

## ATTACHMENT "B"

Good Morning. My name is Tony Simmons and my family has lived at Avery Island Louisiana since 1818. During the 200 years we have lived on a salt dome in the marshes of Southwest Louisiana I believe it is fair to state that we have created a history of environmental stewardship and a dedication to conservation that is second to none. E.A. McIlhenny created the first bird sanctuary in Louisiana in 1895, is credited by the Audubon society with helping save the Snowy Egret from extinction, helped to dedicate over 187,000 acres of wetlands as wildlife preserves and showed enormous forethought in marsh management. I bring this to your attention not to praise my family but to point out that we have demonstrated a strong history of caring for the environment long before conservation was widely practiced.

To many, this task force was formed to seek solutions to a conflict between land owners and fishermen. I would propose to you that in fact a third party exists and very much needs to be a stakeholder in this discussion, the ecosystem that would be impacted by the proposed changes to our current law. What I request of you today is to recognize that the ecosystem must be included in this discussion. The environment has no voice but with all due humility I would hope to speak on its behalf this morning. There are those who would say I do not need to do that because we have government agencies that are charged with the responsibility of being the voice of our wetlands. To an extent that is true and I know many of our government employees charged with the protection of wetlands are deeply committed to the ecosystem, but my experience is that government agencies have mandates that at times may be at odds with what is actually best for the long term health of the ecosystem. National Marine Fisheries Service, for example, strives to manage healthy stocks of fisheries by promoting unabated flow of tidal waters into our marshes in an effort to provide the maximum amount of fisheries access to our estuarine environment. However, that flow can cause vegetative mortality and tidal erosion. Department of Natural Resources is charged with protecting our fragile wetlands but is also responsible for seeking minerals to help the treasury of the state. The efforts to boost the state treasury may find itself at odds with the protection of the ecosystem. Therefore, while I know the agencies are conscientious and committed to the preservation of our wetlands, they may not always be allowed to put it first. We must also recognize that our state budget constraints do not always allow state agencies to implement their environmental objectives.

We are all aware our coastal communities depend on the marshes as our first barrier of defense against storm surge and winds. But our wetlands confer an even wider range of benefits on Louisiana. Yet, sadly as America's Wetlands reminds us constantly, we are losing the average of a football field of wetlands every 100 minutes.

Increases in boat traffic can have a significant adverse impact on an ecosystem. The College of William & Mary published a study of the Chesapeake Bay on the effects of turbidity and wake on the marsh, specifically in regards to recreational boating. One of their stated reasons for conducting the study was "Shoreline erosion due to boat wakes is related to the number of boats passing (frequency of the disturbance) and the energy of the total wave disturbance (calculated by speed, vessel size and distance from the channel; Glamore 2008). Wake effects are particularly significant in areas of restricted depth

and width (FitzGerald et al 2011), such as tidal creeks. In these systems, they can undercut banks and have significant impact to marshes, especially in areas where synergistic impacts may have reduced marsh soil strength". I recognize the study was not performed in Louisiana but I believe the findings apply to all wetlands. I have attached a copy of the study to this presentation for your review. A look at the Gulf Intracoastal Waterway or the Mississippi River Gulf Outlet, commonly known as "Mr. Go", also provides evidence of how boat traffic negatively affects wetlands. In the case of the "Mr. Go" it was originally constructed to be 650 feet wide but the Lake Pontchartrain Basin Foundation reports that by 2005 it had expanded to 3,000 feet in some places. Similar massive erosion has occurred along portions of the Intracoastal Waterway. Just this February, the State of Louisiana sued the United States Corps of Engineers because boat traffic-related erosion has expanded the Intracoastal Waterway from its originally planned 125 foot width to nearly 700 feet in some locations.

I am not suggesting we should stop boating; only that we recognize there is a correlation between the amount and type of boat traffic in a wetland and the impact that traffic has on the ecosystem. For landowners worried about protecting the environment, controlling access to the ecosystem is vital to protecting the resource. Pro-Drive and similar modern technology allows vessels to move through only inches of water, churning through and denuding fragile vegetation and carving new channels through formerly healthy marshlands. There is no question that repeated passage of any vessel through shallow water will impact water bottoms and physically damage submerged aquatic vegetation. The concept of "if I can float it I can fish it" is the opposite of good land management practices. No bill should be considered that allows the public to access private property by using low draft vessels to carve their way through fragile wetlands in only a few inches of water.

