcement proceedings. Specifically, LDENR could either promulgate rules or recommend legislation that will delineate procedures for:

- The scope of violations that are subject to enforcement proceedings by the Office of Enforcement.
- Procedures for proper notification and service of a notice of a violation on a regulated entity, including deadlines and prescriptive periods.
- Procedures and rules for proceedings against a regulated entity for an action alleging a violation.
- Data collection and reporting that may be required for regulated entities and upon which a violation may be based.
- The calculation of civil penalties that may be assessed by the Department.

Office of Energy

HB 810 requires that the Office of Energy manage functions and programs related to the deployment and operation of alternative energy infrastructure in this state. HB 810 further requires that the Office of Energy cooperate with the LSU Center for Energy Studies in development of the unified energy data and information program.

LDENR could promulgate rules that specifically provide what data will be collected subject to the partnership with the LSU Center for Energy Studies for the unified energy data and information program. LDENR could further recognize that certain data collected may be proprietary, confidential, or contain sensitive financial information that is not appropriate for public access. To this end, LDENR

should promulgate regulations that provide that reporting entities may submit a claim for confidentiality for certain data that it may provide when it relates to proprietary trade secrets or processes maintained by the facility or if the disclosure thereof would present a safety risk to a facility.

Office of Land and Water

HB 810 specifies that the office of land and water is responsible for the following:

(1) Management and permitting of state lands and water bottoms.

(2) The issuance of energy-related rights of way on state lands and water bottoms.

(3) Energy-related leasing of state lands and water bottoms.

(4) Administration of groundwater, surface water, and other water resources for quantity purposes, unless otherwise provided by the secretary.

HB 810 also provides that that beginning Jan. 15, 2026, and every year thereafter that LDENR is scheduled to sunset, the Secretary must submit recommendations to either terminate or continue each board and commission contained Chapter 36 of the Louisiana Revised Statutes to the House and Senate committees on natural resources. HB 810 also specifies that recommendations to terminate a board or commission must include plans for how to handle that board or commission's functions and responsibilities going forward.

It should be noted that some boards and commissions exercise congruent duties with the LDENR Office of Land and Water. In particular, the Capital Area Groundwater Conservation Commission is charged under statute with regulating groundwater in the six-parish area of the Capital Region. This Commission's powers will be in direct conflict with the newly formed Office of Land and Water under HB 810.

LDENR should undertake a review of all boards and commissions within Chapter 36 to streamline these regulatory bodies by function and consider bringing these boards under the umbrella of the LDENR office to which their function relates. In addition to the efficiencies created by streamlining regulatory oversight, failure to do so may result in unnecessary confusion among regulated entities regarding what state or local regulatory standard applies based on the geographic area in which an entity operates.

As LDENR evaluates its regulatory authority regarding groundwater aquifers in the state, the following should be given consideration:

- Grant LDENR sole regulatory and permitting authority for groundwater.
- Continue the Capital Area Groundwater Conservation Commission in an advisory-only capacity
- Require all commissioned groundwater sustainability studies, such as the Water institute of the Gulf study, to report to LDENR.
- Ensure funding is available for education, research and outreach regarding state aquifer sustainability via research institutions like the Water Institute for the Gulf, Louisiana State University or other state universities, colleges or academia.
- Support collaboration between public and private sectors with consideration of state and federal grant applications or direct funding opportunities to address groundwater conservation.

GREATER NEW ORLEANS INC
REGIONAL ECONOMIC DEVELOPMENT

10 PARISHES
Jefferson
Orleans
Plaquemines
St. Bernard
St. Charles
St. James
St. John the Baptist
St. Tammany
Tangipahoa
Washington

July 9, 2024

Department of Energy and Natural Resources
Natural Resources Steering Commission
LaSalle Building
617 North Third Street
Baton Rouge, LA 70802

RE: JML 24-13: Consolidation of Natural Resources and Energy Related Executive Branch Functions, Powers, Duties, and Responsibilities

INTRODUCTION
Greater New Orleans, Inc. (GNO, Inc.) is the regional economic development organization for the 10-parish region of Southeast Louisiana. On behalf of GNO, Inc., we appreciate the proactiveness and dedication of Governor Landry's Administration, the Department of Energy and Natural Resources (DENR), and the Natural Resource Steering Commission (NRSC) to the reorganization of DENR.

Louisiana is uniquely positioned to advance an all-of-the-above energy strategy and to capitalize on the rapid advancement of low-carbon energy technology. The State of Louisiana has already witnessed transformational benefits and investment in future energy, as provided below:

- 35 future energy projects announced between 2018 and 2023
- Total amount of $45.6 billion in capital expenditure represented by the 35 projects
- Over $20 billion announced for carbon capture and sequestrations projects (45% of total)
- $23.3 billion announced for renewable-powered industrial projects (50.7% of total)
- Venture Global is constructing in Plaquemines Parish a liquified natural gas facility, the largest project financed in human history, as well as in Calcasieu Parish

This public comment, representing the interest of industry and business partners, seeks to validate supportive reorganizational decisions and systems, to recommend reorganization decisions that reflect industry insight, and to provide best practice comparisons from other states.

RECOMMENDATIONS
Capitalizing on advancements in the energy sector through the development of low-carbon technology and systems is a critical economic development goal across the United States. Act No. 727 and 726 create tremendous momentum to further Louisiana's economic competitiveness in the energy landscape. To ensure the spirit of these acts is fully realized, GNO, Inc. recommends specific attention around several key areas:

I. **Undertake Strategic Planning Processes***:* The DENR Office of the Secretary should lead strategic planning and governance that promotes competitiveness by coordinating statewide energy policies and fostering interagency collaboration, particularly with Louisiana Economic Development. A thorough and proactive planning approach would take into consideration the necessary financial resources, policy alignment and permitting coordination required to achieve Louisiana's all-of-the-above energy future and maximize the state's economic competitiveness. Once plans are created, the Office of the Secretary should advocate for the codification of plans, such as the codification of the Offshore Wind Roadmap.

Louisiana can replicate best practices currently utilized in peer—and competitor—states, Georgia and Texas. Georgia's approach to energy development is characterized by a flexible and strategic planning process. This planning process is coupled with an innovative financing mechanism—the Georgia Environmental Financing Authority—which uses funding mechanisms like loans, grants, and bonds to finance land, water and energy projects. Texas's governance structure supports an advanced regulatory framework that balances energy development with environmental protection. The integration of advanced data analytics and geographic information systems for monitoring and management exemplifies that state's innovative approach. These tools enable better decision-making and enhance regulatory efficiency. Louisiana has already made a tremendous step towards increasing datasets available through the passage of Act 727 which empowers the LSU's Center for Energy Studies to begin a sweeping catalogue of energy industry activity.

Finally, The Office of Conservation should implement mandatory water use assessments for all new energy projects, including power plants and industrial facilities, and the Office of the Secretary should ensure that water resource constraints are integrated into the energy strategy and planning processes. DENR's commitment to facilitating interagency coordination, in part, to align water resource management with energy development goals is an encouraging sign that deserves validation.

II. **Codify Inter-Agency and Stakeholder Coordination**: In furtherance of the above planning recommendations, economic competitiveness for the energy industry can be supported by regular engagement between key government and regulatory stakeholders. Through the coordination of DENR, additional and aligned government agencies should be regularly convened to streamline permitting processes, funding pursuits or investments, and communication with the general public. Recommended bodies include, but are not limited to, Louisiana Economic Development (LED), Louisiana Department of Environmental Quality (DEQ), Department of Revenue, and Louisiana Public Service Commission.

To guide the discussions and strategies employed by the agencies above, GNO, Inc. also recommends establishing advisory committees conceptually comprised of, but not limited to, representatives from industry, regional economic development organizations, workforce organizations, and community leaders to ensure a technical and business perspective are considered in decision-making processes. We recommend that these advisory committees not only provide insights on permitting and policy efficiencies, but also make recommendations around technologies intended to modernize the Louisiana energy landscape. By fostering close collaboration and clear communication channels between regulatory bodies and energy developers, Louisiana can streamline project approvals, enhance regulatory compliance, and support an all-of-the-above energy strategy. This recommendation is validated by the efforts undertaken by Louisiana Economic Development to create advisory committees with business and economic development perspective (Act 590) and to internally align LED staff to directly engage industry partners and regional economic development organizations.

III. **Expand Public-Private Partnerships**: Partnerships between DENR and private industry can provide additional resources and expertise, supporting the state's all-of-the-above energy goals. GNO, Inc. recommends that DENR leaders and the NRSC conduct further research into comparative models and incorporate best practices, including from:

1. Georgia Environmental Finance Authority (GEFA) – the GEFA provides financial assistance for water, energy, and land conservation projects. It uses funding mechanisms like loans, grants, and bonds to support infrastructure projects, while providing guidance and support for project planning and implementation. The GEFA provides an example of direct support and investment from the government in partnership with industry,
2. New York State Energy Research and Development Authority (NYSERDA) – NYSERDA is a public benefit corporation that promotes energy efficiency, renewable

energy, and innovative energy solutions through research and financial incentives. The authority operates various programs funded through a mix of state budget allocations, federal grants, and PPPs. NYSERDA provides grants, loans, and incentives for projects focused on advancing clean energy technologies and practices.

IV. **Clarify Language, Simplify Permitting Processes, and Increase Transparency:** By strategically prioritizing data-based planning and inter-agency coordination, Louisiana can adopt the governance and regulatory frameworks that allow permitting to move at the speed of business. Leveraging industry and cross-agency input with technology positions DENR to not only streamline its regulatory processes to support an all-of-the-above energy strategy, but also provide clearer user-interfaces for industrial applicants.

Through regular discussions between key permitting entities like DEQ and DENR, GNO, Inc. encourages the identification of specific policy crosswalks and handoffs to increase efficiencies to reduce permitting timelines and staff resources. In addition to streamlined permitting processes between agencies, GNO, Inc. recommends the creation of clear permitting checklists for industrial and economic development projects, outlining flow of permitting decisions, typical timelines and handoffs between agencies. To continue maintaining trust of economic and industrial partners, these initial flow charts should be complimented by an online dashboard tracking permitting advancements and/or delays in real time.

DENR must ensure clarity in language utilized in permitting and strategic planning. Advancing an all-of-the-above energy strategy involves several avenues and focuses of policy and legislative instruments. Currently, Louisiana's Revised Statutes contain insufficient clarity for terms such as "energy" and "alternative energy infrastructure." To achieve presented strategies to streamline permitting processes and regulatory oversight, DENR must clarify language used in law and regulation, and consider the following focuses, including, but not limited to:

- Power generation – including, but not limited to, wind, solar, oil, natural gas, and biofuel
- Production – including, but not limited to, electrolytic hydrogen production and the production of hydrogen using steam methane reform and carbon capture
- Permitting reform – ranging from transmission expansion to coastal use permitting
- Procurement – including procurement mechanisms created to support power generation from renewable sources

While economic development organizations across the state are aggressively attracting and retaining major energy investments—with the potential to provide thousands of jobs to Louisiana residents—clear and efficient permitting is critical to "move at the speed of business" and reach the final investment decision threshold for these projects.

V. **Preserve and Maximize Existing Federal Funds***:* Between 2022 and 2024, over $1 billion in discretionary federal grant funding has been awarded to Louisiana future energy development. These funds are supporting a broad range of project types advancing an all-of-the-above energy strategy: ranging from DOE awards supporting the Direct Air Capture (DAC) Hub in Lake Charles, to GNO, Inc.'s own H_2theFuture initiative. The investments that have been made in Louisiana are key levers for attracting private sector capital investment and continuing to build the workforce, supply chain and innovation necessary in securing Louisiana's position as the energy capital of the world. Through the strategic coordination of economic development, non-profit and academic partners, many of these investments are being coordinated to amplify Louisiana's energy ecosystem.

Preserving existing federal funding wins in Louisiana is crucial for maintaining momentum in energy development and executing an all-of-the-above energy strategy. These funds support critical infrastructure projects and innovative initiatives, ensuring that Louisiana continues to lead

in economic growth, job creation, and expertise. Retaining this funding is essential for securing long-term benefits for its residents.

CONCLUSION

GNO, Inc. appreciates the opportunity to provide public comment in response to Executive Order JML-24-13. This executive order, along with the June 18, 2024, meeting of the Natural Resources Steering Commission, highlighted the significant progress and future potential of Louisiana's Department of Energy and Natural Resources (DENR). The restructuring, guided by Act No. 727 and Act No. 726, offers a pivotal opportunity to elevate Louisiana's leadership in energy development and natural resource management. By incorporating best practices from other leading states, and addressing identified gaps, the proposed changes can be further strengthened to ensure a robust and sustainable regulatory framework. Stakeholders are encouraged to support this restructuring while advocating for continuous improvement and accountability, ensuring that Louisiana remains at the forefront of energy leadership and the development of an all-of-the-above energy strategy.

Sincerely,

Michael Hecht
President & CEO,
Greater New Orleans, Inc.

Jasmine Brown-DeRousselle
Chief External Affairs Officer
Greater New Orleans, Inc.

Lacy McManus
Executive Direct of Future Energy
Greater New Orleans, Inc.

Leo John Arnett
Policy Advisor and Special Assistant to the CEO
Greater New Orleans, Inc.

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DANIEL BOSCH, ASSOCIATE
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July 2, 2024

Via Email Only

Tyler Gray, Secretary
C/o J. Clay Parker, Special Counsel
Louisiana Department of Energy and Natural Resources
LaSalle Building
617 North Third Street
Baton Rouge, LA 70802
Clay.Parker@la.gov

Re: Comments of the Louisiana Chemical Association and Louisiana Mid-Continent Oil & Gas Association; Reorganization of the Louisiana Department of Natural Resources under Executive Order 2024-JML-13 and HB 810 of the 2024 Regular Session
File No. 3645-410

Dear Secretary Gray:

Our firm represents the Louisiana Chemical Association ("LCA") and Louisiana Midcontinent Oil and Gas Association ("LMOGA") (together, "the Associations"). The Associations appreciate the opportunity to provide the following comments to the Natural Resources Steering Commission on the proposed reorganization of the Louisiana Department of Energy and Natural Resources ("LDENR" or "the Department").

INTRODUCTION

On February 1, 2024, Governor Landry issued Executive Order JML 24-13 directing the Department to review and consider ways to better coordinate and consolidate within the Department the "functions, powers, duties and responsibilities of the executive branch dealing with natural resources and energy."[1] The Executive Order also identifies several regulatory boards and commissions in state government and directs the Department to consider ways to coordinate and consolidate or reorganize the functions, powers, duties, and responsibilities of State boards and commissions dealing with natural resources and energy matters. Additionally, through the passage of HB 810 of the 2024 Regular Session,

[1] Office of the Governor, State of Louisiana, Executive Order JML 24-13, "Consolidation of Natural Resources and Energy Related Executive Branch Functions, Powers, Duties, and Responsibilities" (Feb. 1, 2024), available at https://gov.louisiana.gov/assets/ExecutiveOrders/2024/JML-Executive-Order-13.pdf.

LDENR will now include the Offices of Energy, Lands and Water, and Enforcement. HB 810 also requires a Departmental review of boards and commissions within Chapter 36 of the Louisiana Revised Statutes.

Considering Executive Order 2024 JML-13 and the legislative directives specified in R.S. 36:351(C)(2) and R.S. 36:354(A)(11), LDENR announced a comprehensive plan for the reorganization and optimization of the Department.[2] As part of the Department's reorganization, a Natural Resources Steering Commission was formed. During its June 18, 2024 meeting, the Steering Commission solicited comments from stakeholders on suggestions and concerns for the reorganization of the Department. The Steering Commission requested that all stakeholder comments be received by July 2, 2024.

LCA is a nonprofit Louisiana corporation, composed of seventy (70) members with over one hundred (100) chemical manufacturing plant sites in Louisiana. LCA was formed in 1959 to promote a positive business climate for chemical manufacturing that ensures long-term economic growth for its member companies. LCA members are committed to excellence in safety, health, security and environmental performance, and to protecting our employees and surrounding communities.

LMOGA is an industry trade association formed in 1923 representing individuals and companies that together produce, transport, refine, and market crude oil, natural gas, and petroleum products in Louisiana. LMOGA members operate sixteen refineries and numerous production facilities, natural gas plants, compressor stations, pipelines, and product terminals throughout Louisiana. LMOGA members strive to serve the nation's oil and gas needs in a safe, responsible manner.

Many Association member companies own and/or operate facilities that are subject to the jurisdiction of the LDENR, including through permits granted by the Department for the operation of natural gas pipelines, the installation and operation of Class I through VI injection wells, and coastal use permits. Therefore, the Associations have a direct interest in submitting these comments on proposed organizational changes to LDENR, which will ostensibly affect the permitting and other regulatory functions of the Department. Specifically, these comments address: (i) the regulation of groundwater use and (ii) the processing of permit applications for Class VI carbon capture and sequestration ("CCS") wells.

COMMENTS

I. Regulation of Groundwater Resources

HB 810 creates the Office of Land and Water within LDENR. Among its duties, the Office of Land and Water will manage and direct a permitting program related to state lands and water bottoms, including energy-related rights of way and leases on state lands and water bottoms. The Office of Land and Water will also manage the administration of groundwater, surface water, and other water resources for quantity purposes unless otherwise provided by the Secretary.

HB 810 also provides that that beginning Jan. 15, 2026, and every year thereafter that LDENR is scheduled to sunset, the Secretary must submit recommendations to either terminate or continue each board and commission contained Chapter 36 of the Louisiana Revised Statutes to the House and Senate

[2] Tyler P. Gray, Secretary, La. Dept. of Energy and Nat. Res., Letter to Natural Resources Steering Commission (April 15, 2024), available at https://gov.louisiana.gov/assets/2024-Extras/Letter-to-NRSC-Members.pdf.

committees on natural resources. HB 810 also specifies that recommendations to terminate a board or commission must include plans for how to handle that board or commission's functions and responsibilities going forward.

The duties and functions of the Office of Land and Water are authorized through state statute. Specifically, La. R.S. 38:3097.1 provides that the State possesses "exclusive jurisdiction over the management of ground water."[3] The statute further supersedes and preempts any rule, regulation, code, statute, or ordinance of any political subdivision or other unit of local government.[4] Even so, local political subdivisions continue to regulate the use of groundwater resources. For example, the Capital Area Groundwater Conservation District ("CAGWC") regulates the extraction of groundwater within a six-parish area in the Capital Region. The Commission has authority over the drilling or construction of water wells having a capacity in excess of 50,000 gallons per day in accordance with La. R.S. 38:3076(A)(2) and 3076(E).

