

BAYOU BRIDGE PIPELINE, LLC

16TH JUDICIAL DISTRICT

VERSUS

DOCKET NO. 87011-E

38.00 ACRES, MORE OR LESS,
LOCATED IN ST. MARTIN PARISH;
BARRY SCOTT CARLINE, ET AL

ST. MARTIN PARISH

STATE OF LOUISIANA

FILED: _____

DEPUTY CLERK OF COURT

DEFENDANT'S DILATORY AND PEREMPTORY EXCEPTIONS

NOW INTO COURT, comes THEDA LARSON WRIGHT, through undersigned counsel, who, without waiving her rights under any answer, affirmative defense,¹ motion or exception previously filed or filed with this pleading, or without waiving the right to file any other exception or pleadings as may be provided by law, excepts as follows to the Petition for Expropriation filed by Plaintiff Bayou Bridge Pipeline, LLC ("BBP") on the grounds set forth more fully in the incorporated memorandum:

Pursuant to Rule 9.8(a) of the Uniform Rules of Court, Defendant Larson Wright states that this case is currently set for trial on November 27, 2018, and that she plans to introduce testimony at the hearing on the exceptions.

I.

Peremptory Exception of No Right of Action

Pursuant to La. Code of Civ. Proc. Art. 927(A)(6), Defendant asserts the peremptory exception of no right of action on the grounds that BBP is not an entity to which the law grants the remedy sought in this matter. Article I, sec 4(B)(4) of the Louisiana Constitution of 1974 requires that private entities authorized by law to expropriate may do so for a public and necessary purpose only. Common carriers having the power to expropriate private property have long been considered "quasi-public corporations" which "owe a duty to the public." *State ex rel. Coco v. Riverside Irr. Co.*, 76 So. 216, 218 (1917); *See also, e.g., Crooks v. Placid Ref. Co., writ denied*, 2005-1756 (La. 1/13/06), 920 So.2d 242. Any expropriation they undertake must be for

¹ In her Answer, Larson Wright separately entered affirmative defenses challenging the constitutionality of the delegation of the power of eminent domain to private entities, generally, and to private oil pipeline companies in particular. Larson Wright submits these exceptions without waiving those constitutional challenges and in the event the delegation of the power is found to pass constitutional muster.

a public and necessary purpose. La. Const. art. I, sec. 4(B)(4). Yet BBP has asserted in separate, unrelated proceedings that it is not a quasi-public corporation which owes a duty to the public but is instead a “private, for-profit entity” that is not operating its “pipeline business” pursuant to any delegation or contract with the state, but rather as a “private, for-profit business.”²

**II.
Peremptory Exception of Nonjoinder of a Party**

Pursuant to La. Code of Civ. Proc. Art. 927(A)(4), Defendant Larson Wright asserts the peremptory exception of failure to join an indispensable party as BBP has failed to name Larson Wright’s nieces, daughter of her deceased sister, as parties to this proceeding as, upon information and belief, they are co-owners of the Property in question, through inheritance.

**III.
Dilatory Exception of Vagueness or Ambiguity in the Petition**

Pursuant to La. Code of Civ. Proc. Art. 926(A)(5), Larson Wright asserts the dilatory exception of vagueness or ambiguity in the petition. Article I, sec. 4(B)(4) of the Louisiana Constitution of 1974 requires that any taking by a private entity be for a public and necessary purpose only. BBP’s allegations as to the necessity of the pipeline are simply conclusory statements and so vague and ambiguous as to be virtually non-existent, and there is no mention at all of its public purpose. As a result, Larson Wright is unable to adequately prepare her defense against the expropriation.

**IV.
Dilatory Exception of Prematurity**

Pursuant to La. Code of Civ. Proc. Art. 926(A)(1), Defendant asserts the dilatory exception of prematurity on three grounds:

- 1) The company did not carry out all of the statutory requirements set out in La. R.S. 19:2.2 prior to initiating this proceeding, including by not adequately describing the public purpose for the expropriation, and providing the Defendant with an appraisal and required information about the appraisal;

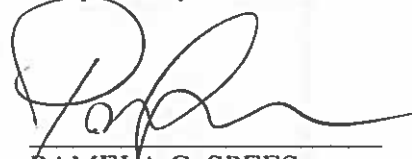
² See Original Appellee Brief of Bayou Bridge Pipeline, LLC, in *Atchafalaya Basinkeeper et al v. Bayou Bridge Pipeline, LLC*, No. 2018-CA-0417, (La. App. 1st Cir. 6/21/18).

- 2) The company did not undertake good faith efforts to identify, locate, and negotiate with all landowners and has prematurely and improperly asked this Court to appoint an attorney to stand in for them; and
- 3) Permits authorizing the pipeline project for which BBP seeks this expropriation are still being challenged in court and it is possible the company may not obtain them which would nullify its need for the expropriation.

