

Sample Essay Question

1. After graduating from law school, you embark on a bright career as a staff attorney for Gulf Wetlands Warriors, a creative and energetic environmental advocacy group dedicated to protecting wetlands and valuable species in the Gulf Coast region. Your supervisor brings a member's tip to you for evaluation. The tip says that a commercial developer has announced plans to construct the Prairie Pavilions, which will be a large mall in the Katy Prairie west of Houston.

This mall will occupy land pocketed with "prairie potholes," which are small isolated areas that periodically contain wet soils or shallow pools during rainy spring and fall seasons. These potholes provide a stopping point for millions of waterfowl each year during migration seasons. Some of these migrating waterfowl are listed as threatened or endangered species.

The Pavilions will require the construction of a road spur from a nearby highway. While the road will be privately financed and constructed, the developer will need to obtain permits from the Texas Department of Transportation to link the spur to the highway.

Once constructed, the Pavilions will include several large buildings, square miles of paved parking lot, and a large maintenance facility with a power substation. These buildings will block the view of rural landowners, who had specifically purchased their lands so that they could enjoy the native wildlife and scenery as well as observe the migrating birds.

- a. What claims could Gulf Wetlands Warriors bring to halt the construction of the Prairie Pavilions? What additional facts would you need to make that assessment? Be sure to include an assessment of the relief you could seek under each claim.

Your classmate, upon graduating from law school, has embarked on a bright career as an in-house counsel for the developer constructing the Prairie Pavilions. Her supervisor brings her the complaint from Gulf Wetlands Warriors, and has asked her to analyze the company's litigation risk.

- b. Assess the potential defenses and strategies that Prairie Pavilions can raise against the complaint's claims. Be sure to include an assessment of the relative strength or weakness of both Gulf Wetlands Warriors' claims, Pavilions' defenses, and strategies to minimize Pavilions' environmental risk.