

APR 12 1985

Mr. Micheal J. Bourgeois
Deputy Secretary
Louisiana Department of
Natural Resources
P. O. Box 44124
Baton Rouge, LA 70804

Dear Mr. Bourgeois:

This is in response to your letter dated January 15, 1985 and additional information received February 8, 1985 and March 15, 1985 requesting that the approval of the Lafourche Parish Local Coastal Program (LCP) be considered Routine Program Implementation (RPI) under 15 C.F.R. Section 923.84. The Office of Ocean and Coastal Resource Management (OCRM) has reviewed this change pursuant to 15 C.F.R. §923.84(b)(4) and concurs with that it constitutes an RPI.

The OCRM received two comments pursuant to your public notice regarding the approval of the Lafourche LCP. The National Marine Fisheries Service reiterated comments made on previous drafts of the LCP but did not object to its approval. The Orleans Audubon Society objected to the approval of the LCP while repeating concerns previously noted in written comments submitted to your office in 1983. In response to these concerns, additional information was received from your office via telephone conversations and a letter dated April 10, 1985. After carefully reviewing this material, we believe that all outstanding issues have been resolved. Therefore, upon the date of publication by your office of the public notice required by 15 C.F.R. §923.84(b)(4), Federal Consistency determinations will be governed by the above change.

Sincerely,

SIGNED PETER L. TWEEDT

Peter L. Tweedt
Director

Enclosure

cc: Dr. Chip Groat

bcc: Don Moore, NMFS
Joseph Vincent, Orleans

ADDED ON	SURNAME	DATE	CODE	SURNAME	DATE
10/1/85	W. J. ...	4/16/85	10	W. J. ...	4/16/85
11/1/85	W. J. ...	4/16/85			
GCOB	W. J. ...	4/12/85			

For D. Drake

FILE COPY



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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Washington, D.C. 20235

AUG 13 1986

Dr. Charles G. Groat
Administrator
Coastal Management Division
Department of Natural Resources
P.O. Box 44487
Baton Rouge, LA 70804-4487

Dear Dr. Groat:

The Office of Ocean and Coastal Resource Management (OCRM) has reviewed the resubmission, dated July 14, 1986, for incorporation of the LaFourche Parish general concurrence procedures for Federal consistency decisions regarding uses of local concern into the Louisiana Coastal Resources Program (LCRP), as a routine program implementation pursuant to 15 CFR 923.84. We find that this change does not substantially change any enforceable policies or authorities related to implementation. Federal consistency will apply when you publish notice of our approval.

Sincerely,

Peter L. Tweedt
Director





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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Washington, D.C. 20235

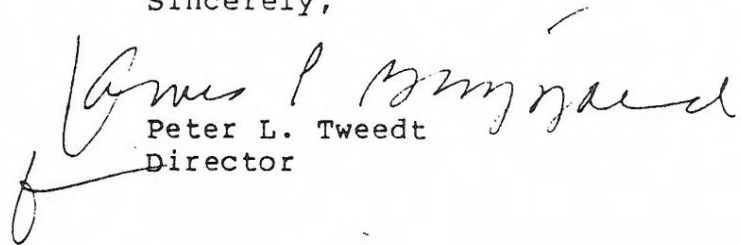
DEC 19 1986

Dr. Charles G. Groat
Acting Director
Coastal Management Division
Department of Natural Resources
P.O. Box 44487
Baton Rouge, LA 70804-4487

Dear Dr. Groat:

The Office of Ocean and Coastal Resource Management (OCRM) has reviewed the submission, dated November 20, 1986, for incorporation of the LaFourche Parish Disclaimer Statement clarifying that enforceable language related to uses of state concern is not mandatory into the Louisiana Coastal Resources Program (LCRP), as a routine program implementation pursuant to 15 CFR 923.84. We find that this change does not substantially change any enforceable policies or authorities related to implementation. Federal consistency will apply when you publish notice of our approval.

