Office of State Lands

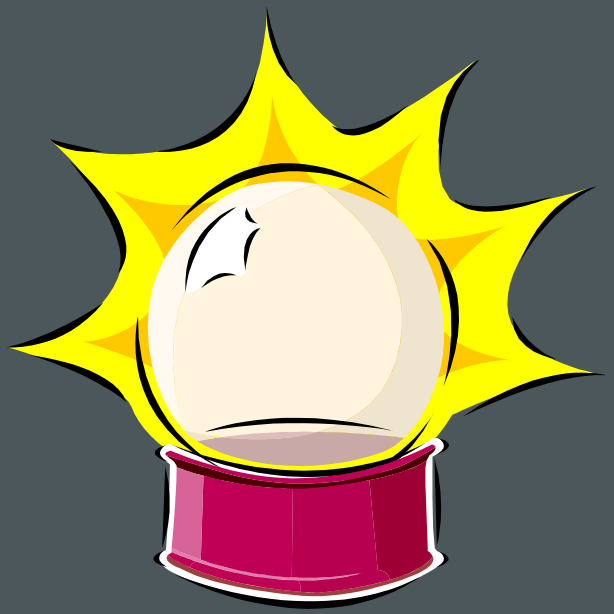
Guidelines For Determining State Water Bottoms

Inherent Sovereignty

Office of State Lands

April 30, 1812

Navigable in 1812 ?



State Land Office Responsibility

It is the responsibility of the State Land Office to determine which waterways were navigable in 1812 and should be classified as a state claimed water bottom from a historically navigable perspective.

Office of State Lands

Water Bottom Determination Requests

Recreational Interest

Oil & Gas Industry

Land Owners & Surveyors

State and Federal Agencies

STATE LAND OFFICE
UNOFFICIAL GENERAL GUIDELINES FOR DETERMINING
WATERWAY NAVIGABILITY

These general guidelines are used by the State Land Office for waterway navigability determinations based on GLO records and USGS Quadrangle maps in order to establish a consistent method for review of water bottoms throughout the State of Louisiana from a historically navigable point of view. The criteria are subjective in nature, in that only the courts can make an official determination of navigability.

- 1 Chain or 100 links (66 feet) is generally considered the minimum size for a waterway being considered. A waterway less than 1 chain wide is usually considered not navigable solely from information on the township plat and associated field notes.

- The waterway must be illustrated on the township plat as being meandered or shown with a double line. However, not all double lined waterways, shown on the township plat, have a width in excess of 1 chain. The associated field notes should be used to confirm the width of the river or stream. A waterway shown by a single line will be considered with confirmation from the associated field notes that the width is greater than 1 chain. Exceptions occur if it can be proven that the surveyor omitted a waterway by error or if the deputy surveyors did not establish the section lines on the ground during the original survey.

- The waterway must be either connected to another navigable waterway or be in close proximity to it (the waterway in question may be connected indirectly by a secondary waterway). The waterway in question may not be completely land locked.

- If a river or stream completely dries up, the State loses its ownership to the riparian landowner. For the State to retain ownership, water must flow through the waterway at least part of the year. The length of time for this required flow has not been determined by law in Louisiana. State ownership of rivers or streams extends to the mean low water line. However, no consensus agreement has been reached as to the definition of "mean low water". Waterways, which carry water only during flood stage, are not considered navigable. State ownership of lakes extends to the mean high water line. State ownership of the Gulf of Mexico extends to the highest tide in the winter season.

- Waterways are generally considered potentially navigable only if they are named on either the township plat or the field notes. A named waterway is not automatically assumed to be navigable, but naming is a general prerequisite for navigability determination. Exceptions occur if it can be proven that the surveyor omitted a waterway by error or if the deputy surveyors did not establish the section lines on the ground during the original survey.

- If the deputy surveyors did not establish the section lines on the ground during the original survey, the above guidelines apply to the 1930's editions of the USGS Quadrangle map.

In General

These guidelines are used by the State Land Office to establish a consistent method for review of water bottoms throughout the State of Louisiana.

The criteria is subjective in nature, in that only the courts can make an official determination of navigability.

Office of State Lands

Limits of State Ownership

River or Stream – mean (ordinary) low water line

Lake – mean (ordinary) high water line, present or historical

Gulf of Mexico – highest tide in the winter season

Boundaries In Motion

State loses ownership along a river or stream by accretion or reliction.

There is no right to accretion in a lake or to the Gulf of Mexico.

Waterways that carry water only during flood stage are not considered as State owned.

What Documents Are Used?

