GULF RESTORATION NETWORK
healthygulf.org

UNITED FOR A HEALTHY GULF

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Stephanie Zumo
State of Louisiana
Department of Natural Resources
Office of Coastal Management
Permit and Mitigation Division
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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 from Texas fracking basins and Oklahoma supply hubs to Saint James Parish and its abundant midstream terminals. As proposed, the Project will impact 77.69 acres of wetlands within Louisiana's Coastal Zone. Including impacts outside the Coastal Zone, the scale of the Project expands to 632.41 acres.[1] A project of this size warrants a public hearing, perhaps even multiple.

[1] *See* Section 11, Joint Permit Application For Work Within the Louisiana Coastal Zone, filed 4/6/16: http://sonris-www.dnr.state.la.us/sundown/cart_prod/cart_crm_application?pcup_num=P20160166&pline_id=2&pshow_appl_email=N

GRN opposes the Applicant's request for a CUP, and we ask LDNR to deny this request based on the following concerns:

1. The Project is inconsistent with Louisiana's Comprehensive Master Plan for a Sustainable Coast and a 2016 Executive Order.

Disrupting these wetlands directly conflicts with Louisiana's restoration and community-protection goals. The *Comprehensive Master Plan for a Sustainable Coast* ("Master Plan") clearly states that valuable wetlands must be preserved.

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."[2] And in 2012's iteration, these land-use specifications were further clarified:

"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]."[3]

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."[4] 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 the latest version of the Coastal Master Plan during the 2012 Regular Session,[5] with overwhelming public support.[6]

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[2] Coastal Protection and Restoration Authority of Louisiana, *Executive Summary*, *in* LOUISIANA'S COMPREHENSIVE MASTER PLAN FOR A SUSTAINABLE COAST 3 (2007).
[3] Coastal Protection and Restoration Authority of Louisiana, *2012 Comprehensive Master Plan for a Sustainable Coast*, p 159*).*
[4] *Id.*
[5] SCR No.62, 2012 Leg., Reg. Sess. (La. 2012).
[6] 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.

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,[7] 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."[8] This requirement is intended to "effectively and efficiently pursue the State's integrated coastal protection goals."[9]

The Executive Order strives to implement the Master Plan's goals to preserve wetland areas. 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.

LDNR cannot both follow the Executive Order and issue a CUP to the Applicant.

2. Direct, indirect, secondary, and cumulative impacts must be fully considered.

Article IX, Section 1 of Louisiana's Constitution provides that "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."[10]

In its 'Save Ourselves' decision, the Louisiana Supreme Court outlined how state agencies, as public trustees, can implement this constitutional guarantee. All agencies must determine whether a project avoids or minimizes adverse environmental impacts, while balancing environmental costs and benefits with economic and social factors. Agencies must also consider whether alternate projects, sites, or mitigating measures would better protect the environment.[11]
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. Despite this clear impact

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[7] *See* Exec. Order No. BJ 2008-7, issued 1/23/08: http://dnr.louisiana.gov/assets/docs/conservation/groundwater/Appendix_B.pdf
[8] *See* Exec. Order No. JBE 2016-09, issued 4/4/16: http://gov.louisiana.gov/assets/ExecutiveOrders/JBE16-09.pdf
[9] *Id.*
[10] *See* Article IX of Louisiana Constitution: http://senate.la.gov/Documents/Constitution/Article9.htm#%C2%A71.%20Natural%20Resources%20and%20Environment;%20Public%20Policy
[11] 452 So. 2d 1152 (La. 1984).

reduction, the Applicant has deemed this route cost-prohibitive.[12] The Applicant is also exempt from completing a Justification Analysis, since LDNR considers energy exploration and production to be an issue of national importance.[13]

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 mentioned above, the Project's direct impact to upwards of 630 wetland acres is certainly significant. The fill of such a large area is also 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."[14]

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 reaffirm regional precedent for unrestrained fossil-fuel expansion, in turn jeopardizing even more valuable coastal habitat.

Crucially, the transport 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 Applicant is presently unwilling to ground itself in this reality.[15]

The Project's 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.

