

LAKE PEIGNEUR . SUIT NUMBER 409,139 DIVISION A
PRESERVATION, ETC. . 19TH JUDICIAL DISTRICT COURT
VERSUS . PARISH OF EAST BATON ROUGE
HERBERT THOMPSON, ET AL . STATE OF LOUISIANA
.

AMENDED ORAL REASONS FOR JUDGMENT

THE HONORABLE ROBERT DOWNING, JUDGE PRESIDING

RULING MONDAY, AUGUST 26, 1996

AMENDMENT WEDNESDAY, JANUARY 15, 1997

IT IS THIS COURT'S OPINION THAT THE SAVE OURSELVES, INC., VERSUS LOUISIANA ENVIRONMENTAL CONTROL COMMISSION, 452 SO. 2D 1152 (LA. 1984) DOES APPLY TO THE DEPARTMENT OF NATURAL RESOURCES. ARTICLE NINE, SECTION ONE, SEEMS TO SAY THAT EVERY AGENCY HAS TO CONSIDER THESE IMPACTS, AIR, WATER, HEALTH, SCENIC, HISTORIC, AND AESTHETIC QUALITY. THE ENVIRONMENT HAS TO BE PROTECTED, CONSERVED, AND REPLENISHED, INsofar AS POSSIBLE. THE LEGISLATURE IS SUPPOSED TO IMPLEMENT LAWS TO IMPLEMENT THIS POLICY.

THE LAWS THEY HAVE IMPLEMENTED DON'T SPECIFICALLY GIVE EXCLUSIVE CONTROL OR EXCLUSIVE RESPONSIBILITY TO D.E.Q. OR ANY OTHER AGENCY. UNLESS THEY DO, THEN IT SHOULD APPLY TO EVERY AGENCY. THERE IS SUFFICIENT QUESTION ABOUT WHETHER IT APPLIED TO D.N.R. OR NOT THAT I AM NOT GOING TO REVERSE ANYTHING THAT THEY HAVE ALREADY PREVIOUSLY DONE; HOWEVER, IN ANY FUTURE PROCEEDINGS WHERE THE PROPOSED PROJECT HAS THE POTENTIAL TO SIGNIFICANTLY AFFECT THE ENVIRONMENT, THE DEPARTMENT OF NATURAL RESOURCES IS INSTRUCTED TO CONSIDER THE S.O.S./I.T. QUESTIONS, MAKE FINDINGS OF FACT ON THE THREE QUESTIONS REQUIRED BY I.T., TO MAKE SPECIFIC FINDINGS TO WHAT EXTENT THEY CONSIDERED THE I.T. QUESTIONS, AND PROVIDE A

PUBLIC COMMENT PERIOD AFTER THE I.T. QUESTIONS HAVE BEEN ANSWERED.

THE COURT: ALL RIGHT. AND, IF YOU WOULD, DRAFT ME A JUDGMENT TO THAT EFFECT AND HAVE OPPOSING COUNSEL AND COUNSEL FOR DEPARTMENT OF NATURAL RESOURCES REVIEW THAT AS TO FORM.

REPORTER'S NOTE: IN ACCORDANCE WITH THE COURT'S INSTRUCTIONS, AMENDED BY AGREEMENT OF ALL PARTIES.

FILED A TRUE COPY

JAN 15 '97

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(Sp) Joyce F. Edwards
Dy. Clerk

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