-Previous determinations included in the State Land Office files

-Official U.S. Government Township Plats and field notes

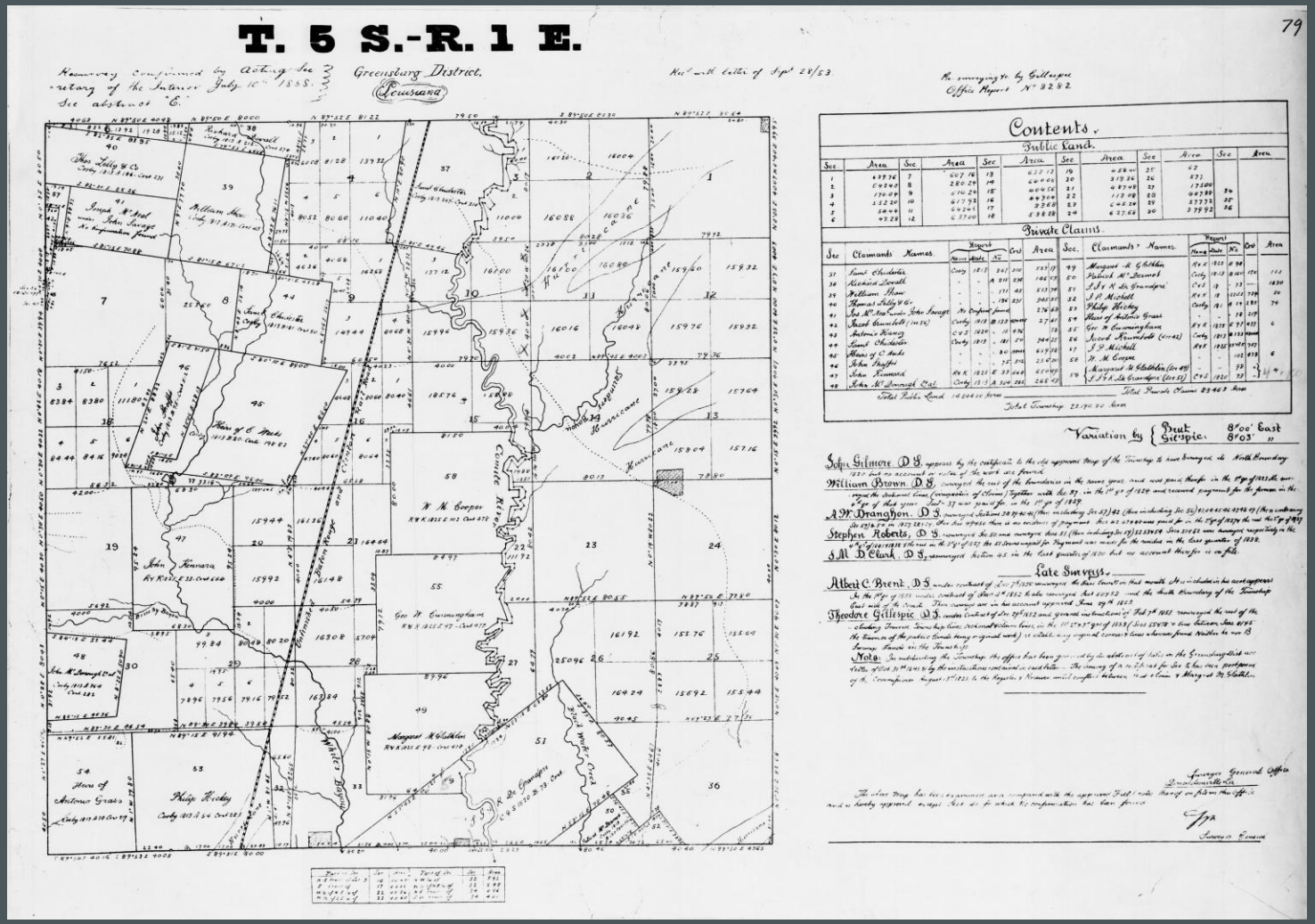
-USGS Quadrangle Maps & current aerial photography.

-State oil & gas mineral lease history records

-Records of previous litigation, if any

Previous Determinations In State Land Office Files

Official U.S. Government Township Plats

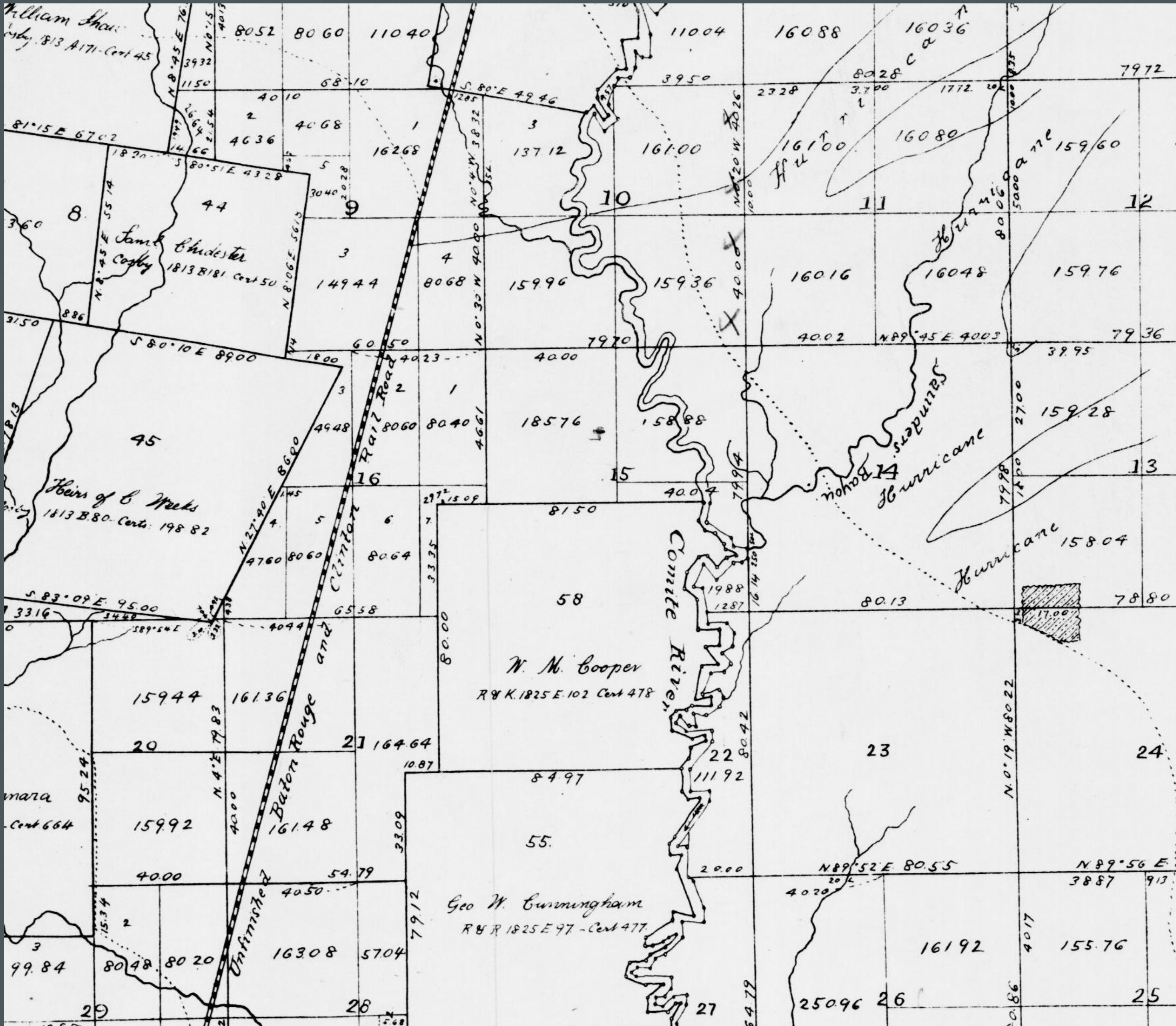


Official U.S. Government Township Plats

1 chain or 100 links (66 feet) is generally considered minimum size.

