

INVENTORY OF STATE LANDS

OFFICE OF STATE LANDS
DIVISION OF ADMINISTRATION



PERFORMANCE AUDIT SERVICES
ISSUED AUGUST 22, 2018

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

ASSISTANT LEGISLATIVE AUDITOR
FOR STATE AUDIT SERVICES
NICOLE B. EDMONSON, CIA, CGAP, MPA

DIRECTOR OF PERFORMANCE AUDIT SERVICES
KAREN LEBLANC, CIA, CGAP, MSW

**FOR QUESTIONS RELATED TO THIS PERFORMANCE AUDIT, CONTACT
KRISTA BAKER-HERNANDEZ, PERFORMANCE AUDIT MANAGER,
AT 225-339-3800.**

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

August 22, 2018

The Honorable John A. Alario, Jr.,
President of the Senate
The Honorable Taylor F. Barras
Speaker of the House of Representatives

Dear Senator Alario and Representative Barras:

This report provides the results of our evaluation of the Office of State Lands within the Division of Administration. The purpose of this audit was to evaluate whether the Office of State Lands has maintained a current and comprehensive inventory of state lands, as required by state law.

The report contains our findings, conclusions, and recommendations. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of the Office of State Lands and other stakeholders interviewed for their assistance during this audit.

Sincerely,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

OSL INVENTORY

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE,



Inventory of State Lands

Office of State Lands – Division of Administration

August 2018

Audit Control # 40170019

Introduction

We evaluated whether the Office of State Lands (OSL), within the Division of Administration (DOA), has maintained a current and comprehensive inventory of state lands as required by Louisiana Revised Statute (R.S.) 39:13(A). This law directs the Commissioner of Administration to maintain an inventory of all immovable properties in which the state has an interest, including all lands, water bottoms, and facilities, both owned and leased, and to keep this inventory as “current and comprehensive as is practicable.” OSL is responsible for maintaining and updating the inventory. In addition, R.S. 41:1701.1(D) requires OSL to identify and maintain a current master list of all the state’s public lands and water bottoms.

As of June 2018, OSL estimated that the state’s inventory included approximately 1.19 million acres* of state agency lands, 5.75 million acres of water bottoms, and properties from approximately 201,000 tax adjudications.

*From OSL’s 2018 Louisiana State Land Inventory Report, which does not include leased lands. OSL was not able to provide a complete listing of state agency lands as July 13, 2018.

We conducted this audit because prior audits of OSL by our office¹ have identified problems with the accuracy and completeness of the state’s land inventory. This report is the first in a series of two reports on the Office of State Lands. The second report will evaluate OSL’s administration of leases and rights of way.

OSL maintains its official inventory of the state’s lands in the Real Estate module of the LaGov system.² Currently, the only type of state land included in LaGov is land owned or leased by state agencies. In addition to LaGov, OSL maintains a separate inventory of water bottoms and mineral interests in digital Geographic Information System (GIS) maps. See Appendix C for a listing of all the types of land in which the state has an interest and Appendix D for a listing of state agency lands contained in LaGov.

It is important that the inventory of the state’s lands and water bottoms be accurate and complete because various entities use it for differing purposes, including the following:

¹ Prior issues with the inventory of state lands were identified in a 2004 performance audit ([https://www.la.gov/PublicReports.nsf/DDCF3A3597332AB98625700C0057D29B/\\$FILE/00000489.pdf](https://www.la.gov/PublicReports.nsf/DDCF3A3597332AB98625700C0057D29B/$FILE/00000489.pdf)) and a 2014 financial audit

([https://www.la.gov/PublicReports.nsf/2BCDCC032B2ED88B86257D4800551A46/\\$FILE/00002BDB.pdf](https://www.la.gov/PublicReports.nsf/2BCDCC032B2ED88B86257D4800551A46/$FILE/00002BDB.pdf)).

² LaGov is a suite of software with integrated modules to provide support for state agency business processes such as accounting/finance and facilities/fleet management. One of the LaGov modules houses data on state agency land and represents the state’s land inventory.

- **The Public** - to determine which areas are accessible for recreational activities using information provided on OSL's website.
- **OSL** - to determine which areas can be used to generate revenue for the state. One of OSL's primary goals is to ensure the highest economic returns on public lands and water bottoms through leasing and permitting activities, as well as land and timber sales. According to OSL, it has generated approximately \$22.6 million through these activities during fiscal years 2013 through 2017.
- **Other State Agencies** - to accomplish their missions, such as the Office of Mineral Royalties (OMR) within the Department of Natural Resources (DNR) to lease the state's mineral interests and the Department of Wildlife and Fisheries (DWF) to issue oyster leases on state water bottoms.
- **Legislature** - to provide oversight of state lands. State law requires the Commissioner of Administration to submit an annual inventory report to legislative oversight committees that contains information on various types of state owned lands.³

To determine OSL's compliance with maintaining a current and comprehensive inventory of state lands, we evaluated the inventory of state lands as of February 2018. The objective of this performance audit was to answer the following question:

Has the Office of State Lands maintained a current and comprehensive inventory of state lands as required by state law?

