



# Louisiana Wetland News

Spring 2003

## New Wetland Bills Introduced to LA Legislature

For the past 25 years, Jerald Horst (Fisheries Specialist and Associate Professor, LSU AgCenter and Louisiana Sea Grant) has published *Lagniappe*, a monthly newsletter for specific issues related to Louisiana fisheries. Each year, a special edition of *Lagniappe* is dedicated to describing the new fisheries-related bills introduced to the Louisiana Legislative. This year's special edition covers 122 bills, including the 44 wetland and habitat related bills listed below.

You will notice that several of these bills pertain to the recently implemented "America's Wetland" campaign, while many others propose the expansion of existing state trust funds and/or development of new state trust funds for coastal wetland conservation and restoration. However, the largest group of these bills are those that propose compensation and liability limits for the state in cases related to coastal restoration projects. Louisiana currently faces more than \$600 million in oyster lawsuits from the Caernarvon Freshwater Reintroduction Project alone, thus liability limitations are of paramount concern.

Additional information on the status of any of these bills can be obtained by calling the capital at 1-255-342-2456 or 1-800-256-3793, or by accessing the following site: [www.legis.state.la.us](http://www.legis.state.la.us) The *Lagniappe* newsletter is available at: [www.lsuagcenter.com/](http://www.lsuagcenter.com/)

### Acronyms:

Senate Bill (SB), House Bill (HB), Concurrent Resolution (CR)  
Department of Wildlife and Fisheries (DWF)  
Wildlife and Fisheries Commission (WFC)  
Department of Natural Resources (DNR).

### Senate Bills

**SB28 - Dupre & Pitre** Creates the "America's Wetland" prestige vehicle license plate.

**SB29 - Dupre & Pitre** Designates the loss of Louisiana's coastal wetlands to be our "state crisis", and calls for recognition of the crisis by use of the "America's Wetland" logo on official documents.

**SB 39 - Dupre & Pitre** Authorizes the placement of promotional stickers for the "America's Wetland Campaign" on public vehicles.

**SB 212 - Dupre et al.** Eliminates the \$40 million cap on mineral revenues that can be part of the Wetlands Conservation and Restoration Fund.

**SB 213 - Dardenne** Constitutional amendment to create the Louisiana Coastal Restoration Fund.

**SB 214 - Dupre et al.** Constitutional amendment to allow nonrecurring revenues to be deposited in the Wetland Conservation and Restoration (WRC) Fund and to allow money from the Mineral Revenue Audit and Settlement Fund to be deposited in the WRC Fund. Also removes the \$40 million cap on mineral revenues that can be part of the WRC Fund.

**SB 224 - Hainkel** Constitutional amendment to allow the legislature to limit the compensation required of the state for private property taken, damaged or lost due to coastal restoration activities. Provides that the limitation shall apply to existing and future claims.

**SB 267 - Hainkel & Romero** Provides that because of the catastrophic loss of coastal lands, that the full police power of the state shall be used and that compensation for the taking, loss or damage to private property due to coastal restoration shall be limited to that required by the U.S. Constitution. Provides that this law shall be applied retroactively, as well as in the future.

**SB 268 - Hainkel & Romero** Provides that the state of Louisiana and its employees cannot be sued for loss or damages from diversions of freshwater or sediment, dredge deposits, or construction of channels, levees and canals for the purpose of coastal management or restoration. Provides that this law shall be applied retroactively, as well as in the future.

**SB 504 - Dardenne** Creates the Louisiana Coastal Restoration Fund

**SB 553 - Dupre** See Senate Bill 212

**SB 568 - Dupre** Allows non-recurring revenues to be deposited in the Wetland Conservation and Restoration (WRC) Fund and eliminates the cap on mineral revenues that can be part of the WRC Fund.

SB 731 - Romero Provides that claims against the state shall not accrue legal or judicial interest.

SB 932 - Hainke Requires that suits against the state related to coastal restoration, other than suits for personal injury or death, shall be brought in the 19<sup>th</sup> Judicial District Court in East Baton Rouge Parish.

SB 987 - Romero Creates the Henderson Lake Commission to provide long-term planning, preservation and management of the lake.

SCR - 17 Dupre Requests the natural resources committees to meet and function as a joint committee to study the creation of a state department of water resources

SCR - Romero Commends McIlhenny Company and its president and CEO for supportive actions taken to promote the America's Wetland Campaign.

### **House Bills**

HB 70 - Pitre Designates the loss of coastal wetlands as our "state crisis".

HB 160 - Pitre Provides that the "America's Wetland" license plate shall be the official Louisiana license plate.