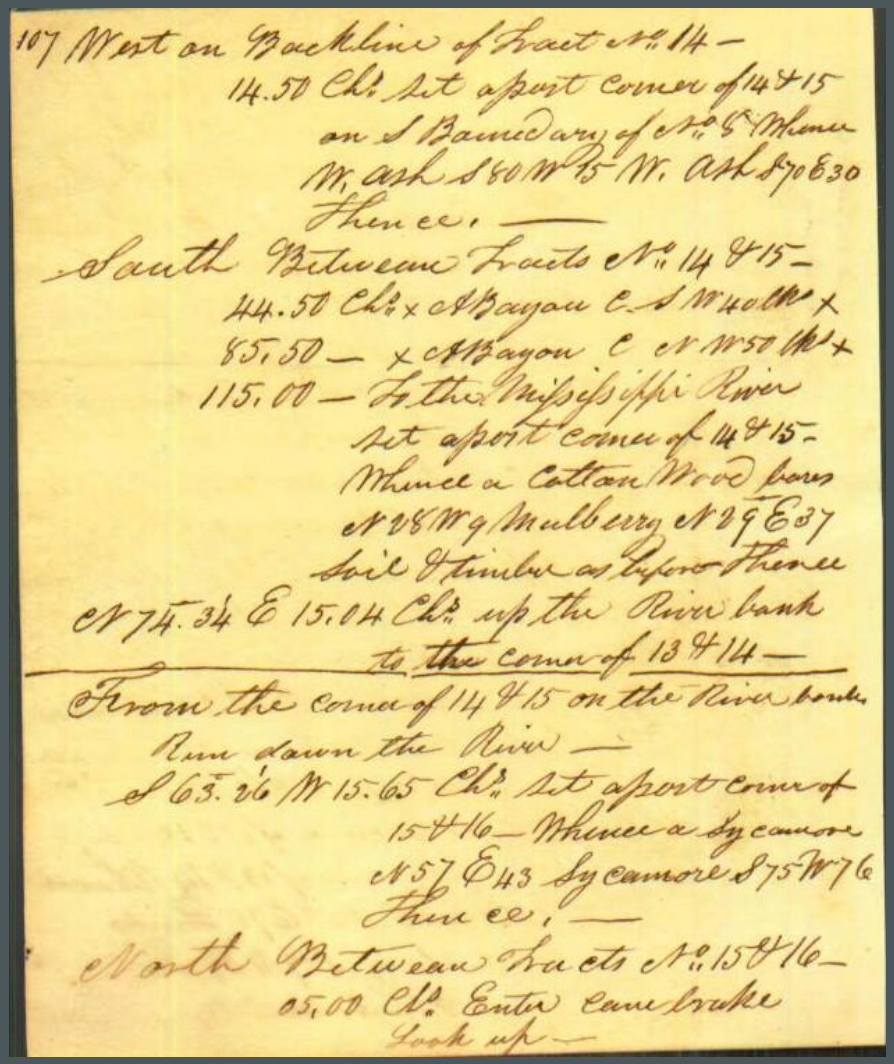
Must be illustrated on the Township Plat as being meandered or shown with a double line.

Single line waterways are considered with confirmation from field notes that the width is in excess of 1 chain.



Heirs of C. Weeks
1813 B.80. Certs. 198.82
W. M. Cooper
R&K. 1825 E.102 Cert 478
Geo W. Cunningham
R&R 1825 E97 - Cert 477
Comite River
Baton Rouge and Clinton Rail Road
Unfinished
Hurricane
Saunders Bayou

