APPENDIX F:

Public Comments on the 2014 Integrated Report and Louisiana Department of Environmental Quality's Response to Comments

The following is a compilation of all comments received regarding the 2014 Integrated Report, along with the Louisiana Department of Environmental Quality's response to those comments. No changes were made to the 2014 Integrated Report based on public comments.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES
WATER PERMITS DIVISION

PUBLIC COMMENTS RESPONSE SUMMARY

2014 INTEGRATED REPORT ON WATER QUALITY IN LOUISIANA:
SECTION 303(d) LIST

AGENCY INTEREST (AI) NO. 169294

August 1, 2014

The Louisiana Department of Environmental Quality (LDEQ) published a public notice of the draft '2014 Integrated Report (IR) on Water Quality in Louisiana: Section 303(d) List' on May 7, 2014 in *The Town Talk, The Advocate, The Courier, The Advertiser, The American Press, The News-Star, The Times-Picayune*, *The Times*, and on the LDEQ Public Participation Group, Public Notice webpage. The public comment period ended June 11, 2014.

The draft IR/§303(d) List was available for review on the LDEQ Website and on the LDEQ's Electronic Document Management System.[1] The LDEQ received written comments on the draft IR/§303(d) List, by email and postal mail.

ISSUE #1

The LDEQ Cannot Delist Nearshore Gulf Subsegments 120806, 070601, and 021102 for Dissolved Oxygen (DO).[2,3,4]; and These water segments' impairments are exactly the kind of water quality problems that §303 was designed to address, and they must be included on Louisiana's §303(d) list.[2]

LDEQ RESPONSE TO ISSUE #1

The LDEQ readily acknowledges the existence of the Gulf of Mexico hypoxic zone located largely outside of state territorial waters. Although not specifically outlined in the Rationale, new data was identified by the LDEQ during development of the 2014 IR; however, the data was found to be limited both spatially and temporally within these three coastal subsegments. Thus the data did not conclusively demonstrate that the subsegments were impaired during the time period covered by the 2014 IR assessments (October 2009 – September 2013). Additional data was provided by commenters, though much of the provided data was from outside the period of record for the 2014 IR. Limited data provided that was collected within the period of record was reviewed and determined to be insufficient to make a determination.

Development of Total Maximum Daily Loads (TMDLs) for the three coastal subsegments referenced above will not address the Gulf of Mexico hypoxic zone. The LDEQ recognizes that Gulf of Mexico hypoxia is an important issue of state and national significance and is addressing the issue through coordinated efforts with state and federal agencies including Coastal Protection and Restoration Authority, Louisiana Department of Agriculture and Forestry, Louisiana Department of Natural Resources, U.S. Environmental Protection Agency (USEPA), U.S. Geological Survey, U.S. Corps of Engineers, National Oceanic and Atmospheric Administration, U.S. Department of Agriculture Natural Resources Conservation Service, and other Mississippi River basin states. The LDEQ is a partner in the Gulf of Mexico Alliance and the Hypoxia Task Force with a strong commitment to address pollution that contributes to Gulf of Mexico hypoxia. The hypoxic zone in the Gulf of Mexico results from significant (approximately 98%) input of nutrients from sources far upstream of Louisiana. Developing TMDLs for the three Louisiana coastal subsegments will not provide resolution of this Mississippi River basin-wide issue, specifically the significant input of nutrients from sources far upstream of Louisiana.

The LDEQ's commitment to address Gulf of Mexico hypoxia through multi-agency and multi-state coordinated efforts supports and is consistent with *Louisiana's Comprehensive Master Plan for a Sustainable Coast* which indicated the *Gulf Hypoxia Action Plan 2008* as a solution to Gulf of Mexico hypoxia.

ISSUE #2

The Mississippi and Atchafalaya Rivers and nearshore coastal subsegments should be listed for dissolved oxygen and phosphorus and nitrate/nitrite impairment. (Subsegments listed in comment include: 010101, 010201, 010301, 010401, 010501, 010901, 021102, 031201, 050901, 061201, 070101, 070201, 070301, 070401, 070601, 110701, and 120806)[2,3]

LDEQ RESPONSE TO ISSUE #2

The LDEQ assessed the Mississippi and Atchafalaya Rivers along with nearshore coastal subsegments using routine ambient water quality monitoring data. All of the subsegments listed in the comment, except subsegment 010401, were shown to support the fish and wildlife propagation use based on assessment of the DO criteria. Subsegment 010401, East Atchafalaya Basin and Morganza Floodway South to I-10 Canal, was assessed as impaired by low DO and placed in IRC 5. LDEQ does not currently have sufficient information to conduct assessments based on nutrient water quality conditions.

