

Economic Impact Report

The Economic Impact Report is optional; the applicant may select to pay the State for the water used at the rate in place at the time. If seeking recognition of in-kind value received in lieu of payment for the withdrawal, then a project-specific Economic Impact Report must be included with the application.

The Economic Impact Report must include 'at a minimum' the following:

Describe in detail how the state will be compensated, as follows

- What types of increased tax revenue will be generated?
- how will the use to which the water will be put be in the public interest?
- what specific economic developments will ensue?
- what specific social benefits will ensue?

Provide a detailed description specific to the project/water withdrawal, as follows:

- Estimate the number of gallons of water to be extracted by the project.
- If the project is a drilling project, identification of each well to be drilled, and the direct costs that will be associated with each well.
- Estimate cost break-out by personnel (salary, benefits, etc.) and non-personnel expenses.
- The number of people the project (i.e. drilling personnel) will employ.

Electronic Application

An applicant may submit his/her application online by going through the LDNR's SONRIS system, as follows:

- Access Sonris at: <http://www.sonris.com/>
- On the left column click Surface Water.
- A new window will open, asking you to enter your User Name and Password or to Create an Account (follow the instruction, this information will be associated with your application).
- After logging on, the browser will bring you to your inbox.
- Below the word Inbox there is a button labeled New . Click on the down arrow, and select Surface Water Withdrawal Application.
- A new window will open, where you can name and upload your Plan of Water Use, and the supporting documents for the withdrawal point (please keep each withdrawal point as a separate application).
- After uploading your files (make sure that all the information has been uploaded, you will not be able to amend your application beyond this point), click Submit. This will create a CUA tracking number specific to this application. Please note that you will need to repeat this process (steps 5-7) for each withdrawal point. Identifying each withdrawal point with its own CUA # speeds up the review process by the state agencies.
- Click Log-out when you are finished.

Forms:

The application material and Cooperative Endeavor Agreement can be found at: <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=92>

Application Review Process:

The applications are reviewed by the Office of Coastal Protection and Restoration for consistency with the master plan, and potentially the following agencies:

Plan of Water Use

- LDNR-Office of Coastal Management (e.g. completeness)
- LDNR-Office of the Secretary (e.g. hydrology issues/consistency)
- LDNR-Office of Conservation (e.g. groundwater issues)
- Louisiana Dept. of Environmental Quality (e.g. water quality issues)
- Louisiana Dept. of Health and Hospitals (e.g. drinking water supply issues)
- Louisiana Dept. of Wildlife and Fisheries (e.g. ecological/aquatic/environmental issues)
- Other state or local agencies on an as-needed basis, as the facts necessitate.

Economic Impact Report

- Louisiana State University-Center for Energy Studies

Additional information:

For additional information regarding the application process, direct your inquiries to:

Mr. O.C. Smith
DNR-Office of Coastal Management
P.O. Box 44487
Baton Rouge, Louisiana 70804-4487
Phone: (225) 342-7360;
Email: oc.smith@la.gov



DRAFT Louisiana's Surface Water Management Initiative

**Act 955
of 2010**
*a voluntary
process*

“Act 955 of 2010 expressly provides the Secretary of DNR with the ability to enter into cooperative endeavor agreements with any person or entity seeking to withdraw running surface water.”

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Why?

In response to several requests, the Attorney General issued a memorandum opining the following:

“Under Louisiana Law persons, with the possible exception of riparian landowners, are not authorized to remove State owned surface water without obtaining the prior written approval of the State and without paying fair value.”

Management and Sale of Surface Water Memorandum (Feb. 5, 2010)

“Running water is a public thing owned by the State pursuant to La. C.C. Art 450 and La. R.S. 9:1101. The Department of Natural Resources is the State agency charged with ensuring that all State rights in running water are protected, and especially ensuring that the State receives compensation for the sale of a public thing of value so as to ensure compliance with La. Const. Art. VI §14. Running water may be used by the owners of riparian lands under La. C.C. Arts. 657 and 658 for the benefit of their estates without payment to the State, however, this use of the water does not convey ownership, and cannot be used to the detriment of other riparian landowners.”