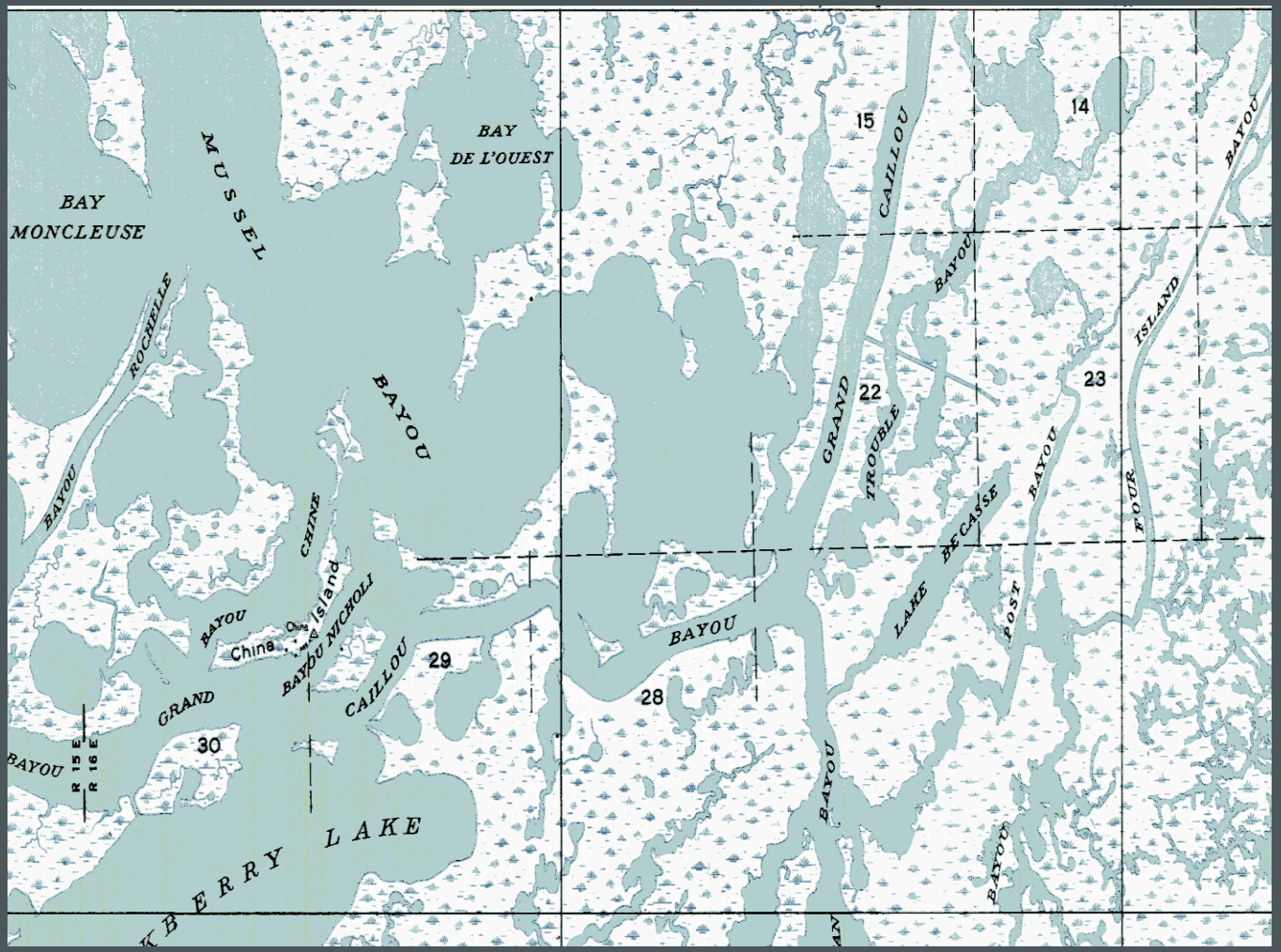
Official U.S. Government Field Notes



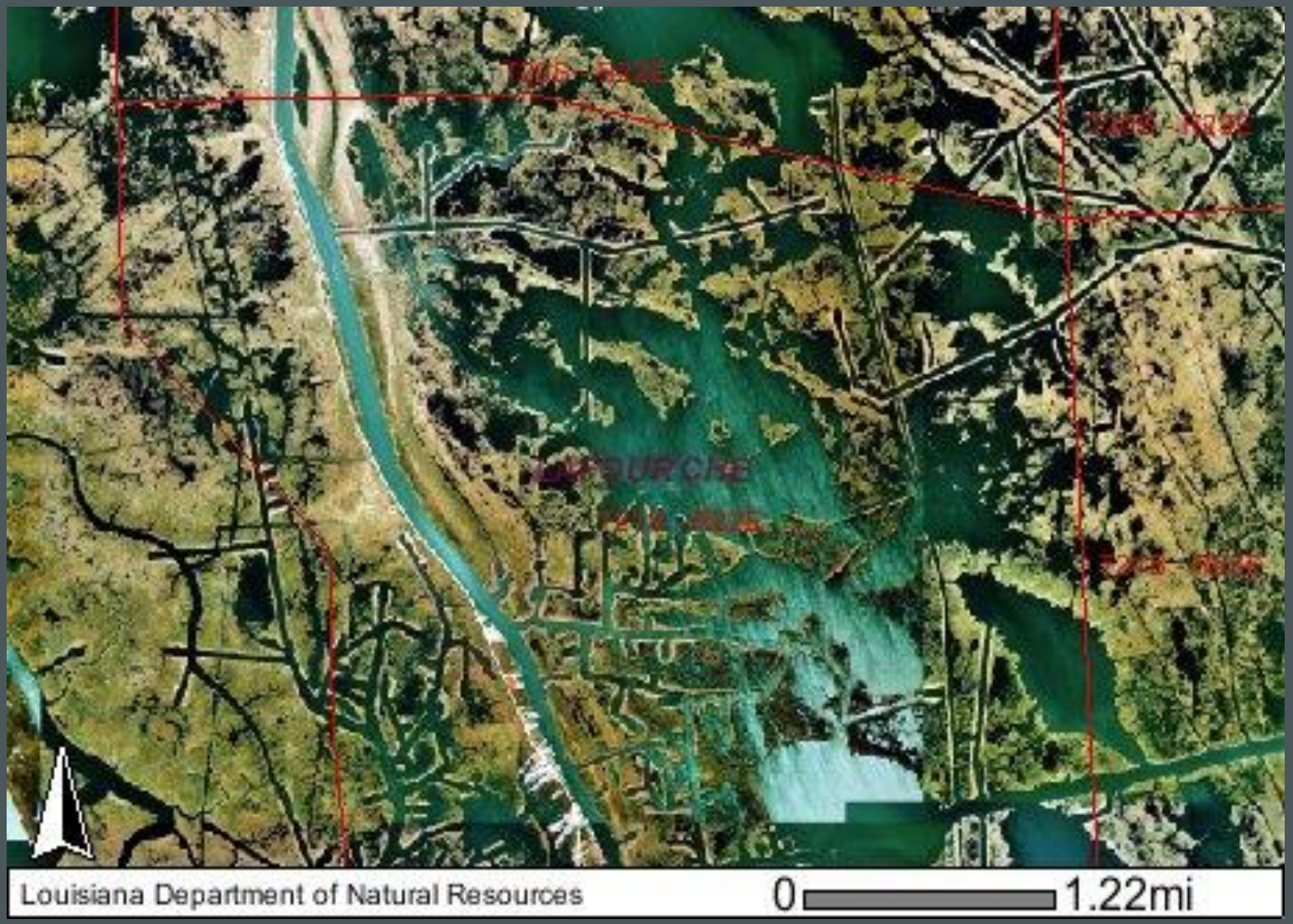
107 West on Backline of Tract No. 14 —
14.50 Chs. Set a post corner of 14 & 15
on S Boundary of No. 5 Whence
W. ark S 80 W 15 W. ark S 70 E 30
Thence. —
South Between Tracts No. 14 & 15 —
44.50 Chs. x a Bayou E S W 40 Lks x
85.50 — x a Bayou E N W 50 Lks +
115.00 — To the Mississippi River
Set a post corner of 14 & 15 —
Whence a Cotton Wood bears
N 28 W 9 Mulberry N 29 E 37
Soil & timber as before Thence
N 74. 34 E 15.04 Chs. up the River bank
to the corner of 13 & 14 —

From the corner of 14 & 15 on the River bank
Run down the River —
S 63. 26 W 15.65 Chs. Set a post corner of
15 & 16 — Whence a Sycamore
N 57 E 43 Sycamore S 75 W 76
Thence, —
North Between Tracts No. 15 & 16 —
05.00 Chs. Enter Cane brake
Look up —