Overall, we found that OSL has not maintained a current or comprehensive inventory of state lands. We also identified other issues related to the state's properties that could potentially result in reduced revenue generating opportunities, restricted public access, and negative economic impacts. These issues are summarized on the next page and discussed in further detail in the remainder of the report. Appendix A contains OSL/DOA's response to this report and Appendix B details our scope and methodology. Appendix C describes the types of lands in which the state has an interest. Appendix D contains a list properties belonging to the state by each state agency.

³ State law requires the report to include a description of the following: all non-productive land owned by the state [R.S. 39:13(B)], all lands sold during the preceding year [R.S. 41:2(B) and R.S. 41:140(F)], all land donated to the state (R.S. 41:151), and all state land available for public hunting, fishing, and recreational opportunities [R.S. 41:16(B)].

Objective: Has the Office of State Lands maintained a current and comprehensive inventory of state lands as required by state law?

Overall, we found that OSL has not maintained a current or comprehensive inventory of state lands. Specifically, we identified the following issue:

- **OSL’s inventory recorded in LaGov and agency records did not match for 58 (45.3%) of the 128 state agency properties we tested due, in part, to agencies not providing accurate information to OSL. In addition, OSL’s inventory does not include all types of properties in which the state has an interest.** As a result, OSL and other entities cannot rely on this inventory to make decisions and properly manage the state’s land resources.

In addition, we found the following issues related to the state’s properties:

- **OSL does not have an accurate and complete listing of the tax adjudicated properties the state owns, nor is this information easily accessible to stakeholders.** This makes it difficult to determine whether the state is receiving all of the mineral royalties on these properties and whether tax adjudicated properties claimed by the state are also being claimed by private individuals. OSL is attempting to complete an inventory of these properties but is hindered by inaccurate and incomplete information received from local governments in the past.
- **The state does not have clear title to an estimated 286,467 acres of water bottoms, as private parties also claim ownership of these lands.** These “dual-claimed” water bottoms cause several issues, including restricted public access, negative economic impacts, and potentially reduced revenue generating opportunities.

These issues are explained in more detail on the following pages.

OSL’s inventory recorded in LaGov and agency records did not match for 58 (45.3%) of the 128 state agency properties we tested due, in part, to agencies not providing accurate information to OSL. In addition, OSL’s inventory does not include all types of properties in which the state has an interest.

R.S. 39.13(A) requires that the Commissioner of Administration “create a central database for all immovable property in which the state has an interest including all lands, water bottoms, and facilities both owned and leased” and to “maintain an inventory of all such property which shall be kept as current and comprehensive as is practicable.” In addition, R.S. 41:1701.1 requires OSL to identify all public lands and water bottoms within the state and to develop and maintain a current master list of these properties.

Information in LaGov, OSL’s official inventory of the state’s properties, did not reconcile with property records held by state agencies.¹ OSL records its official inventory of the state’s properties in the Real Estate module of the LaGov system, which includes lands managed by DOA and other state agencies. We found that the inventory in LaGov contained discrepancies on 58 (45.3%) of the 128 state agency properties we tested when compared to agency records.⁴ Specifically, we obtained the records of 128 properties held by three state agencies,⁵ as these properties totaled approximately 1.7 million acres.⁶ We compared the agencies’ records of these properties to OSL’s inventory in LaGov and found that several properties were not included in the inventory, while other properties contained different information in LaGov than what the agency had on record, such as the total acreage of the property.⁷ Exhibit 1 summarizes the discrepancies we identified when comparing OSL inventory in LaGov to the property listings held by the agencies.

⁴ We tested the information recorded in LaGov to agency property summary records. Due to time constraints, we were not able to test information in LaGov to official title or conveyance records.

⁵ The properties are held by Department of Culture, Recreation & Tourism (CRT); Louisiana Department of Health (LDH); and DWF. These agencies had land records that listed the formal name and acreage amounts of each property, which enabled us to compare them to the corresponding entries in the LaGov system.

⁶ This amount includes leased lands; therefore, it is greater than the amount of land shown for these agencies in Appendix D.

⁷ We also identified properties in LaGov assigned to LDH which may have been owned or leased by affiliated entities. However, due to a lack of clear policies and procedures guiding how these types of properties should be assigned in LaGov, it is not clear whether these properties were correctly recorded in LaGov.

Exhibit 1				
Discrepancies Between OSL's Inventory of State Lands in LaGov and Agency Records				
As of February 2018				
Total Properties Reviewed*	Identified Discrepancies	Properties with Identified Discrepancies		
		Number	Percentage	Acreage Discrepancy
128	Property Not Included in LaGov	5	3.9%	7,050
	Property Acreage Amount <i>Higher</i> in LaGov than Agency Records	19	14.8%	23,325
	Property Acreage Amount <i>Lower</i> in LaGov than Agency Records	34	26.6%	307,074
	Total Properties with Discrepancies in LaGov Inventory	58	45.3%	N/A**
*Properties are held by CRT; LDH; and DWF.				
**We did not total the acreage discrepancy as it would not accurately reflect the total amount of acres that agency records did not reconcile with LaGov.				
Source: Prepared by legislative auditor's staff using information from LaGov and information provided by the three agencies.				

Based on our review, some of these 58 discrepancies were caused by the agencies not providing OSL with accurate and sufficient information on their properties. For example, two of the discrepancies were due to agencies not notifying OSL that they had acquired the property; therefore, OSL could not update LaGov to include these properties. We also identified discrepancies where we found the information from the agencies was incorrect. In other instances where the information provided from the agencies did not match that in LaGov, we could not determine which was correct because of the amount of time it would take to evaluate land acquisition source records.

