

May 16, 2016

Executive Committee of the Warsaw International Mechanism
Climate Change Officer
United Nations High Commissioner for Refugees
Case Postale 2500
CH-1211, Geneva
loss-damage@unfccc.int

RE: Climate mobility and displacement

Dear Executive Committee,

I am writing in response to the call that was released by the Executive Committee of the Warsaw International Mechanism for Loss and Damage for information related to migration, displacement and human mobility. I feel strongly that the policy framework for addressing climate displacement must take into account of the cultural heritage of the displaced people and their communities. Cultural heritage is a both a community asset to be conserved during relocation and a tool that can aid in the development of strong, socially cohesive communities once relocated. As a member of a tribal community currently facing relocation due to coastal erosion and climate change, the impacts of cultural heritage, social cohesion, and are often neglected from the discussion. Our tribal communities have already been displaced due to coastal erosion, and these issues are now compounded by aggressive climate impacts. Further, our neighbors, the Isle de Jean Charles Biloxi Chitimacha Choctaw are involved in a resettlement plan in which cultural heritage and social cohesion are the cornerstone of their project. The goal is to be a culturally resilient community in order to maintain and preserve tribal is important in tribal identity, culture, and history. Without planning and protection, our histories could be lost.

In that regard, I am submitting an article that I authored, which was published by the Forum Journal, Summer 2015, Vol. 29 No. 4. I hope these concepts can be incorporated into your work. The cultural heritage community has organized a platform for addressing these issues referred to as the Pocantico Call to Action on Climate Impacts and Cultural Heritage. Importantly, the call to action recognizes cultural heritage as a human right that must be protected an integrated into the discussion.

Because this issue is so important to many communities, including my own, the Indian Legal Clinic at the Sandra Day O'Connor College of Law will be hosting a conference on climate impacts on tribal cultural heritage in an effort to include indigneous communities into this important discussion. The conference will be held on April 21-22, 2017 in Phoenix, Arizona.

Thank you.



Patty Ferguson-Bohnee
Director

Encl.

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High Water and High Stakes: Cultural Resources and Climate Change



National Trust *for* Historic Preservation

**Preservation
Leadership Forum**

The Impacts of Coastal Erosion on Tribal Cultural Heritage

PATTY FERGUSON-BOHNEE

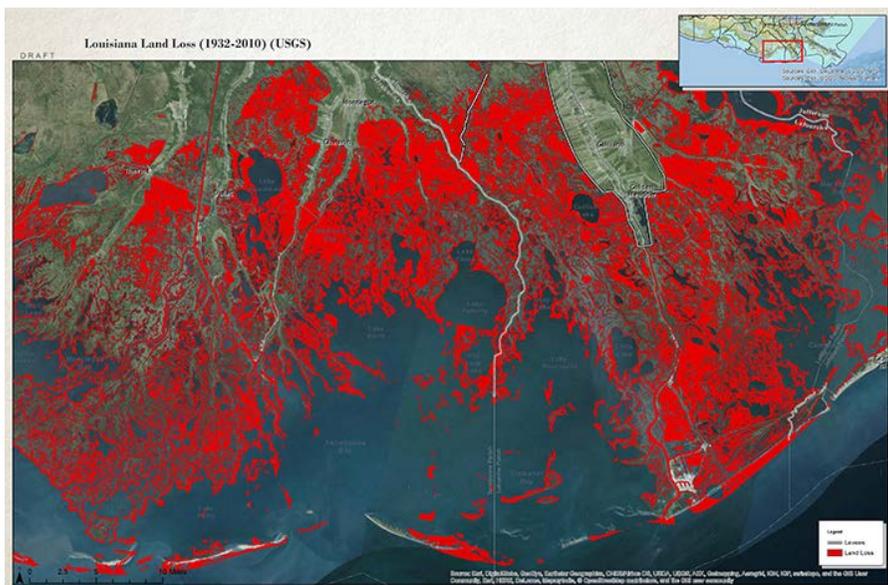
Growing up, I never thought that the community to which I belong, the [Pointe-au-Chien Indian Community](#), would be on the verge of disappearing. Our people have occupied our traditional homelands since time immemorial and have been documented as living here since the first explorers visited Louisiana. The land on which we live was once lush and fertile.¹ We had large agricultural enterprises, domesticated animals, fresh water, and access to game and fish. We lived and continue to live a subsistence lifestyle.

Isolated in the lower bayous of Terrebonne and Lafourche Parishes, we were able to live peacefully and to prosper. Topsoil carried by the Mississippi replenished the earth and created new land. The barrier islands protected the community from flood waters. Today the barrier islands have disappeared, and salt water intrusion has ended most farming and cattle grazing.

