



VIA EMAIL TO [DRIVEINITIATIVE@LA.GOV](mailto:DRIVEINITIATIVE@LA.GOV) AND [TYLER.GRAY@LA.GOV](mailto:TYLER.GRAY@LA.GOV)

February 21, 2024

The Honorable Jeff Landry  
Governor of Louisiana  
PO Box 94004  
Baton Rouge, LA 70804

Mr. Tyler Gray  
Secretary of  
Louisiana Department of Energy and Natural Resources  
Office of the Secretary  
P.O. Box 94396 Baton Rouge, LA 70804

Re: Comment on Executive Order JML-13

Dear Governor Landry & Secretary Gray,

Please accept the following comments submitted on behalf of True Transition. We appreciate the opportunity to provide these comments in response to the Office of the Governor's request for public comment. True Transition connects research to the challenges facing working people in the energy sector to build worker power, ensure safe and healthy working conditions, energy security, and shared prosperity.

The Coastal Protection and Restoration Authority (CPRA) is a critical institution in Louisiana's fight to save our coast and protect our coastal and inland communities. Louisiana previously suffered under the dysfunction of agencies with competing missions and an incoherent and at odds coastal management program. The CPRA is a bipartisan success story in imposing order upon chaos. Top-down executive level leadership at the state level facilitated an increase in coordination between multiple levels of government and markedly improved government efficiency.

Coastal restoration is an evolving field. The scale of Louisiana's coastal mission is so massive and unprecedented, that we are literally building the plane as we are flying it. The Governor's Advisory Commission on Coastal Protection, Restoration and Conservation ensures that the practitioners of this plan are not siloed in Baton Rouge, but instead in communication with the latest engineering and science developments in real time. We understand the desire to accelerate the progress that has been made, but we would caution putting CPRA back under the Department of Energy and Natural Resources. It is critical that the CPRA maintains its autonomy and crystal clear mandate. It is critical that coastal restoration remains our state's primary mission and priority.

We have formatted our comments to conform to the format requested on the Public Comment Portal.

### **What is the specific issue you are addressing?**

These comments are in reference to the potential reorganization of the Coastal Protection and Restoration Authority. We are concerned that if the Coastal Protection and Restoration Authority is folded back under the Department of Energy and Natural Resources roof, its mission will be muddled and its mandate weakened.

The author of this comment has some relevant background she would like to share that leads her to this conclusion. I used to work for the Bureau of Ocean Energy Management where among other tasks I helped plan oil and gas lease sales for the United States government primarily off the coast of Louisiana. BOEM and BSEE process dozens of seismic, drilling and exploration permits a week. It also manages the nation's Marine Minerals Program - a program critical to states like Louisiana who rely upon the high [quality sediment in federal waters](#) for coastal restoration projects. During the first shale boom, companies began stampeding out of the shallow Gulf, relinquishing their oil and gas leases left and right. They also requested, and more often than not, succeeded in decommissioning their pipelines in place on the seafloor. Now both federal regulation, the lease contract, and federal law require and assume that once commercial activities have ceased, the seafloor will be cleared of all obstructions. Nevertheless, this office allowed companies to [decommission in place](#) thousands of miles of pipeline in a short period.

This was able to happen because the mission for both agencies is and remains to promote expeditious oil and gas development on the OCS. (Contrary to popular rhetoric, staff within the agency have PD's whose salaries and career advancement are explicitly tied to these missions.) The Marine Minerals Program sounded the alarm that these pipelines (of no public use mind you) were located in prime borrow areas. It took several years of internal lobbying to end the practice in high quality borrow areas. It was finally with the intervention and advocacy of the Louisiana Coastal Protection Restoration Authority that the Marine Minerals Program succeeded in adding an additional review to these requests. The U.S. federal government could now decline the request of a transnational firm who wanted to decommission a pipeline in a high value sand area because of the strength of a state agency.

