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Fight for the Atchafalaya Basin centers on sloppy permitting

by Ken Grissom

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Dean Wilson, the Atchafalaya Basinkeeper, is fighting the destructive practice of building dams across natural bayous and stemming the life giving sheet flow of floodwaters into the swamps.

Wilson is part of the Waterkeepers Alliance founded by environmental attorney Robert F. Kennedy Jr. and several on-the-water activists whose histories stretch back to the battle for the Hudson River in the toxic '60s.

With the significant reforms of the federal Clean Water Act in the 1970s – and locally the somewhat grudging recognition that east-west spoil banks and other boundaries are destroying the natural bounty of the Atchafalaya Basin – one might not expect the damming practice to still be going on. Wilson's message is that it is happening right now right under the noses of the government regulators.

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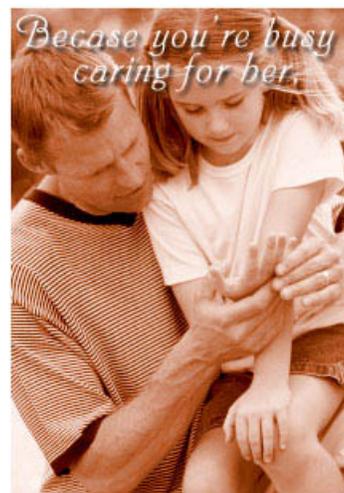
Suspicious culvert near a branch of Brown Bayou

Case in point is a culvert lying on the ground near a branof Brown Bayou in Iberville Parish. The hunting club that leases the land from A. Wilbert & Sons LLC apparently has the intention of building a road across the east branch of Brown Bayou, locking commercial fishermen out of the swamp during the spring flood and retarding and eventually blocking sheet flow and fish migration.

Wilson says he cannot find a permit for this work but adds that he does not find this surprising. This isn't the first unpermitted de facto dam built across the Dallas, Texas, family's property in the Basin.

"In June 2000, on the same piece of property, Bidas Energy applied for a general permit to 'lay boards on an existing road, and to excavate and place fill to install and maintain a ring levee, drill site and appurtenant structures to serve the A. Wilbert's Sons Well No. 3.' The permit also asks for the replacement of existing culverts," Wilson said.

"In reality, there was no existing road and no culverts," he said. "They ended up building a 2.6-mile elevated road from east to west, forever blocking the natural north to south water flow through the wetlands, and damming Brown Bayou. Brown Bayou is a state-owned water bottom. The well was dry, but they never removed the structures after they finished. In addition, they used the dam and the road to bring in heavy equipment to cut down wetland cypress forest."



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In 2007 Bridas Energy applied for another general permit to build a ring levee and to lay boards on an existing logging road for another well, Wilbert's Sons Well No. 1, Wilson said. "Again they built over a mile of elevated road using tons of limestone to make it permanent, and blocking three bayous and the natural north to south water flow of the wetland system."

Wilson describes the modus operandi he has uncovered:

"They applied for a general permit and gave false information to get it," he said. And instead of "laying boards" they elevated the new road and paved it with limestone.

"They built dams and elevated roads, but since they had applied for a permit, in the eyes of the U.S. Army Corps of Engineers, it becomes a permit violation instead of a Section 404 violation (under the Clean Water Act).

"If there is no action from the Corps for over four years, the Corps won't take action against them after that time. If they get caught, enforcement will give them a cease and desist but it will be considered a lack-of-compliance issue and will be referred to the Permitting Department where they most likely will get an after-the-fact permit," Wilson said.

"It would have been very hard, maybe impossible for them to get a permit if they would have tried to do it the right way, applying for a regular permit giving the accurate facts," he said.

In this latest case involving the hunting club, Wilson's informants tell him the club has been told not to worry about the permit, to go ahead with the work.

And to top it all off, Wilson said, the landowner received over \$1 million in federal tax dollars for an environmental easement to "permanently protect wetlands in the Atchafalaya Basin." The easement includes a provision not to build any permanent structures on the land.

Wilson said that he sent the Corps a full report last year detailing the 2000 violations of the Clean Water Act and Rivers and Harbors Act, the fraudulent permit application, and the violation of the environmental easement. The Corps responded that since it had been over 10 years since the incident took place and the Corps would not taking any action.

Waterkeepers, of which there are now some 200 across the globe, network through the Alliance but are otherwise individual non-profits dependant upon local memberships, donations and fund-raisers to operate.

As an example, John and Becky Williams, owners of Lafayette's Pack and Paddle wilderness outfitters, hosted a fund-raising excursion last weekend at Lake Fausse Pointe to benefit the Basinkeeper. Also contributing were author and photographer Greg Guirard and singer-songwriter and environmental activist Drew Landry.

For more information go to www.basinkeeper.org, or call (225)928-1329.

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