



# *The Firm Line*

February 2014

Welcome to *The Firm Line*, a newsletter designed to inform our clients and friends about developments at the firm, legal issues that may impact your lives and businesses, and other items of interest. Our intention is to keep the information we provide to you in this newsletter concise. We welcome any further discussion on the topics addressed herein and hope that *The Firm Line* will provide you with interesting and noteworthy information about the law and our firm.

## Louisiana's Coastal Zone Laws and Restoration Responsibilities: The Ongoing SLFPA-E Litigation

In July of last year, Jones, Swanson, Huddell & Garrison and its partner firms filed suit on behalf of the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) against 97 oil and gas companies. The suit alleges that these companies' activities caused coastal wetlands loss, affecting the Authority's ability to provide adequate flood protection to New Orleans, St. Bernard, East Jefferson, and surrounding areas.

The suit draws in part from Louisiana's coastal zone laws, which have been in place for 34 years and carefully detail conditions of conducting oil and gas activities. Some examples of these obligations are:

- "Mineral exploration and production facilities shall be ... designed, constructed, and maintained in such a manner to maintain natural water flow regimes, avoid blocking surface drainage, and avoid erosion." 43 LA ADC Pt. I, § 719(D).
- "Mineral exploration, production, and refining facilities shall be designed and constructed using best practical techniques to minimize adverse environmental impacts." 43 LA ADC Pt. I, § 719(J).
- "Mineral exploration and production sites shall be cleared, revegetated, detoxified, and otherwise restored as near as practicable to their original condition upon termination of operations to the maximum extent practicable." 43 LA ADC Pt. I, § 719(M).
- "Linear facilities" (e.g. canals) "shall be planned, designed, located, and built using the best practical techniques to

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### Suggestions

Please provide us with ideas and suggestions for topics that you would like to read about in the future, as well as any thoughts you may have that will help us deliver better, more insightful information to you.

### Contact Us

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#### **NEW ORLEANS**

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minimize disruption of natural hydrologic and sediment transport patterns, sheet flow, and water quality and to minimize adverse impacts on wetlands." 43 LA ADC Pt. I, § 705(I).

- "Linear facilities shall be planned, designed, and built using the best practical techniques to prevent bank slumping and erosion, and saltwater intrusion, and to minimize the potential for inland movement of storm-generated surges. Consideration shall be given to the use of locks in navigation canals and channels which connect more saline areas with fresher areas." 43 LA ADC Pt. I, § 705(J).
- "Areas dredged for linear facilities shall be backfilled or otherwise restored to the pre-existing conditions upon cessation of use for navigation purposes to the maximum extent practicable." 43 LA ADC Pt. I, § 705(N).

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Between 1932 and 2010, Louisiana lost more than 1,788 square miles of coastal land, about 1/3 of that disappearing since 1990. Couvillion, B.R., *et al.*, 2011, Land area change in coastal Louisiana from 1932 to 2010: U.S. Geological Survey Scientific Investigations Map 3164, scale 1:265,000, 12 p. pamphlet. The Authority's suit seeks to compel companies to fulfill their longstanding obligations under these permits - and restore their fair share of wetlands loss. The Parishes of Plaquemines and Jefferson have also filed suit seeking to enforce Coastal Zone regulations.

### LOGA President Don Briggs's Deposition in the SLFPA-E Case

On February 20, 2014, Don Briggs, President of the Louisiana Oil and Gas Association (LOGA), was deposed in a lawsuit related to the lawsuit brought by the Southeast Louisiana Flood Protection Authority - East against 97 oil and gas companies. The suit claims these companies caused significant erosion within the SLFPA-E's coastal buffer zone, and asks the court to determine to what extent the companies are financially responsible for restoration efforts there. If the suit is successful, SLFPA-E will use its proceeds from the judgment for flood protection and coastal restoration. Highlights from the deposition, in addition to exhibits #1 - 2 to that deposition are available [here](#).

### New City Ordinances Impact Mardi Gras 2014

Whether you plan to set up on the neutral ground in the early morning hours, observe from a porch overlooking St. Charles Avenue, or scramble for a last-minute position on the sidewalk, new rules in effect will likely affect your Mardi Gras season. Ordinances 025659 and 25661 were unanimously passed by the New Orleans City Council earlier this year and took effect on February 3. Several rules contained in the ordinances are likely to impact parade watchers.



Photo courtesy of Tad Bartlett

- Ladders, tents, grills, and other personal effects must be placed six feet back from the street curb. Ladders cannot be fastened together, and none of these items can be placed in intersections or between curbs of public streets during parades. New Orleans, La. City Council Ordinance 25661, amending Sections 34-33 of Chapter 4 of the Code of the City of New Orleans.

- A person who throws any object at a float or participant in a parade will be subject to a \$250 fine. New Orleans, La. City Council Ordinance 25661, amending Sections 34-39 of Chapter 4 of the Code of the City of New Orleans.
- Vendors are prohibited from selling "stink bombs "or "snap-pops". New Orleans, La. City Council Ordinance 25661, amending Sections 34-37 of Chapter 4 of the Code of the City of New Orleans.
- Prior, written consent from the appropriate government agency is required to place portable toilets on public property. New Orleans, La. City Council Ordinance 25661, amending Sections 34-33 of Chapter 4 of the Code of the City of New Orleans.
- Parking is restricted on both sides of Napoleon Avenue between Tchoupitoulas Street and Claiborne Avenue and on St. Charles Avenue between Napoleon Avenue and Canal Street two hours before and after any parade. New Orleans, La. City Council Ordinance 25661, amending Sections 34-33 of Chapter 4 of the Code of the City of New Orleans.

As the ordinances declare, the "people of the great city of New Orleans deserve a Mardi Gras season that is fun and safe; and...clearer rules promote fair and effective enforcement and thereby promote public safety." New Orleans, La. City Council Ordinances 025659 and 25661.

With these new rules in mind, we at Jones Swanson hope that you have a wonderful and safe Mardi Gras!

*\*Please note that the above is meant as a reference only, and many other laws and regulations in effect may govern conduct during Mardi Gras.*

## Glad Jones and Andy Jacoby Featured at Tulane's Annual Environmental Summit



Last weekend, Jones Swanson attorneys [Glad Jones](#) and [Andy Jacoby](#) both spoke on panels at Tulane's 19th Annual Summit on Environmental Law & Policy.

Andy was a panelist on a Louisiana Wildlife Federation panel about the Texas Whooping Crane, and Glad headlined a session on the SLFPA-E litigation.

### ABOUT THE FIRM

Jones, Swanson, Huddell & Garrison, LLC, is a boutique litigation law firm based in New Orleans, with a newly opened second office in Baton Rouge, Louisiana, which primarily handles complex commercial and environmental/property disputes. In the commercial and environmental litigation arenas, the firm has and continues to represent many of Louisiana's and the Southeast's largest and most active business entrepreneurs and landholders, while also retaining a sharp focus on the representation of smaller businesses and individuals. Jones Swanson has served as lead counsel in New York, Connecticut, Massachusetts, California, and Texas, as well as in Mississippi, Alabama, Florida, and Louisiana.



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