This story has a few lessons. One being that the CPRA has evolved into a powerful and influential organization. With Texas' planned Ike's dike and East Coast states planning their own large scale coastal programs, Louisiana leadership would be making a regrettable decision to relinquish this power and influence. Second, in an organization with competing missions, the one with the incumbent mission will win. There will be conflict. Indeed, in the 1940s, the Louisiana Department of Conservation contained both Minerals and Wildlife divisions which created a great deal of internal conflict, "it is by all now realized that the Conservation of the wildlife has no relation to oil and gas and other minerals and same should be separated in distinct departments. For instance in some cases we see one official in the Wildlife Division making an effort to stop the pollution of a stream by oil or salt water from oil wells when another division of the Department may consider each pollution as temporary and necessary for the production of oil and gas." (September 1944 - Synopsis and History of Fresh Water Game Laws of Louisiana). As a result, on November 7, 1944, Louisiana citizens approved a constitutional amendment that divided the Department of Conservation into three agencies: the Department of Conservation, the Forestry Commission, and the Department of Wildlife and Fisheries. (Arnold, John T, 2020).

### **How has or may it impacted you? Your organization?**

The future of our families and represented stakeholder communities rely upon the success of the Coastal Protection and Restoration Authority. It matters little whether our constituents have a job if they can't secure home insurance.

Additionally, we have found that both upstream and downstream oil and gas employers are whittling down their employment rolls in Louisiana. For Louisiana oil and gas workers, a transition has already begun. Three separate refineries closed in the last three years (firing 2,100 Louisiana workers) bringing the number of refineries in the state down to 15 facilities. But those 15 facilities are distilling more today than when the state boasted 34 refineries. Between 2008 and 2019, direct employment in "Drilling Oil & Gas Wells" crashed by 62% and "Support Activities for Oil & Gas Operation" decreased by 26% in Louisiana. At the same time offshore production in the federal waters of Louisiana increased by 44%. Despite a dramatic increase in production, jobs in production plummeted. In Louisiana, direct upstream and exploration oil and gas sector jobs now account for less than 2% of the total state civilian workforce. The employment trends are plain as day.

We believe that the state master plan project and cleaning up no longer in use oil and gas infrastructure will create durable employment opportunities for displaced oil and gas workers.

**Is the issue a legal one? If so, is it addressed in the constitution?**

Yes. There are several sections within the Louisiana Constitution specifically pertaining to the management of the Coastal Protection and Restoration Fund. It makes clear that the funds shall be administered by the Coastal Protection and Restoration Fund in accordance with the State Master Plan. It is our concern that if the CPRA is subsumed into the DENR with a mandate to promote a "prospective business environment," then its mission and purpose will be compromised. What good is a "prospective business climate" if employees can't secure home [insurance](#) or if businesses and schools will be [underwater](#)? In this moment, we require clarity of purpose and leadership that will not waver.

§10.2. Coastal Protection and Restoration Fund Section 10.2(A) There shall be established in the state treasury the Coastal Protection and Restoration Fund to provide a dedicated, recurring source of revenues for the development and implementation of a program to protect and restore Louisiana's coastal area.

(D) The money in the fund may be appropriated for purposes consistent with the Coastal Protection Plan developed by the Coastal Protection and Restoration Authority, or its successor. No appropriation shall be made from the fund inconsistent with the purposes of the plan.

Additionally, the Louisiana Constitution clearly prioritizes the public benefits derived by coastal restoration and flood protection. For instance, in the cases of State expropriation or action to take private property, a party has the right to trial by jury to determine whether the compensation is just, except in the takings of property for levee and levee drainage purposes or for the purposes of wetland restoration. Please see below:

(E) This Section shall not apply to appropriation of property necessary for levee and levee drainage purposes.

(F) Further, the legislature may place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities.

