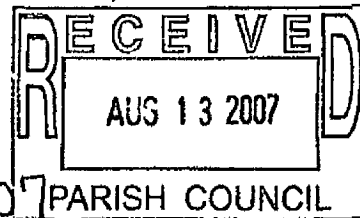


2007-0264

PETITION TO ADDRESS THE COUNCIL

St. Charles Parish Council Chairman
P. O. Box 302
Hahnville, LA 70057
(985) 783-5000

Today's Date: August 10, 2007



Dear Chairman:

Please place my name to address the Council on:

DATE: Monday August 20th, 2007 PARISH COUNCIL

SPECIFIC TOPIC: Why is there a non-permitted dumping site located in St. Charles Parish, LA?

(*see specific guidelines on reverse and refer to Parish Charter- Article VII., Sec. I.)

DOCUMENTS, IF ANY: YES / NO Fedex contains pictures on Fluvial Flota, L.L.C. batture land located at mile 131, MS River, St. Charles Parish, LA.

NAME: Fluvial Flota, L.L.C - Harry R. Coleman, Jr.

MAILING ADDRESS: 46 Timber Creek Drive, Suite 200 Cordova, TN 38018

PHONE: 901-309-5844

SIGNATURE: Harry R. Coleman, Jr. - Fluvial Flota, L.L.C.

Dear Constituent:

Thank you for your active participation. Your views and comments will be considered by the Council in making our decisions. The Council has a considerable amount of business to conduct in a limited amount of time, therefore, please note the following items that are expected of you:

- The Home Rule Charter provides for citizens to address the Council. It makes no provision for initiating debate, discussion, or question and answer sessions with Councilmembers or Administration Officials. Your right is also guaranteed to examine public documents as you prepare your presentation. Should you have any questions for Councilmembers and/or Department Heads as you prepare, please forward such inquiries to the Council Office to insure a timely response. Should you wish to speak to any Official or Department personally, a complete list of contact information will be furnished at your request.
- Please be brief and limit your comments to the specific subject matter on which you have requested to address the Council.
- Please forward supporting documents to the Council Secretary for distribution to the Parish Council before your scheduled appearance in order for the Council to prepare themselves, if necessary.
- Upon completion of your allotted time to address the Council, please respect the time given to Councilmembers to respond to your comments by not interrupting or interjecting remarks.
- **Slanderous remarks and comments will not be tolerated.** If slanderous remarks or comments are made, your opportunity to address the Council will end, regardless of the remaining time left to address the Council.
- Repetitious comments and subject matter will be strictly limited.

A confirmation letter will follow when your name is placed on the agenda.

Sincerely,

APRIL BLACK



**BAKER
DONELSON**
BEARMAN, CALDWELL
& BERKOWITZ, P.C.

201 ST. CHARLES AVENUE
SUITE 3600
NEW ORLEANS, LOUISIANA 70170
PHONE: 504.566.5200
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EDWARD B. POITEVENT, II
Direct Dial: 504-566-5269
Direct Fax: 504-636-3969
epoitevent@bakerdonelson.com

August 14, 2007

CERTIFIED MAIL

DEMAND LETTER

Lafourche Basin Levee District
21380 Highway 20
Vacherie, Louisiana 70090

Re: Batture Issues Concerning Mile 131, Mississippi River, St. Charles Parish, Louisiana

Gentlemen:

As you are aware, this firm represents Fluvial Flota, LLC ("Fluvial Flota") and its principals, Ray Coleman and Murray Williams. As you are also aware, Fluvial Flota is the owner of approximately 340 acres of batture located at Mile 131 on the Mississippi River in St. Charles Parish, Louisiana.

At last week's meeting of the Lafourche Basin Levee District, each of you was provided the August 7, 2007 Statement of Mr. Harry R. Coleman, Jr. and our Memorandum to Fluvial Flota concerning batture issues at Mile 131. Reference to Mr. Coleman's Statement and the Memorandum is made for purposes of this letter.

Demand is hereby made on behalf of Fluvial Flota for the immediate payment in damages of \$4 million the Lafourche Basin Levee District (the "Levee District") has caused Fluvial Flota, LLC as a result of the improper taking of Fluvial Flota's batture dirt at Mile 131 and the permitting of an illegal and unregulated waste material site on the batture, all as more particularly set forth in the Memorandum.

Our continuing investigation into this matter reveals that the work suspended recently on Fluvial Flota's batture was commenced under a contract between Progressive Construction Co. of Alexandria, Louisiana with the Corps of Engineers, and that is not the project originally approved in December 2005 or January 2006 by Mr. Williams and Mr. Coleman.

