



UNITED FOR A HEALTHY GULF

330 Carondelet Street, 3rd, New Orleans, LA 70130
Phone: 504.525.1528 Fax: 504.525.0833

February 18th, 2017

Stephanie Zumo
State of Louisiana
Department of Natural Resources
Office of Coastal Management
Permit and Mitigation Division
Post Office Box 44487
Baton Rouge, LA 70804-4487
(225) 342-7272
Stephanie.Zumo@la.gov

re: **P20160166**; Proposed Bayou Bridge Pipeline in Calcasieu, Jefferson Davis, Acadia, Vermilion, Lafayette, Iberia, Saint Martin, Iberville, Ascension, Assumption, and Saint James Parishes

Dear Ms. Zumo,

I am writing on behalf of Gulf Restoration Network (“GRN”), a diverse coalition of individual citizens and local, regional, and national organizations committed to uniting and empowering people to protect and restore the natural resources of the Gulf of Mexico. We have serious concerns about the application for a Coastal Use Permit (**P20160166**) submitted to the Louisiana Department of Natural Resources (“LDNR”) by Bayou Bridge Pipeline, LLC (“Applicant”).

The Applicant requests a Coastal Use Permit (“CUP”) for its proposed construction of a 162-mile, 24-inch crude oil pipeline, along with related pump stations and ancillary structures (“Project”). The Project would begin at Phillip 66’s Clifton Ridge Marine Terminal in Lake Charles, transporting crude sourced fracking basins and supply hubs to Saint James Parish and its abundant midstream terminals and nearby refineries. Including impacts outside the Coastal Zone, the Project as proposed would impact 639.30 wetland acres.¹ These impacts are significant, and LDNR’s public hearing was warranted. GRN remains opposed to the Applicant’s request for a CUP. We ask LDNR to deny this request based on the following concerns:

¹ See Section 11, Joint Permit Application For Work Within the Louisiana Coastal Zone, updated 1/18/17:
http://sonris-www.dnr.state.la.us/sundown/cart_prod/cart_crm_application?pcup_num=P20160166&pline_id=15&show_appl_email=N

1. *The Project is not in the public need nor does it appear in the public interest.*

Although paraphrased above, for the sake of emphasis, below is the Project's Purpose and Need as described by the Applicant in its Supplemental Joint Permit Application:²

"The Project's purpose is to move an economical, abundant, reliable, and domestic supply of crude oil from Clifton Ridge Marine Terminal in Lake Charles, Louisiana to various crude oil terminals located near St. James, Louisiana. The Bayou Bridge Pipeline is being designed to safely carry 280,000 barrels per day (bpd) or more of light or heavy crude. From the St. James Terminals, the crude oil will be transported by other pipelines to refineries located along the Gulf Coast where 80 percent of the U.S. refining capabilities exist today to further our Country's goal of energy independence."

The Applicant then expounds on this purpose and need, breaking it into four major categories:³

"1. First, the Project will improve overall safety to the public and environment. It will reduce crude oil shipped by truck and by rail and increase the amount shipped by pipeline. Pipelines are the safest and most efficient means to transport crude oil, according to statistics compiled by the United States Department of Transportation. Pipelines are heavily regulated and are subject to intense scrutiny and oversight. Time and time again, pipelines have proven to be the safest and most reliable form of transporting oil.

2. Second, the Project will play a role in increasing America's energy independence. The pipeline is a means to transport domestically produced crude oil to support United States consumers' energy demand. The United States still imports half of the oil it consumes per day, and the pipeline will provide a critical link to help close the gap between what we produce as a country and what we consume.

3. Third, through the Project, Gulf Coast refineries will have better access to more reliable United States crude oil production to be used to meet United States consumers' need for gasoline, diesel fuel, and other petroleum products.

4. Finally, the Project will ease transportation constraints for agricultural products. The Project will free-up rail capacity for the transportation of crops and other commodities currently held up by crude oil cargos."