Over the past six decades, tribal members have adapted to this changing environment. We continue to fish, hunt and trap, but our small tribe of approximately 700 members faces serious challenges trying to maintain our homelands, culture and traditions due to coastal erosion and environmental neglect. Sacred sites and cemeteries are at risk and some are already submerged. Despite the challenges, the Pointe-au-Chien people have been resilient.

COASTAL EROSION

During the past 100 years, Louisiana has lost more than one million acres of coastal land and wetlands, and is losing approximately 25–40 square miles per year.² Ninety percent of the coastal [wetlands loss](#) in the United States is in Louisiana. Pointe-au-Chien is located in the Terrebonne Basin, one of the fastest eroding areas in the United States.³



USGS map shows the extent of coastal erosion in Louisiana between 1932 and 2010. The areas in red are now underwater.

PHOTO COURTESY USGS

Four key factors have resulted in land loss affecting the Pointe-au-Chien. First, flood control measures taken to prevent flooding at the source of Bayou Lafourche have resulted in increased flooding and coastal erosion for those in the delta. Bayou Lafourche, a main artery of the Mississippi River, once deposited topsoil along the bayous to the Gulf of Mexico. Bayou Lafourche was dammed in 1903 at its source—the Mississippi River—near Donaldsonville to prevent flooding. As reported in an [1896 National Geographic article](#), levee development would put communities south of the levee at risk, but the author argued that levees could be built to prevent encroachment from the Gulf.

No doubt the great benefit to the present and two or three following generations accruing from a complete system of absolutely protective levees, excluding the flood waters entirely from the great areas of the lower delta country, far outweighs the disadvantages to future generations from the subsidence of the Gulf delta lands below the level of the sea and their gradual abandonment due to this cause.⁴

Thus, at the time of the levee development to prevent flooding for particular inhabitants of Louisiana, this same flood prevention decision also cut off any fresh water and new topsoil from reaching Pointe-au-Chien. Unfortunately, no barriers to mitigate this have ever been erected, and over the past 100 years increased subsidence has resulted in the loss of tribal homelands.

Second, the loss of the barrier islands has resulted in increased vulnerability to storm surge. The Mississippi River Delta and the barrier islands within this delta were formed over thousands of years from fresh water flow and sediment deposits. The [USGS](#) has cited “coastal processes, such as the longshore redistribution of sediments” as the cause of barrier island erosion.⁵ The processes also include increased wave attack, salt water intrusion, storm surge, and tidal range.

Third, oil and gas companies have engaged in aggressive resource exploration, haphazardly cutting canals through the land, which has led to erosion and increased salt water intrusion. The government has never required these companies to fill in the canals,⁶ and cuts to the land cause even more erosion to the now fragile ecosystem.⁷

The lack of freshwater flow, the loss of the barrier islands, and the labyrinth of canals cut into the land for oil exploration have left the Pointe-au-Chien and neighboring tribes vulnerable to even small tropical disturbances. This is compounded by the fourth factor—sea level rise, which has caused increased flooding in the tribal community.⁸

Due to all these factors, this region has undergone tremendous change, notably land loss and increased vulnerability to storms and other severe weather. The most obvious examples of the harm caused by this exposure occurred in 2005 and 2008, when tribal communities were hit by back-to-back hurricanes.⁹ In 2005 tribal communities received extensive wind damage from Hurricane Katrina, but the Pointe-au-Chien Indian Community and the neighboring tribal community of the Isle de Jean Charles Band of Biloxi-Chitimacha also received eight feet of flood waters from Hurricane Rita. Rita made landfall more than 100 miles to the west of these

tribal communities. Pointe-au-Chien and Isle de Jean Charles were again affected in 2008 by Hurricanes Gustav and Ike. Hurricane Gustav, a category four hurricane, passed through Terrebonne Parish, causing severe wind damage. Hurricane Ike, another category four hurricane, landed more than 150 miles to the west of these communities. While the neighboring communities have some sort of the levee protection, Pointe-au-Chien does not, and the storm surge created a funnel effect bringing over eight feet of flood waters to the community. There are plans to build a levee to protect the tribe's current village from storm surge; however, most of the tribe's traditional lands are not included in this plan. Between 2005 and 2008, a ring levee was built around the Isle de Jean Charles Indian Community; however, the water topped the levee, and was not pumped out of the community for days after the storm. The added land loss makes the tribal communities more vulnerable to hurricanes, which leads to even more land loss.¹⁰ So with each hurricane, there is more erosion.¹¹

PRESERVING A WAY OF LIFE

Pointe-au-Chien Indians lived a subsistence lifestyle—trapping, fishing, growing vegetables, and relying on “traituers,” traditional medicine people, to heal the sick and deliver babies. Everything that was needed could be found in the abundant waters and fertile land. Traditional governance and kinship relationships maintained order for the community. Segregation prevented most interactions with non-Indians, including in schools, churches, and restaurants. However, many tribal members sold furs and fish to non-Indians.