HB 424 - Pitre Constitutional amendment to allow the legislature to limit the amount of money that can be awarded due to taking of, or loss or damage to property rights affected by coastal conservation and restoration activities.

HB 531 - Pitre & Johns See Senate Bill 267

HB 532 - Pitre & Johns See Senate Bill 224

HB 533 - Pitre & Dupre See Senate Bill 932

HB 534 - Pitre & Johns See Senate Bill 268

HB 538 - Hammett Authorizes WFC and DWF to allow local governments to use land under the control of WFC or DWF for mitigation to satisfy wetland mitigation requirements placed on them by law.

HB 544 - Daniel Prohibits certain activities on dunes located in the coastal zone

HB 558 - Pierre Creates the Public Oyster Seed Ground Development Account to receive money as compensation for impacts to public oyster seed grounds, seed reservations, and tonging areas. The money will be used for siting, designing, permitting, constructing, monitoring, and cultch deposition.

HB 559 - Pierre & Romero Re-creates the DWF under the Sunset Law.

HB 663 - Pitre & Dupre See Senate Bill 212

HB 669 - Pitre & Dupre See Senate Bill 214

HB 766 - Pitre & Johns Provides that the state cannot be sued for damages caused by coastal restoration projects arising under any lease, permit or license granted for any purpose on state lands or water bottoms. Provides that this law shall be applied retroactively, as well as in the future.

HB 896 - Pierre & Romero Re-creates DNR under the Sunset Law

HB 899 - Pitre Adds the restoration and preservation of barrier islands and the construction of river diversions to the state's wetlands conservation, restoration and management plan. Currently, the plan is only for preservation, conservation and restoration of "vegetated wetlands". Also eases some requirements for the legislative resolution under which the legislature approves the annual wetlands plan.

HB 932 - Pitre & Dupre See Senate Bill 28

HB 983 - Pitre & Johns Authorizes the Secretary of DWF to terminate, modify or refuse to renew an oyster lease for any reason consistent with the Louisiana Constitution. Also provides for limited compensation if the action results in a loss of investment to the leaseholder.

HB 991 - Pierre Provides for notification to oyster holders and non-renewal of leases for areas temporarily impacted by a coastal restoration project. Allows for future renewal of leases or parts of leases temporarily impacted and renewal of parts of leases not impacted by the project. To be eligible to renew a lease, the leaseholder must file an application with DWF no later than 60 days after termination of the lease, and also file a notice of intent to renew the lease each year by March 1. If renewed, the leaseholder must accept the water bottom as it is. Provides that any lease not renewed on January 1, 2003 because of temporary impacts may be eligible for renewal if the leaseholder files for renewal by September 1, 2003 and files notices of intent annually.

HB 1072 - Pitre Authorizes DWF to terminate oyster leases with more than 1 year of notice and requires compensation for investments before the date of termination. Terminated leases are not eligible for an oyster lease relocation program. Authorizes DWF, under a recommendation from DNR to designate in writing, areas which may be impacted by coastal restoration projects. Investments in these areas are not eligible for payment. Authorizes DWF to convert leases into renewals with one-year terms in coastal restoration impact areas. Conversion requires a written notice more than 1 year in advance. The leaseholder is eligible for repayment on investments. Provides that repayment rules shall be developed by DNR. Prohibits repayment of investments in impact areas of operational coastal restoration projects.

HB 1116 - Landrieu Establishes the America's Wetland Trail.

HB 1121 - Pitre Increases deposits from mineral revenues into the Wetlands Conservation and Restoration Fund.

HB 1132 - Pitre Eliminates the cap on mineral revenue that can be part of the balance in the Wetlands Conservation and Restoration Fund

HB 1155 - Odinet Limits applications for new oyster leases to 1,000 acres. Increases the total allowable acreage under lease for a person, partnership or firm from 1,000 to 2,500 acres.

HB 1156 - Odinet Removes the requirement that an oyster leaseholder must submit to DWF annually the amount of marketable oysters removed from his lease.

HB 1289 - Pitre & Dupre See Senate Bill 568

HCR 24 - Pierre Approves the Coastal Wetlands Conservation and Restoration Plan for Fiscal Year 2003-2004.