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[12] 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).
[13] *Id.*
[14] LA. ADMIN. CODE tit. 33, pt. IX §1109(A)(2).
[15] *See* Section 12, part C, Joint Permit Application For Work Within the Louisiana Coastal Zone, filed 4/6/16: http://sonris-www.dnr.state.la.us/sundown/cart_prod/cart_crm_application?pcup_num=P20160166&pline_id=2&pshow_appl_email=N

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

3. The Applicant must develop disaster-response plans, and local floodplain officials should be included in the notification of this permit since the Project sits in areas vulnerable to flooding.

The Applicant must have disaster response plans in place prior to project permitting. We have yet to see mention of this sort, in the public documentation. The location of this proposed project is especially critical, given the threats to coastal parishes posed by storms.

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.[16] LDNR must accept responsibility for materials permitted under the umbrella of coastal-use. Until the Applicant has drafted disaster-response plans, its application for a CUP ought to be deemed inadequate.

The Project is clearly susceptible to storm-surge events (Figure 1).[17] Yet, the Applicant has not produced readily visible containment plans. The responsibility of managing flood risk in Louisiana lies largely with individual parishes, so they should be informed of this CUP request that impacts flood-mitigating wetlands. For reference, relevant contacts are listed below:

Calcasieu Parish - Dana Watkins, 337-721-3600, dwatkins@cppj.net
Jefferson Davis Parish - Linda Skrantz, 337-824-6290, Lmsjdppj@bellsouth.net
Acadia Parish - Lee Hebert, 337-783-4357, lee@apso.org
Vermilion Parish - Linda Duhon, 337-898-4300, l.duhon@yahoo.com
Lafayette Parish - Kerwin Woodard, 337-291-8468, kwoodard@lafayettela.gov
Iberia Parish - Charlene Picard, 337-429-5435, cpicard@iberiagov.net
Saint Martin Parish - Shanny Dodge, 337-394-2200, speltier@stmartinparish.net
Iberville Parish - D. Laney Mendoza, 225-687-5150, dmendoza@ibervilleparish.com
Ascension Parish - Marcia Shivers, 225-621-5700, mshivers@apgov.us
Assumption Parish - John Boudreaux, 985-369-7386, johnboudreaux@assumptionoep.com

[16] La. 19th JDC Dec. 23, 2014.
[17] SONRIS Interactive Maps http://sonris-www.dnr.state.la.us/gis/agsweb/IE/JSViewer/index.html?TemplateID=181&layer_type=CUP&filter_value=P20160166.