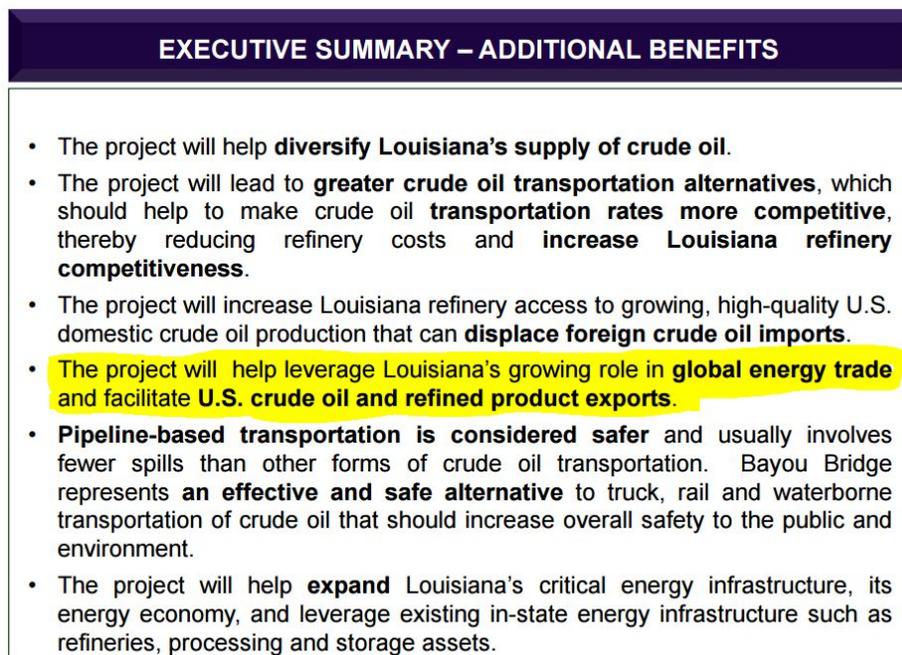
² Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166).

³ Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166).

The Applicant has framed its project within a context of inevitable oil transport. In reality, historic supply gluts and low prices have pushed crude into overflowing tank farms and tankers across the Gulf region of the United States, increasing harm to Gulf Coast and Louisiana residents.⁴ The degree to which oil export storage is built is primarily determined by the oil production plans of foreign nations, including members of OPEC, Iran, and Russia.⁵

In practice, adding pipeline capacity does not guarantee fewer trucks, trains, or barges. It only adds to existing woes: cumulative impacts to air, water, and wetlands that LDNR must assess under its guidelines and Article IX of the Constitution. Adding capacity to an already-saturated market is nonsensical. Burdening Louisiana residents with the environmental consequences of an attempt to influence international oil prices is absurd.

Most importantly, the Project is intended to facilitate oil exports (Figures 1, 2, and 3). These export plans subvert any potential “energy independence” for Louisiana or the United States.



EXECUTIVE SUMMARY – ADDITIONAL BENEFITS

- The project will help **diversify Louisiana's supply of crude oil.**
- The project will lead to **greater crude oil transportation alternatives**, which should help to make crude oil **transportation rates more competitive**, thereby reducing refinery costs and **increase Louisiana refinery competitiveness.**
- The project will increase Louisiana refinery access to growing, high-quality U.S. domestic crude oil production that can **displace foreign crude oil imports.**
- The project will help leverage Louisiana's growing role in **global energy trade and facilitate U.S. crude oil and refined product exports.**
- **Pipeline-based transportation is considered safer** and usually involves fewer spills than other forms of crude oil transportation. Bayou Bridge represents **an effective and safe alternative** to truck, rail and waterborne transportation of crude oil that should increase overall safety to the public and environment.
- The project will help **expand** Louisiana's critical energy infrastructure, its energy economy, and leverage existing in-state energy infrastructure such as refineries, processing and storage assets.

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Figure 1: The Project is explicitly meant to facilitate oil exports.⁶

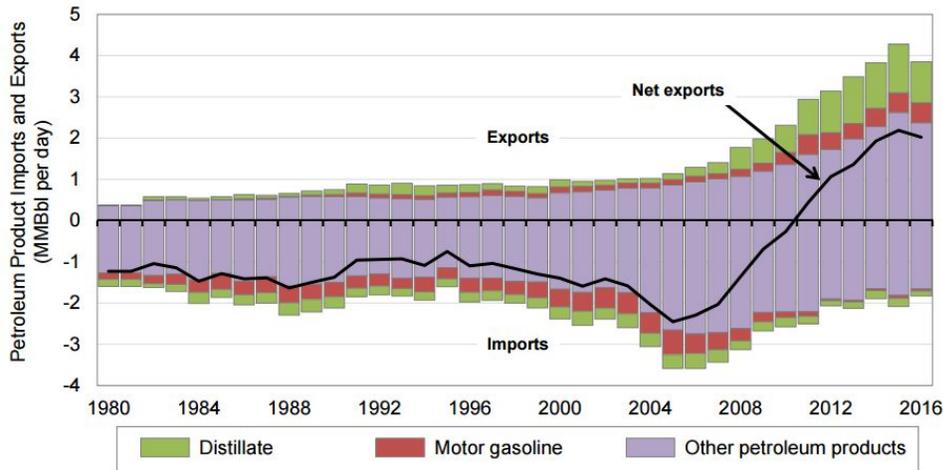
⁴ Keith Adams of St. Rose Community One Voice. Published to [YouTube](#) on Nov 7, 2014

⁵ Putin's Decade-Old Dream Realized as Russia to Price Its Own Oil [by Eduard Gismatullin April 27, 2016, 7:00 PM CDT](#)

⁶ LSU Center for Energy Studies' Potential economic impacts of the Bayou Bridge pipeline, prepared on behalf of Energy Transfer Partners, [February 7, 2017](#)

U.S. Petroleum Product Imports and Exports

In 2011, the U.S. became a net exporter of petroleum products. Net exports have increased 360 percent since then.