## **Does it fall under existing statutes? Regulations?**

As your office well knows, the Louisiana Legislature and prior Administrations worked to create a locus of expertise and efficiency. Below is a sampling of the statutes that created the CPRA and the regulations that describe its authorities and powers.

2005 – Act 8 of the First Extraordinary Session of 2005

2008 - Executive Order BJ 2008-7

2009 – Act 523 of the Louisiana Legislature

2012 – Act 604 of the Louisiana Legislature

La. R.S. 49:214.1

La. R.S. 49:214.5.5

La R.S. 49:214.5.6

La. R.S. 49:214.2(3)

La. R.S. 49:214.2(10)

La. R.S. 49:214.5.6 and Article I Section 4 of the Louisiana Constitution

Act 523 of 2009 Regular Legislative Session enacted La. R.S. 49:214.6.9. which grants authority for integrated coastal protection surveying

Acts 2006, No. 626: amended La. R.S. 41:1702(D)(2)

**Include as much history of the relevant issue, rule or law using specific dates, relevant references, citations, etc.**

Executive Order JML-2413 hints at tucking the CPRA back under the weight of competing missions as to create “a better prospective business climate.” It is not only a departure from consensus, but a retreat from the fight. Prior to 2005, Louisiana’s attempts to stave off this inundation were scattered and inadequate.

The Louisiana State and Local Coastal Resources Management Act (Act 361) was passed in 1978 to regulate the activities that affect wetland loss and allowed parishes to apply for their own permitting program. The resulting Louisiana Coastal Resources Program (LCRP) became a federally approved coastal zone management program in 1980.

Authorized by Congress in 1990, the Louisiana Coastal Wetland Conservation and Restoration Management Act took several important steps towards building state capacity. It brought the LCRP, Louisiana’s federally approved coastal management program under the management of the DNR. It then tasked the DNR with creating a comprehensive coastal restoration plan and created the Coastal Restoration Division (CRD) to house the expertise to do so. It also created a fund, the Wetland Conservation and Restoration Fund (Wetland Trust Fund). Monies for the fund continue to accrue from taxes on oil and gas activities and are devoted specifically to CRD projects within the comprehensive plan. It also created a state level authority, the Wetlands Conservation and Restoration Authority (WCRA), to oversee the pla.

Within a year, a related federal bill, the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA), was passed. It provided for 75/25 federal/state cost sharing. Although some of the money is directed towards other states, a majority of the funds – created from taxing fishing equipment, motorboats, and engine fuel – is dedicated to Louisiana. The state receives approximately \$50 million annually (National Research Council, 2005). Approximately 30% goes towards the National Coastal Wetlands Conservation Grant Program and the North American Wetlands Conservation Fund. The other 70% goes towards the Army Corps of Engineers for construction and other associated activities in the Louisiana coast. The Breaux Act, as it is called in Louisiana after its sponsor the popular and longtime

senator John Breaux, created a state and federal collaborative called the Breaux Act Task Force to oversee the development of a comprehensive restoration plan.

This plan stipulated that any and all programs affecting coastal wetlands would be consistent with its purposes yet gave no procedural guidance on how to do so and was not enforced (Coastal 2050, 1998). The model for restoration set by the Breaux Act Task Force continues to be used today, amidst some controversy. Annually, the Breaux Act Task Force submits a Project Priority List (PPL) to Congress.

Before the CPRA was created, the DOTD was responsible for hurricane protection (predominately via levee building), and the LDNR was responsible for coastal restoration. There was an identified need for increased cooperation between the two agencies, but sufficient and necessary incentive did not yet exist to overcome barriers preventing a voluntary formal agreement between the two agencies. Coastal restoration and protection projects competed for funds through the same funding processes, on the federal level through the Water Resources Development Act and similarly at the state level within appropriative committees of the legislature. The two agencies were not only adversarial in terms of funding, but also differed procedurally. Communication between the two was limited. Talks meant to bring about improved coordination and possible merger between the two agencies ended with no finished product largely due to disagreement concerning funding.