As a result of these issues, the state has neither a complete nor accurate inventory of state properties. Because OSL creates the annual State Lands Inventory Report provided to the legislature based on information in LaGov, that report is also not complete or accurate.

DOA has not developed sufficient policies that require state agencies to provide necessary information in a timely manner to OSL in order to ensure that the inventory of the state's properties is accurate and complete. OSL employees input information on state land acquisitions, sales, etc. into LaGov based on documentation submitted by state agencies. R.S. 39.13(A) allows the Commissioner of Administration to require state agencies to provide information necessary for the purpose of creating a comprehensive state land inventory. However, DOA has not created specific policies or procedures that ensure state agencies provide necessary information, such as land acquisitions to OSL within a certain timeframe. If agencies do not inform OSL of such transactions, OSL cannot adequately maintain an accurate and complete inventory in LaGov.

OSL could better ensure the accuracy and completeness of its inventory of the state's lands if DOA implemented an annual property certification process, such as the process the Louisiana Property Assistance Agency (LPAA), also under DOA, has created to account for all state moveable property. Under such a process, each state agency would be required to annually reconcile a listing of the agency's lands, as recorded in LaGov, against the agency's land records. The agency would inform OSL of any of any discrepancies and certify that the inventory is a

complete and accurate account of the agency's land holdings. In addition, agencies would be given a timetable in which they would be required to report any changes to their properties, such as acquisitions or sales of properties. This process would help OSL ensure that all land acquisitions and sales are updated in LaGov in a timely manner, assist in identifying errors in the LaGov system, and promote consistency among state agencies in how land data is reported to OSL.

OSL's inventory does not include all types of properties in which the state has an interest. OSL excludes from its inventory of state lands in LaGov certain categories of land in which the state has an interest,⁸ including tax adjudicated lands, state-owned water bottoms, some state-owned dried lake beds, state highway/road rights-of-way, section 16 school lands,⁹ levee board properties, the properties of some boards and commissions, and any lands in which the state retains only a mineral interest.¹⁰ In some instances these properties are inventoried in other formats, such as in physical books for tax adjudicated properties or in GIS map layers¹¹ for the state's mineral interests and water bottoms.

OSL management stated that it has never included these properties in the inventory for various reasons. For example, properties for boards, commissions, and levee districts are not included because they are not always considered state agencies. R.S. 39:13(A) allows for this inventory to be kept as current and comprehensive "*as is practicable*," giving OSL some discretion to not include certain types of property in the inventory if it is not feasible. In addition, the law does not outline what specific types of properties should be included, other than "those properties where the state has an interest." Not having a comprehensive inventory of all properties in which the state has an interest may affect other state agencies that rely on this inventory to perform their necessary functions, and may affect OSL's ability to make decisions and properly manage its land resources.

Recommendation 1: DOA should implement a process to reconcile each state agency's property records against the inventory of state agency properties recorded in LaGov. In addition, the Commissioner should implement a timetable in which agencies would be required to inform OSL of any changes to properties, such as acquisitions or sales.

Summary of Management's Response: OSL agrees with this recommendation and stated that an annual reconciliation process could be beneficial by offering an additional layer of review and approval. See Appendix A for OSL's full response.

Recommendation 2: OSL should work with the legislature to clarify which type of lands should be included in the official inventory of state lands.

⁸ The exclusion of these lands from the state's inventory was also a finding in the 2004 LLA performance audit (Audit Control # 04401357) when OSL recorded their inventory in a different data system, the State Lands and Buildings System (SLABS).

⁹ Pursuant to an act of Congress, upon admission to the union, the federal government granted to each state "Section 16" of each township/range survey for public school purposes. Although the state holds title to these lands, they are under the control and management of individual parish school boards.

¹⁰ Appendix C provides an overview of these types of lands.

¹¹ Layers are the mechanism used to display geographic datasets in Geographic Information Systems (GIS).

Summary of Management's Response: OSL agrees with this recommendation and stated that working with the legislature could clarify which types of land should be included in LaGov and which ones should not be included. See Appendix A for OSL's full response.

OSL does not have an accurate and complete listing of the tax adjudicated properties the state owns; nor is this information easily accessible to stakeholders. This makes it difficult to determine whether the state is receiving all of the mineral royalties on these properties and whether tax adjudicated properties claimed by the state are also being claimed by private individuals.

As stated previously, OSL does not record tax adjudicated properties¹² in its official inventory in LaGov. According to OSL, these properties are not included because they can be redeemed and cancelled at any time if the original tax debtor pays back the taxes. Instead, OSL uses the original books containing documents showing conveyance of adjudicated properties to the state that the various sheriff offices forwarded to the state as its record of these properties. However, OSL cannot rely on the information contained in these books because the property descriptions contained in them are often inaccurate. In addition, the state's claim to these properties is not always certain.¹³

Tax adjudicated properties are properties with delinquent property taxes that fail to sell during sheriff sales. Between 1880 and 1973, such properties were transferred to the state. Starting in 1974, these properties now transfer to the individual parishes in which the property is located.

