



LOUISIANA WILDLIFE FEDERATION

The voice of Louisiana's wildlife and natural resources since 1940.

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Submitted electronically to cerulecomments@stateofla.onmicrosoft.com

Secretary Dustin Davidson
Louisiana Department of Conservation and Energy
617 North Third Street
Baton Rouge, LA 70802

RE: Initial Public Comments on Proposed Revisions to LAC Title 43, Part VI, Water Resources Management

Dear Secretary Davidson:

The Louisiana Wildlife Federation (LWF) submits these comments on the Department of Conservation and Energy (C&E)'s draft groundwater regulations. Founded in 1940, LWF represents more than 10,000 members and 23 affiliate organizations of hunters, anglers, birders, and outdoor enthusiasts dedicated to the sound, science-based stewardship of Louisiana's wildlife and natural resources. Our interest is ensuring that groundwater decisions account for their effects on the hydrologically connected rivers, wetlands, springs, aquifers, fisheries, wildlife habitat, and communities that share the resource. Comprehensive water management is a top policy priority.

LWF supports the draft's direction, including the consolidation of scattered rules, the implementation of Act 458 of 2025, the lower large-volume-well threshold, the new Areas of Investigation, stronger well-construction protections, and the continued Capital Area provisions. The central gap is straightforward: Louisiana still does not consistently measure and report significant groundwater withdrawals statewide, and the draft does not reconcile the agricultural exemption in R.S. 30:98.11 with the separate groundwater-management authority retained in R.S. 38:3097.3.

LWF's central recommendation is practical: every large-volume withdrawal should be fully included in the state's water-use accounting authorized by law, advance notice, reliable measurement, and periodic reporting. Fees and limits may vary by law, region, use, and aquifer condition; the need for basic information does not. Where R.S. 30:98.11 limits mandatory agricultural participation under Part VIII, C&E should preserve its applicable Title 38 duties, provide a simple, cost-free voluntary reporting process, and identify any remaining statutory gap for the Legislature. Without reasonably complete information, Louisiana cannot prepare a credible water budget or the comprehensive plan the law requires. These comments stay within the groundwater rulemaking; surface water is discussed only where it directly affects recharge, connected flows, or alternative supplies.

I. Principal Recommendations

LWF respectfully asks the Department to:

- Retain the 300-gallon-per-minute and eight-inch-screen triggers for a large-volume well and define how related wells are aggregated and capacity determined.
- Clarify which requirements rest on R.S. 38:3097.3 and remain applicable to agricultural wells, and which arise under Part VIII and are limited by R.S. 30:98.11.
- Require measurement and reporting for large-volume wells to the fullest extent the law authorizes, with a reasonable phase-in and approved alternatives where a totalizing meter is impracticable; establish a cost-free voluntary reporting path for agricultural users; and identify any statutory change needed to close material data gaps.
- Require a written determination for each proposed large-volume well addressing cumulative demand, aquifer condition, saltwater movement, subsidence risk, effects on existing supplies, and consistency with applicable plans and orders.
- Strengthen the Area of Investigation provisions with public notice, a review schedule, published findings, and a clear path to a management decision.
- Require written findings, conditions, and an expiration or review date for variances; make final decisions public; and identify the source of authority and review process for each appealable decision.
- Separate fee and pumping-charge exemptions from data policy where the statutes permit, and use reported and estimated information to build public, aquifer-specific water budgets.

II. The Rule Should Carry Out Act 458's Management Duties

Act 458 did more than reorganize an agency. It declares water-resource management essential to public welfare, economic prosperity, environmental sustainability, and long-term ecological welfare, and directs C&E to build a comprehensive program grounded in sound science, economics, and data. R.S. 30:98.4 authorizes statewide water-use data collection, resource inventories, demand analysis, deficit identification, recharge protection, and conservation; R.S. 30:98.5 requires a comprehensive statewide plan developed through a transparent process. Reorganization alone will not satisfy those duties unless the rules produce consistent data and support action before an aquifer reaches critical condition.

The need is well documented. In 2020, the Louisiana Legislative Auditor found fragmented authority and information and reported that Louisiana had spent at least \$5.3 million on twelve water studies since 1956 without adopting a comprehensive plan. The U.S. Geological Survey estimated statewide withdrawals at roughly 8.7 billion gallons per day in 2020. Those five-year estimates are valuable benchmarks, but they cannot replace timely measurements from significant individual users.

Louisiana is also weighing major new development, including Meta's Richland Parish data-center campus, Hyundai's Ascension Parish steel facility, and SpaceX's Vermilion Parish complex. Their water sources and demands may differ substantially. Meta, for example, states it will use a closed-loop system and dry cooling for most of the year, which is precisely why project-specific information on source, average and peak demand, conservation, reuse, and drought contingencies is needed before long-term commitments are made. LWF does not oppose

agriculture, manufacturing, or technology. Agriculture is an essential participant in Louisiana's water future and a principal beneficiary of better accounting. The purpose is to identify aquifer stress and future supply needs early enough to protect agriculture's continued access to dependable water.