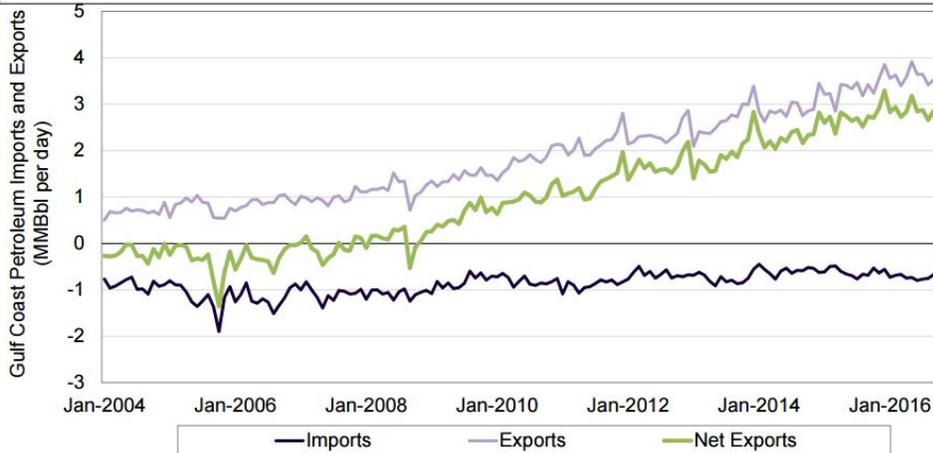
Source: Energy Information Administration, U.S. Department of Energy.

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Figure 2: The Applicant hopes to capitalize on oil oversupply.

Gulf Coast Petroleum Net Exports

The Gulf Coast region became a net exporter of petroleum products at the end of 2008. Since then net exports have increased at an average annual rate of 40 percent.



Source: Energy Information Administration, U.S. Department of Energy.

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Figure 3: Regional imports remained stable over the past decade, while exports have increased.

Energy independence is epitomized by local, renewable energy. Offshore wind, onshore wind, solar panels, solar collectors, tidal turbines, storage batteries, et cetera, can provide independence from an economy dependent on the price-fixing cartel of foreign governments. Shackling communities to fracked oil from North Dakota and beyond, so that product can be shipped to markets determined by agreements between Russia and Iran does not increase the independence of Louisiana's economy.⁷

The Project is not in the public interest, and the permit must be denied.

2. The Project is inconsistent with SLCRMA, the Atchafalaya Basin Program, Louisiana's Comprehensive Master Plan for a Sustainable Coast and Governor John Bel Edwards's Executive Order No. JBE 2016-09.

A project with mere millions in proposed benefits does not outweigh the costs, when those costs are weighed in billions. A project with millions in benefits may not outweigh the damages to existing programs which costs millions to implement.

There continue to be blatant inconsistencies in larger, politically motivated permit applications such as this one. The Applicant appears to believe that it operates under a different law and different reality than public efforts to restore the areas that it proposes to demolish. GRN maintains that water quality and wetland processes are the same, whether under a restoration assessment or a assessment of pipeline impacts.

Disrupting these wetlands directly conflicts with Louisiana's restoration and community-protection goals. Wetlands are part of Louisiana's flood protection system. The *Comprehensive Master Plan for a Sustainable Coast* ("Master Plan") clearly states that valuable wetlands must be preserved. The cost to Louisiana of losing its wetlands is measured in increasing billions of dollars per year.⁸ The Applicant has not supplied an analysis of how their project avoids these damages to the homeland security of Louisiana.

One of the key assumptions of 2007's Master Plan is that "a sustainable landscape is a prerequisite for both storm protection and ecological restoration."⁹ And in 2012's iteration,

⁷ "Russia, Iran agree to coordinate steps in oil market ahead of OPEC talks" Moscow (Platts)--29 Nov 2016 402 am EST/902 GMT

⁸ SMP 2017, page 74

⁹ Coastal Protection and Restoration Authority of Louisiana, *Executive Summary, in LOUISIANA'S COMPREHENSIVE MASTER PLAN FOR A SUSTAINABLE COAST 3* (2007).

these land-use specifications were further clarified, so that the plan itself does not absolve CUP or 404 applicants from avoiding destruction of wetlands.