As part of its review of boards and commissions, the Associations recommend that LDENR review boards and commissions that operate with duplicative or conflicting function to the Department. As an example, the CAGWC's duties and functions will duplicate those of the new Office of Land and Water. This duplication of efforts is uncessary, creates confusion for the regulated user, and wastes valuable public resources. Having two regulatory bodies regulating the same resource and in the same effected area leads to unnecessary complications and duplication of efforts for regulated users. Further, retaining dual regulatory bodies risks creating conflicting standards for well owners based not only on the initial requirements for the well's installation, but also for ongoing compliance measures.

The Associations, therefore, recommend that LDENR consider the following measures as part of its organizational review of groundwater regulation:

- Pursue legislation and/or rulemaking, as appropriate, to grant to LDENR sole regulatory and permitting authority for groundwater use.

- Continue current local regulatory bodies, such as the CAGWC, in an advisory capacity only.

- Require that all groundwater sustainability studies commissioned by a state regulatory body or political subdivision be submitted to LDENR.

- Ensure funding is available for education, research and outreach regarding state aquifer sustainability via research institutions like the Water Institute for the Gulf, Louisiana State University or other state universities or colleges.

- Support collaboration between public and private sectors with consideration of state and federal grant applications or direct funding opportunities to address groundwater conservation.

[3] La. R.S. 3097.1(B).

[4] *Id.*

II. Class VI Well Program – Carbon Capture and Sequestration Wells

On February 5, 2024, the United States Environmental Protection Agency ("EPA") granted primary enforcement authority (primacy) to the LDENR Underground Injection Control ("UIC") Program for Class VI wells, which are used to injection carbon dioxide for the purposes of geologic sequestration ("carbon capture and storage" or "CCS").[5] This is in addition to LDENR's current authority for regulation of Class I, II, III, IV, and V wells.

As provided in LCA's comments to the EPA on LDENR's application for primacy, primacy is an important step towards predictability and efficiency in the regulation of Class VI wells for CCS in Louisiana.[6] The benefits of CCS are two-fold: the development and operation of CCS technology will reduce greenhouse gas emissions and lead to job creation within the state. Louisiana is estimated to create an annual average of up to 4,920 project jobs over a 15-year period and 2,500 ongoing operations jobs through the deployment of carbon capture at 33 Louisiana industrial and power facilities – many of which are owned and operated by Association members.[7]

As of June 2024, 60 well applications have been filed by seventeen (17) companies in eighteen (18) parishes.[8] Further applications are anticipated to be filed by Association members over the next few years. The LDENR Class VI Program is a crucial component to CCS operations in Louisiana and will play a significant role in greenhouse gas ("GHG") emission reduction. CCS will help Louisiana achieve its climate goals. Louisiana has enormous potential for CCS through its expansive geologic storage potential, highly concentrated industrial corridors, and potential for a trained workforce.

In February 2024, LDENR gave notice of its intent to promulgate regulations for a Fee Schedule for Class VI well applications.[9] At that time, the Associations, submitted comments expressing their support of the rulemaking as a necessary first step for implementation of the Class VI Injection Well Program.

In addition to expressing its support, the Associations also identified specific questions and suggestions for the implementation of the Class VI well program. Although promulgation of the Fee Schedule provides necessary structure and a source of funding for Class VI well application processing, there are several areas where further regulations are necessary to implement the program. Specifically, the Associations made recommendations relating to the fee structure under the program, the process for third party review of applications, establishing a timeframe for processing applications, and procedures for requesting an expedited review. In its Responses to Comments issued on April 10, 2024, the Department

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[5] *State of Louisiana Underground Injection Control Program; Class VI Primacy*, 89 Fed. Reg. 703 (Jan. 5, 2024).

[6] Comments of the Louisiana Chemical Association on Louisiana Class VI Primacy Application, Rulemaking Docket No. EPA-HQ-OW-2023-0073 (July 2, 2023), available at https://www.regulations.gov/comment/EPA-HQ-OW-2023-0073-0173.

[7] *See* Regional Carbon Capture Deployment Initiative, *"Jobs and Economic Impact of Carbon Capture Deployment Louisiana,"* available at https://carboncaptureready.betterenergy.org/wp-content/uploads/2020/10/LA_Jobs.pdf (last accessed March 18, 2024). The Associations request that this report be made a part of the administrative record for this rulemaking action.

[8] The pending applications as of June 14, 2024 are listed at https://www.dnr.louisiana.gov/index.cfm/page/1695.

[9] LR 50:298 (Feb. 20, 2024).

committed to implementing several of the these suggestions through future rulemakings. The Associations incorporate by reference its comments on the February 20, 2024, rulemaking, a copy of which are enclosed here because the Associations believe that these comments and suggestions for the framework will be beneficial to the Department's implementation of HB 810

III. Additional Permitting Considerations

In addition to its comments on CCS well permitting and groundwater regulation, the following are technical suggestions on LDENR existing permitting processes for certain types of injection wells. These recommendations to the permitting process for applicable injection wells would improve efficiencies within the Department and the processing times for permit applications, which aligns with HB 810 and the directives in the cited Executive Orders.

A. Public Comment Period for Applications

For several permit applications under LDENR Injection and Mining requirements, namely Hydrocarbon Storage Wells in Salt Dome Cavities, Disposal of Exploration and Production Waste in Solution in Mined Salt Caverns, Class III Solution Mining Injection Wells, and Class V Storage Injection Wells, the LDENR institutes a 30-day review period to determine if the application is administratively and technically complete.[10] Each application must also be noticed to the public with an opportunity for public comment. The Department has traditionally undertaken these processes sequentially – first, determining that the application is complete, and then making it available for notice and comment. The Associations recommend that a more efficient approach would be to begin the notice and comment period upon receipt of the application rather than waiting for the end of the LDENR administrative review. This approach, coupled with enforcement of existing deadlines and the addition of time limitations for processing, would shorten the timeline for permit review.

B. Technical Review of Applications

For Hydrocarbon Storage Wells in Salt Dome Cavities, Class III Solution Mining Injection Wells. Wells in Solution Mined Salt Dome Cavities, and Class V Storage Injection Wells, the LDENR requires both a geological and an engineering review for a proposed well. Statutory and regulatory requirements do not provide that these reviews be conducted sequentially. If the Department were to place applications on separate tracks organized by workflow function, this could expedite the processing time for these applications. The Associations therefore, recommend that the Department adopt administrative procedures to require that wherever possible, application reviews be conducted simultaneously to reduce processing time and increase efficiencies for the application review process.

[10] *See, e.g.,* LAC 43:XVII.Chapters 3, 31, 33, & 37.

CONCLUSION

The Associations appreciate the opportunity to provide comments on the implementation of HB 810. If you have any questions, please contact me.

Very truly yours,

KEAN MILLER LLP

Daniel Bosch

Enclosures: (1)

Cc: Tokesha Collins-Wright
Vice President of Environmental Affairs
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March 22, 2024

Via email only
Stephen H. Lee
Director, Injection and Mining Division
Office of Conservation
Louisiana Department of Energy and Natural Resources
P.O. Box 94275
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Stephen.Lee@la.gov

Re: Comments of the Louisiana Chemical Association and Louisiana Mid-Continent Oil & Gas Association
Department of Energy and Natural Resources, Office of Conservation
Notice of Intent: Class VI Injection Well—Fee Schedule
(LAC 43:XVII.Chapter 38)
LR 50:298
Our File No. 3645-410

Dear Mr. Lee:

Our firm represents the Louisiana Chemical Association ("LCA") and the Louisiana Mid-Continent Oil & Gas ("LMOGA"). LCA and LMOGA (collectively, "the Associations") submit the following comments on the Notice of Intent by the Louisiana Department of Energy and Natural Resources ("LDENR") to adopt Statewide Order No. 29-N-7 to provide a fee schedule for Class VI injection well permit applications, which was published in the Louisiana Register on February 20, 2024 ("the Proposed Rule").

LCA is a nonprofit Louisiana corporation, composed of seventy (70) members with over one hundred (100) chemical manufacturing plant sites in Louisiana. LCA was formed in 1959 to promote a positive business climate for chemical manufacturing that ensures long-term economic growth for its member companies. LCA members are committed to excellence in safety, health, security and environmental performance, and to protecting our employees and surrounding communities.

LMOGA is an industry trade association formed in 1923 representing individuals and companies that together produce, transport, refine, and market crude oil, natural gas, and petroleum products in Louisiana. LMOGA members operate sixteen refineries and numerous production facilities, natural gas plants, compressor stations, pipelines, and product terminals throughout Louisiana. LMOGA members strive to serve the nation's oil and gas needs in a safe, responsible manner.

On February 5, 2024, the United States Environmental Protection Agency ("EPA") granted primary enforcement authority (primacy) to the LDENR Underground Injection Control ("UIC") Program for Class VI wells, which are used to injection carbon dioxide for the purposes of geologic sequestration ("carbon capture and storage" or "CCS").[1] This is in addition to LDENR's current authority for regulation of Class I, II, III, IV, and V wells. In order to implement the program, LDENR is proposing the adoption of Statewide Order No. 29-N-7 (LAC 43:XVII.Chapter 38) to facilitate the review of Class VI injection well permit applications as well as the LDENR's periodic review of each Class VI well's Area of Review.[2] Promulgation of Statewide Order No. 29-N-7 is required in order to collect standardized application fees for this new program to ensure that LDENR has adequate resources to timely and competently implement the Class VI program.

A number of Association members are uniquely positioned for the deployment of CCS projects as part of their current and planned future operations. The benefits of CCS are two-fold: the development and operation of CCS technology will both reduce greenhouse gas emissions and lead to incredible job creation within the state. Louisiana is estimated to create an annual average of up to 4,920 project jobs over a 15-year period and 2,500 ongoing operations jobs through the deployment of carbon capture at 33 Louisiana industrial and power facilities – many of which are owned and operated by member-companies of the Associations.[3] Currently, there are twenty-four (24) pending applications for UIC Class VI permits in Louisiana, by seventeen (17) entities in seventeen (17 parishes)[4], several of which are Association members. Further applications are anticipated to be filed by Association members over the next few years. In order to timely issue such permits, the Department needs adequate funds for reviewers. Therefore, the Associations have a direct interest in commenting on the Proposed Rule.

COMMENTS

The Associations generally support the Proposed Rule as a necessary step for LDENR implementation of Class VI primacy. The LDENR Class VI Injection Well Program is a crucial component to CCS operations in Louisiana and will play a significant role in greenhouse gas ("GHG") emission reduction. CCS will help Louisiana achieve its climate goals, chiefly net-zero by 2050. Louisiana has enormous potential for CCS through its expansive geologic storage potential, highly concentrated industrial corridors, and potential for a trained workforce. Promulgation of the Proposed Rule provides the necessary structure and a source of funding for competent and thorough Class VI well application review, thereby providing a pathway towards CCS operations in the state.

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[1] *State of Louisiana Underground Injection Control Program; Class VI Primacy*, 89 Fed. Reg. 703 (Jan. 5, 2024).

[2] LR 50:298 (Feb. 20, 2024).

[3] *See* Regional Carbon Capture Deployment Initiative, *"Jobs and Economic Impact of Carbon Capture Deployment Louisiana,"* available at https://carboncaptureready.betterenergy.org/wp-content/uploads/2020/10/LA_Jobs.pdf (last accessed March 18, 2024). The Associations request that this report be made a part of the administrative record for this rulemaking action.

[4] The pending applications as of March 22, 2024 are listed at https://www.dnr.louisiana.gov/index.cfm/page/1695.

I. Fee Structure

The Proposed Rule sets a baseline application filing fee of $100,000, with an additional $10,000 fee assessed for each additional well at a storage facility. The total maximum "cap" for an initial application fee is $200,000 per application. The application fee is due with the application and will be deposited in an escrow account from which LDENR will draw funds as they are incurred. LDENR proposes to only charge actual expenses incurred (defined in the proposed rule as cost of employee salaries and benefits, equipment, and expenses). If additional expenses are incurred beyond the initial application fee, LDNR may assess these costs as an additional fee. The Proposed Rule also establishes a fee for LDENR "periodic area of review" set at $25,000 to be collected up to five years after a facility begins injection.

The Associations support the promulgation of the proposed fee structure for Class VI well applications. The Fiscal and Economic Impact Statement of the Proposed Rule projects that the fee schedule will generate $2.26 million in its first fiscal year based on 19 expected applications, with a total impact of $4 million over the course of its first three fiscal years.[5] The application funds will provide LDENR with the necessary funding source to support operation of the LDENR Class VI program through staff positions and resources required for application review and oversight.

The Proposed Rule provides that an escrow account will be used to retain the funds from an applicant's initial application fee. The Associations generally support the use of an escrow account as an appropriate means to retain applicant funds and to reimburse costs associated with application review, which the Commissioner of Conservation is empowered to use.[6] However, the Associations comment that the Proposed Rule does not provide for how interest that may accrue in an applicant's escrow account will be treated. Given that applications will take an extended period of time to process, an applicant escrow account is likely to accrue interest during the review period. The Associations request that the Proposed Rule be revised to include provisions for the treatment of interest accrued in escrow accounts. Alternatively, the Associations suggest that the Proposed Rule be revised to provide that applicants be required to submit an initial deposit fee to LDENR, but that the total application fee will only be due upon notification by LDENR to the applicant that application review will commence.

II. Third Party Review

The Associations support the Proposed Rule's option to use a Qualified Third-Party ("QTP") professional service for application review. The Proposed Rule allows either the applicant to request, or LDENR to choose, to use a QTP to assist with all or a portion of the application review.[7] The option to use a QTP for application review provides significant benefits for the application process. First, this option allows LDENR the flexibility to use outside resources as necessary for lengthy or more complicated permit reviews. Second, use of a QTP provides, as implied, a 'third-party' perspective to the application review,

[5] *See* Fiscal Impact Statement, LR 50:300.

[6] LAC 43:XVII.3609(C)(4)(k).

[7] LR 50:299, to be promulgated as LAC 43:XVII.3803(D)(2).

potentially providing greater objectivity to the consideration of an application. The option to use a QTP is also consistent with other portions of the LDENR Class VI rules and Louisiana's application for primacy.[8].

The Proposed Rule provides that costs associated with QTP review are qualifying expenses for use of the initial application fee and will be drawn from the escrow account. However, further expenses incurred during QTP review may be funded through additional fees paid by the applicant. Although the Associations support the option to use a QTP, this proposed provision raises concerns for costs associated with the review since there is no maximum cap for fees associated with QTP review. As drafted, the Proposed Rule does not provide parameters for the timing, scope, or oversight for a QTP review. Without such constraints, a QTP review could effectively be limitless in scope and duration. This is concerning because the costs of professional services for activities associated with Class VI application review can be extremely costly. Thus, if a QTP service is required for review of all or multiple portions of a Class VI application, this could result in extremely high additional costs for the applicant. While sufficient fees to perform the review should be imposed, more oversight and limits for such review are needed. The Proposed Rule should be revised to provide for an expenditure cap for QTP review or, alternatively, that LDENR develop additional guidelines for QTP review scope and expenditures. The maximum could be established on a case-by-case basis. Where the applicant has requested QTP review, the applicant should be able to specify a maximum expenditure it is willing to provide for that review, and a list of allowable expenses.

III. Application Processing Time

The Proposed Rule and other relevant Class VI regulations do not provide a deadline by which a final decision on a permit application should be made.[9] More specifically, the regulations do not provide a timeframe for completion of a draft permit. This raises a concern because application review, and thereby QTP review, could continue for longer than necessary given project engineering, planning and financing needs. Consequently, the costs associated with QTP review may far exceed the initial application fee. In similar situations where environmental permits are reviewed by a state agency, the agency may establish time frames for permit review. For example, the Louisiana Department of Environmental Quality ("LDEQ") has instituted 300-day review periods for its permit applications for new facilities or substantial permit modifications, with the potential for extension of the review time as required.[10] A prescribed review period provides a permit applicant with greater predictability for Class VI well project planning and related considerations, such as financial planning and contracts for construction and secondary services. The Associations therefore request that the Proposed Rule be revised to provide a maximum timeframe for application review, with the possibility of extension if required, similar to LAC 33:I.1505(C) of LDEQ regulations:

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[8] Louisiana Department of Natural Resources, Office of Conservation, Class VI U.S. EPA Primacy Application: Underground Injection Control Program, at pp. 7-8 & 11 of 263 (May 13, 2021), available at https://www.dnr.louisiana.gov/assets/OC/im_div/uic_sec/ClassVIPrimacyApplicationstamped.pdf; *see also* LAC 43:XVII.3727, requiring mechanical integrity pressure and leak testing be conducted in front of a qualified third party; LAC 43:XVII.3737.B.1.a.i, requiring qualified third parties to prepare cost estimates for adequate closure care of wells;

[9] LAC 43:XIX.3611.

[10] La. R.S. 30:2022(B)(2); LAC 33:I.1505(C); *see also* Memorandum of Agreement Addendum 3 Between the State of Louisiana and the United States Environmental Protection Agency, Region 6 for the Class VI UIC Program, at p. 3 (March 3, 2023), available at https://www.regulations.gov/document/EPA-HQ-OW-2023-0073-0007.

Final Decision

1. The commissioner shall issue a final decision within 300 processing days from the submission date of the application.

2. The 300-processing-day deadline shall be extended where additional time is required:

a. for the applicant to revise or supplement the application to address technical information or deficiencies in the application;

b. for adjudicatory or judicial proceedings;

c. for consideration of comments received at a public hearing held in accordance with § 3611.G.

IV. Residual Escrow Fund

The Proposed Rule defines "residual escrow funds" as "any remaining funds on deposit with the Office of Conservation in favor of an applicant or permittee after a final decision on a Class VI permit application is rendered by the commissioner and all qualified expenses have been deducted from the account."[11] However, the Proposed Rule does not use the term "residual escrow fund" anywhere in the rule other than the definition section and does not provide a process or timeframe for the return of residual escrow funds to the applicant. The Associations request that the Proposed Rule be revised to prescribe a timeframe by which the balance of any residual escrow funds must be returned to the applicant. The Associations suggest that any residual escrow fund be returned within 30 days after issuance of a final Class VI permit.

V. Expedited Review

Section 3803.C.1 of the Proposed Rule provides that "[e]xpedited permitting pursuant to LAC 43:XIX.4701et seq. by Office of Conservation staff is separate from the reviews pursuant to this Chapter." The provision seems to imply that expedited permit processing can be requested pursuant to LAC 43:XIX.4701 subject to a separate fee under Chapter 47. However, this is not readily apparent from the text of Section 3803.C.1. The Associations request clarification that the intent of the wording of Section 3803.C.1 is that Class VI Injection permit processing may be requested pursuant to LAC 43:XIX.4701, but subject to a separate fee in that rule.

[11] LR 50:299, to be promulgated as LAC 43:XVII.3801.

CONCLUSION

The Associations appreciate the opportunity to comment on the Proposed Rule. We look forward to working with the LDENR as it implements this important program for Louisiana. If you have any questions, please contact me, Tokesha Collins-Wright (LCA) at tokesha@lca.org, or Damien Watt (LMOGA) at Damien.Watt@lmoga.com.

