



Autorité environnementale

The background of the cover is a collage of aerial photographs showing various landscapes, including mountains, lakes, and residential areas. A white grid is overlaid on the entire image. A red horizontal bar is positioned across the middle, containing the text '2014 ANNUAL REPORT'.

2014 ANNUAL REPORT

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EDITORIAL



A new step for the Autorité environnementale (Ae)

A few days before handing over the presidency of the Autorité environnementale (environmental authority) to Philippe Ledenvic, Michel Badré presented Ae's activity report for the year 2013. He used the opportunity to review what the authority has achieved since its creation. All the members of Ae were keen to thank him warmly once again for putting the foundations of the new authority in place.

The framework for the Autorité environnementale's actions is set by European Union legislation. 2014 was marked by the adoption of an update to the "projects" directive¹ on 16 April.

Pending its transposition, continuity was maintained: unchanged processes, collegiality, rigorous analysis and reporting, de facto independence... Ae issued 110 opinions, slightly fewer than in 2013 (131).

The principles that guided Ae's actions in 2014:

- drafting opinions that are useful to the public, to developers and to the authorities responsible for approving projects, plans or programmes, by providing an external viewpoint;
- aiming for a high level of quality in its analyses and the formulation of its opinions and decisions thanks to the diverse expertise of its members, careful listening to stakeholders (the public and decision-making authorities but also developers and inquiry commissioners) and its strict practice of collegiality;
- sharing experience with its European counterparts with a view to moving its processes and analyses forward;
- capitalising transparently on its practice by producing a first themed summary of the opinions it published up to 2014.

2014 was also a year of detailed reflection about how to modernise French environmental legislation, focusing on a specific major issue: how can environmental procedures be simplified while improving the consideration given to the environment by projects and public policy? How can conflict be avoided between these two goals?

Ae took part in three national working groups looking at the evolution of impact assessments and the work of the Autorité environnementale, ways of unifying environmental procedures and ways of making improvements to avoid, reduce and, where relevant, compensate for the effects of projects.

Its contributions aimed to ensure that, under all circumstances:

- the impact assessment should give an overview of all the project's components, updated if necessary if the project evolves or knowledge about its effects or context changes;
- the opinion should be issued independently of the developer and the authority responsible for approving the project;
- the opinion should be produced on the basis of collective expertise to provide a critical view that is sufficiently broad and has the necessary perspective.

We hope that 2015 will see this improved consideration for the environment fully reflected in legislation and in practice!

The members of the Autorité environnementale of the Conseil général de l'environnement et du développement durable (general council for the environment and sustainable development)

1 \ Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment.

AE IN 2014

THE BRIDGE OVER THE SEUDRE – CHARENTE-MARITIME



ROLES AND RESPONSIBILITIES

Certain projects, plans and programmes are subject to environmental assessments that examine their specific characteristics and their potential impact on the habitats they affect.

As these assessments are carried out under the responsibility of the applicants themselves, there is a need for an “environmental authority” to issue a public opinion on the quality of the assessment and ensure the operation being assessed has properly considered the environment.

Ae, a specialist organisation within the CGEDD (general council for the environment and sustainable development), exercises this environmental authority role with regard to projects' environmental assessments in the two following cases:

- if the minister for the environment is the authority responsible, under his ministerial competence, for taking the decision to authorise the project or suggest it to the government;
- if the project developer or applicant is the state, represented by a service reporting to this minister or a public-sector institution under his supervision.

The scope of Ae's competence also extends to²:

- all the projects in a programme of functionally linked operations, if one of the projects requires a decision taken by the minister for the environment or proposed by him to the government;
- all projects requiring several administrative decisions, if one of them falls under the competence of the minister or is proposed by him to the government.

In other cases, the opinion is given by the minister himself, with support from his staff, or by prefects (leaders of “département” or district councils), depending on the case³.

Ae also exercises the role of environmental authority for projects that do not necessarily require an environmental assessment but are examined case



ENERGY-COMPENSATED INSTALLATION TO LIGHT THE ST JULIEN CHAPEL IN VILLENEUVE-DE-LA-RAHO

by case⁴. This examination results in a decision by Ae on whether to submit the project for an impact assessment.

For plans and programmes, the regulations⁵ define the cases where Ae has jurisdiction according to a list defined in the French Environment Code.

A European framework of action

These opinions from a “competent environmental authority” are drafted in application of two EC directives⁶ transposed into French legislation⁷. Issued sufficiently early in the decision-making process, they aim to improve both the quality of the environmental assessments provided by applicants and the consideration given to the environment in the operations subject to them. Their publication aims to facilitate public participation in the decision-making process.

Absence of instrumentalisation

Ae's function is that of a guarantor, certifying how far the project developer and decision-making authorities have taken environmental issues into consideration. The credibility of the guarantor thus

requires the absence of any link with these parties. This was the reason for establishing a special organisation with specific operating rules to preserve its independence of judgement and expression for cases in which the decision to be taken has a link to one of the ministerial responsibilities of the environment minister.

Ae takes care to avoid any suspicion of bias or instrumentalisation in its opinions. The collective nature of the discussions and the publication of opinions and decisions as soon as the sessions are over are likely to constitute the best guarantees possible as a result of the public critical view to which they are exposed.

Ae has also implemented the provisions specified in its rules of procedure:

- individual declarations of interest by all members,
- publication of the names of the members who deliberated on each opinion,
- non-participation of members who could have a conflict of interest in certain specific deliberations. In 2014, this last provision was applied for fifteen opinions, concerning a total of six different Ae members.

2 \ In accordance with article R.122-6 II para. 3 and 4 of the Environment Code introduced by decree no. 2011-2019.

3 \ See article R.122-19 of the Environment Code, R.121-15 of the Urban Planning Code and article R.122-6 of the Environment Code.

4 \ Presented and defined in articles L.122-1, R.122-2 and R.122-3 of the Environment Code.

5 \ Article R.122-19 of the Environment Code and article R.121-15 of the Urban Planning Code, in the forms applicable in 2013, following the entry into force in early 2013 of decree no. 2012-616 of 2 May 2012 on environmental assessments of plans and programmes and decree no. 2012-995 of 23 August 2012 on environmental assessments for urban planning documents.

6 \ See directive 85/337/EEC, the so-called “projects” directive (codified by directive 2011/92/EU of 13 December 2011 as of 17 February 2012), and directive 2001/42/EC, the so-called “plans and programmes” directive.

7 \ Directive 2011/92/EU was amended in 2014 by directive 2014/52/EU of 16 April 2014, which took force on 16 May 2014 and had to be transposed by the member states by 16 May 2017.

**ALL YOU NEED TO KNOW ABOUT Ae:
composition, operation, referrals,
opinions issued: Ae website:**

Ae website:

www.cgedd.developpement-durable.gouv.fr,
Ae section



WEB

AE MEMBERS

On 31 December 2014, Ae consisted of nine CGEDD permanent members and, within the limit of a third of its membership⁸, qualified external figures currently numbering four, for a total of thirteen members.

Ae's composition changed in 2014 as several CGEDD permanent members were replaced: Philippe Schmit and Jean-Michel Malerba resigned, while Michel Badré, Philippe Boiret, Marc Caffet, Alain Fréménias and Jean-Jacques Lafitte retired.

Four new members were appointed: Thérèse Perrin, Éric Vindimian and Pierre-Alain Roche in an order dated 16 January 2014 and Claire Hubert in an order of 28 February 2014.

Among the qualified people from outside CGEDD, Sylvie Rauzy left Ae after four years of work and Marc Clément was appointed an Ae member in an order dated 22 August 2014.

François Letourneux's position was renewed for three years by the same order. Gabriel Ullmann's appointment came to an end on 31 October 2014.

Philippe Ledenvic, an Ae member since August 2013, was appointed Ae president as of 8 March 2014 in an order dated 28 February 2014, succeeding Michel Badré.

CGEDD permanent members



**Philippe
LEDENVIC**



**Christian
BARTHOD**



**Thierry
GALIBERT**



**Marie-Odile
GUTH**



**Claire
HUBERT**



**Jean-Jacques
LAFITTE**

until 31 october 2014



**Thérèse
PERRIN**



**Pierre-Alain
ROCHE**

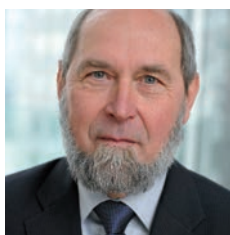


**Mauricette
STEINFELDER**



**Eric
VINDIMIAN**

The members appointed as qualified people



Bernard CHEVASSUS-AU-LOUIS

Inspector General of Agriculture, biologist, member of the Conseil scientifique du patrimoine naturel et de la biodiversité (CSPNB, scientific council for natural heritage and biodiversity) and former president of the Muséum National d'Histoire Naturelle (national natural history museum).



Marc CLÉMENT

Magistrate at the Cour administrative d'appel (administrative court of appeal) in Lyon, founder member of the executive committee of the European Law Institute, chairman of the "Natural resources and energy" section of the Société de Législation comparée (comparative law society).



Christian DECOCQ

Former municipal councillor for Lille and councillor for Lille-Métropole, former deputy for the Nord district, former regional councillor for the Nord-Pas-de-Calais region and district councillor for Nord, former deputy director of the Artois-Picardie water agency.



François LETOURNEUX

Vice president of the French committee of the International Union for the Conservation of Nature (IUCN), former director of the Conservatoire de l'Espace littoral et des Rivages lacustres coast and lake protection agency, former director of nature and landscapes at the Environment Ministry.



Gabriel ULLMANN

until 31 October 2014

Expert appointed by the Grenoble Cour d'appel (court of appeal) specialising in environmental affairs, inquiry commissioner, engineering PhD, MBA from HEC.

The permanent team



Thierry CARRIOL



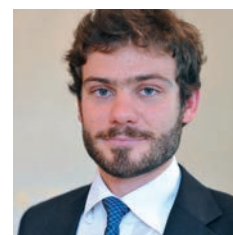
Frédéric CAUVIN



Armelle DIF



Nadia FRÉRY



Maxime GÉRARDIN



Sarah TESSÉ



François VAUGLIN



Véronique WORMSER

until 31 december 2014

8 \ In application of article 6 of decree no. 2008-679 on CGEDD, amended by decree no. 2009-519 of 7 May 2009, which specifies that this ratio applies "in the absence of exceptional circumstances".



METHODS AND INTERNAL OPERATION

The working methods are the same as those applied in 2013. They are described below for each type of production: opinions, case-by-case decisions on submission for an impact assessment, preliminary scoping.

Ae issues all its opinions within three months of the referral through collective deliberation based on draft opinions prepared by its members (or by non-deliberating members of the Ae permanent team, numbering 57 in 2014)⁹. The rapporteurs, generally two per project¹⁰, conduct their investigations independently¹¹ based on an analysis of the documents supplied by the applicants, organising any site visits and interviews they consider useful.

If necessary, they commission contributions from experts to inform Ae about complex points.

They prepare draft opinions according to a shared template and submit them for peer review and then collective deliberation. Opinions are made public as soon as the deliberations are over.

The case-by-case examination of projects, and the decision that closes the process, follow the same principle¹²: an examination committee consisting of two Ae members appointed in rotation presents the draft decision for signature by the president to whom it has delegated this authority. Decisions are issued within the statutory period of 35 days following referral and made public immediately.

Ae was commissioned once in 2014 to prepare a “preliminary scoping” for the project to extend the port of La Cotinière in Saint-Pierre-d’Oléron¹³, in accordance with the provision¹⁴ specifying that a developer may ask the authority responsible for approving the project – which itself asks the Autorité environnementale – to “specify the information that must be provided in the impact assessment”.

Opinions

Circulated to all members a week before Ae’s bimonthly plenary meetings, the draft opinions prepared by rapporteurs are subject to written comments and exchanges during this period, and then to discussion at the session, covering all the fundamental issues raised during the preliminary examination. All comments, whether they refer to the form or the content, are explicitly recorded. The final draft is agreed during the session. All final drafts were unanimous in 2014.

The contribution of the collective discussion is crucial, as it provides an opportunity to compare expert analyses or complementary readings for each opinion and progressively establish stable answers to the questions of principle mentioned below.

Opinions are always published on the Ae website¹⁵ on the same day as the session at which the opinion was prepared and issued formally to the applicant and the authority responsible for referring applications by the following day at the latest.

10



CONSTRUCTION OF THE RHINE-RHÔNE HIGH-SPEED LINE: THE SAVOUREUSE VIADUCT



SUD-EUROPE-ATLANTIQUE HIGH-SPEED LINE:
INSTALLING THE FIRST VOUSOIRS IN THE BOËME VIADUCT

Ae does not give opinions on whether a project is advisable, and thus never ends them with a “favourable” or “unfavourable” summary view. This position is restated in a box at the top of each opinion. A supplement was added to the box in October 2014 stating that “the decision of the competent authority authorising the applicant or the developer to proceed with the project takes this opinion into account (article L.122-1 IV of the Environment Code)”.

For plans and programmes, the legislation requires Ae to formulate an opinion on the environmental report and the degree to which the draft plan or programme takes the environment into consideration.

Case-by-case decisions on whether to submit a project to an impact assessment

A draft decision is prepared by a rapporteur and then submitted to an examination committee consisting of two permanent members, guaranteeing Ae's collegiality¹⁶. Here again the contribution of the collective discussion is crucial in terms of both the reasoning behind the decision and the conclusion reached. Each decision is justified based on three categories of considerations: the nature of the project, its location and its environmental impacts¹⁷. If the application is part of a broader project subject to an impact assessment (such as clearing work within the context of constructing a high-speed rail line, or a compressor station as part of a gas pipeline project), the decision includes a consideration setting out that an impact assessment must be produced for the overall project. The signature of the decision is delegated to the president of the Autorité environnementale (or, if he is unavailable, a permanent Ae member).

The decision is either to submit the project for an impact assessment or not. It cannot be combined with any recommendations or reservations.

Ae notes

Building on its five years of experience, the Autorité environnementale has decided to produce “Ae notes”. These notes take the form of summaries of its opinions with commentaries and areas for further reflection and progress in a given area (such as a type of project or an environmental theme). Each note is written in the light of the opinions issued by Ae prior to the date when the drafting is discussed, the thinking and questions they raised within Ae and in discussion with the various stakeholders, the legislation and regulations in force and, where relevant, other sources such as European Commission explanatory notes. The note is prepared by rapporteurs appointed by the president. The rapporteurs are free to consult any “resource” person they identify who may be able to contribute to their preparation. As with opinions, their content is then reviewed collectively by Ae before being discussed. In 2014, an initial note about real estate, agricultural and forestry development associated with major public works¹⁸ was discussed by Ae and published on its website.

The permanent team

The permanent team of the Autorité environnementale expanded in 2014, and included seven people on 31 December 2014. The team contributes to Ae's daily operations: analysing incoming applications (ensuring the application is complete and falls within Ae's competence), administrative follow-up for applications and Ae activity, online publication, organising meetings and answering questions from developers, administrative authorities and other interested parties. Five of its members also take part as rapporteurs in the technical analysis of applications, the preparation of draft opinions or decisions following case-by-case examination and the writing of draft notes.

Ae also employed a trainee, Julien Gosselin, for five months to prepare specifications for an in-depth study of how its opinions are used (see below).

09 \ Who were once again assisted by rapporteurs from outside Ae in 2014.

10 \ In 2014, draft opinions were prepared by two rapporteurs in most cases (88 out of 110), by three rapporteurs in three cases corresponding to the Grand Projet du Sud-Ouest rail project and by just one rapporteur in nineteen cases.

11 \ See the Ae rules of procedure (order of 7 May 2012), especially paragraph 2.1.2: “Ae draft opinions are prepared by rapporteurs based on all the consultations they consider necessary in addition to the consultations specified by the regulations.”

12 \ By an Ae decision dated 25 April 2012 combined with an amendment to the rules of procedure made necessary by the new regulations.

13 \ Ae opinion no. 2014-82.

14 \ See article R.122-5 I of the Environment Code.

15 \ Web link:
http://www.cgedd.developpement-durable.gouv.fr/rubrique.php3?id_rubrique=145.

16 \ The analysis is based on the information supplied by the applicant, as indicated in article R.122-2 of the Environment Code. This information is defined in the two complementary Cerfa forms (no. 14734*01 and 14752*01) to request case-by-case examination, whose content is specified by an order of 22 May 2012 (in accordance with article R.122-3 of the Environment Code) amended by an order of 26 July 2012. The forms are supplied with instructions.

17 \ In reference to the three criteria described in appendix 3 of Directive 2011/92/EU.

18 \ Ae Note no. 2014-N-01.

2014 REFERRALS

In 2014, the number of applications for opinions submitted to Ae fell slightly, mainly in the second half-year: 131 opinions deliberated in 2013 and 110 in 2014 (as well as six applications postponed and two withdrawn).

However, the number of decisions issued after case-by-case examination rose: from 40 in 2012 (over seven months when the new procedure was in force) and 88 in 2013 (plus 20 applications analysed and redirected) to 99 in 2014 (as well as 29 applications analysed by Ae and redirected or withdrawn by the applicant).

All Ae's decisions were issued within the statutory period of three months, meaning that no opinions were considered to be issued tacitly without observation because of this period being exceeded.

Similarly, all decisions were issued within the statutory period of 35 days.

As in previous years, Ae had to adapt to poor visibility and a fairly high level of irregularity in its short-term workload, which is entirely dependent on the timing of referrals by developers, project by project, and can only be foreseen to a very limited degree by Ae. However, certain developers, particularly for larger projects, inform Ae before making a referral.

Opinions

2014 was characterised by a large number of plans/programmes involving the sea or the coast (the strategic plans of the major sea ports, action plans for the marine environment, charter for the Port Cros national park¹⁹), several applications for multimodal exchange hubs (eight applications) and 17 real estate, agricultural and forestry development projects, mostly associated with high-speed rail line construction (Sud-Europe-Atlantique, Rhin-Rhône and Est).

However, the range of applications was very diverse: some represented very important socio-economic issues, such as the Grand Projet du Sud-Ouest high-speed rail line²⁰ and the Grand Paris Express line 14-16-17²¹. Others were much more local in scope, such as materials transit hubs and mixing plants for the Sud-Europe-Atlantique (SEA) high-speed line or the removal of level crossings.

As well as the plans/programmes mentioned above, some of the applications processed in 2014 involved types of projects that were new to Ae, including energy generation projects (the Landvisiau combined-cycle gas turbine²², the Pourrières solar plant²³, the Trédaniel wind turbine plant²⁴), a chair-lift project²⁵, a project to redevelop a natural site²⁶ and the removal of two dams (though Ae had already given an opinion at the point of preliminary scoping)²⁷.

Overall, as in previous years, a third of applications involved transport projects (road and rail, including all guided transport), but only a quarter concerned development (real estate or other), 9% energy and 14% "plans/programmes".

No national applications were referred to Ae, but four applications relating to France's maritime "façades"³¹ were received: action plans for the marine environment. 2014 was also marked by a high number of opinions on sections 4 and 5 of the strategic plans of the major sea ports.

Ae issued eight opinions on projects it had submitted for impact assessments by case-by-case decision³².

The locations of the projects were fairly balanced east to west and north to south: 13% in Brittany, almost 9% in Poitou-Charentes, 16% in Île-de-France and 6% in Provence-Alpes-Côte d'Azur. Unlike the first years of Ae's existence, when most applications came from Île-de-France and the south-east, or 2013, when Île-de-France again accounted for a quarter of applications, 2014 saw a rebalancing of the numbers of applications from western regions, largely due to ongoing high-speed rail projects (Sud-Europe-Atlantique and Bretagne-Pays de Loire) and rail applications in Brittany. There was a regular flow of projects, plans and programmes from overseas districts (mostly French Guiana).

19 \ Ae opinion no. 2014-76.

20 \ Ae opinions no. 2013-121, 2013-122 and 2013-123.

21 \ Ae opinion no. 2014-25.

22 \ Ae opinions no. 2014-29, 2014-30 and 2014-51.

23 \ Ae opinion no. 2014-38.

24 \ Ae opinion no. 2014-72.

25 \ Construction of the Mélézes chair-lift in the Houches ski area in Saint-Gervais – Ae opinion no. 2014-78.

26 \ Protection and redevelopment of the Les Salines natural site in Sainte-Anne, Martinique – Ae opinion no. 2013-121.

27 \ Removal of the Vézins and La-Roche-qui-Boit dams on the Sélune – Ae opinion no. 2014-14 and 2012-16.

28 \ Installations classified for the protection of the environment.

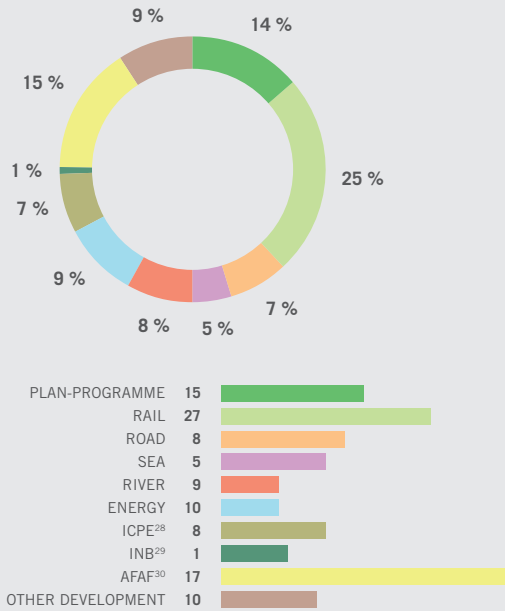
29 \ Basic nuclear installations.

30 \ Real estate, agricultural and forestry development.

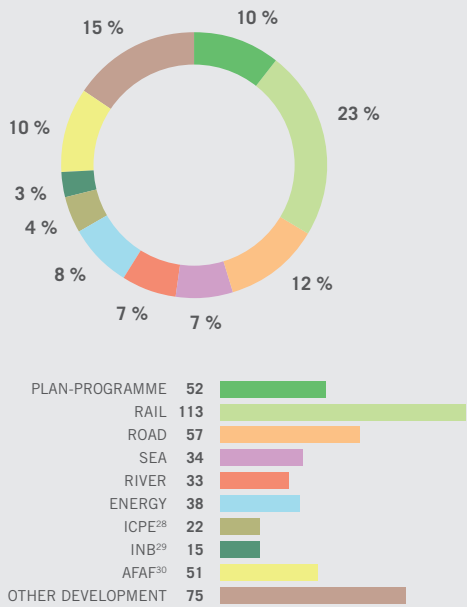
31 \ France's mainland marine territories are divided into three façades: Channel/North Sea, Atlantic and Mediterranean. As part of measurement programmes for the marine environments in question, the Atlantic façade was "split" in two: Bay of Biscay to the south, Celtic seas to the north.

32 \ Ae opinions no. 2013-130, 2013-139, 2014-61, 2014-79, 2014-87, 2014-88, 2014-89, 2014-93.