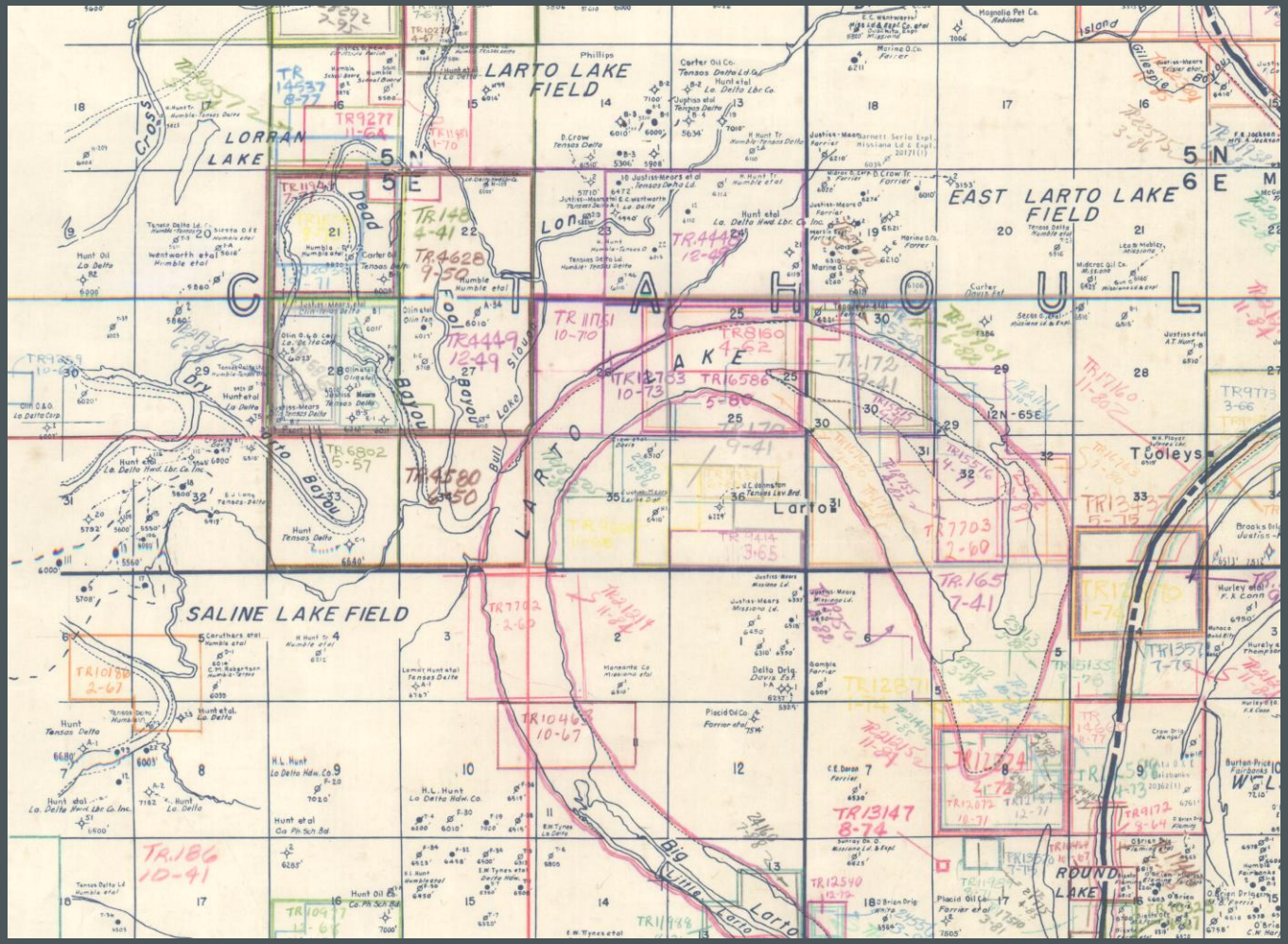
1935 Edition USGS Quadrangle Map



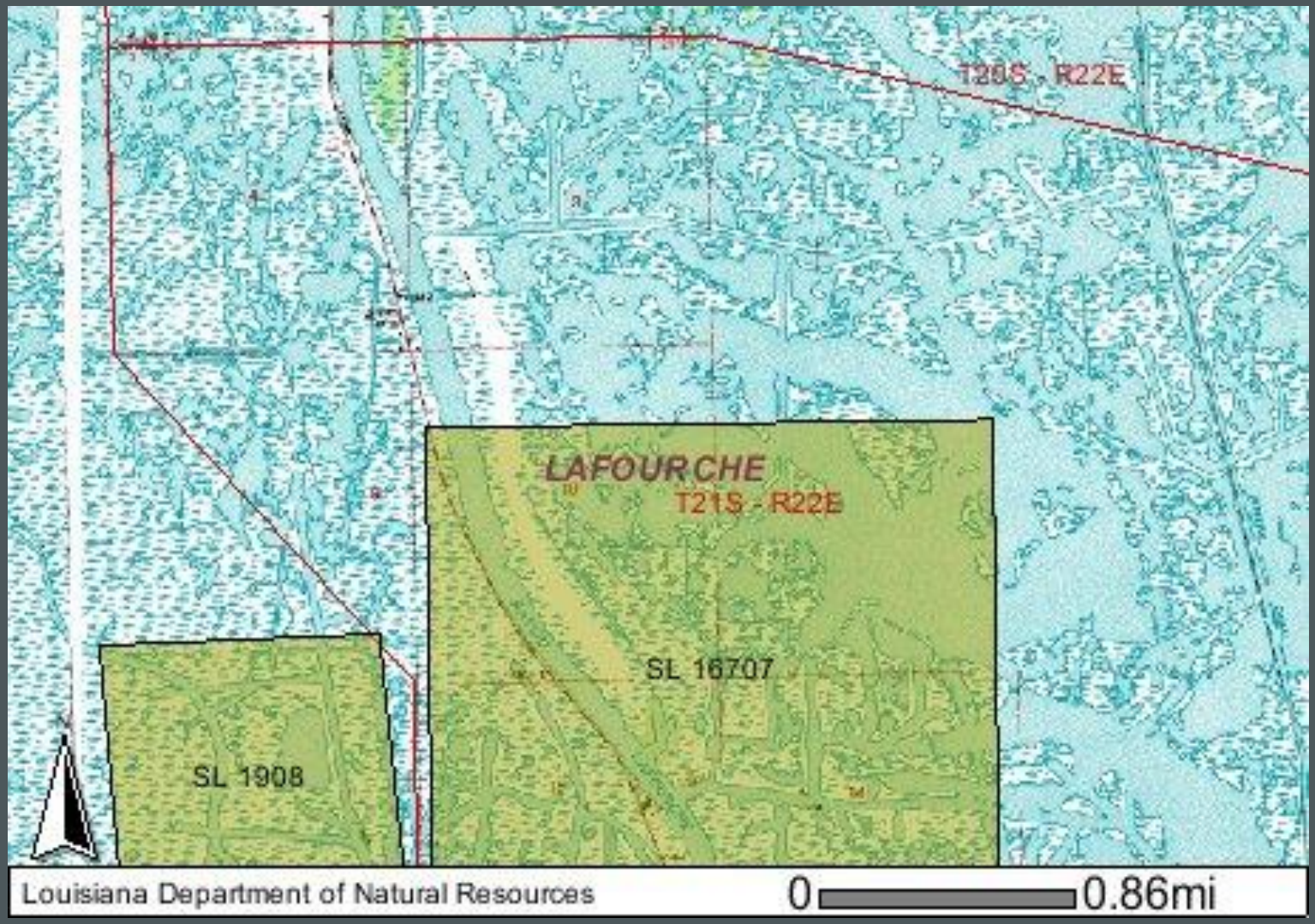
Current Aerial Photography



State Oil & Gas Mineral Lease History



Current State Mineral Leases



Previous Litigation

Exceptions

If it can be proven that the Deputy Surveyor omitted a waterway by error.

If the Deputy Surveyor did not establish the section lines on the ground.

Limitations

Article 9, Section 3 of the Louisiana Constitution states as follows:

"The legislature shall neither alienate nor authorize the alienation of the bed of a navigable water body, except for purposes of reclamation by the riparian owner to recover land lost through erosion…"

Accordingly this report is limited to the matters discussed here and is based upon the referenced documentation. Any matters of historic usage, navigability in law, public rights of use and access or other matters, which are beyond the purview of this office, are expressly excluded. **Therefore, in