AG Opinion 10-0173 (November 23, 2010)

“It is our opinion that the State may seek either recompense for an unauthorized use of water or injunctive relief to stop an ongoing unauthorized use of water. Any such action would necessarily begin with a determination by DNR that an unauthorized use has occurred. The reason for this is that DNR is the agency charged with managing the State's natural resources, including its running waters by virtue of La. R.S. 36:351 and because it is the permitting agency identified by Act 955.”

AG Opinion 10-0173 (November 23, 2010)

Furthermore, La. R.S. 9:1101 states:

“The waters of and in all bayous, rivers, streams, lagoons, lakes and bays, and the beds thereof, not under the direct ownership of any person on August 12, 1910, are declared to be the property of the state. There shall never be any charge assessed against any person for the use of the waters of the state for municipal, industrial, agricultural or domestic purposes.”

What is Act 955 of 2010?

“The Louisiana Legislature recently enacted Act 955 during the 2010 Regular Session to address the precise issue of the proper mechanism for the sale of running surface waters.¹⁵ This law implements a procedure to allow the Department of Natural Resources (“DNR”) to enter into cooperative endeavor agreements for the withdrawal of running surface water from bodies of water in Louisiana.”

AG Opinion 10-0173 (November 23, 2010)

To whom does Act 955 apply?

Act 955 applies to a person or entity who is not a riparian owner, who seeks to withdraw water from the running surface waters of the state.

Mechanism for Voluntary Compliance:

Cooperative Endeavor Agreement

- The statute authorized the Secretary of DNR to develop an application and to enter into Cooperative Endeavor Agreement for withdrawal of running surface water.
- The Mineral and Energy Board developed and approved an agreement form.
- The Attorney General approved the agreement Form.
- A process for reviewing applications was created.
- An online electronic submittal and tracking process was established.

Content

- Plan of Water Use
- Economic Impact Report
- Supporting Documents

Sample Review Criteria

- Would the proposed contract follow good management practices?
- Is the proposal based upon sound scientific data?
- Is the proposal consistent with the required balancing of environmental and ecological impacts, and with the economic and social benefits found in Art. IX, Sec. 1 of the Louisiana Constitution.

Plan of Water Use

An application-specific Plan of Water Use is mandatory to the application, and will be appended to the Cooperative Endeavor Agreement. The Plan of Water Use needs to be certified by a professional, and contain, at a minimum, the following details:

- State the water body's name.
- Describe of the public interest in the project.
- Describe the proposed end-use of the withdrawn water.
- Identify the end-user and any intermediate transferees of the water withdrawn, and include contact information.
- Provide specific details about the amount of water, the anticipated withdrawal start date, the maximum rate of water withdrawal, and the proposed average number of days per month water will be withdrawn.
- Identify the withdrawal point location (e.g. Parish, City or town, and nearest municipal address, if applicable, and decimal latitude and longitude); directions; provide a map; and identify the property owner.
- Provide the stream discharge, the water depth, the channel width, and the date this data was collected.
- Identify and attach copies of all other relevant documents (e.g. permits, leases, land owner permission, etc.).
- Describe in detail how the plan for withdrawal addresses minimizing and mitigating adverse impacts to the water body (e.g. human consumption, agricultural uses, industrial / mining uses, etc.)
- Describe the impacts of the proposed withdrawal on stream/water flow, sediment load and distribution, aquatic life, vegetation, and wildlife.
- Describe any water body impairments, hydrological status, and potential for adverse impacts to the water body from which the proposed withdrawal is to be made, and how these will be mitigated.
- Describe how the proposed work does not unreasonably interfere with, nor render untenable, any other use of the Water presently, or which may legally and reasonably be anticipated, for purposes including, but not necessarily limited to, public consumption, agriculture, industrial uses, recreation, or navigation.
- Describe in detail how the waterbody will be monitored in order to protect the resource and maintain its sustainability and ecological balance' and how this information will be reported to the LDNR.