Very truly yours,

KEAN MILLER LLP

Daniel W. Bosch, Jr.

cc: Tokesha Collins-Wright
Vice President of Environmental Affairs
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Louisiana Chemical Association

Damien Watt
Director of Environmental Affairs
Louisiana Mid-Continent Oil & Gas Association

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July 9, 2024

To: driveinitiative@la.gov

Re: Comments on the Presentation to the Natural Resources Steering Commission Meeting of June 18, 2024

To Whom It May Concern:

Louisiana Wildlife Federation (LWF) appreciates the opportunity to comment on presentations made to the Natural Resources Steering Commission (NRSC) regarding the Departmental Review for Innovation and Visionary Enhancement (DRIVE) and reorganization of the Department of Energy and Natural Resources (DENR) at the meeting held June 18, 2024.

Over its eight decades as an organization, LWF has facilitated citizen action and engagement in natural resources management on behalf of our membership that has been comprised of hunters, anglers, paddlers, campers, boaters and birders who appreciate Louisiana's abundance of wildlife and the heritage of outdoor recreation we enjoy. Our membership of more than 11,000 today prioritize coastal sustainability, comprehensive water management, and wildlife conservation as crucial for Louisiana's economic and environmental stability.

LWF believes there is always room for improvement and modernization, and we commend the Governor, the Steering Commission, and the DENR for undertaking this exercise. LWF supports the Commission's goals to increase transparency, efficiency, and coordination, utilize clear and intuitive governance, and ensure sustainability. In particular, we commend the DRIVE initiative for its focus on fostering collaboration and information sharing across agencies. These efforts will improve decision-making and manage the state's natural resources and associated infrastructure in a way that complements the state's overall infrastructure needs.

At this time, our comments are limited to general observations and in response to the stated recommendations presented for the NRSC's consideration. With the addition of specific recommendations the Steering Commission may consider, we look forward to the opportunity to provide further comments.

Water Resources

In the reorganization of DENR provided for by HB 810, LWF supports the creation of the Office of Land & Water that could facilitate a more comprehensive management of the state's water resources. Currently, there is no Division of Water in DENR and management of surface water and groundwater is spread among different agencies and authorities. LWF supports the work that a groundwater authority for each of the aquafers in the state can provide in coordination for conservation management and usage unique to each. But Louisiana is behind in creating a water budget and effectively tracking withdrawals and usage of the water sources of the state. This

makes it difficult to prioritize uses or protect quality and quantity for future use in the state. Clean and potable water is vital for life. Water is also important for economic growth and this state perceives that water is in abundance and will continue to be so without management of use. But overuse, uses leading to poor quality, and threats from reduced flow are real challenges to long-term prosperity. Impact from predicted increases in flood and drought cycles point to coordinated management being prudent and necessary now.

LWF urges this administration to continue looking at the role DENR and other state agencies can play in comprehensive management of water for Louisiana. This can include the creation of a centralized water resources management office, such as a Division of Water in DENR. Other actions could include seeking enhanced data collection and analysis that can inform decision making about not just water agreements and utilization but assist in watershed management. A state water management plan is needed.

Related to this, the administration should continue evaluating how the Louisiana Watershed Initiative can realize the goals of full watershed-based floodplain management using the models being developed for use in planning.

The Water Resources Commission has been playing a useful role in addressing concerns around the sale and removal of water from the state and additional water issues that continue to emerge. This Commission meets regularly and would serve an important role in supporting the DENR recommendations relative to a water master plan because it brings together stakeholders from transportation, manufacturing, agriculture, and municipal users for important feedback, guidance, and advice. They can also become champions for proposed changes.

Renewable Energy

LWF appreciates the recommendations related to renewable energy siting that include "partnering with the Bureau of Ocean and Energy Management and the National Oceanic and Atmospheric Administration and the National Centers for Coastal Ocean Science to pursue programmatic and geospatial planning and stakeholder outreach for offshore wind development in state waters."

We would agree that "planning and outreach efforts are essential in allowing Louisiana to responsibly and equitably advance offshore wind development and reach the state's procurement goal of 5 gigawatts of offshore wind by 2035." Industry can help with education and the state agency responsible for siting projects must be as transparent as possible throughout the process so that citizens know how these decisions are being made.

HB 810 created the Office of Energy with a broad mandate to "organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs relating to the deployment and operation of alternative energy infrastructure in this state in a manner that results in affordable and reliable energy." LWF would want to see more specificity of what authorities the Office of Energy will have as compared to the Public Service Commission.

Related to this, creating a Division of Power would be better suited in the new Office of Energy.

The planning and use of renewable energy sources is becoming a part of the mix of energy production in Louisiana and should no longer be described as "alternative" when Louisiana is, for example, already permitting solar and wind projects.

We commend the recommendations to continue collaboration and data sharing with entities like The Water Institute of the Gulf or the LSU Center for Energy Studies for how these partnerships can enhance or support the State's work. It does allow for adding different funding support needed for science and data sources while providing for independent input for natural resource management.

CPRA

It is understandable that the DRIVE initiative is reviewing how the state is managing coastal restoration and flood protection. Having a Governor's Office of Coastal Activities elevates the importance of our coastal resources and attendant land loss. It has been incredibly helpful to have CPRA created and function as it does today to integrate protection and restoration planning for the entire coastal zone. This work requires a broad focus that transcends more than one state and agency and draws interest from a large and diverse group of stakeholders. We, therefore, continue to advocate for maintaining CPRA as an independent agency as it is structured today.

The size of Louisiana's coastal zone and the scope of planning and management of restoration and flood protection in that vast estuarine area warrants a focused agency, as CPRA is, to coordinate it. CPRA should stay focused on that purpose to continue the good progress that has been made. Adding management of flood protection in other areas of the state to CPRA's mission could hinder its effectiveness for the unique estuarine habitat and tidal influences being managed.

LWF appreciates the administration seeking ways to expand and create funding for coastal projects identified in the state's Coastal Master Plan. It is crucial that State government and citizens stay focused on the projects and funding needed to maintain stability and sustainability to Louisiana's coastal zone in the coming decades.

In the presentation to the NRSC, CPRA's expertise was touted, and it was suggested that this experience could provide guidance and assistance to DENR in developing its contracting services in order for DENR to effectively manage increased federal grants. But LWF would not support combining and restructuring CPRA in such a way to provide services to both. LWF does not support moving CPRA into DENR.

In the presentation, we heard that while CPRA cited its proficiency in procuring projects, they have now had to transfer that responsibility to the Office of State Procurement which has consolidated all procurement. But the Office of State Procurement does not have the in-house expertise of CPRA. LWF urges the state to return that function to CPRA and allow them to enhance their staff to procure projects.

Boards and Commissions

JML 24-13 called for a review of all natural resources-related boards and commissions. The initial review report identified the overly large size of membership or overlapping purpose as reasons to consider trimming or eliminating a board or commission. Maintaining broad representation for input from diverse interests and providing a forum for public input and visible decision making are very important purposes of commissions, advisory groups, and boards.

LWF respectfully asks: Are members not being appointed to these boards and commissions? Are meetings being called but appointed members are not attending? Merely because meetings are not being called does not mean there is no interest.

There are three boards and commissions, in particular, that LWF believes serve a vital role and should continue:

The CPRA Board and Governor's Advisory Commission for Coastal Protection, Restoration and Conservation have different purposes and allow for different members to fulfill the needs of leadership and engagement for Louisiana's substantial coastal wetland loss and management. When considering whether to reduce the Governor's Advisory Commission, careful consideration should be given to who or what organizational representation is being recommended for removal and whether that eliminates voices representing key constituencies.

LWF has previously stated that the Oilfield Site Restoration Commission serves an important oversite role and brings together industry and environmental groups to work on the real safety and environmental concerns presented by the large amount of abandoned oil wells in the state.

LWF continues to support the Water Resources Commission for providing a useful role with input from the varied stakeholders as Louisiana pursues comprehensive water management for the State. Water is a strategic and valuable natural resource for the state and poor management of it impacts everyone.

We offer these comments for consideration as you move forward in recommendations and action and please call on LWF for any assistance we can provide in engagement or analysis.

Sincerely,

Rebecca Triche

Rebecca Triche
Executive Director

Gentlemen,

First, I would like to thank you for this meeting. From my perspective, it was much needed, and I believe it suppressed a bunch of fear and speculation concerning the future of our state and its coastal programs. Your professional approach and detailed presentations should have led everyone to understand that this effort was a DRIVE to assured efficiency and a review with the singular goal of good governance.

I did take note of a few things during the presentation and would like to note them briefly below. As before, I ask permission to speak candidly and that these thoughts remain with those of you working on this effort.

Emergency Planning: Unfortunately, with the direct impact of Hurricane Ida in my District, causing flooding of nearly 100 properties in several areas, I have some not so pleasant stories to relay regarding our emergency response. I would like to offer them at the appropriate time so that we might do better in the future.

CPRA Board Make-up: Many have said that the revisions to the CPRA Board was to stack the Board in favor of the Governor for political reasons. I believe it would be helpful to both the Governor and the reputation of the CPRA Board going forward to point out that the legislative action actually does the opposite of that. The legislation maintains the representatives from the basins which are made of the folks that know and work in the basin. Removing members representing the Governor's appointed cabinets weakens the Governor's influence over the board. I've been saying it but, I believe it needs to be said more. Sec Gray somewhat commented on this in reference to Basin members.

CPRA Board Members Involvement in approval of the MP/AP: Beyond general oversite of and an opportunity for the CPRA to showcase its projects to the public, the approval of the Master Plan and the Annual Plan is the primary function of the CPRA Board. As such, I have been directly involved in the development of the last two Master Plan Development teams serving on the MP17 Framework Development team and the MP23 Coastal Advisory Team. This involved a series of meetings several times per year over the entire development of the MP. I also served on both the Barataria and Terrebonne Regional Workgroups. This was yet another series of meetings with additional local stakeholders. When these groups are formed for MP29 I expect to be involved again. My point is, by the time the first draft of the MP or any AP was presented to the CPRA Board for consideration, I knew what was in the plan and why it was in the plan as well as how it was considered and what was ruled out and why. There are many others who worked on these same work groups who sit in the audience at CPRA meetings that have a much deeper understanding of our MP than many of the prior members of the CPRA Board. I think that is a missed opportunity. I would like to see all

members of the CPRA Board be much more intimately involved in the MP and AP process.

A look beyond the Costal Zone: I like the idea of better integrating flood protection in Louisiana for all areas of the state. It is understood that the Levee Districts in the Coastal zone are under the guidance of CPRA and those not in the Coastal Zone are under the guidance of LA DOTD. The one place where such integration currently takes place is the Association of Levee Boards of Louisiana (ALBL) having members from all over the state. So, it is from my active participation in that workgroup that I offer the following observations.

Non-Coastal Levee Districts: There are 9 non-coastal levee districts in Louisiana. They vary greatly in size and resources. Some are purely in O&M support of Federal Levee Systems, and some have a combination of Federal and Local Levee Systems. So, with the federal involvement and control of many of the projects, developing something similar to a MP for these systems would be different in the approach that would be used for our Coastal MP. Not saying the State should not have a plan for these systems, just saying it would be different from the Coastal Master Plan Approach because of the direct involvement of the Corps and the federal funding processes for these projects.

DOTD's Flood Control Role: LA DOTD does provide considerable support to these Non-Coastal Levee Districts. They could certainly be a part of any master plan for these entities and parts of Louisiana. However, there was a statement made in the presentation that was currently not true. DOTD's efforts currently do not help Levee District's reduce the cost of flood insurance in most areas. This is not the fault of DOTD in that they help the levee districts with the accreditation of levees and maps that change the requirements to purchase flood insurance. But, because FEMA now uses Risk Rating 2.0 in setting the rates the cost of flood insurance for the areas behind levees is much less related to the actual flood protection provided. So, that part of the presentation likely needs clarification but points to a larger problem with FEMA and not DOTD. It also leads to my later point on advocacy.

DOTD Statewide Flood Control: I think that it should be made clear in these presentations that while this is a relatively small program inside of DOTD that it is in fact statewide and can be used in the Coastal Zone and it currently is. This may create a better opportunity for the integration of flood protection between CPRA and DOTD. Perhaps a Jointly funded and expanded program using the same project selection criteria.

Statewide Flood Control Selection Process: Because this DOTD program has such limited funds, it has a very strict qualification process. One of the

main criteria is that the project has to be a solution for actual flooding that has taken place. Hurricane Ida checked that box for us and we are currently receiving $5M from this program to address flooding in the Kraemer Community. While this selection criteria remains reactive instead of pro-active, I believe that we should develop a priority statewide for all flood protection project funding that recognizes where our efforts have been lacking and prioritizes project that take corrective actions after a community floods. Notwithstanding this DOTD process, nothing has changed in prioritization of funding for the only areas that have been flooded by Ida. We received no additional consideration for funding since that flooding in 2021. That does not send the right message to those unfortunate people. We can do better.

Blue Carbon: This was lightly touched in the CPRA part of the presentation. While we are not talking so much about a governance issue here; but, Louisiana could be doing more across all agencies to get more credit for something we are doing anyway. Coastal Restoration and Preservation of coastal areas though flood protection IS Coastal Blue Carbon Capture. Every acre of Coastal marsh we create or protect capture 1.5 tons of carbon per year. This is at a rate 10 times greater than tropical forest and they store 3-5 times more carbon per acre than tropical forest. Think what you will about climate change and the need for carbon capture. But, the recognition of what we are already doing and will be doing can be huge in changing the way many think about Louisiana and can be an important aspect of future protection and restoration funding.

Federal Policy Advocacy: Dustin spoke about this a bit in one of his presentations. There is a need for better cross-agency policy advocacy. I'm not speaking just about a group advocating for Louisiana issues in DC. We need that, but, I'm speaking to some group tracking all proposed legislation making its way around the hill in committee or making its way to the house and senate floor in addition to us proposing legislation that will help the state. We have had numerous bits of legislation that had huge potential impacts to Louisiana that worked their way to votes before we were aware of them. Generally, interest groups like the Levee Boards and Ports track these things and advocate for legislation on their own. We need a much more integrated state level approach to this. Individual State Agencies responsible for administration of federal funds will not "bite the hand that feeds them" by advocating for more efficiency in the administration of those federal funds. (Think OCD not ripping into HUD for taking 8-10 months after a hurricane to finish promulgating rules on how the federal money can be spent. Think of LA DOTD's inability to address FEMA on huge Flood Insurance issues because they have to deal with them on mapping and the Community Rating System. I'm sure there are many additional examples of this.) We need someone working on

behalf of all agencies, tracking legislation and proposing legislation so that the people we hire in DC can bring our issues to congress.

Mr Bienvenue talked about "Needs": I believe the Idea of what really "needs" to be done is often overlooked and it should not be. The gold standard in evaluation of a project is the Benefit Cost Ratio or BCR. That is, the Benefits of a project expressed in $ divided by the Cost of the project, also in $. If the project has a BCR greater than one, it is worth doing, if the BCR is much greater than 1, it is really worth doing,,,,, if you have the money. But, having a huge list of things we should do and a limited amount of resources to do them we find ourselves with more projects than we can currently afford to do? How do we prioritize projects? How do we assure the citizens of Louisiana that we are doing the absolute most we can with their money for the good of the state? The State's MP process does a great job of considering the need for projects not just individually but collectively. But, at the AP level, how do we resolve what we "Need" to do first, this year? How do we choose which projects go first when multiple projects essentially have the same BCR or may be equally considered in the MP. I faced and still face this same dilemma in my Levee District and developed a sterile approach to project evaluation based on project "Need". We use this project ranking evaluation tool to prioritize all of our projects and it has been well received by the citizens of our District who have voted to tax themselves for flood protection. They don't always like the news that the project they are interested in is not ranked higher; but, they have come to trust that it simply means there is another project that has a bigger bang for our limited resources that "needs" to be done first. They except a "not no" but "not now" answer. I believe this "need" component could somehow be better incorporated into our project selection process. Our evaluation tool is called our Needs Oriented Project Evaluation Tool (NOPET) and its name indicates that we will not be prioritizing anyone on our Board or who works for our levee district's "pet" project. But, instead we will advance projects selected because they provide the best bang for our buck within the District. Our Commissioners and I find that having this in place provides logical cover when constituents press for the completion of their project immediately. That said, I am not so naive to think this exact approach would so easily be accepted at the State level. There will likely always be politics involved that might trump actual need of other projects. But, considering our highest "need" in selecting projects is certainly a good way for the people of Louisiana to have faith in government.

DENR Permitting Tracking: The LA DENR Office of Coastal Management has a system of tracking a permit application for a project that I believe should be used as a model for all permits that need to be applied for across the state. I wish the US Army Corps of Engineers had such a process that allows the permit applicant to see exactly where the permit is in the process. (Such a requirement is in the House mark-up version of WRDA-24)

The Coastal Louisiana Levee Consortium: According to ACT No. 387, Senate Bill No. 305 of the 2014 Regular Session, (enacts R.S. 49:214.6.8 and to repeal R.S. 38:331) *the Coastal Louisiana Levee Consortium (CLLC) was established as an advisory commission of the Coastal Protection and Restoration Authority Board. It shall be a public body and subject to public records and open meeting laws.* While it was formed in 2014, I do not believe that it began having regular meetings until 2017. Most of the meetings I have called as Chairman of this Committee for the last two plus years have not met quorum even after then Chairman Kline blasted out emails trying to encourage the group to attend. As a reminder, the purpose of the consortium *is to facilitate communication and coordination of efforts of the levee districts, flood protection authorities, and parishes that make up its membership; to protect coastal Louisiana, its people, property, and resources; to increase awareness and understanding of integrated coastal protection, including but not limited to conditions, issues, strategies, and policies of flood control, coastal levee systems, hurricane risk reduction systems, and mitigation projects; and to provide one unified voice that is representative of the coastal levee community in communicating information necessary for decision-making to policymakers at the state and federal levels and to the Coastal Protection and Restoration Board and the Authority*. While the intentions for forming such a Consortium are good, it is an example of its membership being too large to accomplish its mission. By statute, the Consortium has 24 member. For the Consortium to have a legal quorum, there needs to be participation by a majority of all its members. We typically had good (if not great) turnout of the actual Levee District Members. But, the other member organizations rarely showed. Still, because of the structure, they counted towards the requirement for the majority to have a quorum. As such, most of the “meetings” were unofficial and there were no actions taken and we could not make any reports to the CPRA Board. I’m not sure that legally, we really even should have even had those meetings. They were reduced to general discussions of those who showed up. Those being mostly Levee District People, the discussion were duplicative to those of the Association of Levee Boards of Louisiana. It is for this reason that I recommend that we pursue Legislation that either completely dismantles or greatly reduces the membership of this coalition.