The Water Resources Development Act (WRDA) authorizes but does not fund projects. Funding comes later through the appropriations process, specifically the Energy and Water Development Appropriations bill. Louisiana frequently found itself in competition with Florida, whose comprehensive Everglades Restoration Project put it on stronger footing with federal partners.

The 2005 hurricane season reinforced the importance of comprehensive planning to decision-makers and brought back Coastal 2050-like initiatives only with a greater sense of urgency: regional public meetings, reducing the number of planning units, consolidating cumbersome political jurisdictions, building state capacity through strong leadership at the executive level and technical expertise, and addressing linkages among coastal activities at all possible levels. Most importantly, it brought the activities of the DNR and the DOTD under one roof which would allow the state to act as a full partner to the Corps, not just a consumer of services.

The original statute passed in 1989, about 16 years previous, reads “efforts by the state to address the myriad interrelated problems of coastal land loss have been inadequate, fragmented, uncoordinated, and lacking in focus and strong direction.” The goal of the original authority was to strike a “balance between development and conservation”(La. R.S. 49:213:1(C)).

The Louisiana Legislature created the [Louisiana Coastal Protection and Restoration Authority \(CPRA\)](#) to elevate the coastal crisis to the appropriate level and end the confusion once and for all. With the state’s experts finally sitting in one room, we also got our first comprehensive [plan](#) to save our coast. This was critical in helping Louisiana secure a larger share of the royalties from oil and gas produced off our coast. In the late Morgan Nicole Crutcher’s [graduate thesis](#), she explains the history and challenges faced by the CPRA. She interviewed a variety of Louisiana officials who participated in the process who explained how prior dysfunctions gave rise to a new culture that was akin to 1960s NASA. With the CPRA, Louisiana has been able to create a structure and organization capable of meeting the monumental task in front of it. As one contributor to the State Plan explained to her, “It gave us the opportunity...to go to Washington with a document in hand and say, ‘Look, Louisiana is serious. We are moving forward with

or without the help of the federal government or the ability of the Corps of Engineers to move forward in a timely fashion. We have chosen to take control of our own destiny.”

For a detailed history of Louisiana coastal restoration prior to the CPRA with specific dates and statutes, we highly recommend you review Morgan Crutcher’s thesis: <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/85798/Morgan%20Crutcher%20Thesis%20Final%20August%2016%202011%20pdf.pdf?sequence=1&isAllowed=y>

**Did the program your comment concerns change over time? Did it evolve into associated programs?**

Yes, as the above comments speak to the Coastal Protection Restoration Authority grew out of a moment of crisis and a legacy of disorder. The CPRA has quickly grown into one of the nation’s most sophisticated and coherent large-scale restoration programs.

Louisiana’s future business and economic prospects have a hard stop unless we appropriately address our coastal crisis. It is also true that the CPRA is not enough. There are material constraints to Louisiana achieving the task in front of it. We offer four recommendations in addressing some of them.