OSL is currently working to create an electronic database of these properties. As of October of 2017, OSL has entered 53,325 (26.5%) of the approximately 201,000 adjudications to the state into its database. However, OSL's creation of this database has been hindered by the above issues, as well as staff reductions.¹⁴ Not having an accurate and complete record of these properties in an easily searchable format makes it difficult for OSL to manage them. For example, OSL cannot easily identify properties with potential revenue-generating resources, such as timber, or properties that could be sold back into the private market, which would allow local governments to collect property taxes on them. In addition, we identified other effects of not having a sufficient record of tax adjudicated properties, as discussed in the following sections.

¹² OSL estimates that it has properties from 201,000 adjudications. Each adjudication may include multiple pieces of property. Due to the format of OSL's inventory, we could not determine how many properties are associated with the state's estimated 201,000 adjudications. According to OSL, adjudicated properties are usually small residential lots but may include some properties with substantial acreage.

¹³ The state's claim to properties isn't clear for various reasons, including properties may have already been sold by the state or redeemed by the original tax debtor and the inventory was not updated, or family members, unaware that property was adjudicated decades ago, still claim the land and have been paying property taxes for many years.

¹⁴ According to OSL, it has had in the past as many as five employees dedicated to conducting research on tax adjudicated properties. Currently, only one OSL staff member is working on the database.

OSL does not have a complete and accurate listing of all the state’s mineral rights for tax adjudicated properties. As a result, the state cannot use this information to determine if it is receiving all of the mineral royalty revenues due for these properties.

House Concurrent Resolution 36 of the 2010 Regular Session directed OSL to provide the legislature with the total acreage of land that was adjudicated to the state and subsequently sold for which the state still retained the mineral rights.¹⁵ To comply with this directive, OSL created its “Minerals Only” layer in its GIS to record the mineral rights the state retains on these properties. However, we evaluated a random selection of 100 tax adjudicated properties out of the 6,753 that the state previously sold between 1944 and 2017¹⁶ and found that OSL had not updated the state’s retained mineral rights in its GIS layer for 27 (27%) these properties.

Furthermore, for those tax adjudicated properties that were not sold and still in the state’s possession,¹⁷ OSL has not created a GIS layer to reflect the state’s mineral rights for these properties. According to OSL, the mineral rights to these properties have not been recorded in its GIS layers because of poor property descriptions on the adjudication documents, preventing them from being able to map out the property in GIS. The Office of Mineral Resources (OMR) within the Department of Natural Resources (DNR) uses OSL’s various GIS layers on state properties to help ensure the state is receiving its mineral royalties on lands in which the state has an interest.¹⁸ Without a complete record of these mineral rights, OMR cannot use these GIS layers to determine the state receives all of the mineral royalties due on these properties, resulting in potential uncollected revenues. For example, in one instance an oil company inadvertently leased land and paid royalties to a private individual when the state actually had the mineral rights for that property. The mineral rights associated with this property were not included in OSL’s inventory. This oil company is currently trying to reach a settlement on the mineral royalties it owes the state.

Tax adjudicated properties claimed by the state are also being claimed by private individuals. We identified 35¹⁹ tax adjudicated properties that were listed as still in the state’s possession¹⁷ by OSL but were also listed, in whole or in part, on parish tax rolls as being claimed

¹⁵ Louisiana Constitution Article IX, Section 4(A) requires that the mineral rights on property sold by the state be reserved.

¹⁶ We evaluated a random selection of all sales of tax adjudicated lands between 1944 and 2017. We were unable to review sales prior to 1944 due to insufficient information recorded on these sales. The properties in our selection of 100 were sold between April 1946 and November 1995.

¹⁷ We identified 10,545 adjudicated properties still claimed by the state in OSL’s database of tax adjudicated properties; however, the database only includes approximately 53,000 of the total 201,000 adjudications.

¹⁸ OSL includes a disclaimer on this layer that states that the information “is intended to serve only as an initial reference for research and does not purport to provide evidence of a complete mineral history of the property shown herein... Any person or entity that relies upon such information obtained from this site does so at his or her own risk.”

¹⁹ Due to poor property descriptions in the tax deeds on the state’s tax adjudicated properties, we only included the 35 properties in our analysis that had clear identifying information on them, such as the physical address of the property or the assessment number from research previously conducted by OSL, which made it possible for us to compare the tax deed to the assessor tax rolls. Because OSL’s database is not complete and OSL had not researched all of these properties, we cannot state with certainty how extensive the problem of dual claims for tax adjudicated properties still claimed by the state is based on this analysis.

by private parties.²⁰ As a result, a dual chain of title exists on these properties, clouding the title of the property for both the state and private party.

As stated earlier, OSL's records of the state's tax adjudicated properties is not sufficient to clearly identify what properties are in the state's possession. As a result, parish assessors cannot check their records against the state's claim to these properties and may have inadvertently added many of these properties to their tax rolls in the name of private parties. For example, a tax debtor's property that was adjudicated to the state could have erroneously been included in the succession documents for that individual. When the succession documents were filed with the clerk of court, the assessor may have entered the property onto their tax roll inadvertently, not knowing of the state's claim to the property. Because these tax adjudicated properties came into the state's possession before 1974, it is possible that other parties have claimed these properties for several decades. Furthermore, these properties could have been sold or transferred multiple times since incorrectly being added to the parish tax rolls in the name of another party, resulting in these parties being unaware that the property they bought in good faith is also being claimed by the state.

