

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

**CITY PARK FOR EVERYONE
COALITION;
KEVIN MCDUNN; and
CHRISTOPHER LANE;
Plaintiffs,**

Case: 1:15-cv-918

v.

**FEDERAL EMERGENCY
MANAGEMENT AGENCY;
W. CRAIG FUGATE, IN HIS
OFFICIAL CAPACITY AS
ACTING ADMINISTRATOR
FOR FEDERAL EMERGENCY
MANAGEMENT AGENCY; and
NEW ORLEANS CITY PARK
IMPROVEMENT
ASSOCIATION
Defendants**

COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

This is an action filed to enjoin certain environmental infractions committed by FEMA and the New Orleans City Park Improvement Association. The theory behind this action and the facts to be proven at trial are collectively very simple. The New Orleans City Park Improvement Association, the entity responsible for City Park, has acted arbitrarily and capriciously as well as caused various federal agencies to do so. New Orleans City Park Improvement Association is determined to dedicate over 40% of City Park to golf – something it admits is not particularly profitable in light of the large operating budget City Park has every year. It is so intent on adding an additional golf course, that it may have distorted information and led FEMA to improper conclusions with respect to the appropriateness of building a golf course from an environmental

standpoint. Multiple attempts have been made to create an open dialogue between concerned citizens and the Association, but they have all been refused or otherwise failed.

Parties

1. Made Plaintiffs herein are:

- a. City Park for Everyone Coalition, a Louisiana non-profit corporation, with its principal place of business in Orleans Parish, Louisiana. City Park for Everyone Coalition is a Louisiana non-profit that was formed to encourage and foster open communication at all levels of the government with the community as it relates to the use and enjoyment of City Park in New Orleans, Louisiana. City Park for Everyone Coalition (the “Coalition”) is headquartered in New Orleans, Louisiana. It has over 5,709 signatures on a petition in opposition to the golf course project described herein, and over 1,100 members in the Facebook Group. The signatures it has amassed within approximately one month alone represent nearly twice the population of the Lakeview neighborhood in New Orleans.¹
- b. Kevin McDunn: a person of the age of majority domiciled in Orleans Parish, Louisiana.
- c. Christopher Lane: a person of the age of majority domiciled in Orleans Parish, Louisiana.

2. Made Defendants herein are:

- a. Federal Emergency Management Agency (“FEMA”), headquartered in Washington, D.C. is a federal agency with responsibility for administering recovery grant programs. The City Park Improvement Association has applied to FEMA for

¹ This number is calculated based on the estimated population of New Orleans. A full review has not been conducted to determine how many of those signatories are New Orleans residents.

recovery funds based on claims of damage to City Park from Hurricanes Katrina and Rita. FEMA is responsible for complying with NEPA and other federal laws prior to making a final decision grant funding.

- b. W. Craig Fugate is sued in his official capacity as Acting Administrator of FEMA. Acting Administrator Fugate is responsible for ensuring that FEMA's actions comply with NEPA and other federal laws.
- c. New Orleans City Park Improvement Association, Inc., a self-perpetuating, 35 member, public body. New Orleans City Park Improvement Association, Inc. ("CPIA") is domiciled in Orleans Parish in the State of Louisiana. By Ordinance No. 5547 Council Series (8/29/1881) the New Orleans City Council delegated to the CPIA the management of City Park, which is owned by the City of New Orleans and held in trust by the City of New Orleans for the citizens of the City of New Orleans, but reserved to the City of New Orleans the right to approve all development of and in City Park.

Jurisdiction, Venue, and Ripeness

3. Venue is appropriate under 28 U.S.C. § 1391(b) because most of the acts complained of occurred in the Parish of Orleans in the State of Louisiana.
4. The present action is ripe for judicial review because construction/demolition has begun.
5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. §§ 2201-02 (declaratory relief), and 5 U.S.C. § 702 (right of review under the APA). Also this court has supplemental jurisdiction under 28 U.S.C. § 1367.
6. For purposes of the declaratory relief sought in this Complaint, an actual case or controversy within the meaning of 28 U.S.C. § 2201 exists between the parties as to

whether the Defendants complied with the requirement of NEPA and the APA prior to issuing their findings.