the event additional evidence is made available, this office reserves the right to review said evidence and amend its claim as deemed appropriate.**

Office of State Lands

Senate Concurrent Resolution 2004

Urges and requests the governor to direct the state land office to complete inventory of the water bottoms in this state within the next four years, and to provide sufficient funding through appropriations or other means to accomplish this task.

Office of State Lands

Senate Concurrent Resolution 2005

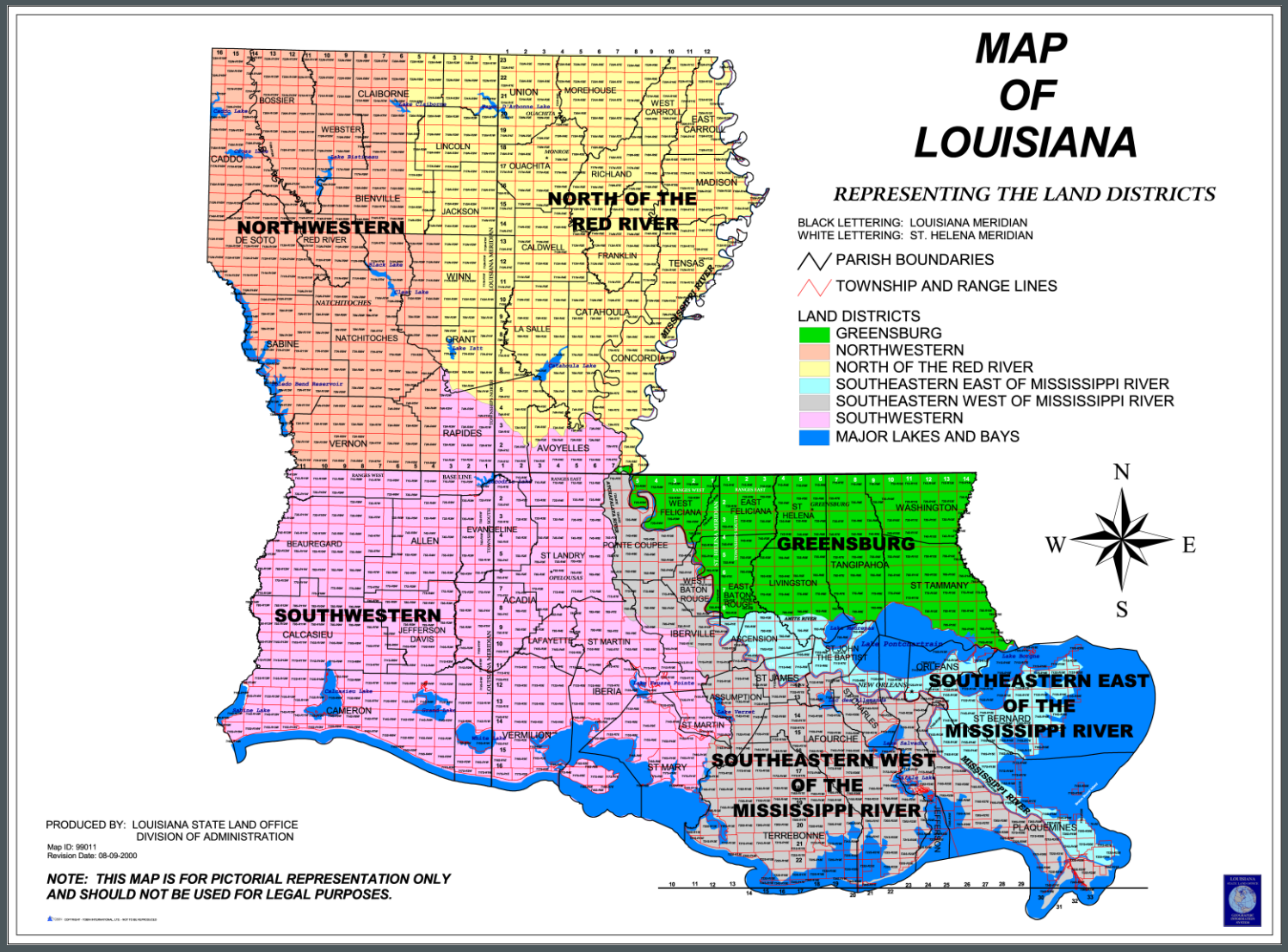
Requests the state land office to implement a procedure for public notice of preliminary water bottom ownership determinations by the state land office.

Office of State Lands

Senate Concurrent Resolution 2006

Directs the state land office to provide information on the inventory of state water bottoms to the public, including access to any maps or interactive programs showing public lands or water bottoms.