Recommendation 3: OSL should ensure that its GIS layer is complete so that OMR can use this information to help ensure the state recovers all mineral royalties owed to it from tax adjudicated properties that it sold but to which it retains mineral rights.

Summary of Management's Response: OSL partially agrees with this recommendation and stated that, while mapping tax adjudicated properties could provide an easily accessible reference that could be used to identify potential assets, it does not believe the benefits associated with such a project outweigh the cost. OSL also stated that it has and continues to work closely with and participate in litigation with OMR and the Attorney General's Office in an effort to identify mineral interests owned by the state which are subject to existing and/or pending exploration activities. See Appendix A for OSL's full response.

Recommendation 4: OSL should work with DOA to create a new GIS layer for tax adjudicated properties that the state possesses so that OMR can use it to help ensure that the state is receiving mineral rights owed to it. As OSL continues to clarify ownership of these properties, it should update this GIS layer based on this information.

Summary of Management's Response: OSL partially agrees with this recommendation and referred to its previous response for Recommendation 3. See Appendix A for OSL's full response.

Recommendation 5: OSL should work with parish assessor offices and provide them with an electronic listing of the tax adjudicated properties that the state claims in their parishes so that these offices can assist OSL with researching these properties and clarifying the state's claim to these properties.

²⁰ In many of these cases, these properties were claimed by private individuals who have been paying taxes on these properties. One of these properties was claimed by a local government, one by a state agency, and two by a nonprofit organization, who would not have paid taxes on these properties.

Summary of Management’s Response: OSL agrees with this recommendation and stated that it has and continues to work with localities in reconciling discrepancies through detailed research, by issuance of redemption certificates, cancelling adjudications when proven erroneous, and through property sales in an effort to bring these lands back into commerce. OSL also stated that it lacks the resources necessary for providing an electronic listing of tax adjudicated properties to parish assessor offices. See Appendix A for OSL’s full response.

The state does not have clear title to an estimated 286,467 acres of water bottoms, because private parties also claim ownership of these lands. These “dual-claimed” water bottoms result in restricted public access, negative economic impacts, and reduced revenue generating opportunities.

According to OSL records, the state claims 5,751,583 acres of water bottoms.²¹ The Louisiana Constitution²² prevents the sale of the beds of navigable water bodies in the state, and state law further establishes that all navigable waters and beds of these waters are public and cannot be possessed by private individuals or entities. However, the state does not have clear ownership to an estimated 286,467 (5%) acres of water bottoms in the state, as they are also being claimed by various private parties who dispute the state’s ownership of these lands.

The private claims to these water bottoms go back to the initial land surveys in the coastal areas of the state in the 1800s. Due to the difficulty in accessing land near the coast and marsh areas, the initial surveys were often based on projections of the areas rather than actual physical surveys. As a result, the areas included in these projections were often inaccurate and unknowingly included areas of what would be considered public navigable waterways. Over time, the state sold portions of these areas to private individuals based on these projections. As a result, the state unintentionally sold areas of land to private individuals that included navigable waterways, and subsequently the state’s water bottoms, creating “dual-claim” water bottoms. Absent agreement between the parties, these disputed title claims can only be resolved through the courts.

In 2004 and 2006, the legislature directed OSL to inventory the state’s water bottoms and make this inventory accessible to the public through maps or interactive programs showing public lands or water bottoms.²³ To determine the state’s water bottoms, OSL developed a set of unofficial guidelines to assess the navigability of state waterways. If OSL assessed that a waterway was susceptible of commercial navigation at the time of statehood in 1812, it categorized the waterway as a state-owned water bottom. To make the inventory of water bottoms available to the public, OSL digitized aerial photographs of state-claimed water bottoms

²¹ OSL inventories state-claimed water bottoms in a GIS layer instead of LaGov.

²² Article 9, Section 3

²³ Senate Concurrent Resolution No. 25 of the 2004 Regular Session and Senate Resolution No. 115 of the 2006 Regular Session