At that time, Mr. Williams and Mr. Coleman approved only a request from Mr. Randy Trosclair, the Administrative Manager of the Levee District, to allow the Levee District to take a few thousand yards of batture dirt for what Mr. Trosclair said was an "emergency" levee project. That project was likely finished long ago and is not the work currently in question.

Enclosed with this letter is a Finding of No Significant Impact for EA #438 (the "FONSI") dated September 18, 2006. The FONSI clearly shows that the project approved by Mr. Williams and Mr.

NO EBP 151699 v1
2901425-000001

August 14, 2007
Page 2

Coleman in December 2005 or January 2006 and the project now suspended on Fluvial Flota's batture at Mile 131 are two separate projects.

A careful review of the FONSI demonstrates that there were in fact two projects involving the batture belonging to Fluvial Flota, LLC at Mile 131 on the Mississippi River, St. Charles Parish, Louisiana. It mentions two EAs, one for each project. The first EA (issued for the first project) is EA #422. The second EA (issued for the second project) is EA #438

Fluvial Flota was given notice of (and approved) the project under EA #422 through Mr. Trosclair's misleading and vague telephone call in December 2005 or January 2006. However, neither Mr. Coleman nor Mr. Williams nor Fluvial Flota have ever received a FONSI for the original project or EA #422, as required by law.

Moreover, EA #422 was prepared in 2005 and based on what we see did not constitute an "emergency." For example, there is no mention of an "emergency" in the captioned FONSI or EA #438 that we can find.

"Subsequently" (to quote the FONSI), the COE apparently determined that there was more work to be done than was originally anticipated in connection with EA #422. Thus, the FONSI dated September 18, 2006 was prepared and signed by Col. Richard Wagenaar of the COE. EA #438 was prepared for this FONSI. Neither Mr. Coleman, Mr. Williams nor Fluvial Flota have ever received a FONSI for this second project or EA #438.

Neither Mr. Williams nor Mr. Coleman were made aware of this separate project and have therefore not approved it. In addition, at no time has Fluvial Flota, Mr. Williams or Mr. Coleman ever approved the construction and operation of an unpermitted (and therefore illegal) waste material site on Fluvial Flota's batture.

In addition to the Memorandum, including the Exhibits thereto, for purposes of this letter, we refer you to (i) Exhibit "A" thereof, pursuant to which the Lafourche Basin Levee District on March 2, 2006 permitted the use of Fluvial Flota's batture for a "waste material site" and allowed the improper taking of a large quantity of batture dirt, and to (ii) Exhibit "B" thereof, which are two 1999 Louisiana Attorney General Opinions prohibiting the Lafourche Basin Levee District from using Fluvial Flota's batture to dispose of debris, which was some eight (8) years ago.

In addition to the payment of damages as demanded herein from the Levee District, Fluvial Flota is investigating whether the Levee District's Administrative Manager, Mr. Randy Trosclair, may have personal liability for his actions in this matter. If it turns out that his actions make him personally liable, suit will be filed against him as well.

In particular, in addition to violating Fluvial Flota's rights and allowing a trespass on its land and the improper taking of batture dirt, and the construction and operation of an illegal waste material site on Fluvial Flota's batture (in violation of the cited two Louisiana Attorney General Opinions), we are aware that, sometime in about 2004, Mr. Trosclair similarly authorized the violation of rights of a nearby

August 14, 2007
Page 3

batture owner (Rathborne Land Co.) We have been advised that when Mr. Trosclair was advised by Rathborne Land Co. not to trespass on Rathborne's batture, he ceased all activity on Rathborne Land Co.'s batture. Thus, Mr. Trosclair has a clear pattern of violating the property rights of batture owners on the Mississippi River.

Should the Lafourche Basin Levee District wish to avoid liability through litigation of this matter, please contact the undersigned immediately upon your receipt of this letter to discuss implementation of a settlement agreement and the payment of appropriate damages as demanded herein. Should this not be done within five (5) days of your receipt of this letter, Fluvial Flota will pursue all legal remedies available to it.

We urgently request your immediate attention to this matter as we believe it would be in the best interests of both the Levee District and Mr. Trosclair to resolve this matter in an amicable way in order that liability may be avoided.