WHEREFORE Theda Larson Wright prays that after contradictory hearing, the Court grant her exceptions and dismiss Plaintiff's Petition for Expropriation, and for such other and further relief as this Court deems appropriate.

Date: September 12, 2018

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been transmitted via electronic means to all known parties of record this 12th day of September 2018 by email to the following counsel of record for Plaintiff:

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PAMELA C. SPEES

Attorney for Defendant / Plaintiff-in-Reconvention Theda Larson Wright

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RULE TO SHOW CAUSE

Considering the Peremptory and Dilatory Exceptions filed by Defendant Theda Larson-Wright to Plaintiff's Petition for Expropriation,

IT IS ORDERED that Plaintiff Bayou Bridge Pipeline, LLC., appear in this Court on the ___ day of _____, 2018 at _____ a.m./p.m. to show cause why Defendant Larson-Wright's Peremptory and Dilatory Exceptions should not be granted.

IT IS SO ORDERED in St. Martinville, Louisiana, this ___ day of _____
2018.

Judge, 16th Judicial District Court

Please serve:

Bayou Bridge Pipeline, LLC, through its attorneys

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**DEFENDANT THEDA LARSON WRIGHT'S MEMORANDUM OF LAW
IN SUPPORT OF DILATORY AND PEREMPTORY EXCEPTIONS**

MAY IT PLEASE THE COURT:

Defendant Theda Larson Wright submits this memorandum in support of her peremptory and dilatory exceptions filed in the above-captioned matter.¹

Introduction

After it had already entered upon the property at issue in this case, tore down trees, cleared the route, and commenced construction of the pipeline without the consent of all the landowners, Plaintiff Bayou Bridge Pipeline, LLC (“BBP”) brought this expropriation proceeding. Defendant Larson Wright’s ownership interest in this property dates back generations when the property was part of what was then the town of Bayou Chene.² The property is in the heart of the Atchafalaya Basin, the country’s largest river swamp, home to rare old growth (or “legacy”) cypress trees, tupelo forests, bottomland hardwoods, habitats sustaining a wide variety of wildlife species, including several that are listed as endangered.³ The Basin also plays a critical role in flood protection for the region, and in fact the country.⁴

¹ Larson Wright separately entered affirmative defenses challenging the constitutionality of the delegation of the power of eminent domain to private entities, generally, and to private oil pipeline companies in particular. Larson Wright submits these exceptions without waiving those constitutional challenges and in the event the delegation of the power is found to pass constitutional muster.

² Affidavit of Theda Larson Wright, at ¶ 6, annexed hereto as Exhibit A.

³ See, e.g., Louisiana Department of Natural Resources, FY 2018 Annual Plan, Atchafalaya Basin Program, Supplement, available at http://www.dnr.louisiana.gov/assets/OCM/ABP/2018_Plan/Supplemental_Narrative.pdf.

⁴ *Id.* See also e.g., Coastal Protection and Restoration Authority of Louisiana, *Louisiana's Comprehensive Master Plan for a Sustainable Coast*, June 2, 2017, available at http://coastal.la.gov/wp-content/uploads/2017/04/2017-Coastal-Master-Plan_Web-Single-Page_CFinal-with-Effective-Date-06092017.pdf;

BBP is a joint venture, registered as a limited liability company in Delaware with its principle place of business in Texas, and it is comprised in part of a company with one of the worst track records in the nation for spills and leaks.⁵ Together, the companies forming BBP and/or their subsidiaries and joint ventures reported 527 hazardous liquids pipeline incidents to federal regulators, which released a total of 87,273 barrels, or 3.6 million gallons, of hazardous liquids between 2002 and 2017.⁶

Now, BBP is in the process of constructing its 162-mile petroleum pipeline through 11 parishes in Louisiana, 700 bodies of water, including Bayou Lafourche, which is the source of drinking water for surrounding communities like the United Houma Nation and people in surrounding parishes, and, not least, through the Atchafalaya Basin, where the property it now seeks to expropriate is located.⁷ It is constructing its pipeline even though the project's permits are still being challenged in court – including the permit that would allow the pipeline to run through the Basin.

BBP claims in this proceeding that it is a common carrier to which the state of Louisiana has delegated the power to expropriate private property for its pipeline, which it claims is in the public interest and necessity. In a separate, unrelated proceeding, however, it has forcefully asserted that it is not a quasi-public corporation – as common carriers are referred to in Louisiana jurisprudence – but rather a “private, for-profit entity” that is “not operating its pipeline business pursuant to any delegation or contract with the state,” but rather as a “private, for-profit

Coastal Protection and Restoration Authority, *Louisiana's 2012 Comprehensive Master Plan for a Sustainable Coast*, available at <http://coastal.la.gov/resources/library/reports/>. See also, T. Edward Nickens, *Saving Atchafalaya: A more than 70-year effort to 'control America's largest river basin swamp is threatening the Cajun culture that thrives on it*, Smithsonian.com, November 2003, <https://www.smithsonianmag.com/science-nature/saving-atchafalaya-92966433/>.