7. Plaintiffs have suffered injuries in fact by loss of their recreation, education, and aesthetic value they enjoy in the park and the Wetlands in the Action.
8. A part of Plaintiffs' injury directly results from FEMA's Finding of No Significant Impact regarding the conversion of the park and the Wetlands allowing the golf course project to move forward without sufficient consideration of environmental impacts and alternatives to developing the Wetlands.
9. The court has the power to redress plaintiff's injuries of loss of recreation, education, and aesthetic value by providing the relief prayed for herein.

General Factual Background

10. Prior to Hurricanes Katrina and Rita, City Park operated multiple golf courses.
11. After Hurricanes Katrina and Rita, the City Park golf courses were destroyed.
12. The North Golf Course was redeveloped post-Katrina.
13. The South Golf Course was eliminated as a golf course and redeveloped into the Big Lake area, which has enjoyed much public use and praise.
14. The East and West Golf Courses were allowed to lay fallow.
15. Also located in the vicinity of the former East and West Golf Courses is the Couturie Forest.
16. Couturie Forest has been located in this area for many years (the "Forest").
17. The Forest is a former brownfield, but the soil has never been altered.
18. Since Katrina, the Forest and the adjacent areas where the East and West Golf Courses were formerly located, situated between Harrison Avenue and Filmore Avenue, have been

available for use by the public for a number of recreational and educational uses – none of them golf.

19. Over the last several years, the Forest and adjacent areas between Harrison Avenue and Filmore Avenue have become increasingly used by individuals and families for recreational and educational uses.
20. At present, over a thousand people have joined a webpage devoted to promoting the merits of this space for nature photography, walking and bicycling in non-urban surroundings, fishing, picnicking, kite flying, dog walking, and a variety of other activities for which they feel that no comparable local setting exists.
21. Over 5,600 have signed a petition asserting the value of the “wild beauty” of this land and its use for multiple forms of recreation.
22. Over the last several years, CPIA has been pursuing a plan to build a new golf course in this land.
23. In recent weeks, CPIA has initiated demolition/construction work in this land and a portion of the Couturie Forest.
24. The City Park Master Plan, attached hereto as Exhibit 1, has sent a clear indication that the Couturie Forest would be kept intact during the development of this land into a new golf course. Exhibit 1 at p. 4 (noting “M” undeveloped open areas and “H” Natural resource areas) and p. 5 (noting “H” Natural resource areas).
25. This indication turned out to be false; activity currently occurring in the constructing zone is destroying or has destroyed a portion of Couturie Forest with heavy equipment.
26. This would be a redevelopment and a relocation of the East and West Golf Courses.

27. Prior to the recent placement of construction site fencing, the area previously designated for golf has been unused and undeveloped for that purpose for nearly ten years.
28. Couturie Forest contains or is consisted of Wetland.
29. There is a stream running South to North through the wooded area.
30. It is not uncommon for a person traversing this wooded area to experience up to two feet of mud.
31. This area has trees and wildlife that are associated with Wetlands.
32. This area is particularly unique because it is *urban* Wetland.
33. This area also contains at least two registered live oak trees.
34. Within this wooded Wetland area and the adjacent land, CPIA continued to pursue the development and privatization of a championship golf course to include new facilities, larger course, new club house, concessions, etc.
35. CPIA is no stranger to criticism for this plan as they were previously sued in Civil District Court for the Parish of Orleans arising out of their actions in pursuing this plan, Docket No. 09-7378. *See* Petition attached hereto as Exhibit 2.
36. Much of the process was closed to the public and persons of interest were unaware that this plan was being actively pursued until construction fencing went up earlier this year.
37. When fencing went up and public awareness grew, dozens of individuals attended a City Park Board of Directors meeting to object to the destruction of this area as a multiple-use , natural area, to the lack of meaningful public notice that this project was imminent, and lack of meaningful inclusion in the decision-making process.
38. During the process of planning the new golf course, CPIA has put out conflicting information to the public and has caused persons to be materially misled.