Pontchartrain Conservancy

SCIENCE FOR OUR COAST. SINCE 1989.

July 8, 2024

Mr. Clay Parker
Special Counsel
Governor's Office of Coastal Activities
Capitol Annex Building, Suite 138
Baton Rouge, Louisiana 70802

Dear Mr. Parker:

At Pontchartrain Conservancy (PC), our mission is to drive environmental sustainability and stewardship through scientific research, education, and advocacy. As long-standing coastal stakeholders with an interest in the Department of Energy and Natural Resources / Coastal Protection and Restoration Authority (DENR/CPRA) re-organization process, we appreciate being included as you and your team move forward with this work.

We are writing to you today to express some of our thoughts regarding the Department of Energy and Natural Resources' plans to re-organize their department and, to a degree, the CPRA through the general process outlined in Executive Order JML 24-13 and further information contained in letters and related information recently shared with us. PC staff also attended the first meeting of the Natural Resources Steering Committee at the DENR LaSalle Building in Baton Rouge on June 18, 2024.

CPRA

During presentations given by CPRA leadership, including the CPRA financial manager, and by DENR staff regarding changes to boards and commissions, a few themes emerged relating to CPRA and its roles and responsibilities. These comments reflect concepts discussed at the meeting by various leaders representing a wide variety of issue areas embedded in relevant departments and divisions of the state agencies responsible for coastal and natural resources management.

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Specific to the back-office services discussion, DENR shared that increases in Federal funding and grants had burdened their staff and that they would benefit from CPRA's extensive expertise in that arena. Specifically, the recommendation stated:

> *CPRA expertise and guidance needed to assist DENR to develop its contracting services in order for DENR to effectively manage increased Federal grants.*

With a lean staff of 186 employees, CPRA can manage its own business, but we are concerned that burdening their 26 back-office and financial support staff to stand up DENR's work will have the impact of making CPRA less effective. Directing CPRA to implement a plan to assist DENR by providing support for federal grant programs would take away time from CPRA employees whose mission up to now has been solely focused on coastal protection and restoration work, including management of many ongoing large federal grants and programs. The CPRA is a small shop that has capable but limited capacity, and we encourage the state to reconsider adding to their already full workload. Instead, we recommend consideration be given to hiring outside consultants to assist DENR in managing Federal funding sources, including those with the Department of Energy, until such time that DENR can train its existing staff and augment staff as needed to fulfill its grants management responsibilities.

Statewide flood control and statewide levees were discussed by CPRA leadership and it appeared that their recommendation was to create a second agency of some type to represent the northern portion of the state with respect to restoration. Given the dynamic nature of the coast and the differing needs of the northern non-coastal portion of the state, we wholeheartedly agree that CPRA should stick to its present work and assist in creation of a new entity to work on interior flood control efforts and riverine levee systems. This will reduce mission creep and allow CPRA to continue to focus on its mission in restoring and protecting our coast, communities and ecosystems.

Board changes made during the 2024 Regular Session have potential to create politization of the CPRA board with the addition of three members to be appointed by the Governor with no necessary qualifications required. With little information as to the rationale of removal of all of the listed state agencies from the board, and the addition of referenced new members, we are concerned that the board may not have the qualifications or capacity to cover all the relevant topics that are required to align important state agencies with the success of the coastal program. We recommend that consideration be given to assignment of new board members who have a strong technical expertise in coastal issues, possibly including other statewide elected offices such as from the Department of Insurance and/ or from the Department Agriculture and Forestry and/or Department of Transportation and Development.

The Governor's Advisory Commission was described as overlapping with the CPRA board. A recommendation was made to retool the Commission by addition of oil and gas representation while reducing the number of board members from 28 to 14. While we do not have specific concerns regarding the addition of oil and gas representatives, there are presently members of Shell leadership and the Director of Port Fourchon fulfilling that valuable stakeholder group. We do not believe the board is redundant to the CPRA—it is a different entity of stakeholder advisors from a wide variety of sectors that contribute to the big picture of coastal issues in meaningful ways. The number of board members has never been an issue before now. If presentation materials are occasionally redundant to those given to the CPRA Board, it is usually because the issue being addressed is important and deserves time and thought, and guidance and opinions of the stakeholder board only serve to educate and assist the government in doing its job well.

The removal of nearly all the previous responsibilities of the Executive Assistant for Coastal Activities lead to questions about who will represent CPRA in Congress the US Army Corps of Engineers, Department of Commerce, US Fish and Wildlife Service and other important entities in Washington DC as has been tradition in the past. During the last two decades the state of Louisiana has bolstered the work of, and the funding for, its coastal program through many such engagements by the Executive Assistant and the Executive Director, key GOCA and CPRA implementation office staff occurring several times a year. If the Secretary of DENR is to be the defacto head of CPRA, we are concerned that the role of CPRA in DC may be limited moving forward due to the incredible number of time-consuming responsibilities the Secretary will oversee solely on behalf of DENR. The demanding role of CPRA leadership to regularly engage on behalf of the state's coastal program at the federal level must be allowed to continue in a robust fashion if we are to continue to implement large-scale restoration and protection projects fluidly and without delay

We believe that CPRA as the single state entity for implementing integrated coastal projects as defined in state law is the best way to ensure that the coastal program is viewed as a high priority in state government with the authority and autonomy to move quickly to address challenges facing our coast. The coastal land loss crisis underpins the future protection and economic viability of coastal communities across our state along with the protection and enhancement of important environmental ecosystems. Diminishing the CPRA to a sub-area of DENR would be regrettable if it had the unfortunate outcome of diminishing the work of the CPRA office or even gave the appearance that Louisiana is deprioritizing this critical body of work.

DENR

During discussions by DENR staff, staff capacity, or rather lack thereof, emerged as a recurring theme. Several presenters referred to this issue as a hindrance to the work of the department. Given that the organization has stated its consideration to tightening its belt to the tune of 10%, the reference to needing additional staff was puzzling. Where will cuts be made in the organization when more capacity seems necessary? We are interested in learning more details about these incongruous staffing themes.

Specifically, orphaned oil and gas and permitting and implementation of Class 6 wells will require specialized staff, but again, if suggesting downsizing department, we are concerned that the cuts could come at the cost of damaging DENR's enforcement capacity which would be a less than ideal trade off. We encourage the department to analyze its needs and request the staff required to do the many jobs required by the department from the administration and the legislature.

Building support for and understanding of the state's coastal program and certain areas within the purview of DENR is part of our advocacy work at PC. We have worked in south Louisiana for over 30 years and will continue to support coastal protection and restoration efforts for as long as the land loss crisis remains an issue to our state. We are also studied in the measurement of water quality and have been consistently supportive of plugging abandoned oil and gas wells. To this end, we respectfully request that the CPRA and the science-based Coastal Master Plan continue to operate in the streamlined and effective ways it has been operating since the mid-2000's. The future of south Louisiana literally depends on it.

Again, we truly appreciate your reaching out to us, and we look forward to continuing this dialogue as the work of DENR continues during the summer months.

Sincerely,

Kristi Trail
Executive Director

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July 9, 2024

RE: Executive Order JML-13: Consolidation of Natural Resources and Energy Executive Branch Functions, Powers, Duties, and Responsibilities

Chairman Dove and Commissioners,

We write on behalf of four of the coastal organizations that comprise Restore the Mississippi River Delta: Environmental Defense Fund, National Audubon Society, the National Wildlife Federation, and Pontchartrain Conservancy. Our organizations are strong, committed advocates for improving the resilience of Louisiana's coast. For over a decade, our organizations and staff have worked alongside Louisiana's coastal program in various educational, technical, advisory, and policy roles.

Over the years, we have shared numerous successes together with the Coastal Protection and Restoration Authority (CPRA) and the Governor's Office of Coastal Activities (GOCA), as the state's coastal program has tackled the challenges of the land loss crisis and grown into the organizations they are today. In the future, this success is predicated on our need to continue to invest in the governance systems, science, fiscal management, project construction and maintenance, and outreach and educational efforts that will allow us to continue to manage our coast for decades to come. Our coast is essential for the future prosperity of Louisiana's people, culture, economy, and environment. With that in mind, we offer the following general, followed by issue-specific comments.

During the first meeting of the Natural Resources Steering Committee (NRSC, or Committee) on June 18, the Coastal Protection and Restoration Authority (CPRA) made a strong case for itself as a highly effective and efficient standalone state agency, a position our organizations continue to support. We agree with Executive Director Ledet that CPRA's prescriptive mission is vital to the agency's success; its focus clarifies planning activities, concentrates outreach and education efforts, and contributes to the agency's impressive implementation record. Paired with defined governance and support from the highest levels of state government, CPRA has translated its successes into not only protective and restorative efforts on the ground but also confidence from outside funders on the federal and philanthropic levels. It has also made Louisiana the epicenter of research, development, and implementation expertise when it comes to living with coastal environmental threats and a model process for other coastal cities and regions across the U.S. to emulate.

Given this track record, it is not surprising that most of the questioning from the NRSC has centered on how to translate CPRA's winning record to other aspects of Louisiana's natural resources management. Providing this focused support to a fellow state agency with its own defined mission like the Department of Energy and Natural Resources (DENR), however, cannot come at the expense of CPRA's vital mission.

Improving Resilience Outside of the Coastal Area

Louisiana's environmental risks are not limited to hurricanes and land loss, nor are they confined to the coastal area alone. DENR is right to consider optimal ways to address that risk through an integrated and science-based approach to planning and project implementation, which marries restoration goals with human and economic needs like the planning effort of the Coastal Master Plan. However, a single statewide model or plan encompassing all environmental hazards, addressing stakeholder needs and concerns, and serving communities both large and small would present technical, political, financial and geographic challenges.

Technical challenges would arise from the science and modeling required to assess and project multiple environmental threats into the future and to interpret the results in a way that balances competing interests. The Coastal Master Plan is geared toward landscape-scale projects benefiting the entire system. Its plans are balanced between near-term and long-term benefits and do not serve a single stakeholder group, rather they are in the public interest. This model still leaves room for local actions at smaller scales as well as much larger actions that can only be accomplished with the support of the federal government. By clearly delineating state needs from local needs, resources can be preserved and allocated appropriately to carry out more work.

A single statewide system would also produce geographic and political challenges such as being present in communities across the entire state as they grapple with differing levels and types of environmental risk, different solution sets, and the preferences of stakeholders would be too much for any single entity.

Finally, most of the current funding for Louisiana's coastal program is explicitly and even constitutionally tied to the coastal zone as a direct result of a spill/injury that occurred in the coastal zone, or in the case of revenue sharing, is directed to the defined region that hosted and bore the impact of supporting energy related activities off our shores for decades.

Rather than attempt to stretch CPRA staff and expertise to meet statewide goals, DENR should consider the establishment of a second standalone entity to improve the resilience of Louisiana communities outside of the coastal area. This could be established by adding to existing programmatic vehicles, such as the Louisiana Watershed Initiative (LWI), by building off the work of the Governor's Office of Homeland Security and Emergency Preparedness' (GOHSEP) State Hazard Mitigation Plan, and the Chief Resilience Officer (CRO) position. These initiatives can also help identify other state and federal funding sources to support its needs such as the federal Farm Bill for conservation efforts, etc.

The LWI created a multi-agency Watershed Council, which has empowered local governance of watershed regions and has been rolling out projects in accordance with CDBG funding from the 2016 floods. It has been in the process of developing regional models that could then be used to create a water plan for flood risk outside the coastal area. The Council could be paired with a dedicated implementation agency, complete with executive director, contracting authority, and project

management expertise to deliver projects throughout central and northern Louisiana. Importantly, the Louisiana Watershed Initiative's approach has rightly recognized the risks posed by pluvial and alluvial flooding. Similarly, the State Hazard Mitigation Plan has evolved to contain an overview of multiple hazards, including inland flooding and land loss, but also other environmental threats like tornadoes, winter storms, extreme heat, and drought.

Another approach is one that utilizes the position of the Chief Resilience Officer. This was created legislatively in 2023 to provide connections, alignment, and a single set of priorities across state government as it pertains to the reduction of current and future environmental risk. Working through the CRO, GOHSEP, and LWI, the state could align more of its natural resources planning efforts without needing to establish an entirely new entity to manage the implementation branch. However, certain key issues would still need to be addressed collaboratively, in which case the CRO, or the Secretary could be empowered to implement such a cross-agency program. Crucially, the CRO also has a mandate to coordinate and empower local governments statewide to participate in resilience-building. With building blocks already in place, DENR should set out to establish new means to manage risk and build resilience outside of the coastal area while leaving CPRA intact and independent.

Human Resources and Contracting

One of the explicitly stated goals of the DRIVE initiative has been to "streamline" staffing involved with natural resources management with a specific future projected cut of 10%, mentioned in Sec. Gray's April 15 letter to the NRSC members, due to financial constraints of the state in the near future. However, this goal is in direct contradiction to the presentations made by DENR staff during the Steering Committee meeting where existing staffing gaps and additional agency needs were identified. CPRA is already operating at capacity with its 186 employees managing annual expenditures that have been around or above $1.5 billion for the past several fiscal years. Our concern about the stated objective of reducing staff is even greater when paired with the other suggestions that CPRA employees would assist DENR with their federal grants, help to implement projects outside of the coastal area and not in the Coastal Master Plan, or even to help manage contracts not related to coastal protection and restoration. While we appreciate DENR's effort to increase its efficiency at carrying out its own mission, this cannot be done at the expense of the highly effective and crucially important staff and mission of the CPRA.

We recommend DENR should either utilize its own staff to temporarily study CPRA's systems and successes or hire outside contractors to conduct a short-term study in order to borrow and adopt CPRA's best practices.

Additionally, the June 18 CPRA presentation included an agenda item on contracting and procurement by CPRA's chief financial officer, further emphasizing how extending the capabilities of an already overloaded entity can lead to costly delays for essential coastal projects. CPRA already struggles to fit into a standardized state procurement process with over 400 types of contracts available. Therefore, it would be reasonable to assume that it cannot take on additional responsibilities for another agency without increasing its staffing capacity or hiring a third-party contractor.

We recommend DENR create its own contractor list tailored to the agency's extensive geological and energy needs. CPRA's existing list should serve only as a temporary measure for specific and urgent contracts until DENR's list is established.

Coastal Funding

A background issue for the NRSC that deserves more attention is the looming reduction in available revenues to fund the state's coastal program. Our coalition has been keenly engaged and funded several supportive initiatives, such as economic forecasting for GOMESA, while the funding stream was still highly uncertain from year to year and has helped to develop projections that are the foundation for advocacy around GOMESA reforms. We commissioned several reports by subject matter experts to review the viability of long-term funding sources such as outcome-based performance contracts, property and income tax dedications and incentives, and the ability to leverage newly available federal funds such as that provided to green banks to support coastal infrastructure projects.

Additionally, we have traveled with state delegations to Washington, D.C. to educate Congress about the need to expand and modernize revenue sharing, which is now constitutionally directed into the state's Coastal Trust Fund for explicit uses in the coastal zone. While we are supportive of exploring the benefits of bonding out these future GOMESA dollars, we recognize this is not bringing in new dollars to the state, but instead, advancing dollars with a potentially steep cost to do so.

Finally, we applaud and have been supporters of the state's other work to explore coastal carbon crediting and to pave the way for revenue sharing from offshore wind and other alternative forms of energy in the Gulf of Mexico; however, it is important to recognize the limitations of the current approaches. Together, one-time funds from the state and Deepwater Horizon oil spill settlement dollars made up 90% of CPRA's FY24 Annual Plan revenues and account for 69% of the revenues in the FY25 Annual Plan. Even if GOMESA is expanded, wind leasing takes off, and carbon crediting develops into a strong program, a considerable funding gap will still exist. As it currently stands, the coastal program will have an incredibly difficult time providing even the non-federal cost share for the nine protection projects currently being studied by the United States Army Corps of Engineers.

We recommend CPRA take on a financial master planning process to parallel the science-based project and program centered Coastal Master Plan to identify existing and potentially new long-term sustainable funding for the next 10 or more years, while also identifying the funding gap that will be realized in the next few years, especially and including if surplus dollars are no longer made available to support coastal projects ahead of the DWH funds being exhausted in the next decade.

Streamlining Boards and Commissions

As stated in the original presentations pursuant to Executive Order JML 24-13, Presentations, Louisiana currently has dozens of natural resources related boards and commissions. The June Steering Committee meeting included an agenda item to reduce boards and commissions, but only targeted the "CPRA Advisory Board."

The Governor's Advisory Commission on Coastal Protection, Restoration and Conservation is established by statute in R.S. 49:214.4.1, "in order to provide a venue for input from the broad range of persons and groups who must participate in and assist the efforts to protect, preserve, restore, and enhance the coast of Louisiana." It serves to advise the governor on the status of Louisiana's coastal protection and restoration program and to foster cooperation between federal, state and local agencies, conservation organizations and the private sector relative to coastal protection and restoration activities.

With its broad membership, the commission takes a comprehensive approach to Louisiana's coastal issues and provides support, analysis, and commentary on the development of the coastal master plan. It also establishes two-way engagement for the leadership of the state's coastal program to reach disparate stakeholder groups across the coast and receive their feedback. This explicit goal of providing means for stakeholder input makes it distinct from the CPRA Board which is primarily made up of state agency representatives and regional representatives.

The Commissioners often represent some of the strongest and staunchest allies of the state's coastal program, and its membership has always included two seats for energy production and distribution, alongside many other critical stakeholder groups. It has seats for business and industry leaders, conservation groups, landowners, recreational fishing and commercial fishing interests, not-for-profit organizations, agriculture, levee boards, governing bodies of political subdivisions of the state, ports, the oyster industry, Legislative committees, navigation, academics, and even at-large seats. By design it captures the full breadth of coastal user groups, issues, and geographies and cannot be reduced to a single issue or single constituency and often represents diversity not seen at other leadership levels. Not only does this provide a breadth of insight to the governor and state coastal leaders, but it also serves the coastal program well when representing the importance of the coastal issue to the Legislature, federal agencies, or Congress.

Members of the Commission are not paid per diem for their time, so there is no cost to the state in that respect. Members of this group do not necessarily participate in monthly CPRA meetings like other coastal professionals. At times, information needs to be shared again, knowing it will be shared again within the coastal stakeholder groups and communities they present. This is akin to the Oyster, Shrimp, and Crab Task Forces having their own roles yet feeding into the larger role of the Wildlife and Fisheries Commission serving the Louisiana Department of Natural Resouces. Finally, there is seemingly an already established board to support the needs of the Department of Energy and Natural Resouces called Advisory Commission for Louisiana's Energy, Environment and Restoration Members, with the stated mission of:

> *"support programs designed to demonstrate to the general public the importance of the Louisiana oil and natural gas exploration, production, and service industry; encourage the wise and efficient use of energy; promote environmentally sound production methods and technologies; develop existing supplies of Louisiana's oil and natural gas resources; support research and educational activities concerning the oil and gas exploration and*

production industry; cause remediation of historical oilfield environmental problems; and to have such other authority as provided by law."