⁵ BBP is comprised of Energy Transfer Partners, which merged with Sunoco Logistics Partners, and Phillips 66. See https://energytransfer.com/ops_bayou_bridge.aspx and <https://www.energytransfer.com/> announcing completion of merger between Energy Transfer Partners and Sunoco Logistics Partners. See also, Liz Hampton, *Sunoco, behind protested Dakota pipeline, tops U.S. crude spill chart*, Reuters, September 23, 2016, available at <https://www.reuters.com/article/us-usapipeline-nativeamericans-safety-i/sunoco-behind-protested-dakota-pipeline-tops-u-s-crude-spillcharts-idUSKCN1IT1UW>.

⁶ See also, Timothy Donaghy and Donna Lisenby, *Oil and Water: ETP & Sunoco's History of Pipeline Spills*, Greenpeace and Waterkeeper Alliance, p. 3, April 17, 2018, available at https://waterkeeper.org/wp-content/uploads/2018/04/Oil-and-Water_Waterkeeper-Report.pdf; See also, *Report: Energy Transfer Partners and Sunoco Accidents, 2015-2016*, Louisiana Bucket Brigade, Feb. 6, 2017, available at <http://www.labucketbrigade.org/sites/default/files/ETP%202015%202016%20Accidents%20Full%20Report.pdf>.

⁷ The Bayou Bridge pipeline is to serve as the southern end of the network that includes the Dakota Access Pipeline.

business.”⁸ According to billionaire Keley Warren, CEO of BBP’s parent company Energy Transfer Partners, that private for-profit business is booming, and even “a monkey could make money in this business right now.”⁹

But an expropriation by a private corporation for a private purpose is unconstitutional and *ultra vires*. Even if it were determined by the court to be a common carrier, BBP’s petition is vague and ambiguous as to the public and necessary purpose of the pipeline. And, even if BBP is found to be a common carrier *and* has sufficiently pled that its pipeline fulfills a public purpose and necessity, it did not comply with the legal requirements imposed on private expropriators before bringing this action and it is thus premature. In addition to barging onto the land and beginning construction without having a legal right to do so, BBP also skipped several steps with respect to Larson Wright that it was required to take before commencing an expropriation action against her including, but not limited to, providing her an appraisal or information about its appraisal.

BBP has also asked this Court to appoint an attorney to represent the interests of a group of people it calls “Absentee Defendants,” claiming that it engaged in good faith efforts to identify, locate, and negotiate with them. However, that list includes Larson Wright’s two sisters, who are alive and well and findable. If that is the case with respect to Larson Wright’s sisters, it is likely many more are locate-able through thorough, good faith efforts. Similarly, the petition fails to name Larson Wright’s two nieces, who, upon information and belief, also own an interest in the property at issue in this proceeding and must be afforded an opportunity to assert their rights in that regard. The appointment of an attorney to represent people having an ownership interest in this important property is premature, and its failure to name indispensable parties requires that the matter be dismissed. BBP should be sent back to the drawing board to locate and negotiate with these landowners.

⁸ See Original Appellee Brief of Bayou Bridge Pipeline in *Atchafalaya Basinkeeper et al v. Bayou Bridge Pipeline, LLC*, Case No. 2018-CA-0417 (La. App. 1 Cir. June 21, 2018).

⁹ According to ETP CEO, *Running Pipelines Is Easy*, Seeking Alpha, Aug. 5, 2018, available at <https://seekingalpha.com/article/4195083-according-etp-ceo-running-pipelines-easy>. See also, Bryan Gruley, *Pipeline Billionaire Keley Warren Is Having Fun in the Oil Bust*, Bloomberg Markets, May 19, 2015, *Id*.

LAW AND ARGUMENT

Expropriation laws and proceedings are in derogation of a common right to own property and must be strictly construed and highly scrutinized; every step in the proceeding must insure that the landowner is at all times afforded protection against the power of the taker. *Texas Gas Transmission Corp. v. Soileau*, 251 So.2d 104, 107 (La. Ct. App. 1971).

