

BAYOU LAFOURCHE FRESH WATER DISTRICT PERMITTING/FEE ISSUES

Louisiana Department of Natural Resources (LDNR)

Beneficial Use of Dredged Material. The proposed project is within the statutory boundaries of the Louisiana Coastal Zone and will therefore require a Coastal Use Permit from the Office of Coastal Management (OCM) for authorization to conduct the work. A requirement of the Coastal Use permitting process is, in some cases, the beneficial use of dredged material when an activity requires 25,000 cubic yards of dredging or more.

However it would appear that, based on language in the Louisiana Administrative Code, *Beneficial use (of dredged materials) is required only when the primary purpose of the proposed dredging is to facilitate the movement or mooring of vessels.* Since the subject project's objective is not the movement or mooring of vessels, the requirement, it appears, would not be applicable.

A preliminary discussion with Karl Morgan, LDNR Administrator, Permits and Mitigation Division, indicated that since the project is designed to facilitate fresh water flow, beneficial use of dredged material would not be required. However, please keep in mind that the LDNR would have to review the specifics of the project prior to making that determination.

Should the LDNR require the beneficial use of dredged material, applicants are required to submit a *Beneficial Use of Dredged Material* (BUDM) plan. The BUDM plan must describe the following options or a combination thereof:

- implementing a project for the beneficial use of dredged material
- providing for beneficial use of the dredged material on an existing coastal restoration project
- conducting an alternative dredging activity whereby an equivalent volume of material is dredged at another location and put to a beneficial use
- and/or making a contribution to the Coastal Resources Trust Fund.

Based on the scope and location of the proposed dredging, it would appear that any of the above-described options would be problematic.

Coastal Use Permitting Fees. As part of the Coastal Use Permitting process, the OCM requires payment of \$0.05 per cubic yard of material dredged for any permitted coastal use. However, there is a \$5,000 cap on the dredge fee amount.

Louisiana Department of Wildlife and Fisheries (LDWF)

Class D License. The LDWF has requirements involving dredging in state water bottoms. Based on language in RS 56:2011, Chapter 12, Fill and Sand Material, there are five classes of licensing (permits) associated with dredging activities. It would appear that a Class D license will be required for the subject project. Specifically, a Class D shall be applicable to dredging of fill sand or fill

material for an activity that has a public benefit, such as but not limited to a coastal conservation or restoration activity, navigation purpose, removal of sediment buildup, or recreational activity.

The royalty payment for a Class D license is described by:

A royalty payment, based on cubic yards or equivalent thereof as determined by the commission of material dredged, shall be made to the department as follows:

Except those exempted under the provisions of Subsection E of this Section, holders of a Class D license shall pay a royalty of five cents per cubic yard of material dredged.

There are however exemptions:

Any private landowner, state agency, political subdivision, or associated consultant or contractor engaged in a coastal protection, conservation, or restoration activity consistent with an annual plan or the comprehensive master plan established pursuant to R.S. 49:213.6 or engaged in an activity to remove sediment buildup to preserve or restore the natural habitat of a water body of the state or to enhance navigation and recreation activities on a water body of the state shall be exempt from payment of the royalties and bond requirements of this Section. However, any such private landowner, state agency, political subdivision, or associated consultant or contractor shall be required to apply for and receive the appropriate license required by this Section.

To be eligible for exemption from the royalty payment and bond requirements of this Section, a private landowner shall obtain a letter of no-objection from either the governing authority of the political subdivision within which the activity will occur or the local coastal management program under which the activity is authorized, and the approval, in writing, of the secretary of the Department of Natural Resources, the secretary of the Department of Transportation and Development, and the chair of the Coastal Protection and Restoration Authority.

In summary, it would appear that the Bayou Lafourche Fresh Water District may apply for an exemption to this fee.

Louisiana Department of Environmental Quality (LDEQ)

Water Quality Certification Fee. Since the subject project will ultimately be issued a Section 10/404 permit by the New Orleans District of the U.S Army Corps of Engineers, a Section 401 Water Quality Certification (WQC) form LDEQ will be required. The WQC fee is \$350.

Louisiana Office of State Lands

Preliminary discussions with the Office of State Lands indicate that no dredging fees will be required from that agency for the subject project.