

APPENDIX F:

Public Comments on the 2022 Integrated Report and Louisiana Department of Environmental Quality's Response to Comments

The following is a compilation of all comments received regarding the 2022 Integrated Report (IR), along with the Louisiana Department of Environmental Quality (LDEQ) responses to those comments. During the public notice phase of the 2022 IR development, LDEQ conducted a thorough review of the statistical processes used for assessment. Based on the review, two subsegments were mistakenly designated as impaired for dissolved oxygen and required corrections for the 2022 IR. The corrections affected Louisiana's §303(d) list and are included below as Comment #1.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL ASSESSMENT
WATER PLANNING AND ASSESSMENT DIVISION

PUBLIC COMMENTS RESPONSE SUMMARY

2022 INTEGRATED REPORT ON WATER QUALITY IN LOUISIANA:
SECTION 303(d) LIST

AGENCY INTEREST (AI) NO. 169294

The LDEQ published a public notice of the draft Rationale for the *2022 Integrated Report on Water Quality in Louisiana: Section 303(d) List* on January 28, 2022 in the *Advertiser, Advocate, American Press, Courier, News Star, New Orleans Advocate, Times and Town Talk*, and on the LDEQ Public Participation Group, Public Notice webpage. The public notice ended on March 3, 2022.

The draft IR Rationale and §303(d) List was available for review on the LDEQ Website and on the LDEQ's Electronic Data Management System (EDMS). The LDEQ received written comments on the draft IR Rationale and §303(d) List by email. Complete comment documents from the public are available through LDEQ's EDMS at: <https://www.deq.louisiana.gov/page/edms>, Document IDs, 13094703, 13094707, 13094708, 13178662, 13178663, 13178664, 13178665, and 13179705.

COMMENT #1

During the public notice phase of the 2022 IR development LDEQ conducted a thorough cross check of the statistical processes and data used for assessment. During review it was found that data that had been qualified following Hurricane Barry had been mistakenly included in the statistical analysis. As a result, two subsegments were mistakenly designated with dissolved oxygen impairments instead of Fully Supporting. This oversight was caused by a technical mistake in the database query. The impairments were initially, and incorrectly, placed in Integrated Report Category (IRC) 5 when they should have been Fully Supporting. This oversight has been corrected in the Assessment, Total Maximum Daily Load (TMDL) Tracking and Implementation System

(ATTAINS) database and final IR assessment spreadsheet (Appendix A). Water bodies and impairments affected are identified in Table 1. **(LDEQ)**

Table 1.

Subsegments and suspected causes of impairment incorrectly identified as impaired and changed to Fully Supporting during review of the 2022 Integrated Report.

Subsegment Number	Subsegment Description	Suspected Cause of Impairment
LA041802_00	Bayou Chaperon (Scenic) (Estuarine)	Dissolved Oxygen
LA041803_00	Bashman Bayou-From headwaters to Bayou Dupre (Scenic) (Estuarine)	Dissolved Oxygen

COMMENT #2

It is not at all clear from the materials exactly what real-world measures must be undertaken in a particular water quality segment in order to improve its water quality sufficiently for that waterbody to meet its designated uses. If the Report accomplishes this then it would be a major improvement if LDEQ would include a one-page narrative explaining how it does so. **(Michael Tritico-RESTORE)**

LDEQ RESPONSE TO COMMENT #2

It is not within the scope of the IR process to provide “real-world measures” to improve water quality in impaired subsegments. General and specific measures for water quality improvements are determined by a variety of activities within LDEQ and other agencies. These include TMDL development, water discharge permitting actions, compliance and enforcement activities, and Nonpoint Source (NPS) Program projects. All water bodies in Louisiana, whether they are on the §303(d) list or not, are addressed with protection and where necessary restoration actions through these measures.

COMMENT #3

Comment notes if simply listing a segment as impaired and putting it into a category of some type would fix a deficiency that keeps people from being able to swim in it or fish to live in it, that would be great, but that is not what the Clean Water Act (CWA) intended. It expected meaningful pollution-reducing actions in the streams themselves. **(Michael Tritico-RESTORE)**

LDEQ RESPONSE TO COMMENT #3

The LDEQ is working to protect and restore water quality in the State based on the best available science and within legal requirements of the Federal CWA and the Louisiana Environmental Quality Act. See also response to Comment #2.