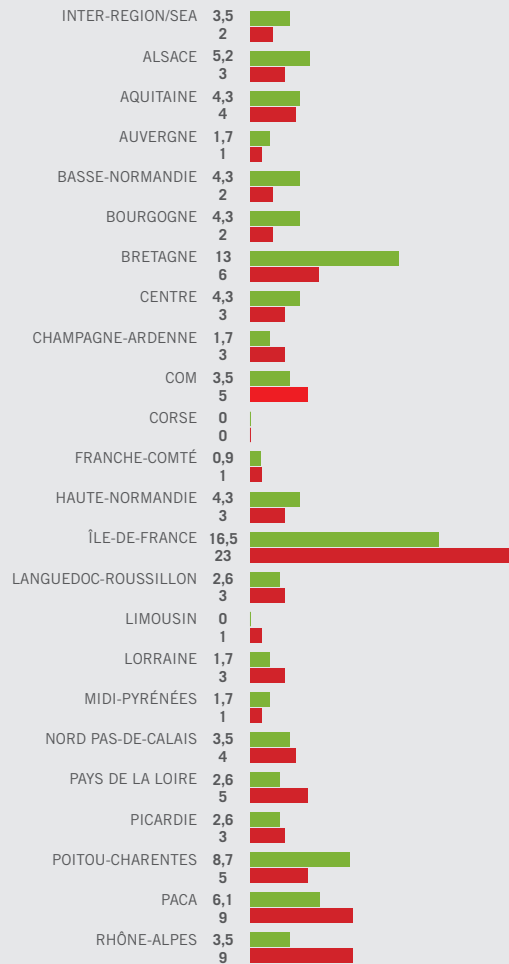
THEMATIC BREAKDOWN OF OPINIONS IN 2014
(by % and by number)



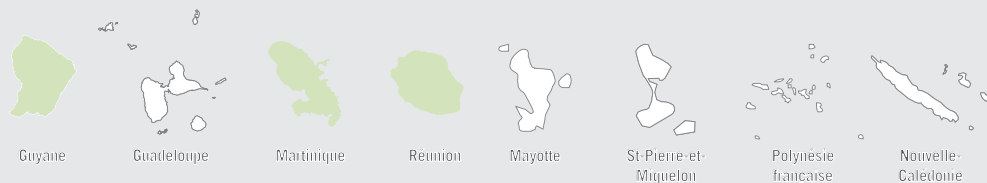
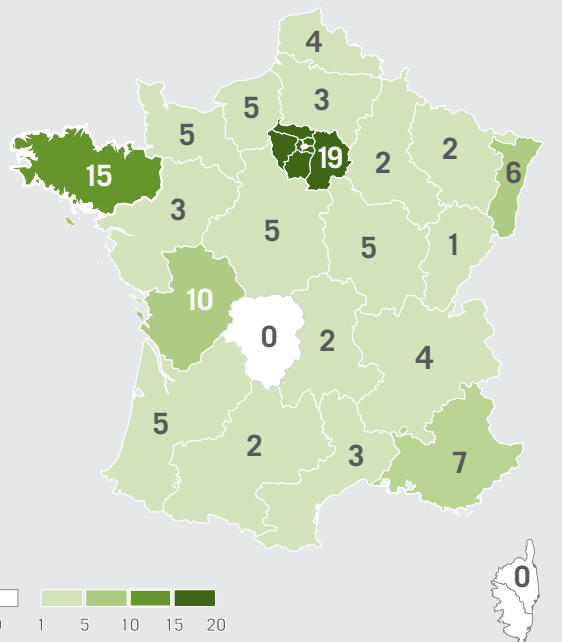
THEMATIC BREAKDOWN OF OPINIONS ISSUED SINCE 2009
(by % and by number)



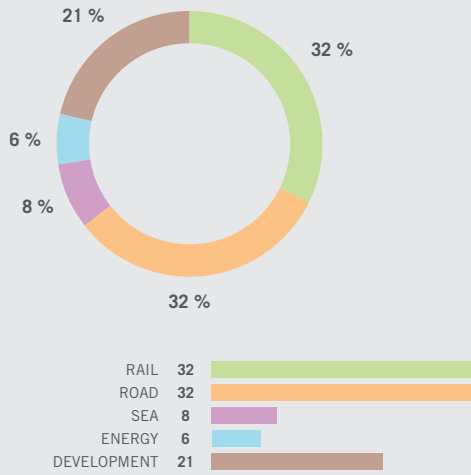
GEOGRAPHICAL BREAKDOWN OF OPINIONS
■ IN 2014 AND ■ SINCE 2009 (by %)



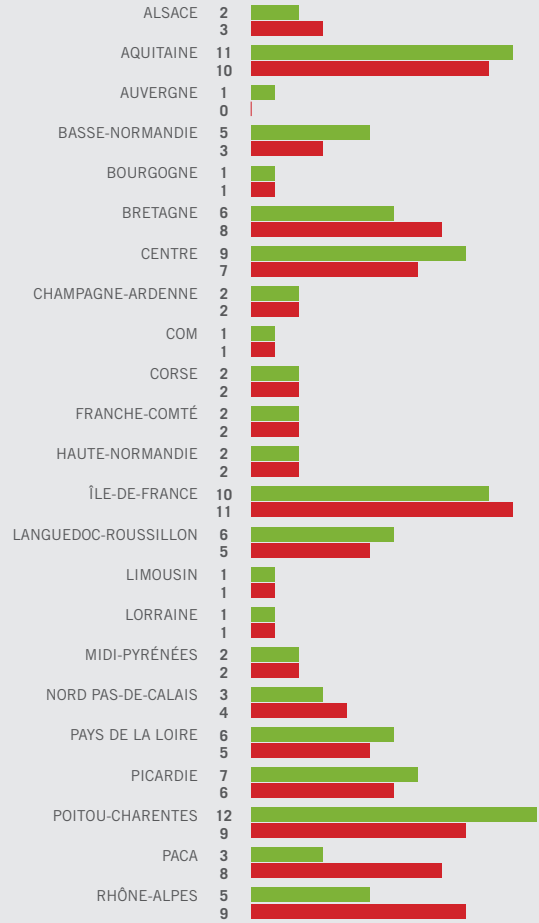
GEOGRAPHICAL BREAKDOWN OF OPINIONS IN 2014
(by number)



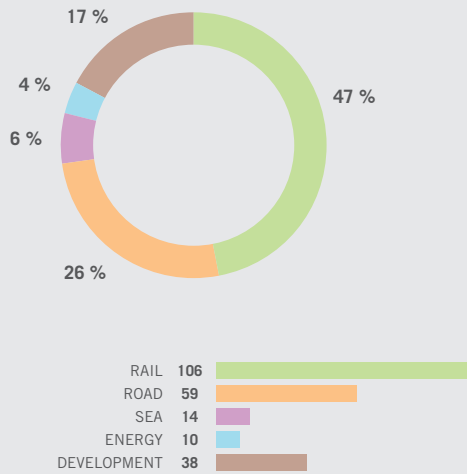
THEMATIC BREAKDOWN OF DECISIONS IN 2014
(by % and by number)



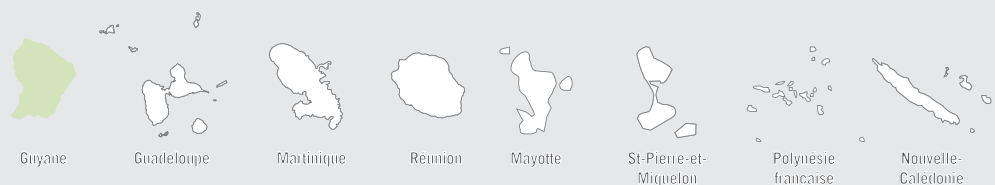
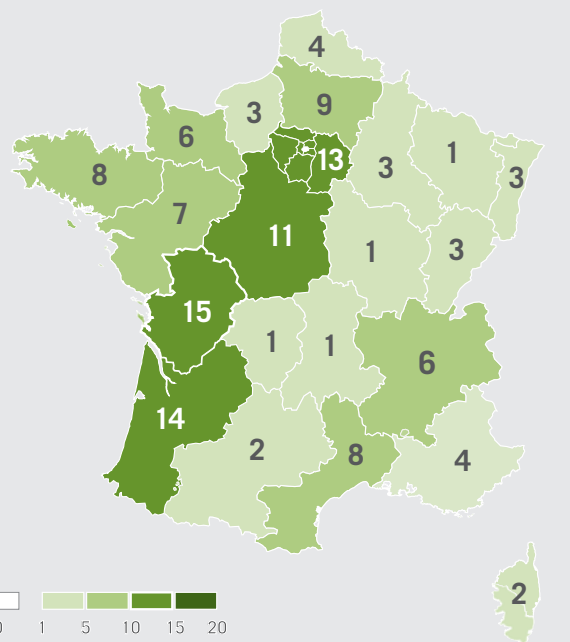
GEOGRAPHICAL BREAKDOWN OF DECISIONS
■ IN 2014 AND SINCE 2012 (by %)



THEMATIC BREAKDOWN OF DECISIONS
SINCE 2012 (by % and by number)



GEOGRAPHICAL BREAKDOWN OF DECISIONS IN 2014 (by number)



Case-by-case decisions on whether to submit a project to an impact assessment

Here too, the applications processed remain very diverse.

The classification of Ae decisions by theme is fairly approximate, though, as most operations are composite – rail-road, development and rail – and thus difficult to classify accurately under a precise heading.

128 applications were received, and 99 resulted in a decision; of the 29 others, ten were covered by a different environmental authority, eight were not suitable for case-by-case decisions and the rest were withdrawn by the applicant before a decision was made.

25 applications resulted in a decision to submit them for an impact assessment, i.e. 25% of the decisions; this rate falls to 13% if we exclude decisions to submit related to the fact that the operation being examined is an integral, inseparable part of a wider project for which an impact assessment is obligatory. The proportion of decisions to submit for impact assessments has been falling every year since 2012.

Among the decisions taken in 2014 about independent projects, one was the subject of an opinion deliberated by Ae in 2014³³. During the year Ae also issued eight other opinions about this type of project, for which it had taken an impact assessment submission decision in 2012 or 2013. By 31 December 2014, it had received referrals for

40% of the applications on which it had taken a submission decision without them being an integral part of a project subject to an impact assessment. Having analysed the applications received for opinions in this context, Ae identified three applications (out of 17) for which its decision did not ultimately appear appropriate.

A quarter of applications were sent to Ae on paper, and a quarter were subject to requests for additional information because the details supplied by the applicant for the examination of the application were insufficient. This rate has been stable since 2012.

Half the applications received in 2014 came in equal proportions from four regions: Aquitaine, Poitou-Charentes, Centre and Île-de-France; the south-east only accounted for 14% (in 2012, half the applications came from the south-eastern quarter of the country, while in 2013 the distribution was more uniform). By contrast, the transport field remains broadly dominant (64% of decisions taken). There was also an increase in maritime applications relating to Zones de mouillage léger (ZMEL) or light mooring zones.

Four appeals were submitted to the Ae president, one of which led to an altered decision after additional technical information was provided by the applicant³⁴.

The details of the 110 opinions issued and 99 decisions taken (as well as the 29 applications not covered by Ae or by case-by-case examination or withdrawn by the applicant) are given in the tables and maps in the appendices, by theme and by region.



COMBINED ROAD-RAIL TRANSPORT

33 \ Irigny-Yvours rail stop: Ae decision no. F-082-13-C-105 and Ae opinion no. 2014-79.

34 \ Ae decision no. F-054-14-C-0015, application from Saint-Trojan-les-Bains town hall.

FEEDBACK

Preamble

On 4 March 2014, Ae gathered together project developers and managers from central departments in the Ministry of Ecology, Sustainable Development and Energy and the Ministry of Territorial Equality, Housing and Rural Affairs to present its activity report. At this session, two representatives of developers³⁵ formulated several observations and aspirations before the open discussion with all the attendees. In particular, they expressed a wish for Ae to provide more preliminary scopings, issue opinions earlier in the project development process, simplify its procedures, communicate about its work more widely to stakeholders including the public, organise feedback about Ae's opinions, update the impact assessment guides on the basis of Ae's summaries and analyses and move forward with the modernisation of environmental legislation.

Ae took careful note of these requests with regard to preliminary scoping, analyses and feedback on its opinions, as well as the simplification and interaction between its procedures, which it is trying to address in collaboration with developers and decision-making authorities. It kept these issues in mind throughout its activity in 2014.

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Ae thanks these contributors to the 2014 report for their diverse illustrations of their contact with Ae over the year.

DOUARNENEZ BAY



\\ Anne GUERRERO

Deputy Environment and Sustainable Development Director, SNCF Réseau



\\ Emmanuel Manier

Haute and Basse Normandie Territory Director, SNCF Réseau

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2014, a year of maturity after four years of close relations, initially mistrustful, sometimes tense but often constructive, between Ae and RFF? In any case, this was a year of review and reflection about areas for improvement in a fast-changing working context: rail reforms, evolving transport policy, modernisation of environmental legislation...

The highpoint was the joint organisation by Ae, DIT³⁶ and RFF of a work seminar in October, which brought together about thirty people from the world of the environment, infrastructure and our own role as a developer. A feature of the seminar was that decision-makers (senior management and central departments), operational staff (rappor-teurs, regional departments and project managers) and the technical and environmental aspects were all represented. A strong sign of how the environment is being integrated into project design and decision-making. This very rich day was structured around two highlights: a joint assessment in the morning of working methods, opinions and their follow-up and the case-by-case examination procedure and, especially, workshops all afternoon on complex subjects such as how procedures fit together, preliminary scoping, the concepts of project and programme, assessment proportionality, evaluation methods etc., which led to lively discussions and sincere exchanges.

“We did not leave with all the answers, but with a better knowledge of each other and a better understanding of the issues. It was an opportunity for ‘no-holds-barred’ discussion of concrete subjects, confirming the impression of a relationship of trust and a shared desire for progress between Ae and RFF at national level which can be felt every day in our projects,” declares Emmanuel Manier, RFF’s Haute and Basse Normandie Territory Director. “But regional projects should not be tackled in the same way as major projects for new lines: they are generally more limited geographically, though still complex, with a high level of interaction with the

A TER REGIONAL EXPRESS TRAIN IN PORT-VILLEZ



RAILWAY ON THE BANKS OF THE LOIRE



existing network, a multitude of players and procedures that are just as cumbersome. The demanding requirements always raise the question of scope and proportionality.”

2015 is the year of environmental excellence, simplification of environmental legislation and industrial and economic rebirth. A challenge that must be met together to achieve collective effectiveness, involving scoping, methodological insights, reinforced support and shared feedback.

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36 \ Transport infrastructure department at the Ministry of Ecology, Sustainable Development and Energy.



\\ Hervé VANLAER

Director of DREAL Auvergne



\\ Olivier GARRIGOU

*Environmental evaluation manager,
DREAL Auvergne*



The Auvergne regional environment, development and housing department (DREAL) worked with the CGEDD environmental authority in 2014 with regard to its own activity as an environmental authority and as the developer of a road project for which it needed an opinion from the national environmental authority.

For this project, we wish to emphasise the rigour of the national environmental authority's analyses. Its opinion seemed globally appropriate, although the level of precision required seemed too high to us in certain areas. This is a difficulty that is inherent in the environmental assessment exercise for projects developing over a long period: it is legitimate to want to take issues into account at an early stage, but conversely, as an example, it is not relevant to identify where materials will be stored at the point of a road project's declaration of public utility.

The DREAL's role as an environmental authority is an important part of its life. Several years after the system was put in place, we are now seeing the first

results, particularly in the improvement of impact assessments, growing interest among developers in the environmental authority's operations and the use of its opinions by civil society.

The CGEDD Ae's contribution to the network of DREAL environmental authority departments has been useful since its creation, and especially in 2014. A comparison of the sometimes contrasting positions of the DREALs and the CGEDD enrich the exercise of environmental authority in the regions, as with the practice of preliminary scoping, case-by-case examination and the boundary between analysing the justification for a project and judging its advisability. Let us hope that these exchanges continue.

With regard to the quality of our opinions as an environmental authority, we feel that the progress already made needs to be strengthened in three principal areas:

1. One of the pitfalls is when an opinion places the emphasis mainly on what is wrong. Of course it is important to inform the public about any shortcomings in an impact assessment, but the positive aspects should also be highlighted. It can be discouraging for a developer who has made an effort to receive an opinion which concentrates on negative elements, which may be fairly secondary;
2. The second area for further progress is to define how far an impact assessment should go. The question is not whether more could be done, because the answer is always yes, but whether the information available enables a correct appreciation of the impact of the project taking the environmental issues into account;
3. Finally, the last point involves the priority given to the comments. These comments are sometimes numerous, and the reader should be helped to recognise what is important and what is secondary, whether the comment is positive or negative. Shorter opinions could be a response to this need.



MÊLÈZES CHAIR-LIFT



\\ Pascal GALICHON

*Environment and planning director
at the Port of Le Havre*

\\ Patrick BOURVEN

*DST/DGITM/MEDDE
deputy director of ports
and river transport*



1. What contact did you have with Ae in 2014?

Patrick Bourven, deputy director of ports and river transport in the Transport Services Department (DST) of the General Directorate for Infrastructure, Transport and the Sea (DGITM): “2014 was rich in exchanges with Ae. The culmination of the 2009-2013 strategic plans of the major mainland ports, and their extension to overseas ports, led the ports to revise or establish the timetables for their development policy in the coming years. This exercise introduced the first environmental assessments of the strategic plans.

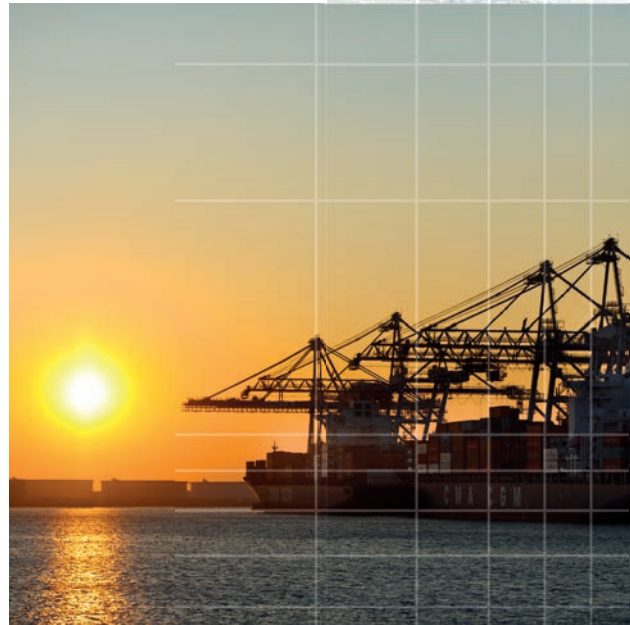
Discussions between Ae, the General Commission for Sustainable Development (CGDD) and the major ports were organised starting in April 2013, and a methodology framework document was prepared by the CGDD, the ports and our department.”

Pascal Galichon, environment and planning director at the Port of Le Havre (GPMH): “In addition to the meetings just mentioned, GPMH's exchanges with Ae took a variety of forms. There were three very different applications for opinions: the first was a case-by-case examination, the second involved a development project subject to an impact assessment and the third was the environmental assessment of GPMH's 2014-2019 strategic plan.”

2. What additional benefits can you identify compared with previous years?

Patrick Bourven: “Ae sought to achieve a very close dialogue with the organisations concerned and showed strong commitment to evaluating the applications in context. Our department was contacted before the applications were referred; then we met Ae again after the first opinions were published to share our impressions.”

Pascal Galichon: “The applications benefited from a better understanding on our part of what Ae expected, but also from better knowledge at Ae of the port of Le Havre and its context. This sharing is very



CONTAINER SHIP DOCKED
IN THE INDUSTRIAL PORT OF LE HAVRE

important when the territory where the project is based involves multiple issues and stakeholders, as is the case with the Seine estuary.

The efforts made through HAROPA by the ports of Rouen and Le Havre to reconcile their environmental assessments were supported by Ae, which appointed a joint rapporteur for both applications. This gave the documents (environmental reports, opinions and responses) greater consistency and relevance.”

3. Can you draw methodological or practical conclusions you can share with other developers or competent authorities?

Patrick Bourven: “Our exchanges with Ae have been positive. They have fed into our thinking on the implementation of the third section of the national port strategy, aiming to make ports into enlightened managers of their spaces in all their aspects: industrial and port-related, logistical, urban and, of course, natural.

For a department like ours, it is vital to be able to talk to Ae to inform it about potential sensitive areas and gain its external view of the policy of the organisations we are responsible for supervising.”

Pascal Galichon: “For the environmental assessment of the strategic plan, the framework document prepared by the CGDD in 2014 clarified certain points³⁷, particularly with regard to the difficulties faced by developers in view of regulatory texts. Site visits by Ae and the discussions that took place on these occasions boosted both parties’ understanding of their mutual requirements.”

4. What possible improvements can you see? What do you expect from Ae in 2015, particularly in the current context?

Patrick Bourven: “When all the strategic plans have been evaluated, we will review the exercise. It would be very beneficial for Ae to be involved so that we can reach shared conclusions that would be useful for improving future applications.”

Pascal Galichon: “It would be very useful for us to share our experience together, because this exercise will be repeated in five years. Concerning projects in particular, it looks more and more as if it will be necessary to move towards a single consent grouping together all the consents required. If Ae can work in this direction, we believe that the environment and all stakeholders would benefit.”

Ae and the Netherlands Commission for Environmental Assessment (NCEA) met in Utrecht on 10 and 11 November 2014 for presentations and discussions (the results are described later in this report).



Veronika TEN HOLDER

Director of the Netherlands Commission for Environmental Assessment (NCEA)

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In the Netherlands, the ministry competent to negotiate the project and plan/programme directives and their transposition into Dutch legislation is the infrastructure and environment ministry.

Created in 1987, the Netherlands Commission for Environmental Assessment (NCEA) is an independent legal entity (foundation) with sole responsibility for preliminary scoping and environmental authority opinions. In 2014, it issued 180 opinions. The NCEA consists of a president (40%), eight vice presidents (20%, former politicians or figures with experience) and 350 independent experts providing their expertise on a case-by-case basis. The president and vice presidents lead part-time working groups put together for each project.

The NCEA is assisted by a secretariat, which employs two directors (one for international work), fifteen technical secretaries and fourteen assistants for its activity in the Netherlands, and seven technical secretaries and four assistants for its international activity.

The NCEA places independence and transparency at the heart of its values. Regularly audited by external evaluators since 1990, it has always received very positive reports on its methods and opinions, 80% of which are considered to have had a significant influence on the decision taken by the decision-making authorities, who have followed 90% of its recommendations.

The NCEA has six weeks to issue its opinion, unless additional time is allowed due to the scale or complexity of the application. Its opinions are never addressed to the developer, but always to the decision-making authority.

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37 \ Ae was not asked to prepare a preliminary scoping.



REGIONAL NATURE RESERVE OF THE LOWER SAVOUREUSE VALLEY

The “case-by-case” procedure is performed in full by the decision-making authorities themselves. The NCEA may be asked for advice, but this is unusual. About 90% of projects are exempted from the need for an impact assessment. Only the developer is likely to appeal against a “case-by-case” decision, but the lack of an impact assessment can be raised by any citizen when the consent is ultimately decided, and this has a dissuasive effect. However, if the absence of an impact assessment is contested, the judge will require the claimant to demonstrate a strong and justified presumption of a significant effect.

Since the Dutch reform of 2010, although preliminary scoping is no longer obligatory the NCEA receives about 50 to 60 requests per year.

When the application is declared complete, a working group is put together immediately. It consists of a chairperson, a technical secretary and two to eight subject experts (three to five on average, exceptionally up to ten) chosen from among 350 experts on the NCEA database.

These experts are engaged for their individual abilities and are remunerated by the NCEA. They are recognised figures working in government research centres, universities or private consultancy firms. Some are retired or foreign experts. Their names are given to the decision-making authority so that it can evaluate any potential partiality.

Based on a site visit by the working group, immediately followed by an internal meeting, the technical secretary prepares a preliminary draft opinion

which is then submitted to the experts for their responses and written contributions. Two or three meetings of the working group finalise a draft opinion.

This is then passed to the decision-making authority, which has a week to study it before a discussion meeting is held with the working group. This meeting is not a negotiation. Once approved by the NCEA president and signed by the vice president who led the working group, the opinion is immediately published online and a press release is sent to relevant media outlets.

The NCEA attaches great importance to the following points in its work: the clarity of the project specifications, an examination of reasonable variations, full coverage by the scales of analysis, the evaluation of the Natura 2000 impact (considered poor or inadequate in 60% of opinions) and a differentiation between “shortages of essential information” and simple “recommendations”.

The French type of public inquiry does not exist. The NCEA opinion is prepared in parallel with the online public consultation and public meetings organised by the decision-making authority, the results of which can be taken into account by the NCEA within an additional period of three weeks. The NCEA emphasises the quality of the public contributions, which can lead the experts to modify or supplement some of their analyses.

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A YEAR OF ENVIRON

22



MENTAL ASSESSMENT



A YEAR OF ENVIRONMENTAL ASSESSMENT

Having carried out a review in 2013 after four years of operation, feeding into its first strategic thinking, Ae maintained the continuity of its actions in 2014, though the context suggests significant evolution to come. The year was marked firstly by the adoption of a revised European directive on projects and secondly by the efforts of several working groups on the modernisation of environmental legislation, whose proposals could, if followed by the government, lead to significant changes to the framework of Ae's activities.

Ae's primary ambition remains to shed light on environmental issues in order to improve public decision-making: on behalf of the public, to enable them to exercise their right to take part in decisions; of developers, to help them improve their projects; of the authorities responsible for approving them, so that they can reach decisions smoothly; and of the ministerial authorities so that national legislation can evolve in line with the spirit of European texts. Based on the follow-up given to its previous opinions, Ae is also concerned to move its own practices forward.

As well as the feedback collected, this report gathers together and summarises the essential avenues for progress followed in 2014 in the light of the opinions issued, the decisions taken and the increased exchanges with its partners, both in France and abroad. At the heart of these avenues for progress, several key questions recur in its thinking: what is the role of Ae's opinions in decision-making processes? What is the added value of Ae's opinions? How are projects monitored in environmental terms? How can Ae capitalise on feedback? How can procedures be modernised and simplified?

1. AE'S OPINIONS WITHIN DECISION-MAKING PROCESSES

The unanimous view, particularly among the developers who agreed to provide their feedback for the 2013 activity report, is that Ae's opinions often come too late: just before the public inquiry preceding the declaration of public utility (DUP), at a point when the developer is promoting one project variant against any others, or conversely during one of the many procedures following the DUP, when the project can no longer change except at the margins. This final public consultation is often seen as just the last rite of passage before the green light is given, with no real possibility of questions being raised or of reversing the process.



DIR WORKERS ON THE RN 174 NORTH OF POITIERS

In 2014, Ae observed by various means, particularly by reading developers' responses for the public inquiry, that its opinions usually improved the legibility and the technical content of the impact assessment, and sometimes improved the project itself. In a few rare cases, its recommendations led to questions of varying seriousness being raised, sometimes causing additional delays.

A major part of the added value provided by its opinions lies in the use made of them in the long term, through the gradual, continuous spread and appropriation of good environmental practice. It is in this spirit that Ae presents here the first conclusions drawn from the opinions issued in 2014. In addition, to provide further perspective, Ae has decided to prepare "Ae Notes" see below.

The project and the plan or programme

Ae issued many opinions on plans and programmes in 2014. Even in 2012³⁸, it regretted the limited scope of the plans and programmes that were to be subject to environmental assessment. For Ae, this limit constitutes a handicap when preparing the impact assessment for certain projects.

The issue of strengthening the link between a project and the plan or programme to which it primarily belongs arose for several projects in 2014. Ae regularly raised the question of whether a project could be justified based on its attachment to a programme or a decision made previously, and the content of this programme's environmental assessment. This could apply, for example, for a road project in the context of a previous development scheme³⁹, an electrical installation or interconnection in the context of the national electricity system or a radioactive waste processing facility in the legislative, regulatory and contractual context of the country's management of such waste.

Given their impact on the environment, therefore, Ae questioned the justifications of certain projects as they were presented in the applications, such as the "Bretagne Sud"⁴⁰ and "Fos Faster"⁴¹ pipeline projects: the first was justified as being necessary for the creation of the Landivisiau combined-cycle gas plant, for which the referral had not yet begun; the second was justified by the country's gas requirements⁴², with no explicit mention of any consideration for their environmental impact in the choices made.

38 \ Ae opinion no. 2012-11.

39 \ A road development scheme is a policy chosen for the whole length of a major road. Road projects are generally carried out in stretches, and rarely call into question the policies chosen, often several decades previously. See Ae opinion no. 2013-140.

40 \ Ae opinion no. 2014-22.

41 \ Ae opinion no. 2014-74.