“We do not want construction of new hurricane protection systems to encourage unwise development in high risk areas, as has occurred in the past. Such development increases overall levels of risk and diminishes the effectiveness of the protection structures themselves. This phenomenon is called “Induced Risk,” and it runs counter to the master plan’s objectives of sustaining wetland ecosystems and reducing the flooding risks borne by coastal communities. *Similarly, wetland areas inside the hurricane protection system need to remain intact and undeveloped [emphasis added].*”¹⁰

The Atchafalaya Basin Program has commented that "ABP would object to any permanent spoil banks that would exceed pre-construction ground elevations that would obstruct North to South water flow [between mile post 107.9 and 131.2]." In fact, the state and federal projects in the Atchafalaya Basin Program require *much more detailed* assessments of the impacts to hydrology, sedimentation, and water quality in areas such as Buffalo Cove Management Unit. The Environmental Assessment for Buffalo Cove project (EA #366¹¹) states that the success of Element #15--the element of the plan in the footprint of the proposed pipeline---is contingent upon activities that

1) reduce the levels of the average annual water column hypoxia established at previously monitored sites by 50 percent, 2) increase water movement (velocity) in a north to south direction to a velocity greater than 0 feet per second, 3) limit sediment accretion to less than 1 inch per year in the areas of influence 200 yards or more from water inlets or bank shavings, as well as the open water areas of Jackass Bay, Bayou Gravenburg, the remnants of Grand Lake near Prejean Canal, and the area to the east of Poncho Chute; 4) introduce water into the unit at lower river stages in those areas influenced by water inlet projects.¹²

Millions in public dollars are being spent to ensure *increased* water flow and quite specific *increases* in water quality. Merely ensuring the return of 'pre-construction' elevations is insufficient with existing management plans, when the applicant could merely avoid wetland impacts to this area.

¹⁰ Coastal Protection and Restoration Authority of Louisiana, *2012 Comprehensive Master Plan for a Sustainable Coast*, p 159).

¹¹ EA #366, Atchafalaya Basin Floodway System, Buffalo Cove Management Unit Water Circulation Improvements and Sediment Management Initiatives. online at <http://data.dnr.louisiana.gov/ABP-GIS/Publications/Buffalo%20Cove%20EA.pdf>

¹² EA #366, page 16.

We also note that the Applicant plans to impact the Buffalo Cove and other management units while the monitoring of the existing management is ongoing. The ABP itself cannot fulfill the requirements of EA #366 and allow this pipeline trenching to move forward. The Applicant must resolve the issue of how its project impacts the monitoring of the management unit, as well as how its project will not interfere with a project to speed water flow, decrease hypoxia, and limit accretion.

The Applicant can likely resolve this issue by avoiding the wetlands in the management unit. It proposes not to, despite the millions of dollars of public monies already sunk into restoration. By not requiring the Applicant to avoid wetland impacts, many agencies of government are planning to shrink their constitutional duties and to spend many public dollars on projects that apparently will not fulfill their basic purpose.

Disrupting wetlands hinders both their ecosystem and flood-protection functions, in direct conflict with the state's goals. The Master Plan further states that "overall hydrology must be improved by minimizing impediments to water flow."¹³ Allowing the Applicant to impact upwards of 630 acres of wetlands not only limits functionality, it also fails to minimize water-flow impediment or improve overall hydrology.

The Louisiana Legislature approved an updated version of the Coastal Master Plan during the 2012 Regular Session,¹⁴ with overwhelming public support.¹⁵

On April 4th, 2016, Louisiana Governor John Bel Edwards gave even greater weight to the foundational recommendations laid out in the Master Plan by issuing Executive Order No. JBE 2016-09 ("Executive Order"). Like Executive Order No. BJ 2008-7 issued by his predecessor,¹⁶ the Governor's mandate again requires all state agencies, departments, and offices to "administer their regulatory practices, programs, projects, contracts, grants, and all other functions vested in them in a manner consistent with the Coastal Master Plan and public interest to the maximum extent possible."¹⁷ This requirement is intended to "effectively and efficiently pursue the State's integrated coastal protection goals."¹⁸

¹³ *Id.*

¹⁴ SCR No.62, 2012 Leg., Reg. Sess. (La. 2012).

¹⁵ Louisiana Coastal Master Plan Public Opinion Survey, Southern Media & Opinion Research, Inc. Online at <http://www.mississippiriverdelta.org/files/2012/04/2012-Louisiana-CMP-Opinion-Survey.pdf>.

¹⁶ See Exec. Order No. BJ 2008-7, issued 1/23/08:

http://dnr.louisiana.gov/assets/docs/conservation/groundwater/Appendix_B.pdf

¹⁷ See Exec. Order No. JBE 2016-09, issued 4/4/16: <http://gov.louisiana.gov/assets/ExecutiveOrders/JBE16-09.pdf>

¹⁸ *Id.*

The Executive Order strives to implement the Master Plan's goals to preserve wetland areas. The Louisiana Department of Natural Resources is a state agency and therefore mandated to review the Coastal Use Permit, a regulatory practice, for consistency with the Coastal Master Plan. The Applicant seeks a CUP for a project that will potentially destroy over 630 acres of coastal wetlands that protect communities from localized flooding, all to transport fracked oil. The Applicant, however, fails to provide an analysis of how the Project is consistent with the Coastal Master Plan, thereby falling short of the "maximum extent possible" standard enumerated in Executive Order No. JBE 2016-09.

