

The Firm Line

July 2013

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 discussed herein and hope that *The Firm Line* will provide you with interesting and noteworthy information about the law and our firm.

Southeast Louisiana Flood Protection Authority - East (SLFPA-E): Case Information

Oil, Gas and Pipeline Companies Sued for Louisiana Coastal Land Loss and Flood Risk

Oil, gas and pipeline companies that cut at least 10,000 miles of oil and gas canals and pipelines through Louisiana coastal lands must repair the damaged environmental buffer zone that helps protect most of the greater New Orleans region from catastrophic flooding, a lawsuit filed by the Southeast Louisiana Flood Protection Authority - East asserted on July 24, 2013.

Filed in state district court in Orleans Parish, the lawsuit alleges about 100 defendants compromised the integrity of Louisiana's coastal lands with activities tied to hundreds of wells and pipelines, heightening risks of hurricanes, storm surge and flooding in the region.

The SLFPA-E - which operates and maintains the complex system of levees, floodgates, seawalls, and jetties that protect about a million people and property in the greater New Orleans region - asserts in the lawsuit that the defendants are obligated by law to restore the coastal land areas.

According to the petition, "Oil and gas activities continue to transform what was once a stable ecosystem of naturally occurring bayous, small canals, and ditches into an extensive - and expanding - network of large and deep canals that continues to widen due to Defendants' ongoing failure to maintain this network or restore the ecosystem to its natural state. That canal network continues to introduce increasingly larger volumes of damaging saltwater, at increasingly greater velocity, ever deeper into Louisiana's coastal landscape and interior wetlands. The increasing intrusion of saltwater stresses the vegetation that holds wetlands together, weakening - and ultimately killing - that vegetation. Thus weakened, the remaining soil is washed away even by minor storms. The canal network thus comprises a highly effective system of coastal landscape degradation. The product of this network is an ecosystem so seriously diseased that its complete demise is inevitable if no action is taken."

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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.

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Created by the Louisiana legislature as a reform board in 2006 after Hurricane Katrina, the SLFPA-E is charged with ensuring the physical and operational integrity of the regional flood risk management system, and to working with local, regional, state, and federal partners to plan, design, and construct projects that will reduce the probability and risk of flooding for the residents within its jurisdiction.

John M. Barry, vice president of the SLFPA-E and author of *Rising Tide: The Great Mississippi Flood of 1927 and How It Changed America*, said, "With this lawsuit, the Authority is carrying out its mandate to help protect southern Louisiana by strengthening our first line of defense against catastrophic flooding. That first defensive perimeter is of course the buffer of land and marsh that cuts down hurricane storm surge before it reaches the levees. The industry has taken about \$470 billion of the state's natural resources during the past 20 years, and we ask that it pick up its share of the increased costs of flood protections required to offset the loss of protective coastal wetlands. The industry recognizes that it is responsible for a significant part of the problem. We want energy companies to fix the part of the problem they caused - and which they promised to address. We want them to do what they said they'd do."

The lawsuit seeks abatement and restoration of the coastal lands, including backfilling and revegetating of canals dredged and used by the defendants, and appropriate abatement and restoration activities such as wetlands creation, reef creation, land bridge construction, hydrologic restoration, shoreline protection, structural protection, bank stabilization, and ridge restoration.

The United States Geological Survey cites oil and gas activities among the primary causes of coastal land loss. According to conservative estimates, since 1932, the state has lost more than 1,900 square miles of coastal lands, enough to cover the state of Delaware, and 700 more square miles are expected to be lost in coming decades.

Mr. Barry added, "With each acre of coastal land we lose, another essential layer of flood protection goes with it, exposing us to greater danger, impairing the effectiveness of our flood defenses and making the task of safeguarding our region more difficult and more costly. The Authority had to act now to meet our responsibility to protect lives, property and natural resources."

The SLFPA-E is represented in the litigation by [Jones, Swanson, Huddell, and Garrison, LLC](#), and [Fishman Haygood Phelps Walmsley Willis & Swanson, LLP](#), of New Orleans; and [Veron, Bice, Palermo & Wilson, LLC](#), of Lake Charles, Louisiana.

For decades, oil and gas companies have received thousands of permits to dredge industrial cuts, canals and pipeline rights of way into Louisiana's coast. Industry regulations and the law are clear: these sites must be protected or repaired, but there's little, if any, evidence that energy companies fulfilled those obligations. Instead, we have a record of coastal land loss and ruin.

The lawsuit claims include negligence, strict liability, public nuisance, private nuisance, breach of contract, and breach of the natural servitude of drain. The obligations to restore coastal land loss and related standards of care occur under The Rivers and Harbors Act of 1899, Louisiana's Civil Code, Louisiana's Mineral Code, as well as other state and federal regulations.

The lawsuit is "Board of Commissioners of the Southeast Louisiana Flood Protection Authority - East, et al., v. Tennessee Gas Pipeline Company, LLC, et al.," No. 2013-6911 in the Civil District Court for the Parish of Orleans.

We will soon have a website to view all information relevant to the case at www.savelouisianacoast.com. Please check this site for future updates.

For more information, contact: Gladstone N. Jones, III, Jones, Swanson, Huddell, and Garrison LLC, 504.523.2500.

ABOUT THE FIRM

Jones, Swanson, Huddell & Garrison, L.L.C., is a boutique litigation law firm based in New Orleans, Louisiana, handling complex commercial and environmental disputes. The firm's attorneys have served as lead counsel in litigation pending in Alabama, California, Florida, Mississippi, New York, and of course, Louisiana. In the commercial and environmental litigation arenas, the firm has represented and continues to counsel many of Louisiana's and the Southeast's leading landholders and entrepreneurs, while also retaining a focus on the representation of small businesses and individuals.

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