

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
2005 SEP 13 PM 4:08
LORETTA G. WHYTE
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

George Barasich, Benny J. Borden,
Courtney Foxworth, Darin Tircuit, and
Ralph H. Long, Jr., Individually and
as representatives of all those
similarly situated

versus

Columbia Gulf Transmission Co.;
Koch Pipeline Company, L.P.;
Gulf South Pipeline Company, LP;
Shell Pipeline Company LP;
Tennessee Gas Pipeline Co.;
Transcontinental Gas Pipeline Corp.;
Shell Oil, Co.;
ExxonMobil Corp.;
Exxon Mobil Corp.;
Chevron Corp.; and
BP Corporation N.A., Inc.

Civil Action

05-4161

Docket:

Judge:

SECT. C MAG. 3

Magistrate:

CLASS ACTION PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel comes George Barasich, Benny J. Borden, Courtney Foxworth, Darin Tircuit, and Ralph H. Long, Jr., who bring this lawsuit individually and as representatives of all those similarly situated, and represent as follows:

1.

Petitioners propose bringing this matter against two classes of defendants, represented by the following companies which conducted significant activities related to the exploration, production and transportation of oil and gas from the marshes of South Louisiana. Said defendants conducted activities common to the co-defendants of their respective classes and are among the largest active oil and gas companies in the region such that they will sufficiently represent and defend the interests of their absent class members. Named as representatives of the defendant classes are:

1.a.

(The pipeline class) All oil and gas pipeline companies which dredged pipeline canals in the marshes of South Louisiana and/or installed oil and gas transmission lines in the marshes of South Louisiana, including but not limited to:

Columbia Gulf Transmission Co., a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of Texas and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court;

Koch Pipeline Company, L.P., a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of Kansas and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court;

Gulf South Pipeline Company, LP, a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of Texas and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court;

Shell Pipeline Company LP, a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of Texas and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court;

Tennessee Gas Pipeline Co., a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of Texas and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court; and

Transcontinental Gas Pipeline Corp., a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of Texas and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court.

1.b.

(The exploration & production class) All oil and gas exploration and production companies which drilled for oil and gas in the marshes of South Louisiana and/or dredged access and/or location canals in the marshes of South Louisiana, including but not limited to:

Shell Oil Co., a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of Texas and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court;

Exxon Mobil Corp., a foreign corporation domiciled in the State of New Jersey, with its principal place of business in the State of New York and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court;

ExxonMobil Oil Corp., a foreign corporation domiciled in the State of New York, with its principal place of business in the State of New York and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court;

Chevron Corporation, a foreign corporation domiciled in the State of Delaware, with its principal place of business in the State of California and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court; and

BP Corporation NA, Inc., a foreign corporation domiciled in the State of Indiana, with its principal place of business in the State of Illinois and authorized to do and doing business within the State of Louisiana including those Parishes within the jurisdictional boundaries of this Court.

2.

Plaintiffs propose to proceed on behalf of the following class of individuals:

All persons, businesses and entities in the State of Louisiana who have suffered damage as a result of Hurricane Katrina's winds and storm surge.

Named as proposed representatives of the Plaintiff Class are:

George Barasich, a person of the full age of majority and domiciled in the Parish of St. Bernard, State of Louisiana;

Benny J. Borden, a person of the full age of majority and domiciled in the Parish of Jefferson, State of Louisiana;

Courtney Foxworth, a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana;

Darin Tircuit, a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana; and

Ralph H. Long, Jr., a person of the full age of majority and domiciled in the Parish of Orleans, State of Louisiana.

3.

Over the course of many decades, Defendants belonging to the "Pipeline Class", and their predecessors in interest, have dredged pipeline canals for the purpose of installing pipelines for the transport of petroleum and gaseous products throughout the marshes of Southeastern Louisiana whereas Defendants belonging to the "Exploration & Production Class", and their predecessors in interest, have dredged canals to access and locate drill sites within the marshes of Southeastern Louisiana.

4.

These canals are still being used as of this date by Defendants and are situated in marshlands and have eroded over the course of time and continue to erode. Additionally these

canals have developed breaks in the spoil banks thereby leading to additional damage to/destruction of the adjacent marshes.

5.