42 \ According to a letter from the Bouches-du-Rhône prefect received by Ae on 5 January 2015, this project has been abandoned due to the context of the gas market.

Ae has also questioned the division made or to be made between the information in the project's impact assessment and the information that should be presented in the programme's environmental assessment, determining the required degree of precision of the information. It seemed to Ae that certain themes, such as the cumulative effects on a Natura 2000 site or the management of dredged sediment, had more to do with the plan/programme with which the project was associated, such as the Pont de Normandie no. 2 logistics park⁴³ and the Mirabeau basin⁴⁴ in relation to the strategic plans of the ports of Le Havre and Marseille.



VIEW OF THE TANCARVILLE SUSPENSION BRIDGE CROSSING THE SEINE BETWEEN TANCARVILLE AND MARAIS-VERNIER

The exercise can peter out in the absence of a plan or programme and a strategic environmental assessment, as was the case with the decision on the ElecLink interconnection project between France and England⁴⁵: following an appeal, Ae withdrew its decision to submit part of the project to an impact assessment, realising after the decision that a different, indissociable component of the project was automatically subject to an assessment and there was no need for a case-by-case examination. In parallel, Ae judged it appropriate to remind the competent authorities⁴⁶ of the need for an environmental assessment before the plan concerned could be approved (e.g. the development scheme for the electricity transmission network), as this is the only way the project could be justified and its environmental consequences understood on the scale of the national electricity system.

A similar approach was undertaken with regard to the national plan for managing radioactive materials and waste.

A project or a plan/programme?

Ae even questioned the “project” status of the multi-year dredging management plans (PGPOD) for Burgundy's canals⁴⁷. Given their purpose and stage of development, these management plans seemed more like plans/programmes than projects. This situation was similar to the problem of ZAC (joint development zone)⁴⁸ creation, on which Ae had already given its view. This results in opinions and recommendations that report significant shortages of information and details about the impact of these projects (particularly those concerning the volumes dredged for the PGPODs) due to their content and the delays inherent in the decision-making process.

Maturity of the project and its impact assessment

In general, the impact assessments referred to Ae cover projects whose main characteristics are well known and unlikely to be called into question. Sometimes, Ae receives the referral at a stage that is obviously too early for the public utility of the project to be recognised clearly enough, and the request for consent does not appear suited to the degree of maturity of the project, or the programme of works it is part of:

- some projects turned out to be part of the same programme of works as another project whose completion timetable had not been fixed or was no longer relevant (e.g. AFAF⁴⁹ projects in Haut-Rhin associated with the eastern branch of the Rhine-Rhône high-speed line⁵⁰), or was not yet fully defined (such as the AFAF in Haute-Loire associated with a road project⁵¹);

43 \ Ae opinion no. 2014-50.

44 \ Ae opinion no. 2014-60.

45 \ Ae decision no. F-031-13-C-0107.

46 \ The developer and the authority responsible for approving the plan.

47 \ Ae opinions no. 2014-42, 2014-43, 2014-44, 2014-49.

48 \ ZACs are considered to be projects under the current regulations, rather than plans or programmes.

49 \ AFAF: Aménagement foncier agricole et forestier (real estate, agricultural and forestry development).

50 \ Ae opinions no. 2013-131, 2013-132, 2013-133, 2013-134.

51 \ Ae opinion no. 2014-24.



MAJOR SOUTH-WESTERN RAIL PROJECT (GPSO): NEW BORDEAUX LINES

- certain projects and plans/programmes were presented at a preliminary stage of their development, particularly when it came to taking the impacts identified into account in a relevant way (amendments to the “Roissy – Terres-de-France” and “Val-de-France” territorial development contracts⁵², new station in Montpellier awaiting the appointment of a private partner for a public-private partnership⁵³);
- for others, the application presented to Ae did not correspond to the reality of the project as presented by the developer when the rapporteurs visited (development of the Les Salines site in Sainte-Anne, Martinique⁵⁴);
- in another case, Ae learned during the referral, though the competent authority did not withdraw the referral, that the project would be modified significantly following assessments of the impact on water⁵⁵;
- Ae was also informed during its assessment that a project might be abandoned (development serving the Arena in Dunkirk, for example⁵⁶);
- finally, the Fos Faster project was abandoned shortly after Ae published its opinion, for reasons that had already been identified when Ae received the referral.

In these cases, Ae could only question – or perhaps follow up the decision-making authority or developer – the relevance of its referral, as the original application was either incomplete, which would have justified postponing Ae's referral, or null and void.

Major inadequacies have sometimes been identified in certain impact assessments: scope of the assessment too limited, inadequacies in the description of the initial state, meaning that the impact analysis and the measures proposed by the developer were incomplete, imperfect development process or unusual lack of precision on certain subjects, even for major linear transport infrastructure projects at DUP stage⁵⁷. This was the case, for example, with the opinions on the Noisy-Champs – Saint-Denis Pleyel and Mairie de Saint-Ouen – Saint-Denis Pleyel stretches (lines 14/16/17) of the Greater Paris public transport network.

Ae restates that the robustness and reliability of an impact assessment depends particularly on the degree of definition of the project it describes: choosing the point at which it is referred to Ae is thus a compromise to be found by the developer between a project that is too far advanced for changes to be made, which can give the impression of a project that is already signed and sealed by the point of the public inquiry, and, conversely, a project whose characteristics are insufficiently known for its impact to be properly evaluated.

52 \ Ae opinion no. 2014-66, 2014-69.

53 \ Ae opinion no. 2014-28.

54 \ Ae opinion no. 2013-129.

55 \ Ae opinion no. 2014-65 about the Saint-Brieuc multimodal exchange hub.

56 \ Ae opinion no. 2014-18.

57 \ Declaration of public utility.

This can be an acute dilemma for projects that can only be made a reality with global financing. As an example, the primary aim of public-private partnerships is to entrust the management of a complex project to a private partner, usually at the point when the objectives are defined by the public partner but before the point when its components are defined in detail (the reconstruction of the Aisne and Meuse dams⁵⁸ or the new station in Montpellier, for example). This difficulty emerges clearly in the variation analysis presented in the project's impact assessment, as these variations are limited by the partnership specifications but not presented or justified, or even defined later by the private partner as part of the service expected of the partner.

The project's position within a wider programme of works can also make the impact assessment unsatisfactory and the Ae opinion critical. In this case, environmental impacts and the measures necessary to avoid or reduce them are at best poorly defined and at worst not taken into account at all in the policy options of the works programme.

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These various difficulties raise the question in French legislation of how the three levels of assessment fit together: the level of a plan or framework policy, the level of a programme of works and measures, the first concrete representation of these plans and policies (the concept of "strategic evaluation" applies to these first two levels) and the level of a project.

In 2014, Ae was forced to note a growing gap between the European interpretation, which approaches a project with all its components, and a French regulatory and case-law interpretation, which generally classes a project as a procedure. Some member states operate strategic evaluations and project impact assessments consistently. For Ae, reducing the gap is becoming urgent. Failing to do so risks weakening the secure legal footing of projects in the long term. It would involve clarifying both the French concept of plan/programme and what is expected of the environmental assessment, which cannot be limited to a sort of preliminary impact assessment for a collection of projects defined with a greater or lesser degree of precision.

One project, multiple procedures...

Ae always receives a referral for one of the requests for consent relating to the project.

Articles R.122-7 and R.122-8 of the Environment Code specify how this is implemented for projects that will give rise to a series of successive referrals.

According to these articles, the competent environmental authorities give their opinion based on the whole consent application, including the impact assessment. If the project or its impacts have changed significantly since the previous referral, a new opinion is required. If successive consents are required, the impact assessment, if necessary, is also updated or even entirely revised⁵⁹.

In 2014, Ae received referrals for applications on which it had already issued opinions in previous years. Some were even referred several times during 2014. This was the case, for example, for the extensions to lines 12 and 14 of the Paris metro, the Rennes multimodal exchange hub, the temporary Roland-Garros buildings and the facilities for the Dunkirk Arena. The specific case of the Ayasses embankment in Drôme, a project of modest dimensions, associated with a high-speed line, and which Ae has seen three times, appeared "unexpectedly" at Ae, and it did not fail to point this out in its opinion.



RENOVATION OF THE PONT-ET-MASSÈNE DAM

58 \ Ae opinions no. 2014-57 and 2014-59.
59 \ R.122-8 of the Environment Code.



RECONSTRUCTION OF THE MANUAL LOCKS ON THE AISNE

If the impact assessment has not been updated to take account of the recommendations of a previous opinion, Ae will make this clear, though it does not underestimate the time needed to prepare applications. This had already been the case for the Village Nature applications (Seine-et-Marne), for example⁶⁰.

These applications are generally part of the conventional process of a DUP application, followed by requests for “loi sur l'eau” (water legislation) consent and then applications for building permits or classified installation for environmental protection (ICPE) authorisation, which are more targeted in terms of subject. Some also require additional consent as classified sites for environmental protection.

Independently of the formal risks reported by Ae in its opinions – such as the possible need to conduct public inquiries – the fundamental issue is to keep the public properly informed about this succession of procedures. Applications rarely give a true picture of a project's global impact at the stage of each individual procedure.

In the two cases of the extension to line 12 of the Paris metro and the Ayasses embankment, this even led to applications that had become illegible due to an accumulation of supplements with no explana-

tion as to consistency or how they fit together. Similarly, Ae had to analyse nine requests to decide on whether to submit case-by-case projects for impact assessments, for building permits relating to the ZAC (joint development zone) of Saint-Jean-Belcier in Bordeaux. It issued a first opinion about the station itself following an initial submission for a case-by-case impact assessment and then, successively, a preliminary scoping about the ZAC and two opinions about the projects to create and implement the ZAC. Ultimately Ae did not submit any building permits to impact assessments.

It is also useful to remember (as in the case of the Pont-et-Massène dam renovation project⁶¹, for example) that if a project or its impact assessment are significantly changed after a previous opinion, a new referral to Ae may be necessary. So far Ae has only made such a request explicitly in the most obvious cases⁶², as it does not consider itself in a position to pronounce on strictly procedural issues.

60 \ Ae opinion no. 2013-106, the third opinion published on the subject, over a year after the first, without the project developer taking any account of the previous opinions.

61 \ Ae opinion no. 2014-40.

62 \ Including Ae opinions no. 2014-34 and 2014-75 about the extension of metro line 12 from Porte de la Chapelle to Mairie d'Aubervilliers.

Opinions at several stages of progress

Ae issued two opinions about amendments to territorial development contracts (Roissy – Terres-de-France and Val-de-France) that had already been signed. These were intended to enable municipalities to carry out urban renovation and redevelopment operations in zone C⁶³ of the Roissy – Charles-de-Gaulle airport noise exposure plan under the framework of the ALUR⁶⁴ legislation.

These were Ae's first amendments to plans/programmes. Together with the opinion issued when the French Guiana regional development scheme (SAR) was revised (the initial opinion dated back to 2009⁶⁵), these were the first opinions issued by Ae on plans and programmes it had already been commissioned to analyse.

Consistency between different procedures

First of all, Ae questioned whether certain general legislative provisions relating to public inquiries (the need for a public inquiry for all authorisations) were consistent with the provisions specific to certain procedures. In the case of the Lapouyade temporary mixing plant⁶⁶, for example, Ae gave an opinion on a classified installation subject to temporary authorisation that was not destined to be published on the occasion of a public inquiry. In several cases, it noted that some developers began operating their installations with just a simple declaration, "awaiting registration or authorisation", which largely negates the information and dialogue function of the public consultation before the project's launch.



BIEF D'ETOZ AND ROCKS

Articles R.423-55⁶⁷ and 423-58⁶⁸ of the Urban Planning Code make a link between the Ae opinion and the request for a building permit, and between the building permit procedure and other later requests for consent, for the public inquiry required by the Environmental Code. However, the second of these articles was not updated by the decrees of 29 December 2011. The subsequent provisions providing a "bridge" between the Urban Planning Code and the Environmental Code are thus difficult to apply.

More fundamentally still, Ae observes that although articles L.122-1 and thereafter of the Environmental Code, like the European projects directive, deal with projects and their potentially significant effects on the environment, these provisions are not included in their entirety in the rules applying to each of the consent procedures that affect the project. Ae regularly sees that certain impact assessments, although they comply with the rules of the procedure under which the application is referred to Ae, do not comply with these general provisions. Impact assessments thus vary widely in scope as a result of specific regulatory provisions.

For Ae, this type of difficulty is illustrated by the coordination between provisions relating to installations classified for environmental protection (ICPE) and those arising from the "water legislation". While an installation subject to authorisation

63 \ Moderate exposure to noise.

64 \ Article 166 of law no. 2014-366 of 24 March 2014 (legislation on access to housing and renewed urban development).

65 \ Ae opinions no. 2009-03 and 2014-16.

66 \ Ae opinion no. 2014-80.

67 \ "If the project is subject to an impact assessment, the competent authority requests the opinion of the administrative authority of the state with competence for the environment by virtue of article L.122-1 of the Environmental Code, if this opinion has not already been given in the context of another procedure covering the same project." (R.423-55 of the Urban Planning Code).

68 \ "If the project has previously been the subject of a public inquiry under the conditions specified by articles R.123-7 to R.123-23 of the Environmental Code or by articles R.11-14-1 and thereafter of the Public Utility Compulsory Purchase Code (Code de l'expropriation pour cause d'utilité publique), and the opinion on submission to the inquiry indicated that the inquiry would also cover the projected construction, there is no need for a further inquiry for the building or development permit unless the project has undergone substantial changes since the closure of the inquiry."



as an installation classified for environmental protection is equivalent to an authorisation under the water legislation, the assessment of the effects on water and aquatic habitats can sometimes be reduced to an evaluation of the installation subject to authorisation, leaving aside the need to assess the global impact of the project on water.

This can mean that a procedure only deals with the impacts relating to the authorisations being requested. As these may themselves only concern a part of the wider project, this can lead to projects being “carved up”, depriving the public of a complete, integrated view of their impact. This approach has been condemned on a number of occasions by the European Court of Justice⁶⁹.

How can progress be made?

The observations made when these opinions were produced led Ae to consider how its own referrals could be better coordinated with the public inquiries of the various procedures concerned without changes to legislation, as far as possible in advance of requests for authorisation and updates to impact assessments. This was the case in 2014 in many of the Ile-de-France applications with the central and decentralised administrations of the Ministry of Ecology, Sustainable Development and Energy.

For example, Ae can report several cases of concurrent referrals by a mayor relating to a request for a building permit and by the prefect relating to a ground clearing request based on complementary applications (as the requests were different) but with the same impact assessment. Ae promotes this practice among the decision-making authorities concerned, though this requires the authorities responsible for approving the project and their staff to keep each other informed.

Ae is also pleased to note that it has received referrals incorporating several applications gathered together by the developer and the referring services, including the project to reopen the Belfort – Delle railway line⁷⁰ (ground clearing, water legislation, in parallel with the DUP, the request for “protected species” exemption having been referred previously), the sediment management installation on the Rance⁷¹ (water legislation, occupancy of the public maritime estate at the point of the request for authorisation as an installation classified for environmental protection) and the Mèlèzes chairlift⁷² (ground clearing authorisation and building permit).

The cases of the Landivisiau gas plant⁷³ and the Fos Faster methane terminal⁷⁴ appear to Ae to be closer to the directive's definition of projects: the applications enabled several authorities and several developers to submit an energy installation subject to the legislation on classified installations to a single public inquiry at the same time as the pipelines, electric lines or other structures required for the main installation to function.

In the light of all these opinions and considerations, Ae has identified a number of changes that appear desirable within the current legal framework, which it has proposed to the working groups on modernising environmental legislation. Although it supports the idea of a single authorisation, it considers it poorly suited for certain major projects whose design process requires several years, including time to refine certain environmental aspects.

For these projects, the recent questions raised by several sensitive projects could suggest a change in the statutory processes in terms of both public consultation and impact assessments, inserting a referral to Ae whenever necessary.



FOS FASTER

69 \ See for example judgements C-392/96, C-142/07, C-205/08 and C-275/09, which can be consulted at the address <http://curia.europa.eu/juris/recherche.jsf>. For example, judgement of 25 July 2008, *Ecologistas en Acción-CODA*, C-142/07, ECR I-6097, paragraph 44: “Lastly, as the Court has already noted with regard to Directive 85/337, the purpose of the amended directive cannot be circumvented by the splitting of projects and the failure to take account of the cumulative effect of several projects must not mean in practice that they all escape the obligation to carry out an assessment when, taken together, they are likely to have significant effects on the environment within the meaning of Article 2(1) of the amended directive (see, as regards Directive 85/337, Case C-392/96 *Commission v Ireland* [1999] ECR I 5901, paragraph 76, and *Abraham and Others*, paragraph 27).”

70 \ Ae opinion no. 2014-88.

71 \ Ae opinion no. 2014-41.

72 \ Ae opinion no. 2014-78.

73 \ Ae opinions no. 2014-29, 2014-30 and 2014-51.

74 \ Ae opinion no. 2014-74.

2. WHAT AE'S OPINIONS CAN CONTRIBUTE

2.1 – Knowledge of recent developments in the legal and administrative framework

One of the main characteristics of Ae's opinions is their interdisciplinary vision: by identifying and putting into perspective the main issues of a project, in order of priority, Ae takes care to stand back from a strictly procedural approach to projects while still following the order of the headings in the impact assessment or environmental report to ensure clarity.

During 2014, it has taken account of several recent texts that have general application:

- the new existence of a second opinion from the general investment commission (commissariat général à l'investissement)⁷⁵ for projects receiving public funding above a reference threshold (Grands projets du Sud-Ouest, new Montpellier station, Bretagne Sud 14 gas pipeline)⁷⁶;
- the national outlines for the “green and blue grids” (trame verte et bleue)⁷⁷ (Grands projets du Sud-Ouest, new Montpellier station and action plans for the marine environment⁷⁸);
- regional environmental coherence schemes (schémas régionaux de cohérence écologique)⁷⁹ as they are approved;
- new judgements from the European Court of Justice, in the absence of national legislation and case-law: priority habitats, Ireland 2013 (Grands projets du Sud-Ouest and the Pourrières solar plant⁸⁰);
- the “waste” directive⁸¹ (Mirabeau basin at the port of Marseille), pending the adoption of national regulations on certain products not previously considered as waste;



- article 166 of the ALUR legislation⁸² (amendments to the CERTF and Val-de-France territorial development contracts (CDT)). Ae also questioned whether it should express a position on the legality of certain provisions in the amendments presented, but abstained from doing so.

2.2 – No more preliminary scoping?

In response to the expectations of several developers, the issue of expressing an opinion in the form of a preliminary scoping before conducting an impact assessment recurs regularly, without giving rise to a formal referral: in 2014, Ae only issued one opinion on a request for a preliminary scoping⁸³.

75 \ Decree no. 2013-1211 of 23 December 2013.

76 \ Ae opinions no. 2013-121, 2013-122, 2013-123, 2014-28, 2014-22.

77 \ Decree no. 2014-45 of 20 January 2014.

78 \ Ae opinions no. 2014-81, 2014-83, 2014-84, 2014-85.

79 \ L.371-3 of the Environmental Code.

80 \ Ae opinion no. 2014-38.

81 \ Directive 2008/98/EC.

82 \ Law no. 2014-366 of 24 March 2014 on access to housing and renewed urban development (ALUR).

83 \ Opinion no. 2014-82 on the preliminary scoping of the project to extend the La Cotinière fishing port.





GARDON GORGES

A more detailed analysis explains the gap between these expectations and the reality observed in 2014: usually, a preliminary scoping has to be commissioned before the impact assessment is conducted, in a schedule that is often tight; moreover, too general a scoping would offer limited added value if all it does it paraphrase the regulations. This is why, when the intention is confirmed, Ae encourages the decision-making authority and the developer to clarify the non-regulatory questions for which the scoping would present more specific benefits. Consequently the referral to Ae often occurred too late in view of the purpose of the scoping. Sometimes, even if the developer considered it appropriate, it was the decision-making authority, the only body with the competence to make a referral to Ae, that ultimately abandoned the idea.

In terms of plans/programmes, Ae did not receive any requests for preliminary scopings in 2014. It has only produced one since 2009 (SDRIF). And yet the European Commission restated at an international conference in Brussels in September 2014 that its reading of article 5, paragraph 4 of the 2001 directive leads it to consider preliminary scopings obligatory for strategic environmental assessments, which is not currently the practice in France.

As well as making known the information held by government departments (for which Ae is not always in the best position), Ae considers that the goals of the preliminary scoping are the following:

- to define the scope of the project and, where applicable, the programme under the terms of the Environmental Code, taking into account the case-law of the European Court of Justice with regard to the definition of a project subject to an impact assessment;
- to identify the main issues (not to be confused with the effects), taking the different spatial scales into account, even if it is not always possible at this stage to formulate them precisely or prioritise them definitively;
- to reach a position on the scope of the assessment, which may vary depending on the issues and the types of impact anticipated;
- to indicate more precisely the investigations that would be useful with regard to particular issues;
- to answer specific questions from developers who cannot find answers to methodological queries in “best practice” or in environmental authority opinions on comparable projects or plans/programmes.

For strategic reasons relating to workload, it would not be possible to generalise the use of preliminary scoping for projects, even if decision-making authorities, on behalf of developers, requested it. However, conversely, French practice is well below what Ae has learned from discussions with foreign environmental authorities it met in 2014. Even if it remains desirable to give clear priority to cases where the developer is confronted with complex methodological questions, Ae is sensitive to the opportunity for formal preliminary scoping for large projects that are the subject of public debate and those where the risk of a major problem identified too late in the opinion published by Ae would be very problematic. Ae observes however that the European Commission's interpretation guide to preliminary project scoping (in English) is too little known, and that referrals are broadly unsatisfactory.

Ae encourages decision-making authorities to refer requests for preliminary scoping opinions without delay, especially for complex projects involving several developers, according to a timetable compatible with the project schedule. Ae has also recommended that plan/programme developers and decision-making authorities should contact Ae for help in preparing the plan/programme, which will also allow them to benefit from its analysis as early as possible.

2.3 – Sharing the understanding of Ae's opinions

More sustained dialogue with the DREALs⁸⁴, the CGDD⁸⁵ and the authorities responsible for approving projects

Based on its exchanges with developers, the staff of other French environmental authorities (the DREALs and DEALs), the departments examining requests for authorisation (requests that have been intensifying, particularly in département territorial departments and prefectures) and other European environmental authorities, Ae has identified several recurring questions: which is the competent environmental authority for a given project? What does updating an impact assessment involve? When is it required? Is a public inquiry necessary? How can procedures and applications be coordinated? What is the best point (in a project or procedure) to refer an application to Ae, and based on what documents?

These discussions give all the stakeholders a deeper and more uniform knowledge of the existence of these interdisciplinary environmental procedures (case by case, impact assessment, public inquiry, pre-authorisation) and the difficulties that can arise in implementing the texts in force, largely due to the complexity of coordinating the different texts and the number of organisations, sometimes separate, responsible for applying them.

In particular, Ae has had several discussions with central departments about plans, programmes and groups of projects of the same kind – and a more generalised dialogue with all the government departments in Brittany.

Evolving discussions with other players

Ae's links with certain external contacts have been developed or reinforced:

- Ae has met the national committee of inquiry commissioners (commissaires enquêteurs). All agreed that regular meetings and shared thinking would be desirable. In addition, exchanges between inquiry commissioners and Ae's rapporteurs who have prepared opinions on corresponding projects are encouraged in order to facilitate better understanding and thus greater attention for these opinions;
- Ae was asked for the first time to speak to the "real estate" group of surveyors about the opinions it has issued on real estate, agricultural and forestry development. An appointment was made for a further presentation in 2015 at the joint request of the surveyors and the real estate authorities of département councils;
- Ae also organised working meetings and training for several developers with whom it has frequent contact (including RFF and RTE). An Ae seminar for RFF project directors provided an opportunity to examine ways of optimising referrals and applications relating to large projects. The goal was also to better understand developers' constraints with regard to Ae's needs.

A request for support from Cerema

For the last three years, Ae has worked alongside the central ministry departments (the Ministry of Ecology, Sustainable Development and Energy and the Ministry of Territorial Equality, Housing and Rural Affairs) on the technical committee for a Cerema⁸⁶ programme dedicated to environmental assessment led jointly by the head of the network of DREAL environmental authorities.

No specific assessments were commissioned, but Ae was invited to contribute to the steering committees of several assessments in progress (complex projects, cumulative effects, impacts on urban planning, environmental assessment of plans/programmes etc.).

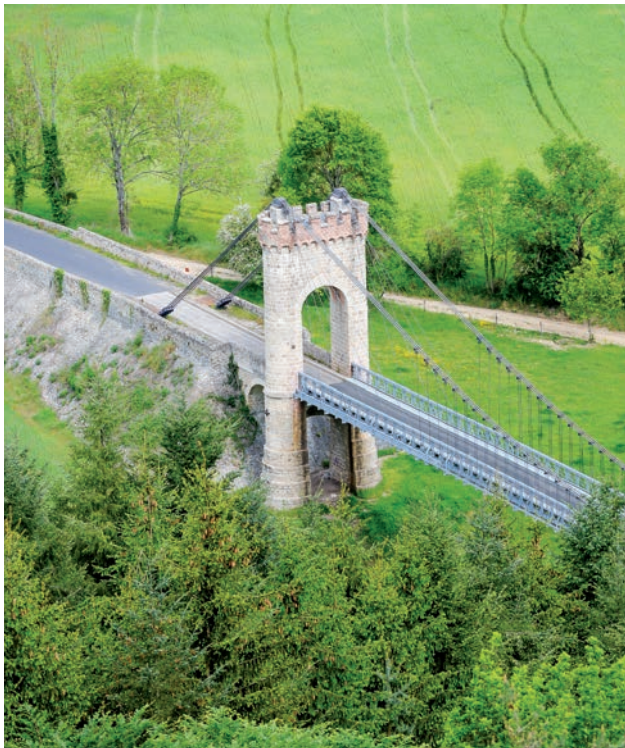
During the preparation of Cerema's 2015 programme of action, Ae presented a requirement on two levels: firstly to have a method for following up how its recommendations and opinions are used by developers, decision-making authorities and the public, consolidating the results of a study carried out by the trainee who worked at Ae in 2014; and secondly to formalise the possibility of calling on its expertise, particularly when analysing certain applications for an opinion.