39. On or about May, 2013, FEMA issued a draft Environmental Assessment. *See* draft Environmental Assessment, attached hereto as Exhibit 3.
40. Upon information and belief, this draft Environmental Assessment was made public through the Times-Picayune, the print version of which is now virtually defunct due to low readership.
41. The comment period on the Environmental Assessment was only fifteen days.
42. Upon information and belief, the draft Environmental Assessment became final due to lack of public comment, which Plaintiffs assert was a direct result of lack of public awareness, not interest.
43. On or around May, 2013, FEMA issued a Finding of No Significant Impact. *See* Finding of No Significant Impact, attached hereto as Exhibit 4.
44. The Finding of No Significant Impact required that a permit for the destruction of the forested Wetland area be sought under the Clean Water Act. *See* Exhibit 4 at p. 2.
45. The Environmental Assessment failed to adequately consider the environmental effects of the destruction of an additional 5.5 acres of urban forested Wetland. These 5.5 acres had never before been purposed as a golf course.
46. The Environmental Assessment indicated that FEMA conducted site visits in 2013 and determined that the site included Wetlands. Exhibit 3 at p. 14-15.
47. The Environmental Assessment also confirmed that a portion of the Wetlands had been previously unused. *Id.* at p. 14-15.
48. The Environmental Assessment also informed CPIA that it is responsible for applying for a permit for the destruction of the forested Wetland area under the Clean Water Act. *Id.* at p. 14-15.

49. The Finding of No Significant Impact requires that CPIA fulfill all permitting obligations in order to receive funding from FEMA. Exhibit 4 at p. 2.
50. On or about April 2, 2013, the U.S. Army Corps of Engineers issued a Jurisdictional Determination and stated that a 404 permit for the destruction of the forested Wetland area will be required. Exhibit 5.
51. In a meeting in 2011, the CPIA approved a new Master Plan that does not appear to include destruction of any portion of Couturie Forest or co-located Wetlands. *See* Minute Meeting Notes of March 22, 2011, attached hereto as Exhibit 6.
52. Upon information and belief, the meeting minute notes do not accurately reflect who supported the plan and who did not.
53. According to the Environmental Assessment, public comments were to have occurred on February 22, 2005; November 27, 2007; March 24, 2009; and March 22, 2011. Exhibit 3 at p. 41.
54. The representation that public comments occurred on those dates was a significant misrepresentation by CPIA imparted to FEMA upon which the Environmental Assessment was based.
55. According to the February 22, 2005 meeting notes, in that meeting the CPIA articulated that it did not even intend to address the concerns of the public. *See* Minutes of February 22, 2005, attached hereto as Exhibit 6.
56. At the February 22, 2005 meeting the CPIA discussed that the Commissioners should not give too much weight to any public comments. *Id.*

57. Further, the minutes do not actually evidence the substance of any public comments that occurred, or contain information on whether meaningful notice of a comment opportunity was even provided to the public. *Id.*
58. Additionally, the golf plan being proposed in February 22, 2005 was fundamentally different than the proposed action in the Environmental Assessment. The February 22, 2005 plan was pre-Katrina and there was no rebuilding to be done. *See* 2005 map showing plan, attached hereto as Exhibit 1 at p. 4.
59. The meeting minutes of November 27, 2007 indicate that no public comment occurred at the CPIA meeting. *See* November 27, 2007 Meeting Minutes attached hereto as Exhibit 7. This post-Katrina meeting concerned a different plan than the February 22, 2005. Further the minutes do not actually evidence the substance of any public comments that occurred, or contain information on whether meaningful notice of a comment opportunity was even provided to the public.
60. The March 24, 2009 meeting minutes similarly gave no indication of public comment and also did not mention a separate meeting. *See* March 24, 2009 Minutes attached hereto as Exhibit 8.
61. March 22, 2011 concerned yet a new plan. At this meeting three persons gave comment. This is the first time that any public comment occurred on the plan addressed by the Environmental Assessment. At this meeting it was an entirely different plan. *See* March 22, 2011 Minutes attached hereto as Exhibit 9. *See also* 2011 map showing plan, attached hereto as Exhibit 1 at p. 5.
62. In other words, the representation that four opportunities for public comment occurred is misleading. It appears that only one opportunity to comment occurred.