1. **Work with the Department of the Interior** to fully remove decommissioned in place pipelines on our coast. The Bureau of Safety and Environmental Enforcement has allowed transnational companies to leave [97% of pipelines](#) (18,000 miles) on the seafloor on Louisiana’s coast. While these pipelines no longer transport oil or gas, they do obstruct [Louisiana’s access to sand](#) for coastal restoration projects. The Secretary of the Interior has not exercised her authority to order those pipeline’s removal. But your Administration’s governance and leadership could force the action. It could also put Louisiana workers and vessels to work today, while clearing CPRA’s path to access that sand for our coast.
2. **Lead the fight to restore the public dredge fleet.** You can’t win a fight with one arm tied behind your back, and Louisiana has both arms tied. The United States used to lead the world in dredging technology to ensure that our 12,000 miles of inland and intracoastal waterways were navigable, our 180 ports accessible, and our 95,471 miles of shoreline and beaches nourished. Indeed, at its height the U.S. Corps built 150 dredges between 1899 and 1949. Today, American cities and even Corps districts squabble for access to a small and outdated fleet. Why? Because a [cartel of companies](#) bought some senators in the 1970s and forced the Corps to mothball its fleet and use only vessels owned by these same companies. While Louisiana is waiting, China is building. In the last twenty years China has built over [20 jumbo trailing suction hopper dredgers](#) and launched at least 44 large cutter suction dredgers. As China is literally shaping the world, we are just accepting a condition a few bribed and long dead Senators forced upon us. But you could lead the fight to restore the public dredge fleet. We don’t rent firetrucks or tanks, nor should we rent this critical piece of equipment. We could build many of the new fleet in Louisiana shipyards, with one or two permanently docked at our coast to do the necessary work of rebuilding our state’s coast.
3. **Be a leading negotiator** at the [Lower Mississippi River Comprehensive Management Study](#). Louisiana is a creation of the Mississippi River. Whether it’s the 40 thousand plus locks and dams holding back [sediment](#) or big-ag failing to prevent [nutrient runoff](#), it all runs downstream and impacts our industries and communities. Louisiana must place priority on participating in this process and advocate for the overall health of the Mississippi River Basin.



4. **Put Louisianans back to work** plugging oil and gas wells and refilling pipeline canals. Louisiana could receive a total \$206.5 million in Infrastructure Investment and Jobs Act of 2021 (IIJA) funds to clean up their orphaned wells. This includes \$25 million in initial grants, \$111.5 million in formula grants and up to \$70 million in performance grants. Louisiana is also eligible for \$15.7 million in plug marginal wells to reduce methane emissions. This funding is crucial but will only address a part of Louisiana’s total unplugged, non-producing inventory of wells (not to mention that dozens of new wells are orphaned every [month](#)). Louisiana’s coastal crisis and remediation of retired oil and gas liabilities are not mutually exclusive activities. Between 1937 and 1977, more than 6,300 exploratory wells and more than 21,000 development wells were drilled in Louisiana’s eight southernmost parishes. [Agerton et. al](#) estimate that just under 5,000 of Louisiana’s unplugged wells are currently situated in Louisiana’s wetlands and inland waterways and 2,612 unplugged wells in Louisiana state waters.

In our [national survey of oil and gas workers](#), we found that just under half (44%) of Louisiana-based survey respondents said they had been let go at least once prior to 2020 and 15% reported having been let go more than once. This bears out in the employment data. Between 2008 and 2019, direct employment in “Drilling Oil & Gas Wells” crashed by 62% and “Support Activities for Oil & Gas Operation” decreased by 26% in Louisiana. At the same time offshore production in the federal waters of Louisiana increased by 44%. Despite a dramatic increase in production, jobs in production plummeted. In Louisiana, direct upstream and exploration oil and gas sector jobs now account for less than 2% of the total state civilian workforce. And that number is only decreasing. With advances in oil and gas drilling technology (laterals and automation), the upstream oil and gas industry is leaner. But Louisianans with expertise and oilfield experience are an asset waiting to be put to use. Addressing no longer in use oil and gas wells in the coastal zone (including offshore) could create tens of thousands of jobs. Louisiana could lead the nation in well plugging and restoration and remove the obstacles in the way of full coastal remediation.

### **Provide historical context and perspective.**

OCS Pipelines: When an oil and gas operator signs a lease with BOEM, they agree to remove all equipment and clear the seafloor when the infrastructure is no longer useful for operation.<sup>1</sup> The Secretary has the authority to unilaterally determine infrastructure is no longer useful for operation.<sup>2</sup> The operator then has one year to remove its equipment.<sup>3</sup> The Bureau of Safety and Environmental Enforcement has allowed the offshore oil and gas industry to leave 97% of pipelines (18,000 miles) on the seafloor when no longer in use.<sup>4</sup> Aging oil and gas infrastructure is inhibiting access to offshore sand resources for coastal restoration. 30 CFR § 250.1754 establishes clear authority to the BSEE Regional Supervisor to order the removal of a pipeline decommissioned in place if that pipeline constitutes an obstruction. These pipelines provide no physical or material benefit to the American public, but they do impose an artificial limit on how much sand is available for coastal restoration.