We recommend the Natural Resources Steering Committee recognize the Governor Advisory Commission's value and continue to utilize the group for both general and in-depth conversations about the evolving issues facing coastal communities and landscapes, use GOCA staff to increase engagement with this vital human resource, and utilize existing commissions for its mission-specific purpose.

Conclusion

We commend and support the modernization of DENR's organizational structure and mission to meet Louisiana's current and future energy needs, one of the state's most pressing challenges. But that challenge is, at best, co-equal to the challenge of protecting and restoring its working coast. Tied together by common stakeholders, the shared need to balance economic and environmental imperatives and the interdependence of energy production and funding streams for operations and project implementation, *DENR and CPRA are natural allies and partners. But they can be partners while still maintaining their independence and focus.*

The protection and restoration of our working coast and Sportsman's Paradise is one of the most pressing and important challenges facing the state of Louisiana. Our success or failure will determine the trajectory of the ecosystems and landscape that make so much of our economy and culture possible and preserve our communities. The creation of CPRA by the state of Louisiana in the aftermath of hurricanes Katrina and Rita has helped us all tackle a problem of immense importance and magnitude in a principled, scientific, and highly effective manner. The coastal program has been supported and encouraged from administration to administration, from Legislature to Legislature, and by the public. DENR is wise to do what it can to translate the efficiency, dedication to mission, and results that CPRA has achieved to its own mission, but it should do so without sacrificing the integrity, independence, or focus of the state's coastal program. Risking CPRA's proven track record in efforts to improve another agency appears counterproductive.

Sincerely,

Simone Maloz
Campaign Director
Restore the Mississippi River Delta

Kristi Trail
Executive Director
Pontchartrain Conservancy

Lauren Bourg
Director, Mississippi River Delta Program
National Audubon Society

Amanda Moore
Senior Director, Gulf Program
National Wildlife Federation

Will McDow
Senior Director, Climate Resilient Coasts & Watersheds
Environmental Defense Fund

NATIONAL WILDLIFE FEDERATION
Environmental Defense Fund
Audubon
Pontchartrain Conservancy

TULANE INSTITUTE
ON WATER RESOURCES LAW & POLICY

July 3, 2024

To the Members of the Natural Resources Steering Commission:

The Tulane Institute on Water Resources Law & Policy writes to submit public comments in response to the Natural Resources Steering Commission's first public hearing. As the state welcomes new industry, it will be crucial that Louisiana's Department of Energy & Natural Resources strikes the right balance of resource management, public needs, and environmental protection. This is especially true when considering the tremendous challenges facing Louisianans today—sea level rise, increased intensity and frequency of storms, persistent drought conditions in the Mississippi River basin, economic challenges facing local governments and communities—and the urgency with which they must be addressed. While there are many important aspects to address in this reorganization process, these comments will focus on water management and the energy/water nexus in the current landscape.

I. LDENR Should Exercise its Authority to Improve Monitoring and Oversight of Water Use

Louisiana has been defined by an abundance of water, but that assumption is changing, and water availability is not guaranteed. Over the past couple years, Mississippi River levels have not been consistently high enough to support shipping nor keep the Gulf of Mexico from intruding upriver. The growing problems require us to assess current conditions and ask some basic questions: Who uses Louisiana waters? What is that water used for? Is it pumped from a well or withdrawn from a stream? Is it a consumptive use? At present, LDENR cannot meaningfully answer these questions. The State has done little to exercise its authority to monitor or regulate consumptive water uses, but now is a crucial time to prioritize the proper legal frameworks and policies that will help the state better manage and leverage such a valuable resource.

Act 727 of the 2024 Regular Legislative Session laid out the framework for LDENR's new structure, providing that it is responsible for "administration of groundwater, surface water, and other water resources for quantity purposes." As the reorganization process continues, LDENR needs to clarify what is meant by "other water resources" and how that will impact the structure of the Office of Land and Water. In addition, while this authority is only over "quantity," water quality must also be considered. The quality of waters employed flood control or coastal projects can limit the use and effectiveness of those projects and expose public entities to liability under related federal or state law, as evidenced by legal challenges relating to the aftermath of the 2019 openings of the Bonnet Carré Spillway.[1] Given the persistent nutrient pollution issues and their

[1] Complaint, Harrison Co. v. U.S. Army Corps of Engineers, (S.D. Miss. 2024), *available at* https://bloximages.newyork1.vip.townnews.com/nola.com/content/tncms/assets/v3/editorial/1/4c/14c10a1e-b97b-11ee-a71e-fb68aab9e061/65aef5c87be98.pdf.pdf.

impact on water management, LDENR cannot overlook its role in the state's nutrient management strategy and should look for opportunities within existing regulatory schemes to address impacts from water quality.

Growing industrial water demand will pose challenges to not only communities, but also the State's larger watershed management efforts. Massive industrial operations are competing with and compromising the local water supplies. The over pumping of groundwater for industrial uses can lead to—and has led to—saltwater intrusion into aquifers, and incoming industrial operations threaten to compromise local water supplies. Manufacturing demands are changing while newer water dependent industries are experiencing an era of rapid growth. LDENR's offices must coordinate to ensure water intensity of hydrogen production, carbon capture and underground storage (CCUS), mining, fracking, and other new and emerging sectors will be planned for both in larger governance efforts and in individual permitting programs. It will be critical for the state to implement monitoring and regulations to coordinate groundwater management, especially with the increase in Class VI well proposals. The NRSC has posed extensive questions on projected energy and related resource demands, yet the same has not been done for water, even though it is just as necessary a resource for energy and industrial use, but also at the municipal and household level. It is a crucial element for all aspects of industrial and domestic needs. This is also important for addressing saltwater intrusion into aquifers and addressing subsidence and its related impacts. It also matters for drinking water planning and coastal management, all which require consistent, sufficient flows in the rivers, streams, and aquifers of the state.

The high-level decisions made during this process will shape future uses of Louisiana water for decades to come. As such, during this proposed reorganization, particularly the creation of the Office of Land and Water, LDENR must use this authority to implement a management regime that accounts for existing uses while addressing future weather and hydrology changes. This will require that LDENR understand surface water and groundwater use and manage them conjunctively. The best way to ensure this is done correctly will be to implement water use permitting and enforceable monitoring and reporting regulations. LDENR offices with regulatory and enforcement responsibilities must be adequately staffed and resourced to achieve the state goals of enhanced regulatory oversight and enforcement.

II. LDENR Should Establish Appropriate Governance and Regulatory Frameworks for Emerging Industries

As the state welcomes new industry, it must be more proactive than it has been in the past with monitoring and oversight of the energy sector. Louisiana statutes and recent legislation lack clarity/certainty as to what activities or industries qualify as energy. During this reorganization process, LDENR should review existing regulations and standards for oil and gas, and alternative energy in existing state law. With new energy industries and technologies coming under LDENR's authority, there should be meaningful consideration of the unique needs and concerns of renewable and alternative energy related sectors, such as CCUS and green hydrogen. Because

of the unique nature and risks associated with this industry, they should not be treated these the same as oil, gas, and minerals production.

In the questions posed to the NRSC, there is a vague discussion of enforcement responsibilities for federal and state programs that deal with natural resources. Read broadly, this could encompass regulatory programs housed within several state agencies, as well as federal law and standards that provide the backdrop for many environmental related programs. There must be assurance that LDENR does overstep its authority or create inconsistencies with delegated regulatory programs. This could create issues with the overlap/mismanagement with the Louisiana Department of Environmental Quality and Louisiana Department of Health. Act 727 now gives the LDENR secretary authority over conservation, development, and management of timber and fish. Previously, state law excepted timber and fish from LDENR's mission and purpose, but the broad authorities now granted by Act 727 could create operational inconsistencies with the Department of Agriculture & Forestry and the Department of Wildlife & Fisheries.

Louisiana Act 727 gives the Office of Land and Water authority over energy-related rights of way and energy-related leasing of state waterbottoms. What does energy-related mean? This distinction is important. CCUS has vastly different concerns and needs than traditional energy facilities and energy production. The lack of detail is concerning, particularly given how current CCUS and wind operating agreements have proceeded without a clear regulatory or governance framework, also leading to overlap in the areas awarded to developers.[2]

The functions of the Office of Land and Water will undoubtedly overlap with the new Office of Energy, thus LDENR should prioritize creating a framework for offshore wind in state waters to ensure the approved operating agreements proceed in a responsible manner that gives due consideration to energy needs, environmental considerations, and land and water management. First, LDENR should finalize the proposed regulations "Leasing State Lands and Water Bottoms for the Exploration, Development and Production of Wind Energy" to amend Louisiana Administrative Code 43:V. Chapter 7.[3] After accepting public comments through June 12, 2023, these rules are still pending, and the state's current operating agreement process for initiating wind projects lacks transparency, effective governance, and environmental safeguards. LDENR must incorporate an enforceable review process, either via state leasing rules or other authorities, to help the state manage multiple uses of state waterbottoms and addressing safety concerns with

[2] Tristan Baurick, *Wind Farms and Carbon Capture Want the Same Turf Off Louisiana's Coast. Who Gets It?* Times-Picayune (Jan. 4, 2024), https://www.nola.com/news/environment/offshore-wind-carbon-projects-clash-on-louisiana-coast/article_a53ad65a-aa81-11ee-81b7-8738b521105d.html.
[3] La. Dep't of Energy & Natural Resources, Office of Mineral Resources Rulemaking and Fee Changes, https://www.dnr.louisiana.gov/index.cfm/page/1248.

oil/gas, CCUS, fisheries, and other habitat management.[4] Not only will these measures reduce potential for litigation and project delays, thereby providing regulatory certainty for developers, it creates a needed open framework for public engagement and involvement. Further, LDENR should incorporate the forthcoming Offshore Wind Roadmap[5] in a manner akin to the Coastal Master Plan to guide LDENR's office in ensuring responsible siting and project planning. These measures will undoubtedly be more successful with support from wider range of constituencies while helping to solidify Louisiana as a leader in the wind energy space.

III. LDENR's Work Should Enhance Louisiana's Coastal Efforts and Allow CPRA to Maintain Independence

Out of the roughly 200 public comments filed as an initial response to JML 24-13, all but a handful supported CPRA remaining an agency independent of LDENR. This Commission should take into account this public input and keep the Coastal Master Plan and related project implementation process separate, as the current system promotes efficiency in its science and data-based approach to coastal management. LDENR should also consider how changes in the reach of federal law will impact the wetlands conservation landscape in Louisiana and how existing authorities, like the State and Local Coastal Resources Management Act, can help the state maintain wetlands protections. Without oversight of development in floodplain wetlands, there could be severe consequences for local drainage capacity and community flood risk. Even more, the state of Louisiana, pursuant to the Coastal Wetlands Planning, Protection, and Restoration Act, must implement certain wetlands management and protections policies that achieve "no net loss" in order to qualify for the discounted cost-share laid out in the statute.[6] This conservation plan requires coordination within LDENR.[7] If Louisiana fails to meet these goals, the state could face even more fiscal challenges in implementing future coastal projects.

Further, LDENR must consider the future impacts to the state's wetlands following the Supreme Court's decision in Sackett v. Environmental Protection Agency. The loss of Army Corps jurisdiction under Section 404 should be a primary concern for, especially in terms of flood risk. The loss of mitigation requirements for development in wetlands will cause challenges for

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[4] Haley Gentry, Offshore Wind in Louisiana Waters: Legal Framework for Environmental Review. A report by the Tulane Institute on Water Resources Law & Policy and the National Wildlife Federation. May 20, 2024.
[5] La. Dep't of Energy & Natural Resources, Request for Information, https://www.dnr.louisiana.gov/assets/purchasing/RFIComprehensiveWindRoadmap.pdf.
[6] 16 U.S.C. § 3952(f)(1); LOUISIANA COASTAL WETLANDS CONSERVATION PLAN (1997), https://www.dnr.louisiana.gov/assets/OCM/OCM/Louisiana_Coastal_Wetlands_Conservation_Plan_1997.PDF.
[7] 16 U.S.C. § 3953(c)(4) ("The conservation plan authorized by this section shall include. . . a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained").

communities across the state. LDENR has indicated interest in assuming Section 404 from the Army Corps. With everything on LDENR's plate and the budget/fiscal challenges repeatedly mentioned through the NRSC process, this effort would be an inefficient use of time or resources. There is a reason why only two states have successfully assumed authority over CWA Section 404. It is costly, technically complex, and has high barriers for compliance. Instead of the Army Corps funding all of the permitting and mitigation programs, it would fall to LDENR without any real benefit, as it would still have to comply with minimum federal standards, which is how the states CWA standards are tied. The recent attempt and then revocation of 404 authority in Florida is a cautionary example.[8]

Conclusion

The NRSC and LDENR do not have easy tasks ahead of them, but it is crucial that there is clarity moving forward and that reorganization will not compromise or overlook crucial needs of Louisiana's natural resources and its people. The Tulane Institute on Water Resources Law & Policy appreciates the opportunity to submit these comments and look forward to future participation in the restructuring of LDENR.

Sincerely,

Haley Gentry
Senior Research Fellow
Tulane Institute on Water Resources Law & Policy
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[8] Kayla Goggin, *EPA Broke Federal Law in Handing Off Wetlands Permit Approval to Florida, DC Judge Rules*, Courthouse News Service (Feb. 16, 2024), https://www.courthousenews.com/epa-broke-federal-law-in-handing-off-wetlands-permit-approval-to-florida-d-c-judge-rules/.

Appendix C: Working Group Responses to NRSC Questions

Jeff Landry
Governor

State of Louisiana

OFFICE OF THE GOVERNOR
P.O. BOX 94004
BATON ROUGE
70804-9004

To: Mr. Glenn Ledet, Implementation Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Ledet:

Thank you very much for your service and assistance in leading the Implementation working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter expert on Implementation, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. How can CPRA and DENR collaborate on planning, specifically the master plan, and on funding without diluting or diminishing the CPRA process?
2. Is it reasonable to create a master plan for areas beyond the coastal zone?
3. How can maintenance be included in the annual plans to a greater degree?
4. What options may be available for coastal funding beyond offshore energy revenue?

Questions from Public

1. Would it be feasible to pursue a financial master plan process in addition to the current process?
2. If a statewide implementation program were created, would it pose significant technical challenges to CPRA staff from a modeling standpoint?
3. Would a statewide implementation program create challenges of prioritization due to conflicts between local needs versus statewide needs?
4. Could an implementation/resilience program be built within another entity to handle implementation outside the coastal zone? Would the Chief Resilience Officer be a possible avenue for this program?

Other Outstanding Questions

Jeff Landry
Governor

State of Louisiana
OFFICE OF THE GOVERNOR
P.O. BOX 94004
BATON ROUGE
70804-9004

1. Would expanding CPRA to include statewide implementation make the coastal funding issue worse?
2. What sort of access to funding is available for implementation outside the coastal zone?
3. If this second entity were housed within a DENR office, could access to funding be improved for areas beyond the coastal zone?
4. Would it be advantageous for DENR and CPRA to engage in joint planning to handle statewide implementation, especially if DENR were to begin providing implementation outside the coastal zone?
5. Would moving the programs currently located in Public Works at DOTD create problems for non-Federal sponsor programs?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.

Sincerely,

J. Clay Parker

State of Louisiana

JEFF LANDRY
GOVERNOR

To: Mr. J. Clay Parker

From: Glenn Ledet, Jr., CPRA Executive Director, Implementation Working Group

Date: July 22, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Parker,

Thank you for your leadership in the DRIVE Initiative and the administration of the first Natural Resources Steering Commission (NRSC) meeting. Please see the responses to the questions provided to the Implementation Working Group.

As demonstrated in our testimony at the June 18, 2024 NRSC meeting, the Working Group's analysis reveals that further research and development is a needed to properly understand the necessity and the potential for making organizational changes to develop a more focused effort on Statewide implementation of flood protection and restoration. To fully analyze the various alternatives for developing a more focuses approach to the implementation of protection and restoration, it is necessary to understand the historic roles, organizational capacities, and authorities of the state agencies who are currently involved with these efforts. Agencies such as the Coastal Protection and Restoration Authority (CPRA), the Department of Transportation and Development (DOTD), the Office of Community Development (OCD), and the Department of Energy and Natural Resources (DENR) all bring longstanding statutory authorities, regulatory processes and skillsets to these efforts, and these agencies should collaborate to find effective opportunities for future success. We recommend that these agencies along with the State's Chief Resilience Officer collaborate to progress this initiative.

In response to your inquiry on July 12, 2024, please find the detailed responses to each question below and enclosed. If you require further clarification, please do not hesitate to contact us.

1. QUESTION – How can CPRA and DENR collaborate on planning, specifically the master plan, and on funding without diluting or diminishing the CPRA process?

    - RESPONSE – The CPRA, the CPRA Board, and DENR can expand collaboration on a variety of features of the master planning process including but not limited to candidate project selection and candidate project evaluation. For example, DENR may have knowledge concerning regulatory issues that could impact a potential project's implementation. Additionally, DENR can provide input on other aspects on the evaluations such as the potential conflicts amongst various resource users.

      DENR can also expand collaboration with CPRA on opportunities for mitigation funding, coastal zone management grants, and other related items to more efficiently implement the state's Coastal Program.

2. QUESTION – Is it reasonable to create a master plan for areas beyond the coastal zone?

    - RESPONSE – Yes, it can be reasonable to develop a master plan for areas beyond the coastal zone. All large-scale planning efforts should first establish a clear purpose and need. The problem(s) would be identified and then the appropriate planning effort, and level of resolution (city, parish, regional, statewide, etc.), could be determined.

      Additionally, CPRA's Comprehensive Master Plan for a Sustainable Coast is legislatively mandated to reduce risk from coastal storm surge and conserve and restore the state's coastal wetlands. Legislative mandates for other master plans for areas beyond the coastal zone could also be considered.

3. QUESTION – How can maintenance be included in the annual plans to a greater degree?

    - RESPONSE – First, CPRA and the CPRA Board are committed to maintaining its investment in constructed projects. This commitment is evident in our most recent Fiscal Year 2025 Annual Plan forecast, wherein the number of completed projects with Operation, Maintenance and Monitoring (OM&M) expenditures (page 190; see Tables 20-26) exceeds the number of projects with implementation expenditures by roughly 40%.