63. Upon information and belief a Section 404 permit allowing CPIA to fill the wooded Wetlands inside or adjacent to Couturie Forest, and stated as a condition of the EA and FONSI, was never issued.
64. Persons first noticed a fence erected in the area on February 16, 2015 – right in the midst of Mardi Gras festivities when recreational users were likely to be focusing attention elsewhere.
65. Since then, contractors have appeared and begun excluding persons from the area.
66. Bulldozers and equipment have been moved to the site and have begun to be used for the purpose of tree destruction and Wetland fill.
67. These trees and this Wetland will be destroyed imminently.

**Claims Related to Violation of the National
Environmental Protection Act and Administrative Procedures Act**

68. The National Environmental Policy Act of 1969, as amended, establishes that “it is the continuing responsibility of the federal government to use all practicable means . . . [to] preserve important historic, cultural, and natural aspects of our national heritage, and maintain wherever possible, an environment which supports diversity, and variety of individual choice.” 42 U.S.C. § 4331(b)(4).
69. To achieve this goal, Congress directed federal agencies in Section 102(2)(c) of NEPA to produce a “detailed statement” disclosing the environmental impact of “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C).
70. Regulations promulgated by the Council for Environmental Quality (“CEQ”) “tell federal agencies what they must do to comply with the procedures and achieve the goals of

[NEPA].” 40 C.F.R. § 1500.1(c). CEQ’s regulations are “binding on all federal agencies.” 40 C.F.R. § 1500.3.

71. FEMA has also published regulations and procedures regarding the compliance with CEQ regulations under 44 C.F.R. Part 10.

72. If a federal agency action will “significantly affect[] the quality of the human environment,” the agency must prepare an environmental impact statement (“EIS”). 42 U.S.C. § 4332(2)(C). When deciding whether or not to prepare an EIS, a federal agency must analyze “whether the action is related to other actions with individually insignificant but cumulatively significant impacts.” 40 C.F.R. § 1508.27(b)(7). “Significance cannot be avoided by terming an action temporary or breaking it down into small component parts.” 40 C.F.R. § 1508.27(b)(7).

73. Under FEMA’s NEPA regulations, 44 C.F.R. Part 10 § 10.4(4), FEMA “shall . . . consider reasonable alternatives to recommended courses of action in any proposal that involves conflicts concerning alternative uses of resources.”

74. Under FEMA’s NEPA regulations implementing E.O. 12898, “which addresses environmental justice,” “[the] environmental justice consideration should be included in the assessment of socioeconomic or other relevant impacts of proposed actions and their alternatives in the environmental assessment . . . the Regional Director shall assess the impact of the proposed action on minority and low income populations and make a finding on whether the proposed action would have a disproportionately high and adverse effect on the populations identified in E.O. 12898.” *See* FEMA Memorandum dated April 18, 1994, attached hereto as Exhibit 10.