Sincerely,


Peter L. Tweedt
Director





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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Washington, D.C. 20235

APR 28 1993

Dr. Terry Howey
Director
Coastal Management Division
Department of Natural Resources
P.O. Box 44487
Baton Rouge, Louisiana 70804-4487

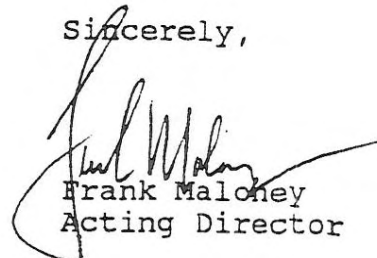
Dear Dr. Howey:

The Office of Ocean and Coastal Resource Management (OCRM) has reviewed the Department of Natural Resources (DNR) submission, dated April 2, 1993, requesting modification to the LaFourche Parish Local Coastal Program, as a routine program implementation.

OCRM concurs with the DNR's determination that modification to the administration of the LaFourche local coastal program constitutes a routine program implementation because it does not in any way alter the enforceable policies related to the boundaries; uses subject to the management program; criteria or procedures for preservation or restoration; or consideration of the national interest involved in the planning for or siting of facilities.

Therefore, we approve DNR's request to modify the administration of LaFourche Parish, as a routine program implementation, pursuant to 15 C.F.R. §923.84. Federal Consistency will apply when you publish notice of our approval.

Sincerely,



Frank Maloney
Acting Director



State of Louisiana



DEPARTMENT OF NATURAL RESOURCES

EDWIN W. EDWARDS
GOVERNOR
B. JIM PORTER
SECRETARY

MICHAEL J. BOURGEOIS
DEPUTY SECRETARY

January 24, 1985

Ms. Ann Berger-Blundon
Gulf Area Manager
Office of Ocean and Coastal
Resources Management
3300 Whitehaven Avenue, N.W.
Page Building 1
Washington, D.C. 20235

RE: Finding of Fact for Lafourche Parish
State of Louisiana

Dear Ms. Blundon:

Transmitted herewith are three (3) copies of the Findings of Fact and three (3) copies of the final program document for the Lafourche Parish local program. By letter dated January 15, 1985, we submitted to your office a request for routine program implementation, and on January 24, 1985 all federal agencies were forwarded information on our implementation request with comments to be submitted to your office.

Should you have any questions concerning this matter, feel free to contact Mr. Phil Pittman of my staff at 504/342-7591.

Sincerely,

Michael J. Bourgeois

MJB/LPP/dg

Attachments

notice are the dates that the notice was published in the newspaper, which indicate that the notice was announced in excess of thirty (30) days before the hearing date. The hearing was held as scheduled and a record of the comments made at the hearing was provided in the document.

- 2) Public notice of the availability of the draft proposed program was given at least 30 days prior to the hearing. Copies of the program must have been available for distribution to relevant state, federal and local governmental agencies and the general public and were available for public inspection at reasonable hours at all libraries within the parish, the offices of the police jury, and the city or town hall of all municipalities in the coastal zone.

The public hearing notice was published in the parish newspaper on March 24, 28 and 31 and April 4 of 1983 indicating that the Lafourche Parish Officials would hold a public hearing in order to obtain oral or written comments on the proposed Lafourche Parish Coastal Management Program. The public comment period extended ten days beyond the date of the public hearing to obtain any additional written comments on the program. The public hearing notice indicated that copies of the parish program were available for public inspection at the Lafourche Parish Planning Department from 8:30 A.M. to 4:30 P.M. Monday through Friday until the date of the public hearing. The parish officials also mailed copies of the parish program to all appropriate federal, state and local agencies and any interested individuals that requested a copy.

- 3) Full consideration was given to comments received during program development and the public hearings.

Pages 253 through 258 of the parish program contains a list of minutes from the meetings of the local coastal advisory committee, along with the minutes of the public hearings.

The major comments presented at the public hearing addressed the parish policies which would affect uses of state concern. The parish officials had placed mandatory words such as "shall", "must" and "will" within the policies affecting several activities of state concern, such as oil and gas activities. Various oil and gas interest groups, as state officials, suggested to the parish that these words should be changed to non-mandatory language because the parish may make recommendations to the state on activities of state concern, but they cannot regulate state concerns.

All comments which were made at the public hearing and which were received through the DNR review process were considered. Many of these comments led to improvements in the plan. Parish officials also replied to several letters that were received concerning the contents of the program (see pages 261-267).