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<sup>1</sup> BOEM, “OIL AND GAS LEASE OF SUBMERGED LANDS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT,” Sec. 22(a),

<https://www.boem.gov/sites/default/files/about-boem/Procurement-Business-Opportunities/BOEM-OCS-Operation-Forms/BOEM-2005.pdf>.

<sup>2</sup> *Id.* at Sec. 22(b).

<sup>3</sup> *Id.* at Sec. 22(c).

<sup>4</sup> U.S. Government Accountability Office, “Offshore Oil and Gas: Updated Regulations Needed to Improve Pipeline Oversight and Decommissioning,” March 19, 2021, <https://www.gao.gov/products/gao-21-293>.

Dredge Fleet: Failures of private firms to fulfill urgent channel deepening contracts in New York Harbor and the subsequent dearth of bidders on new contracts produced a situation which demanded a public option. In 1902, the federal government initiated a program of hopper dredge construction, adding 16 vessels to the dredging fleet by 1908. Public hopper dredges operated in the coastal waters of the Atlantic and the Pacific, in the Mississippi River Passes and in the Great Lakes. Recognizing the need for a central design agency to develop the plant and programs of a growing dredging fleet, the Secretary of War in 1908 established a Marine Division in the Office of the Chief of Engineers in Washington, D.C.<sup>5</sup> This design group made significant contributions to the development of dredge pumps and other specialized machinery, and the first diesel-electric dredges were designed and built in 1918. The hopper dredge soon developed into a complex specialized vessel requiring maintenance and occasional updating and conversion. In total the Corps built 150 dredges of various types and purposes between 1899 and 1949.<sup>6</sup> Until the 1960s, the nation's development of Federal navigation waterways and port access channels was primarily accomplished by the Corps dredging fleet. Then, in the mid-1960s, the Corps was faced with replacing aging dredges and Congress slowed its investment in deeper ports and channels. Total dredging (performed by both government and private industry) began to decline significantly, dropping from 480 million cubic yards in 1963 to 282 million in 1979.

In his official military memoir, Lieutenant General John W. Morris described how during his tenure there had been no public works authorization bill, or omnibus bill, and many projects had been waiting for funding for years.<sup>7</sup> In 1972, Congress imposed a multi-year dredge moratorium - intentionally holding funds for replacement of public dredges hostage until a "National Dredging Study" on privatizing the fleet was completed. Meanwhile, private industry was actively lobbying Congress to choke the Corps of appropriations for the modernization and replacement of dredges in the Corps fleet. John A. Downs, then-President of Chicago's Great Lakes Dredge & Dock and the President of the National Association of Dredging Contractors, testified in several Congressional appropriations committee hearings to not fund or replace existing Corps hopper dredge vessels and that if the government even considered replacement it should first consult industry.<sup>8</sup> Essentially, private industry was directing Congress (and succeeding) to hold dredging funding hostage.

In 1976, the Senate Committee on Environment and Public Works Subcommittee on Water Resources held a hearing on proposed legislation, H.R. 7744, to privatize the public dredge fleet.<sup>9</sup> Critics were

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<sup>5</sup> U.S. Army Corps of Engineers. (1954). *The Hopper Dredge: Its History Development and Operation*.