I. Peremptory Exception of No Right of Action.

Pursuant to La. Code of Civ. Proc. Art. 927(A)(6), Defendant Larson Wright asserts the peremptory exception of no right of action on the grounds that BBP has claimed in other legal proceedings a status that does not entitle it to the remedy it seeks here. An exception of no right of action determines “whether the plaintiff belongs to the particular class to which the law grants a remedy for the particular harm alleged.” *Treasure Chest Casino, L.L.C. v. Parish of Jefferson*, 96-1010, p. 4 (La.App. 1st Cir. 3/27/97), 691 So.2d 751, 754, writ denied, 97-1066 (La. 6/13/97), 695 So.2d 982; *Louisiana Paddlewheels v. Louisiana Riverboat Gaming Commission*, 94-2015, p. 4 (La. 11/30/94), 646 So.2d 885, 888. Article 931 of the Louisiana Code of Civil Procedure permits the introduction of evidence to support or controvert an exception of no right of action.

The Louisiana Constitution of 1974 requires a private entity authorized by law to expropriate may only do so for a public and necessary purpose. La. Const. art. I, sec. 4(B)(4). Common carriers having the power to expropriate private property have long been considered “quasi-public corporations” because they have powers of a “public nature” and “owe a duty to the public.” *State ex rel. Coco v. Riverside Irr. Co.*, 76 So. 216, 218 (1917) (“A quasi public corporation may be said to be a private corporation which has given to it certain powers of a public nature, such, for instance, as the power of eminent domain, in order to enable it to discharge its duties for the public benefit, in which respect it differs from an ordinary private corporation.”); *See also, e.g., Crooks v. Placid Ref. Co.*, 2005-119 (La. App. 3 Cir. 6/1/05, 10-11), 903 So.2d 1154, 1161, writ denied, 2005-1756 (La. 1/13/06), 920 So.2d 242. (another pipeline expropriation case where the court describes “private entit[ies]” upon which Article 1,

§4 of the Louisiana Constitution of 1974 confers the power of expropriation as “public or quasi public corporations”).

Yet BBP has asserted in separate, unrelated legal proceedings that it is not a quasi-public corporation owing any duty to the public and is instead a “private, for-profit entity” that is “not operating its pipeline business pursuant to any delegation or contract with the state, but rather as a private, for-profit business.”¹⁰ As if underscoring this assertion, billionaire CEO Kelcy Warren of Energy Transfer Partners, which owns 60 percent of the BBP venture, has suggested that “running pipelines is easy” and that even “a monkey could make money in this business.”¹¹

In 2006, in the wake of the United States Supreme Court’s controversial ruling in *Kelo v. City of New London*, 545 U.S. 469 (2005), the Louisiana legislature amended the constitution to make clear that “economic development, enhancement of tax of revenue, or any incidental benefit to the public” may not be considered in determining whether a taking or damage to property is for a public purpose. La. Const. art. I, sec. 4(B)(3). If taken at its own words, BBP is not a quasi-public corporation common carrier working in the public interest to serve and fulfill a public purpose and necessity, and therefore not a proper party to bring an expropriation suit necessitating that the matter should be dismissed with prejudice.

II. Dilatory Exception of Vagueness and Ambiguity in the Petition as to the Public and Necessary Purpose of This Pipeline.

If BBP is allowed to bring this action because the Court finds it to be a common carrier with standing to commence expropriation proceedings, then pursuant to La. Code of Civ. Proc. Art. 926(A)(5), Larson Wright asserts the dilatory exception of vagueness or ambiguity in the petition as to the question of the public and necessary purpose of the expropriation sought. The purpose of the exception is to require plaintiff to furnish the nature of the facts to be proved in order to enable a defendant to prepare her defense. *Texas Gas Transmission Corp. v. Soileau*, 251 So.2d 104, 107 (La. Ct. App.1971) (sustaining an exception of vagueness as to pipeline company’s allegations of public and necessary purpose).

¹⁰ See Original Appellee Brief of Bayou Bridge Pipeline, LLC, in *Atchafalaya Basinkeeper et al v. Bayou Bridge Pipeline, LLC*, No. 2018-CA-0417 (La. App. 1st Cir. 6/21/18), at p. 15, available at <https://ccrjustice.org/sites/default/files/attach/2018/08/2018.06.21%20ABK%20v.%20BBP%20Opposition%20Brief.pdf>.

¹¹ *Supra* n. 9.