Very truly yours,

Edward B. Poitevent, II

EBP/dep

cc: Ray Coleman
Murray Williams

VIA CERTIFIED MAIL:

Larry Buquoi
Kenneth Peltier
Calie Bonadona
John Boughton
Laonce Carmouche, Jr.
Stanley Folse
Hastom Lewis, Sr.
Russell Loupe
David J. Orgeron
Huey Stein
Shelley Castet
Leroy Sullivan, Jr.
William Sirmon
Lauthaught Delaney
Randy J. Trosclair
Leonard Schexnayder

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EDWARD B. POITTOVENT, II
Direct Dial: 504-566-3269
Direct Fax: 504-536-3969
epoittovent@bakerdonelson.com

August 11, 2007

MEMORANDUM

TO: Ray Coleman

FROM: Edward B. Poittovent, II

RE: NO-COE: FONSI Dated September 18, 2006 – Edgard/Reserve Ferry Road (Batture Issues Concerning Mile 131, Mississippi River, St. Charles Parish, Louisiana)

Our work on the captioned matter and investigation into the facts continues as you have failed to be provided documentation requested by the Army Corps of Engineers (COE) as was promised to you.

After a careful review of the captioned FONSI, it is clear that there were two projects involving the batture belonging to Fluvial Flota, LLC at Mile 131 on the Mississippi River, St. Charles Parish, Louisiana. Hence, there were two EAs, one for each project. The first EA (issued for the first project) is EA #422. The second EA (issued for the second project) is EA #438.

Fluvial Flota was given notice of the project under EA #422 by means of a misleading and vague telephone call from Mr. Rand Trosclair (the Administrative Manager of the Lafourche Basin Levee District) in December 2005 or January 2006. At that time, Mr. Trosclair requested that you and Murray Williams (the owners of Fluvial Flota) allow the Levee District to use about 2,000 cubic yards of batture dirt from Fluvial Flota's batture for an unnamed "emergency" project to be undertaken by the Levee District. You and Murray gave Mr. Trosclair your approval to do this, but neither you, Murray nor Fluvial Flota have ever received a FONSI for this project or EA #422. EA #422 was prepared in 2005 and based on what we see did not constitute an "emergency." For example, there is no mention of an "emergency" in the captioned FONSI or EA #438 that we can find.

"Subsequently" (to quote the FONSI), the COE must have determined that there was more work to be done than was originally anticipated. Thus, the FONSI dated September 18, 2006 was prepared and signed by Col. Richard Wagenaar of the COE. EA #438 was prepared for this FONSI. Neither you, Murray nor Fluvial Flota have ever received a FONSI for this project or EA #438.

The September 18, 2006 FONSI and EA #438 are the subject of the current battle you are in with the COE and the Lafourche Basin Levee District.

NO EEP 151439 v1
2901E25-000001

August 12, 2007

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Based on the foregoing, our conclusions are as follows:

1. Neither you, Murray nor Fluvial Flota, nor any of the neighboring landowners was ever given actual notice of the September 18 FONSI or the prior one, or of EA #422 or EA #438. Public involvement is a prerequisite to the correct issuance of a FONSI and EA, as is noted on page 3 of the September 18 FONSI. Affected businesses and individuals must be made aware of the proposed action through distribution of EA #422 and EA #438 for their review and comment, as is required by law.
2. The September 18 FONSI states that "EA #438 is attached hereto and made a part of this FONSI." We need to see EA #438 and EA#422 (and the FONSI for it) and study any EIS issued in connection with the two projects. We also need to get to the bottom of how the COE can claim in the September 18 FONSI that "appropriate Federal, state and local agencies and businesses, organizations, and individuals" were distributed "EA #438 for their review and comment" when neither you, Murray nor Fluvial Flota ever received a copy of EA #438. The same holds true for EA #422. We should also see the distribution lists for these two EAs to see if any other "appropriate Federal, state and local agencies and businesses, organizations, and individuals" were distributed "EA #438 [and EA #422] for their review and comment".
3. Neither I nor any other member of your legal team understands how a C&D waste site provides wetland and aquatic habitat, as claimed by the September 18 FONSI. I understand that you are consulting a wetlands expert on this statement.
4. When the C&D waste site created on Fluvial Flota's bature and all of the relevant facts are fully and properly explained to other Federal and Louisiana state agencies, we do not believe that a C&D waste site would be permitted on Fluvial Flota's bature as it is under water some 3 months of each year and is in close proximity to major shipping lanes on the Mississippi River.
5. There is mention of mitigation on your lands that you have no knowledge of. Hence, we need to examine this issue and examine the EIS fully. As you are aware, mitigation must take place in the same drainage basin and not in another basin (such as the Old River Control Complex).
6. It is interesting that the COE is able to dispense with a cultural resources review while it requires that others perform a cultural resources review prior to work beginning on other projects.
7. We need to quickly determine how Section 10 of the Clean Water Act may have been violated and send our conclusions to Richard Prather of the EPA.
8. It is clear that there are two separate FONSI's with different EA numbers as there is a reference to a "new proposed borrow pit" in the September 18 FONSI. Additionally, the