75. If the proposed action is not one that normally requires an EIS, then the federal agency may prepare an Environmental Assessment (“EA”) to determine whether or not the proposed action is significant and requires an EIS. 40 C.F.R. § 1501.4(a),(b). An EA is a “concise public document” that provides “sufficient evidence and analysis for determining” the significance of the impacts of the proposed actions. 40 C.F.R. § 1508.9(a).
76. The Administrative Procedures Act authorizes judicial review of statutory violations by agencies. 5 U.S.C. §§ 704.
77. There is a right of review if any person has been aggrieved by agency action. 5 U.S.C. § 702.
78. Here, the Coalition as an organization, the members of the Coalition, and the other Plaintiffs herein have been aggrieved through loss of use of portions of City Park as a result of violations of the National Environmental Protection Act by FEMA and CPIA.
79. A final agency action occurred as required by APA Section 704, because the Environmental Assessment and the Finding of No Significant Impact demonstrated the consummation of FEMA’s decision making process. *Bennett v. Spear*, 520 U.S. 154, 177-78 (1994).
80. FEMA issued a draft Environmental Assessment. Exhibit 3.
81. Upon information and belief, the draft Environmental Assessment became final automatically without further action.
82. FEMA issued a draft Finding of No Significant Impact. *See* Exhibit 4.
83. The Environmental Assessment and the Finding of No Significant Impact Appear to be used to buttress each other.

84. The Finding of No Significant Impact was issued as a direct result and only due to the conclusions in the Environmental Assessment.
85. FEMA failed to consider the environmental impact of destroying 5.5 acres of Wetlands and urban forest in the EA.
86. FEMA failed to afford adequate consideration to the impacts of the project on low-income and minority populations in the EA. *See* E.O. 12898.
87. FEMA has committed to spend \$4 million on this project.
88. Without FEMA funding, CPIA cannot go forward with this proposed action.
89. The land proposed to be repurposed and developed is unique and significant as it is urban Wetland and urban forest, adjacent to a large area of intermittently wooded open area.
90. Urban Wetland and urban forest are exceedingly rare and their eradication would have a significant impact on the quality of the human environment.
91. Significance is determined by context and intensity. CEQ Regulation 1508.2
92. Context has four primary considerations: (1) society as a whole; (2) the affected region; (3) affected interests; and (4) locality.
93. Urban Wetlands are unique and rare on a national level therefore their elimination is significant.
94. In the affected region, there is highly limited public access to urban Wetlands and forest. Therefore, their elimination is significant.
95. Of the affected interests, recreational users of the area (including hikers, bikers, bird watchers, and others) and educational users of the area will be entirely prohibited from exercising their interests in the area. The habitat value of the land will be vastly diminished

once converted into a golf course. Moreover, minority and low income populations will be disproportionately affected by the fee based structure for access to the area.

96. Intensity is viewed from the standpoint of severity of the impact. CEQ Regulation 1508.2

97. A significantly intense effect may exist even if the agency believes that on balance the effect will be beneficial.

98. The eradication of this area will mean that the only large natural space, which uniquely consists of wooded land, Wetland, open areas, and other types of public space and habitat for a variety of plants and animals, will be virtually inaccessible to those relying on public transportation, and so low income and minority communities will be disproportionately affected.

99. The severity of the impact stems from the geographical uniqueness of the Wetlands, urban forest, and large adjacent open areas, which will be totally lost with their conversion into golf course.

100. Further, the effects will be highly controversial as shown by the significant public outcry in the form of petition circulation with greater than 5700 signatures, large public attendance and comment at the first City Park Board of Directors meeting following the installation of the construction fencing, media coverage of the public outcry in multiple publications, and persons living in a tree on the property in order to protest its destruction, an act which was reported in an NPR "All Things Considered" national broadcast.

101. Further, this property is important for migratory birds, whose habitat is being threatened. Many species, including but not limited to egrets, herons, anhinga, and various raptors utilize the forested Wetland and adjacent open space, and are frequently sighted and photographed in these areas.

102. The proposed action is an arbitrary and capricious change to the quality of the human environment.
103. The property was accessible to everyone until days ago when a fence was erected.
104. When the fence is taken down and construction is complete, the property will be fundamentally changed and only be accessible to those that can afford first-class golfing facilities – effectively excluding all those of lower income and those that are not familiar with or interested in the specific activity of golfing.
105. In essence, the property is being repurposed from an area open and useful to all the people of New Orleans and beyond to a property available or desirable only to a very narrow segment of society. This was not meaningfully addressed in the Environmental Assessment and/or the Finding of No Significant Impact.
106. Also, the property is being repurposed from a multi-use open space to a closed-access single use area.
107. Accordingly, the agency action by FEMA is arbitrary and capricious.
108. For the aforementioned reasons, this is a major federal action significantly affecting the quality of the human environment.
109. FEMA should have completed and should be made to complete an Environmental Impact Statement and should be ordered to immediately revoke its Finding Of No Significant Impact until such time as an Environmental Impact Statement is completed.

