

Comite River Diversion Canal Project Task Force

**Minutes of Meeting
2014 Interim
September 29, 2014**

I. CALL TO ORDER

Representative Valarie Hodges, chairwoman of the Comite River Diversion Canal Project Task Force, called the meeting to order at 2:03 p.m. in Room 3, in the state capitol in Baton Rouge, Louisiana.

II. ROLL CALL

LEGISLATIVE MEMBERS PRESENT:

Representative Valarie Hodges, chairwoman
Senator Bodi White, vice chairman

LEGISLATIVE MEMBERS ABSENT:

NON-LEGISLATIVE MEMBERS PRESENT:

Mr. Al Bargas
Mr. Christopher Knotts
Mr. Jerry Passman
Mr. Brandon Rogillio
Mr. Tom Stephens
Ms. Jeanne Stroda
Mr. Jerry Thibeau

NON-LEGISLATIVE MEMBERS ABSENT:

Mr. Chip Kline
Mr. Jeff Taylor
Mr. Mike Womack

STAFF MEMBERS PRESENT:

House:

Katy Giroir, attorney
Jared Evans, attorney
Angelique R. Mozee, committee secretary
Danny Leming, sergeant at arms

Senate:

Glenn Arton, sergeant at arms

III. OPENING STATEMENT

Representative Hodges introduced herself as the chairwoman of the Comite River Diversion Canal Task Force and asked each task force member to introduce themselves.

IV. DISCUSSION

Representative Hodges gave a summary of the meeting held on September 11, 2014, and an overview on how the Comite River Diversion Canal Project started in 2001. She stated that the total project cost was \$1.99 million and to date \$80.5 million has been spent.

Representative Hodges stated that the Amite River Basin Commission (ARBC) had \$13.5 million on hand, and the Department of Transportation and Development had \$8.7 million on hand, totaling \$103 million which was 52% of the needed funds for the project. She explained by adding eight more years of the ARBC collecting taxes at \$2 million a year, the total would be \$16 million, bringing the overall total to \$119 million.

Representative Hodges said that the amount did not take the dirt into account. She stated that the project had \$20 million to \$30 million worth of dirt that could be sold in order to meet the \$80 million goal to complete the project. Representative Hodges stated that at the task force meeting on September 11th they discussed the flood of 1983, which cost the state \$344 million in damages and how it was similar to New Orleans during Hurricane Katrina.

Representative Hodges stated that the total cost overall would be \$822 million, which did not include all of the new development in Zachary, Denham Springs, and Central. She said if the state had another flood, the cost would be in the billions.

Representative Hodges thanked Senator David Vitter for his attendance at today's meeting.

U.S. Army Corps of Engineers

Representative Hodges asked Mr. Duplantier if it was a policy or law when a non-federal sponsor purchased mitigation credits from a mitigation bank that was not credible as a Land, Easements, Rights-of-Way, Relocation, and Disposal Areas (LERRD) expense.

Mr. Bobby Duplantier, U.S. Army Corps of Engineers, 7400 Leake Avenue, New Orleans, LA 70118, (504) 862-1037, spoke for information only. Mr. Duplantier stated that it was a policy that was based in law. He said that the purpose for the policy was when a mitigation bank credited the purchase there was not a property transfer, but it was considered a service kind of a contract that was executed but was not considered a real estate transaction. He stated that a letter was sent to the Department of Transportation and Development in reference to this matter months ago.

Mr. Mark Wingate, U.S. Army of Corps of Engineers, no address provided, (504) 862-2512, spoke for information only. He explained the definition of LERRD and reiterated Mr. Duplantier's statement that if it was a real estate transfer it would fall under the category of a LERRD. He said if you were buying a service, there was no title transfer and it was not a real estate action even though it was not credible as a LERRD. He said it was credited as a project cost.

Mr. Duplantier clarified Senator White's question in reference to mitigation bank credits and LERRD.

Mr. Knotts asked a question in reference to the difference between mitigation banks and servitude for access. He said it was not acquiring a title but acquiring use. Mr. Duplantier explained that when purchasing a servitude, it is a real estate transaction for a specific period of time that has a start and stop date. Whereas a mitigation bank is a credit purchase that does not have a specific time. Mr. Wingate concurred with Mr. Duplantier and continued to discuss right-of-ways, servitude fees, LEERD, acquisition, and bank credits that were part of the project cost, which is credible.

Mr. Bargas asked when you acquire mitigation property and receive the title if the maintenance would be on certain entities. Secondly, he asked if the buyer would be relieved of the responsibility if the property was purchased from a mitigation bank.

Mr. Duplantier stated if you purchase mitigation through traditional means, and improve it for the purpose of mitigation, it would fall under the property and operational project in accordance with the Property Contract Agreement with East Baton Rouge Parish, and the responsibility would be placed on the owner of the mitigation bank.