This historic photo depicts the traditional palmetto houses of the Pointe-au-Chien Indians. Today, these houses are raised off the ground to avoid flood waters.



Tribal members once lived at least six miles further south “down the bayou,” but have been forced to relocate north “up the bayou” for fresh water and higher ground. Pointe-au-Chien people have traditionally lived in palmetto houses with dirt floors. Today houses are raised 10–15 feet off the ground to avoid potential flood damage.

Although tribal members can no longer live on much of our traditional homelands, these lands continue to be used for traditional activities, and tribal oral histories regarding the history and importance of our homelands continue to be shared. Tribal members still hunt, trap and fish and catch shrimp, oysters and crabs in the aboriginal territory. Many tribal members are commercial fisherman, and they share these resources with tribal members and families, and donate shrimp and crab to the tribe to help raise money for special projects such as seafood plate lunch sales and social events. Some tribal members still raise livestock in the territory. But salt water intrusion, which has killed many trees in parts of the community, has limited the ability of tribal members to engage in large-scale agriculture, although some still cultivate individual gardens

Tribal members continue to take care of the land, and take measures to maintain and protect sacred and traditional sites. There are numerous cemeteries, sacred sites and historic mounds located in the traditional territory. These sites are threatened by coastal erosion, severe weather and subsidence. After the BP oil spill in 2010, tribal members rallied to enact a plan to protect and preserve the cultural sites that were at risk of being contaminated by oil.

LACK OF INTEREST OR ACTION

Although the Pointe-au-Chien Indian Tribe is on the frontline of land loss, there has been very little discussion about the people and places affected. Tribal heritage includes traditional ecological knowledge, sacred sites, cemeteries, village sites, fishing sites, waterways, and the history and culture associated with these sites. The tribe is at a crossroads of adaptation or extinction. The tribe



Two paupiere shrimp nets (also called bank nets or land nets), in the Cut-Off canal in Pointe-au-Chien, were once on the bank, but today are surrounding by water. With a few more storms, these remaining patches of land will soon be gone.

PHOTO BY PATTY FERGUSON-BOHNEE

has adapted to the changes in the land, but the projections of land loss in the tribal territory and current village site indicate that the community is on the brink of disappearing if projects are not implemented to rebuild the land, the marsh and the barrier islands.

The State of Louisiana has developed a plan for restoration projects; however, most tribal communities are excluded. Ninety percent of the residents of the [Isle de Jean Charles Band of Biloxi Chitimacha Indian Community](#) have already been forced to relocate due to land loss. Unless the state's priorities for restoration change, Pointe-au-Chien tribal residents and their historic homelands may face the same fate.

Furthermore, most of the tribe's sacred sites and traditional territory, and those of most Native American bayou communities, are excluded from the [Louisiana Master Plan](#). Residents have complained about this,¹² but:

State officials argued that the science-based plan used objective tools to select the projects that would create the most lasting land for the least amount of money, and building land in eastern Terrebonne [where Pointe-au-Chien is located] was determine[d] to be too expensive and not sustainable.

Value judgments are once again being made about which communities are most important to protect. The state's most vulnerable communities will be affected by this decision.

Under the National Historic Preservation Act (NHPA),¹³ Congress sought to preserve the “historical and cultural foundations of the Nation.”¹⁴ NHPA mandates that every four years, the Secretary of the Interior, the Advisory Council on Historic Preservation, and state historic preservation officers should “review significant threats to properties included in, or eligible for inclusion on, the National Register” to ascertain threats and recommend proposed actions.¹⁵

The Louisiana archeological database includes numerous sites associated with the Pointe-au-Chien, and there are cemeteries, burial mounds and other places not yet identified that are potentially eligible for a National Register designation. Anthropologists working with the tribe have identified more than 20 traditional cultural properties in the Pointe-au-Chien territory, most have been deemed worthy of National Register consideration. To date, the Louisiana SHPO has not recommended any properties from Pointe-au-Chien for inclusion in the National Register despite the threatened status of sacred sites and prehistoric sites maintained by the tribe. Pointe-au-Chien is currently assessing its ability to nominate these sites, including at least seven cemeteries and numerous historic mounds. Although these sites are already “eligible for inclusion” on the National Register, the hope is that getting these sites listed on the National Register can help the tribe raise the awareness of the threats and encourage actions to protect these sites.