Review Each Township (1,500 Plus)



Water Bottom Classifications

State Claimed

Publicly Accessible

Claimed By State & Adjacent Land Owner

Judgment, Agreement or Compromise
Against State Ownership

Waterbottom Determination

State Claimed

Claimed by the State and Adjoining Land Owner (Enter at Your Own Risk)

Judgement, Agreement or Compromise Against State Ownership

Publicly Accessible

Tobin Boundaries

Township & Range (Tobin)

Section (Tobin)

Office of State Lands

STATE LANDS AND WATER BOTTOMS
DOCUMENT ACCESS
DATABASE ACCESS
OFFICE SECTIONS
STATE PROPERTIES FOR SALE
FORMS, PROCEDURES, AND PUBLICATIONS
CONTACT STAFF

PUBLIC LANDS ADMINISTRATOR

John Lavin

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Email: John.Lavin@la.gov
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P.O. Box 44124
Baton Rouge, Louisiana 70804

Site Search GO

GET A GAMEPLAN
LOUISIANA RECOVERY AUTHORITY
LA TRAC

The STATE LAND OFFICE is responsible for the identification, administration, and management of State public lands and waterbottoms. As such, it services a broad range of clientele all having varying degrees of interest in public lands, navigable waterbottoms and the minerals thereunder. The primary goal of the office is to insure the highest economic return and the maximum public utilization possible of our State public lands and waterbottoms.

Emphasis is placed on increasing revenue production through multiple utilization. Multiple utilization includes land and timber sales; surface and sub-surface leasing; the issuance of rights-of-way and surface and subsurface agreements; and waterbottoms permitting.

The objective of the office is to maximize revenues while insuring continued public utilization of State public lands and waterbottoms. A second major objective is to protect the State's proprietary interests in its lands and waterbottoms through the permitting process.

ORGANIZATIONAL UNITS

- Title and Survey Section
- Geographic Information Systems
- Land and Waterbottoms Management
- Records

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LOUISIANA STATE LAND OFFICE

STATE LANDS AND DATA

ABOUT THE DATA - STATE LANDS

The Louisiana State Land And Building System (SLABS) inventory is maintained by the Division of Administration pursuant to LA R. S. 39:11 and 13.

The inventory maintains data relative to the fixed immovable property in which the State of Louisiana has a surface interest (SLABS is not a mineral interest inventory). The Louisiana State Land Office is responsible for maintaining this centralized inventory in as current and comprehensive a manner as is practicable. The inventory is comprised of electronic data files maintained upon a D.O.A. secure restricted-access computer server with hardcopy facility and building reports and conveyance documents filed in the State Land Office.

The files are separated into three main categories: Facility/Site Summary data identified by the facility's SITE CODE Number; Individual Building data identified by the building's State I. D. Number; and Individual Conveyance data identified by the document's Site Code Number and Document Number. The individual building and conveyance data is linked to the facility/site data for that particular facility by the facility's Site Code Number. The electronic data files contain more detailed information for these three categories.

You can review the SLABS data at another web-based application. Once you know your facility SITE CODE NUMBER, you can go to the Division of Administration, Office of Facility Planning and Control's "Web-Enabled Facility Management Program" web page at www.gcr1.com/fpc.

It should be noted that the SLABS inventory **does not contain** data relative to tax adjudicated lands, State-owned water bottoms, some State-owned dried lake beds, State highway/road rights-of-way, major infrastructure such as roads, bridges, dams, etc., Section 16 School Land, levee board properties, the properties of some State boards and commissions, and any lands in which the State retains only a mineral interest.

DATA CATEGORIES - STATE LANDS

State Land. These State Lands are managed by the Louisiana Division of Administration – State Land Office and are generally accessible to the public.

State Agency Land. These State Lands are managed by state agencies other than the Louisiana Division of Administration-State Land Office. Contact the managing agency for public access policies.

Restricted Access. These State Lands are managed by the Louisiana Division of Administration-State Land Office. There is no public access to these lands.

DOWNLOADABLE GIS DATA

http://www.doa.la.gov/slo/slabsdataaccess.htm

LOUISIANA STATE LAND OFFICE
STATE WATER BOTTOMS DATA

ABOUT THE DATA - STATE WATER BOTTOMS

The State Land Office uses a set of criteria, based on a review of historical maps and documents on file in the State Land Office, to uniformly select water bottoms throughout the state for inclusion in the water bottoms database. Once a waterway has been selected by this process, the extent of the water bottom is then digitized from USGS Digital Orthophotos (DOQQ). It is important to keep in mind that the extent of the water bottoms shown on this web site is only a representation of the extent of water as shown on the DOQQ and not the legal extent of the state's claim.

The extent of the water bottoms shown on this web site may be of sufficient accuracy to determine an approximate acreage for the waterway but not of sufficient accuracy to determine a property boundary. The State Land Office does not have the extensive information required to determine a location of the legal boundary for each waterway claimed by our office.

DATA CATEGORIES-WATER BOTTOMS

• **State claimed.** After a review of historical maps and documents on file in the State Land Office, it was determined that these waterways were susceptible of commercial navigation at the time of statehood, in 1812. Therefore, the state claims the bed and water bottom of these waterways from a historically navigable point of view. Examples of this kind of waterway are the Mississippi River, Bayou Teche. Lake Pontchartrain, etc.

• **Publicly accessible.** Governmental agencies sometimes acquire servitudes for the construction of channels and river cutoffs which may include rights of public navigation. The State does not claim the beds and water bottoms of all of these waterways. Some of the channels have eroded over time; however, the public's right to navigate may be limited to the original servitude boundaries. By delineating the limits of the eroded channels and cutoffs, the State does not necessarily suggest that public right of navigation extends to the eroded limits of the waterway. Examples of this type of waterway are the Intracoastal Waterway, man made cuts to eliminate sharp bends in a river or stream in order to improve navigation or drainage, etc.