The Environmental Assessment is Insufficient

110. Given FEMA's failure to afford adequate consideration to the environmental impacts of destroying 5.5 acres of undeveloped forested Wetland in its preferred alternative

(Proposed Action), the Environmental Assessment is insufficient. Exhibit 3 at p. 5, 13, 17, 23-24, 28, and 33.

111. Given FEMA's failure to afford adequate consideration to the environmental justice effects of the proposed action, the Environmental Assessment is insufficient. Exhibit 3 at p. 36-37.

112. Additionally, the demographic analysis in the environmental justice section of the EA was misleading. Lakeview zip codes were used instead of Gentilly zip codes. The only zip code in the EA was 70124. Exhibit 3 at p. 37. City Park is actually located on multiple zip codes and the border of 70124 runs down Marconi. The zip code for 70122 begins at Marconi and has drastically different demographics than that of 70124. The 70122 zip code is estimated 72.4% African-American.

113. The Environmental Assessment stated that the development was to be in essentially the same location as the prior golf course – this is not true.

114. The Environmental Assessment stated that the park space and the Wetland space were unused prior to the commencement of recent construction work, but both were actually in active use for multiple recreational purposes by many members of the public, as well as for targeted reforestation. Exhibit 3 at p. 2, 14.

115. The Purpose of the Action was misleading where it stated the purpose was to restore facilities. The true purpose was to expand facilities into areas that had never been previously used for golf, including wooded Wetlands areas. Exhibit 3 at p. 4.

116. The Need was misleading where it was based on current lack of functioning golf facilities, when in reality there are a number of functioning golf facilities in New Orleans and many more in the Greater New Orleans Area. Exhibit 3 at p. 4. Nearby golf courses

are struggling financially, indicating that there is not enough golf demand to sustain even the existing golf infrastructure in New Orleans.

117. The Alternatives Section was misleading and/or insufficient as it did not explore different configurations of Hole 5 to avoid destruction of the Wetlands. Exhibit 3 at p. 5.

Improper Notice and Comment was Provided for the Environmental Assessment

118. Under 40 C.F.R. § 1501.4(e)(2)(i), a thirty-day period of public comment on the Finding of No Significant Impact may be required if the action proposed is “closely similar” to one that would normally require the preparation of an EIS.

119. In this particular situation an EIS was required, and were it not the proposed action is at least closely similar to that of the type that would require an EIS.

120. The Environmental Assessment in this matter was only left open for comment for fifteen days. The FONSI was not left open for public comment.

121. Accordingly, the failure to leave commentary open for 30 days was a violation of FEMA’s obligations to the public under NEPA.

**Violation of Louisiana Public Records
Laws as to New Orleans City Park Improvement Association**

122. La. R.S. 44:31 dictates that any person of the age of majority may request public records.

123. La. R.S. 44:33B provides that records requested shall be immediately provided if not in use.

124. Further, under La. R.S. 44:33B if records are in use, and, consequently, cannot be immediately provided then the requester must be notified of the same promptly as well as a time when the records can be made available.

125. In this case, members of the Coalition requested records and did not receive them.
126. More specifically, Kevin McDunn sent a request for information regarding opportunities for public comment regarding the golf course plan on or about November 30, 2013. To date, he has not received a response. Email from Kevin McDunn on 11/30/13, attached hereto as Exhibit 11.
127. Another member, Christopher Lane, requested information regarding Board election information. He has yet to receive a response. Email from Christopher Lane on March 3, 2015, attached hereto as Exhibit 12.
128. Christopher Lane also requested a copy of the City Park Charter on February 24, 2015. He did not receive a response and was forced to request it again on March 5, 2015. Only then did Mr. Lane receive a response on March 6, 2015. Email from Christopher Lane on 2/24/15, attached hereto as Exhibit 13. Email from Christopher Lane on March 5, 2015, attached hereto as Exhibit 14. Email from John Hopper on March 6, 2015, attached hereto as Exhibit 15.
129. Under La. R.S. 44:35 the plaintiffs herein are authorized to sue under a private right of action.

