HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Natural Resources and Environment to Original House Bill No. 423 by Representative Howard

AMENDMENT NO. 1

On page 2, line 4, after "R.S. 9:1271, et seq." add the following:

"Persons from whom property is acquired for such mitigation purposes shall be allowed to avail themselves of the applicable provisions of R.S. 31:149 and R.S. 9:2795, for the sale of property, or any right or servitude thereof, made pursuant to this Paragraph. However, any mineral rights reserved under R.S. 31:149 shall except and exclude any and all rights to use the surface of the above-described property for any purpose including the right to enter upon or over the surface of said property for the purpose of exploration, development, production, or removal of minerals and shall be subject to the condition that no exploration, development, production, or removal of minerals of any kind may be conducted upon the property or in a manner that may impact or interfere with the use of the property for mitigation purposes."

AMENDMENT NO. 2

On page 2, at the end of line 13, add the following:

"However, whether or not full ownership, excluding any reservations of mineral rights permitted under this Paragraph, is acquired for such mitigation purposes, the acquiring authority shall grant to any property owner from whom only a portion of his property has been acquired for such purpose, authority to traverse such formerly owned property in order to gain access to the Comite River. Such servitude of passage shall be limited to property owners who transfer a portion of their property for mitigation purposes. Such servitude of passage shall be heritable and subject to transfer."

AMENDMENT NO. 3

On page 2, delete lines 14 through 28 in their entirety and on page 3, delete lines 1 through 2 in their entirety and insert in lieu thereof the following:

"(c) If it is necessary to acquire the mitigation land in full ownership, excluding any reservation of mineral rights permitted under this Paragraph, a conservation servitude shall be imposed on such land for the purpose of retaining or protecting fish and wildlife mitigation lands, ecosystems, restorations, and other environmental purposes, unless it is determined by the state agency or other authority acting as the nonfederal sponsor of the Comite River Diversion Project, Amite River and Tributaries, Louisiana that the imposition of such conservation servitude would interfere with the mitigation requirements of the project, project agreements, or applicable state or federal, laws, rules, or regulations. Further, any conservation servitude established under this Paragraph shall grant and be subject to the servitude of passage provided for in Subparagraph (b) of this Paragraph, and shall be subject to a permanent easement, servitude, right-of-way, or right-of-use as necessary to facilitate the principal purpose of acquisition of the property, including but not limited to the operation, maintenance, repair, replacement, restoration, and rehabilitation of the mitigation area by the state or any of its political subdivisions, or the federal government pursuant to state or federal law.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

(d) No funds of the state nor of any political subdivision or political corporation of the state shall be used nor provided to the United States or any of its agencies, by contract, agreement, a required contribution of a project cost-share or otherwise, for the expropriation of property for the purpose of compensatory mitigation of wetlands or other natural habitat, as authorized or required by state or federal law, to offset, compensate, or replace actual or anticipated damages to or loss of wetlands or other natural habitat caused by the Comite River Diversion Project, Amite River and Tributaries, Louisiana unless the use of such expropriation is specifically approved in writing by the state agency or other authority acting as the nonfederal sponsor of the Comite River Diversion Project, Amite River and Tributaries, Louisiana and there has been a determination by such agency or authority that the following conditions exist:

(i) Expropriation proceedings are necessary for the purpose of providing clear title to the property to be acquired.

(ii) When the acquiring authority can not amicably acquire the property from an otherwise willing seller because the property owner has rejected an offer of at least the amount of the highest appraisal obtained on behalf of the acquiring authority, and use of the expropriation process is necessary to obtain a judicial determination of the just compensation to be paid for the property to be expropriated."

AMENDMENT NO. 4

On page 3, line 3, change "(d)" to "(e)"

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