The Defendants have knowingly failed to maintain these canals and this continuing failure of the Defendants to maintain said canals has caused damage to the stability and ecological function of the marsh property, which provide(d) protection to inland communities from hurricanes, such as Hurricane Katrina. Over 1 million acres of marsh property has already been destroyed, and millions more essentially destroyed, as a result of defendants' negligence in oil, gas, and pipeline operations throughout Southeast Louisiana, thus depriving metropolitan areas such as the City of New Orleans from its natural protection against hurricane winds and storm surges.

6.

Due to Defendants' continuing failure to maintain and restore said marshes which were damaged as a result of their failure to maintain these canals, the canals dredged in the marshes of Southeast Louisiana have altered the hydrology of the adjacent marshes and have adversely impacted the marshes's ecology through the physical removal of marsh terrain, creation of spoil banks, and impairment of natural ebb and flow of tidal waters.

7.

The canals dredged by these defendants have adversely impacted the marshes of Southeast Louisiana, allowing salt water intrusion to destroy indigenous plant life essential to the retention of soil, and as the canals have gradually widened due to erosion.

8.

Tidal and fresh water flows are essential for distributing mineral sediments, inorganic sediments, and organic matter to the marsh vegetation. The marsh vegetation traps sediment and builds organic soils. Marsh vegetation also stabilizes the soil with a dense mat of live roots which provides essential protection against erosion. Deterioration and death of marsh vegetation leads to loss of the root mat and results in erosion of the exposed soil and conversion to open water.

9.

The spoil banks of these canals have prevented the distribution of mineral sediments and nutrients essential for maintaining and regenerating the marshes of Southeast Louisiana by semi-impoundment. The spoil banks have caused the destruction of the indigenous vegetation present in the marshes of Southeast Louisiana. Over the period of many years, the spoil banks caused the indigenous vegetation to be replaced with open ponds and surface streams or with pest plants that are harmful to indigenous plant populations.

10.

In addition, Defendants have allowed numerous breaks or cuts to develop and enlarge in the spoil banks of their canals which continue to cause erosion and destruction of the marshes of Southeast Louisiana. The water flows through these canals and into the adjacent marshes have sufficient energy to erode or break up underlying sediment and organic material from beneath the root mat and destroy wetland area without killing vegetation first. In turn, as the root mat is gradually eroded, vegetation dies. The dying of marsh vegetation results in increased erosion and leads to open water, and/or submergence of marsh vegetation and root mat. As such, due to

the erosion and/or submergence of the marshes of Southeast Louisiana as a result of the canals dredged by Defendants, the ecological regime of the marshes of Southeast Louisiana has been dramatically altered and detrimentally changed.

11.

The construction of these canals and negligence in maintaining the canals dredged have resulted in the breach of the integrity of the marsh's substrate.

12.

The presence of these canals dredged by the Defendants in the marshes of Southeast Louisiana are disrupting, and have disrupted, the normal and natural processes that maintain and regenerate the marsh hydrology; but for the negligent actions of defendants in failing to properly manage their canals, marsh property would have existed at the time Hurricane Katrina arrived at the Louisiana coast and Hurricane Katrina's winds and storm surge would have been greatly diminished by the marsh property, thus averting all, or almost all, of the loss of life and destruction of property that resulted from Hurricane Katrina.

13.

While other causes may have contributed to the loss of marsh property, plaintiff allege that defendants' oil, gas and pipeline canals are a, if not the, substantial cause of marsh land loss in Southeast Louisiana, and the damages resulting therefrom.

14.

Plaintiffs aver that prescription has not started to toll as Defendants are still using these canals for current Exploration, Production and Transport of oil and gas throughout the marshes of Southeast Louisiana.

15.

Plaintiffs aver that Defendants' failure to maintain the integrity of these canals located throughout the marshes of Southeast Louisiana commenced a course of conduct which has damaged and continues to damage the marshes of Southeast Louisiana and thereby said conduct constitutes a continuous tort.

16.

Plaintiffs aver that Defendants are knowingly causing continuous damage as of this date to the marshes of Southeast Louisiana by failing to restore said marshes with full knowledge that said failure will continue to cause erosion that will further impact the natural hydrology of these marshes.

17.