      Second, as the number of completed coastal projects has increased, CPRA's OM&M investment has also increased, as evidenced in the OM&M forecasts from our five most recent Annual Plans:
        - FY21- $44.9M OM&M forecast
        - FY22- $60.7M OM&M forecast
        - FY23- $64.4M OM&M forecast
        - FY24- $83.8M OM&M forecast
        - FY25- $139M OM&M forecast

      Finally, the following should be noted for the coastal restoration and flood protection missions of CPRA:

        - Restoration – Dedicated funding for OM&M of restoration projects is allocated at the project level for all completed restoration projects. As demonstrated above, these funding sources are already included in all CPRA Annual Plans (e.g., CWPPRA, NRDA, NFWF, RESTORE).
        - Flood Protection – Dedicated funding for OM&M of flood protection projects is typically allocated at the local level and not the state level. The construction efforts for flood protection projects are most often funded for implementation with State and Federal funding (i.e. Federal funding, Louisiana Capital Outlay (e.g., GO Bonds, State Surplus, and/or GOMESA). Upon completion, these projects are typically transferred to the local parishes and coastal levee districts for long-term OM&M. While the implementation of flood protection projects

does not contain dedicated State OM&M funding, all coastal parishes currently receive an annual disbursement of Parish GOMESA funding and are slated to do so through FY 2058. This a long-term annual funding source that is available for the OM&M of completed flood protection systems. Additionally, local levee districts receive funding through tax revenue (e.g., local tax revenue, etc.) for the OM&M of completed flood protection systems.

CPRA also works with FEMA and USACE to procure federal dollars to repair completed projects that were damaged in declared natural disaster events. As an example, in FY25, CPRA anticipates utilizing $56.7M in FEMA funding for the repair of seven completed projects that incurred damage during recent tropical cyclone events.

4. QUESTION – What options may be available for coastal funding beyond offshore energy revenue?

   - RESPONSE – CPRA, The State of Louisiana, State Universities and several Non-Governmental Organizations (NGO's) have been actively engaged in analyzing and pursuing new funding measures for coastal restoration and protection work for the last few years. In recent years, CPRA and several of these entities have developed briefs, papers and presentations on this topic. These documents have been included as an enclosure.

     Beyond additional offshore energy revenue (i.e. GOMESA expansion, SHORES, and Offshore wind), there are several potential coastal revenue sources that require additional research and development. As an example, CPRA and The Water Institute of the Gulf have been working with the state and industry partners to advance Blue Carbon research with the ultimate intent of identifying additional funding for coastal protection and restoration funding from non-governmental sources. Other key examples of alternative sources of revenue for the coastal program are as follows:
     - Voluntary Carbon Market and other environmental credits
     - Oil and Gas Legacy Lawsuit Settlements
     - Bonding of GOMESA Revenue – note this will not generate additional revenue but will allow quicker access to the money for urgent capital expenditures
     - Alternative Delivery and Financing
       - Public Private Partnerships (P3)
       - Outcome Based Performance Contracting
       - Environmental Impact Bonds (EIB)

     Through its collaboration with DENR and The Water Institute of the Gulf as well as state and industry partners, CPRA will continue to develop the critical funding revenue needed for the State of Louisiana's coastal protection and restoration program.

Questions from the Public

1. QUESTION – Would it be feasible to pursue a financial master plan process in addition to the current process?

    - RESPONSE – The Working Group respectively requests additional clarification and context on this question to provide an appropriate response. It should be noted that CPRA's *Master Plan for a Sustainable Coast* includes a financial vision for the 50-year coastal program and the *Annual Plan* functions as the financial snapshot and approval of near-term (i.e. detailed fiscal year spending plan with three-year outlook) master plan progress.

2. QUESTION – If a statewide implementation program were created, would it pose a significant technical challenges to CPRA Staff from a modeling standpoint?

    - RESPONSE – Additional analysis and research would be needed to properly understand context of a statewide implementation program and its impacts to the CPRA staff from a hydrodynamic modeling standpoint. The hydrodynamic models that CPRA uses for the Coastal Master plan are specifically adjusted and calibrated for the state's coastal area. These models specifically address changes to the coastal landscape, surge dynamics, sediment transport, etc.

      If a statewide hydrologic and hydraulic focus was required, then an expanded suite of models would need to be developed. Those modeling suites would need to be tailored for suitability and further refined and calibrated/validated. It should also be noted that the Louisiana Watershed Initiative, working through DOTD and OCD, are already developing statewide modeling efforts. These models are developed with a focus at the regional watershed scale. Please see *https://watershed.la.gov/modeling-program* for more information.

3. QUESTION – Would a statewide implementation program create challenges due to conflicts between local needs versus statewide needs?

    - RESPONSE – Creating a statewide program does not inevitably create conflicts with local needs and efforts. As an example, CPRA continues to focus its mission and efforts on projects with a larger-scale that have a regional and statewide impact. CPRA coordinates with local entities, parishes and levee districts for other smaller local needs. Local entities benefit from this partnership with CPRA implementing large-scale efforts giving the local entities the ability to focus their revenue on much needed local projects.

4. QUESTION – Could an implementation / resilience program be built within another entity to handle implementation outside the coastal zone? Would the Chief Resilience Officer be a possible avenue for this program?

- RESPONSE – There is potential for a program be built within another entity to handle implementation outside the coastal zone, but this largely depends on what non-coastal areas need regarding regional implementation of restoration, resilience, and flood protection. For many of these missions, there are currently designated State entities with statutory authority for these items. Additionally, the Chief Resilience Officer could provide the resources to these entities, and the local political subdivisions, to adequately navigate how to plan and implement (directing to appropriate state-level entities).

  Agencies such as the Coastal Protection and Restoration Authority (CPRA), the Department of Transportation and Development (DOTD), the Office of Community Development (OCD), and the Department of Energy and Natural Resources (DENR) all bring longstanding statutory authorities, regulatory processes and skillsets to these efforts, and these agencies should collaborate to find effective opportunities for future success. We recommend that these agencies along with the State's Chief Resilience Officer collaborate to progress this initiative.

<u>Other Outstanding Questions</u>

1. QUESTION – Would expanding CPRA to include statewide implementation make the coastal funding issue worse?

   - RESPONSE – CPRA's mission is strictly mandated to provide comprehensive restoration, hurricane flood risk reduction, and hurricane protection to the Louisiana Coastal Zone. This mission has proven to be a valuable focused investment for the State of Louisiana. However, this creates limitations to being able to provide comprehensive restoration and flood risk reduction for the rest of the state. Additionally, CPRA continues to receives implementation requests for similar efforts that are outside of the scope our current statutory mission. The creation of an implementation group beyond the coastal zone would allow CPRA to continue to focus on its statutory mission and funding within the Louisiana Coastal Zone.

     The recommendations in the June 18, 2024 testimony recommended further evaluation of an implementation restoration and flood protection for areas beyond the Louisiana Coastal Zone. The initial recommendations envisioned a separate agency, department, or office (either new or existing) that would have the authority and funding for implementation restoration and flood protection areas beyond the Louisiana Coastal Zone. The expansion of CPRA to include statewide responsibilities would need further evaluation to understand how those organizational changes would impact the coastal program and funding.

     It should be noted that any expansion of CPRA's responsibilities and priorities would need to come with an expansion of funding revenue to continue to maintain the progress of the coastal program.

2. QUESTION – What sort of access to funding is available for implementation outside the coastal zone?

    - RESPONSE – Access to funding could be improved by providing an increase to the priority and focus to the statewide restoration and flood protection problems, planned solutions, and project needs outside of the coastal zone. This funding could be a combination of state, federal and grant opportunities.

      In addition to current State funding, such as statewide Flood Control, there are numerous federal and not-for-profit grant opportunities, such as FEMA BRIC, FEMA FMA, etc., that can provide funding for flood risk reduction measures and other efforts beyond of the coastal zone. Please see the enclosed list of grant opportunities. If needed, more information on these grant opportunities can be provided.

3. QUESTION – If this second entity were housed in the DENR office, could access to funding be improved for areas beyond the coastal zone?

    - RESPONSE – Typically access to funding is directly related to the priority, level of focus and the resources available to pursue that funding. Funding could likely be improved with a new or expanded entity that has a focused mission on flood protection and restoration beyond the coastal zone. This would allow for a focused approach to planning regional solutions and finding funding for the implementation of these projects. For example, there are many federal grants and funding programs that offer competitive awards or low- to zero-interest loans for specific purposes. These grants and funding approaches often require technical and administrative burden with support from technical staff, project management, human resources, and other back office support.

      A more collaborative approach amongst existing entities could also allow for sharing funding opportunities amongst implementing authorities. An example of this approach could be expanding the use of Louisiana Department of Agriculture and Forestry (LDAF) experiences with USDA funding opportunities and products.

4. QUESTION – Would it be advantageous for DENR and CPRA to engage in joint planning to handle statewide implementation, especially if DENR were to begin providing implementation outside the coastal zone?

    - RESPONSE – Collaboration is always advantageous, especially concerning the management of sediment and water. Projects that modify the hydrology upstream may modify the hydrology downstream and vice versa. The State will likely continue to experience the combined effects of riverine flooding interacting with elevated coastal waters (i.e. surge or sea level rise). These dynamic conditions necessitate a holistic approach to planning, management and implementation of protection and restoration efforts where feasible.

Therefore, as demonstrated in the June 18, 2024 NRSC meeting, the State could receive additional benefits by creating a focused mission of implementation of flood protection and restoration beyond the coastal zone. Statewide flood protection and restoration is a critical challenge that our state faces, particularly as we encounter threats from an increased frequency of significant rainfall and tropical storm events. However, this effort should be evaluated carefully and thoughtfully.

It is our recommendation that the Working Group be expanded to fully evaluate this problem and potential organizational solutions. We would recommend that we expand the Working Group to include the OCD, DOTD-Public Works, DENR, and CPRA. OCD, CPRA, DOTD, and DENR all bring longstanding statutory authorities, regulatory processes and skillsets to these efforts. We recommend that these agencies along with the State's Chief Resilience Officer collaborate to progress this initiative.

5. QUESTION – Would moving the programs currently located at Public Works at DOTD create programs for non-Federal Sponsor Programs?

- RESPONSE - This topic needs to be carefully considered before any organizational changes are determined. On a Federal USACE project, the non-Federal sponsor must have the legal and financial capability to fulfill the requirements of cost sharing and local cooperation. The sponsor generally must agree to the following:
    - Provide all lands, easements, right-of –ways, relocations, and disposal (LERRDs) necessary for construction, and operation and maintenance of the project.
    - Provide cash or work-in-kind credit contributions to meet the cost-share obligations.
    - Once the project is complete, it must be maintained and operated without cost to the federal government.

  At this time, Public Works at DOTD is the traditional non-Federal Sponsor for flood risk reduction projects beyond the coastal zone (i.e. *Flood Control, Amite River and Tributaries, Louisiana, Comite River Basin, Comite River Diversion*).

  The working group's analysis during the DRIVE Initiative reveals that further research is a needed to properly understand the need for organizational changes for Statewide Implementation of Protection and Restoration. To fully analyze the various alternatives for implementation of protection and restoration, it is necessary to understand the historic roles, organizational capacities and authorities of the state agencies who are currently involved with these efforts. CPRA, DOTD, OCD, and DENR all bring longstanding statutory authorities, regulatory processes and skillsets to these efforts.

  It is our recommendation that the Working Group be expanded to fully evaluate this problem and potential organizational solutions. We would recommend that we expand the Working Group to include the OCD, DOTD-Public Works, DENR, and CPRA. We

recommend that these agencies along with the State's Chief Resilience Officer collaborate to progress this initiative.

The Implementation Working Group suggests and welcomes additional dialogue to find effective opportunities to solve these complex and critical challenges for the State. If you have any questions or comments, or concerns, please do not hesitate to reach out to our working group.

Sincerely,

Glenn Ledet, Jr.

CPRA Executive Director

Enclosures:
1. J. Clay Parker Letter, July 12, 2024
2. Presentations and Briefs on Funding
3. Grant Opportunities

CC: Courtney Burdette, GOCA

Maury Chatellier, CPRA

Jeff Landry
Governor

State of Louisiana

OFFICE OF THE GOVERNOR
P.O. BOX 94004
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70804-9004

To: Mr. Dustin Davidson, Secretary Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Davidson:

Thank you very much for your service and assistance in leading the Office of The Secretary working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter expert on the Office of the Secretary, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. How can DENR implement a more robust strategic planning process, and is the CPRA model of master plan/annual plan a good model for DENR?
2. How can DENR ensure that a revised legal division would have necessary administrative law expertise? Does it make sense to have administrative law specialists in the legal office?
3. Is there a need to increase Federal affairs presence in Washington DC, especially given the need to offshore energy revenue?
4. Can DENR incorporate proactive stakeholder communication into the office of the secretary? If so, how can this be achieved?

Questions from Public

1. Can DENR include financing for industry projects in its strategic planning process?
2. Are there opportunities to provide funding for projects, such as in Georgia through the Georgia Environmental Finance Authority?

Other Outstanding Questions

1. Would expanding the legal division into its own office be beneficial? If so, are there any state or federal offices which would make a good model?

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2. Are there opportunities to bring adjudication, such as damage assessment and Act 312 cases, in-house to DENR?
3. Would there be a benefit to allowing the legal division to issue opinions on natural resources-related issues?
4. Would information technology be more appropriately housed in the undersecretary's office, as a function of management and administration?
5. Would there be benefits to moving the executive office of DENR away from the traditional agency model and towards a governing commission model?
6. Would there be drawbacks to the option discussed in Question 5?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.

Sincerely,

J. Clay Parker

Questions from Commission Members

1. How can DENR implement a more robust strategic planning process, and is the CPRA model of a master plan/annual plan a good model for DENR?

   The Department of Energy and Natural Resources can implement a more robust plan by following the model created by the Coastal Protection and Restoration Authority (CPRA), as alluded to in your question. Each year, CPRA provides the legislature with an annual plan that outlines the goals of the agency and the projects that will help accomplish those goals. Additionally, this annual plan process allows CPRA to take more control of the authority provided in statute by granting CPRA the opportunity to implement the said plan as they see fit, pending the legislature's approval of the annual plan. This process is similar to establishing "rules of engagement" identical to those established by the military. By approving an annual plan, CPRA has full authority to expend resources in the Coastal Protection and Restoration Trust Fund to implement approved projects through various funding mechanisms and activities. This authority includes maximizing the use of non-federal funds and in-kind donations to provide for costs associated with federal cost-share requirements; developing guidelines for cost-sharing agreements with public and private entities; and entering into agreements with parishes and local governments for the construction, operation, maintenance, repair, rehabilitation or replacement of any coastal protection, conservation, and restoration, hurricane protection, infrastructure, storm damage reduction, integrated coastal protection, or flood control project. At a broader scale, the master plan functions as a long-term guide to restoration and risk reduction investments throughout the state, undertaken in parallel with related efforts to promote sustainable commercial and recreational activities across the coast.

2. How can DENR ensure that a revised legal division would have the necessary administrative law expertise? Does it make sense to have administrative law specialists in the legal office?

   Ensuring the Louisiana Department of Energy and Natural Resources (LDENR) has administrative law expertise within its revised legal division is critical for effective regulatory compliance, policy implementation, and legal defense. To achieve this, DENR must target recruitment efforts toward candidates with solid backgrounds in administrative law, particularly those with experience in energy and natural resources. Increasing the level of expertise within DENR can be achieved by clearly outlining the need for administrative law expertise in job descriptions and qualification requirements. Furthermore, continuous training and development is critical to this effort. DENR must continue to offer ongoing training programs in administrative law and relevant regulator updates to existing and future legal staff. Internal specialization is also critical to ensuring this effort is successful. DENR can benefit from creating a dedicated team within the legal division that focuses solely on administrative law issues while promoting cross-training among staff to ensure a broad understanding and capacity in administrative law. It is also critical to ensure that DENR allocates resources to ensure the success of legal staff. A successful legal division will need access to comprehensive legal databases, libraries, and other resources related to administrative law and legal research tools and software that assist in research and case management. The benefits of having administrative law specialists within the Legal Division are clear. Through specialization, DENR can ensure that the Department adheres to complex regulatory requirements, thus ensuring that staff can identify potential legal issues and minimize

potential liabilities. Lastly, having expertise in administrative law will increase the Department's credibility about policy implementation and compliance.

3. Is there a need to increase Federal affairs presence in Washington DC, especially given the need to offshore energy revenue?

   There is a significant need for Louisiana to have a Federal affairs presence in Washington, D.C. The need to increase federal offshore revenues is critical to ensuring the survivability of our coastline and economy. However, there are many other reasons why a Federal affairs presence in Washington, D.C., is necessary for the state. A presence in D.C. provides the state with a presence in the nation's capital to advocate for its interests directly with federal agencies, Congress, and the Administration. Representation in Washington, D.C., is crucial for influencing federal policy, legislation, and regulations that impact the state. The Federal Affairs Office can help secure federal funding and grants for state projects and programs. By staying informed about available opportunities and ensuring the state's needs are communicated effectively, the office can help maximize the state's share of federal resources. Being in D.C. allows the office to gather timely and relevant information on federal policy developments, upcoming legislation, and regulatory changes. This enables the state to respond quickly and adapt to new federal initiatives or challenges.

   A federal affairs manager in D.C. benefits the state by establishing and maintaining relationships with key federal officials, other states' representatives, and influential policymakers. This is easier with a dedicated presence in D.C. These relationships can be pivotal in advancing the state's priorities and resolving issues. In addition, there will be more opportunities for collaboration between the state and federal government, ensuring that state programs align with federal initiatives and that there is effective communication and coordination on joint efforts. Lastly, having a federal affairs office in D.C. can be vital for quickly mobilizing federal support and resources for disaster response, recovery efforts, and other urgent needs in emergencies or crises. It is also worth noting that Louisiana is perfectly positioned for success. Our federal delegation is comprised of the House of Representatives Majority Leader, Speaker of the House, the lead Republican on the Senate Appropriations Subcommittee on Energy and Water Development, as well as members on the House Armed Services Committee, House Appropriations Subcommittee on Energy and Water Development, two members on the House Transportation and Infrastructure Committee, as well as many other important committees.

4. Can DENR incorporate proactive stakeholder communication into the office of the Secretary? If so, how can this be achieved?

   DENR can incorporate proactive stakeholder communication by expanding the office of the Secretary to include a communications division that provides for at least three total staff. Through this expansion, DENR can incorporate social media into its communication strategy to better communicate with the public on energy production and development issues. Furthermore, DENR can also explore opportunities to provide visual media in the form of videos and updates from the Secretary that can serve as regular updates to the public. An example of a state agency capitalizing on this opportunity is the Oklahoma Department of Wildlife Conservation. Their communications department has revolutionized their approach to engaging with the public through witty and informative posts on Instagram and X to spur engagement on

serious issues affecting wildlife conservation. Lastly, a comprehensive communications office will allow DENR to expand its capacity to host public forums and educational series throughout the state through partnerships with outside entities to facilitate conversations regarding managing the state's natural resources and efforts to balance energy production and generation with environmental stewardship.