It must be noted that consistency with CZMA and SLCRMA is broader than Executive Order and the Coastal Master Plan. Louisiana has not used the full extent of its consistency determination powers to control activities in the coastal zone. By not doing so, LDNR is failing its constitutional duty to "replenish" natural resources and Louisiana is failing to effectively use a powerful tool in the fight to preserve its wetlands and combat land loss. Louisiana should, at a minimum, use the consistency provisions as aggressively as they are used in other coastal states. Louisiana should, in certain situations, use the CZMA consistency provisions to force federal agencies and their permittees to conduct their activities in the coastal zone in a manner that has a positive effect, not merely a non-detrimental effect, on the coastal zone environment. The job skills and the construction equipment required to destroy wetlands are the same required to destroy those wetlands. The mobilization costs of the bulldozers and backhoes proposed for a pipeline could be leveraged to increase flow, improve water quality, and decrease sedimentation, as has already been proposed and described. The Applicant could merely be ordered to comply with its previous wetland permits for the Florida Gas Transmission line or the Whisky Bay collection lines, before receiving yet another permit to destroy the natural resources of Louisiana.

Instead, LDNR has a process of emailing CPRA engineers concerning specific projects with a clickable link for an engineer to "Make Auto Comment of No Objection / No Impact". In this case, CPRA has clicked this link on an email. This is an arbitrary decision. Clicking a link is insufficient to determine whether an applicant is avoiding impacts to the maximum extent, when public safety and drinking water supply are at risk.

When considering the damage to drainage in Assumption Parish, the risks of high pressure oil spills, water quality in Bayou Lafourche, drinking water for 300,000 Louisiana residents, the risks to Bayou Lafourche Freshwater District's publically funded restoration projects, it is unconscionable that the Applicant would not consider avoidance that occurs within Louisiana by Horizontal Drill. For the Blind River, pipeline applicants regularly drill 125 feet or more under

the waterbody¹⁹, from distances up to a half-mile away. A decision of any government agency to fail to hold applicants to this kind of standard is an arbitrary decision.