Sources:  
*LAGNIAPPE Fisheries Newsletter, Special Edition, April 3, 2003.*  
*LEGISCON Legislative Service: <http://www.legiscon.com/>*



*Several bills introduced to the Louisiana Legislature this spring could make the new "America's Wetland" campaign logo an official feature of state correspondence and vehicular license plates. This national campaign is designed to raise public awareness of Louisiana's severe crisis of coastal wetland loss.*

*For additional information go to:  
<http://www.americaswetland.com/index.asp>*

## **Kayak Update: 1000 down, 3000 to go**

One of the more unusual outreach activities sponsored by the new America's Wetland Campaign is an expedition entitled "La Costa del Golfo." On February 9th Louisiana natives Arthur Hebert and Larry Koenig departed on a 4000 mile circumnavigation of the Gulf of Mexico - by kayak!

The seven month journey around the Gulf of Mexico will span the coastlines of the United States and Mexico and include travel over 300 miles of treacherous open water, between Isla Mujeres and the Dry Tortugas.

The purpose of this trip is to promote ecotourism and to raise awareness of coastal ecology issues, especially Louisiana's coastal land loss crisis. "Our interest in coastal Louisiana, that's disappearing right before our eyes, has encouraged us to explore this vital landscape along the coast, while allowing others to share in our expedition," said Koenig.

"I grew up on Grand Isle and have witnessed the land loss first hand," said Hebert. "I hope this journey helps bring attention to this problem and its national consequences."

Hebert and Koenig have been providing periodic updates on their journey via satellite phone and via their website, which is maintained by land-based support personnel in Louisiana. On April 9th they reached the Mexican city of Tampico, where city officials and local media greeted them to celebrate completion of their first 1000 miles of their journey.

To follow the journey of La Costa del Golfo, please visit [www.lacostadelgolfo.com](http://www.lacostadelgolfo.com). For more information on the Americas Wetland Campaign, contact Sidney Coffee, Public Affairs Director, Office of the Governor/Coastal Activities, Public Information 225-342-3968 or Kyle Rodriguez, Public Information, Governor's Office 225-342-3968.

*Adapted from Breaux Act Newsflash 2/7/03*



***Arthur Hebert struggles with the choppy seas that made for a rough going during the first leg of the Kayak expedition, "La Costa del Golfo." Hebert and fellow Louisianan Larry Koenig have embarked on a 4000 mile circumnavigation of the Gulf of Mexico to raise public awareness of Louisiana's coastal wetland crisis.***

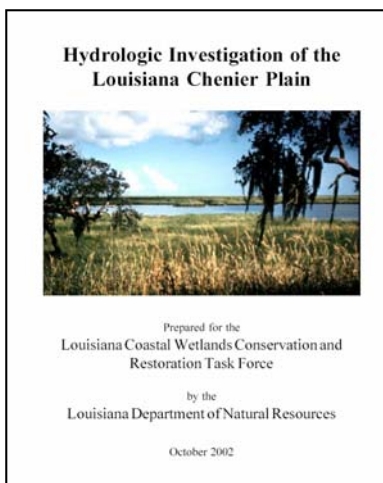
## Completion of the Hydrologic Investigation of the Louisiana Chenier Plain

Source: LaDNR press release

The Louisiana Department of Natural Resources, Coastal Restoration Division recently announced the completion of the Hydrologic Investigation of the Louisiana Chenier Plain. The study, which began in April 1999 at the direction of the Louisiana Coastal Wetlands Conservation and Restoration Task Force (Breux Act), was intended to provide natural resource planners, scientists, and engineers with a better understanding of the hydrology of the Louisiana Chenier Plain, and to thereby assist in the successful implementation of ecosystem-scale wetland restoration projects.

The study included the analysis of existing long- and short-term hydrographic records, as well as recent marsh elevation data, landscape change, and hydrologic modeling. The study also includes an overview of the Chenier plain ecosystem, a review of historical and current natural resource management practices, and general descriptions of previous basin-scale characterizations, studies, and restoration plans.

The report is available for download in Adobe® pdf. format from the "CRD Document Search" link on the Coastal Restoration Division's Web site at [www.savelawetlands.org](http://www.savelawetlands.org). Also, a compact disk containing digital files of the hydrographic and climate data utilized in the study is available upon request. Should you have any questions and/or comments or requests for copies of this report, please contact Kyle Balkum of the Restoration Technology Section at (225) 342-9429.