III. Large-Volume Wells and Related Wells

LWF supports lowering the threshold from 1,500 to 300 gallons per minute and retaining the eight-inch-screen trigger. A well operating at 300 gallons per minute can withdraw about 432,000 gallons per day, and several wells serving one project can create substantial demand even if each stays below the threshold. The rule should treat wells as related when they share ownership or operational control, serve the same facility or project, draw from the same aquifer within a defined area, or are developed in phases of a common undertaking, and should consider existing and proposed wells together, so a project cannot avoid review by dividing demand among smaller wells or affiliated entities. Capacity should reflect pump specifications, well design, aquifer-test results, connected infrastructure, historical production, and reasonably expected operations rather than an applicant's stated intended use. Where the Secretary finds a well or group meets the threshold, the owner should receive the factual basis in writing and notice of available review.

IV. Pre-Drilling Notice and Exemptions

Advance notice gives the Department a meaningful chance to identify concerns before construction and expense. Yet the categorical exemptions in Section 701.A.1 could apply to a well that meets the large-volume threshold. The final rule should state plainly that no well meeting that definition, alone or with related wells, is exempt from pre-drilling notification. C&E should also identify the statutory basis for categorically exempting observation, monitoring, relief, test, dewatering, and heat-pump wells rather than making a just-cause determination under R.S. 38:3097.3(C)(4)(a)(v). A true replacement well, same use, aquifer, location, and capacity, with the predecessor timely plugged, may receive expedited review, but increased capacity, a changed aquifer or location, continued operation of the former well, or extended emergency use should trigger ordinary review, measurement, reporting, and an appropriate plugging or change-of-status requirement.

There is also a gap in where the exemptions apply. The draft requires otherwise-exempt wells to register in a Critical Area of Groundwater Concern but not in an ordinary Area of Groundwater Concern or a new Area of Investigation, precisely the places the Department has already flagged as troubled or under study, and where knowing about new drilling matters most. Notice and registration should therefore apply to exempt wells drilled within any designated Area of Groundwater Concern or Area of Investigation, not only within Critical Areas.

V. The Agricultural Exemption Should Be Read Precisely — No More Broadly Than Written

R.S. 30:98.11 is more than a fee waiver. Agricultural water use is exempt from any regulatory or administrative oversight established under Part VIII, and participation in Part VIII programs is strictly voluntary and without a fee. LWF respects that decision and does not seek unauthorized fees or new burdens on agriculture.

The exemption does not, however, expressly repeal every water-related duty found elsewhere in Louisiana law. In the same Act, the Legislature retained and amended R.S. 38:3097.3, which independently requires registration of new wells, ordinarily by notice of intent at least sixty days before drilling, authorizes collection of well and water-resource data, and allows production, spacing, and metering conditions for large-volume wells or wells in a critical area. Its delayed-registration categories do not include agricultural wells, though it separately authorizes temporary agricultural drought-relief wells. On its face, R.S. 30:98.11 limits oversight established under Part VIII and does not expressly displace this Title 38 authority. Because the interaction may be disputed, the final rule and the Department's response to comments should explain how the provisions operate together: which notice, registration, construction, metering, and data requirements rest on Title 38; which arise under Part VIII and cannot reach agricultural use; whether a large agricultural well remains subject to an individual metering or production order under R.S. 38:3097.3; and how C&E will estimate agricultural withdrawals for the statewide inventory when Part VIII participation is voluntary.

The draft defines an "Irrigation/Agricultural Well" but does not say whether that construction and registration category also fixes the scope of the statutory exemption for "agricultural water use" and "customary agricultural and horticultural purposes" in R.S. 30:98.11. The proposed definition reaches beyond crop, livestock, and aquaculture uses to include wells serving ponds, parks, golf courses, cemeteries, and lawn watering. The final rule should distinguish the regulatory well category from the statutory exemption and define the exemption with enough precision to protect customary farming, livestock, and aquaculture uses without unintentionally sheltering unrelated commercial or industrial withdrawals. Clear boundaries protect genuine agricultural users as much as they protect the aquifer.

C&E should also work with the Department of Agriculture and Forestry, the LSU AgCenter, conservation districts, and producer and irrigation-equipment programs on a voluntary, cost-free reporting system that minimizes duplication. If the exemption leaves C&E without enough information to prepare a defensible water budget, it should identify the gap in the comprehensive plan and recommend a narrow legislative correction that preserves agricultural fee protections while allowing confidential collection and aggregated publication of large-volume data. This is not an argument against the exemption, an incomplete budget does not protect agriculture. If significant existing withdrawals or future industrial demands are missing from the state's accounting, agricultural users may be among the first affected when declining levels, saltwater movement, drought, or competing demand force emergency action. Early, voluntary participation gives producers a better chance to shape practical methods and protect their long-term access before a shortage forces harder measures.