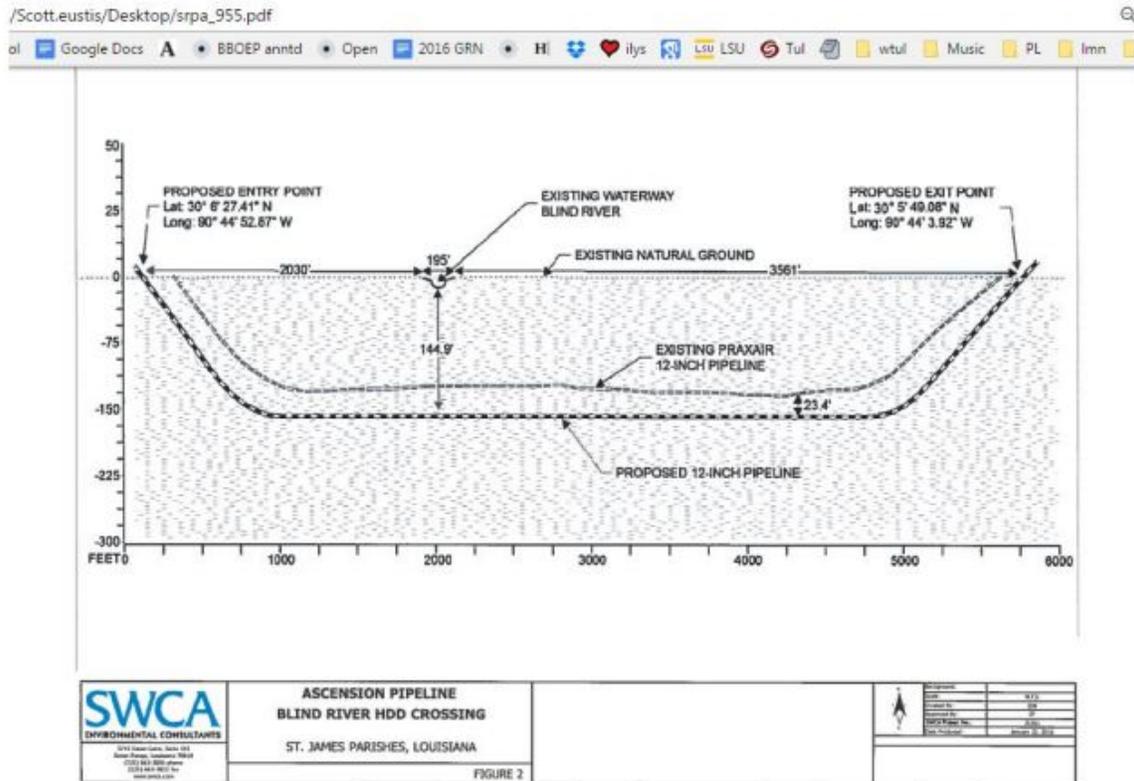


Figure 4. HDD under Blind River (P 2015 0393) The HDD extends roughly a mile across, avoiding many wetland acres and stream crossings, and crosses more than 100 feet under the waterbody.

Without a record of the deliberations made to avoid impacts to the coastal zone and coastal restoration projects "to the maximum extent possible," to comply with the requirements of existing EAs and Coastal Use Permits, or to resolve existing non-compliance with state and federal plans for the coastal zone, LDNR is unable to issue a CUP that is consistent with the Executive Order and SLCRMA.

¹⁹ See Figure 4. Ascension Pipeline HDD crossing at Blind River.

3. The Coastal Use Permit Application fails to fully consider direct, indirect, secondary, and cumulative impacts.

The Louisiana Department of Natural Resources has a Constitutional²⁰ and public trustee duty to determine whether a project avoids or minimizes adverse environmental impacts, while balancing environmental costs and benefits with economic and social factors.²¹ LDNR must also consider whether alternate projects, sites, or mitigating measures would better protect the environment.²² LDNR must require a full analysis of the direct, indirect, secondary, and cumulative impacts to wetlands in the Louisiana Coastal Zone. This analysis is necessary for the LDNR to fulfill its public trustee duty and to analyze the possible extent necessary to avoid and minimize adverse environmental impacts. The issuance of a Coastal Use Permit prior to these assessments would neglect legal obligations.

As stated, the Applicant could avoid many impacts to waters and wetlands by horizontal drill (HDD). Such crude oil pipelines are regularly drilled under the Mississippi River; pipelines under the Blind River avoid wetlands one half-mile in either direction and are drilled at depths of 125 feet or more; this project proposes to avoid federal levees at depths of 125 feet; our wetlands and drinking water is deserving of the same degree of avoidance. Just because this applicant is in a large amount of financial duress, and must complete this project in a timeline for its creditors, is no reason to fail to avoid wetland and water impacts.

The Applicant has engaged in some form of alternative analysis, by examining four alternative pipeline routes as well as the 'no-action' alternative. Compared to the proposed route, 'Alternative 3' would affect around 50 fewer forested-wetland acres while also avoiding a greater number of waterbodies.²³

Despite this clear impact reduction, the Applicant has deemed this route cost-prohibitive. As the permitting decision-maker, LDNR is not held to the options economically available to the applicant.²⁴ LDNR must instead ensure the Applicant avoids and minimizes adverse environmental impacts to the maximum extent practicable. Horizontal Drilling can avoid many

²⁰ Article IX, Section 1, Louisiana Constitution:

"The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people."

²¹ *Save Ourselves*, 452 So. 2d 1152 (La. 1984)

²² *Id.*

²³ Attachment 9, Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166), updated 1/12/17: <http://srfrxprod.dnr.state.la.us/dnrservices/redirectUrl.jsp?dID=5763894>

²⁴ LDNR's Coastal Users Guide to the Louisiana Coastal Resources Program, as revised January 2015

more wetlands and stream crossings; over 40% of stream crossings proposed are "Open Cut." the number of crossings could be greatly reduced by HDD to deeper depth, beginning from farther away from the crossing. Ultimately, the 'no-action' alternative avoids and minimizes the most, when considering the negligible Project benefits to the public, and the large costs to homeland security.

Project benefits are sparse due to the lack of public need for the Project. The Applicant is exempt from completing a Justification Analysis, since LDNR considers energy exploration and production to be an issue of national importance.²⁵ It is time to revise this exemption, given the crises facing Louisiana and economic trends of oil and gas exports.

As mentioned above, the Project's direct impact to upwards of 630 wetland acres is certainly significant. The fill of such a large area would be in violation of state anti-degradation policy. Louisiana policy states "administrative authority will not approve any wastewater discharge or certify any activity for federal permit that would impair water quality or use of state waters."²⁶

Given the information available in public documents, it does not appear that the Applicant has fully weighed the costs and benefits relevant to the Project. Direct, indirect, secondary, and cumulative impacts of the proposed wetland fill and clear remain overlooked.