Congressional Update

Senator Vitter stated he spoke to headquarters in Washington, DC, at a meeting held in March in reference to getting them to reprogram unobligated U.S. Army Corps of Engineers (USACE) dollars to the Comite River project. He asked USACE if they knew the status on what specific uses those dollars would go towards and if they were being transferred to move the project forward.

Mr. Wingate stated he did not know the current status of the USACE dollars at the time. He said that the monies have been earmarked to acquire mitigation bank credits to take care of the requirements for the Lily Bayou structure and the next construction contract, which is Highway 61. Senator Vitter stated that he would be following up on this issue with headquarters.

Representative White stated if the purchase of mitigation credits went to a bank, it would solve Lily Bayou and have enough credits to start the project for Highway 61. He said by buying those credits, Senator Vitter and the congressional delegation could place it in the executive budget for next year.

Mr. Duplantier explained when doing a USACE purchase of a mitigation bank credits, it is an open bid process for banks who have the suitable type of mitigate credit in their banks. He stated that USACE's initial cost estimates showed that it would have enough credits for Lily Bayou and the next contract construction project to get them out of the deficit.

Senator Erdey asked Mr. Wingate the status of federal dollars to be reprogrammed within USACE and if he had an idea of the timeline on when the decision would be reached. Mr. Wingate stated within six months.

Representative Hodges and Mr. Wingate discussed the funds reprogrammed by Senator Vitter to fund the first phase of mitigation required to award the next construction contract.

Senator Vitter and Mr. Duplantier discussed the local sponsor having the opportunity of acquiring mitigation land Profit Island. Senator Vitter gave an overview on how he secured approval from USACE to approve mitigation land with 120 days instead of two years. He urged the Amite River Basin Commission and the Department of Transportation and Development to revisit a new agreement on purchasing mitigation land.

Mr. Tom Stevens and Mr. Duplantier discussed wetland mitigation and preparing a cost analysis to decide the best way to enlarge mitigation credits.

Department of Transportation and Development

Mr. Christopher Knotts spoke for information only and provided a handout, Exhibit A, which is included in the committee records. He gave an overview of the Functional Element Breakout for the Comite River Diversion Canal Project.

Mr. Geoffrey Rodriguez, Department of Transportation and Development, 1201 Capitol Access Road, Room 407 E, Baton Rouge, LA 70804, (225) 242-4668, spoke for information only. He explained to Representative Hodges the difference between mineral and surface rights and if they could be expropriated by law.

Representative Hodges, Mr. Knotts, and Mr. Duplantier discussed the delay on the Comite River project and mitigation and addressed various questions from the task force.

Representative Hodges and Mr. Tom Stevens discussed the expectations East Baton Rouge Parish has for the Comite River project.

Amite River Basin Commission

Mr. Deitmar Rietschier, executive director, Amite River Basin Commission, 3535 South Sherwood Forest Boulevard, Suite 135, Baton Rouge, LA 70816-2255, spoke for information only and provided a handout, Exhibit B, which is included in the committee records.

Mr. Larry Bankston, Amite River Basin Commission, 8708 Jefferson Highway, Baton Rouge, LA 70809, spoke for information only and provided a handout, Exhibit B, which is included in the committee records.

Mr. Rietschier and Mr. Bankston discussed their 2014 Progress Report of the Amite River Basin Drainage and Water Conservation District for the Comite River Diversion Canal and the Third Cooperative Endeavor Agreement. They addressed questions from the task force.

Mr. Hubert E. Graves, Department of Transportation and Development, 1201 Capitol Access Road, Room N 514, Baton Rouge, LA 70804, (225) 242-4537, spoke for information only. He addressed questions from Mr. Knotts on departmental procedures and policies.

ARBC Board of Commissioners appointment needed in Livingston Parish

Representative Hodges and Senator Erdey discussed a potential nominee for the Amite River Basin Commission. Senator Erdey submitted Mr. Layton Ricks from Livingston Parish to be considered to fill that seat.

V. PUBLIC COMMENTS

Andrew Harrison, Jr., Wetlands Mitigation Strategies, One American Place, Suite 20, Baton Rouge, LA 70825, (225) 388-0065, spoke for information only. He spoke on wetland mitigation and addressed questions from the task force.

VI. CLOSING REMARKS

Representative Hodges announced that the next meeting would be held on November 6, 2014, at 10:00 a.m., to continue the agenda from the September 29th meeting.

VII. ADJOURNMENT

The meeting was adjourned at 4:45 p.m.

Respectfully submitted,

Chairwoman Valarie Hodges
Comite River Diversion Canal Project Task Force

Date approved: _____