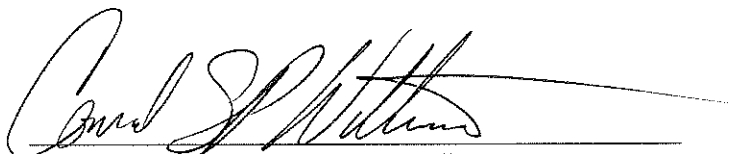
Plaintiffs and all those similarly situated are entitled to have this cause maintained as a class action for the following reasons:

- (a) Requiring the institution of separate lawsuits would pose a serious risk of inconsistent adjudications and earlier separate determinations with a prejudicial effect on subsequent litigants.
- (b) Prosecution of separate actions would pose a serious threat of substantially impeding the ability of class members to protect their interests.
- (c) Any resistance of liability by the defendants would be applicable to all claims presented by all members of the class.
- (d) There are common issues of law and fact that predominate over those issues that might pertain to individual cases.
- (e) The class action is a superior procedural vehicle for the fair and efficient adjudication of this controversy, to wit:
 - (1) The vast majority of the class members have no interest in controlling the litigation;

- (2) Such a method of proceeding would allow the Court to process all rightful claims in one proceeding;
- (3) It is desirable to concentrate all the litigation in one forum; and
- (4) Class litigation is manageable considering the opportunity to afford reasonable notice of significant phases of the litigation to class members and permit distribution of the recovery.

WHEREFORE, plaintiffs and all those similarly situated, pray that this matter be ordered to proceed as a class action; and after all legal delays and due proceedings are had, that there be judgment in favor of plaintiff for damages, together with legal interest thereon from date of judicial demand until paid, for all costs of these proceedings and for all general and equitable relief as provided by law.

Respectfully submitted,



MICHAEL X. ST. MARTIN (#12365)
CONRAD S.P. WILLIAMS, T.A. (#14499)
CHARLES C. BOURQUE, JR. (#20118)
JOSEPH G. JEVIC III (#23145)
CHRISTOPHER J. ST. MARTIN (#26122)
ST. MARTIN & WILLIAMS
P.O. Box 2017
Houma, Louisiana 70361
Telephone: (985) 876-3891

VAL PATRICK EXNICIOS (#19563)
LISKA, EXNICIOS & NUNGESSER
9701 Lake Forest Blvd., Unit 101
New Orleans, La. 70127
(504) 245-1612
L,E,&N Temporary address & phone:
505 S. Capitol Street
Many, La. 71449
(318) 256-0583 ; (318) 332-7858 (cell)

GREGORY DiLEO (#4943)
300 Lafayette Street, Ste. 101
New Orleans, La. 70130
(504) 522-3456/ (504) 495-4949 (cell)
Temporary address: (same as L,E, &N)

Please serve:

Columbia Gulf Transmission Co.
CORPORATION SERVICE COMPANY
320 SOMERULOS ST.
BATON ROUGE, LA 70802-6129

Koch Pipeline Company, L.P.
CORPORATION SERVICE COMPANY
320 SOMERULOS ST.
BATON ROUGE, LA 70802-6129

Gulf South Pipeline Company, LP
C T CORPORATION SYSTEM
8550 UNITED PLAZA BLVD.
BATON ROUGE, LA 70809

Shell Pipeline Company LP
C T Corporation System
8550 United Plaza Blvd.
Baton Rouge, La 70809

Tennessee Gas Pipeline Co.
C T Corporation System
8550 United Plaza Blvd.
Baton Rouge, La 70809

Transcontinental Gas Pipeline Corp.
C T Corporation System
8550 United Plaza Blvd.
Baton Rouge, La 70809

Shell Oil Co.
Corporation Service Company
320 Somerulos St.
Baton Rouge, La 70802-6129

Exxon Mobil Corp.
Corporation Service Company
320 Somerulos St.
Baton Rouge, La 70802-6129

ExxonMobil Corp.
Corporation Service Company
320 Somerulos St.
Baton Rouge, La 70802-6129

BP CORPORATION NORTH AMERICA INC.

Via the Louisiana Long Arm Statute:
The Prentice-Hall Corporation System, Inc.
Suite 500 251 East Ohio Street
INDIANAPOLIS, IN 46204

Chevron Corporation

Via the Louisiana Long Arm Statute:
The Prentice-Hall Corporation System, Inc.
2711 Centerville Road, Suite 400
Willmington, DE 19808