[https://books.google.at/books?id=4k0sAAAAYAAJ&pg=PA13&lpg=PA13&dq=history+corps+dredge+fleet&source=bl&ots=lu7GfPdEIJU&sig=ACfU3U0v\\_3QxKcxggvbmHe0rluKhg-3FpO&hl=en&sa=X&ved=2ahUKEwjZ8lv\\_rKvpAhUxtHEKH0-ZAC8Q6AEwBnoECAgQAQ#v=onepage&q&f=false](https://books.google.at/books?id=4k0sAAAAYAAJ&pg=PA13&lpg=PA13&dq=history+corps+dredge+fleet&source=bl&ots=lu7GfPdEIJU&sig=ACfU3U0v_3QxKcxggvbmHe0rluKhg-3FpO&hl=en&sa=X&ved=2ahUKEwjZ8lv_rKvpAhUxtHEKH0-ZAC8Q6AEwBnoECAgQAQ#v=onepage&q&f=false)

<sup>6</sup> Colton, Tim. (2016). *U.S. Army Corps of Engineers - Dredges*. U.S. Army Corps of Engineers - Dredges

Most recent update: December 1, 2016. <http://shipbuildinghistory.com/smallships/armycorpsdr.htm>

<sup>7</sup> U.S. Defense Technical Information Archive. (2000). DTIC ADA392660: Engineer Memoirs. Lieutenant General John W. Morris.

[https://archive.org/details/DTIC\\_ADA392660/page/n87/mode/2up/search/\(%22dredge+fleet%22+\)?q=%28%22dredge+fleet%22+%29](https://archive.org/details/DTIC_ADA392660/page/n87/mode/2up/search/(%22dredge+fleet%22+)?q=%28%22dredge+fleet%22+%29)

<sup>8</sup> United States. Congress. Senate. Committee on Appropriations. (1975). *Public works for water and power development and energy research appropriations for fiscal year 1976: hearings before a subcommittee of the Committee on Appropriations, United States Senate, Ninety-fourth Congress, first session on H.R. 8122* .... Washington: U.S. Govt. Print. Off.

<https://hdl.handle.net/2027/mdp.39015078061457?urlappend=%3Bseq=256>

<sup>9</sup> United States. Congress. Senate. Committee on Environment and Public Works. Subcommittee on Water Resources. (1978). *Contract dredging: hearing before the Subcommittee on Water Resources of the Committee on Environment and Public Works, United States Senate, Ninety-fifth Congress, second session, on H.R. 7744* ... January 24, 1978. Washington: U.S. Govt. Print. Off.

<https://hdl.handle.net/2027/mdp.39015078591404?urlappend=%3Bseq=75> (Author's Note: the page is cited exclusively from this 1978 Committee debate)



incredulous, while defenders were dismissive, evoking now familiar rhetoric on smaller government and an almost naive faith that ‘it will just work out.’ A private consultancy’s study on privatizing the public fleet forecasted that American citizens would pay between 20 and 26 percent more for industry to do all of the necessary work versus an exclusive Corps fleet. When the Corps and industry were grilled on the rate forecasts, the answers were evasive explaining that the Corps “expect[ed] that the extensive competition which has been available in the past will continue to be available, which should keep the contract bids within a reasonable range.” No evidence was presented to support this claim.

Congress passed the Minimum Fleet Legislation Public Law 95-269 of April 26, 1978. The new policy directed the Corps to utilize its own fleet only when a private bid *exceeded* the government bid by 25 percent (there’s those forecast figures put to use). Since the 1990s, Congress has passed several rounds of legislation that have effectively crippled public dredging capacity and placed American ports, inland waterways and coasts at the mercy of just five companies. The *Wheeler*, a Corps’ hopper dredge built in the Avondale shipyard specifically to maintain navigation for the Mississippi River Head of Passes, had its workday schedule limited to only 55 workdays per year plus emergencies (ready-reserve status). For context, the Corps estimates that it spends \$12.5 million annually to maintain the *Wheeler* in ready reserve status, of which \$8.4 million is needed to cover the costs incurred when the vessel is idle.<sup>10</sup>