84 \ Direction régionale de l'Environnement, de l'Aménagement et du Logement (Regional Directorate for the Environment, Development and Housing).

85 \ Commissariat général au développement durable (General Commission for Sustainable Development).

86 \ Centre d'étude et d'expertise sur les risques, l'environnement, la mobilité et l'aménagement (Centre of Research and Expertise on Risk, Environment, Mobility and Planning).





INSPECTION OF THE LIGNON VIADUCT BY CEREMA

Constant participation in training and information

Since 2009, Ae has regularly contributed to various training courses, conferences and seminars at the request of their organisers, presenting its missions, actions and methods. These exchanges provide an opportunity to identify areas of possible progress.

Initial exchanges with the environmental authorities of other member states

In 2014, Ae met the European Commission unit with competence for impact assessments and environmental assessments and the organisations designated as “environmental authorities” in Flanders, Wallonia, England and the Netherlands, and had brief exchanges with the equivalent service in Switzerland. These contacts will continue in 2015, particularly with France’s neighbouring countries. Given Ae’s short period of existence (five years), the experience accumulated by other equivalent organisations, sometimes over more than 25 years, deserves attention.

The diversity of national legal contexts and methods of administrative organisation prevents easy comparisons between operating modes and the levels of “investigations” and “powers” (sometimes going beyond simple opinions) of the “environmental authorities” encountered. In addition, the structure and the number of plans and programmes subject to environmental assessment are fairly different from one country to another, as are the number and scale of the projects subject to impact assessments. France presents several unusual and original features in its environmental assessment and impact

assessment practice which necessarily affect the way the environmental authority function is exercised. However, aside from the obvious differences, there are many shared practices and questions based on the mission arising from the European Commission directives.

The operating methods and results of Ae’s first five years have already interested the European Commission’s Directorate-General for the Environment enough for Ae to be invited to give a presentation in 2015 before representatives of all the European Union countries alongside the environmental authorities of the Netherlands (MER) and Wallonia (CWEDD).

Moreover, Ae strives to identify European Court of Justice judgements as they are delivered that are relevant for the analyses on which its opinions are based in order to better take into account this EU case-law wherever it applies directly, or is at least compatible with the French transposition of directives.

2.4 – Organising feedback on Ae’s opinions

Monitoring and improving Ae’s opinions

Ae is keen to receive more feedback on its opinions, particularly from the developers who contact it for clarification about its published opinions and after public inquiry commissions (see above).

Ae asks all developers and decision-making authorities⁸⁷ for a copy of the responses they often draft for inclusion in the public inquiry document. Reading these responses helps to identify any misunderstandings, which Ae is committed to addressing in future opinions. It collects them together when publishing its annual report.

In 2014, Ae initiated a more technical method of tracking its opinions. Since October 2012, all Ae’s opinions dating back to 2009 and all their recommendations have been entered and imported into a database.

This information already provides material for a number of analyses and simple queries. A future version of the database, easier to use and available via the Internet, will make this information available to all.

⁸⁷ \ The request has been made since 1 January 2013 in the letter accompanying Ae’s opinion, sent by the Ae president to the decision-making authority and the developer.

Methods for analysing this data, such as how Ae's recommendations have evolved and how they are taken into account by all the players involved in the projects, were trialled in 2014. They served as a basis for drafting specifications for a more detailed study prior to Ae's implementation of continuous monitoring. This study was launched at the end of 2014⁸⁸.

Finally, Ae continues over time, and particularly during its deliberations, to evolve its internal methods and practices in the light of feedback from its partners and its own internal observations, always targeting continuous improvement in the quality of its opinions.

An initial Ae note about real estate, agricultural and forestry development associated with transport infrastructure

In response to the needs of certain developers and in line with its strategic thinking, Ae decided to produce "notes" in the form of summaries of its opinions with commentary and areas for further reflection in a given area, such as a type of project or an environmental theme. Ae published a first note on 5 November 2014⁸⁹ based on the 26 opinions it had issued since its foundation in 2009 relating to 50 real estate, agricultural and forestry development (AFAF) projects associated with the construction of highways, motorways or railways. The goals of the note are the following:

- to summarise, with commentary, the opinions it has delivered on these real estate, agricultural and forestry developments, with the summary presented according to a similar structure to its opinions;
- in view of this first review and from Ae's viewpoint, to present possible areas for improvement in the process for preparing AFAF applications and their impact assessments.



88 \ With the help of Cerema, as stated previously.

89 \ Ae opinion no. 2014-N-01.



SAINT-GENEST-D'AMBIÈRE AFAF

The observations made by Ae in the note include a conclusion that the impact assessments of AFAP projects do not always sufficiently explain the links between the projects and the structures (rail links, roads etc.) that have made them necessary, as well as with other real estate development projects in neighbouring areas. The note also addresses points relating to specific themes (justifications for choices made, hydraulic impact, measures to avoid, reduce or compensate for impacts etc.). For example, in several cases Ae has recommended that inventories be prepared in accordance with the regulations⁹⁰ on wetland areas at locations where the hydraulic works involved in AFAP projects could have an impact.

It includes an appendix listing opinions issued to date relating to AFAP projects, together with a glossary of the terms most commonly used in these opinions, which are also useful for understanding the note.

Ae announced the draft note for the first time at the AGM of the surveyors' and developers' association on 21 October 2014. The note will be presented to the members of the national association of regional officers responsible for real estate development (ANATAF) and Ae will take part in training organised by the national centre of regional public services (CNFPT) on the subject of AFAP projects in the first half of 2015.

Other notes will be prepared during 2015, though the form, structure and drafting process may differ between them. On the other hand, all the notes will be deliberated by Ae members and published on its website. The notes are designed to evolve: where necessary, Ae will update them in the light of new opinions and any feedback it may receive, particularly at discussions organised when they are presented.

3. FOCUS ON...

3.1 - Health impacts

The question of how the quality of the environment affects human health is a growing concern in society. In particular, air pollution is central to debates about the use of cars and the increasing spread of diesel engines. Questions about polluted soils and the diffusion of pesticides and other chemicals or particles in the environment are also issues that worry people.

In its 2014 opinions, Ae regularly raised questions about how developers dealt with health issues in their impact assessments.

Most of them refer mainly to the statutory thresholds for environmental quality. This initial first approach is interesting, if only to identify priority issues, but it does not constitute a real assessment of the health risks.

Ae considers that health risks should be given specific attention by developers, particularly for projects that directly or indirectly involve diffuse sources of air pollution. The health questions associated with the use of chemicals, and particularly pesticides, should also be evaluated as a priority. Great attention should equally be paid to issues of polluted ground, particularly when the use of the ground changes, and to the effects of noise on the health and well-being of people living near to structures. Finally, the last few years have seen fears of emerging diseases associated with changes in ecosystem operation due to climate change, though this impact is still very limited for the moment. In particular, Ae recommended vigilance about the risk of mosquito proliferation in relation to a lagoon system project⁹¹.

Two projects to secure the Caen ring-road⁹² and widen the A10 motorway through the city of Tours⁹³ illustrate how Ae wanted to address the health impact of infrastructure in relation to air pollution.

90 \ Amended order of 24 June 2008 specifying the criteria for defining and delimiting wetland areas in application of articles L.214-7-1 and R.211-108 of the Environmental Code.

91 \ Ae opinion no. 2014-41 on the project to manage sediment in the Rance arising from the Lyvet site.

92 \ Ae opinion no. 2014-58.

93 \ Ae opinion no. 2014-67.

Health risk studies of excellent quality were presented in an appendix to the impact assessment, as prescribed in article L.122-3 of the Environmental Code. They showed that initially the risk of cancer for people living nearby was relatively high, of the order of 2/1000⁹⁴.

To ensure the public was fully informed, Ae considered that this result needed to be stated explicitly in the body of the impact assessment: even if the two projects do not seem to lead to an increase in pollution, they are part of a context in which air quality is a major health issue. For Ae, citizen involvement in the decision, an important sustainable development principle, requires a high level of information to make it possible to understand the whole context of a project, not only its specific direct impact. This is necessary so that everyone can have a clear idea of how their area could evolve. Thus informed, the issue is not only to be able to judge whether a project is advisable but also, where relevant, to discuss alternatives and contribute to constructing a local project collectively.

The health issue also leads Ae to be vigilant with regard to the effects of infrastructure projects on the traffic levels they induce, particularly where it is important not to worsen an already worrying situation (as was the case with the Caen ring-road).

In another opinion, about a project to build a crossroads on the Route Nationale 154 highway to the south of Dreux⁹⁵, Ae pointed out that there was no differentiation in the air quality analysis between measurements close to living areas and those taken in open country. It also emphasised the importance of considering all avenues for exposure; in this case soil pollution as much as air pollution.

Continuing from opinions published previously, regional planning projects⁹⁶ that support or accompany the “Grand Paris” project have also received particular Ae attention with regard to their health impacts: by their nature, these projects, which are located in areas of dense habitation with large-scale travel between home and work, and whose main goal is to develop new housing and new business activity consistent with the development of heavy public transport, will have greater or lesser impacts on health. If they are well designed, they could also contribute significantly to improving the living conditions, health and well-being of the residents concerned.

A first risk identified by Ae would be to deal with just the impact created by each project, neglecting a more systemic, holistic view. The case of the “Val-de-France, Gonesse, Bonneuil-en-France” territorial development contract (CDT)⁹⁷ led Ae to underline the importance of dealing consistently with issues of exposure to noise, vibration and the potential for soil pollution in the area. An analysis of the “Versailles, Saint-Quentin-en-Yvelines, Vélizy” CDT⁹⁸ revealed that the evolution of the health risk was difficult to predict based on today's data but that the probable development of urban planning and transport, with the share of individual motor transport remaining high, requires increased vigilance in monitoring its implementation. Ae thus recommended that this monitoring should include parameters for evaluating health risks.

In other cases, it is the temporal dimension of health impacts that interests Ae. This is the case with the opinion on the projected basin to store sediment from the Mirabeau basin at the port of Marseille⁹⁹, involving filling a basin with sediment that is likely to contain dangerous pollutants and ultimately create polluted soil. Ae recommended that an evaluation of the health risks of this basin be conducted without delay with regard to the expected scenarios for filling the basin and its possible future occupation. It also encouraged the port of Marseille to incorporate the sustainable management of dredging sediments into its strategic plan.

In conclusion, compliance with pollutant regulations alone, although a minimum requirement, cannot take the place of a rigorous evaluation of the health risks incorporating all potential pollutants. The importance of the health aspect of impact assessments requires specific studies conducted properly. The use of a mutually agreed system of



94 \ The reference value chosen internationally by organisations or agencies responsible for health protection is an “individual excess risk” less than or equal to 1/100,000.

95 \ Ae opinion no. 2013-135.

96 \ Particularly in the form of territorial development contracts (CDT), forms of contract between the government and local authorities provided for by the Grand Paris legislation.

97 \ Ae opinion no. 2014-69.

98 \ Ae opinion no. 2014-86.

99 \ Ae opinion no. 2014-60.



TRAM ON AVENUE JEAN-MÉDECIN IN NICE

reference such as the one produced by Ineris¹⁰⁰ in 2013¹⁰¹, although it was originally designed for classified installations, is part of the best practice Ae has seen spreading. Supplementing this, best practice may also require targeted measurement campaigns to be conducted, including the measurement of air pollution or a more detailed study of sediments and polluted soils, and the use of models to predict how the situation could evolve in the future. Monitoring this evolution and keeping the public properly informed are also important points when the initial state is insufficiently known or uncertainties exist about the evolution of the situation once the project has been completed.

This development of the theme of health impacts would be incomplete without a mention of the contributions made by the health ministry and the regional health agencies. When preparing its opinions, Ae regularly relies on and refers to their analyses¹⁰². Developers have access to their expertise in terms of general methodologies for analysing the impact of their projects on health. They do not seem to make much use of it.

3.2 – “... and, where relevant, compensate...”

In 2014, Ae was asked to produce two written contributions based on its practical experience for the “ERC”¹⁰³ working group set up as part of the project to modernise environmental legislation. The considerations that follow arise largely from these contributions, which are appended in full to the report submitted to the minister.

Apart from the priority that must necessarily be given to measures to avoid and then reduce impact, it does not seem possible to consider compensation as a universal concept valid for all the subjects covered by impact assessments. Already complex to apply in the area of biodiversity, it does not appear operational at all for noise, air quality, soil etc. In addition, even in the field of biodiversity, compensation by recreating destroyed habitats does not always appear possible: it is often necessary to make do with restoring damaged equivalent habitats. This is necessarily the case, for example, with the destruction of oligotrophic wetland habitats or dry grassland.

100 \ Institut national de l'environnement industriel et des risques (national institute of the industrial environment and risk).

101 \ “Evaluating the condition of habitats and health risks: an integrated approach for managing chemical discharge from classified installations”, guide published by Ineris in August 2013.

102 \ See in particular Ae opinion no. 2014-28 about the new Montpellier station and Ae opinion no. 2014-86 about the Versailles Grand Parc – Saint-Quentin-en-Yvelines – Vélizy Villacoublay CDT.

103 \ ERC: “first avoiding (Eviter) impacts, then reducing (Réduire) them and, where applicable, compensating (Compenser) for them” according to the logic of the EU directives transposed into French legislation.

In addition, there is still confusion among certain developers about the difference between compensatory measures and support measures (studies, events, land acquisitions etc.)¹⁰⁴. This is an incentive for Ae to qualify the measures proposed case by case¹⁰⁵.

The strict logic of compensation (species by species, natural habitat by natural habitat, ecological function by ecological function etc.), even when legitimate pooling is possible, is far from frequent. Ae considers that compensation should be evaluated with regard to the predictable “reference trajectory” of the land provided in compensation as if there were no project and no compensation decision. Compensation associated with noteworthy species and habitats is dealt with much better than compensation for damage to ordinary biodiversity via avenues such as ecological functions. Indeed, this is often the only compensation.

For “biodiversity”, “wetlands”, “protected species” or “forest” compensation, there is also a problem of coordination between the Environmental Code and the Forestry Code with regard to the nature and scope of compensatory measures: in certain cases, compensation for the destruction of natural forest habitats was only considered in terms of the surface area to be created or purchased (the logic of the Forestry Code)¹⁰⁶; while in another case¹⁰⁷, the developer managed two totally separate compensations for the same destroyed area of forest. There is thus a need for coordination between the two codes in terms of compensation, particularly as the future legislation on agriculture, food and forestry is introducing, in a similar spirit, a new principle of “agricultural compensation” into the Rural Code.

Certain compensatory measures proposed reflect a “social or administrative negotiation”, or even compliance with a minimum statutory requirement (e.g. clearing and wetland habitats¹⁰⁸), rather than the logic of compensation under the terms of the Environmental Code. The issue of “proper operation” of the compensatory measure throughout the lifetime of projects with permanent effects seems to be little regarded, and commitments often refer to periods considerably shorter than the effects for which the developers are seeking to compensate.

In some cases, the compensatory measures themselves deserve an evaluation of their own impact, which is never specified in the impact assessment. With regard to the locations of the compensation, taking into account their remoteness from the site affected, Ae considers that:

- it is essential to take into account the characteristics of the habitat where the compensation is to take place;
- it is often necessary to evaluate the impact of the planned compensatory measures in terms of other issues than the motivation behind them;
- it is not legitimate to describe a measure whose ecological impact is greater than the ecological or environmental benefit sought as a compensatory measure.

On several occasions¹⁰⁹, Ae has struggled to ensure that the compensatory measures already taken for a previous project would not be affected by a new project (poorly described interference or even destruction) or by the compensatory measures of a new project, leading to the suggestion of a register of compensatory measures. Compensatory measures presented as “additional”, superimposed on top of previous compensatory measures, are often especially difficult to evaluate.

It is vital to identify clear responsibility in terms of the acceptance of the reduction and compensation measures proposed by developers: in legal terms, this can only lie with the person who takes the decision about the project (prefect, or government by decree) in the light of Ae’s opinion. The application submitted does not always allow Ae to make a pronouncement in its opinion about the minimum acceptable level of the reduction and compensation measures to give the decision-making authorities the information they need to evaluate the outcome of the project¹¹⁰.



104 \ For 2014, see in particular Ae opinion no. 2014-72 about the Trédaniel wind power plant.

105 \ See in particular Ae opinion no. 2014-70 about so-called “land security” studies and acquisitions.

106 \ For 2014, see in particular Ae opinion no. 2014-37 about the Obélisque crossroads, which links to the recommendations for another project nearby, Village-Nature (Ae opinions no. 2011-80, 2012-14, 2012-58, 2013-48 to 51 and 2013-106).

107 \ See in particular Ae opinion no. 2014-89 about the Ayasses embankment.

108 \ Even in the apparently simple case of the minimum ratios specified by the SDAGE (water development and management scheme), experience shows that the figure for the area affected (denominator) and the figure for the compensation provided (numerator) should both be treated with caution (see the development of the Arena area and car parks in Dunkirk – Ae opinion no. 2014-18).

109 \ See in particular Ae opinion no. 2014-50 on the Pont de Normandie 2 logistics park and Ae opinion no. 2014-70 on the 2014-2019 strategic plan of the port of Le Havre.

110 \ See in particular Ae opinion no. 2014-70, mentioned above.

Within a single project¹¹¹, Ae does not see a problem if certain measures compensate simultaneously for several types of impact, which may be covered by different authorisation procedures, as long as the overall presentation makes it easy to understand how each type of impact is compensated for by a measure, and how each measure is allocated to a set of impacts:

- the claim sometimes encountered that there is no need to go beyond the compensatory areas proposed for protected species, as these areas are necessarily beneficial to ordinary biodiversity, should always be countered in view of the habitats, species and ecological functions identified and significantly affected by the project;
- with regard to a particular species, it is not enough to propose a measure relevant to one phase of its life cycle (even a measure which may also be proposed to compensate for a different impact), unless it is also demonstrated in parallel that the species also has conditions elsewhere to enable it to complete its biological cycle¹¹². In a pooled approach in which it is often claimed that a “specific area” compensates for several species, this demonstration is indispensable;
- with regard to pooling between several projects geographically close to each other, Ae has already encouraged two developers operating in neighbouring areas to develop a more coordinated, more ecologically functional approach to their compensatory measures. But this coordination may mean having to justify carefully that a single area can compensate for two projects: the additionality argument must at least be demonstrated with evidence and with quantified targets in terms of the ecological functionality to be achieved within a fixed period. Moreover, this additionality will be easier to evaluate if the georeferenced information about all the compensatory measures already implemented, with precise descriptions, is complete and up to date.

Some developers would prefer to emphasise functional compensation rather than area ratios: these ratios are often easier to reason about, but this cannot exonerate the developer from having to justify his choice of compensation with regard to the residual impacts identified in terms of habitats, species or ecological functions¹¹³.

Strictly speaking, the goal of ecological functionality when compensating for damage to natural habitats or species can only be the “good state of conservation” specified by the European Council directive on habitats and wild fauna and flora. For Ae, the fact that this directive is only obligatory for limited lists



of natural habitats and species does not exclude compensation on the basis of a broader, proportionate impact assessment that is not confined to respecting the minimum statutory obligations.

For some large types of complex ecosystems (such as the projects examined by Ae on the Seine estuary), ecological functionality can represent a major, high-priority issue, leading to preference being given to a compensatory measure that aims to restore the principal mechanisms (sediment transport, transverse permeability etc.), considering that one-off measures targeting natural habitats or particular species cannot fully achieve their goals unless these preliminary steps are taken.

111 \ See in particular Ae opinion no. 2014-63 on the “La Pierre Blanche” development in Creil and Saint-Maximin and Ae opinion no. 2014-74 on the Fos Faster methane terminal.

112 \ See in particular Ae opinions no. 2013-121, 2013-122 and 2013-123 on the GPSO (Grand projet du Sud-Ouest).

113 \ In 2014, see in particular Ae opinion no. 2014-01 on the creation of a 225 kV underground link between Calan, Mûr-de-Bretagne and Plaine-Haute

The theme of functional equivalence is a subject in which there is often a shortage of scientific references to support the work of design offices. For example, the idea of national tables of equivalence coefficients appears illusory, given for example the fact that the argument has to depend on the state of conservation of the population concerned, or whether the site is in the centre of a species' range or at the edge.

But it might be possible to consider certain reference points at intermediate levels that could help developers and their design offices, taking into account the state of conservation, local scarcity, the role of a habitat or species in ecological function, the cumulative effects resulting from the dynamic observed in terms of projects affecting the habitat or species...

Even with targeted thinking about ecological function, there remains a need for an area multiplication coefficient (itself needing to be justified case by case) to take account of at least two problems:

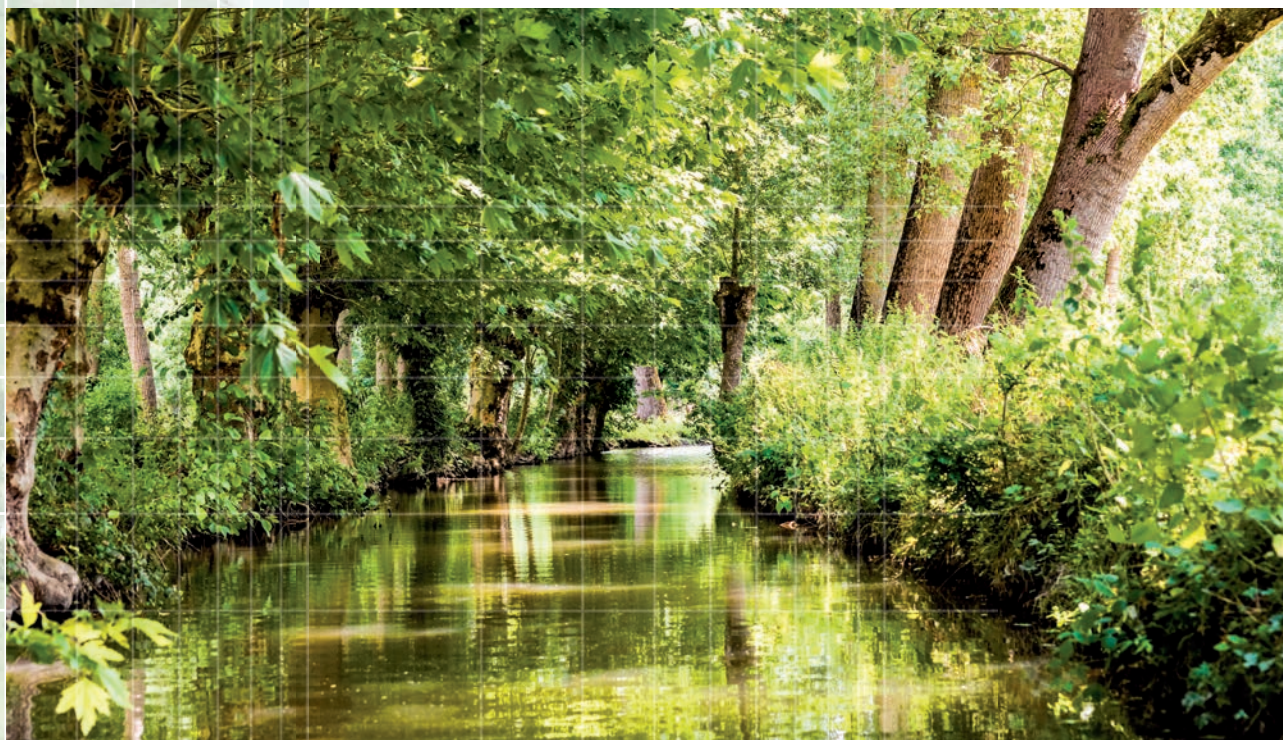
- the risk of the compensatory measure failing, unless the developer can commit to reworking it as many times as necessary until its subsequent evaluation validates that it is working;

- the inevitable delay between the planned destruction of a habitat (natural or of a particular species) and the confirmation that the compensatory measure is effective, unless the developer has been able to anticipate and propose a compensatory measure that is functional immediately.

Behind the area ratios there is also an implicit debate about obligations of means compared with obligations of results in terms of compensation. On one hand, the destruction justifying the need for compensation is certain, while the remediation planned as a compensatory measure does not generally guarantee an ecological habitat (and function) identical to that which was destroyed. On the other hand, the developer often feels that he does not himself have the capacity to guarantee the functionality of the compensatory measure, and he thus has to depend on his advisers (design offices) or government departments: he therefore often considers himself bound by an obligation of means rather than results.

However, Ae considers that the spirit of EU legislation reflects an obligation of results, without which there is no subsequent compensatory measure at all in the event of failure.

The ecological function of the compensatory measure also has a temporal dimension: the measure



often takes time to become fully operational (functional), and it has to remain so throughout the lifetime (operation) of the project that justified the destruction generating the need for compensation. The area multiplication coefficient can also be analysed as an attempt to account for these constraints and risks.

3.3 – The developer's commitments in terms of monitoring

The Environmental Code requires that *“impact assessments present the main methods for monitoring the measures and their effects on the environmental issues”* (article R.122-5, paragraph 7). Article R.122-14 adds that *“the decision to authorise, approve or execute the project describes: the methods for monitoring the project's effects on the environment or human health; the methods for monitoring the implementation of the planned [ERC] measures, and for monitoring their effects on the environment, which are reviewed one or more times according to a schedule determined by the competent authority for authorising or approving the project. This review or these reviews are passed for information by the authority competent to take the decision to authorise, approve or execute the project to the government's competent administrative authority for the environment.”*

In the same spirit, it specifies that the environmental assessments of plans and programmes should present *“the criteria, indicators and methods set – including deadlines – for verifying [...] the proper evaluation of the unfavourable effects identified [...] and the adequacy of the measures taken [...] for identifying [...] at an early stage any unforeseen negative impacts and enabling, if necessary, appropriate measures to be taken; [...]”* (article R.122-20, paragraph 7).