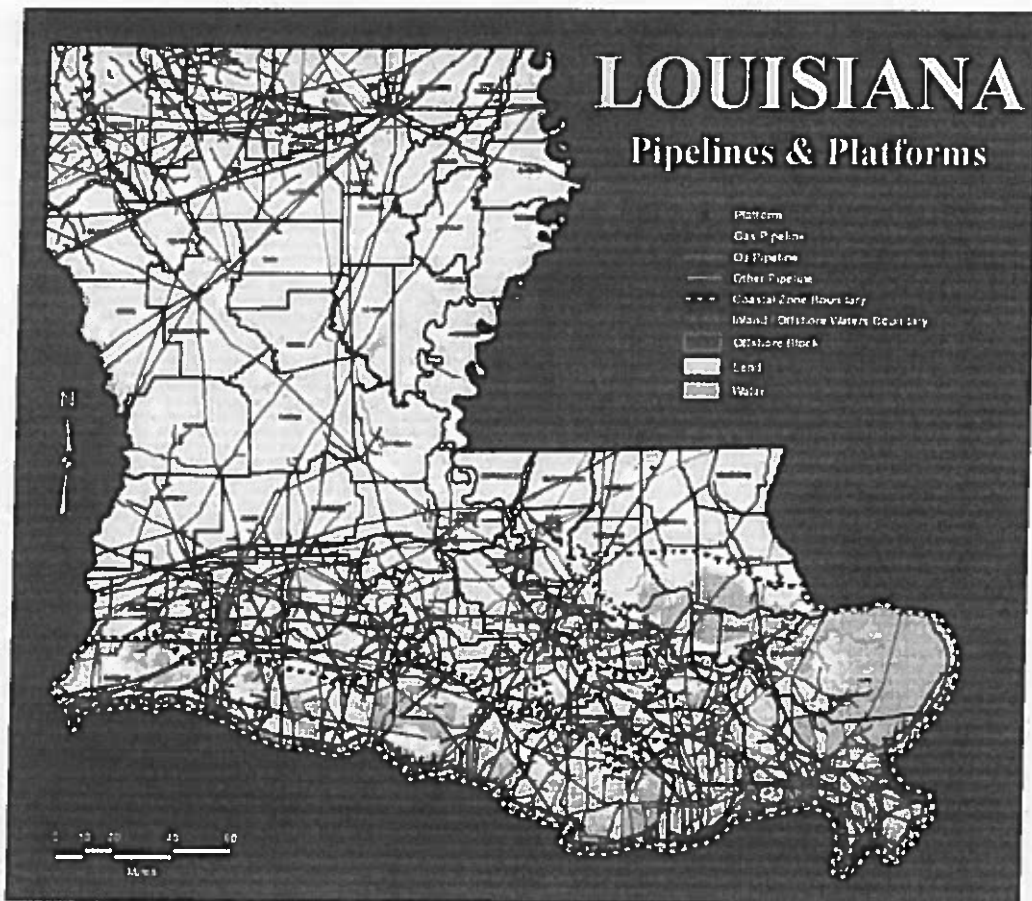
Article I, sec. 4(B)(4) of the Louisiana Constitution of 1974 requires that any taking by a private entity be for a public and necessary purpose only, and, further, that “whether the purpose is public and necessary shall be a judicial question.” BBP’s allegations as to the necessity of the pipeline are simply conclusory statements and so vague and ambiguous as to be meaningless. At paragraph 9 of the petition, BBP simply states that “the Pipeline is in the public interest and necessity.” It makes no mention whatsoever of public purpose and provides no factual allegations to support public purpose or necessity even absent the mention. In *Texas Gas Transmission Corp. v. Soileau*, the Third Circuit Court of Appeal held that a landowner’s exception of vagueness was properly sustained when the expropriation petition failed to allege why or for what purpose the gas pipeline was to be constructed, why it was necessary for public purposes, the location of gas reserves, where reserves were to be transported, etc., despite the fact that the gas pipeline had obtained and pled the fact of a certificate of public convenience and necessity from the federal regulator. 251 So.2d at 107. Similarly, BBP does not include any allegations as to where the crude oil it will transport originates, where it is ultimately destined, whether it is intended for export or domestic use, nor any other indication of why or how it fulfills a public purpose and is necessary.

In addition to questions about the intended use and actual purposes of the pipeline, the questions of public necessity and public purpose are particularly critical at this moment in time given that there are already over 70,000 miles of gas and oil pipelines in Louisiana, according to the Pipeline and Hazardous Materials Safety Administration,¹² and in light of the accumulated impacts of the proliferation of pipelines on the Atchafalaya Basin, the critical role the Basin plays in flood control and prevention,¹³ and the fact that pipelines have contributed to

¹² Approximate amount of mileage taken from data gathered from website of Pipeline and Hazardous Materials Safety Administration, <https://www.phmsa.dot.gov/>. The Louisiana Department of Natural Resources estimates mileage of pipelines to be close to 50,000 miles. See <http://www.dnr.louisiana.gov/index.cfm/page/150>.

¹³ See generally, Louisiana Department of Natural Resources, FY 2018 Annual Plan, Atchafalaya Basin Program, Supplement, available at http://www.dnr.louisiana.gov/assets/OCM/ABP/2018_Plan/Supplemental_Narrative.pdf.