As an example, the cumulative impacts on storm and flood protection must be taken into consideration. The destruction of these wetlands, in direct opposition to the Master Plan, would further weaken the state's storm defenses. When combined with similar wetland-destroying projects, this CUP approval could result in more flooding in nearby communities, as well as degraded water quality in surrounding watersheds. The whole area must be looked at as an interrelated ecological unit in order to truly assess impacts. Allowing this project to proceed would furthermore reaffirm regional precedent for unrestrained fossil-fuel expansion, in turn jeopardizing even more valuable coastal habitat.

Crucially, the transport and eventual export of crude oil is not isolated from its extraction. *Hydrocarbons must first be removed from underground deposits, before they can be transported anywhere.* Recognizing this reality can then allow for the 'total cost' of the Project to be calculated. The Project can only function after oil extraction, processing, and terminaling. The Applicant is presently unwilling to ground itself in this reality.²⁷

²⁵ *Id.*

²⁶ LA. ADMIN. CODE tit. 33, pt. IX §1109(A)(2).

²⁷ See Section 12, part C, Joint Permit Application For Work Within the Louisiana Coastal Zone, updated 1/18/17: http://sonris-www.dnr.state.la.us/sundown/cart_prod/cart_crm_application?pcup_num=P20160166&pline_id=2&ps_how_appl_email=N

The Project's total cost includes the carbon emissions that result from oil extraction through its end-use. This sort of life-cycle accounting offers the best insights regarding potential climate-related impacts over the the Project period. To emphasize, the Project cannot function or fulfill its purpose without associated drilling, handling, and related transport.

The Project's unaccounted, external costs in the forms of environmental and health damages will be felt by communities in coastal Louisiana and beyond. Citizens across the Gulf are exposed daily to water and airborne contaminants because of the fossil-fuel industry. All the while, surrounding natural beauty is impacted by drilling wells, storage facilities, pumping stations, train cars, rail lines, access roads, and miles and miles of pipe.

We strongly encourage LDNR to internalize as many of these costs as possible via the above mentioned methods or otherwise. The proposed Project offers little benefit and significant direct costs. Quantifying the other costs that normally fall upon the public should only skew the balance further.

Since the Applicant does not assess the potential direct, indirect, and cumulative impacts that will result from the direct impact of over 630 acres of wetlands, and indirect impact to thousands more, LDNR cannot approve this CUP application as submitted.

4. The Applicant has yet to develop Project-specific disaster-response plans.

The Applicant must have disaster response plans in place prior to project permitting. Until January 2017, this documentation did not exist. And yet, upon inspection of the current Spill Prevention and Response Plan, it's clear the Applicant hasn't devoted adequate attention to its preparation.

Namely, Section 3 includes repeated references to "some of the states that BBP operates in."²⁸ The Applicant, Bayou Bridge Pipeline, LLC, is a company created by Energy Transfer Partners, Sunoco, and Phillips 66 solely for this Project. The Applicant therefore has more than likely conducted a 'find and replace' and/or 'copy and pasted' from previous plans. This is an inexcusable disservice to the unique character of coastal Louisiana and the safety of its hundreds of thousands of residents.

Moreover, LDNR cannot be a "passive umpire" when it comes to permitted materials. This duty was distinctly highlighted in the recent ruling, *Sierra Club Delta Chapter v. La. Dep't Nat. Res.*, No. 00060916, Div. A.²⁹ LDNR must accept responsibility for materials permitted under the umbrella of coastal-use. However, fulfilling this responsibility may be impossible since the Applicant has not specified the exact type of crude oil that will flow through the Project. Multiple grades of crude have been detailed only as much as "light or heavy."³⁰

This uncertainty is compounded by the aforementioned inadequate disaster-response plans. The Applicant offers no specific language about spill response, only referencing "corrective measures" and "response activities."

The Applicant's CUP application is incomplete in its present form, and must be rejected because it does not specify the oil type to be transported.

²⁸ Attachment 8, Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166), updated 1/12/17: <http://sfrxprod.dnr.state.la.us/dnrservices/redirectUrl.jsp?dID=5763840>

²⁹ La. 19th JDC Dec. 23, 2014.

³⁰ Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166), updated 1/13/17

5. The present wetland Mitigation Plan is deficient.

The Applicant has so far abused the idea of a 'temporary impact.' They've excluded all temporary impacts to PEM habitat from their Louisiana Wetland Rapid Assessment Method (LRAM) calculations. The Applicant defends this decision, stating "Compensatory mitigation is not required for temporary impacts to emergent wetlands, scrub-shrub wetlands, or streams as these features will be allowed to return to pre-construction conditions upon completion of construction." This is simply false, given the ongoing efforts and public dollars spent to restore and maintain wetlands and water in the project area, in the coastal zone, in the Atchafalaya Basin Floodway, in the historic Atchafalaya Basin, and across the state.