***A newly released report from the LaDNR provides natural resource planners, scientists, and engineers with a better understanding of the hydrology of the Louisiana Chenier Plain.***

***[www.lacoast.gov/reports/static/HILCP\\_5.pdf](http://www.lacoast.gov/reports/static/HILCP_5.pdf)***

## Louisiana Coastal Restoration Report Now Available

Source: Breux Act Newsflash 3/3/03

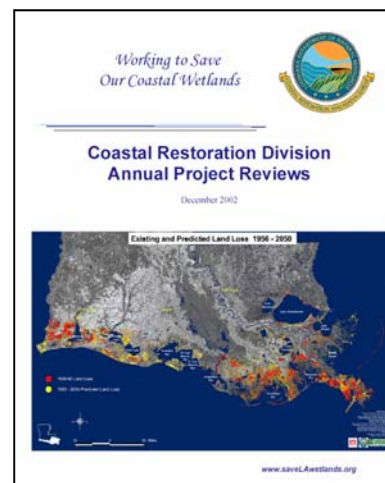
The Louisiana Department of Natural Resources, Coastal Restoration Division recently announced the completion of the Coastal Restoration Division Annual Project Reviews, December 2002.

The purpose of this annual document is to provide interested parties with easily accessible information about all coastal restoration projects in Louisiana, as well as an overview of the Coastal Restoration Division's current efforts to protect, conserve, restore, and enhance the state's coastal wetlands.

The report is organized according to the four Coast 2050 regions within the nine hydrologic basins that make up coastal Louisiana. The report includes information on a number of project elements, such as cost, status, features, and acres benefited.

Any questions and/or comments regarding the annual report or any request for copies, should be directed to Karim Belhadjali of the Louisiana Department of Natural Resources' Restoration Technology Section at 225-342-4123. The document is also available for download in Adobe® pdf. format from the "CRD Document Search" link on the Coastal Restoration Division's web site at [www.savelawetlands.org](http://www.savelawetlands.org).

It is also available on the LaCoast Web site at:  
[http://lacoast.gov/reports/apr/2002annual\\_1.pdf](http://lacoast.gov/reports/apr/2002annual_1.pdf)  
[http://lacoast.gov/reports/apr/2002annual\\_2.pdf](http://lacoast.gov/reports/apr/2002annual_2.pdf)



***The annual report of coastal restoration projects in Louisiana is now available from LaDNR. The report includes information on various project elements, such as cost, status, features, and acres benefited.***

***[www.lacoast.gov/reports/static/HILCP\\_5.pdf](http://www.lacoast.gov/reports/static/HILCP_5.pdf)***



## EPA Administrator Whitman learns about Coastal Roots

Adapted from La Sea Grant Press Release by Dr. Sophie Warny

On Friday, March 28, Environmental Protection Agency (EPA) Administrator, Governor Christine Todd Whitman, attended a bayou-side reception hosted by the Barataria-Terrebonne National Estuary Program (BTNEP) in Thibodaux. The EPA is the federal administrator for the 28 National Estuary Programs in the United States, all promoting community actions to address complex environmental issues.

As EPA's administrator, Whitman focuses on safeguarding the natural environment and protecting human health through education as well as regulation. When her office heard about Coastal Roots, it contacted Louisiana Sea Grant and the LSU AgCenter to learn more about the program. During her brief visit, Whitman visited with four Coastal Roots students and their teachers from St. Joseph's Elementary in Thibodaux. Each student had an opportunity to discuss their involvement in the program, which is now located in 14 schools (elementary-high school) throughout the Louisiana coast.

Louisiana has lost more than 1500 square miles of land over the past century, and without action, could lose another 1,000 square miles by 2050. Programs such as Coastal Roots have the ability to educate and engage Louisiana youth while making a positive impact on coastal wetland loss. Governor Whitman was impressed by the collaborative effort between federal partners, state agencies, and the Louisiana school system, and by the fact that over the past two years, science classes in the schools in several parishes have planted over 3,970 trees.



**EPA Secretary Christine Todd Whitman poses with a Coastal Roots t-shirt that was presented to her at a recent reception held in Thibodaux. To learn more about the Coastal Roots program go to: <http://lamer.lsu.edu/projects/coastalroots/>**

## LWF Joins White Lake Lawsuit

Adapted from LWF Press Release 4/16/03

The Louisiana Wildlife Federation (LWF), a statewide conservation education and advocacy organization, has been granted intervener status in a lawsuit that seeks to overturn an agreement made by the Foster Administration and British Petroleum (BP) American Production Company.

Under the agreement, a private entity would control management of a BP-donated 70,000-acre Vermilion Parish wetland, known as the White Lake Property (WLP). Concerns over the management structure emerged soon after the deal was announced and the issue is now in the hands of the courts.

According to Joe L. Herring, LWF president, the federation's main objection to the WLP management scheme is that it does not guarantee public participation and legislative oversight. "The way this is set up," said Herring, "there is no accountability to the citizens of the state in the management of 70,000 acres of state land. We are left with no recourse but to seek help from the court to resolve this problem."