Louisiana's coastal erosion and land loss,¹⁴ and of course, the role that reliance on fossil fuels has played in fueling the climate crisis.¹⁵



Map of existing oil and gas pipelines in Louisiana¹⁶

The burden of proving the right and necessity of a taking rests with the plaintiff in an expropriation case. *Interstate Oil Pipe Line Company v. Friedman*, 137 So.2d 700 (La. App. 3 Cir. 1962). As the Third Circuit has held, that necessarily means that a “plaintiff’s petition must allege sufficient facts to apprise defendants of all the elements of its claim to allow defendants to properly prepare their defense.” *Texas Gas Transmission Corp*, 251 So.2d at 107. In the face of ever-increasing concerns about flooding, land loss, and other forms of environmental degradation attributed to the reliance on and use of fossil fuels, the questions of public necessity

¹⁴ See e.g., Coastal Protection and Restoration Authority Master Plan 2017, *supra* n. 4 at ES-6.

¹⁵ See e.g., Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report Summary for Policymakers*, at p. 5 (“Emissions of CO₂ from fossil fuel combustion and industrial processes contributed about 78% of the total GHG emissions increase from 1970 to 2010, with a similar percentage contribution for the increase during the period 2000 to 2010.”), available at https://ipcc.ch/pdf/assessment-report/ar5/syr/AR5_SYR_FINAL_SPM.pdf.

¹⁶ Pipeline Map, Louisiana Department of Natural Resources, available at http://www.dnr.louisiana.gov/assets/images/oilgas/refineries/LA_pipelines_2008.jpg.

and purpose must take into account these concerns. Would-be takers must be required to plead and prove why new projects intended to expand infrastructure to *increase* the flow of crude oil, especially through sensitive wetlands and terrain, are necessary, in the public interest, and how they serve a public purpose.

As a result of the vagueness and ambiguity in BBP's pleading as it relates to the public and necessary purpose of its taking, Larson Wright is unable to adequately prepare her defense against the expropriation and the petition must be dismissed.

III. Peremptory Exception of Nonjoinder of Party and Dilatory Exception of Prematurity Regarding Absentee Defendants

BBP did not undertake thorough, good faith efforts to identify, locate, and negotiate with all owners of the property and as a result has a) failed to name indispensable parties and b) its request that this Court appoint an attorney to stand in for purportedly absentee landowners is improper, and its allegation of efforts made to locate all the landowners falls far short of the proof required to trigger this procedure. La. Code of Civ. Proc. Art. 5091 allows for such appointments when a defendant is deceased, a nonresident or absentee not served with process, or an "unemancipated minor or mental incompetent" with no legal representative. BBP claims that it made "good faith efforts to identify, locate, and negotiate with Defendants" and then alleges on "information and belief" that it,

...searched Tax Assessor records, performed courthouse title work, researched probate files, researched conventional websites such as Google and location services such as Intelius, and held personal interviews with family members and locals in the area, all in an attempt to identify, locate, and negotiate with Defendants.

Expropriation Petition at ¶ 16.

Before a curator *ad hoc* can be appointed to represent an absentee, there must be a showing that the defendant is in fact an absentee, usually by demonstrating that service was attempted but failed. *See Leger v. Begnaud*, 350 So.2d 1307, 1309 (La. Ct. App.1977); *Wood v. Hyde*, 209 So.2d 51 (La. App. 4 Cir. 1968) (hearsay testimony of plaintiff's attorney that the 'constable' had been unable to serve the defendant was insufficient to establish that a diligent search had been made); *See also, Becnel v. Charlet*, 446 So.2d 466, 468 (La. App. 4th

Cir. 1984) (“[E]ven if a citation had been returned marked ‘address unknown’ this alone could not authorize appointment of a [curator *ad hoc* pursuant to Article 5091]”);

In this matter, Defendant Larson Wright has two sisters who also own an interest in the property and who are listed in Exhibit C to BBP’s petition as absentee. Larson Wright Affidavit at ¶ 9. Despite its claims that the company interviewed family members, no one inquired of Larson Wright where her sisters could be found. *Id.* at 15. However, they are alive and, Larson Wright believes, are as easy to find as she was. *Id.* at ¶ 13.¹⁷

Indeed, as attested to in the affidavit by Alan Canterbury, an investigator with Public Interest Investigations, Larson Wright’s sisters were locate-able via the methods set out in BBP’s Petition for Expropriation, which incidentally do not meet industry standards for serious attempts to locate people. *See* Affidavit of Alan Canterbury, annexed hereto as Ex. B. According to Canterbury, even limiting his search to the methods BBP claims “on information and belief” to have used in their attempt to locate the absentee defendants, he was able to locate Larson Wright’s sister Judy Larson Hernandez in under two hours. *Id.* at ¶¶ 9-10. Using a proprietary database that is more routinely used by professional investigators to locate individuals, he located a working number for her in under ten minutes. *Id.* at ¶ 11. Likewise, limiting himself to the methods claimed by BBP, he was able to locate Larson Wright’s other living sister, Alberta Larson Stevens. *Id.* at ¶ 12-13. Using the proprietary database, Canterbury located a working number for Ms. Stevens in under ten minutes. *Id.* at ¶ 14. According to Canterbury, BBP’s description of the methods used to locate individual landowners indicates a “departure from the usual and customary practices of our industry.” *Id.* at ¶ 15.