Eighty percent of our wetlands are privately owned and any significant effort to help our coast requires landowner support. Our coastal master plan includes 50 billion dollars but it only covers 120 projects that will build or maintain approximately 800 square miles of land and is expected to reduce damages by \$8.3 billion annually by year 50. The coastal zone of Louisiana covers, however, approximately 14,913 square miles (LOSCO 2005). Simple math tells us that 800 square miles divided by 14,913 square mile equals 5.36% of the coastal zone that will be affected by the master plan. Protecting the remaining 94.6% will depend on the cooperation of the landowner. The coastal master plan states "...because the majority of Louisiana's coast is privately owned, close working relationships with private landowners are essential, not only for their support but to gain from their knowledge about private coastal lands."

State and local government rely on private landowners for other reasons as well. Avery Island lies to the south of New Iberia and Iberia parish asked for permission to dig canals through parts of our property in order to help drain the land to the north of us to prevent flooding. We granted that right to the parish with the understanding that those canals would still be private water bottoms not subject to public access. Threatened with the loss of private property rights, would a landowner be willing to help their neighbors? The marshes of South Louisiana help protect all of the communities and businesses along our coast and protecting them is vital to the survival of not only my family business but all of south Louisiana.

I have heard the comment made in this committee room that it is not right for taxpayer funds to be spent on private property and for the public not to have a right of access because of the funding. I would ask you if there is a fire at your house and the taxpayer funded fire department puts out the fire should your private property rights be jeopardized or diminished? It is important to note that while expending public funds on private property may benefit the land owner that is not why the money is being spent. It is being spent to benefit the public as a whole. If we are to be successful in protecting our coast we need landowners to be willing to participate in programs to restore our wetlands. They may refuse to allow projects that are beneficial to the public as a whole if they believe their private property rights will be forfeited. Recently in coordination with adjoining landowners a significant marsh restoration project was completely on property owned by my family that will help protect the people of Iberia and Vermillion parishes. I can assure you that my family would not have agreed to construction of this coastal restoration project if we would have been required to give up our private property rights as a condition.

Another comment I have heard concerns the right of a landowner to close canals to the public. Like many landowners we work to mitigate the manmade effects we have had on our wetlands. Part of our work has centered on annually planting smooth cord grass along heavily trafficked waterways to slow the effects of boat wakes on the marsh. Another of our ongoing management programs is to close off old oilfield location sites or pipeline canals and allow marsh to regenerate in those areas. Our efforts accrue, not only to our benefit but also to all our neighbors, their homes and their businesses, as additional healthy marsh is added that will assist in minimizing storm surge damage. Removing a landowner's right to plug and backfill private canals and to install other water control structures would be counter to everything we are trying to accomplish toward coastal restoration. We should be urging landowners to close off old canals, not be putting obstacles in their path. No less than 6 parish governments and the State of Louisiana are currently suing oil companies seeking to require them to close off and fill old oil field canals. In this room, the legislature is now being urged to consider legislation that would, in the worst case, prohibit and, even in the best case, significantly hinder efforts to close off old oil field canals and to block salt water intrusion in our wetlands. No bill should even be considered which limits the rights of a landowner to close off old oil field canals and to install water control structures.

Like many landowners my family engages highly skilled and knowledgeable professionals to guide us in maintaining our wetlands. Additionally we pay people to patrol our wetlands and post signs to ensure that people are aware that they are about to enter private property. Each year we encounter approximately 50 people who are always local, all of them know they are trespassing and have enormous public waters around them but choose to trespass anyway.

What are landowners doing to protect the coastal ecosystem? Among other things:

- spend private funds on coastal restoration and protection
- control invasive plants (i.e. water hyacinths, giant salvinia)
- plant vegetation
- manage oil & gas industry and surface operations to minimize wetlands impact

- work with school and educational groups to promote coastal restoration
- participate in local, state and Federal government restoration programs
- provide on the ground expertise for preserving and protecting their property
- manage other surface activities for the preservation of fish, wildlife, and wetlands
- control water access (number of watercraft, seasonal permits)

Limiting a landowner's ability to restrict access to these areas will cause more landowners to give up spending private funds to help this environment to the detriment of all who live in South Louisiana.

In closing I wish to emphasize that we need to find solutions to the problem of unintentional trespass on open water. It is not good for our state or our tourism for our citizens or our visitors to unintentionally run afoul of the law. But in considering how best to address these issues we believe it is vital to understand the impact significant additional recreational traffic would have on this very fragile ecosystem.