Getting tribal historic sites listed on the National Register can also assist in raising funds to protect these sites from eventual destruction. There is a general lack of awareness about these sites, having them listed would also trigger responsibilities when there is federal and state action. The federal government has been engaged in federal restoration and levee projects, and in 2010, through the BP oil spill response and recovery efforts. Although the United States Coast Guard worked with us to protect tribal cultural and sacred sites after the BP oil spill, many

hours were spent educating the numerous revolving-door federal workers about the importance of sacred sites and historic site protection.

Another factor working against us is that, although Pointe-au-Chien is a state-recognized tribe, the tribe does not have federal recognition. Because of this, the tribe lacks a strong voice in protecting the lands on which we live, hunt, fish and thrive. Although federal recognition should not be required to protect traditional tribal homelands, there is little support for unrecognized tribes in this effort. [The United Nations Declaration on the Rights of Indigenous Peoples](#), adopted in 2007, recognizes that indigenous peoples such as the Pointe-au-Chien have a right to their land, territories and resources and shall have legal recognition to protect these lands, territories and resources. The Declaration also recognizes the right to protect historic sites and tribal culture. So despite federal recognition, as a tribe indigenous to Louisiana, there should be more action to preserve and maintain the tribal lands because the loss of these lands and historic sites directly impacts the ability of the tribe to maintain its culture and traditions.

TIME FOR BETTER DECISIONS

The cultural history of the Pointe-au-Chien community is rarely discussed, but as coastal erosion continues, measures need to be taken to ensure the survival of our people.

Tribal traditional cultural properties are worth saving. Although the tribe knows that there are significant limitations on land loss restoration, more should be done to help preserve what is left. Further, we should recognize that most of the land erosion is a direct result of manmade decisions which have led to the acceleration of land loss. As a result of this, tribal cultural heritage has been put at risk, and the consequences have either not been evaluated or have simply been disregarded. Decision makers need to be held accountable for the repercussions of their choices on valued and irreplaceable cultural heritage. FJ

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- ¹ M. Le Page Du Pratz, trans. Stanley Clisby Arthur, *The History of Louisiana or of the Western Parts of Virginia and Carolina* (New Orleans: Pelican Press 1947).
- ² U.S. Geological Survey, "Programs in Louisiana," <http://water.usgs.gov/wid/html/la.html#18.1>; Charles Groat, U.S. Geological Survey Digital Data Series DDS-79, "Coastal Erosion and Wetland Change in Louisiana: Selected USGS Products," Preface, <http://pubs.usgs.gov/dds/dds79/HTMLDOCS/preface.htm>.
- ³ Restore or Retreat, Coastal Erosion: Facts and Figures, restoreorretreat.org/la_erosion_facts.php.
- ⁴ E.I. Cohthell, "The Delta of the Mississippi River," *National Geographic*, Dec. 1897, 354, http://www.lacoastpost.com/National_Geographic_Dec_1897.pdf.
- ⁵ <http://pubs.usgs.gov/fs/barrier-islands/>
- ⁶ *Terrebonne Parish School Bd. v. Castex Energy*, 893 So. 2d 789 (LA 2005) (holding that oil lessee has no implied duty to backfill oilfield access canals under La. Rev. Stat. 31:122).
- ⁷ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, "Deep Water: The Gulf Oil Disaster and the Future of Offshore Oil Drilling—Recommendations," 205-206 (Jan 2011). (BP Oil Spill Commission Report), <http://www.gpo.gov/fdsys/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf>.
- ⁸ BP Oil Spill Commission Report at 205.
- ⁹ Hurricane impacts became greater starting in 1992 with Hurricane Andrew and continuing in 2002 with Hurricanes Isidore and Lili.
- ¹⁰ The damage caused by these flood waters have been measured by the United States Geological Survey, <http://pubs.usgs.gov/ds/2007/281/jpegs/fig13ABayouPointeauChienTM.jpg> and <http://pubs.usgs.gov/ds/2007/281/jpegs/fig13BBayouPointeauChienPhotoA.jpg>.
- ¹¹ Brendan Corrigan, Julia C. Meo, Jonathon Posner, Sam Sporer, Richard Verdin Interview 6 in "BP Deepwater Horizon Oil Spill: Impact and Aftermath for the Pointe-au-Chien Indian Tribe," Tulane University Hisu-394 (Fall 2010).
- ¹² Nikki Buskey, "Master Plan forgets bayou communities, residents say," *Houma Courier*, January 25, 2012, <http://www.houmatoday.com/article/20120125/ARTICLES/120129791>.
- ¹³ 16 U.S.C. § 470 et seq.
- ¹⁴ NHPA, Section 1(b)(2).
- ¹⁵ NHPA, Section 101(a)(8).