Larson Wright files this exception of prematurity on the grounds that the appointment of an attorney to represent her sisters and other landowners who are purportedly “absentee” is premature and they should be given the opportunity defend their rights to and ownership interest in the property directly, and not through a stand-in attorney.

Larson Wright also files this peremptory exception of nonjoinder of indispensable parties because she also has two nieces, Elizabeth A. Read and Janet Read Gordon, who are daughters

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of her deceased sister Jo Lyndal Larson Read, and who, upon information and belief, have an interest in the property at issue in this action as well through inheritance. *Id.* at ¶¶ 11-13. If this matter is allowed to proceed through to an expropriation judgment, it will unquestionably alter the unnamed owners' rights. *See Tennessee Gas Transmission Co. v. Derouen*, 239 La. 467, 471 (La. 1960) (reversing and remanding a trial court's denial of defendant's exception of lack of indispensable parties). Moreover, "[i]t is elementary that every party who may be affected by a decree must be made a party to a suit, because no one should be condemned without a hearing." *Id.* at 471-472 citing *Heirs of Burney v. Ludeling*, 41 La. Ann. 627, 6 So. 248, 251 (La. 1889); *Jamison v. Superior Oil Co.*, 220 La. 923, 57 So.2d 896 (La. 1952); *Ashbey v. Ashbey*, 41 La. Ann. 138, 5 So. 546 (La. 1889); *Taylor v. Dunn*, 233 La. 617, 97 So.2d 415 (La. 1957). This is so critical that when "an appellate court notices the absence of indispensable parties to a suit on appeal, the appropriate remedy is to set aside the judgment and remand the matter for joinder of the absent parties and retrial." *Suire v. Oleum Operating Co.*, 2017-117 (La.App. 3 Cir. 11/2/17, 17), 235 So.3d 1215, 1228-29, *reh'g denied* (Jan. 10, 2018), *writ denied*, 2018-0279 (La. 4/6/18), 239 So.3d 827, *and writ denied*, 2018-0271 (La. 4/6/18), 240 So.3d 184.

The matter should be dismissed and BBP should be required to undertake diligent efforts, following more reliable and accepted practices, to locate purportedly absentee defendants and join as parties those unnamed in the instant proceeding. If BBP is still unable to locate some defendants after such a process, it should be required to provide actual evidence and proof to this Court of its efforts and inability to do so.

IV. Dilatory Exception of Prematurity – Failure to Follow Statutory Prerequisites and Permits Still in Question

If BBP is allowed to bring this action because the Court finds it to be a common carrier with standing to bring expropriation proceedings, pursuant to La. Code of Civ. Proc. Art. 926(A)(1), Defendant Larson Wright asserts the dilatory exception of prematurity on the additional grounds that A) the company failed to carry out all of the statutory prerequisites with respect to Larson Wright prior to commencing this proceeding; and B) the permits required for

the project are still being challenged in court and it is uncertain whether the pipeline will ultimately obtain them and thus whether this expropriation is necessary.

The function of the dilatory exception of prematurity is to allow a party to raise the issue that a judicial cause of action has not come into existence because some prerequisite condition has not been fulfilled. *Bayou Orthotic & Prosthetics Ctr., L.L.C. v. Morris Bart, L.L.C.*, 17-557 (La. App. 5 Cir. 3/28/18), 243 So.3d 1276. That is precisely the case in this matter in the following ways.

A. The company failed to carry out all of the statutory prerequisites with respect to Larson Wright prior to commencing this proceeding.

Louisiana law requires that private expropriating authorities follow very clear steps prior to commencing an expropriation proceeding. La. R.S. 19:2.2(A). These procedures are set out at La. R.S. 19:2.2 and require, among other things, that a landowner be provided with an appraisal and information about the appraisal. *See, e.g.*, La. R.S. 19:2.2(C)(4) and 19:2.2(A)(1)(a-c). Because expropriation laws and proceedings are in derogation of a common right to own property, they must be strictly construed and highly scrutinized; every step in the proceeding must insure that the landowner is at all times afforded protection against the power of the taker. *Texas Gas Transmission Corp. v. Soileau*, 251 So.2d 104 (La. Ct. App.1971).