FINDINGS OF FACT
Pertaining to the Lafourche Parish
Coastal Management Program

On May 13, 1983 the Parish of Lafourche, submitted its local coastal program (LCP) to the Secretary of Natural Resources for approval pursuant to Section 213.9 of Act 361 (LA. R.S. 49: 213:1 - 213:21).

The submittal of the Lafourche LCP began the official ninety (90) day review period within which the Secretary was required to either approve the program or inform the parish of changes that must be made in order that the program could be approved. During this review period, the parish program was reviewed by various personnel in the Coastal Management and Legal Divisions of the Department of Natural Resources (DNR). The program was also submitted to other local, state, and federal agencies, that have an interest in the coastal areas of the State, in order to receive their reactions and comments on the program. A public notice was issued stating that the program was available for public review so that any interested or affected person or interest group could also make comments on the program.

Following the completion of the Secretarial review period, a letter from the Secretary to parish officials listed the changes that would have to be made before the program could be approved. The following is a list of the most important changes which were required in the Secretary's letter of July 27, 1983:

- 1) Vol. II, P. 52-149 - The words "shall", "must", and similar words that require specific actions involving uses of state concern, must be changed to "may", "should" or similar words connotating that these are recommendations rather than regulatory policy.
- 2) Vol. II, P.42 - The first step in the permit process should be modified slightly to encourage permit applicants to go directly to the state for uses of state concern and directly to the parish for uses of local concern.
- 3) Vol. II, P. 73 - Specific policies are given for Areas A-G of the Clovelly Management Unit. A map of these areas must be included in the plan in order that permit applicants will be able to determine the sub-areas for the Raccoourci, South Barataria and Bully Camp EMU's must also be included in the plan.
- 4) Ordinance, P. 158 - For the purpose of being consistent, we recommend that the parish use the definitions given in the state guidelines (i.e., the FEIS) for items 3, 4, 5 and 6.
- 5) Ordinance, P. 172 - A public notice must be given, in accordance with the procedures set forth in Part E, Appendix c1 of the FEIS, prior to the granting of permit in variance with the provisions of the local ordinance. This public notice should be included in Article 9. In some cases, you may determine that a public hearing is also necessary.
- 6) Ordinance, P. 65 - The following statements should be added to Article 5 of the Ordinance, pursuant to Section VI, Appendix C2 of

the FEIS:

"An annual report on the activities of the Lafourche Parish local program shall be submitted to the Secretary each year and shall include:

1. The number, type, and characteristics of the applications for coastal use and other permits.
2. The number, type, and characteristics of coastal use and other permits granted, conditioned, denied and withdrawn.
3. The number, type, and characteristics of permit appealed to the Coastal Commission or the courts.
4. Results of any appeals.
5. A record of all variances granted.
6. A record of any enforcement actions taken.
7. A description on any problem areas within the state or local program and proposed solutions to any such problems.
8. Proposed changes in the state or local program.

The first annual report should be submitted to the Secretary twelve months following in implementation date of the local program.

- 7) Ordinance, P. 185 - Article 17 incorrectly states that the ordinance will be effective ninety days after final approval by the Coastal Management Section of DNR. The Secretary of DNR, rather than the Coastal Management Section, must approve the plan (see LRS 49:213.9).

The State CMS/DNR staff worked closely with the parish officials in addressing the Secretary's comments and on August 5, 1983, the State received a revised copy of the Lafourche Parish plan containing changes that the Secretary had requested.

By letter dated September 7, 1983 the Secretary issued a letter of approval for the Lafourche parish program, and the required documents giving public notice as well as notifying NOAA's Coastal Programs Office of his approval were prepared. These documents, along with the required "Findings of Fact" were completed and ready to be transmitted. However, by memorandum dated December 7, 1983 the Secretary informed the CZM Administrator that several aspects of the Lafourche programs policies overlapping into uses of state concern had caused him to re-examine the whole problem on a broader basis. The issues raised were:

- 1) May the State legally approve the Lafourche Parish (or other parishes) local coastal management ordinance only and consider that as approval of the local program? Alternatively, may the State's approval be limited as to identifiable portions of the multiple volume program? Again alternatively, may the approval include a special reservation in its approval to the effect that

it is not an approval of policies which overlap upon uses of state concern? May the State amend a prior approval to accomplish the foregoing? If the State can do the foregoing, will the federal office approve?