The regrowth of impacted PEM habitat presently lies on the Applicant's word. The Applicant furthermore sees the regrowth as a passive process, one which "will be allowed" to happen. Rather, mimicking pre-construction conditions demands an active process. To ensure pre-construction conditions are indeed returned, LDNR and the Corps could collect money up front, to be returned upon successful regrowth.

The Applicant has also deemed 'temporary' the permanent conversion of PFO and PSS habitat to PEM habitat, for the permanent Project ROW. The Applicant claims "no net loss" in wetland habitat will occur for the permanent ROW, since it's merely habitat conversion. LRAM defines conversion as a "permanent partial loss," yet this equates to a 'temporary' impact type value of 0.5 rather than a 'permanent' one of 3.0. The current temporary-permanent binary must be refined, to better reflect the reality of wetland fills and to better inform avoidance, minimization, and mitigation measures.

The definition of "permanent" extends at minimum to the 50-year planning horizon contemplated by the Coastal Master Plan. There is no satisfactory definition of "Temporary" impact to wetland forests that, once cut, do not regenerate.

Rather than an either-or between 3.0 and 0.5, additional impact type values should be introduced. A sliding scale that incorporates a given project's expected life span and the varying growth rates of impacted vegetation would be ideal. At the least, a third value, say 1.5, would better suit "permanent partial losses."

Wetland mitigation is meant to atone for destruction, both by wetland type and wetland location. *As proposed, 64% of Project impacts would be mitigated via in-kind/in-basin credits.*³¹

³¹ Attachment 15, Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166), updated 1/12/17: <http://sfrxprod.dnr.state.la.us/dnrservices/redirectUrl.jsp?dID=5763902>

There just aren't enough banks in the region to allow for 100%. This is a testament to the incredible amount of wetland destruction permitted across the state.

Mitigation is mandated to ensure "no net loss" of habitat. Yet in practice, establishment and re-establishment practices are cast aside for enhancement, rehabilitation, and preservation activities. Rather than creating "net gains," the majority of mitigation simply swaps habitat types across shrinking lands.

LDNR must deny the Coastal Permit, as the mitigation plan is deficient.

SUMMARY

- 1. The Project is not in the public need nor does it appear to offer public benefits.**
- 2. The Project is inconsistent with SLCRMA, the Atchafalaya Basin Program, Louisiana's *Comprehensive Master Plan for a Sustainable Coast* and Governor John Bel Edward's Executive Order No. JBE 2016-09.**
- 3. The Coastal Use Permit Application fails to fully consider direct, indirect, secondary, and cumulative impacts.**
- 4. The Applicant has yet to develop Project-specific disaster-response plans.**
- 5. The present wetland Mitigation Plan is deficient.**

LDNR must take seriously the mandates put forth by Louisiana's *Comprehensive Master Plan for a Sustainable Coast*, Governor John Bel Edwards, Louisiana's Constitution, and the Louisiana Supreme Court. These responsibilities are only heightened when faced with the inadequacies of the Applicant's public documents.

The Applicant has not demonstrated that the Project is in the public need or offers public benefit, has not assessed significant impacts, has not developed adequate disaster-response plans, and has not drafted a proper mitigation plan. This is in addition to displaying clear inconsistency with the Master Plan and Executive Order.

Since the 2005 hurricane season, risks to our homeland have only increased. Louisiana was damaged to the tune of over \$10 Billion in 2016 alone. GRN is beyond alarmed by the wetland destruction occurring throughout Louisiana and the Gulf Coast. We hope LDNR will act upon the above comments accordingly.

In order to keep us and the public properly informed, we request notification of denials, approvals, and/or changes to the Applicant's request for a CUP. We look forward to a written response.

For a healthy Gulf,
[sent via e-mail]



Scott Eustis, MS
Coastal Wetland Specialist



James G. Hartwell, MSPH
Coastal Wetland Analyst

Gulf Restoration Network
330 Carondelet Street, 3rd Floor
New Orleans, LA 70130
(504) 525.1528 x212 or (504) 525.1528 x209
Scott@healthygulf.org or James@healthygulf.org

Cc: Matt Rota, Senior Policy Director
Dean Wilson, Atchafalaya Basinkeeper
Misha Mitchell, Atchafalaya Basinkeeper
Mary Lee Orr, Louisiana Environmental Action Network
Paul Orr, Louisiana Environmental Action Network
Michael Brown, Waltzer and Wiygul
May Nguyen, Tulane Environmental Law Clinic
Lisa Jordan, Tulane Environmental Law Clinic
Colette Pichon Battle, Gulf Coast Center for Law and Policy
Logan Atkinson-Burke, Alliance for Affordable Energy
Anne Rolfes, Louisiana Bucket Brigade
Cherri Foytlin, BOLD Louisiana
Darryl Malek-Wiley, Sierra Club
Renate Heurich, 350 Louisiana - New Orleans
Frances Kelley, 350 Louisiana - Shreveport/Bossier City