This chapter is generally particularly weak. Yet what is at stake is the effective capacity of the reduction and compensation measures to function at the required level, and thus the capacity to change them if necessary to take account of the actual performance evaluated on the ground after their implementation. This is what led Ae to give increased attention to these provisions in the opinions it issued in 2014.

First of all, the effectiveness of the measures relies on appropriate result indicators: restoring a wetland area depends on the definition of explicit criteria, while impact assessments usually target an area to be restored and a type of habitat without necessarily giving any further details¹¹⁴; for several projects, the results expected of the noise reduction measures associated with an infrastructure project are based on acoustic analyses for each house.



It appears necessary to reason in terms of functionality, rather than just an isolated indicator: the disturbance to pedestrians and cyclists caused by a road project led Ae to recommend monitoring to ensure that these types of traffic remain functional¹¹⁵; more often, it appears desirable to monitor the effects on traffic and travel as a whole in order to evaluate the impact of new infrastructure¹¹⁶. This is also a recurring approach for measures of an ecosystemic nature. However, these monitoring provisions are rarely described.

For plans and programmes, it is common for the monitoring provisions considered to include indicators that are not necessarily correlated with the planned measures and effects. In the case of action plans for the marine environment, Ae wanted to develop this point, observing that although the monitoring programme was intended to respond to the obligations resulting from the marine strategy framework directive it did not appear to be immediately transferable for monitoring action plan measures. Ae observed a similar gap in most of the plans and programmes it analysed.

114 \ Ae opinion no. 2014-18 on facilities for the Dunkirk Arena.

115 \ Ae opinion no. 2014-47 on the Manufacture interchange in Sèvres.

116 \ Ae opinion no. 2013-140 on the RN 102 highway (A75 – Brioude link) and no. 2014-48 on the RD 141 local road between Illies and Salomé

The duration of this monitoring is not always specified: it should be justified by both the duration of the project's effects and to guarantee that the desired result is achieved in a lasting way. In the particular case of a new basic nuclear installation¹¹⁷, as the lifetime of the installation is likely to be more than a century, Ae was even led to develop a recommendation to anticipate the risk associated with an ageing plant by specifying the methods for monitoring the main parameters.

For the most sensitive projects¹¹⁸, and within the framework of plans/programmes (including CDTs and ports' strategic plans), the applications propose the creation of monitoring structures or observatories. In these cases, Ae has specified that these measures should be associated as early as possible, right from the stage when the monitoring provisions are approved. More broadly, some projects are particularly important and sensitive, which has also led Ae to recommend that the public be kept continuously informed before the project begins and then as additional studies and analyses are completed and as the project advances.

For projects as for plans/programmes, a commitment based on results implies that the provisions should define any supplementary measures that may be necessary if the objectives are not achieved: the Environmental Code makes this point explicit for plans and programmes. This is never the case with the applications referred to Ae, and the authority has sometimes underlined the need to add to the

environmental assessment in this way. As explained later in this report, such monitoring appears crucial to avoid realising too late, when the plan/programme is complete, that the developers' ambitions have not been achieved.

3.4 – Assessment of plans and programmes: the example of the major ports' strategic plans and the action plans for the marine environment

Apart from new opinions on territorial development contracts and national park charters, 2014 led Ae to examine for the first time the strategic plans of the major sea ports (GPMs) and the four action plans for the marine environment in the mainland marine subregions. The fifteen opinions issued in 2014 on plans and programmes confirm the initial observations formulated in previous years; they also bring out several points shared by the plans and programmes analysed, even though these were very varied in nature.

The Environmental Code requires Ae to formulate an opinion on the environmental report as well as on the draft plan, scheme, programme or planning document (R.122-21 IV of the Environmental Code).

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117 \ Ae opinion no. 2014-62 on INB (basic nuclear installation) no. 116 at the Areva NC site of La Hague.

118 \ GPSO (Grand projet du Sud-Ouest) opinions already cited, including, as a reminder, Ae opinion no. 2013-126 on the modernisation of the Roland-Garros stadium

As strategic environmental assessment approaches are still recent, Ae's opinions often cover initial environmental reports¹¹⁹. Consequently, there are still relatively few plans/programmes for which it has been possible to consider the environmental assessment approach at an early stage. Ae has nevertheless been able to measure improvements made to these environmental approaches in second-generation plans: in particular, Ae has identified very clear differences between the mainland GPMs' second strategic plans and the first strategic plans of the overseas GPMs, which have been created recently.

As these strategic approaches are rooted in the long term, one of the first difficulties encountered by developers, and also the environmental assessment approach, is to reconcile the fairly modest period (generally five years) during which a strategic plan is designed to be implemented with the longer timescales of most of the major projects of which they consist. This can make it necessary to accept that the first version of a plan/programme remains partly incomplete in certain aspects. On the other hand, the environmental goals to be achieved and the associated indicators should be defined as early as possible, meaning that the first plan should specify the iterative process by which the objectives will be achieved. This difficulty in addressing long timescales affects the evolution of habitats and environmental indicators similarly: the environmental assessment cannot just be limited to a snapshot of an initial state observed when the plan or programme was developed; it must take full account of the evolutions occurring that result from previous dynamics or decisions, sometimes from long ago.

Consequently, Ae sees a recurring difficulty in defining a "reference scenario", as the continuity of implementation of a strategic plan prevents the questioning of directions decided on several years beforehand, except in a few cases. This difficulty, already mentioned in the 2013 annual report, is usually mitigated by a description of the consultation process that led to the choice of the scenario presented. However, for Ae, it could also lead to a questioning of the structure of the environmental reports of plans and programmes.

As an example, the Environmental Code requires that one aspect of the environmental report should analyse how the plan or programme coordinates with other plans or programmes, together with their cumulative impact. This aspect is almost always limited to a very minimal consistency check. Ae has frequently had to look more deeply into this aspect, which is likely to have a profound effect on the definition of the reference scenario and, as a corollary, the impacts of the plan or programme.

This observation has had particular resonance in the plans and programmes analysed in 2014: measures in favour of the marine environment depend essentially on the effective implementation of water development and management schemes (SDAGE) and the Common Fisheries Policy; similarly, flood prevention measures arising from flood risk management plans could have significant impacts on certain coastal habitats; the continuities identified in regional ecological coherence plans (SRCE) constitute a "base" framework for ports' strategic plans; the orientations of regional climate, air and energy plans (SRCAE), when they are adopted, impose ambitions in terms of renovating existing buildings, developing renewable energy or reducing transport emissions, which a territorial development contract (CDT) must incorporate fully into its strategy and its projects. In the same way, assessments of the effects of all the plans and programmes in the Natura 2000 network still remain fairly imprecise, though the objectives documents contain relevant information for understanding the issues, the state of conservation of the species and habitats and the types of management measures appropriate.

In global terms, a strategic environmental assessment is an opportunity to address four major questions:

- examining at a relevant level, and at a very early stage, the main reasonable alternatives (possibly including the alternative of not changing anything, the reference scenario) in the light of the public policy objectives and in terms that should not pre-judge any technical solutions;
- deducing the main avoidance solutions to be favoured, leaving the task of analysing the variants on different spatial scales to the impact assessments;
- on this basis, identifying and roughly quantifying the broad categories of impact of the chosen development option and the reduction or compensation strategies identified as both necessary and technically feasible;
- defining for all the developers and authorities concerned the main environmental criteria (broad characteristics, location, options identified as unacceptable, order in which certain operations must follow each other, management of cumulative effects, modes of governance etc.) to which projects and measures covered by the plan/programme must respond.

119 \ With the notable exception of the French Guiana regional development scheme (Ae opinion no. 2014-16).

Identifying the issues is a crucial aspect of plans and programmes. It proves all the more delicate in that the territories concerned may be huge and have a diverse range of characteristics. Environmental reports often identify issues at the scale of the whole plan or programme. Implementing them effectively nevertheless seems to involve better targeting of territories and the issues that affect them to avoid inappropriate priorities among multiple issues. The most successful approaches lead developers to identify a list of projects and measures that should be carried out during the duration of the plan or programme. Ae then recommends that they clarify the extent to which the projects or measures have already been started, how their implementation is envisaged over the duration of the plan or programme or even if they are likely to be continued or completed during the next plan or programme. This approach allows for a long-term vision of the issues while better defining the impacts over the duration of the strategic plan.

46 Finally, monitoring systems constitute one of the keystones of plans and programmes: based on indicators or habitat monitoring campaigns, adapted not only to the issues relating to the territory

concerned but also to the projects and measures in the plan or programme, they sometimes appear at least as important as the environmental ambitions claimed by the plan or programme. Targeted indicators sometimes seem more appropriate than more general indicators; Ae has been able to pay attention to difficulties arising in the implementation of certain virtuous orientations, justifying special attention for this process. Finally, as the last link in the monitoring chain, issues of governance have been raised¹²⁰, questioning particularly the scope of the steering committee and the conditions under which changes in the indicators might trigger discussions or even changes in the plan/programme.

Finally, developers often struggle to define avoidance, reduction or, when necessary, compensation measures when certain projects or measures are likely to lead to negative impacts on the environment, even when the environmental reports identify them. These aspects, though rare, deserve particular vigilance.

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120 \ See in particular Ae opinion no. 2014-02 on the Boucles de la Marne territorial development contract (CDT).

4 - THE DECISION ON WHETHER TO SUBMIT A CASE-BY-CASE PROJECT TO AN IMPACT ASSESSMENT, OR “EVERYDAY ADMINISTRATIVE SIMPLIFICATION”

Ae has questioned the rate of submission for impact assessments¹²¹ of projects subject to a request for a case-by-case examination. The rate appeared high in view of the average rate reported by other environmental authorities. In quantitative terms, the Ae's average submission rate is the same as the national average rate (about 10%), as long as one only considers projects not subject to an impact assessment under another of their characteristics or another procedure.

Every time a “case-by-case” application is analysed, the question Ae asks before taking a decision is the following: if the decision is taken to submit the application to an impact assessment, what will be the benefit of this assessment? Taking into account the three criteria in appendix III of the projects directive in its analysis, it keeps in mind that submission for an impact assessment involves costs and delays for the developer and for Ae itself, which must be justified and proportionate to the issues at stake.

4.1 – The accuracy and reliability of the information supplied by the applicant are fundamental

The quality of the form received by Ae and the information it contains prove as fundamental as ever for an accurate analysis of the project. Ae regularly has to request additional information to complete its understanding of the project beyond a purely formal analysis.

In just one case, Ae reviewed and modified its decision on submission for an impact assessment based on fundamental information supplied by the applicant in response to the considerations and criteria used by Ae as the basis for its decision¹²².



COASTAL PATH ON MONT BÉAR ALONG THE VERMEILLE COAST

4.2 – The special case of decisions not to submit based on the existence of other “environmental” procedures

Until now, Ae has not carried out any follow-up of the decisions it has taken. However, it questions the use made of its decisions, particularly when it takes a decision not to submit a case for an impact assessment based on the existence of other procedures and incidence evaluations (water legislation, Natura 2000, protected species or classified sites, for example). This can be the case in particular when a future obligatory evaluation of Natura 2000 effects is not triggered by another authorisation¹²³. Ae could then be led to review its practices for such cases.

4.3 – Feedback on submissions

For the first time since these regulatory provisions were introduced, four appeals were submitted to Ae in 2014. Apart from the case of the Saint-Trojan-les-Bains mooring mentioned earlier, on which Ae changed its decision, the main element that applicants disputed was the reasoning behind the decision that the operation covered by the application was part of a broader project subject automatically to an impact assessment or a programme of operations constituting a functional unit.

The information provided by three of the applicants in support of their appeals did not lead Ae to revise its decisions: two of them were maintained as they were (the extension of a tram line in Montpellier and a development operation on the edge of Strasbourg); the third was withdrawn, Ae considering that its initial decision was misplaced as the work was part of an overall project subject to an obligatory impact assessment (ElecLink).

To Ae's knowledge, none of its decisions has so far been subject to a legal dispute.

121 \ See the data supplied in the first part of the report.

122 \ Ae decision no. F-054-14-C-0015.

123 \ See the decisions on the rehabilitation of the railway embankments in the Hirson forest: no. F-022-14-C-0018 and F-022-14-C-0024.

4.4 – Opinions issued following submission to an impact assessment

Ae has so far issued sixteen opinions following decisions to submit projects for impact assessments:

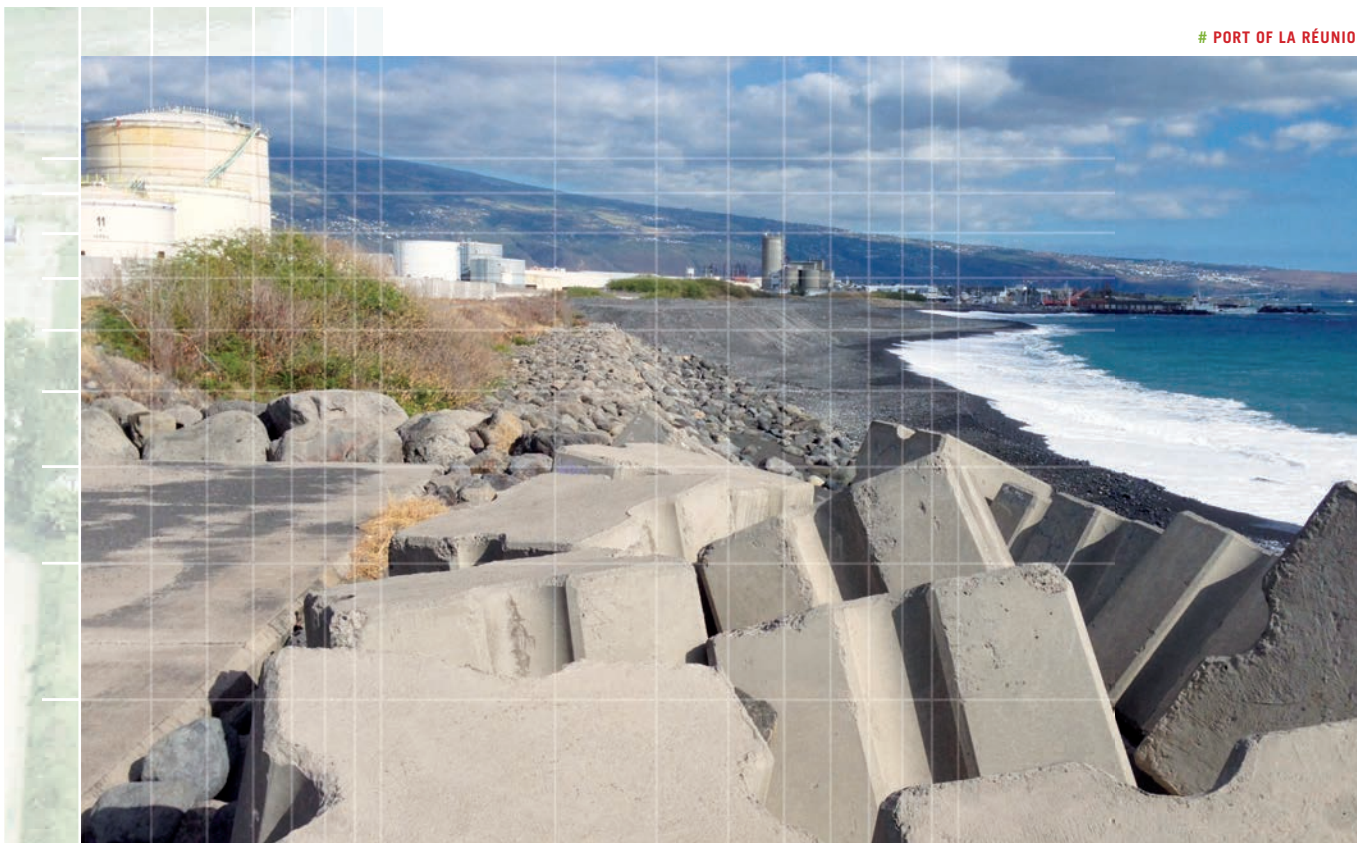
- in three cases, it observed that the impacts identified in the decision, on which the decision was based, had been poorly handled in the impact assessment: the decision was thus probably reasonable, but the impact assessment did not enable the subject to be properly addressed;
- in eight cases, an analysis of the file submitted to Ae clearly backed its decision to submit rather than calling it into question;
- however, in three cases, Ae considered that the decision to submit the operation for an impact assessment was ultimately not justified;
- finally, in two other cases, carrying out an impact assessment had positive results even though the scope of the project was limited.

Consequently, these observations, made and shared by all the members, will lead it to take its decisions based on whether there is genuine added value to be gained from the expected impact assessments. A study will be conducted in 2015 to identify evidence that could lead it to submit projects for impact assessments.

Finally, the context of the new “Projects” directive is already leading to consideration of the possibility of combining decisions with binding recommendations based on firmer commitments from developers: this is not currently possible, and decisions can only concern whether to submit a project for an impact assessment or not.

5 – MODERNISE AND SIMPLIFY?

Following the observations made by the forum on modernising environmental law in 2013, the government wanted to address several areas for consideration to simplify legislation on the environment. The complexity of the legal framework increases legal risks, accumulates mutually inconsistent procedures and requires sustained resources to negotiate it; extending deadlines causes dissatisfaction among developers, and ultimately certain projects generate discontent or even profound opposition.



Several attempts at simplification have been made in response to targeted goals: authorising certain classified installations that generate renewable energy, authorising certain structures and projects under the water legislation etc.

More globally, seven working groups have been given responsibility for proposing legislative and regulatory changes to improve public participation in decision-making processes, impact assessments and the quality of the environmental authority's opinions, the design of projects in order to better "avoid, reduce or compensate for" their impacts, legal protection for decisions etc., even considering unifying environmental procedures.

In mid-2012, the ecology minister mandated the president of the Autorité environnementale to improve the exercise of environmental authority in the regions. The president submitted an interim report in January 2013.

Ae was involved with three working groups: the impact assessment and environmental authority group, the "avoid, reduce, compensate" group and the group on procedural unification – including monitoring the simplification attempts – which was still working at the end of 2014.

It prepared and deliberated on contributions to each of these groups, all based on several common principles:

- Ae cannot fail to observe that several of the difficulties raised in the initial observation arise from a persistent gap between the spirit of the European texts and certain transpositions into national legislation, which justifiably focus on continuity with pre-existing procedures. The experience Ae has acquired, repeated in 2014, has regularly illustrated this;
- a comparison with other member states leads to the realisation that strategic evaluations could be significantly improved, with a more consistent field of application, while project impact assessments are very numerous, as the thresholds for each procedure predefine a very broad field for systematic submission for impact assessment;
- from the viewpoint of a project developer, this regulatory framework encourages the different procedures to be tackled like an obstacle course, minimising the legal risks at each stage and thus losing sight of the fundamental reasons for them and running the risk of "carving up" projects and making their project more vulnerable in legal terms.

This is why Ae argues resolutely for:

- the logic of a "project" in the terms of directive 2014/52/EU to be integrated as far as possible into national legislation, linked to a single impact assessment covering all the environmental issues associated with it, even if this means it has to be invoked at several stages of the project's design;
- greater perspective, even changing the current procedures to restore the full spirit of the texts: compensating for an impact can only be a stopgap measure, even if it has been demonstrated beforehand that the impact could not be avoided or even reduced; the choice of a variant in view of the environmental impacts must be part of a project's design process, and then the decision-making process, and should not be limited to a retrospective reconstruction of the reasons that led to the decision; in cases of compensation, the relevance and success of a measure should be judged on the basis of its results in terms of functionality rather than just its coverage of a large enough area;
- improvements in the overall consistency of environmental evaluation provisions (what is subject to environmental evaluation, the competent authority that produces the opinion) by properly coordinating plan/programme strategic evaluations and project impact assessments and improving the clarity of the overall organisation of environmental authorities.

As the working group on this last aspect confirmed, the public decision-making process gains in both form and substance from being based on a consultative opinion that is not binding on either the decision-making authority or the service commissioned to examine it. A more integrated organisation coordinating the CGEDD Ae and the regional environmental authorities would harmonise opinions and enable each project to be addressed in proportion to the issues it raises at an appropriate level, with a suitable degree of collegiality improving objectiveness without threatening the local knowledge needed to evaluate the issues accurately.

APPENDICES

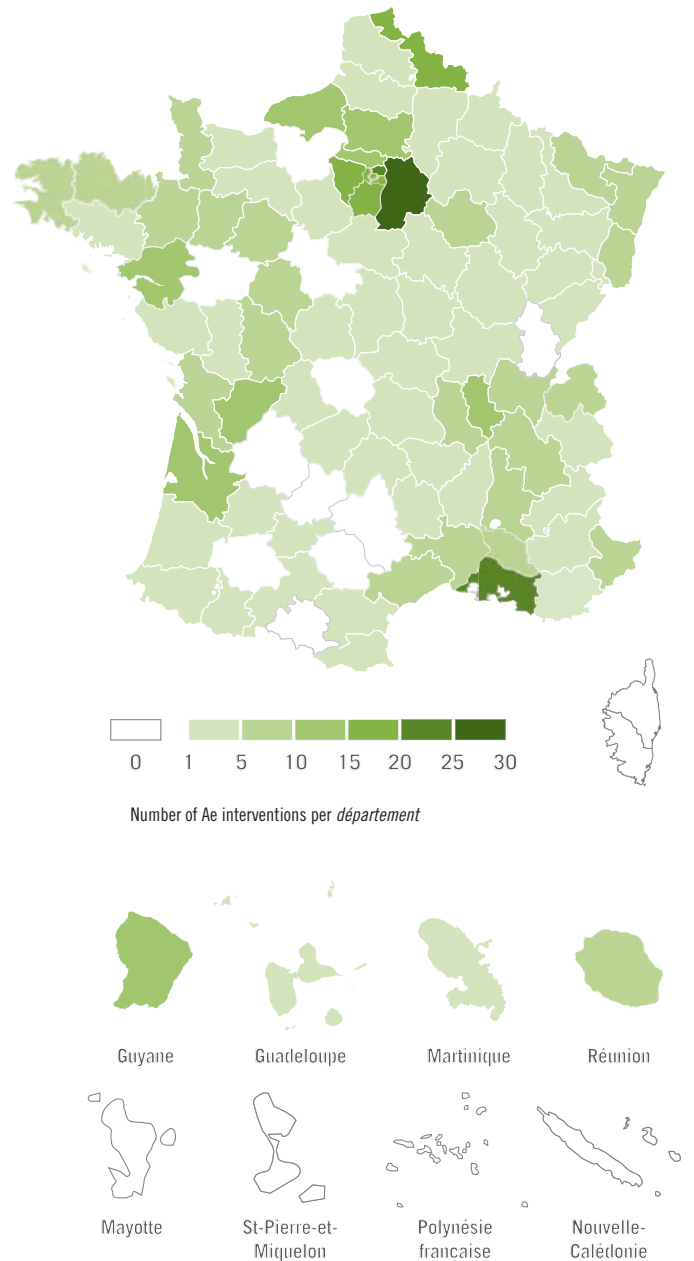




APPENDICES

GEOGRAPHICAL AND THEMATIC LISTS OF OPINIONS ISSUED IN 2014

MAP OF OPINIONS ISSUED IN THE TERRITORY BETWEEN 2009 AND 2014



All the opinions and decisions cited in the report and the appendices (list and exemples) on: www.cgedd.developpement-durable.gouv.fr (french only).