COMMENT #4

Commenter thanks LDEQ for the thousands of hours of staff work that has gotten the stream quality restoration this far along. **(Michael Tritico-RESTORE)**

LDEQ RESPONSE TO COMMENT #4

LDEQ appreciates the comment.

COMMENT #5

Comments describe the condition of the Ouachita River Basin subsegments along with various tributaries. However, there were no direct questions or requests made by the commenter.

(Ouachita Riverkeeper)

LDEQ RESPONSE TO COMMENT #5

LDEQ acknowledges the discussion of the long-standing impairments in the watersheds described by Ouachita Riverkeeper.

COMMENT #6

Comments have been submitted on a number of Louisiana Pollutant Discharge Elimination System (LPDES) permits in a number of subsegments since the previous Integrated Report (2020), many in collaboration with the partner group, Lower Mississippi Riverkeeper. These permits are operating, in several cases, under long-standing TMDL Plans. The progress and status of the TMDL plans for the basin are not readily understandable in LPDES permits, so an up-to-date summary of these would be helpful for the public. **(Ouachita Riverkeeper)**

LDEQ RESPONSE TO COMMENT #6

It is not within the scope of the IR process to provide supportive documentation for water quality discharge permits.

COMMENT #7

Commenter notes the Draft 2022 IR includes assessment changes based on new NPS monitoring data. **(Ouachita Riverkeeper)**

LDEQ RESPONSE TO COMMENT #7

LDEQ's routine ambient monitoring data provides the primary set of data and information used for water quality assessments and listing decisions. In some cases water quality sampling at Ambient Water Quality Monitoring Network sites by the NPS Program provided an additional set of data used for water quality assessments and listing decisions. LDEQ is required to consider any and all data and information in the IR process. In this case LDEQ's NPS Program provided additional data that was used in the assessment process.

COMMENT #8

All criteria, including general criteria were not assessed. We request that Louisiana's waters be assessed for all criteria found in Louisiana Administrative Code (LAC) 33:IX.1113. B. General Criteria. **(Healthy Gulf)**

LDEQ RESPONSE TO COMMENT #8

LDEQ has no objective, quantitative way to determine support of general criteria such as aesthetics, floating/suspended/settleable solids, taste and odor, oil and grease, and foaming or frothing materials. However, these criteria are utilized to protect water bodies through investigative actions by the surveillance and enforcement functions of LDEQ, as well as by water permitting actions designed to prevent such general criteria from being impaired. In addition, some of the general criteria listed have numeric criteria for some designated uses. Specifically, suspended solids may be assessed for many water bodies based on turbidity criteria found in LAC 33:IX.1113.B.9.b.i-v. LDEQ is currently evaluating turbidity criteria (a measure of suspended solids) for additional water bodies. Color is assessed based on color criteria for drinking water supply use water bodies. Toxic substances are assessed on all water bodies based on numeric criteria found in LAC 33:IX.1113.C.6 Table 1 (toxic substances) and Table 2 (metals and inorganics). The criteria found in Tables 1 and 2 are also protected through LDEQ water permitting actions. The presence or absence of oil and grease is evaluated during every ambient water quality network sampling event on every water body sampled by LDEQ. This is taken into consideration during the IR assessment process. Nutrients are addressed in LDEQ's response to Comment 11. Flow is protected in part through LDEQ's participation in review of water withdrawal projects as part of a multiagency effort created by the 2010 Louisiana Legislative Act 955 and a related Memorandum of Understanding, which was agreed to by the Louisiana Department of Natural Resources, the Louisiana Department of Wildlife and Fisheries, and by the LDEQ. While not monitored or assessed as part of the IR process, radioactive materials are included in water quality permits where necessary. Biological aquatic community integrity is protected through the ambient water quality network sampling and IR assessment process using appropriate numeric criteria. There are currently no additional parameters included under LAC 33:IX.1113.B.13, Other Substances and Characteristics.