**Violation of Louisiana Open Meetings
Laws as to New Orleans City Park Improvement Association**

130. CPIA as a government body is required to obey Louisiana Open Meetings Laws.
131. CPIA maintains a website.
132. As of the filing of this lawsuit, CPIA only maintained some meeting minutes online – not all.

133. Further, CPIA is not posting new meeting minutes in a timely fashion. Upon information and belief, only meeting minutes from January 2015 and prior have been posted.

134. Additionally, upon information and belief, CPIA is failing to provide information about pending and prospective litigation for its meetings.

CPIA Violated the Public Trust Doctrine

135. Louisiana Constitution article IX, section 1 establishes the public trust doctrine.

136. In engaging in the golf project, CPIA did not consider whether the environmental effects were avoided to the maximum extent possible.

137. CPIA did not consider an alternative configuration of Hole 5 that would not destroy the Wetlands.

138. Upon information and belief, CPIA did not perform a cost-benefit analysis of the environmental impact costs balanced against the social and environmental benefits of the project such that it has been demonstrated that the latter outweighs the former.

139. Upon information and belief, CPIA did not examine alternative projects or alternative sites or mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits to the extent applicable.

140. There are plenty of alternative uses – uses other than golf and reconfiguration of Hole 5. When members of the public became substantively aware of the imminent golf project, they expressed ideas and desires for multiple alternatives at the most recent City Park Board of Directors meeting, and in various online venues and open letters.

141. CPIA's motivating factor is income generation. Accordingly, there is no reason they must focus on golf. The City Park website represents that "[u]nlike almost every major urban park in the country," it already receives no operational funding from the city, and only 15% of its operating budget comes from state. City Park has achieved this without needing to destroy the large and beloved public natural area and replace it with a financially-uncertain and exclusive golf course. There are plenty of options that can generate any required revenue from this space and maintain the value of its habitat and other environmental resources.

142. Environmental resources are placed in the public trust.

143. The Wetlands located in the proposed action are part of the State and are part of the public trust.

144. CPIA did not adhere to its obligations to preserve resources under the public trust.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that Defendants violated the National Environmental Policy Act by failing to prepare an Environmental Impact Statement;
2. Declare that Defendants violated the National Environmental Policy Act by producing an insufficient Environmental Assessment;
3. Declare that Defendants violated the National Environmental Policy Act by failing to consider all factors required to be considered;
4. Declare that Defendants violated the National Environmental Policy Act by failing to provide adequate comment period;

5. Declare that Defendants violated the National Environmental Policy Act by providing and/or relying on misleading information in the development of the Environmental Assessment;
6. Vacate Defendants' Finding of No Significant Impact and enjoin any property acquisition, demolition, site clearance, and construction related to the proposed golf course until Defendants comply with the National Environmental Policy Act and the Administrative Procedure Act;
7. Enjoin Defendants from providing any funds or taking any other action toward the golf course project until Defendants comply with the National Environmental Policy Act and the Administrative Procedure Act;
8. Declare that the Defendants violated Louisiana Public Records Laws;
9. Enjoin the New Orleans City Park Improvement Association from violating Louisiana Public Records Laws;
10. Declare that the Defendants violated Louisiana Open Meetings laws;
11. Enjoin the New Orleans City Park Improvement Association from violating Louisiana Open Meeting Laws;
12. Declare that Defendants have violated the Public Trust Doctrine;
13. Enjoin Defendants from violating the Public Trust Doctrine;
14. Award Plaintiffs all costs and expenses related to this action, including reasonable attorneys' fees; and
15. Any additional relief as the Court deems just and proper.