Ae no.	Title of the opinion	Date of deliberation	Département(s)	Region	Type
PLANS AND PROGRAMMES					
2014-16	Revision of the French Guiana regional development scheme (SAR) - see 2009-03	23/04/14	973	Guyane	plan/programme
2014-76	Environmental evaluation of the Port-Cros National Park Charter	05/11/14	83	Provence-Alpes-Côte d'Azur	plan/programme
<i>action plans for marine environments</i>					
2014-81	Action plan for the marine environment – Western Mediterranean marine subregion	03/12/14		inter-region	plan/programme
2014-83	Action plan for the marine environment – Channel and North Sea marine subregion	03/12/14		inter-region	plan/programme
2014-84	Action plan for the marine environment – Bay of Biscay marine subregion	03/12/14		inter-region	plan/programme
2014-85	Action plan for the marine environment – Celtic seas marine subregion	03/12/14		inter-region	plan/programme
<i>major seaport strategic plans</i>					
2014-55	Strategic plan of the port of Martinique	Withdrawn 23/07/14	972	Martinique	plan/programme
2014-56	Strategic plan of the port of Réunion	10/09/14	974	Réunion	plan/programme
2014-68	Strategic plan of the port of La Rochelle	08/10/14	17	Poitou-Charente	plan/programme
2014-70	Strategic plan of the port of Le Havre	08/10/14	76	Haute-Normandie	plan/programme
2014-73	Strategic plan of the port of Rouen	22/10/14	76	Haute-Normandie	plan/programme
<i>territorial development contracts</i>					
2014-02	Boucles de la Marne territorial development contract (CDT)	09/04/14	94	Île-de-France	plan/programme
2014-66	Roissy – Terres-de-France territorial development contract (CDT) – housing amendment	24/09/14	95	Île-de-France	plan/programme
2014-69	Val-de-France/Gonesse/Bonneuil-en-France territorial development contract (CDT) – housing amendment	24/09/14	95	Île-de-France	plan/programme
2014-86	Versailles Grand Parc/Saint-Quentin/Vélizy territorial development contract (CDT)	17/12/14	78	Île-de-France	plan/programme
2014-92	Est Seine-Saint-Denis territorial development contract (CDT)	17/12/14	93	Île-de-France	plan/programme
PROJETS					
Railways					
2013-128	Extension of the Belcier side of Bordeaux-Saint-Jean station	22/01/14	33	Aquitaine	railways
2013-139	Rail accessibility in the municipality of Bassens	12/03/14	33	Aquitaine	railways
2013-122	GPSO rail project to the south of Bordeaux	22/01/14	33-40	Aquitaine	railways
2013-121	GPSO rail project between Bordeaux and Toulouse and Bordeaux and Spain	22/01/14	31-33-40-82	Aquitaine Midi-Pyrénées	railways
2013-130	Removal of level crossings 104 and 105 in Nonant-le-Pin	26/02/14	61	Basse-Normandie	railways
2014-65	Saint-Brieuc multimodal exchange hub	24/09/14	22	Bretagne	railways
2014-15	Morlaix station multimodal exchange hub	23/04/14	29	Bretagne	railways
2014-06	Redon station multimodal exchange hub	09/04/14	35	Bretagne	railways
2014-26	Creation of a multimodal exchange hub at Rennes station - building permit	11/06/14	35	Bretagne	railways
2014-90	Lorient multimodal exchange hub	17/12/14	56	Bretagne	railways
2014-88	Reopening of the RFF Belfort – Delle line to passenger traffic and request for clearing	17/12/14	90	Franche-Comté	railways
2014-04	Development in front of the Gare Montparnasse station	26/03/14	75	Île-de-France	railways
2014-87	Moret-Veneux-les Sablons station hub	17/12/14	77	Île-de-France	railways
2014-19	RER western tangential line from Saint-Germain Ceinture to Achère Ville	23/04/14	78	Île-de-France	railways
2014-33	Major intermodal hub in Juvisy-sur-Orge and Athis-Mons	25/06/14	91	Île-de-France	railways
2014-61	Creation of a footbridge at Corbeil-Essonnes station	10/09/14	91	Île-de-France	railways
2014-13	Construction of spaces for the Mairie de Saint-Ouen station on line 14 of the Paris metro	23/04/14	93	Île-de-France	railways
2014-34	Extension of metro line 12 from Porte de la Chapelle to Mairie d'Aubervilliers – Phase 2	25/06/14	93	Île-de-France	railways
2014-75	Future Mairie d'Aubervilliers station as part of the project for a north-eastern extension to line 12 of the Paris metro – building permit	22/10/14	93	Île-de-France	railways
2014-71	Creation of a new Clichy Saint-Ouen RER station on line 14 of the Paris metro – building permit	08/10/14	92-93	Île-de-France	railways
2014-25	Greater Paris public transport project – Grand Paris Express stretch of lines 14-16-17	28/05/14	93-77	Île-de-France	railways
2014-05	New Montpellier station	Postponed 26/03/14	34	Languedoc-Roussillon	railways
2014-28	New Montpellier station - new referral	09/04/14	34	Languedoc-Roussillon	railways

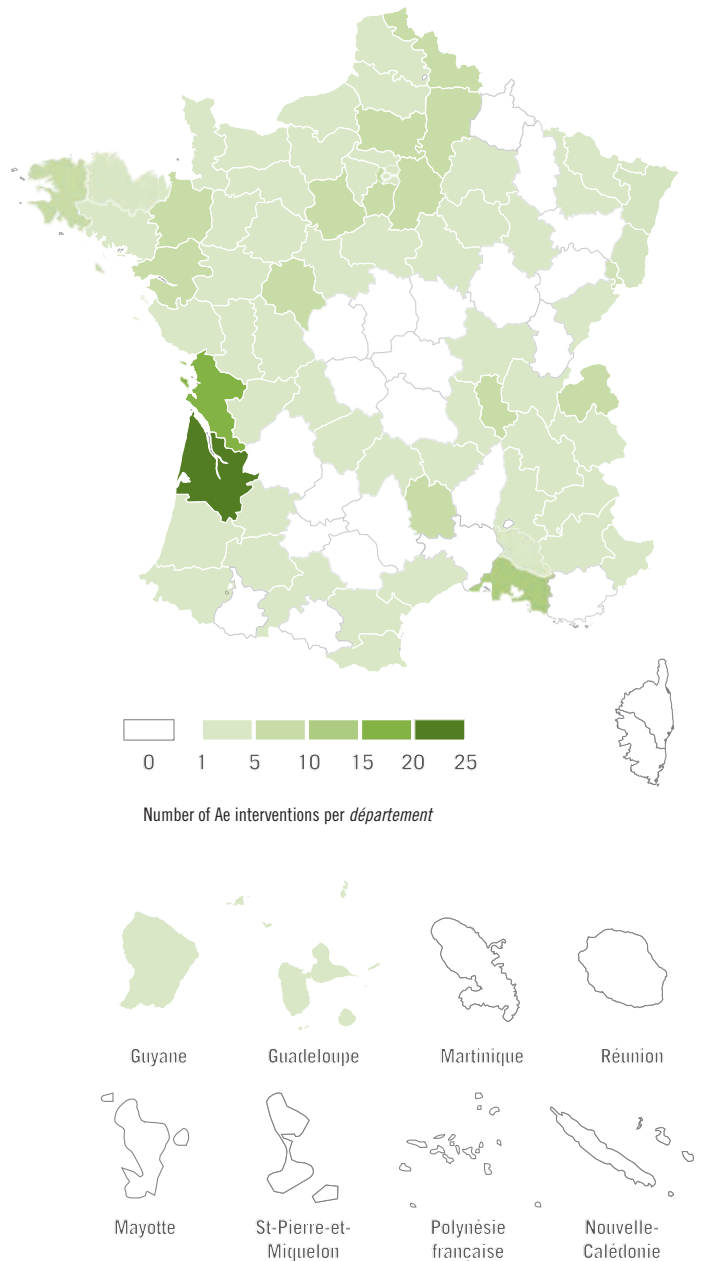
Ae no.	Title of the opinion	Date of deliberation	Département(s)	Region	Type
2013-123	GPSO rail project to the north of Toulouse	22/01/14	31-82	Midi-Pyrénées	railways
2014-64	Creation of a multimodal exchange hub at Savenay station	24/09/14	44	Pays-de-la-Loire	railways
2014-17	Project to develop and extend the T3 tram line to serve the Grand Stade de Lyon in Décines-Charpieu	23/04/14	69	Rhône-Alpes	railways
2014-79	Railway stop and infrastructure to serve the Yvours site in the municipalities of Irigny and Pierre-Bénite	19/11/14	69	Rhône-Alpes	railways
2014-89	Ayasses embankment - development permit	19/11/14	26	Rhône-Alpes	railways
Roads					
2013-140	RN 102 highway development project: A75-Brioude link	12/03/14	43	Auvergne	roads
2014-58	Safety on the northern Caen ring-road	10/09/14	14	Basse-Normandie	roads
2013-135	RN 154 highway - roadworks south of Dreux	26/02/14	28	Centre	roads
2014-67	Construction of a third lane on the A10 motorway between Chambray-lès-Tours and Veigné	24/09/14	37	Centre	roads
2014-37	RN36 highway – construction of junctions between the RD235 and the Obélisque junction	09/07/14	77	Île-de-France	roads
2014-47	Construction of the Manufacture interchange in Sèvres	09/07/14	92	Île-de-France	roads
2014-48	Project to reclassify the RD 141 road in the municipalities of Illies and Salomé	09/07/14	59	Nord-Pas-de-Calais	roads
2014-63	Development of the Pierre Blanche junction between the RD 1016 and the RD 201 roads in the municipalities of Creil and Saint-Maximin	10/09/14	60	Picardie	roads
Rivers					
2014-14	Removal of the dams on the Sélune	23/04/14	50	Basse-Normandie	river
2014-40	Renovation of the Pont-et-Massène dam	23/07/14	21	Bourgogne	river
2014-08	Multi-year dredging management plan to maintain the Nivernais canal	Postponed 09/04/14	58	Bourgogne	river
2013-141	Multi-year dredging management plan to maintain the Canal du Centre	Postponed 26/03/14	71	Bourgogne	river
2013-142	Multi-year dredging management plan to maintain the Seille canal	Postponed 26/03/14	71	Bourgogne	river
2014-42	Multi-year dredging management plan to maintain the Seille river	11/06/14	71	Bourgogne	river
2014-44	Multi-year dredging management plan to maintain the Canal du Centre	11/06/14	71	Bourgogne	river
2014-10	Multi-year dredging management plan to maintain the Burgundy canal	Postponed 23/04/14	21-89-10	Bourgogne - Champagne-Ardenne	river
2014-43	Multi-year dredging management plan to maintain the Burgundy canal	11/06/14	21-89-10	Bourgogne - Champagne-Ardenne	river
2014-49	Multi-year dredging management plan for the Nivernais canal	11/06/14	58-89	Bourgogne	river
2014-41	Sediment transit installation on the Rance at Saint-Samson-sur-Rance	09/07/14	22	Bretagne	river/ICPE
2014-59	Dam reconstruction on the Meuse	10/09/14	55-08	Champagne-Ardenne Lorraine	river
2013-118	Development of falls on the Oyapock (French Guiana) - see case 2014-12	Postponed 22/01/14	973	Guyane	river
2014-12	Development of falls on the Oyapock (French Guiana) - 2 nd application - see 2013-118	12/02/14	973	Guyane	river
2014-07	Creation of a pumping station in Clévant	09/04/14	54	Lorraine	river
2014-57	Reconstruction of the manual dams on the Aisne	10/09/14	60-02	Picardie	river
Maritime					
2014-77	Inert sand transit installation at the western port of Dunkirk	05/11/14	59	Nord-Pas-de-Calais	maritime
2013-125	Ship dismantling at the port of Saint-Nazaire	22/01/14	44	Pays-de-la-Loire	maritime
2014-82	Extension to the fishing port of La Cotinière in Saint-Pierre-d'Oléron (preliminary scoping)	03/12/14	17	Poitou-Charente	maritime
2014-35	Enlargement of the northern outer harbour entrance to the GPMM eastern docks in the municipality of Marseille	25/06/14	13	Provence-Alpes-Côte d'Azur	maritime
2014-60	Request for authorisation to use the Mirabeau basin to store dredged materials in Marseille	10/09/14	13	Provence-Alpes-Côte d'Azur	maritime
Energy					
2014-72	Request for authorisation to operate a wind farm on land belonging to the municipality of Trédaniel	24/09/14	22	Bretagne	energy
2014-30	Construction of the 225 kV RTE underground electric link between the future Landivisiau combined-cycle gas turbine and the existing La Martyre-Ponant electricity station	25/06/14	29	Bretagne	energy
2014-51	Natural gas transport pipeline - Landivisiau power plant: supplying the client Compagnie électrique de Bretagne CCG de Landivisiau	25/06/14	29	Bretagne	energy
2014-01	Creation of a 225 kV underground link between Calan, Mûr-de-Bretagne and Plaine-Haute	26/03/14	22-56	Bretagne	energy
2014-22	"Bretagne Sud" natural gas transport pipeline from Plumergat to Pleyben	14/05/14	56-29	Bretagne	energy
2014-45	"Projet Artère du Santerre" natural gas transport pipeline	23/07/14	60-80	Picardie	energy
2014-93	Renovation of the 225 kV Fléac-Niort electricity line	17/12/14	16-79	Poitou-Charente	energy
2014-09	Haute-Durance RTE link – projects P3 and P4	09/04/14	5	Provence-Alpes-Côte d'Azur	energy

Ae no.	Title of the opinion	Date of deliberation	Département(s)	Region	Type
2014-38	Pourrières solar power plant	11/06/14	83	Provence-Alpes-Côte d'Azur	energy
2014-29	Installation of a combined-cycle gas turbine plant in Landivisiau - see 2013-71	25/06/14	29	Bretagne	energy/ICPE
Installations classified for the protection of the environment					
2014-80	Temporary installation of a mixing plant for the Sud-Europe-Atlantique high-speed line in La Pouyade	22/10/14	33	Aquitaine	ICPE
2014-91	ANDRA very low-level waste disposal facility – municipality of Morvilliers	17/12/14	10	Champagne-Ardenne	ICPE
2014-32	Dredging sediment transit installation on the Seine in Moulinaux	25/06/14	76	Haute-Normandie	ICPE
2014-21	Request for authorisation to operate the Espiguette hydrocarbon deposit in Grau-du-Roi	14/05/14	30	Languedoc-Roussillon	ICPE
2013-119	Materials transit station at L'Ormeau-Saint-Denis and Ormeaux-Saint-Denis Ouest in the municipality of Jaunay-Clan as part of the Sud-Europe-Atlantique high-speed line	22/01/14	86	Poitou-Charente	ICPE
2014-27	Temporary installation of a hot bitumen materials coating plant for the Sud-Europe-Atlantique high-speed line at Bois-de-Gallais in Bédénac	28/05/14	17	Poitou-Charente	ICPE
2014-74	Fos Faster methane terminal	22/10/14	13	Provence-Alpes-Côte d'Azur	ICPE
Base-load nuclear installations (INB)					
2014-62	Authorisation to modify INB no. 116 at the Areva NC site of La Hague	10/09/14	50	Basse-Normandie	INB
Development					
2014-11	Consolidation and development of the eastern walls of Mont Saint-Michel	23/04/14	50	Basse-Normandie	Development
2013-129	Protection and development of the Les Salines natural site in Sainte-Anne, Martinique	12/02/14	972	Martinique	Development
2013-120	Construction of the Flaubert eco-district in Petit-Quevilly and Rouen	22/01/14	76	Haute-Normandie	Development
2014-50	Pont de Normandie 2 logistics park	23/07/14	76	Haute-Normandie	Development
2013-126	Restructuring of the Roland-Garros stadium	11/12/13	75	Île-de-France	Development
2013-138	Construction of a temporary two-storey building for 23 months as part of the restructuring of the Roland-Garros stadium	12/03/14	75	Île-de-France	Development
2014-46	Creation of the Baillargues alluvial path (34)	Withdrawn 23/07/14	34	Languedoc-Roussillon	Development
2014-18	Development of facilities for the Arena and car parks in Dunkirk	14/05/14	59	Nord-Pas-de-Calais	Development
2014-36	Accessibility and building permit for the ZAC Petit Menin development zone from the A22 motorway	09/07/14	59	Nord-Pas-de-Calais	Development
2014-78	Construction of the Mélézes chair-lift in the Houches ski area in Saint-Gervais	19/11/14	74	Rhône-Alpes	Development
Real estate, agricultural and forestry development (AFAF)					
2013-124	AFAF in the municipality of Eckwersheim for the LGV Est high-speed line	22/01/14	67	Alsace	AFAF
2014-52	Steinbourg AFAF for the LGV Est high-speed line	23/07/14	67	Alsace	AFAF
2013-131	Burnhaupt-le-Haut AFAF for the LGV Rhin-Rhône high-speed line	26/02/14	68	Alsace	AFAF
2013-132	Eteimbès AFAF for the LGV Rhin-Rhône high-speed line	26/02/14	68	Alsace	AFAF
2013-133	Schweighouse-Thann AFAF for the LGV Rhin-Rhône high-speed line	26/02/14	68	Alsace	AFAF
2013-134	Soppe-le-Haut AFAF for the LGV Rhin-Rhône high-speed line	26/02/14	68	Alsace	AFAF
2014-24	AFAF in Cussac-sur-Loire (43) for the development of the RN 88 highway bypassing Puy en Velay	14/05/14	43	Auvergne	AFAF
2014-20	Piffonds and Savigny-sur-Clairis AFAF extending into the municipality of Courtenay	14/05/14	89-45	Bourgogne - Centre	AFAF
2014-53	AFAF in Marigny-Marmande, Pussigny, Ports-sur-Vienne and Antigny-le-Tillac associated with the construction of the LGV Sud-Europe-Atlantique high-speed line	23/07/14	37	Centre	AFAF
2014-39	AFAF in Saint-Genest-d'Ambière with extensions into Scorbe-Clairvaux and Sossay associated with the construction of the LGV Sud-Europe-Atlantique high-speed line	09/07/14	86	Poitou-Charente	AFAF
2014-23	AFAF in Marcay with an extension into Marigny-Chemereau and Celle-L'Evescault for the LGV Sud-Europe-Atlantique high-speed line	14/05/14	86-87	Poitou-Charente - Limousin	AFAF
2014-54	AFAF in Bouvron, Blain and Fay-de-Bretagne associated with the RN171 deviation	23/07/14	44	Pays-de-la-Loire	AFAF
2013-127	AFAF in the municipality of Brossac with an extension into Passirac for the LGV Sud-Europe-Atlantique high-speed line	12/02/14	16	Poitou-Charente	AFAF
2013-136	AFAF in Vouharte and Montignac-sur-Charente with extensions into Coulonges, La Chapelle and Xambes for the LGV Sud-Europe-Atlantique high-speed line	12/03/14	16	Poitou-Charente	AFAF
2013-137	AFAF in Londigny, Montjean, La Chèverrie, Saint-Martin du Clocher and Villiers-le-Roux with an extension into the municipality of Villefagnan for the LGV Sud-Europe-Atlantique high-speed line	12/03/14	16	Poitou-Charente	AFAF
2014-03	AFAF in Sainte-Souline with an extension into Passirac for the LGV Sud-Europe-Atlantique high-speed line	26/03/14	16	Poitou-Charente	AFAF
2014-31	AFAF in Courcôme, Villefagnan, Raix and La Faye for the LGV Sud-Europe-Atlantique high-speed line	25/06/14	16	Poitou-Charente	AFAF

APPENDICES

GEOGRAPHICAL AND THEMATIC LISTS OF DECISION ISSUED IN 2014

MAP OF DECISIONS ISSUED IN THE TERRITORY BETWEEN 2012 AND 2014



Application withdrawn by the applicant

Decision withdrawn by Ae

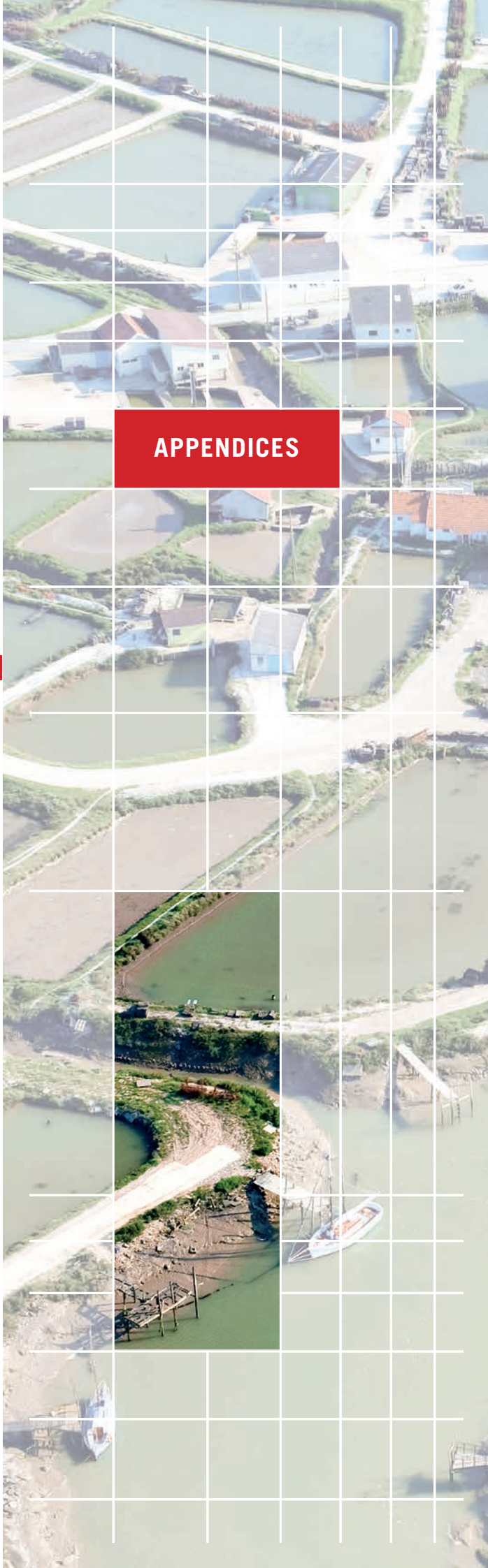
Ae no.	Title of the decision	Region	Département(s)	Date of decision	Outcome
Development					
F-072-14-C-0003	Mixed housing and office block – Lot 4.8 – Bordeaux Euratlantique operation (33)	Aquitaine	33	10/02/14	YES
F-072-14-C-0021	Construction of a tertiary building programme (shops, businesses, hotels and offices), Quai de Paludate, ZAC Saint-Jean-Belcier in Bordeaux (33)	Aquitaine	33	18/03/14	NO
F-072-14-C-0038	Construction of a public car park, Quai de Paludate, Lot B ZAC Saint-Jean-Belcier in Bordeaux (33)	Aquitaine	33	25/04/14	NO
F-072-14-C-0037	Construction of a residential and tertiary business development in ZAC Saint-Jean-Belcier (33)	Aquitaine	33	18/07/14	NO
F-072-14-C-0072	Construction of a development of offices and shops – block 8.2 B/8.2 C Armagnac – ZAC Saint-Jean-Belcier (33)	Aquitaine	33	05/08/14	NO
F-072-14-C-0073	Construction of a development of offices, housing, shops and shared parking – block 8.2 D/8.2 E Armagnac – ZAC Saint-Jean-Belcier (33)	Aquitaine	33	05/08/14	NO
F-072-14-C-0090	Quai de Brienne block 4.6a ZAC Saint-Jean-Belcier (33)	Aquitaine	33	25/09/14	NO
F-072-14-C-0057	Construction of a residential and tertiary business development in ZAC Saint-Jean-Belcier (33)	Aquitaine	33		
F-072-14-C-0062	Construction of a development of offices and shops – block 8.2 B/8.2 C Armagnac – ZAC Saint-Jean-Belcier (33)	Aquitaine	33		
F-072-14-C-0063	Construction of a development of offices, housing, shops and shared parking – block 8.2 D/8.2 E Armagnac – ZAC Saint-Jean-Belcier (33)	Aquitaine	33		
F-025-14-C-0027	Development of two temporary car parks on the tip of the Caen peninsula (14)	Basse-Normandie	14		
F-053-14-C-0055	Clearing a wooded area for pasture – Moulin du Cosquer in Dinéault (29)	Bretagne	29	01/07/14	NO
F-053-14-C-0089	Improving safety and enhancing the Sainte-Marie-du-Ménez-Hom site: development of a road bypass (RD887), car park and public spaces	Bretagne	29	22/09/14	NO
F-053-14-C-0069	Parking south of the Rennes railway station (35)	Bretagne	35	31/07/14	NO
F-053-14-C-0041	Replacing sand in Magouer cove, Plouhinec (56)	Bretagne	56	05/05/14	NO
F-053-14-C-0096	Creation of a mini-waste site on the island of Hoedic (56)	Bretagne	56		
F-053-14-C-0097	Creation of a mini-waste site on the island of Houat (56)	Bretagne	56		
F-024-14-C-0012	Clearing 12 ha 34 a 48 of wood on the Many property (41)	Centre	41		
F-023-14-C-0065	Development of a road centre at the former MIC factory site (76)	Haute-Normandie	76	25/07/14	NO
F-011-14-C-0050	Extension of the Pontault-Combault shopping centre (77)	Île-de-France	77		
F-011-14-C-0099	Construction of a logistics warehouse with offices in Servon on the ZAC du Noyer-aux-Perdrix (77)	Île-de-France	77		
F-011-14-C-0034	Project to construct the 01 building in Fontenay-aux-Roses (92)	Île-de-France	92	18/04/14	NO
F-011-14-C-0098	Project to build housing and shops in block 3 of the Ermont-Eaubonne station ZAC (95)	Île-de-France	95		
F-091-14-C-0016	Cutting European black pines at the Dargilan caves (48)	Languedoc-Roussillon	48	20/03/14	NO
F-091-14-C-0054	Clearing 4.15 hectares for pasture in the municipality of La Malène (48)	Languedoc-Roussillon	48	24/06/14	NO
F-091-14-C-0082	Clearing 16.83 hectares in the municipality of Montbrun (48)	Languedoc-Roussillon	48		
F-091-14-C-0087	Clearing 4.66 hectares in the municipality of Montbrun (48)	Languedoc-Roussillon	48		
F-052-13-C-0108	Creation of a water garden in the municipality of Bernard (Port Rouge area) (85)	Pays-de-la-Loire	85		
F-022-14-C-0026	Creation of a natural parking area in Saint-Valéry-sur-Somme (80)	Picardie	80	24/04/14	NO
F-022-14-C-0013	Development of a bridge over the Authie river in the municipalities of Quend (80) and Conchil-le-Temple (62)	Picardie	80-62	18/03/14	NO
F-054-14-C-0009	Reclassification of roads and public spaces near Angoulême station	Poitou-Charentes	16		
F-054-14-C-0056	Development of access to three beaches in the municipality of Les-Portes-en-Ré (17) – Application for concession to use public coastal land	Poitou-Charentes	17	09/07/14	NO
F-054-14-C-0061	Work to combat erosion: addition of sand to the main beach in Brée-les-Bains (17)	Poitou-Charentes	17	31/07/14	NO
F-054-13-C-0102	Installation of water intakes in the Le Praud oyster zone of La Flotte (17)	Poitou-Charentes	17		
F-082-14-C-0100	Development of the north-eastern parcel adjoining the stadium at the Montout site (69)	Rhône-Alpes	69	24/10/14	NO
F-082-14-C-0068	Clearing for the construction of the Mélézes 4-seat disengageable chair-lift in the Houches ski area of Saint-Gervais (74)	Rhône-Alpes	74	18/07/14	YES
Energy					
F-072-14-C-0043	Clearing for the Artère de l'Adour DN 600 gas pipeline between Arcangues and Coudures (64-40)	Aquitaine	64-40	07/05/14	YES
F-026-14-C-0051	Upgrading the 150 kV Breuil Henri Paul line to 225 kV (71)	Bourgogne	71	11/06/14	NO
F-021-14-C-0020	Guaranteeing the electricity supply to the Marolles station (51)	Champagne-Ardennes	51	18/03/14	YES
F-043-14-C-0044	225 kV lines connecting the Saône station to the existing RTE network	Franche-Comté	25	16/05/14	YES
F-043-14-C-0023	Construction of a hydroelectric power station on the Ognon in the municipality of Emagny (25)	Franche-Comté	25		
F-031-13-C-0107	400 kV from Les Mandarins via an underground 400 kV link about 3 km long (62)	Nord-Pas-de-Calais	62	14/02/14	YES
F-031-14-C-0035	France-Eleclink conversion station (62)	Nord-Pas-de-Calais	62		