August 12, 2007
Page 3

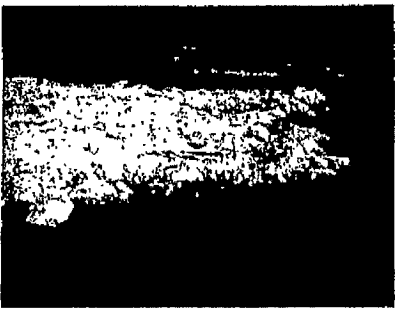
September 18 FONSI mentions a "disposal area designation" that neither you, Murray nor Fluvial Flota was ever made aware of (wither verbally or in writing) and any "public involvement" obtained through soliciting your comments, as is required by law and regulations.

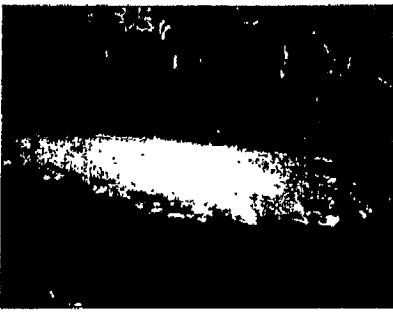
9. Because neither you, Murray nor Fluvial Flota ever received EA #422 or EA #438, or were given an opportunity to comment on them or the proposed projects and their impact on the bature belonging to Fluvial Flota at Mile 131 on the Mississippi River in St. Charles Parish, Louisiana, I do not believe that a judge or jury would believe that you were properly notified as your due process rights as guaranteed by the US and Louisiana Constitutions were not properly met. Hence, the C&D waste site would not be allowed.

10. The COE in New Orleans has refused to take responsibility for this matter. No one there wants to take accountability for the gross mistakes that have taken place. Perhaps something good will happen on your trip to Vicksburg to make this situation right and we can then go back to marketing your land.

Please let me know if you have any questions concerning this memorandum or any other aspect of the captioned matter.

EBP/dcp





OS HAM-E

State of Louisiana



KATHLEEN BABINEAUX BLANCO
GOVERNOR

SCOTT A. ANGELLE
SECRETARY

DEPARTMENT OF NATURAL RESOURCES OFFICE OF COASTAL RESTORATION AND MANAGEMENT

August 14, 2007

Progressive Construction Company
5816 Jackson St. Extension
Alexandria, LA 71315
Attention: Richard Cruz

RE: E2007038, Unauthorized clearing, dredging, and deposition of construction debris and other materials into a borrow area at mile 131 on the Mississippi River bature. Location: Lat 30° 00' 38", Long 90° 29' 09" near Killona, LA.
St. Charles Parish, LA

Dear Mr. Cruz:

Recently our office conducted a field investigation at the above referenced locations, as authorized by Louisiana's Revised Statutes 49:214.26B.1 & B.2. The investigation revealed clearing, dredging, and deposition of construction debris has occurred at the referenced location without authorization from the Coastal Management Division (CMD) and may be in violation of the Louisiana Coastal Program (LCRP). Evidence suggests that Progressive Construction has conducted this unauthorized activity. Enforcement file E2007038 has been opened to bring your project into compliance. At this time, CMD requests the full cooperation of Progressive Construction.

Please be advised that a Coastal Use Permit should be obtained prior to any future activity you intend to conduct in the Louisiana Coastal Zone, strict adherence to the work descriptions and conditions of that permit will be required. Pursuant to L.A. R.S. 49:214.36, the Secretary may suspend or revoke a Coastal Use Permit and/or levy an Administrative Penalty should the permitted fail to comply with the terms and conditions of a Coastal Use Permit or have submitted false or incomplete information. Any unauthorized activity carried out within the Louisiana Coastal Zone may be subject to an Administrative Penalty and/or cost of mitigation and restoration or civil proceedings.

If you have any questions please call me at 225-342-6470.