COMMENT #9

Coastal Segments should be listed as IRC 5 for dissolved oxygen, nitrate/nitrite, and phosphorus. The 2022 IR appears to be ignoring the causes and impacts of the Gulf Dead Zone (Hypoxic Zone). It is well known that this area of extremely low dissolved oxygen enters into Louisiana's waters (Subsegments LA050901_00, LA061201_00, LA010901_00, LA120806_00, LA021102_00, and LA070601_00). "Despite the degradation of the Fish and Wildlife Propagation use, and the fact that Gulf hypoxia regularly enters Louisiana waters, it is appropriate for LDEQ to not include these segments on the 303(d) list as impaired for low dissolved oxygen." (**Healthy Gulf**)

LDEQ RESPONSE TO COMMENT #9

LDEQ reported five of the six subsegments specified by the commenter as impaired due to low dissolved oxygen. The data reviewed for subsegment LA061201_00 did not indicate an impairment for low DO during the time period covered by the 2022 IR assessments. LDEQ acknowledges the Gulf of Mexico hypoxic zone, located largely outside of state territorial waters, is an important issue of state and national significance. Efforts to address this issue are coordinated 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. LDEQ is a partner in the Gulf of Mexico Alliance and the Hypoxia Task Force with a strong commitment to address pollution resulting in Gulf of Mexico hypoxia.

COMMENT #10

It is unclear why LA120806_00 is listed as IRC 5RC (Revise Criteria). It is inappropriate to list this subsegment as 5RC without explaining why the criteria would be revised. **(Healthy Gulf)**

LDEQ RESPONSE TO COMMENT #10

Subsegment LA120806_00 is reported as IRC 5 for low DO, not IRC 5RC.

COMMENT #11

LDEQ has chosen not to assess nutrient impairments. Instead of waiting until numeric criteria are developed, Louisiana should assess using their General Criteria: “The naturally occurring range of nitrogen-phosphorus ratios shall be maintained...” **(Healthy Gulf)**

LDEQ RESPONSE TO COMMENT #11

Site-specific studies must be conducted for these general criteria. LDEQ is currently developing an assessment protocol for evaluating nutrient impairment in Louisiana’s inland rivers and streams. This protocol will include the use of numeric translators – a method recommended by the USEPA.

COMMENT #12

The Integrated List lacks adequate prioritization. Forty-nine percent of Louisiana’s waters do not support primary contact, 71% do not support fish and wildlife propagation, and yet LDEQ does not list any high priority watersheds. Furthermore, only 29 are given medium priority. We request that LDEQ withdraw the current list and examine the waters of the state and identify the high priority subsegments. **(Healthy Gulf)**

LDEQ RESPONSE TO COMMENT #12

Prioritization of TMDL development is a dynamic process based on pollution severity, designated uses, departmental resources, and changing conditions. The department is currently focused on addressing priority water bodies selected for the §303(d)/Long-Term Vision for Assessment, Restoration, and Protection under the CWA §303(d) Program (New Vision). Priority water bodies assigned to the §303(d) New Vision Program were prioritized separately from the overall TMDL prioritization in the IR. This is the reason most other water bodies on the §303(d) List are considered low priority at this time. It should be noted that the §303(d) List, by regulation, prioritizes a WIC as a high priority for TMDL development only when the TMDL is expected to be developed within the next two years (40 CFR (Code of Federal Regulations) 130.7(b)(4)). As a result, watershed-based plans (TMDL alternatives) are listed with a low priority for TMDL development.

The §303(d)/New Vision allows LDEQ to commit its resources to solving specific, known water quality issues. The New Vision approach to the TMDL program has provided states the ability to develop tailored strategies to achieve water quality goals. LDEQ is utilizing watershed-based plans to address water quality issues for priority water bodies established under the New Vision approach. These water quality issues tend to be very complex, often with many layers and unknown factors. Watershed-based plans, as being conducted by LDEQ, are much more resource intensive than traditional TMDLs. These plans include multiple potential strategies, including multi-year monitoring, evaluation of all potential loading sources and their likelihood to influence instream loading, extensive public outreach and education, and integration with various water programs. LDEQ is also considering the impacts of hydrologic alterations on water quality. These strategies are expected to lead directly and indirectly to load reductions and improvements in water quality. This process will take multiple years and will continue after reports are complete.