VI. Statewide Measurement and Reporting

Proposed Section 703.D authorizes periodic reporting only from certain wells within an Area of Investigation. That is useful but too narrow. The Department should require measurement and periodic reporting from large-volume wells to the fullest extent authorized by R.S. 30:98.4, R.S. 38:3097.3, and other applicable law, monthly totals reported quarterly would provide a workable basis for demand forecasting, drought response, and aquifer accounting. Existing wells should phase in on a reasonable schedule, prioritizing aquifers with documented decline, saltwater movement, concentrated demand, or substantial new development. Totalizing meters should be the default for new large-volume wells; where one is technically impracticable, C&E may

approve another reliable method based on measured pumping rate, verified operating hours, and audit-adequate records. The rule should set data-quality standards, electronic reporting where feasible, correction procedures, and record retention, and should treat estimates as a documented exception rather than the routine substitute for measurement. For agricultural withdrawals, implementation must respect R.S. 30:98.11 and rely on applicable Title 38 authority, voluntary cooperation, sound estimation, or a targeted legislative change. If C&E concludes that existing law does not authorize uniform reporting from all significant users, it should identify that limitation in the comprehensive plan and recommend the narrow statutory change needed to close it.

VII. Review Standards and Written Determinations

Proposed Section 705 authorizes the Secretary to address production, spacing, metering, and monitoring for large-volume wells and wells in designated management areas. LWF supports that authority and urges the rule to state the governing factors: aquifer and sand-unit condition and trend; existing and reasonably foreseeable withdrawals; projected average and peak demand; drawdown and interference with public, domestic, agricultural, and industrial wells; saltwater encroachment, subsidence, water-quality, and contamination risk; drought resilience; recharge and connected surface-water effects where material; conservation, reuse, and available alternatives; and consistency with Department orders and applicable plans. C&E should issue a concise written determination for each large-volume well identifying the information reviewed, any conditions, and the basis for the decision, a decision to impose no condition should still have a record. Written determinations improve consistency, give applicants certainty, allow meaningful review, and build the administrative record planning requires. The rule should also state whether drilling may begin without affirmative written confirmation; it should not create approval by silence when necessary information is missing or significant concerns remain unresolved.

VIII. Areas of Investigation and Groundwater Concern

The Area of Investigation is one of the draft's strongest additions, letting the Department gather information in response to water-level decline, saltwater intrusion, subsidence, contamination, drought, or other credible evidence before the more demanding Area of Groundwater Concern criteria are met. The final rule should require public notice identifying the aquifer, boundaries, factual basis, information required, reporting schedule, effective date, and review rights, and should publish orders, nonconfidential data, status reviews, and final findings on a central webpage. An initial status review within twelve months, with periodic review thereafter, would keep an investigation from becoming an indefinite holding category. Final findings should evaluate cumulative use, trends, projected demand, uncertainty, and management options, and identify the available next steps, closing or extending the investigation, continuing monitoring, imposing authorized conditions, initiating an Area of Groundwater Concern process, recommending conservation or alternate supplies, or proposing further rules. Because R.S. 38:3097.6 structures the existing Area of Groundwater Concern process around an application by an adversely affected well owner, the Department should clarify whether it may initiate a protective proceeding on its own information and, if not, recommend the legislative authority needed to act before a private owner must show significant injury. Any designation, modification, or removal should weigh pumping distribution, saltwater movement, recovery

assumptions, drought sensitivity, and foreseeable demand, not only a short-term water-level change.

IX. Variances and Appeals

Variances may be needed for unusual geologic or construction conditions, but a request should identify the provision at issue, explain technical impracticability, describe the alternative, and show it will be at least as protective of aquifers, public health, and neighboring users, with cost alone insufficient where compliance is feasible and necessary. Each decision should be written, stating findings, conditions, duration, and monitoring, and should remain subject to modification or revocation if material facts were omitted, conditions change, or the alternative fails; final decisions should be public. Section 707 should also identify whether an appealable decision arises under Title 38, Part VIII of Title 30, or the Capital Area statutes. R.S. 38:3097.5 allows direct review in the Nineteenth Judicial District Court, while R.S. 30:98.7 provides an administrative hearing for an action under Part VIII. The final rule should preserve the review process applicable to each source of authority.

X. Well Construction, Aquifer Commingling, and the Capital Area

LWF supports prohibiting a well or borehole from being screened or perforated across more than one distinct aquifer; preventing cross-flow protects water quality and preserves aquifer-specific accounting. The rule should also address existing multi-aquifer wells through inspection, monitoring, reworking, plugging, or conditions imposed when ownership or use changes, and should require post-drilling records sufficient for aquifer-specific management.