Sincerely,

Karl L. Morgan
Coastal Resources Scientist Manager

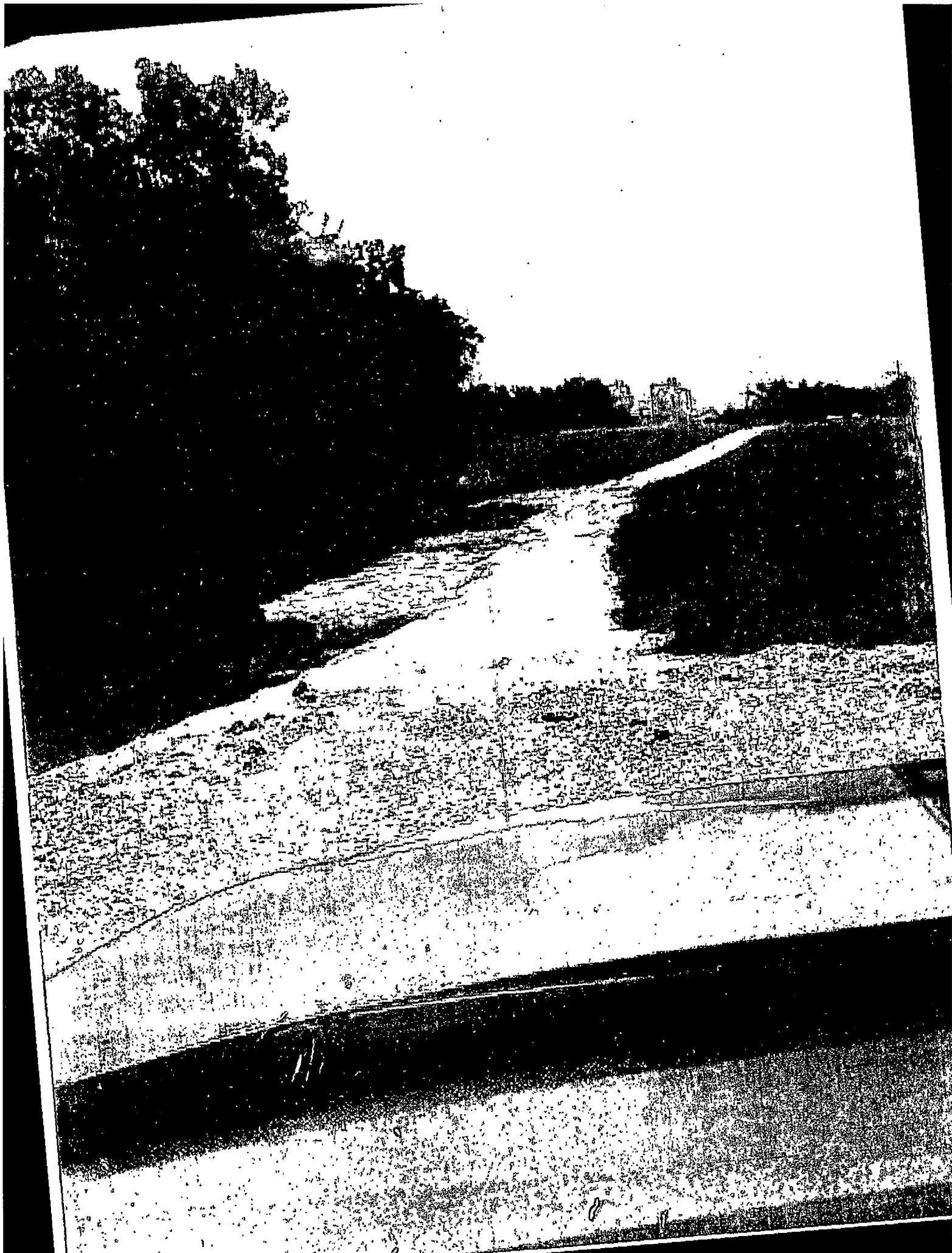
- c. Peggy Hatch, LDEQ
- John Bruza, COE
- Kirk Kilgen, CMD/FB
- Tim Killeen, CMD/FB
- Earl Matherne, St. Charles Parish Planning and Zoning
- Ray Coleman, Jr., Landowner
- Chad Urbina, Progressive Construction

COASTAL MANAGEMENT DIVISION • P. O. BOX 44487 • BATON ROUGE, LA 70804-4487
PHONE (225) 342-7591 • FAX (225) 342-9439 • WEB <http://www.dnr.state.la.us>
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LDNR-Coastal Management

08/14/2007 15:54 FAX 225 342 9439

















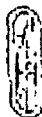




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