COMMENT #13

The 2022 Integrated list prioritization should include environmental justice concerns. We request LDEQ look at the impaired subsegments and assess which watersheds have environmental justice concerns, and give those waterbodies priority in the 2022 assessment. (**Healthy Gulf**)

LDEQ RESPONSE TO COMMENT #13

CWA assessments and prioritizations found in the 2022 IR are based on the best available science of assessing water quality data and information, regardless of the presence or absence of environmental justice concerns for a water body. In a broader sense, environmental justice is defined by both LDEQ and EPA as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations of the execution of federal, state, local, and tribal programs and policies.” (see www.epa.gov/environmental_justice and *Final Report to the Louisiana Legislature on Environmental Justice as mandated by 1993 La. Act 767*, available at <https://searchworks.stanford.edu/view/2922887>). LDEQ is committed to the promotion of environmental justice in all its programs, activities, and decisions. To this end, LDEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, in accordance with applicable laws and regulations. As a recipient of federal funding, LDEQ must adhere to Title VI of the Civil Rights Act of 1964 (42 U.S. Code (USC) §2000d et seq), as well as EPA regulations that implement Title VI. (Title VI at 40 C.F.R. Part 7). All LDEQ and EPA approved standards are presumptively sufficient to protect public health with an adequate margin of safety for the population within the area.

COMMENT #14

Not all assimilation wetlands were assessed, Tchefuncta Club Estates, Guste Island, and Riverbend assimilation projects do not appear in the table. We request the 2022 Integrated Report be

withdrawn and reissued with all assimilation projects assessed (**Healthy Gulf; Pontchartrain Conservancy**)

LDEQ RESPONSE TO COMMENT #14

The wetland assimilation areas listed by the commenter are not regulatory subsegments and, therefore, not subject to IR assessment procedures. LDEQ Water Permits Division (WPD) oversees those wetland assimilation areas based on permit limitations and adaptive management practice plans for protection and improvement of the wetlands. The WPD conducts their own assessment for each assimilation wetland, which can be found in EDMS under each permittee's agency interest (AI) number (Tchefuncta Club Estates-AI# 19187; Guste Island-AI# 122552; and Riverbend-AI# 19244).

COMMENT #15

LDEQ relied fully on permittee supplied data to assess assimilation wetlands. Additionally, that data used for assessment included no water quality parameters, such as nutrients, suspended solids/turbidity, nitrate, phosphorus, ammonia, etc. LDEQ must gather independent data that is not supplied by the parties that are potentially the main or only polluter in the wetland. (**Healthy Gulf**)

LDEQ RESPONSE TO COMMENT #15

All permittees are required to follow sampling methods using the protocols outlined in their permit and Louisiana's Water Quality Monitoring Plan (WQMP), *Volume 3, Permitting Guidance Document for Implementing Louisiana Surface Water Quality Standards, Version 8*. The required protocols are taken from the CFR when available. Methods not outlined in the CFR are standard methods readily available in literature and are clearly outlined in each permit and the WQMP. As with other Louisiana water discharge permits, water quality data for wetland assimilation areas is collected by the permittee using the requirements of the facility's water discharge permit. Failure to follow specified sampling protocols is a violation of the permit. The data is then provided to LDEQ as part of each permittee's Discharge Monitoring and Annual Wetland Monitoring Reports and used accordingly by the LDEQ WPD and by the Enforcement Division. Both water quality data and biological data provided by permittees under the conditions of the LPDES permit are used by the WPD as part of its own analysis and review for each wetland.

COMMENT #16

Future IRs should include public workshops and information more accessible to the public. We acknowledge that the process is labor intensive and that LDEQ does solicit data through a separate public notice, but holding multiple public meetings, at least one in each target watersheds, would allow the public to learn how LDEQ assesses public waters. Further, we request that LDEQ issue an IR that is more accessible and readable by the public. We do appreciate the full spreadsheet and rationale, but suggest LDEQ also supply separate lists including new listings and de-listings. (**Healthy Gulf**)

LDEQ RESPONSE TO COMMENT #16

Given the number of water quality subsegments assessed during each IR cycle, it is not feasible to hold public meeting in all assessed watersheds. LDEQ makes IR public notice documents readily

available through the LDEQ website. Regarding readability of the IR, LDEQ makes every effort to present information in the IR in an understandable manner for the general public. This is sometimes difficult due to the highly complex nature of the water quality monitoring, assessment, and management process. LDEQ developed an IR mapping feature (<https://www.deq.louisiana.gov/page/louisiana-water-quality-integrated-report>) that allows the general public to explore the IR assessment results.

LDEQ's public notice is based on fulfilling federal requirements of §303(d) of the CWA and contains all information or references to supporting documentation needed for review. As in previous IR cycles, given the number of water bodies to be assessed, along with the quantity of data analyzed for each water body, it is not feasible to provide a detailed summary of each impairment change. Comparisons over time can be made by the public using available IR documents on the LDEQ website.