Two definitions bear directly on that protection. The draft defines an “abandoned well” by reference to use being “permanently discontinued” or equipment “permanently removed,” and an “inactive well” as one restorable with minimal effort, but it does not say what those terms mean or how the categories are distinguished, even though it defines abandonment of a test hole elsewhere in detail. In a state with Louisiana’s history of legacy wells, that imprecision is not academic: an improperly abandoned or indefinitely inactive well can provide a pathway for cross-aquifer flow and contamination, and an unclear standard invites confusion over who is responsible for plugging it and when. C&E should define those terms, reconcile the two categories so a well cannot fall between them, and treat unplugged legacy and inactive wells as a groundwater-protection priority. Section 1107.C should also define “destroyed well” and specify the evidence required before an unlocated well is treated as properly plugged, inability to locate a well does not itself establish protective plugging.

In the Capital Area, Section 1301 uses the same categories to exempt wells from application fees, metering, reporting, and pumping charges, different policy choices. A reason to waive a fee does not establish that a significant withdrawal should be absent from the state’s data. The final rule should preserve legally required fee and charge exemptions but, for nonagricultural large-volume wells, separate those exemptions from measurement and reporting; for agricultural wells, it should identify the applicable Title 38 authority without expanding or narrowing R.S. 30:98.11. The Capital Area’s history, water-level decline, saltwater encroachment, and subsidence addressed through decades of monitoring and modeling, shows why consistent withdrawal, water-level, aquifer, and saltwater-movement data are necessary for long-term management.

XI. Carbon Sequestration and Groundwater Protection

Class VI carbon-sequestration wells are governed by a separate Safe Drinking Water Act program protecting underground sources of drinking water, and this rule should not duplicate it. Because C&E administers both programs, however, relevant nonconfidential Class VI information, pressure-front modeling, monitoring results, corrective-action and legacy-well data, and evidence of fluid movement that could affect an underground source of drinking water or another managed aquifer, should be available to the groundwater program. Credible information identifying a groundwater-management concern should inform reviews of nearby large water-supply wells and decisions on whether to open an Area of Investigation. This is coordination between distinct programs, not an assumption that a permitted sequestration project has contaminated groundwater.

XII. Public Data, Water Budgets, and Connected Resources

C&E should publish the status and general location of significant wells, the aquifer used, applicable limits, aggregated withdrawals by aquifer and region, water-level and water-quality trends, investigation and concern areas, and final orders and variance decisions, applying confidentiality only where the law requires it and using aggregation to protect any recognized well-specific concern without concealing the resource picture. That data should support aquifer-specific water budgets quantifying recharge, withdrawals, storage change, transfers, and material exchange with surface water; identifying uncertainty; and comparing present and projected demand under normal and drought conditions. A single statewide total will not show the differences among aquifers, sand units, seasons, and locations, and a budget that omits a major use sector without disclosing and estimating it is not a reliable tool. Finally, while LWF does not ask C&E to place a surface-water allocation code in this rule, the rule should recognize hydrologic connection where site-specific science supports it: pumping can reduce stream base flow, spring flow, and wetland hydrology, and shifting a user between sources can move rather than solve a problem. When a groundwater decision may materially affect a connected resource, C&E should weigh that effect and consult the agencies with relevant responsibility, including the Louisiana Department of Wildlife and Fisheries.

XIII. Conclusion

Louisiana's central groundwater problem is not a lack of experience with individual wells. It is the absence of a reasonably complete, timely accounting of significant withdrawals and aquifer conditions. This rule can begin to correct that by treating notice, measurement, reporting, and public findings as the foundation of management, and by candidly identifying the uses that must be addressed through estimation, voluntary cooperation, or legislation. LWF supports the draft's direction; its value will simply be limited if significant withdrawals stay missing from the state's accounting, cumulative effects go undocumented, investigations do not lead to decisions, or the resulting information is not available for planning and public review.

The state needs the most complete accounting the law can permit of where significant water is withdrawn, from which aquifer, in what amount, and with what cumulative effect. That information will protect drinking-water supplies, support agriculture and industry, reduce avoidable conflicts, sustain the connected fish and wildlife habitat this Federation exists to defend, and produce the comprehensive plan the Legislature has required.

Implementing these responsibilities will require staff, technical capacity, and sustained investment a rule alone cannot supply. C&E should have resources commensurate with the responsibility the Legislature has assigned it, and LWF is prepared to support the Department in making that case.

Thank you for the opportunity to comment on behalf of Louisiana Wildlife Federation. We welcome continued engagement as the Department revises the draft and moves toward formal rulemaking.

Sincerely,

A handwritten signature in blue ink, reading "Rebecca Triche".

Rebecca Triche
Executive Director
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