

**Public Records Request  
to the Louisiana Department of Environmental Quality  
for Documents Related to Bayou Bridge Pipeline**

**Background**

On behalf of the Louisiana Bucket Brigade, the Center for Constitutional Rights filed a public records request with the Louisiana Department of Environmental Quality (LDEQ) seeking records related to the then-proposed Bayou Bridge Pipeline (BBP). The request was filed on December 6, 2017.

BBP is a joint venture of Energy Transfer Partners (ETP), the company behind the controversial Dakota Access Pipeline in North Dakota, and Phillips 66, companies with an [alarming record](#) of leaks, [spills](#), and [explosions](#). The company sought a water certification permit with the LDEQ for its pipeline which would run 162 miles from Lake Charles to St. James, through 11 parishes, approximately 700 bodies of water (including Bayou LaFourche, a source of drinking water for over 300,000 people), and the Atchafalaya Basin. The permit was granted on December 14, 2017.

LDEQ responded to the public records request with two sets of documents: 1/ The first set, provided on December 13, 2017, consisted of materials relating to BBP's permit application and more than 24,000 public comments overwhelmingly in opposition to the project. 2/ After the Louisiana Bucket Brigade reiterated to the agency that its request included emails about the BBP, LDEQ delivered 192 emails and attachments on February 16, 2018.

The LDEQ also advised that it withheld some documents on the basis of the attorney-client and deliberative process privilege.

**FIVE FINDINGS**

**I. Close Collaboration between Permitting Agencies and Energy Transfer Partners**

ETP representatives and employees sent the permitting agencies – LDEQ and the U.S. Army Corps of Engineers (USACE) – draft language, which they then used, for public information related to the pipeline. Specifically,

- An ETP representative<sup>1</sup> sent draft language to James Little, Project Manager at USACE, for use in the public notice that would be issued jointly by USACE and LDEQ. See

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<sup>1</sup> The original sender is employed by Perennial Environmental Services, which was retained by ETP/BBP, to handle the permit application process. Perennial has performed the same services for ETP in the past, most notably in connection with the Dakota Access Pipeline. Itai Vardi, *Contractor Behind Positive Dakota Access Pipeline Environmental Assessment Was Working on Connecting Pipeline for Same Company*, Desmog, Sept. 25, 2016,

[Document #1](#). Little then forwarded the email to Elizabeth Hill, a permit writer for the Water Quality Certification at the DEQ, describing the public notice as “the latest party invitation.” The paragraph describing the project in the final version of the LDEQ public notice was taken word for word from the company’s draft. Compare to [Document #3](#).

- The same ETP representative sent Little draft responses to public comments received by the Corps. The company’s draft responses were in a column entitled “Draft USACE Response.” See [Document #11](#). An ETP employee then forwarded those responses to LDEQ’s Elizabeth Hill for “assistance in your closing out the public comments you are addressing.” The company’s draft USACE responses asserted that no environmental impact statement had been prepared because the documentation did not support a determination that the project would have a significant environmental impact. See, e.g., Draft USACE Response to Comment 10-3 in [Document #11](#).

Ultimately, the Corps granted the permit on December 14, 2017, without having done an Environmental Impact Statement. On February 23, 2018, a federal judge revoked the permit when she issued a preliminary injunction [halting work](#) on the project to “prevent further irreparable harm” pending trial.

## II. High-level Monitoring and Surveillance of Pipeline Opponents

The security and surveillance by state and federal law enforcement agencies continues the national trend of heavy handed, [over militarized](#) response to Water Protectors’ exercise of first amendment rights, and attempts to cast such opposition as [terrorism](#) and threats to national security. The documents confirm that local pipeline opponents are being monitored by high-level intelligence officers in the Governor’s office coordinating between federal, state, and local law enforcement agencies through the [Fusion Center](#).

Emails from an intelligence officer in the Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) document the activity of two local organizations – the Louisiana Bucket Brigade and L’eau Est la Vie camp. [Document #16](#) and [Document #17](#). Both emails were sent by James Waskom, director of GOHSEP appointed by the governor, to Chuck Carr Brown, head of the LDEQ. One was sent by Waskom to the Louisiana State Police, Louisiana National Guard, the head of the Louisiana Department of Natural Resources in addition to Brown. [Document #17](#).

### **III. Company Reps Have Easy Access to High-Level Public Officials**

The documents confirm that ETP employees and lobbyists have access to public officials at the highest level in Louisiana – including the Governor and his appointee to the LDEQ, Secretary Chuck Carr Brown.

A hearing in a public records law suit against the Governor’s office exposed the fact that a [meeting between John Bel Edwards’ and Mary Landrieu](#), former U.S. Senator now serving as a paid consultant to ETP, took place and [was not on the Governor’s official calendar](#).

The LDEQ emails show LDEQ Secretary Brown taking advice, or direction, from an industry lobbyist about talking points on clean fuels. [Document #8](#).

State employees readily interact and quickly provide answers to queries from ETP representatives and employees, an ease of access that the Water Protectors do not have. [Document #10](#).

In contrast, staff at the Louisiana Department of Public Health assured high level staff at the LDEQ and Department of Natural Resources that in meeting with St. James residents, health department staff “are not providing answers or offering solutions.” [Document #13](#)

### **IV. LDEQ Permit Writer Jokes about “Rising Sea Levels”**

In one of the earliest emails produced, dating from late 2016, the permit writer cracked a joke about global warming and “rising sea levels.” In an email to her counterpart at USACE discussing an extension request, DEQ’s permit writer Elizabeth Hill states, “I’m sure this like every other project is going to cause global warming and rising sea levels. Since we already know that is an extension necessary?” [Document #2](#).

Similarly, the project manager at USACE described the public notice of the project as “the latest party invitation.” [Document #1](#).

### **V. Overwhelming Public Comment Response**

The documents reveal that LDEQ received more than 24,000 public comments, overwhelmingly in opposition to the project. The emails show that staff at LDEQ had to adjust their method of receiving, storing and responding to public comments. [Documents #5](#), [Document #6](#).