Ae no.	Title of the decision	Région	Département(s)	Date of decision	Outcome
F-093-14-C-0029	Clearing for the construction of two 225 kV aerial electric lines, L'Argentière-Serre Ponçon (P4) and Grisolles-Pralong (P6)	Provence-Alpes-Côte d'Azur	5	22/04/14	YES
Railways					
F-042-14-C-0048	Removal of level crossing PN 20 in Molsheim (67)	Alsace	67	03/06/14	NO
F-072-14-C-0076	Creation of the Le Bouscat-Bruges railway stop in the municipality of Bouscat-en-Gironde (33)	Aquitaine	33	04/09/14	YES
F-072-14-C-0102	Securing Gujan Mestras station (33)	Aquitaine	33	17/11/14	NO
F-072-14-C-0103	Securing La Teste-de-Buch station (33)	Aquitaine	33	17/11/14	NO
F-083-14-C-0108	Removal of level crossing PN 15 in Borne (43)	Auvergne	43	17/12/14	NO
F-025-14-C-0042	Tourist train traffic on the Caen-Flers line between Pont-Ermbourg (14) and Caligny (61) – Creation of a platform at the Caligny stop	Basse-Normandie	61	19/05/14	NO
F-053-14-C-0059	Speed upgrading and automatic lighting work on the Rennes-Redon line (35)	Bretagne	35	15/07/14	NO
F-24-14-C-0036	Creation of a footbridge with 2 fixed staircases and 2 lifts at Briare station (45)	Centre	45	17/04/14	NO
F-024-14-C-0094	Platform extension project at Dordives station (45)	Centre	45	19/11/14	NO
F-024-14-C-0014	Changes to works base in Droué (41) and Courtalain (28)	Centre	41-28	18/03/14	NO
F-043-14-C-0060	Reopening of the Belfort – Delle line to passenger traffic	Franche-Comté	90	01/07/14	YES
F-011-14-C-0005	Construction of a parking area at Longueville station (76)	Haute-Normandie	76	20/02/14	NO
F-011-14-C-0088	Creation of turning, garaging and supply facilities for trains at Marne-la-Vallée – Chessy (77)	Île-de-France	77	19/09/14	YES
F-011-14-C-0106	Creation of garage spaces for RER B trains in Saint-Rémy-les-Chevreuse (78)	Île-de-France	78		
F-011-14-C-0049	Manœuvring platform at Orsay Ville station (91)	Île-de-France	91	12/06/14	NO
F-011-14-C-0011	Extension to the Massy-Evry tram-train (78)	Île-de-France	91		
F-011-13-C-0118	Building permit for the Défense station as part of the extension to the RER E EOLE to the west (92)	Île-de-France	92	16/01/14	YES
F-011-14-C-0075	Providing accessibility for people with reduced mobility to the Vallées station site in La Garenne-Colombes, Colombes and Bois-Colombes (92)	Île-de-France	92	31/07/14	NO
F-011-14-C-0101	Creation of garage spaces between the Robinson terminus and Fontenay-aux-Roses station (92)	Île-de-France	92	21/11/14	YES
F-011-14-C-0104	Renovation and electrification of an odd-numbered siding line in Gagny (93)	Île-de-France	93		
F-011-14-C-0074	Providing accessibility for people with reduced mobility at the Ivry-sur-Seine station site (94)	Île-de-France	94	11/08/14	NO
F-091-14-C-0091	Creation of a works base at the Carcassonne l'Estagnol site (11)	Languedoc-Roussillon	11		
F-091-14-C-0008	Extension to the tram line to serve the new Montpellier station	Languedoc-Roussillon	34	19/02/14	YES
F-091-14-C-0040	Clearing of 2.18 hectares for the tram line 5 project in Montpellier (34)	Languedoc-Roussillon	34	05/05/14	YES
F-091-14-C-0006	Improving public safety when crossing railway lines and improving accessibility for people with disabilities and reduced mobility at Bram station (11)	Languedoc-Roussillon	11	27/02/14	NO
F-074-13-C-0101	Creation of a railway stop at Malemort (19)	Limousin	19	24/02/14	NO
F-073-14-C-0032	Completion of the doubling of the railway between Arènes and Colombers (Auch line) (31)	Midi-Pyrénées	31	27/05/14	OUI
F-052-14-C-0067	TER timing between Nantes and Ancenis (44)	Pays-de-la-Loire	44	26/07/14	NO
F-052-14-C-0105	Creation of railway sidings in Nantes (44)	Pays-de-la-Loire	44	27/11/14	NO
F-052-13-C-0106	Upgrading of the Loire et Sillon station in Savenay into a multimodal exchange hub	Pays-de-la-Loire	44		
F-052-14-C-0047	Removal of level crossing PN 161 and improvements to the safety of PN 160 in Le Genest-Saint-Isle (53)	Pays-de-la-Loire	53	13/11/14	YES
F-052-14-C-0022	Replacing the floor of the viaduct over the Lay (85)	Pays-de-la-Loire	85	31/03/14	YES
F-022-14-C-0018	Embankment strengthening on the SNCF Fives-Hirson line at km 117.850 and km 117.920 on track 1 in Hirson 1 (02)	Picardie	2	31/03/14	NO
F-022-14-C-0024	Embankment strengthening on the SNCF Fives-Hirson line from km 119.920 to km 120.150 on track 2 in Hirson	Picardie	2	31/03/14	NO
F-082-13-C-105	Creation of a railway stop and infrastructure to serve the Yvours site in Irigny and Pierre-Bénite (69)	Rhône-Alpes	69	07/01/14	YES
F-082-14-C-0045	Removal of level crossing PN 93 in the municipality of Etrembière (74)	Rhône-Alpes	74	02/06/14	YES
F-082-14-C-0046	Removal of level crossings PN 90 and 91 in the municipality of Reigner-Esery (74)	Rhône-Alpes	74	02/06/14	YES
River and maritime					
F-022-13-C-0117	Demolition of the Séraucourt footbridge in Séraucourt-le-Grand (02)	Picardie	2	13/01/14	NO
F-054-14-C-0033	Strengthening and restoration of the Perroche canal in Dolus d'Oléron (17)	Poitou-Charentes	17	15/04/14	NO
F-025-14-C-0001	Renewal of the temporary occupancy authorisation (AOT) of public coastal land for grouped moorings for pleasure boats on the coast in the municipality of Agon-Coutainville (50)	Basse-Normandie	50	27/01/14	NO
F-025-14-C-0095	Mooring and light equipment zone in Plainvic cove in Digulleville (50)	Basse-Normandie	50	29/10/14	NO
F-025-13-C-0109	Dredging work to maintain the Hourdet marina in Cayeux-sur-Mer (80)	Picardie	80		

Application withdrawn by the applicant

Decision withdrawn by Ae

Ae no.	Title of the decision	Region	Département(s)	Date of decision	Outcome
F-053-14-C-0030	Mooring and light equipment zone (ZMEL) on the Glénan archipelago (29)	Bretagne	29	19/05/14	NO
F-054-14-C-0015	Renewal of the temporary occupancy authorisation (AOT) for public coastal land applying to the Manson-Petite-Plage and Préventorium mooring zones in Saint-Trojan-les-Bains (17)	Poitou-Charentes	17	24/02/14	YES
F-054-14-C-0039	Project to change the perimeter of the organised mooring zone on the Pointe du Grouin (17)	Poitou-Charentes	17	24/04/14	NO
F-054-14-C-0015	Renewal of the temporary occupancy authorisation (AOT) for public coastal land applying to the Manson-Petite-Plage and Préventorium mooring zones in Saint-Trojan-les-Bains (17)	Poitou-Charentes	17	28/05/14	NO
F-054-14-C-0071	Request for temporary occupancy authorisation for public coastal land for the Clavette moorings (17)	Poitou-Charentes	17	07/08/14	NO
F-054-14-C-0081	Mooring and light equipment zone outside delimited ports (for public coastal land AOT renewal) in La Couarde-sur-Mer (17)	Poitou-Charentes	17		
Roads					
F-042-14-C-0019	Project for a road link between Rue Fritz Kieffer and the A350 motorway in Strasbourg (67)	Alsace	67	13/03/14	YES
F-042-14-C-0004	Restructuring of the Mertzau interchange on the A36 motorway in Mulhouse (68)	Alsace	68	13/02/14	YES
F-025-14-C-0031	Creation of a bypass around the municipalities of Tanis and Pontorson (50) as part of the removal of level crossing no. 9 on the Lison-Lamballe line	Basse-Normandie	50	08/04/14	NO
F-024-13-C-0110	Extension to the HGV park at the Val-Neuvy service area on the A10 motorway in the municipality of Fresnay l'Évêque (28)	Centre	28	14/01/14	NO
F-024-13-C-0111	Extension to the HGV park at the Fontaine Colette service area on the A10 motorway in the municipality of Saint-Epain (37)	Centre	37	14/01/14	NO
F-024-13-C-0112	Extension to the HGV park at the Sainte-Maure de Touraine service area on the A10 motorway in the municipality of Saint-Epain (37)	Centre	37	14/01/14	NO
F-024-13-C-0113	Extension to the HGV park at the Tours Val-de-Loire service area on the A10 motorway in the municipality of Monnaie (37)	Centre	37	14/01/14	NO
F-024-13-C-0114	Extension to the HGV park at the Tours la Longue Vue service area on the A10 motorway in the municipality of Monnaie (37)	Centre	37	14/01/14	NO
F-024-13-C-0115	Extension to the HGV park at the Blois-Villerbon service area on the A10 motorway in the municipality of Villerbon (41)	Centre	41	14/01/14	NO
F-024-13-C-0116	Extension to the HGV park at the Meung-sur-Loire service area in the municipality of Messas (45)	Centre	45	14/01/14	NO
F-021-14-C-0053	Extension to an interchange slip-road and creation of a road to improve access to the municipality of Saint-Dizier (52)	Champagne-Ardenne	52	11/08/14	YES
F-021-14-C-0066	Extension to an interchange slip-road and creation of a road to improve access to the municipality of Saint-Dizier (52)	Champagne-Ardenne	52		
F-094-14-C-0025	Widening of the RD424 road in Canton des Deux Sévi	Corse	20	20/03/14	NO
F-094-14-C-0010	Widening of the RD424 road in Canton des Deux Sévi	Corse	20		
F-003-14-C-0080	Construction of a 2800-metre forest trail to serve parcel 18 of the Counami forest area in the municipality of Iracoubo (French Guiana)	Guyane	973	05/09/14	NO
F-023-14-C-0052	Construction of roads and a roundabout as part of the renovation of the existing downstream wharf in the municipality of Alizay (27)	Haute-Normandie	27	18/06/14	NO
F-011-14-C-0028	Development of the RN6 highway in the area of the Villeneuve-Saint-Georges bridge (94)	Île-de-France	94	18/04/14	NO
F-091-14-C-0017	Development of the RD 907 BIS road in the municipality of Vignes (48)	Languedoc-Roussillon	48	13/03/14	NO
F-041-14-C-0109	Widening of the hard shoulder and creation of patrol car zones on the A4 motorway between La Veuve (51) and Semécourt (57)	Lorraine	54	16/12/14	NO
F-031-14-C-0070	A16/RN42 interchange: doubling the Calais-Boulogne sur Mer slip-road (exit 31 on the A16 motorway) (62)	Nord-Pas-de-Calais	62	29/07/14	NO
F-052-13-C-0119	Installation of electronic toll collection equipment and redevelopment of the Gravelle toll barrier on the A81 motorway (53)	Pays-de-la-Loire	53	31/01/14	NO
F-022-14-C-0093	Construction of a cycle path from Chantilly to Saint-Maximin (60)	Picardie	60		
F-022-14-C-0077	Metalling the Drap d'Or track over a length of 190 m (02-60)	Picardie	02-60	01/09/14	NO
F-022-14-C-0078	Work to stabilise the unmetalled Mare Bougie forest path through the Retz state-owned forest (02-60)	Picardie	02-60	01/09/14	NO
F-022-14-C-0079	Work to stabilise the unmetalled Novices forest path through the Retz state-owned forest (02-60)	Picardie	02-60	01/09/14	NO
F-054-14-C-0064	Creation of an access route to the Rochefort-sur-Mer aeronautical museum (17)	Poitou-Charentes	17	17/07/14	NO
F-054-14-C-0084	Acoustic protection for the RN237 highway in Lagorne (17)	Poitou-Charentes	17	02/09/14	NO
F-054-14-C-0086	Acoustic protection for the RN11 highway in Sainte-Soulle (17)	Poitou-Charentes	17	02/09/14	NO
F-054-14-C-0107	RN141 highway – Development of a roundabout with the RD131 road in the municipalities of Saintes and Chaniers (17)	Poitou-Charentes	17	09/12/14	NO
F-054-14-C-0083	Upgrading the drainage of the RN11 highway in Epannes, Armure and Frontenay-Rohan-Rohan (79)	Poitou-Charentes	79	15/09/14	NO
F-054-14-C-0085	Acoustic protection for the RN10 highway in Vivonne (86)	Poitou-Charentes	86	02/09/14	NO
F-093-14-C-0007	Developing the Saint-Gervais junction in the municipality of Fos-sur-Mer by changing the geometry of the existing ring into a circular shape (13)	Provence-Alpes-Côte d'Azur	13	20/02/14	YES
F-093-14-C-0058	Development of the Fossette junction on the RN 568 highway in Fos-sur-Mer (13)	Provence-Alpes-Côte d'Azur	13	10/07/14	NO
F-093-14-C-0002	Creation of a new road passing under the Aix-Rognac railway in the Ensoleillée district of Aix-en-Provence (13)	Provence-Alpes-Côte d'Azur	13	17/02/14	NO
F-082-14-C-0092	Widening and straightening Naviland-Cargo roads in Vénissieux (69)	Rhône-Alpes	69	13/10/14	NO



APPENDICES

**EXAMPLES TAKEN
FROM OPINIONS
AND DECISIONS IN 2014**



Ae OPINION NO. 2014-59
(CGEDD 009812-01)
DATED 10 SEPTEMBRE 2014



WEB

Construction of automated dams and associated equipment – destruction of existing manual dams on the Meuse (08-55)

The river Meuse is equipped with 23 manual dams, each consisting of a curtain of planks positioned vertically side by side, blocking the riverbed, along a metal walkway consisting of trusses that can pivot



to move out of the way if the water rises to allow it to pass freely. Their function is to maintain the water level¹²⁴ during low-water periods to enable boats to use the river.

The project involves dismantling the dams and replacing them immediately downstream with dams that can be inflated with water automatically and controlled centrally. The degree of inflation of the envelope is used to guarantee a constant level of water upstream whatever the flow rate. The inflation is operated by a pumping station located on the bank.

Operating the current dams is very demanding in terms of the human resources to be mobilised, the danger and the strenuousness for the operators. Replacing them is part of the modernisation of France's river infrastructure.

The project developer is the company Bameo, operating in a public-private partnership with Voies Navigables de France.

The project covers the whole stretch of the Meuse between north of Verdun and the Belgian frontier in Givet. Six dams are located in the département of

Meuse, and the 17 others in Ardennes. As soon as the PPP was signed, the choice was made to keep the number and locations of the structures the same. There are also plans to equip three of the dams with mini-hydroelectric systems. The primary goal is to maintain the possibility of navigation on the Meuse (currently about 2,500 pleasure craft and 400 to 500 freight barges use the river annually) by making the management of the water level more reliable. Ae asked the developer to present its plans for taking climate change into account in terms of river navigation on the Meuse, given its possible impact on the waterline and the maintenance of navigability.

The principal environmental issues are the following:

- during the works phase, the preservation of aquatic habitats and the prevention of flooding;
- during the operation phase, improving the migratory capacity of the river Meuse upstream of Givet and the potential impact of changes to impoundment management on natural habitats (riparian forest¹²⁵, spawning grounds etc.), but also a guarantee of the necessary compensation for wetland habitats affected temporarily or permanently in keeping with the functionalities disturbed or destroyed.

Ae asked the developer to explain better its decision, taken when investigating possible variants, to maintain the same number and locations of the dams, and to consider the possibility of removing, without replacement, any dams for which the work to be carried out proves too complex or has too great an environmental impact.

Ae's recommendations also covered:

- a supplement to the initial report on the current situation of migrating fish populations in the Meuse, including the Belgian stretch and the river's tributaries;
- additional information enabling the regulatory compliance of the water levels impounded by each dam to be verified;
- the demonstration by the developer that it was committed to implementing the compensation measures envisaged and the presentation to the public inquiry of the progress made in prospecting the relevant areas for compensation.

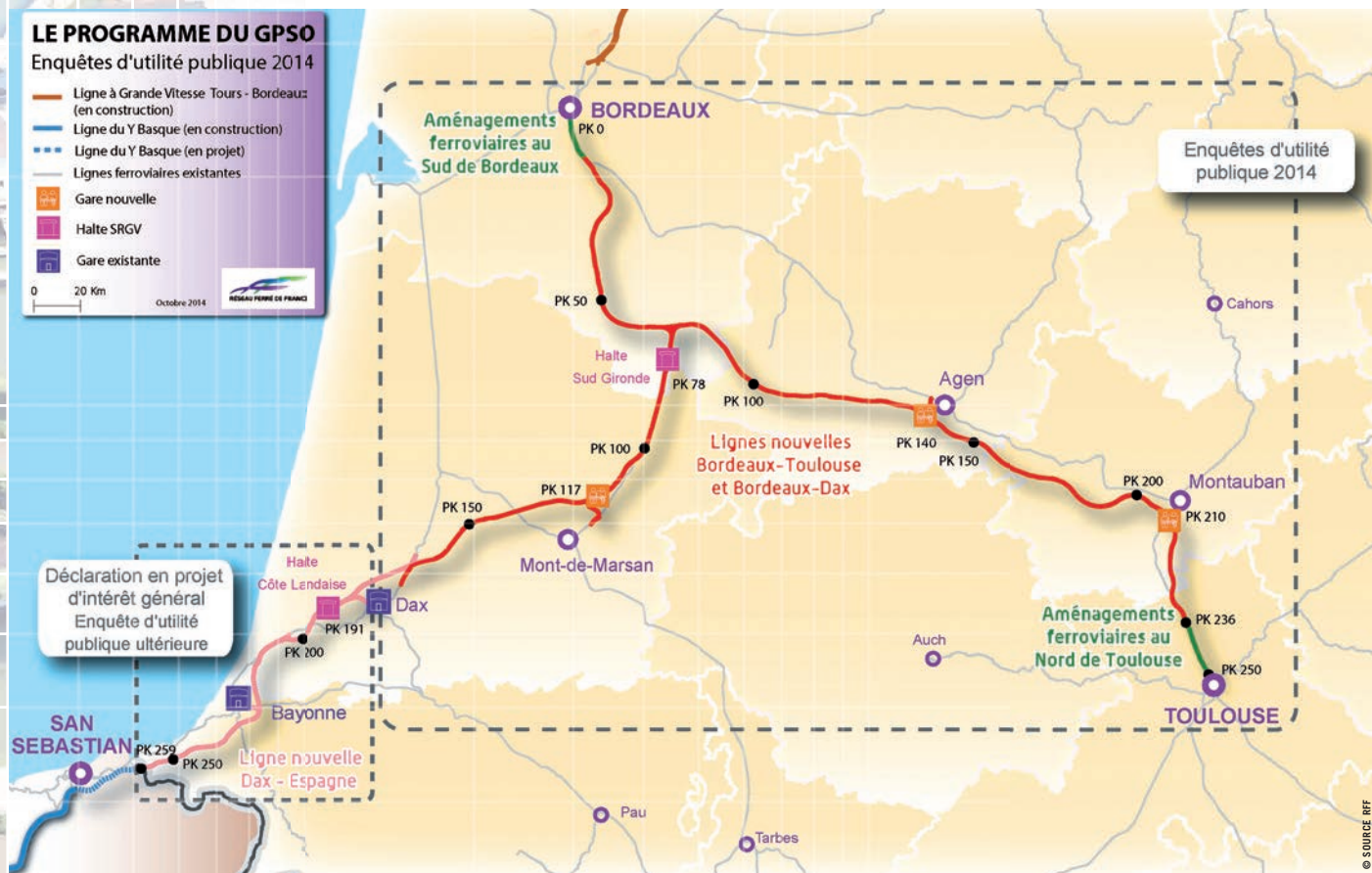
124 \ In hydrography, the waterline is a line showing the height of the water in a watercourse, a lake, the sea etc.

125 \ Riparian forest (from the Latin "ripa", meaning river bank) is the system of wooded formations, bushes and herbaceous growth on the banks of a watercourse, where the banks refer to the extent of the flood channel of the watercourse that is not submerged at low water.

LE PROGRAMME DU GPSO

Enquêtes d'utilité publique 2014

- Ligne à Grande Vitesse Tours - Bordeaux (en construction)
 - Ligne du Y Basque (en construction)
 - - - Ligne du Y Basque (en projet)
 - Lignes ferroviaires existantes
 - Gare nouvelle
 - Halte SRGV
 - Gare existante
- 0 20 Km Octobre 2014 RÉSEAU FERROVIAIRE DE FRANCE



Ae OPINIONS NO. 2013-121, 2013-122 AND 2013-123

(CGEDD NO. 009397-01, 009398-01 AND 009399-01)
DATED 22 JANUARY 2014



WEB

Major south-western rail project (Grand projet du Sud-Ouest, or GPSO): new lines between Bordeaux and Toulouse and between Bordeaux and Dax, with developments to the south of Bordeaux and the north of Toulouse

The application submitted by Réseau ferré de France (RFF), the French railway infrastructure manager, covers rail infrastructure projects designed to establish new links between Bordeaux and Toulouse on one hand and Bordeaux and Dax (with plans for an extension towards Spain) on the other:

- two new high-speed lines, Bordeaux – Toulouse and Bordeaux – Dax, with a shared stretch in Bordeaux to the south of the Gironde,
- development of the existing line to the south of Bordeaux between Bordeaux and Saint-Médard-d'Eyrans, and to the north of Toulouse between Toulouse-Matabiau and Saint-Jory.

The projects presented cover 327 km of new high-speed line, three new stations (Agen, Montauban and Mont-de-Marsan) and one stop (Sud-Gironde) in two regions and five départements. Their cost is about 9 billion euros, excluding rolling stock and, if required, maintenance and garage facilities. They are an integral part of a programme called “Grands Projets du Sud-Ouest” (GPSO, major projects in the south-west), which also includes a new line from Dax to Spain to be constructed later and various upgrades to existing lines from Bordeaux to Toulouse and from Bordeaux to Spain to the west of the Landes massif.

As part of general policy aiming to increase the use of railways in relation to other forms of transport, for both passengers and freight, and to provide faster or more frequent services for the areas concerned, these projects respond to the following aims:

- for the Bordeaux – Toulouse route, firstly to enable a significant time saving on long-distance passenger journeys by constructing a high-speed line (particularly journeys to and from Paris, extending the Sud-Europe-Atlantique high-speed line cur-



rently being constructed from Tours to Bordeaux), and secondly to use the capacity freed up on the current Bordeaux – Toulouse line to improve regional and local services;

- for the Bordeaux – Spain route, in addition to the same goals of saving time and improving frequency for passengers, to contribute (subject to other conditions being fulfilled simultaneously, in Spain or France) to significant growth in long-distance rail freight between Spain and northern Europe, which is currently very weak.

Examining the already very extensive documents (nearly 10,000 pages, 127 for the reading guide alone) nevertheless led Ae to consider that the file needed to be supplemented in several important areas to enable a proper evaluation of the environmental issues at this stage as part of the global examination of the balance between the positive and negative impacts of the projects:

- the reasons why the projects were decided on, given the main alternative solutions examined: including, for Bordeaux – Toulouse, the possibilities of upgrading the existing line and, for Bordeaux – Spain, the adjustment of the decision-making schedule to reflect actual data about the predictable evolution of demand;

- the evaluation of impacts on aquatic habitats, including a more precise definition of the characteristics of the bridges over the many watercourses to be crossed, the earthworks and structures and the residual impacts determining the compensatory measures to be taken due to damage to wetlands and certain watercourses;
- the evaluation of the effects on the Natura 2000 network, for which the current analyses need to be clarified in response to regulatory requirements;
- more generally, the impact on biodiversity: the surface areas affected, the interruption to ecological continuity, the need for corresponding compensation and the measures envisaged in response need to be evaluated at least globally in view of the difficulties encountered with other recent large-scale projects in the same area, such as the A65 motorway;
- the acoustic impact of the projects, particularly around Bordeaux and Toulouse, underlining the difference between the current situation, the reference future situation (2025) without the project, taking into account the foreseeable traffic by this date, and the situation once the projects are in place, each presented in the same terms as in the rest of the file;
- the management of the materials required for the earthworks and engineering structures: the volume of these materials appears considerable (over 40 million m³) in an area that is already significantly in deficit, and the files do not give a clear vision of the solutions envisaged and the impact they may have.

Moreover, in the interest of keeping the public properly informed about the reasons behind the decisions on which these projects are based, Ae recommended that additional explanations be provided about the results of the socioeconomic evaluation provided in the documentation.