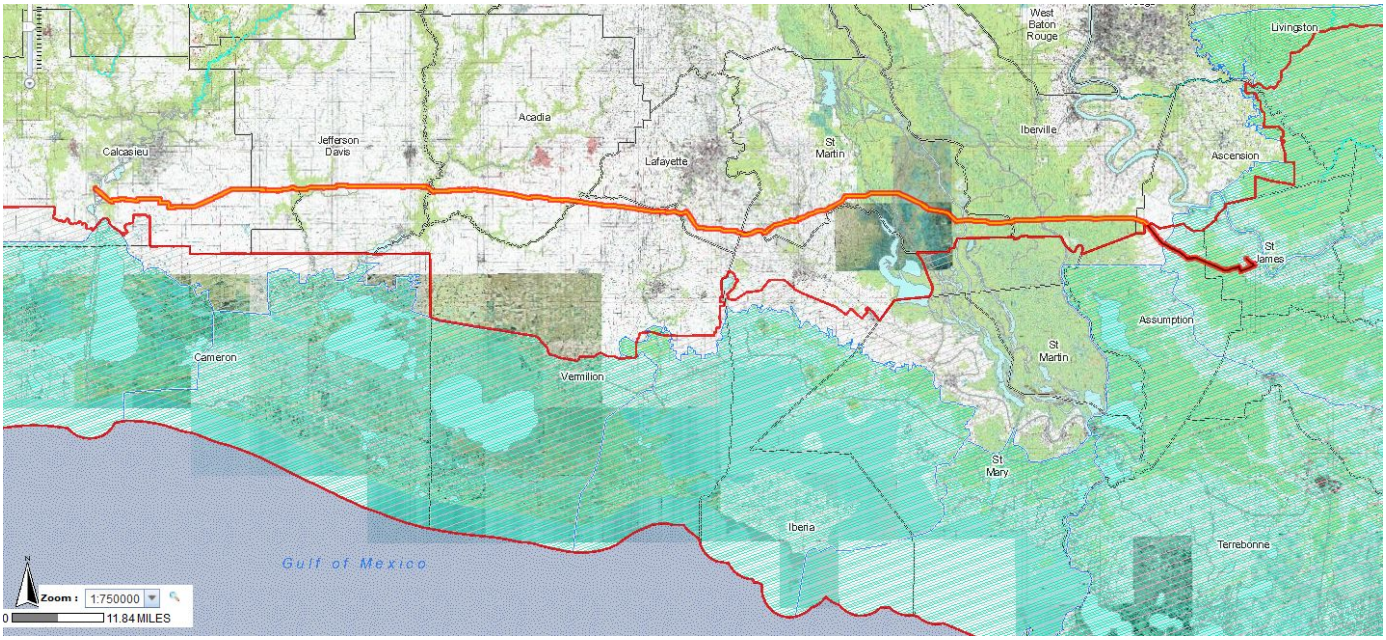

Figure 1: The Project as proposed travels through flood-prone parishes, seen here alongside the 2012 Coastal Zone Boundary

The Applicant's application must be deemed inadequate until it submits disaster-response plans. We also request that local floodplain managers be notified of the associated, significant flood and spill risks.

4. The Project does not appear to offer public benefit or be 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:[18]

"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

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

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:[19]

"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."

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. Adding capacity to an already-saturated market would appear nonsensical had the Applicant not already entered into binding contracts with shippers. According to the Applicant, "ninety percent (90%) of the transportation capacity [is] subscribed by committed shippers and the remaining ten percent (10%) of the transportation capacity [is] reserved for walk-up shippers." The "open season" for these subscriptions began in 2014.[20]

More importantly, the notion of energy independence repeatedly touted by the Applicant fails to reflect reality. Energy independence, or consuming the energy 'you' produce, is epitomized by renewable energy. Offshore wind, onshore wind, solar panels, solar collectors, tidal turbines, storage batteries, any combination thereof, and technologies that would've made this sentence too long, can provide independence. Shackling communities to fracked oil does not.

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[19] Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166).
[20] *Id.*

While the Applicant does mention potential future "temporary construction employment" and "full-time, local jobs to operate and maintain the pipeline," nowhere is it explicit that these workers will be residents of the affected Parishes. The closest guarantee is that of "United States workers." "1,500 construction jobs" are cited too, though the number of long-term maintenance jobs remains absent.[21]

All too often, the workers hired to construct these sorts of projects are contractors hailing from outside of coastal Parishes, even beyond Louisiana. The transplants live in 'man camps,' injecting stimulus into local economies solely via gas pumps and adjoined casinos. In an audacious claim, the Applicant goes as far to say that the "multiplied economic impacts" will be "nearly $5 billion just during the construction phase."[22]

Community members will instead likely be left with all the unaccounted, external costs of the Project: health and environmental impacts, reduced flood protections, heightened spill risks, and the countless other costs associated with the climate-disrupting reliance on fossil-fuel infrastructure.

[21] Supplemental Joint Permit Application for Section 404/Section 10 Permit and Coastal Use Permit, Bayou Bridge Pipeline Project (MVN-2015-02295-WII; P20160166).
[22] *Id.*

SUMMARY

1. **The Project is inconsistent with Louisiana's *Comprehensive Master Plan for a Sustainable Coast* and a 2016 Executive Order.**

2. **Direct, indirect, secondary, and cumulative impacts must be fully considered.**

3. **The Applicant must develop disaster-response plans, and local floodplain officials should be included in the notification of this permit since the Project sits in areas vulnerable to flooding.**

4. **The Project does not appear to offer public benefit or be in the public interest.**

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 assessed significant impacts, has not developed disaster-response plans, and has not demonstrated that the Project offers public benefit or is in the public interest. This all comes after displaying clear inconsistency with the Master Plan and Executive Order.

Over a decade since the 2005 hurricane season, 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 see public hearings as the perfect tools to gain further local insights into the Project, as proposed.

We look forward to a written response.

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

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