According to LWF Executive Director Randy Lanctot, "...neither the Legislature nor the Governor has the legal authority to change the way the White Lake deal has been set up. That was determined by the cooperative endeavor agreement (CEA) between the state and the private corporation, White Lake Preservation, Inc. (WLPI). Unless WLPI agrees to make changes, which would then have to be approved by BP, only a court order voiding the CEA will enable renegotiation with the donor to provide for state management of the White Lake Property."

For additional information contact: Randy Lanctot, LWF 225/344-6762; [lawildfed@aol.com](mailto:lawildfed@aol.com)



**The 70,000 acre White Lake Property, donated to the state of Louisiana by British Petroleum, has been embroiled in conflict because of a stipulation that leaves management of the public land in private hands.**

## On-line Mitigation Banking?

In 1992, federal guidance was established that allowed for partial commercialization of the mitigation sequence mandated under Section 404(a) of the Clean Water Act. Since that time, Louisiana has seen the establishment of 45 wetland mitigation banks or mitigation areas in which non-jurisdictional wetlands are restored by entrepreneurs, who in turn sell mitigation "credits" to developers to offset the impacts of development.

Active mitigation areas that have been approved within the New Orleans District of the U.S. Army Corps of Engineers are now listed on-line at:

[www.mvn.usace.army.mil/ops/regulatory/activebanks.htm](http://www.mvn.usace.army.mil/ops/regulatory/activebanks.htm)

This new site allows prospective mitigation patrons to see where the banks/areas are located, a key factor since mitigation is supposed to be limited to the same watershed where wetland-impacting development occurs. The name of each active bank is provided along with habitat type and credit availability. However, no contact information for the banks is provided on the website, since the Corps requires oversight on all wetland mitigation transactions. If you have questions concerning mitigation, call the New Orleans District at 504-862-2766 or -1950.



## Upcoming Meetings, Events, and Deadlines

- June 8-13, 2003** **Society of Wetland Scientists 24th Annual Meeting**, Hyatt Regency Hotel, New Orleans, Louisiana USA, , Program Chair, Robert Twilley (337) 482-6146, [rtwilley@louisiana.edu](mailto:rtwilley@louisiana.edu)  
<http://www.sws.org/neworleans/>
- May 20, 2003** **Deadline - Gulf Guardian Award Nominations**  
<http://www.epa.gov/gmpo>
- July 13-17, 2003** **Coastal Zone '03: Coastal Zone Management Through Time**. Baltimore, Maryland  
[www.csc.noaa.gov/cz2003/](http://www.csc.noaa.gov/cz2003/)
- Multiple Dates** **Lake Pontchartrain Basin Foundation Wetlands Workshop Series**, Multiple locations and dates, Jill Mastrototaro, [jill@saveourlake.org](mailto:jill@saveourlake.org)  
SCHEDULE (Start time is 7:00 pm unless noted).
- |         |  |
|---------|--|
| May 6   | City of Mandeville Public Works Facility, 1100 Mandeville High Blvd. |
| May 12  | Lakeshore Library, 1000 W. Esplanade, Metairie (6:30 pm)             |
| June 10 | UNO Lakefront Campus, Geology Bldg., Founders Blvd.                  |
| June 25 | City of Mandeville Public Works Facility, 1100 Mandeville High Blvd. |
| July 9  | SLU University Center - Rm. 122, 800 University Ave., Hammond        |
| July 22 | Lakeshore Library, 1000 W. Esplanade, Metairie (6:30 pm)             |
- Aug 14, 2003** CWPPRA Task Force meeting, New Orleans USACE, [www.lacoast.gov](http://www.lacoast.gov)



## NOTICE: This is the last postal issue of the Louisiana Wetland News.

For those of you who have been on the mailing list for several years now, we appreciate your dedication and support. However, after this issue the Louisiana Wetland News, we will no longer be sending out the newsletter through postal subscription.

Over the past few years we have been slowly transitioning to an electronic format, a move that we believe will enhance our capacity for colorful illustrations, access to archived materials, timely distribution, and reduced costs. You will need to have Adobe Acrobat Reader installed on your computer to open the newsletter in PDF format. This is a free program that can be downloaded at:

<http://www.adobe.com/products/acrobat/readstep.html>

If you have not yet subscribed by email but would like to continue receiving the Louisiana Wetland News, simply send an e-mail addressed to [rcaffey@agctr.lsu.edu](mailto:rcaffey@agctr.lsu.edu) In the message body simply type your full name and the words, "Subscribe LWN".

Thanks to all of you who have already signed up. I appreciate your support.

Thanks again,

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