- 2) Were the regulations drafted under Section 213.9B for the development, approval, modification and periodic review of local coastal management programs officially adopted? If so, what evidence of such adoption? Clearly, the promulgation of such regulations should be preceded work on local coastal programs. Examples of appropriate rules would be some dealing with the basic format of a local program, the sequence of events in the department and approval process. For example an ordinance should be adopted only after Secretary's final approval.

After additional negotiations with the Lafourche Parish CZM Advisory Committee and the Lafourche Parish Council Secretary Simoneaux's issues were incorporated into a revised document, as per the new DNR administrations letter dated July 27, 1984. These revisions were submitted by the Lafourche Parish CZM Advisory Committee in a revised program document by letter dated January 4, 1985. After reviewing and approving these changes, the Secretary issued a letter of approval dated January 8, 1985.

The Lafourche's Parish Program will have a favorable impact on the parish in several ways. First, the parish will be granted implementation monies which they can use to establish a permitting process for uses of local concern, which at the present time are being handled by the State (DNR/CMS). The State also foresees the permit process as a means to improve coordination between the State and the parish, which will ultimately result in more efficient management and protection of the coastal areas of the parish. Second, the parish program will be a guide to any persons who wishes to apply for a permit at the local level or who may just want to know more about the parish and its coastal areas. Third, the approved program and the permit process can establish procedures by which consistent permit procedures and policies can be established between the two levels of government.

The legal authority for the program was created by Act 361 (LA. R.S. 49:213.1-213.21) of the 1978 Louisiana Legislature. Rules and Procedures for the Development, Approval, Modification, and Periodic Review of Local Programs became effective on September 20, 1980 after being published in the August 20, 1980 edition of the Louisiana Register, Volume 6, Number 8, page 493.

In accordance with Part III, of the Rules and Procedures, the requirements for local program content are listed below. The method of compliance by the Lafourche Parish Coastal Management Program is indicated for each requirement.

A. A summary of the local program.

On pages 30-37 of the program the parish has provided a very precise and detailed summary of the local program, which includes a history of the local program as it pertains to the state and federal programs; the overall goals, objectives and policies of the parish program; an introduction to the environmental management units (E.M.U.); and a short introduction to the parish permit system as it relates to the State permit system.

- B. Maps and descriptions of the natural features, resources, and existing land use in each management unit. These maps shall depict the division of the coastal areas into coastal waters and wetlands, transitional areas, fastlands and lands more than five feet above mean sea level.

The program separates the Lafourche parish lands into environmentally distinct categories, as mentioned above, and adequately discusses each individually. The program describes the natural features, resources and existing land use throughout the E.M.U. sections of the document on pages 52-153 of Volume II. The program also includes written narratives and maps which indicate areas of the parish are in proximity to coastal waters.

The lower one-third of Lafourche Parish is below the five-foot contour line, and, therefore located within the "Louisiana Coastal Zone Boundary Line" as described by Act 361. All other land areas below this contour in Lafourche Parish are considered to be wetland areas, with the exception of one small area within the Golden Meadow E.M.U. that has been artificially built-up and lands that have been leveed throughout the area that are deemed to be "fastlands". Transitional areas of the parish are also discussed throughout the E.M.U. Sections of the document, beginning with the discussion of intensive and limited developments on page 59 of Volume II and continuing with the development corridors on page 61 of Volume II. The transition of freshwater marsh to brackish marsh is also discussed within the conservation areas of the E.M.U. sections on pages 58-153 of Volume II.

- C. The results of the social and economic analysis carried out pursuant to Section II-B, (Program Development) on page c2-1 of the Louisiana Coastal Resources Program.

A discussion of the population and economic patterns is presented within the document (Volume I) and includes past, present and future information pertaining to the demography and economy of the parish, along with an analysis of how the effects of these factors may influence the parish resources and/or the use of such resources. These effects are discussed within the document on pages 60-109.