COMMENT #17

Comments describe the condition of the lower Mississippi River along with various tributaries to the river. However, there were no direct questions or requests made by the commenter. **(Louisiana Environmental Action Network (LEAN)-Lower Mississippi Riverkeeper (LMRK))**

LDEQ RESPONSE TO COMMENT #17

LDEQ acknowledges the discussion of the long-standing impairments in the watersheds described by the Lower Mississippi Riverkeeper.

COMMENT #18

Devil's Swamp Lake and Baton Rouge Bayou (LA070203_00) and Monte Sano Bayou (LA070504_00) are under a TMDL plan intended to address impairments. The first is listed for Unknown and Upstream Sources of Turbidity impairing the designated uses of fish and wildlife propagation and primary contact recreation (PCR), the latter for impairment of LAL from Unknown Sources, despite the list of known discharge facilities permitted for discharge into the Bayous. **(LEAN-LMRK)**

LDEQ RESPONSE TO COMMENT #18

Impairments to Devil's Swamp Lake and Bayou Baton Rouge (LA070203_00) are not currently under any TMDL. Rather, they are primarily listed as IRC 4b due to the presence of remediation activities in the subsegment. Three water quality based impairments for low DO, total phosphorus, and turbidity are reported as IRC 5 and still require TMDL development. PCR use is not assessed based on turbidity criteria. The only reported impairment to Monte Sano Bayou (LA070504_00) is low DO, which is also reported as IRC 5. Therefore, it is uncertain what "TMDL plan" the commenter is referring to. Finally, it is not within the scope of the IR process to analyze water quality discharge permits.

COMMENT #19

Commenter describes recent draft permits and corresponding comments submitted; and offers support to the selection of Subsegment LA020101_00, Bayou Verret, Bayou Chevreuil, Bayou Citamon, and Grand Bayou as a TMDL watershed for the period FY2023-FY2032 (Table 8, p. 32). **(LEAN-LMRK)**

LDEQ RESPONSE TO COMMENT #19

LDEQ appreciates the support.

COMMENT #20

It is clear that increased investment is needed to ensure protection and improvement of water quality across the Louisiana's water basins and subsegments, in particular to expand the State's capacity for monitoring, testing, and enforcement. Currently, Louisiana and other States are receiving additional federal funding from legislation tied to Covid-19 relief and Infrastructure spending to apply to improving water infrastructure and related areas of water quality concerns. We urge the State to utilize these expanded resources for improving water quality in the most effective way possible. **(LEAN-LMRK)**

LDEQ RESPONSE TO COMMENT #20

While the State legislature does from time to time provide LDEQ with limited funding for specific activities not otherwise funded by permit fees and enforcement penalties, nearly all water quality monitoring and assessment work is funded by federal CWA grants awarded by the USEPA. The Department appreciates the recognition that infrastructure funding may provide for expanded resources for improving water quality in the state.

COMMENT #21

A number of water segments in the Pontchartrain Basin are impaired for Enterococci, including Lake Pontchartrain. Some of these segments, including LA041201_00 and LA041802_00, are considered impaired for the parameter but have not been impaired for fecal coliform. PC would appreciate the review of the Department's Section 303(d) list with the "Suspected Sources of Impairment" column, and the primary sources for Enterococcus input. **(Pontchartrain Conservancy)**

LDEQ RESPONSE TO COMMENT # 21

With the development and implementation of enterococci criteria beginning in 2016, there are many cases in which the fecal coliform criterion as applied to the PCR use was discontinued in favor of the enterococci criteria. In these cases, the fecal coliform criterion is still applied to the secondary contact recreation (SCR) use. The change in PCR criterion from fecal coliform to enterococci is the reason several subsegments are now reported as impaired for PCR for enterococci but not fecal coliform. In addition, the SCR fecal coliform criterion is 2,000 colony forming units (CFU) /100 mL, which is a much less stringent criterion than the former PCR criterion of 400 cfu/100 mL. Statewide, the SCR criterion for fecal coliform is rarely exceeded a sufficient percentage of the time to result in impairment under the IR process.

Suspected sources of impairment are not a requirement of the §303(d) process and, therefore, not subject to the public notice requirement. Suspected sources are provided as part of the §305(b) report portion of the IR (combined §303(d)/§305(b)) and included in the full IR text and assessment information upon finalization of the IR.