

US judge tosses coastal damage suit against oil companies

February 14 2015, byKevin McGill

A lawsuit filed in 2013 by a Louisiana flood board that sought damages—potentially in the billions of dollars—from scores of oil, gas and pipeline companies over erosion of the state's fragile coast was thrown out Friday evening by a federal judge.

U.S. District Judge Nanette Jolivette Brown dismissed the suit in a complex 49-page ruling rejecting the board's contention that, under federal laws, the [energy companies](#) had a duty to protect the flood board from the effects of coastal erosion.

"We don't think this is going to be the last word on it," James Swanson, a lawyer for the Southeast Louisiana Flood Protection Authority-East, said in a telephone interview. He said attorneys for the flood authority were studying the ruling. He said attorneys had not yet decided on their next move, but that the case would likely wind up at the 5th U.S. Circuit Court of Appeals.

The flood authority, which oversees New Orleans-area levee boards, had claimed in the lawsuit that coastal drilling and dredging activities contributed to the loss of coastal wetlands that form a natural hurricane protection buffer for New Orleans.

The lawsuit caused a political furor in Louisiana. The suit's backers said it was necessary to hold energy companies accountable for decades of damage and that it was one of the state's few hopes for funding coastal protection and restoration efforts with an estimated price tag of at least

\$50 billion over the coming decades.

Gov. Bobby Jindal and oil industry leaders condemned it as an attack on a vital industry and said it undermined the state's efforts to protect and restore the coast. The Legislature passed a bill to kill the lawsuit although a state judge later declared that law unconstitutional, a ruling that was under appeal.

"We are gratified by this court's ruling to dismiss this ill-conceived, unwise and divisive litigation, which we have contended all along was nothing more than an attempt to subvert the existing legal and regulatory processes," Greg Beuerman, spokesman for Shell, Chevron and BP, said in an email. Those three were among more than 90 companies, some big, some small, named in the lawsuit. At least one small defendant settled and others were removed for various reasons. Brown said there were 88 defendants at the time of her ruling.

"We appreciate the judge's ruling and are pleased that this frivolous lawsuit has come to an end," Jindal spokeswoman Shannon Bates Dirmann said in an emailed statement.

The lawsuit originally was filed in state court in the summer of 2013. The oil companies succeeded in moving it to federal court, where Brown, after months of hearings and court filings, granted a motion to dismiss the case. The companies said that the SLFPA-E had failed to make a valid claim under the law. Brown agreed. Her 49-page ruling dealt with the permits under which the energy companies operated and arcane law and court precedents governing drainage and the rights and obligations of landowners.

The lawsuit thrust the little known SLFPA-E into a political firestorm. The board, comprised of flood experts, engineers and lay people from other professions, had been formed as part of a flood control reform

effort following the catastrophic levee failures of Hurricane Katrina in 2005. Jindal replaced some members as their terms expired, including historian and author John Barry, who continued to fight for the suit even after his ouster from the board.

Jindal had hoped to eventually replace a majority of board members with members who would withdraw the lawsuit. However, a withdrawal of the suit would have left the board subject to millions in legal fees. Attorneys took on the lawsuit under a contract with a "poison pill" provision. They stood to make big money if they won; nothing, if they lost. But they would have to be paid were the [lawsuit](#) withdrawn.

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