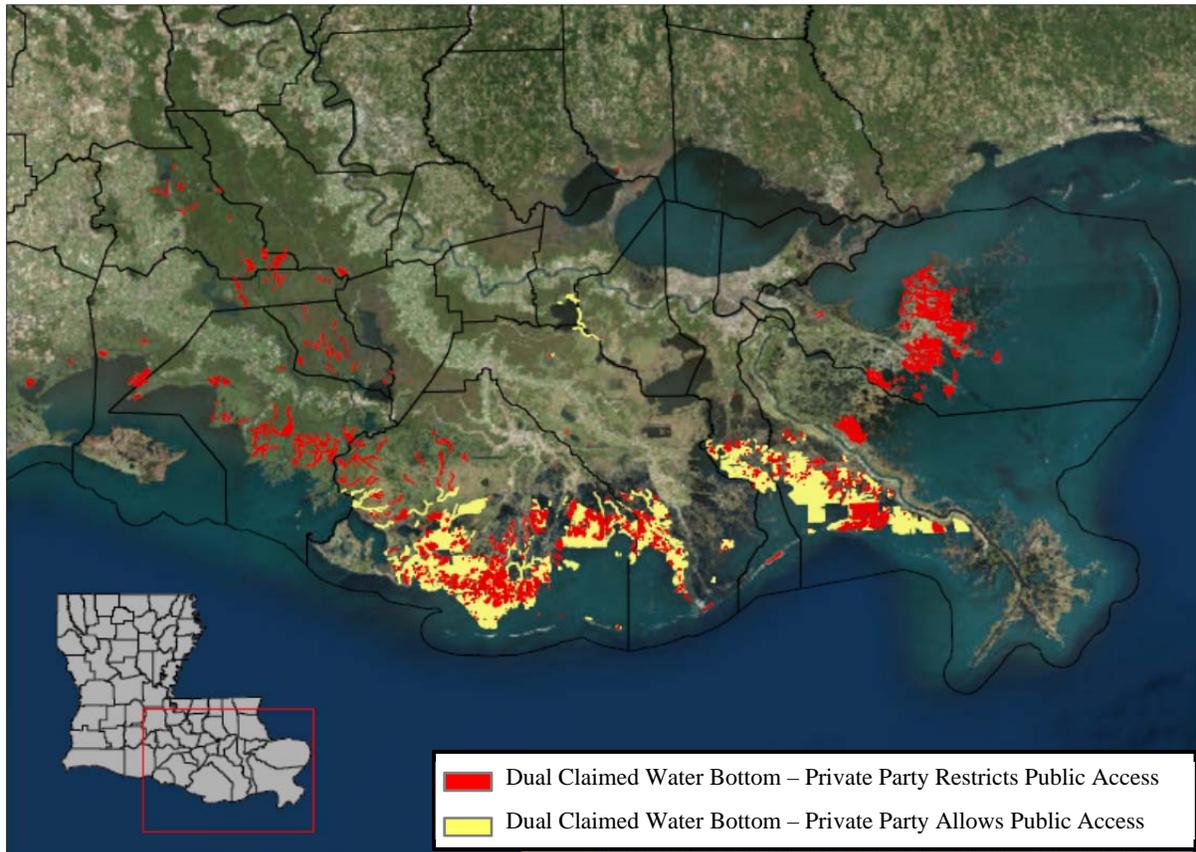
into a GIS layer and made this information available on DNR's SONRIS²⁴ system. However, private landholders expressed concern to OSL that state-claimed water bottoms in the new layer appeared to conflict with some of their land holdings and provided OSL with various information supporting their claim to the area. As a result, OSL created a special category of water bottoms in its GIS inventory called "dual claimed" for navigable water bottoms claimed by both the state and a private party.

Not having clear title established for these water bottoms has caused several issues, including restricted public access to these areas, negative economic impacts to the state, and reduced revenue generating opportunities.²⁵ While some private landholders allow public access to these dual claimed lands, others private landholders do not. According to OSL records, landowners grant public access to 194,525 (67.9%) acres of the 286,467 acres of dual-claimed water bottoms. The other 91,942 acres (32.1%) dual-claimed water bottoms are not available to the public for recreational purposes such as fishing and boating as the private landowners may restrict access to these areas. In at least one instance, a private citizen was ticketed for trespassing on open waters claimed by private individuals. Additionally, in recent years, fishing tournaments have been cancelled in Louisiana because of concerns over fisherman's access to these areas, ultimately negatively affecting Louisiana's image as a "sportsman's paradise." Exhibit 2 shows dual claimed water bottoms in southeastern Louisiana including those in which the public is allowed access versus those the private landowner restricts the public's access and OSL categorizes as "enter at your own risk."

²⁴ SONRIS (Strategic Online Natural Resources Information System) is DNR's online system that includes various information and data, including a GIS Access component available to the public.

²⁵ In recent years, the legislature has attempted to address some issues related to dual claimed water bottoms, particularly with public access issues. House Resolution 178 of the 2017 Regular Session directed Louisiana Sea Grant to facilitate a study and make recommendations regarding public access to these areas. Additionally, House Bill 391 in the 2018 Regular Session, provided for public access to certain waters, but did not pass.

Exhibit 2
Dual Claimed Water Bottoms in Southeastern Louisiana
As of May 2018



Source: Prepared by legislative auditor's staff using information provided by OSL.

Disputed title to these water bottoms could potentially affect the ability of the state to generate revenue from these lands. For example, oil exploration companies must pay both the private landowner and the state for the rights to explore for oil on dual claimed water bottoms. These additional costs may impede oil exploration efforts in the state. Furthermore, the state must negotiate with the private landowners on how to divide any royalty revenues from production on these dual claimed water bottoms. Finally, without clear ownership, the state may not be able lease out the water bottoms for oyster cultivation.

Recommendation 6: OSL should work with the legislature and other stakeholder to determine how to best inventory and address issues related to dual-claimed water bottoms.

Summary of Management's Response: OSL agrees with this recommendation and stated that working with the legislature and other stakeholders could clarify many land and inventory related issues, including issues related to dual-claimed water bottoms. See Appendix A for OSL's full response.