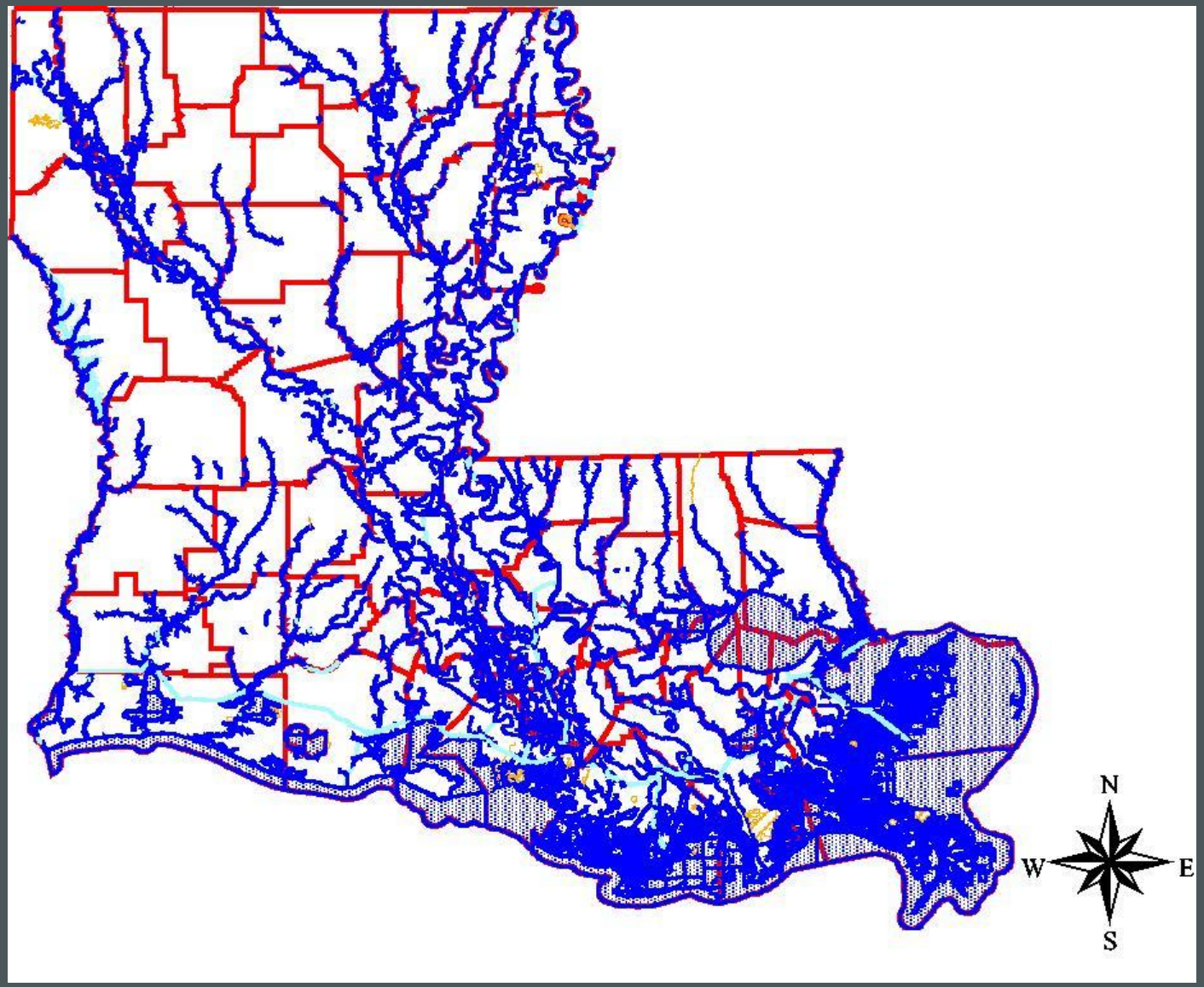
• **Claimed by the state and adjoining land owner.** After a review of historical maps and documents on file in the State Land Office, it was determined that these waterways were susceptible of commercial navigation at the time of statehood, in 1812. However, the adjoining land owner has provided the State Land Office with information whereby they believe the waterbottoms are included in the legal title to their property. **Anyone accessing these areas should do so at their own risk.**

• **Judgment, agreement or compromise against state ownership.** These are water bottoms or geographic areas in which the State Land Office has a court decision or another type of agreement on file that would prevent the state from claiming a particular waterway or any water bottoms within the geographic limits of the judgment or compromise area.

DOWNLOADABLE GIS DATA

http://www.doa.la.gov/slo/waterbottomsdataaccess.htm

Monthly Update



BOBBY JINDAL
GOVERNOR

KRISTY H. NICHOLS
COMMISSIONER OF ADMINISTRATION

State of Louisiana

Division of Administration
STATE LAND OFFICE

January 31, 2013

Louisiana Department of Wildlife & Fisheries
ATTN: Mr. Raymond Impastato, PLS
2021 Lakeshore Drive
New Orleans, LA 70122

RE: State Claimed Water Bottom Determinations
(State Land Office Title File Number 2199)

Dear Mr. Impastato:

Kindly find enclosed a disc containing the latest information from the State Claimed Water Bottom Database. This disc contains a shapefile consisting of water bottoms that are currently claimed by the State Land Office. The State **claims** as historically navigable waterways the bed and bottom of the areas shaded in **dark blue** and labeled *State Claimed Water Bottom* **and** the areas shaded in **red** and labeled *Claimed By State & Adjoining Land Owner*.

In the majority of locations in Louisiana the 2004 edition of the USGS Digital Orthographic Quarter Quadrangle (DOQQ) is used to digitize the extent of the claimed water bottoms in the database. We have no way of knowing the water stage at the time the photograph was taken.

Therefore, it is important to keep in mind that the water bottom database shapefile is only a representation of the extent of water as shown on the DOQQ. It is not intended to represent the legal extent of the State's claim to ownership of a particular water bottom as defined in applicable areas of the Louisiana Civil Code and the Louisiana Revised Statutes.

Please keep in mind the State Land Office is continually reviewing and updating information in the State Claimed Water Bottom Database. Consequently, you may notice changes from versions of the shapefile previously submitted to you. Please advise if you have any questions or concerns relating to information contained on any disc forwarded to you.

Article 9, Section 3 of the Louisiana Constitution states as follows:

> "The Legislature shall neither alienate nor authorize the alienation of the bed of a navigable water body, except for purposes of reclamation by the riparian owner to recover land lost through erosion ..."

Accordingly this report is limited to the matters discussed here and is based upon the referenced documentation. Any matters of historic usage, navigability in law, public rights of use and access or other matters which are beyond the purview of this office are expressly excluded. Therefore, in the event additional evidence is made available, this office reserves the right to review said evidence and amend its claim as deemed appropriate.

Respectfully yours,

Larry Decker
Surveyor 5

Enclosure

C: Mr. John Lavin