ISSUE #3

LDEQ provides insufficient information to justify delisting 59 water body impairment combinations (WIC) from Integrated Report Category (IRC) 5 to IRC 3.[2,7]

LDEQ RESPONSE TO ISSUE #3

Changing the IRC of 42 WICs for chlorides, sulfates, and/or total dissolved solids (TDS) from IRC 5 to IRC 3 was based on an improved understanding of the basis for the criteria and the type and quality of data used for assessment purposes. In an effort to improve the accuracy of water quality assessments, the LDEQ is evaluating alignment of assessment data and processes with the basis used for developing water quality criteria. For example, minerals criteria are based on

long-term averages and variability, while assessments to determine support of the fish and wildlife propagation use using minerals data have been based on a short-term data set with a percent-based exceedance rate. Therefore, LDEQ is re-evaluating its minerals criteria assessment processes and associated data sets and has determined insufficient data are available to determine attainment of uses and standards on select subsegments.

Changing two WICs for "pH High" from IRC 5 to IRC 3, while not described in the Rationale, was based on a more accurate evaluation of the natural and anthropogenic conditions of the two water bodies in question. In both cases the LDEQ determined no anthropogenic sources were causing high pH in the water bodies. However, LDEQ has elected to place these in IRC 5 based on discussion with EPA, Region 6.

Regarding turbidity listings, LDEQ reviewed exhibit 8 provided by the Gulf Restoration Network and determined only two subsegments (090205 and 090206, each with multiple uses and sources) should be included in GRN's total count rather than 12. The two subsegments that are the subject of GRN's turbidity comment are deep within the Pearl River Swamp and receive all water inflow by way of the Pearl River. The Pearl River has a turbidity criterion of 50 NTU while the two subsegments in question have a turbidity criterion of 25 NTU. Therefore, as with minerals criteria, LDEQ evaluated the basis for the standards and turbidity criteria and determined the original assessment data set was insufficiently representative to make a use support decision.

Finally, this comment/issue on IRC 3 included a footnote regarding the three nearshore Gulf subsegments having been changed from IRC 5 to IRC 3. This change is discussed in Issue #1.

ISSUE #4

LDEQ has not supported its downgrading of TMDL priority or its associated removal of high priority category for TMDL development.[2]

LDEQ RESPONSE TO ISSUE #4

According to the Clean Water Act and supporting regulation, TMDL prioritization is left to the discretion of States with no specific requirements on how priorities should be set other than accounting for pollution severity and uses. Prioritization of TMDL development is a dynamic process based on pollution severity, designated uses, departmental resources, and changing conditions. USEPA and States are currently in the process of developing a new §303(d)/TMDL vision for developing TMDLs or conducting alternative activities. This will include the development of a new prioritization process based on extensive discussions between States and USEPA. As a result, prioritization will undoubtedly change again with the 2016 IR.

The comment further states that water bodies lacking a TMDL do not have water quality controls in place. This is not the case. Louisiana water bodies have discharge controls in place based on permitting requirements designed to be protective of designated uses and criteria. Additionally, LDEQ's Nonpoint Source Program continues to work with unregulated communities to implement best management practice controls to protect water quality.

ISSUE #5

Request that all Total Maximum Daily Load (TMDL) parameters be combined into one measure to see how much of any one parameter (chemical, bacteria, dissolved oxygen, pH, etc.) exists in a functioning stream. Similarly, request that all streams and parameters in a watershed be combined as one stream when developing a "cumulative TMDL."[5]

LDEQ RESPONSE TO ISSUE #5

Comments regarding methods for TMDL development have been forwarded to the appropriate LDEQ staff for consideration in future TMDL development.

ISSUE #6

RESTORE (Restore Explicit Symmetry To Our Ravaged Earth) is dissatisfied with the actions of the LDEQ and USEPA with regard to protection of "public health and aquatic ecosystem needs." Also stated, "Restoration (of water quality) is necessary…"[6]

LDEQ RESPONSE TO ISSUE #6

The LDEQ is working to protect and restore water quality in the State based on the best possible science and within legal requirements of the Federal Clean Water Act and the Louisiana Environmental Quality Act.

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[1] EDMS stands for Electronic Document Management System, the LDEQ's electronic repository of official records that have been created or received by the LDEQ. Employees and members of the public can search and retrieve documents stored in the EDMS via this web application. (See http://edms.deq.louisiana.gov/app/doc/querydef.aspx.)
[2] Tulane Environmental Law Clinic on behalf of Gulf Restoration Network, Louisiana Environmental Action Network, Lower Mississippi Riverkeeper, and Sierra Club (Delta Chapter) received June 11, 2014.
[3] R. Eugene Turner, PhD, received June 7, 2014.
[4] 249 citizen e-mails containing a standard form letter based on a Gulf Restoration Network Website call for comments. Comments were received between June 6, 2014 and June 17, 2014.
[5] Paul Ringo, Sabine Riverkeeper, received June 11, 2014.
[6] Michael Tritico, Biologist and President of RESTORE (Restore Explicit Symmetry To Our Ravaged Earth), received June 11, 2014.
[7] USEPA, Region 6, received June 11, 2014.