APPENDIX A: MANAGEMENT'S RESPONSE

State Land Office
State of Louisiana
Division of Administration

JOHN BEL EDWARDS
GOVERNOR



JAY DARDENNE
COMMISSIONER OF ADMINISTRATION

August 3, 2018

Daryl G. Purpera, Louisiana Legislative Auditor
1600 North Third Street,
Baton Rouge, LA 70802

RE: OSL Performance Audit

Dear Mr. Purpera:

Please accept this letter as the Office of State Land's (OSL's) official response to the referenced findings and recommendations presented as a result of a recent performance audit of the Inventory of State Lands by the Louisiana Legislative Auditor's (LLA's) Office. OSL is working on improving inter-agency communication and working to educate other agencies on the importance of proper and timely reporting. We appreciate the time that LLA spent with OSL staff attempting to learn the very detailed and complex issues faced by the office, and for the most part we agree with the recommendations made in the report. We do believe, however, that the information presented in the report contains some ambiguities that could mislead readers of the report, and these ambiguities are described in the following paragraphs.

In response to the issue presented on page 4 of the report regarding inventory, OSL agrees that there are discrepancies between the official inventory of state land (LaGov) and the unofficial internal summary reports of land information provided by state agencies. In an effort to clarify this information for readers, however, it should be noted that upon further review of information reported in LaGov for some of the 58 properties tested by LLA, the information ultimately reported in LaGov was accurate. The statistics and acreage amounts presented in the report only reflect a lack of communication between agencies and the potential for inaccuracies derived therefrom. OSL agrees that DOA should develop written policies that require state agencies to comply with LA Revised Statutes as noted on page 5 of the report as well as conform to the instructional manual and video (SLABI Manual and SLABI Tutorial) developed by OSL and made available on the office website.

In response to the issue on page 6 of the report regarding the types of land to include in LaGov, OSL agrees that the state's land inventory does not include all types of property in which the state has or may have an interest. Many types of property are not classified as assets and may not be susceptible to private ownership, thus should not be included in the LaGov inventory.

Recommendation 1: OSL agrees that an annual reconciliation process could be beneficial by offering an additional layer of review and approval potentially addressing perceived discrepancies discussed in the report.

Recommendation 2: OSL agrees that working with the legislature could clarify which types of land should be included in LaGov and which ones should not be included.

In response to the information presented on page 7 of the report regarding tax lands, OSL agrees that its tax adjudicated records are not individualized into a digital format that could provide a more easily

Daryl Purpera, Legislative Auditor

August 3, 2018

Page 2

accessible and searchable database. While quick and easy access to these records could be beneficial, it should be noted that a database as suggested will only act as a point of reference for research and in no way will ensure or determine royalties collected by the state.

Regarding dual chains of title to tax lands as presented on page 8 of the report, OSL agrees that tax adjudicated properties are sometimes claimed by private individuals. This issue initiates at the Parish level and is not related to the records housed by OSL. We agree that an easily accessible digital database could help the public identify these problems so that all parties can work together on a case by case basis to address the specific issue.

Recommendation 3: OSL partially agrees with this recommendation. While mapping tax adjudicated properties could provide an easily accessible reference that can be used to identify potential assets, OSL does not believe the benefits associated with such a project outweigh the cost. OSL has and continues to work closely with and participate in litigation with the Department of Natural Resources Office of Mineral Resources (OMR) and the Attorney General's (AG's) Office in an effort to identify mineral interests owned by the State which are subject to existing and/or pending exploration activities.

Recommendation 4: OSL partially agrees with this recommendation. Please refer to our previous response to Recommendation 3. Additionally, intensive research of Parish records is necessary to clarify ownership of these properties as suggested in this recommendation.

Recommendation 5: OSL agrees with this recommendation. OSL has and continues to work with localities in reconciling discrepancies through detailed research, by issuance of redemption certificates, cancelling adjudications when proven erroneous, and through property sales in an effort to bring these lands back into commerce. It should be noted, however, that OSL lacks the resources necessary for providing an electronic listing of tax adjudicated properties to parish assessor offices.

In response to the information presented on page 10 of the report regarding dual claimed waters, OSL agrees that the state does not have clear title to dual claimed water bottoms. It should be noted, however, that the state does not restrict public access to dual claimed areas. In addition, the Louisiana Department of Wildlife and Fisheries (LDWF) does provide for oyster leasing on dual claimed water bottoms.

Recommendation 6: As stated in our previous response to Recommendation #2, OSL agrees that working with the legislature and other stakeholders could clarify many land and inventory related issues, including issues related to dual-claimed water bottoms.

In conclusion, we appreciate the efforts of the LLA staff. Our staff is available to discuss these matters with any reader of the report to attempt to clarify any of the issues presented.

Respectfully,



Jonathan M. Robillard, CPL
Public Lands Administrator

Cc: Mark Moses, Mark Gates, Marsha Guedry

APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our performance audit of the Office of State Lands (OSL). We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We conducted this audit in compliance with R.S. 24:522, which directs the legislative auditor to complete and publish at least one performance audit for each executive department agency within a seven-year period. The purpose of this audit was to evaluate OSL's inventory of state lands. This audit was conducted in conjunction with a second performance audit on OSL's administration of state leases and rights of way, which will be published in a separate report. This audit primarily covered OSL's inventory of state lands as of February 2018. Our audit objective was to answer the following question:

Has the Office of State Lands maintained a current and comprehensive inventory of state lands as required by state law?