In particular, without prejudging the analysis of the hypotheses, the traffic forecasts and the methods used, which fall under the new procedure for evaluating public investment by the general investment commission (CGI), the investment amount accounted for in the results presented should be clarified. Similarly, as each new stretch of line (Bordeaux – Toulouse on one hand, southern Gironde – Dax on the other) has its own objectives and its own schedule, Ae considers that a separation in the results between the two stretches of the new line project would provide useful insights for the public and the authorities responsible for deciding on the public utility of the projects presented.



Ae OPINION NO. 2014-82

(CGEDD NO. 009957-01)

DATED 3 DECEMBER 2014



WEB

64

Preliminary scoping of the project to extend the La Cotinière fishing port (17)

Providing preliminary scoping information for the preparation of the project's environmental assessment

Ae was commissioned by the Charente-Maritime council to provide a preliminary scoping for the project to extend the La Cotinière fishing port in the context of a call for a public-private partnership (PPP) launched in 2013. Apart from the procedural elements that will need to be addressed by the developer and the decision-making authority, Ae was able to find out about the fundamental points of the project, which were presented during the rapporteurs' visit. No specific questions were referred, but Ae expressed itself with a certain degree of detail about the way it envisages the impact assessment dealing appropriately with the major environmental issues in the situation as it currently presents itself, based on the provisional reports submitted, without prejudging either the opinion it will subsequently issue on the impact assessment or the supplementary analyses and studies this will require.

Located on the Atlantic coast of the island of Oléron, the port of La Cotinière is one of France's leading fishing ports, and the largest in Charente-Maritime. A typical fishing village, La Cotinière is also experiencing significant growth in tourism. To satisfy the requirements of its annual tonnage (5,500 t) in accordance with standards on health, safety and working conditions, the project aims to improve the

currently critical operation of the fish auction, to optimise flows and to increase adaptability to variations in the catch. These requirements have led to plans to move the fish market to the east (auction and trading hall), resulting in a complete restructuring of the port installations, including the creation of a new dedicated fishing dock to the south-east. Apart from the necessary associated facilities (quayside area, protective sea walls etc.), the project plans to have all the fishing facilities operating on floats (the current harbour basin and access channel currently being inaccessible at low tide), to improve the management of tourists attracted by the unloading and fish auction activities and to plan the development of the marina.

The main issues with the project relate to a classified site and to particularly rich habitats, including the island's maritime space, which is registered as a Natura 2000 site under the "Birds" and "Habitats, fauna and flora" directives. The permanent impact of the project requires particular analysis with regard to the issues associated with the project's insertion into the landscape, the consequences of moving the port's centre of gravity to the east, the ecological remediation of the stone-built former mooring area in the south-western dunes, planning for the risk of coastal flooding, the evolution of the coastline and the disruption to sediment transit caused by the extending and raising of the sea wall.

Particular attention will have to be paid to managing the impact of the work site (rock excavation) and the piling on the state of conservation of the natural habitats and species that justified the recognition of the Natura 2000 sites neighbouring the project.



Ae OPINION NO. 2014-58

(CGEDD 009811-01)

DATED 10 SEPTEMBER 2014



#WEB

Project to improve safety on the ring-road north of Caen (14)

The project, developed by the Basse-Normandie regional department of the environment, development and housing (DREAL), concerns the ring-road to the north of Caen (14) along a stretch of about 3.6 km. The work involves creating weave lanes, upgrading drainage, constructing acoustic screens and improving interchanges.

The safety objective that gives the project its name is far from being its only dimension. While the goals are various and perhaps difficult to prioritise and coordinate, the technical description is clear. However, the general context and certain aspects supplementary to the project as described (speed limit, variable displays, road surfaces) would benefit from clearer explanations. The environmental aspects of the project itself are well covered and satisfactorily accounted for overall.

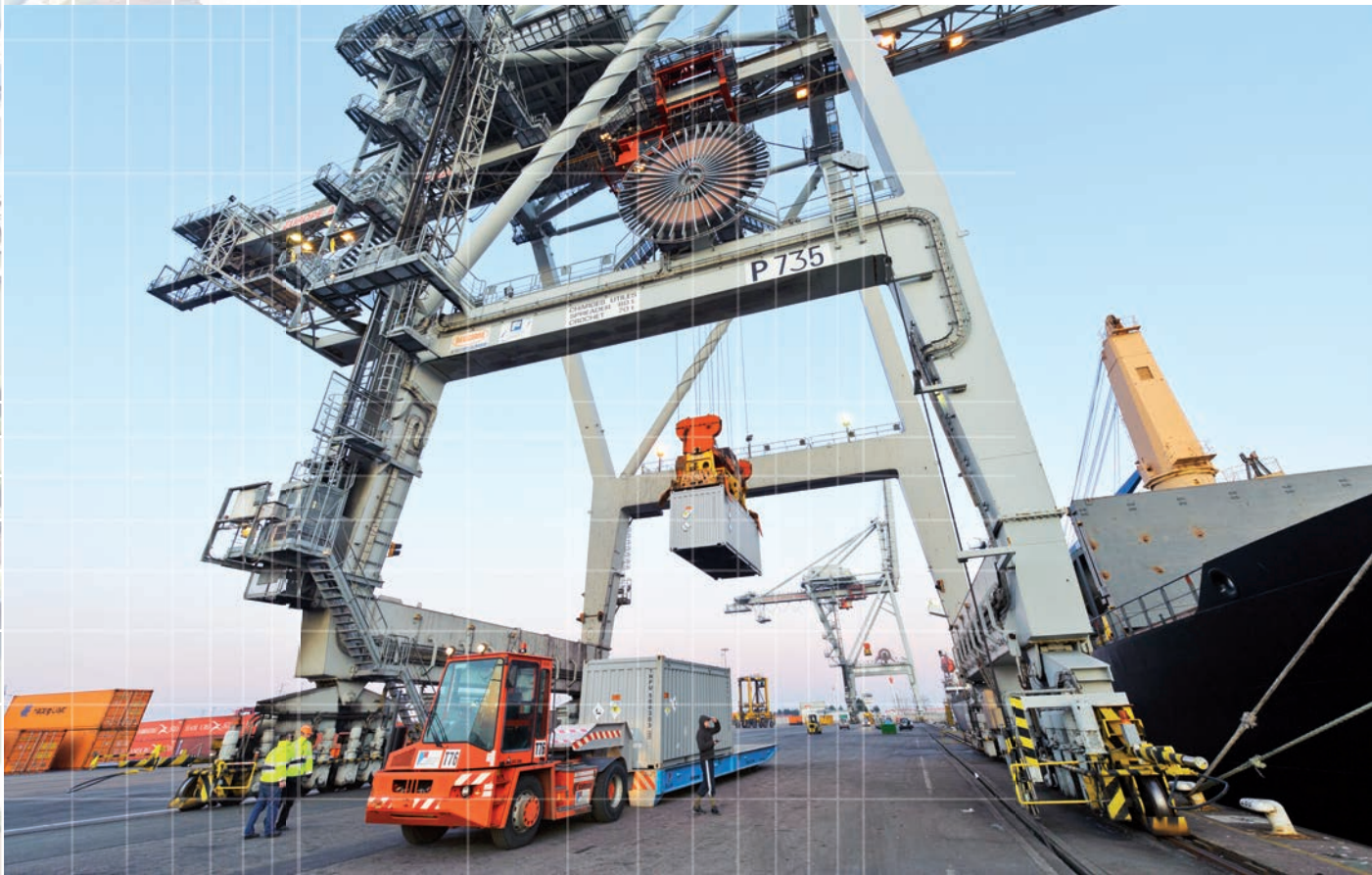
However, given the degraded initial situation, the health risks should be developed further in the impact assessment and presented as a priority

issue so that the specific effects of the project can be better identified as soon as it enters service.

Moreover, the details of the acoustic studies would justify additional verification and clarification.

Ae's primary recommendations were:

- to improve the clarity of the argumentation and the consistency with which the project's goals are presented, having prioritised them in greater detail;
- to better explain the reasons behind the chosen solution in terms of the aspects affecting the Vallée des Jardins;
- to verify the detailed results in the acoustic appendices and make them more easily accessible and comprehensible in terms of the level of protection to be provided and the situation once the project has been implemented in full;
- to complete the analysis of the cumulative effects together with the other projects identified by accounting for the resulting road traffic (light vehicles and trucks).



Ae OPINION NO. 2014-70

(CGEDD NO. 009876-01)
DATED 8 OCTOBER 2014



WEB

Strategic plan of the port of Le Havre (76)

The port of Le Havre (GPMH) is France's leading sea port. It presents major challenges in economic and ecological terms, given the space it manages on the Channel and the Seine estuary. The main economic goal of the strategic plan is to increase Le Havre's volumes and share of the container traffic market on the Atlantic façade.

For Ae, the main environmental issues in the strategic plan are the following:

- the preservation or remediation of ecological functionalities and continuity across the whole Seine estuary;
- limits on the consumption of natural spaces, particularly those with the greatest ecological wealth, and the stated aim of reconstructing the port as far as possible within the port;
- the natural and technological risks, and particularly the way they are taken into account in the development of the port area and the interface between port activities and urban districts;



- water, sea and continental pollution and airborne emissions from the port of Le Havre and the activities that take place there.

The environmental assessment of the strategic plan focuses on the specific actions of GPMH itself and, for some issues, its own limited perimeter, without adapting the area of study to the issues in question or mentioning the respective contributions and responsibilities of the state, stakeholders responsible for neighbouring areas or the occupants and users of the port area with regard to the impacts being examined.

Ae's principal recommendations to GPMH were:

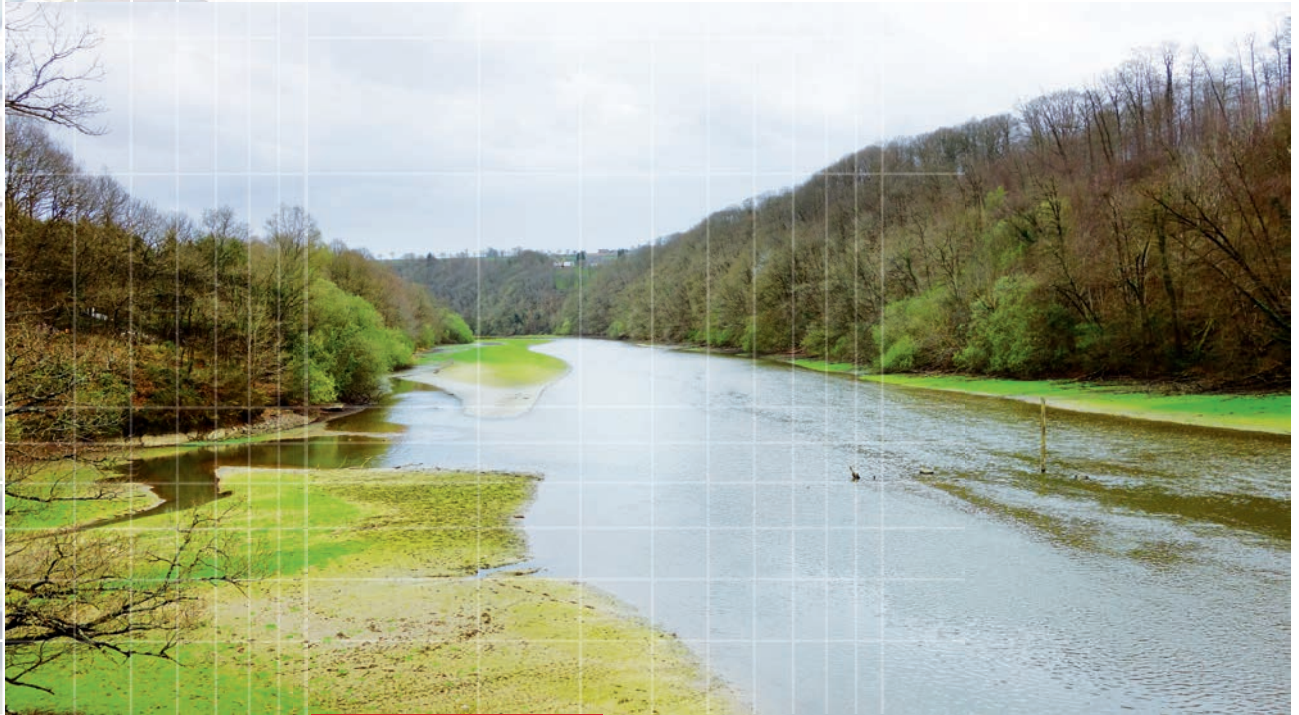
- to clarify and justify the specifications and quantitative goals of the land reserve mentioned in the strategic plan, and to map out the areas concerned that can already be identified;
- to present GPMH's intentions with regard to its mission to manage and preserve natural public land and natural spaces, whether GPMH is their owner or manager or whether they are managed on its behalf. This recommendation is particularly targeted at the preservation or restoration of eco-

logical continuity in the areas already developed and those that can be effectively developed, but also between land and aquatic habitats;

- to deepen the analysis of the strategic plan's compatibility and coordination with other plans and programmes, including the Seine-Normandie SDAGE (water development and management scheme) and the draft action plan for the Channel-North Sea marine environment, and to ensure that the strategic plan is consistent with the management of coastal flooding risks;
- to complete the environmental assessment table of indicators consistently with a wider approach to the issues, while specifying the strategic plan's contribution to their values.

With regard specifically to the ecological functioning of the estuary, while noting that the decisions already taken by GPMH or to be taken in the context of this strategic plan are not the only ones explaining the evolutions observed, Ae also recommended:

- that the initial status should also refer to the estuary's situation at the beginning of the 2000s, while providing a quick overview in relation to the situation in 1990;
- ensuring that the scoring method used for the nature development and protection scheme (SDPN) takes full account of the functional value of the habitats and their contribution to the estuary's ecological functioning;
- that the impact of destroying 240 hectares of wetland should be evaluated according to the broad types of ecological functions affected;
- that the evaluation of Natura 2000 impacts should take account of the cumulative effects combined with those of previous projects that continue to show damaging effects on the integrity of the site before concluding that the strategic plan has no significant effects.



Ae OPINION NO. 2014-14

(CGEDD NO. 009580-01)

DATED 23 APRIL 2014¹²⁶



WEB

Removal of the Vézins and La-Roche-qui-Boit dams on the Sélune (50)

The Sélune, or how to restore the continuity of a coastal river

For nearly a century, the Sélune, a small coastal river 91 km long emerging into Mont-Saint-Michel bay, has no longer been a breeding ground for salmon. Man has built dams to provide affordable renewable energy. This electricity generation, providing 15 MW of power, causes limited greenhouse gas emissions and can be adjusted to demand very flexibly. The dams are also symbols of French innovation. The dam of La-Roche-qui-Boit, completed in 1919, was the first multiple-arch dam in Europe, similar to the Vézins dam (1936). Their inventor was the French engineer Albert Caquot (1881-1936), who built many bridges and dams across the world.

Salmon and many other migratory fish, though they live and feed in the sea, only reproduce in fresh water, swimming upriver to their spawning grounds.

Despite all his inventive ingenuity, man has not yet found a way of allowing them to pass these great dams: we can help the adult fish to swim upriver but the young cannot find their way to the sea.

In the context of the 13 November 2009 decision to remove these two dams on the Sélune, Ae was asked in 2012 to produce a preliminary scoping¹²⁷ for the project's impact assessment. The goal was for France to put itself in a position to satisfy the obligations of the European water framework directive, which requires all member states to ensure that the water in their territory is in good ecological condition and to re-establish the continuity of water-courses to enable salmon to resume their migration.

The project analysed by Ae is thus unusual in that it has a positive goal of protecting an aquatic habitat while reducing the capacity for renewable energy generation. Without pronouncing on the advisability or goals of the project, Ae's members, in their opinion, emphasised the precautions to take during the impoundment emptying phase, as the sediments in suspension are likely to cause fatalities in fish. They recommended reviewing the calculation of the greenhouse gas emissions caused by the loss of electricity generation due to the removal of the two dams.

¹²⁶ \ Having been commissioned once already for a preliminary scoping on which it issued opinion no. 2012-16.

¹²⁷ \ Preliminary scoping opinion no. Ae 2012-16. See also the Ae annual report for 2012, page 49.



Ae OPINION NO. 2014-29, 2014-30, 2014-51

(CGEDD NO. 9687-01, 9693-01, 9764-01)

DATED 25 JUNE 2014



WEB

69

Combined-cycle gas turbine plant in Landivisiau (29)

The Breton peninsula is experiencing growing problems of electricity supply. To secure its power, a “Breton electricity pact” was signed in 2010 by the government, the region of Brittany, the electricity transmission network (RTE), the environment and energy agency (Ademe) and the national habitat agency (ANAH). The decision was taken to build a combined-cycle gas turbine (CCG) power plant in the Brest area.

In this context, a project was referred to Ae for the construction of a 446 MW CCG plant in Landivisiau (29) by the Brittany electricity company (CEB), its connection to the electricity network by RTE via an 18.3 km 225 kV underground link and its connection to the gas network by GRTgaz via a 20 km pipeline. As a programme of works with simultaneous execution in the terms of the Environmental Code, a single impact assessment was carried out for the entire project.

The major environmental issues identified by Ae were the positive or negative environmental consequences of the electricity generation choices (pollutants, waste, greenhouse gas) compared with the current situation, the safety of goods and people and effects on the landscape.

The impact assessment presented was well-structured. Apart from subject-specific and one-off comments, Ae recommended that the initial reasons for choosing a combined-cycle gas turbine plant in northern Finistère, scaled to operate at a mid-merit level, in the call for bids issued by the government should be restated in comparison with the other options considered.

It also recommended that the positive or negative impacts of the project's three elements should be presented cumulatively with the other components of the Breton electricity pact.

The developers produced a document in response to Ae's general and specific recommendations.

After the environmental assessment process and during the public inquiry that followed, the inquiry commissioners talked to the Ae rapporteurs to cross-reference their analyses, particularly with regard to the strategy decisions that led to the CCG plant's location in Landivisiau but also about the emissions from a plant of this type and their environmental consequences.



Ae DECISION NO. F-082-13-C-105

(CGEDD NO. 009452-01)

DATED 7 JANUARY 2014



Ae OPINION NO. 2014-79

(CGEDD NO. 9944-01)

DATED 19 NOVEMBER 2014



Railway stop at Irigny-Yvours (69)

The project, developed jointly by the Greater Lyon urban community council and Réseau Ferré de France, involves creating a railway stop, a park-and-ride car park and access routes in the municipalities of Irigny and Pierre-Bénite about ten kilometres south of Lyon.

This modest project (platforms 170 metres long, 290 parking spaces, budget of 10 million euros) was submitted for the case-by-case examination procedure as it falls under section 5 paragraph b, "unmanned railway halts or stopping points; works involving a substantial change to the footprint of the structure", of the appendix to article R.122-2 of the Environmental Code. Despite the small scale of the project, Ae's decision of 7 January 2014 identified the possibility of significant impacts for the environment due to the many protected heritage animal species identified in the study area, the project's effects on plant life and habitats, including woods and wetlands, the presence of non-inert rubble, the

predictable increase in road traffic in the area and the exposure of the stop's future users to odour emissions from the nearby sewage treatment plant. It thus concluded that the project should be submitted for an impact assessment.

Ae issued an opinion on 19 November 2014 confirming this initial analysis. Apart from the elements already identified in its decision, the more detailed examination in the impact assessment enabled it to identify the following issues: pollution of soil and potentially water; the risk of flooding and technology risks in the area and the preservation of the wetland zone and streams.

Though the scale of the project might appear limited, analysing the case-by-case examination submission document and then the impact assessment identified the project's significant, varied environmental impacts, encouraging the developers to put relevant measures in place to avoid, reduce or, where necessary, compensate for them.



Ae DECISION NO. F-053-14-C-0041

(CGEDD NO. 009719-01)

DATED 5 MAY 2014



WEB

Replacing sand in Magouer cove, Plouhinec (56)

Although a large part of the shore in Magouer cove, Plouhinec (56), is protected by rocks and masonry walls, the dunes by the boat storage area are subject to considerable coastal erosion.

The municipality of Plouhinec wishes to top up the sand on the dunes to stop their withdrawal. The project involves removing 1,000 to 2,000 m³ of sand from the Mât Fenoux beach with a backhoe loader, transporting it by dump truck to the Magouer cove and reprofiling the coastline over a distance of 130 metres.

The project lies within a classified site and overlaps a Natura 2000 site. For Ae, the need to obtain ministerial authorisation for the classified site and the impact evaluation required for the species and natural habitats that justified the Natura 2000 designation are an opportunity to take full account of the issues specific to these characteristics of the project site.

In fact, no significant potential impact was identified. In particular, the area where machines have to manoeuvre on the foreshore in Magouer cove is limited to the space between the store of sand and the tip of the boatyard, and the sand removal is limited by the volumes available.

Finally, Ae considered that carrying out an impact assessment, particularly to demonstrate the lack of impact on the evolution of the coastline, would appear disproportionate with regard to the environmental issues and the scale of the project.

Therefore, in view of the information it had received, Ae considered that there was no need to submit the project for an impact assessment.



Ae DECISION NO. F-072-14-C-0043

(CGEDD NO. 009725-01)
DATED 7 MAY 2014



WEB

Clearing for the Artère de l'Adour DN 600 gas pipeline between Arcangues and Coudures (40-64)

The “Artère de l'Adour” project backed by the developer TIGF (Transport et infrastructures gaz de France, the gas infrastructure manager in south-western France) involves building a 95-kilometre gas pipeline through the départements of Landes and Pyrénées-Atlantiques. It aims to reinforce the gas connections between Spain and south-western France. Its impact assessment had already been the subject of an Ae opinion (opinion no. 2013-44 of 26 June 2013) and then a public inquiry prior to the declaration of public utility.

The construction of the pipeline requires the clearing of a strip 20 metres wide, and in the long term the maintenance of an easement strip clear of forest vegetation 10 metres wide. As this easement makes the forest use of the wooded land intersected by the pipeline impossible¹²⁸, a clearing authorisation is necessary under the terms of the Forestry Code¹²⁹. A request for case-by-case examination was submitted by TIGF prior to this authorisation, in April 2014.

In this type of case, Ae considers that the clearing is not an independent project, but a necessary element of the pipeline project, which already has its own impact assessment. If a new administrative authorisation has to be obtained as part of the same

project, the Environmental Code specifies that “the impact assessment should be updated if necessary” (article R.122-8). Ae pointed out that the relevant environmental impacts in relation to the clearing authorisation, i.e. the destruction of natural forest habitats, had already been examined by the impact assessment, and that Ae's opinion, although containing comments and recommendations on the subject, did not call into question the relevance of the analyses presented to the point that it needed to be entirely revised. This enabled Ae to conclude its decision by indicating that the impact assessment did not need to be updated.

TIGF was thus able to present the same impact assessment and the same Ae opinion in support of its clearing request as it had already presented in support of its request for the declaration of public utility.

It should be noted, however, that a more complete anticipation of the procedures necessary would have enabled the public inquiry conducted for the purposes of the declaration of public utility to serve also for the clearing request, in which case the case-by-case decision would not have been necessary.

¹²⁸ Article L. 341-1 of the Forestry Code.

¹²⁹ More precisely, this authorisation is only necessary if the wood or forest to which the wooded area belongs has an area greater than a threshold set by the département (art. L. 342-1 of the same code).

ABBREVIATIONS AND ACRONYMS

Ae	Autorité environnementale <i>Environmental authority of the CGEDD</i>	PLU	Plan local d'urbanisme <i>Local urban development plan</i>
AFAF	Aménagement foncier agricole et forestier <i>Real estate, agricultural and forestry development</i>	PNGMDR	Plan national de gestion des matières et déchets radioactifs <i>National plan for the management of radioactive materials and waste</i>
ASN	Autorité de sûreté nucléaire <i>Nuclear safety authority</i>	PPP	Partenariat public privé <i>Public-private partnership</i>
CDT	Contrat de développement territorial <i>Territorial development contract</i>	PSR	Plan de submersions rapides <i>Rapid flooding plan</i>
CGDD	Commissariat général au développement durable <i>General commission for sustainable development</i>	RFF	Réseau ferré de France <i>The French rail infrastructure manager</i>
CGEDD	Conseil général de l'environnement et du développement durable <i>General council for the environment and sustainable development</i>	RTE	Réseau de transport d'électricité <i>The French electricity infrastructure manager</i>
DGEC	Direction générale de l'énergie et du climat <i>General directorate for energy and climate</i>	SCOT	Schéma de cohérence territoriale <i>Coherent territorial planning schemes</i>
DUP	Déclaration d'utilité publique <i>Declaration of public utility</i>	SDAGE	Schéma directeur d'aménagement et de gestion des eaux <i>Master plan for the development and management of water</i>
EPTB	Établissement public territorial de bassin <i>Cooperative of local authorities within a drainage basin</i>	SDRIF	Schéma directeur de la région Île-de-France <i>Master plan for the Île-de-France region</i>
FNE	France nature environnement (French federation of environmental protection associations)	SRCE	Schéma régional de cohérence écologique <i>Regional environmental coherence schemes</i>
ICPE	Installation classée pour la protection de l'environnement <i>Installation classified for the protection of the environment</i>	SRCAE	Schéma régional climat – air – énergie <i>Regional climate, air and energy plan</i>
INB	Installation nucléaire de base <i>Base-load nuclear installation</i>	TOL	Territorialisation de l'offre de logement <i>Local decision-making about where new housing should be built</i>
LGV	Ligne à grande vitesse <i>High-speed railway line</i>	VNF	Voies navigables de France <i>The agency responsible for France's navigable waterways</i>
MEDDE	Ministère de l'écologie, du développement durable et de l'énergie <i>Ministry of ecology, sustainable development and energy</i>	ZAC	Zone d'aménagement concerté <i>Joint development zone</i>
MLETR	Ministère du logement, de l'égalité des territoires et de la ruralité <i>Ministry of housing, territorial equality and rural areas</i>	ZNIEFF	Zone naturelle d'intérêt écologique, faunistique et floristique <i>Natural area of ecological, faunistic and floristic interest</i>



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