Questions from Public

1. Can DENR include financing for industry projects in its strategic planning process?

   Financing for industry projects in a DENR strategic plan can be included in many ways. The most immediate way DENR can include financing mechanisms is through the Natural Resources Trust Authority (NRTA). The NRTA is a financial mechanism by which DENR can provide a financial security mechanism for oil and gas operators in the state to ensure adequate funds are available for plugging and abandoning activities when a well reaches its end of life. The current system provides opportunities to provide financial security through blanket coverage or through miles of pipe used to develop the resources. When developed, this process is seen as an adequate means to ensure that environmental and financial liability is covered; however, that assumption has proven false over time.

   Today, inflation has increased the amount to plug and abandon a well beyond the financial security required to perform these duties. Furthermore, the mechanisms to provide financial security do not need cash. The letter of credit process relies on the solvency and reliability of the issuing bank, which means if the issuing bank faces financial difficulties, then the letter of credit may not be enforceable. In addition, a letter of credit can also involve many different jurisdictions, each with its legal framework. Disputes can complicate this process, which also can lead to enforcement problems. Another opportunity for DENR to include financing for industry projects is to work with the Louisiana Department of Economic Development (LED) to provide a rubric to calculate the economic impact of energy investment. Such a rubric can help determine economic impact based on the size of the development, amount of production, direct and indirect job creation, cost of permitting, and an outlook on energy markets. DENR has the expertise to analyze such factors and work with LED to include this analysis in decisions regarding support for new development.

2. Are there opportunities to provide funding for projects, such as in Georgia, through the Georgia Environmental Finance Authority?

   Yes, there are opportunities to provide funding for projects similar to the way the Georgia Environmental Finance Authority (GEFA) provides funding, but such a process would require significant collaboration between DENR, LED, and CPRA. DENR already provides opportunities for financing similar to GEFA, like supporting energy efficiency and energy addition projects. However, that funding depends on competitive grants and the willingness of Congress to provide significant funding. If the state were to adopt a similar model, then there would be a need to dedicate a substantial source of revenue to ensure that financing remains available throughout such a program. This can be difficult because some projects do not generate

revenue immediately, and the state currently faces a budget shortfall. However, the NRTA provides an opportunity to provide such funding, but that would limit the amount of funding available for plugging and abandonment activities. The best way to provide funding through this process would be a revolving loan program that ensures that the state recoups any investment to replenish funds for future investment. In addition, there needs to be a mechanism to ensure that investment decisions do not result in a loss to the state due to companies going bankrupt. This is the issue we face with financial security, and if appropriate safeguards are not put in place, the state will suffer tremendously.

Other Outstanding Questions

1. Would expanding the legal division into its own office be beneficial? If so, are there any state or federal offices which would make a good model?

   Expanding the legal division into its own office would be highly beneficial. The best example is the Department of the Interior Office of the Solicitor. The Office of the Solicitor conducts the mission of providing legal counsel and advice to the Department and inspiring high ethical standards. The Office provides legal representation and other services to the Secretary, the Deputy Secretary, the Assistant Secretaries, and all Department bureaus and offices, ensuring that components of the Department carry out their responsibilities under the law and supporting the entire spectrum of the Department's broad mission. Attorneys in this office represent the Department in administrative hearings and work with the Department of Justice in representing the Department in judicial proceedings throughout the United States. The Office of the Solicitor also provides legal assistance in drafting and reviewing proposed legislation, regulations, contracts, title documents, and other legal instruments, in addition to managing the Department's Ethics Office and Freedom of Information Act Office. The benefits of replicating this model are captured in the fact that DENR's legal division already provides resources similar to those of the Office of the Secretary. The only difference is that the Office of the Solicitor model allows personnel resources to be centralized in one location to assist all offices within DENR with issues related to challenges of department regulations and application of law.

2. Are there opportunities to bring adjudication, such as damage assessment and Act 312 cases, in-house to DENR?

   There are tremendous opportunities to bring adjudication in-house to DENR through the benefits highlighted in the previous question. As stated above, the Office of the Solicitor model creates a foundation to allow DENR attorneys to represent the Department in administrative hearings to ensure the appropriate application of law and regulations. Furthermore, the Act 312 cases have become a significant burden on the state where decisions regarding legacy litigation are impacted by a review of law conducted through a process led by a judiciary that does not have the technical expertise to evaluate the process governing oil and gas development comprehensively. Since all relevant information regarding permitting exploration and production activities is housed within DENR, an adjudication process related to natural resources damages and Act 312 cases would be better handled in-house. Furthermore, the time required to hear these cases would be significantly reduced given that DENR is not subject to such a significant case docket, as seen with other court systems.

3. Would there be a benefit to allowing the legal division to issue opinions on natural resources-related issues?

   Allowing the legal division to issue opinions on natural resources-related issues would benefit the Department. Again, given the Department's level of expertise, the Department and its legal team are the most capable of reviewing and determining best practices.

4. Would information technology be more appropriately housed in the undersecretary's office as a function of management and Administration?

   Information and technology must be housed within the undersecretary's office to ensure accountability and increase access to personnel who are best equipped to deal with these issues. It has become apparent that the needs of each Department within the Administration are different and, as such, require different approaches to ensure that technology is capable of helping department staff achieve the goals and priorities of the Secretary and the Governor. The current structure promotes a "big government" approach that does not allow for the flexibility or creativity needed to address critical problems within the Department. This creates a situation where DENR is beholden to a department responsible for managing issues throughout the state, preventing DENR from receiving the level of attention we need.

5. Would there be benefits to moving the executive office of DENR away from the traditional agency model and towards a governing commission model?

   There would be benefits to moving the executive office of DENR away from the traditional agency model and towards a governing commission model. The current model for the Department creates a stagnant working environment that has yet to be able to adapt to changes in the technology and practices of the energy industry. By promoting a commission model, DENR would be structured similarly to CPRA, where the Commission would operate as a sounding board and bellwether for the Department's activities, allowing the different offices of DENR to operate more seamlessly while allowing the Commission to oversee the activities being conducted by each office. Furthermore, the DRIVE process will be more responsible for the offices housed in DENR. Given the natural growth provided by the DRIVE initiative, the Office of the Secretary must transition into a commission to ensure that this process operates smoothly and provide the ability to assist each office in the growing pains that they will naturally encounter.

6. Would there be drawbacks to the option discussed in Question 5?

   The potential drawbacks of this process are minimal, but they do exist. One negative impact identified is the need to staff such a commission to assist each office in its mission. The best example to address this issue is the Governor's Office of Coastal Activities. Their model allows flexibility in assisting CPRA with any new or developing missions due to increased funding or new requirements handed down by the federal government. The Commission would need similar staffing to ensure that each office has the assistance necessary to meet its goals while also identifying future impacts to help align each office with the objectives of the Administration.

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To: Mr. Darren Bossie, Boards & Commissions Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Bossie:

Thank you very much for your service and assistance in leading the Boards and Commissions working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter expert on boards and commissions, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. Can the CPRA Advisory Board be revised to focus more on financing for CPRA projects? If so, how?

Questions from Public

1. Are there issues with members not being appointed or meetings not being called?
2. What are the benefits to reducing the size of unpaid boards?
3. Are there any advisory commissions to DENR? Would such a commission be beneficial?

Other Outstanding Questions

1. What could be a proposed framework to evaluate natural resources related boards and commissions once a zero-base review is begun?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.

To: Mr. Clay Parker, Special Counsel NRSC

From: Darren J. Bossie, Boards & Commissions Working Group

Date: July 19, 2024

Re: Response to NRSC Regarding Outstanding Questions

Dear Mr. Parker:

Thank you for your letter dated July 12, 2024 regarding outstanding questions from the Natural Resources Steering Commission (NRSC) meeting and subsequent public comment period. Below, please find the Boards & Commissions Working Group responses to your questions.

1. The Coastal Protection and Restoration Authority (CPRA) Advisory Board can be revised to focus more on financing for CPRA projects thru legislative changes, as the focus and structure of the CPRA Advisory Board are determined by state law. Revising the CPRA Advisory Board's focus would require legislative action, such as amending relevant statutes to include greater emphasis on financing strategies, financial oversight, and funding mechanisms. In addition, the composition of the CPRA Advisory Board could be altered to include more members with expertise in finance. This might involve adding financial experts or other stakeholders with relevant experience. Furthermore, the CPRA Advisory Board could develop a strategic plan that prioritizes financial sustainability and the securing of funding for long-term projects. The CPRA Advisory Board could then be tasked with providing guidance and oversight on these financial aspects. Ultimately, any significant changes to the focus of the CPRA Advisory Board would require collaboration between CPRA, state government, and other key stakeholders.

2. There are several issues with members not being appointed or meetings not being called. Members not being appointed can lead to a lack of a

quorum, or lead to a lack of urgency in addressing the issues under the board's purview. Meetings not being called can result in consequences such as delayed decision-making, lack of oversight, stagnation of projects or initiatives, reduced public trust, failure to address emerging issues, inability to meet legal or regulatory requirements, decreased member engagement, budgetary impacts, loss of expertise and institutional knowledge, and potential for governance issues. The failure to call or hold advisory board meetings can significantly impair the board's effectiveness, reduce transparency and accountability, and ultimately diminish its ability to serve its intended purpose.

3. Reducing the size of unpaid advisory boards and commissions can offer several benefits, particularly in terms of efficiency, effectiveness, and management. Advantages include improved decision-making, enhanced coordination and communication, and greater accountability. Additional advantages include focused expertise, quicker decision-making, reduced risk of fragmentation, and increased member engagement.

4. There are currently several advisory boards and commissions related to the Louisiana Department of Energy and Natural Resources (LDENR). Among them are the State Mineral and Energy Board, the Oilfield Site Restoration Commission, and the Lake Providence Watershed Council. In addition, as a result of the Governor's Executive Order JML 24-13, the Departmental Review for Innovation and Visionary Enhancement (DRIVE) initiative has resulted in the creation of the Natural Resources Steering Committee (NRSC). The NRSC, per Executive Order JML 24-77, is comprised of five Commissioners, which includes Chairman Gordon Dove, Chairman of the CPRA Board, Department of Energy and Natural Resources Secretary Tyler Gray, Commissioner of Conservation Ben Bienvenu, and two additional Commissioners appointed by the Governor who represent key stakeholders. The purpose of the NRSC is to conduct a comprehensive review of all aspects of natural resources management in Louisiana. No further advisory commissions are necessary at this time. On the contrary, there are energy related boards and commissions that are most likely no longer necessary due to the NRSC oversight.

5. Prior to a zero-based review beginning January 15, 2026 for all natural resources related boards and commissions, a framework to evaluate these boards and commissions would have to be established first. Each review should consider the board or committee's mission and function as it relates to DENR priorities. The zero-based review should look at whether or not a single cross-functional advisory committee could take the place of some or all natural resources related boards and commissions. Each advisory board review should include retention, realignment, termination, changes to mission or functions, and membership size. Any recommendation to the House and Senate committees on natural resources for terminating a board or commission must include a plan for how to handle that board or commission's functions and responsibilities.

Please let the Boards and Commissions working group know if there are any follow-up questions.

Sincerely,

Darren J. Bossie

Chair, Boards and Commissions Working Group

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70804-9004

Jeff Landry
Governor

Sincerely,

J. Clay Parker

Jeff Landry
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To: Mr. Mark Normand and Ms. Janice Lansing

Office of Management and Finance Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Normand and Ms. Lansing:

Thank you very much for your service and assistance in leading the Office of Management and Finance working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter experts on OMF and the financial and management structure of CPRA, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. Would exempting CPRA from the state procurement process help keep projects on track?
2. What will be necessary to allow CPRA to continue to administer its own procurement process with state procurement oversight?

Questions from Public

1. Can CPRA staff assist DENR in administering Federal grants?
2. Can CPRA allow DENR to utilize the contracting and procurement functions of CPRA, especially contractors, to administer Federal grants?
3. Is it more efficient and sustainable for DENR to create its own capabilities for grant administration or utilize the capabilities of CPRA?
4. Would it be more efficient for DENR to outsource the handling of Federal grants to consultants?
5. Can DENR and CPRA utilize public-private partnerships to support the State's goals?
6. Can OMF support to office of the Secretary in financial strategic planning for the agency as a whole?

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Other Outstanding Questions

1. Would it be more beneficial to amend budget units, programs, or offices for the reorganized DENR in the fiscal bills?
2. If DENR and CPRA collaborate on federal grant support, can a prioritization plan be created to ensure CPRA's efficiency is not affected?
3. Would it be beneficial to create an "Administration" division in OMF to house Fiscal, HR, Information Technology and GIS, and a Public Information arm?
4. What would be any potential drawbacks to creating the division described in Question 3?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.

Sincerely,

J. Clay Parker

JANICE LANSING
CHIEF FINANCIAL OFFICER

MARK NORMAND, JR
UNDERSECRETARY

State of Louisiana

NATURAL RESOURCES STEERING COMMISION
OFFICE OF MANAGEMENT AND FINANCE WORKING GROUP

July 25, 2024

Mr. J. Clay Parker
Special Counsel
Office of the Governor
Natural Resources Steering Commission

Dear Mr. Parker:

Please find below our responses to the outstanding questions listed in your letter dated July 12, 2024. Let us know if you have any questions or need additional information about these responses.

Questions from Commission Members

1. Would exempting CPRA from the state procurement process help keep projects on track?

   CPRA does not advocate for an exemption from the state procurement process as a whole. The issue that CPRA raised is specific to the Request For Proposal (RFP) process, particularly, the ability to retain control over the schedule of the process and to not be dependent/waiting upon staff at the Office of State Procurement (OSP). This includes the drafting of the RFP, advertisement, receipt and evaluation of proposals, and selection. CPRA administers the RFP process effectively and efficiently and with oversight and approvals at various steps in the process by the Office of State Procurement.

   CPRA has been seeking approval to maintain that arrangement. Specifically, CPRA requests relief from the requirement to utilize the OSP's new system – LESA – and the requirement to relinquish control of scheduling, advertising, receiving proposals, scoring, and award. It seems that given the technical subject matter of most of the RFP's CRPA issues, and the knowledge, experience and skill of the CPRA staff, the request is reasonable.

   CPRA's position is to have an effective and efficient RFP process so as to prevent delays in acquiring contracted services necessary for coastal restoration and flood protection project implementation. Additionally, CPRA understands and believes oversight is necessary. The current arrangement accommodates both.

2. What will be necessary to allow CPRA to continue to administer its own procurement process with state procurement oversight?

   The Director of the Office of State Procurement or the Commissioner of Administration could authorize/delegate CPRA to continue functioning as described above.

   On July 16, 2024, CPRA received temporary authorization to continue administering its RFP process under the current arrangement through at least the end of this calendar year, 2024, while the Division of Administration conducts a review and analysis of the processes and procedures in the Office of State Procurement.

   Depending upon the outcome of the Division of Administration's analysis, CPRA may or may not seek continued authorization/delegation.

Questions from Public

1. Can CPRA staff assist DENR in administering Federal grants?

   CPRA does not currently have staff capacity or the required expertise to administer another agency's federal grants effectively and efficiently.

2. Can CPRA allow DENR to utilize the contracting and procurement functions of CPRA, especially contractors, to administer Federal grants?

   In general, CPRA does not have contractors that administer federal grants on a broad scale. However, CPRA does have a RESTORE Act grant specifically for the establishment of a Center of Excellence, which was competitively outsourced as required by the terms and conditions of the grant. The Water Institute was selected and serves as the Center of Excellence. This is a grant specific situation.

   As stated in the report and presentation to the NRSC, a collaborative effort has already commenced, aiming to ensure the DENR can effectively manage federal funds and successfully fulfill its mission. CPRA has specialized expertise in contracting services and is currently assisting DENR in the further development of its contracting services. CPRA is offering guidance and consultation, including training to enhance the capabilities of DENR staff and providing suggestions to streamline processes and implement best practices, particularly in the contracting and RFP processes. With CPRA sharing its expertise in contracting, DENR can be better positioned to develop its contracting capacity.

3. Is it more efficient and sustainable for DENR to create its own capabilities for grant administration or utilize the capabilities of CPRA?

   There are many factors to consider for both agencies to determine what approach yields the most efficient and effective outcomes for DENR and without negatively impacting the performance of either CPRA or DENR.

As stated in the report and presentation to the NRSC, a collaborative effort has already commenced, aiming to ensure the DENR can effectively manage federal funds and successfully fulfill its mission. CPRA has specialized expertise in contracting services and is currently assisting DENR in the further development of its contracting services. CPRA is offering guidance and consultation, including training to enhance the capabilities of DENR staff and providing suggestions to streamline processes and implement best practices, particularly in the contracting and RFP processes. With CPRA sharing its expertise in contracting, DENR can be better positioned to develop its contracting capacity.

DENR has begun exploring other options to enhance its grant administration capabilities. One potential avenue is partnering with the Office of Community Development/Disaster Recovery Unit (OCD/DRU). This unit has extensive experience in managing large-scale federal grants and can provide valuable insights and support to DENR. By leveraging the expertise of OCD/DRU, DENR can further strengthen its grant administration processes and ensure effective utilization of federal funds.

4. Would it be more efficient for DENR to outsource the handling of Federal grants to consultants?

Given DENR's current staffing limitations, outsourcing the program management of federal grants to consultants will be necessary to manage the large volume and complexity of these grants effectively. DENR does not currently have the capacity to handle such extensive grant administration internally.

However, we will also utilize internal staff to oversee and coordinate with any potential contractors. By leveraging a combination of consultants and internal staff, DENR can ensure that the grants are managed efficiently while maintaining control and oversight over the process. This approach will allow DENR to benefit from the expertise, specialized skills, and capacity of consultants while ensuring that the agency's goals, policies, and compliance requirements are consistently met.

5. Can DENR and CPRA utilize public-private partnerships to support the State's goals?

Per the testimony given by the Implementation Working Group at the NRSC hearing on June 18, 2024, this is being reviewed and considered by that group.

6. Can OMF support the Office of the Secretary in financial strategic planning for the agency as a whole?

Yes, OMF will support the Office of the Secretary in financial strategic planning for the agency as a whole. OMF is responsible for accounting and budget control, procurement, contract management, and program analysis, all of which are essential components of strategic financial planning. OMF's expertise and oversight will help align financial resources with the agency's goals and ensure efficient use of funds.

Other Outstanding Questions

1. Would it be more beneficial to amend budget units, programs, or offices for the reorganized DENR in the fiscal bills?

   Amending budget units and programs is essential for the successful reorganization of DENR, particularly in relation to the appropriations bill. Aligning the accounting structure with the recommended governance framework will be an ongoing and dynamic process. To ensure flexibility during this reorganization, it is recommended that DENR be appropriated funds as a single Budget Unit and a single Program. This approach will enable DENR to allocate funding and positions more fluidly, recognizing that the reorganization efforts may span multiple years before full implementation is achieved.