We conducted this performance audit in accordance with generally-accepted *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. To answer our objectives, we reviewed internal controls relevant to the audit objectives and performed the following audit steps:

- Researched Louisiana Revised Statutes, Administrative Code, Executive Budget documents, OSL's website, and conducted interviews with OSL staff to understand the Commissioner and OSL's legal authority and requirements for inventorying state lands.
- Interviewed OSL staff and various stakeholders, such as legislators, other state agencies that rely on OSL's inventory to perform their various functions, land owner groups, fishermen groups, Louisiana Sea Grant, and parish assessors.
- Obtained and evaluated OSL's inventory of state lands in LaGov to determine the comprehensiveness of this inventory.
- Obtained and compared property holdings for the Department of Culture, Recreation & Tourism; the Louisiana Department of Health; and the Louisiana Department of Wildlife and Fisheries against OSL's inventory in LaGov to determine the completeness and accuracy of OSL's inventory.
- Obtained and evaluated OSL's inventory of the state's tax adjudicated properties to determine the sufficiency of this inventory to properly identify and manage these properties.

- Obtained and evaluated a random selection of 100 tax adjudicated properties sold by the state between 1944 and 2017 to determine if OSL kept an inventory of the state's mineral interests on these lands in its GIS layers. These results are not intended to be projected to the entire population.
- Compared 35 of the state's tax adjudicated properties listed as still in the state's possession by OSL against parish assessor records to determine if the state had clear title to these properties. We only included the 35 properties in our analysis that had clear identifying information on them, such as the physical address of the property or the assessment number, which made it possible for us to compare the tax deeds to the assessor tax rolls. These results are not intended to be projected to the entire population.

APPENDIX C: TYPES OF STATE LANDS

R.S. 39:13(A) requires an inventory of all immovable properties in which the state has an interest, including all lands, waterbottoms, and facilities, both owned and leased. Our audit identified several categories of land in which the state has an interest. These categories of land are described below.

- **State Agency Land:** Land owned or leased by state agencies. These lands are acquired for public use and are managed by the state agencies themselves. Examples include state parks or wildlife management areas.
- **Water Bottoms:** Land underlying navigable waterways. These lands include coastal waters as well as navigable lakes and rivers. Water bottoms are the largest category of state land which OSL estimates at 5,751,583 acres.
- **Tax Adjudicated Land:** Properties with delinquent taxes that were not sold at sheriff sales and were adjudicated to the state between 1880 and 1973. Once acquired, the properties could be disposed of through the following methods: (1) the original tax debtor could redeem the property by paying back taxes (2) the state could sell the property (3) an individual could homestead the property, or (4) the state could cancel the adjudication if it discovered a flaw in the proceeding.
- **Land on Which the State Retains Mineral Rights:** Since the 1921 Louisiana Constitution, the state has been prohibited from alienating the mineral rights on any sale of land in the state's possession, including tax adjudicated land. While the state does not own the physical land of these properties, it retains the ownership of the mineral interests.
- **Section 16 Land:** Pursuant to an act of Congress, upon admission to the union, the federal government granted to each state "Section 16" of each township/range survey for public school purposes. Although the state holds title to these lands, they are under the control and management of individual parish school boards.
- **DOTD Highway/Road Rights-of-Way:** Land next to roadways that supports the operation of the roadways. These lands are owned or leased by the Department of Transportation and Development (DOTD).
- **Levee Board Land and Some Board/Commission Land:** Lands owned or leased by levee boards as well as some boards and commissions.

APPENDIX D: LIST OF STATE AGENCY LAND

State Agency Lands* As of February 27, 2018		
State Agency	Land Parcels	Acreage
Corrections Services	16	24,361.14
Department of Economic Development	2	1,442.84
Department of Agriculture & Forestry	25	10,216.71
Department of Children & Family Services	6	10.99
Department of Culture, Recreation & Tourism	66	38,100.40
Department of Education	14	649.23
Department of Environmental Quality	1	0.03
Department of Health & Hospitals	48	4,992.47
Department of Natural Resources	1	45.49
Department of State	9	62.04
Department of Transportation & Development	196	108,988.73
Department of Veterans Affairs	9	599.86
Department of Wildlife & Fisheries	110	837,556.83
Elected Officials	5	96.25
Executive Department**	335	125,221.77
Higher Education	180	34,290.06
Louisiana State University Health Care Services	14	4,701.96
Louisiana Workforce Commission	9	22.14
Public Safety Services	44	2,110.17
Retirement Systems	5	28.82
Special Schools & Commissions	11	185.97
Youth Services	7	1,174.63
Other***	17	88.71
Total	1,130	1,194,947.24
<p>* OSL was not able to provide us with a listing of state agency lands from LaGov by the time we issued this report due to the amount of time and resources needed to run the reports in LaGov. Therefore, we used OSL's 2018 Louisiana State Land Inventory Report. However, this report is not inclusive of all state lands and does not include leased lands. Additionally, we identified state agency land not recorded or recorded incorrectly in LaGov and in OSL's Inventory Report; therefore, we cannot confirm the accuracy of these figures.</p> <p>**Includes 15 state agencies or political subdivisions, including the Department of Administration, Department of Military, and Louisiana Stadium and Exposition District.</p> <p>*** Includes ancillary funds, non-appropriated funds, and judicial expense.</p> <p>Source: Prepared by legislative auditor's staff using information in the 2018 Louisiana State Land Inventory Report.</p>		