- D. A description of those existing and future resource-use conflicts identified pursuant to Section II-C, (Program Development) on page c2-1 of the Louisiana Coastal Resources Program.

An indepth summary of existing and potential resource-resource use conflicts is included on pages 154-160 (Volume II). This section provides a discussion of these conflicts, including the location and severity of conflicts in each E.M.U.

- E. An identification of those particular areas, if any, requiring special management as described in Section II-D of Appendix c2 of the L.C.R.P., the special policies and/or procedures to be applied to these areas.

On pages 63 and 64 (Volume II), the Lafourche program describes areas of the parish which should possibly be considered as "Particular areas". The areas that the parish officials identify as potential particular areas are discussed on page 63 and are listed as: (1) Port Fourchon (2) Caminada Beach Ridge Complex (3) Delta Farms E.M.U. (4) East Timbalier Island and (5) Fourchon Beach. The narrative on page 63 also indicates that no particular areas have been selected, at this time, by the parish officials. The parish may propose one or more of the above mentioned areas as particular areas after the parish program is fully approved and is implemented at the parish level.

- F. 1) Statement of the goals, objectives, policies and priorities of uses included in the program, as described in Section II-E Appendix c2 of the L.C.R.P.

The Lafourche plan contains specific goals, objectives and policies pertaining to the parish as a whole (pages 32-35 of Volume II) as well as each individual E.M.U. within the parish (pages 69-153 Volume II). These goals, objectives and policies are found to be very specific and definitive enough to guide the decision-making-process at the local level.

- 2) A statement assuring that the policies of the local program are consistent with the policies and objectives of Act 361 and the state guidelines and that the local program shall be interpreted and administered consistently with such policies, objectives and guidelines.

After having thoroughly reviewed the Lafourche plan, the CMS and legal staffs have determined that the overall policies for the parish as well as the policies for each individual E.M.U. were carefully constructed so that the wetlands and water bodies of the parish could be protected from such factors as saltwater intrusion and erosion. The parish officials also coordinated closely with the DNR staff when developing the policies of the parish program. The parish officials worked closely with the DNR staff to incorporate changes that were requested pertaining to their parish plan. The plan is considered by the staff of DNR to be a well prepared document which is consistent with the State program and which will help protect as well as enhance the coastal areas of the parish.

The document states on page 67 of Volume II that the local program is consistent with and will be interpreted and administered consistently with the Louisiana Coastal Resources Program's goals, objectives and policies.

- G. A description of the authorities and administrative arrangements regulating uses of local concern, for reviewing, issuing, and monitoring local coastal use permits, and for enforcing the local program, including:
- 1) A concise explanation of how the local coastal management process is to work.

Pages 42-51 (Volume II) of the Lafourche plan contains a very well written and detailed narrative describing how the local coastal permit process will operate specifically denotes that the applicant has a choice of submitting his application for a coastal use permit to the parish or the state CMS office. The program describes (page 49, Volume II) precisely how the permitting process will be handled at the parish level and how the parish administrator will handle coastal permit applications for uses of state concern which are filed at the parish level.

- 2) A description and listing of those areas and uses that will normally require local coastal use permits.

A list and description of the various activities which will normally require local coastal use permits is presented on page 168 of Volume II in the Lafourche plan. These uses are described local concerns and, therefore, the parish will regulate these uses at the parish level. Those uses that normally require a local coastal use permit are such activities as piers, bulkheads, camps and cattlewalks, maintenance dredging and other uses as described in Section 213.5 A2 of Act 361.

- 3) An illustrative list of particular activities which occur either in fastlands or on lands more than five feet above mean sea level that have direct and significant impacts on coastal waters.

On pages 17 and 18 (Volume II) of the Lafourche Program is a list of activities that could have a direct and significant impact on the coastal waters of the state and, therefore could require a coastal use permit before such activities may be undertaken. This list is cited directly from the L.C.R.P. Appendix cl, "Rules and Procedures for Coastal Use Permit", and includes such activities such as levee siting, dredging and filling operations, urban development, mining activities, and other activities listed in the State program.