2. If DENR and CPRA collaborate on federal grant support, can a prioritization plan be created to ensure CPRA's efficiency is not affected?

   There are many factors to consider for both agencies to determine what approach yields the most efficient and effective outcomes for DENR and without negatively impacting the performance of either CPRA or DENR.

   As stated in the report and presentation to the NRSC, a collaborative effort has already commenced, aiming to ensure the DENR can effectively manage federal funds and successfully fulfill its mission. CPRA has specialized expertise in contracting services and is currently assisting DENR in the further development of its contracting services. CPRA is offering guidance and consultation, including training to enhance the capabilities of DENR staff and providing suggestions to streamline processes and implement best practices, particularly in the contracting and RFP processes. With CPRA sharing its expertise in contracting, DENR can be better positioned to develop its contracting capacity.

3. Would it be beneficial to create an "Administration" division in OMF to house Fiscal, HR, Information Technology and GIS, and a Public Information arm?

   The Office of Management and Finance already oversees, Fiscal Services, Human Resources, and Information Technology. Creating an "Administration" division in OMF to also house a Geographic Information Systems (GIS) division and a Public Information division would be beneficial. Centralizing all these administrative type functions could enhance coordination, streamline processes, and improve efficiency.

   Integrating GIS into an "Administration" division would enhance the agency's ability to leverage spatial data for decision-making and project management. A centralized GIS function can provide more robust support for mapping, data analysis, and spatial planning across all DENR offices. This integration would also facilitate better coordination of GIS projects, ensuring that they are aligned with the agency's overall strategic objectives and resource management goals.

   Additionally, expanding on and integrating a Public Information arm into and "Administration" division would streamline communication efforts and improve the

agency's ability to manage public relations, outreach, and engagement. This structure would ensure a consistent message and branding across all public-facing communications. It would also provide a unified approach to handling media inquiries, public notices, and stakeholder engagement, thereby improving the agency's public image and stakeholder relationships.

4. What would be any potential drawbacks to creating the division described in Question 3?

   The only potential drawbacks to creating an "Administration" could be staff's resistance to change. Staff might resist changes to the organizational structure, especially if it alters reporting lines or job responsibilities. However, the benefits of improved coordination and efficiency would outweigh these challenges in the long run.

Sincerely,

Janice Lansing, Chief Financial Officer
Coastal Protection and Restoration Authority

Mark Normand, Jr., Undersecretary
Department of Energy and Natural Resources

Jeff Landry
Governor

State of Louisiana
OFFICE OF THE GOVERNOR
P.O. BOX 94004
BATON ROUGE
70804-9004

To: Mr. Mark Normand, Natural Resources Trust Authority Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Normand:

Thank you very much for your service and assistance in leading the Natural Resources Trust Authority(NRTA) working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter expert on the NRTA, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. How can the NRTA take the current interest-bearing system and invest those monies in such a way as to earn more interest and provide more capital?

Questions from Public

1. Can the NRTA be expanded to include providing financing to industry? Is this advisable?

Other Outstanding Questions

1. Will additional staff be necessary to manage the NRTA, such as an Executive Director?
2. Will collaboration with the departments of Treasury and Insurance be necessary to create the financial securities envisioned in the NRTA?
3. Are the current financial security requirements in statute or administrative rule?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.

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Jeff Landry
Governor

Sincerely,

J. Clay Parker

JEFF LANDRY
GOVERNOR

TYLER PATRICK GRAY
SECRETARY

MARK NORMAND, JR.
UNDERSECRETARY

State of Louisiana

DEPARTMENT OF ENERGY AND NATURAL RESOURCES
OFFICE OF MANAGEMENT AND FINANCE

July 25, 2024

Mr. J. Clay Parker
Special Counsel
Office of the Governor
Natural Resources Steering Commission

Dear Mr. Parker:

Please find below my responses to the outstanding questions listed in your memorandum dated July 12, 2024. Let me know if you have any questions about these responses.

Questions from Commission Members

1. How can the NRTA take the current interest-bearing system and invest those monies in such a way as to earn more interest and provide more capital?

   Optimizing how the NRTA can enhance its interest-bearing system to earn more interest and provide more capital is a complex challenge that requires a deep understanding of financial markets and investment strategies. This would necessitate engaging with the Louisiana Department of Treasury and financial experts specializing in public fund management. They could conduct a comprehensive analysis of the NRTA's revenue and explore various avenues such as diversified investments, risk management techniques, and strategic asset allocation to enhance potential returns and increase capital.

Questions from Public

1. Can the NRTA be expanded to include providing financing to industry? Is this advisable?

   The possibility of expanding the NRTA's role to directly finance industry projects within Louisiana's energy and natural resource sectors is certainly worth considering. This could provide companies with greater access to capital, potentially at lower interest rates, and encourage investment in cleaner technologies or responsible development projects aligned with the state's conservation goals.

However, venturing into industry financing presents potential challenges. Conflicts of interest could arise if the NRTA oversees financial security compliance for companies it also finances. Direct government involvement might also distort competition in the private lending market, potentially harming smaller companies or those without connections to the NRTA.

Before moving forward, a comprehensive analysis would be necessary. Clearly defined criteria for project selection would be crucial to ensure financing aligns with the NRTA's core mission and avoids favoritism. An assessment of existing financing options would ensure the NRTA complements, not replaces, private sector lenders. Robust risk management strategies and transparent disclosure procedures would also be essential to safeguard public trust and financial sustainability. Ultimately, while industry financing holds potential benefits, a thorough evaluation of potential drawbacks is necessary to determine the best path forward for the NRTA.

Other Outstanding Questions

1. Will additional staff be necessary to manage the NRTA, such as an Executive Director?

   The NRTA's establishment will necessitate additional staff to manage its operations effectively. The Civil Service Commission has already approved the creation of an Executive Director position within the Unclassified Service. This key leadership role will be instrumental in setting the NRTA's direction, overseeing its day-to-day operations, and building relationships with stakeholders.

   Initially, the focus will be on establishing core functionalities and priorities for the NRTA. However, as the specific functions and scope of the NRTA's work develop, further staffing needs will likely be identified. This may involve adding personnel with expertise in financial management, risk assessment, legal affairs, or industry regulations, depending on the specific direction the NRTA takes. A flexible and adaptable staffing approach will be crucial to ensure the NRTA has the resources necessary to fulfill its mandate.

2. Will collaboration with the departments of Treasury and Insurance be necessary to create the financial securities envisioned in the NRTA?

   Collaboration with the Department of Treasury and the Department of Insurance will be critical. Their expertise in financial management, risk mitigation, and insurance regulation is crucial for establishing an appropriate financial security framework.

   The Treasury Department brings experience in cash flow management and investment strategies. They can advise and/or be responsible for selecting secure and potentially profitable investments for financial security funds, implementing strong accounting practices, and establishing efficient collection and disbursement mechanisms. Their risk management experience can also be valuable in developing frameworks for

managing the financial security portfolio and mitigating risks associated with economic fluctuations.

The Department of Insurance offers expertise in risk assessment, underwriting, and insurance instruments. They can assist the NRTA in developing risk-based financial security requirements, evaluating operator financial health, and exploring the feasibility of insurance-based solutions or risk pooling mechanisms. Their experience in regulatory oversight and compliance can be applied to developing clear regulations for alternative financial security instruments and implementing robust monitoring and dispute resolution procedures.

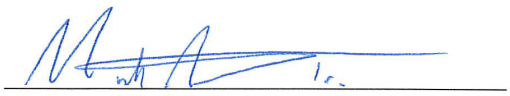
3. Are the current financial security requirements in statute or administrative rule?

Financial security requirements are established through a combination of law (L.A.R.S. 30:4 & 30:4.3) and administrative rule (Chapter 104 of Title 43, Part XIX of the Louisiana Administrative Code).

The law establishes the foundation in L.A.R.S. 30:4(R). This statute empowers the Commissioner of Conservation to create rules and regulations requiring reasonable financial security for plugging abandoned wells, performing site cleanup, and ensuring compliance. The law also allows for exceptions based on well location and specific circumstances. **L.A.R.S. 30:4.3 further details the financial security requirement.** It mandates that applicants for drilling permits or those seeking a change of operator provide financial security in a form approved by the Commissioner of Conservation.

To implement these legal requirements, the Office of Conservation established additional regulations. Chapter 104 of Title 43, Part XIX of the Louisiana Administrative Code was created under the authority of the Administrative Procedure Act. These regulations specify the exact amounts of financial security required based on well location, depth, and other factors.

Sincerely,



Mark Normand, Jr., Undersecretary
Department of Energy Natural Resources

Jeff Landry
Governor

State of Louisiana

OFFICE OF THE GOVERNOR
P.O. BOX 94004
BATON ROUGE
70804-9004

To: Mr. Blake Canfield, Office of Conservation Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Canfield:

Thank you very much for your service and assistance in leading the Office of Conservation working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter expert on Conservation, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. Can DENR apply for 404 primacy? What would be the potential drawbacks to pursuing 404 primacy?

Questions from Public

1. How can Conservation streamline permitting to ensure permits are not delayed unnecessarily?
2. Would permitting checklists be beneficial? Would a permitting dashboard for all permits be helpful?
3. How difficult would it be to implement the suggestions in Question 2?

Other Outstanding Questions

1. Would it be advisable to maintain Permitting and Enforcement as separate offices under the Conservation umbrella?
2. If Land and Water were expanded to be the Office of Energy Resource Management, would it make sense to house permitting, management, and enforcement under the Conservation umbrella?

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3. Would maintaining these functions within Conservation as their own separate offices present any issues as to primacy programs?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.

Sincerely,

J. Clay Parker

JEFF LANDRY
GOVERNOR

TYLER PATRICK GRAY
SECRETARY

State of Louisiana

DEPARTMENT OF ENERGY AND NATURAL RESOURCES
OFFICE OF THE SECRETARY

TO: J. Clay Parker

FROM: J. Blake Canfield

DATE: July 19, 2024

RE: Outstanding Questions from NRSC – Office of Conservation Working Group

Dear Mr. Parker:

Please find below my responses to the outstanding questions listed in your memorandum dated July 12, 2024. While I have discussed some of the details included in my response with members of current DENR staff, these responses are my own. Let me know if you have any questions about these responses or if I have not answered the questions in full.

Questions from Commission Members

1. Can DENR apply for 404 primacy? What would be the potential drawbacks to pursuing 404 primacy?

Yes, DENR can apply for primary enforcement authority with the U.S. Army Corps of Engineers ("USACE") for its §404 permit program within the geographic boundaries of Louisiana. There is a specific process for seeking primacy that can take, and has taken with other primacy initiatives, years to complete. Additional research into this process is planned.

The primary drawbacks to pursuing primacy would primarily be associated with additional costs to the DENR and the State to run the program. A cost-benefit analysis to include a review of current USACE staffing and funding along with the current fee structure and average number of §404 permit applications received and processed for projects in the state would be helpful in determining whether potential benefits from primacy outweigh any increased costs.

A previous assessment by DENR staff of §404 primacy in Louisiana resulted in estimates of an approximate tripling of the staff, though not necessarily the exact same position types, currently employed within the Office of Coastal Management (OCM) and an approximate tripling of the annual budget of OCM. This is because, though related, the §404 permit considers impacts to jurisdictional wetlands and waters of the U.S. and not just coastal waters and resources regulated by OCM's State Coastal Program. So, even within Louisiana's Coastal Zone, additional staff would be needed to implement a §404 permit program. On top of this, the remainder of the State outside the Coastal Zone would now require staff to implement a §404 permit program. The previous assessment estimated an increase in staff and budget of approximately an additional 70-

90 full-time equivalent (FTE) staff and approximately an additional $10-12M/annually in funding. For comparison, OCM currently has 45 positions and its budget is approximately $5.5M/annually.

Finally, another potential drawback to consider are requirements to implement federal policies when granted primacy over the §404 permit program that Louisiana's administration and political leadership might otherwise not support. Identifying such policies requires additional research.

Questions from the Public

1. How can Conservation streamline permitting to ensure permits are not delayed unnecessarily?

First, Conservation as the permitting office needs to identify all permits and regulatory approvals involved with regulated activities, including both those within and outside its authority. Next, Conservation needs to identify potential choke points or road blocks to efficient regulatory decision making. Then, Conservation must analyze potential changes to permitting processes that would reduce such choke points or road blocks while still meeting the goals of the permitting and regulatory programs involved. Implementing such changes will likely require a mixture of statutory or regulatory changes each of which take time and effort. Finally, this process is likely to be iterative and involve continuous evaluation and changes moving forward as lessons are learned, new obstacles identified or potentially created by these changes.

2. Would permitting checklists be beneficial? Would a permitting dashboard for all permits be helpful?

Most likely, the answer to both of these questions is yes. It will be difficult to identify all permit and regulatory approvals required for a regulated activity or potential roadblocks and chokepoints needing to be addressed without something similar to a checklist or flowchart. Depending on specifics, a permitting dashboard would be beneficial at addressing two separate but related issues. First, a dashboard may be helpful internally within Conservation to better manage its tasks by identifying chokepoints and roadblocks or in tracking staff performance and identifying areas needing management's focus. Second, a publically available dashboard will assist members of the public and the regulated community identify where a proposed activity stands in its permitting process and where and when engagement with the agency is needed or most impactful. This public transparency also has the potential to decrease confusion regarding the process and the amount of time spent by agency staff researching and answering questions regarding proposed activities and where they currently stand in the permitting process.

3. How difficult would it be to implement the suggestions in Question 2?

While the suggestions in Question 2 would likely be beneficial, it is important not to understate the difficulty in its potential implementation. Ultimately, a cost-benefit analysis may be warranted to determine if the effort required is justified by the benefits identified above. While not as comprehensive as what's envisioned with an agency or state-wide permitting dashboard, OCM's Coastal Use Permit (CUP) Tracking System provides an example of a publically available permit tracking database and is likely a good proxy for estimating the potential investment needed to set

up the dashboard discussed in Question 2. Additionally, as part of the CUP process OCM created an application checklist, which is 3 pages long and includes approximately 53 check boxes and 6 comment boxes covering 14 major steps in the permitting process.

Discussions with OCM staff that were involved in the creation of the checklist and tracking system, reveal that the initial process to set up this system involved staff meetings with contractors to map out the permitting process itself followed by subsequent meetings with contractors to create the actual database within SONRIS as well as both the internal and public interface of the Tracking System. This initial development took approximately 2.5 years and included the entirety of the time of approximately 3 OCM staff (FTE) for the first year. Since its establishment the tracking system has been continuously maintained and updated. This system maintenance has required one full time contractor for the past 20 years.

Other Outstanding Questions

1. Would it be advisable to maintain the Permitting and Enforcement as separate offices under the Conservation umbrella?

Consistent with EO JBE-24-13, separation of the permitting and enforcement functions into distinct offices is advisable. It allows for greater focus on both functions by the individual offices. Removal of the firewall around Conservation in Act 727 of 2024 allows for the necessary coordination between offices, which will be key to successful implementation of this reorganization. Of course, similar to the re-organization as a whole the ultimate goal is to ensure that the new structure performs better than the current structure providing necessary information quicker for decision makers and leading to more predictability and overall performance.

2. If Land and Water were expanded to be the Office of Energy Resource Management, would it make sense to house permitting, management, and enforcement under the Conservation umbrella?

Housing such functions under one agency is consistent with the organization of government found in other States and the federal government. Perhaps there is no greater example of this than the U.S. Department of Interior, which houses all of these functions (resource management, regulation, permitting, and enforcement) for federal lands. Expansion of the Office of Land and Water to encompass additional resource management duties would not change the fact that these same functions currently exist within LDENR for mineral, subsurface storage, and renewable energy resources management within Office of Mineral Resources (OMR) and regulatory, permitting, and enforcement functions within OC and OCM. Potential conflicts, such as ensuring undue influence by the State for its mineral ownership does not impact Conservation's regulatory authority to pool and unitize minerals of multiple owners can be handled by policy and rulemaking. Simply because this structure has been used elsewhere does not mean that it must be used here or in perpetuity. As part of the larger reorganization of the executive branch, these proposed changes will be undertaken as part of a process that must include continued analysis to ensure improvements in agency performance and alignment with changes outside government.

3. Would maintaining these functions within Conservation as their own separate offices present any issues as to primacy programs?

Potentially moving enforcement functions for primacy programs from the Office of Conservation to the Office of Enforcement may present issues. Specifically, if the approved primacy program clearly requires enforcement by the Office of Conservation or its head, the Commissioner of Conservation, then approval by the federal agency which granted primacy would be required prior to moving that enforcement function to the new office. Such a requirement likely does not exist for all primacy programs. Additional research and analysis is required for each primacy program. This may support moving the enforcement functions for these primacy programs to the Office of Enforcement at different times from other programs or depending on future analysis a decision in some cases not to move them at all. Such future analysis need not necesarily slow the transfer of enforcement functions from non-primacy programs or from primacy programs which have already been reviewed.

Again, let me know if you or the Commissioners have additional questions or need any additional information. Thank you for the opportunity to provide my perspective.

Yours very truly,

J. Blake Canfield

Jeff Landry
Governor

State of Louisiana

OFFICE OF THE GOVERNOR
P.O. BOX 94004
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70804-9004

To: Mr. Andrew Young and Mr. Keith Lovell

Office of Land & Water Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Young and Mr. Lovell:

Thank you very much for your service and assistance in leading the Office of Land and Water working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter expert on the proposed Office of Land and Water, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. Have courts established a definitive answer to water bottom ownership, especially mineral rights, when land erodes and becomes submerged?
2. Can the water resources commission be used for planning purposes as to state water management? Would it be sensible to use that body as a governing body for a state water plan or to maintain those functions in a traditional agency office?

Questions from Public

1. How can Land & Water pursue inter-agency coordination with other water regulators, such as DEQ, to ensure effective but efficient regulation?
2. Would it be beneficial for Land & Water to require water use assessments for any new energy project?
3. Is it within the jurisdiction of DENR and Land & Water to regulate water quality as it pertains to nutrient pollution and its impacts on water quality?
4. Can a strategic plan be created for the State's groundwater resources?

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Other Outstanding Questions

1. Would it be advisable to rename Land and Water to "Office of Energy Resource Management" to better cover all aspects of the office?
2. How can the Power division work to represent the State's interests at the PSC? Can the Power division collaborate with PSC to begin to close regulatory gaps?
3. What personnel would be required to administer the following functions currently housed at State Lands: titles, leasing, servitudes/ROW, and sales/use/consumption of state water and timber?
4. How can the office begin to build out a regulatory structure for state management of surface water and ground water?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.

Sincerely,

J. Clay Parker