Three separate chairs of that subcommittee sponsored legislation placing restrictions on the Corps dredge fleet. Each Congressman, John Meyers, Tom Bevill and H.L. Callahan, would leave their careers in government service to work for a government relations firm, Dawsons & Associates, where each would work as a lobbyist representing the same dredging company, Chicago-based Great Lakes Dredge and Dock.<sup>11</sup> . In less than ten years, prices had increased by over 117%, but the amount dredged had only increased 9%. And while the \$/cubic yard figures appear modest (\$2.57/cubic yard in 2003 and \$5.13/cubic yard in 2012), the impacts on total dredged material are not. Louisiana is forced to adjust its large-scale ambitions because of cronyism.

Orphan Wells: Between 1999 and 2022, Louisiana’s OSR program plugged 1,758 orphaned wells.<sup>12</sup> In that same time period, 5,629 new oil and gas wells were orphaned under the oversight of the Louisiana Department of Energy and Natural Resources. Louisiana’s DNR currently lists 4,533 orphaned wells. In some regions, orphan well inventories are the relics of industry from over a century ago. But Louisiana’s ever ballooning orphan well inventories are the discards of modern oil and gas producers. While Louisiana’s OSR program successfully plugged 120 wells between January and March 2023, in the same period, an additional 150 wells were orphaned.<sup>13</sup>

### **Why should your proposed changes be implemented?**

Because we all care about the future of Louisiana and they are necessary for its survival.

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<sup>10</sup> USACE, Report To Congress: Hopper Dredges, June 3, 2005, <http://www.aapa-ports.org/files/PDFs/reporttocongress3Junefinal3nov05.pdf>

<sup>11</sup> Santos, Adolfo. (2005). Do Members of Congress Reward Their Future Employers?: Evaluating the Revolving Door Syndrome. University Press of America.

<sup>12</sup> All new orphaned well counts and OSR P&A counts come from the Louisiana Performance Accountability System. <https://www.doa.la.gov/doa/opb/performance/lapas/>

<sup>13</sup> Upton, Greg. Progress Report: Oilfield Site Restoration using IJA Funds. March 31, 2023 <https://www.lsu.edu/ces/publications/2023/osrprogressreport.pdf>

### **Use specific details to support the case.**

Louisiana needs a strong central authority with a clear mandate. The Coastal Protection and Restoration Authority and its Board are the result of bipartisan planning and agreement and the will of the Louisiana public. It has formed the institutional knowledge and processes that will be key in achieving our coastal and storm protection goals. Other state actions and agencies should not pursue policies that undermine or harm our coastal restoration plan. The current CPRA structure and autonomy are designed to prevent these scenarios. The expertise provided by the Governor's Advisory Commission on Coastal Protection, Restoration and Conservation ensures the State's Coastal Master Plan is nimble and the Governor's Office can act based on the latest engineering and scientific advances.

We leave a quote from the 1910 Louisiana Conservation Commission (DNR and Wildlife and Fisheries predecessor). Even over a century ago, our leadership understood that Louisiana's rare bounty was something to protect. We have an obligation to our children and grandchildren to restore this paradise before it's lost.

“In the case of those who look alone to their own profits, totally regardless of public welfare, the law must enter on behalf of the public, and regulation the operation of this class. The operator in natural resources, who operates solely for his own profit and without regard to the effect of his operation on the public welfare proceeds on the theory that thwart he has bought and paid for, he may do with as he pleases. He is wrong. It is the principle of law necessarily adopted by men when they associate themselves together in government, that the rights of the individual must necessarily be limited by the rights of his fellow individual. To say that a man may do what he pleases with his own is denied in a thousand ways, not only by law, but by custom and even public opinion.”

### **Reference relevant citations to strengthen your argument.**

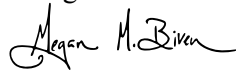
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Thank you for your time, dedication, and consideration of our comments.

Sincerely,  
Megan Biven



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