- 4) An analysis of all ordinances included in the local program demonstrating that the effect of such ordinances, when applied to uses not subject to the local coastal use permit program, would result in compliance with the goals and provisions of Act 361, the objectives of the L.C.R.P., and the policies of the coastal use guidelines.

After having thoroughly reviewed the parish program and extensive discussions with the parish officials, the DNR staff has determined that, at the present time, the parish does not have any ordinances that will cause any conflicts between the State program and the parish's coastal management program. The parish program will be reviewed annually to insure that ordinances are not developed which could adversely affect the parish or state coastal management programs.

- 5) A description of the administrative means by which the parish will coordinate with other governmental bodies during program implementation regarding:

- a) local program implementation, including copies of any inter-agency or intergovernmental agreements,

The administrative procedures for implementing the program are described on pages 38-51 of Volume II. These procedures are also outlined in the parish Ordinance which will provide the local authority to implement the program.

The parish expresses an interest in developing working agreements with neighboring parishes so that the coastal waters of the state may be better monitored and protected from such hazards as erosion and saltwater intrusion (pages 37, 48, and 49 of Volume II). There are presently no parish interagency or intergovernmental agreements that would significantly effect the local program.

- b) Multiparish environmental considerations,

As stated on pages 48 and 49 of Volume II of the Lafourche Program, currently no other parish within close proximity to Lafourche Parish has an approved coastal management program. Until other parish programs are developed and approved, the state program will provide for much of the coordination of multi-parish environmental considerations. As other parishes receive state approval of their programs, they will be encouraged by Lafourche Parish and the state to cooperate on any environmental issues that may have an affect on more than one parish.

- c) Consideration by the parish of regional, state or national interests,

Page 22 of Volume II of the Lafourche plan states that "Local government, in developing local programs, shall afford full opportunity for municipalities, state and local government bodies, and the general public to participate in the development and implementation of the local program." Lafourche Parish worked diligently to meet these objectives by holding various coastal advisory meetings, parish council meetings and public hearings on their coastal program. All of the meetings and hearings were open to the public, so that anyone who wished to comment on the parish program could do so. All federal and state agencies which have significant interests or responsibilities in the coastal zone were provided with copies of the draft document for their review and comment. A public notice was also published in the newspapers of the parish and surrounding parishes and in other news media in order to inform the public of the meetings and hearings. There was also a ten (10) day open comment period after each public hearing, so that any interested person, group, etc. could respond in writing to the comments made at the public hearing and to the contents of the parish program.

- d) Regional, state or national plans affecting the parish coastal zone and other projects affecting more than one parish.

On page 48 of Volume II the parish states that once local parish programs are established in surrounding parishes, more formal coordination will be established to insure similar program direction and cooperation, thereby suggesting that a coordinated effort should exist between the parishes as well as at the federal and state level in order to protect Louisiana's coastal wetlands. There are currently no specific regional, state or national plans which have been identified as requiring special consideration in the Lafourche Parish program.

On page 14-29 of Volume II of the parish program, is a discussion describing the various mechanisms for coordinating state and local governmental responsibilities in order to protect and preserve the coastal zone environment of the state. Included within this section is a detailed summary of how the parish will coordinate with state and national coastal management offices and other parishes in an effort to create a joint permit process that will help to preserve the coastal regions of the state as well as the parish.

- 6) Certified copies of all ordinances, plan, program, and regulations proposed to be included in the program.

The parish coastal management ordinance is presented in Volume II of the local plan. The parish does not propose to include any additional ordinances in the program at this time.

- 7) A resolution from the governing body of the parish expressing approval of the local program as submitted and its intent to implement the submitted program subsequent to state approval.

The Lafourche Parish Council passed a resolution (see page 252 of Volume II) which states that the parish officials approved of the local coastal program and that they wish to implement the program once the program receives state approval.

- H) Documentation that the parish has provided a full opportunity for governmental and public involvement and coordination in the development of the local program. It must be shown that:
- 1) At least one public hearing was held in the coastal zone on the total scope of the proposed program.

On page 258 of Volume II of the Lafourche document is a copy of the public notice which the parish council published in a local newspaper to inform all interested parties that a public hearing was to be held on April 20, 1983 at 7:00 P.M. to receive comments on the parish coastal management program. At the bottom of the public hearing