The company skipped several of these important steps with respect to Larson Wright. *See* Affidavit of Theda Larson Right, annexed hereto as Ex. A (“Larson Wright Affidavit”). For instance, Larson Wright does not recall ever receiving an appraisal from the company. *Id.* at ¶ 4. The only documents or correspondence Larson Wright recalls receiving from the company were an offer to compensate her in an amount of \$150, copies of Louisiana statutes and a proposed easement agreement, and then the complaint and summons. *Id.*

Thus, BBP did not comply with key requirements set out in La. R.S. 19:2.2 when it brought this expropriation proceeding against Larson Wright, including the requirements to provide her with information about the appraisal as required by La. R.S. 19:2.2(A)(1)(a-c), complete copies of any and all appraisals of the subject property previously obtained by the

expropriating authority as required by La. R.S. 19:2.2(B)(4), and a statement by the entity of considerations for the proposed route or area to be acquired pursuant to La. R.S. 19:2.2(C)(7).

Exceptions of prematurity on the grounds that a condemnor failed to negotiate in good faith prior to commencing the lawsuit are waived if not filed at the time that other declinatory and dilatory exceptions are filed. *See Texas Gas Transmission Corp. v. Pierce*, 192 So.2d 561 (La. Ct. App. 1966). An expropriation suit may be dismissed as premature if the condemnor has not first negotiated with and been refused by the landowner. *Id. See also, City of Thibodeaux v. Hillman*, 464 So.2d 370, 372 (La. App. 1st Cir. 1985).

Here, BBP skipped key steps the law requires of a condemnor prior to commencing expropriation proceedings – steps that are intended to protect the rights and interests of property owners in possible takings by powerful expropriating entities. As a result, the matter must be dismissed.

B) Permits authorizing the pipeline project for which BBP seeks this expropriation are still being challenged in court and it is possible the company may not obtain them which would nullify its need for the expropriation.

The expropriation proceeding is premature in light of ongoing court challenges to the permits authorizing construction of the pipeline project across wetlands and within the Coastal Zone. Two trial courts – one federal and one state – have issued rulings calling into question the validity of the permits for the project issued by federal and state agencies.

On May 31, 2017, members of a community impacted by the pipeline project and advocacy organizations petitioned the 23rd Judicial District Court to declare the Louisiana Department of Natural Resources' ("LDNR") permit to BBP to be invalid under Coastal Use Guidelines and in violation of its duty as a public trustee. *See Pastor Harry Joseph, Sr., et al. v. Secretary, Louisiana Department of Natural Resources*, 2017-38, 163-E, 23rd JDC, May 31, 2017. On April 30, 2018, Judge Alvin Turner, Jr. issued his Reasons for Judgment ruling in favor of Petitioners and finding that LDNR violated the Coastal Use Guidelines in issuing the permit to BBP to construct its pipeline in the Coastal Zone. *See Reasons for Judgment, Pastor Harry Joseph Sr., et al. v. Secretary, Louisiana Department of Natural Resources*, 2017-38, 163-E, 23rd JDC, April 30, 2018. In particular, the court ordered LDNR to require BBP "to develop effective environmental protection and emergency or contingency plans relative to evacuation in

the event of a spill or other disaster . . . PRIOR to the continued issuance of said permit.” *Id.* at 4 (emphasis in original).

On May 15, 2018, the court entered a final Judgment in the matter consistent with its April 30, 2018 ruling in favor of Petitioners and against LDNR and BBP, as intervenor, and remanded the matter back to LDNR for further proceedings consistent with the court’s ruling. *See* Judgment, *Pastor Harry Joseph Sr., et al. v. Secretary, Louisiana Department of Natural Resources*, 2017-38, 163-E, 23rd JDC, May 15, 2018. However, BBP filed a suspensive appeal and has continued to construct in the Coastal Zone. The matter is pending before the Louisiana Fifth Circuit Court of Appeal and has been set for an expedited hearing on September 19, 2018.

Additionally, a number of advocacy organizations filed suit on January 11, 2018, in federal district court in the Middle District of Louisiana challenging the federal permit granted by the U.S. Army Corps of Engineers (“the Corps”) to BBP in December 2017 authorizing construction across the Atchafalaya Basin’s wetlands. *See Atchafalaya Basinkeeper, et al. v. U.S. Army Corps of Eng’rs*, No. 3:18-CV-23 (M.D. La. 2018). Plaintiffs successfully petitioned the court to issue a preliminary injunction in the matter enjoining all construction in the Basin pending resolution on the merits of the case, with the court finding a likelihood plaintiffs would prevail on the merits and a preliminary injunction was warranted to prevent irreparable harm. *See* Ruling and Order, filed 02/23/18 in *Atchafalaya Basinkeeper, et al. v. U.S. Army Corps of Eng’rs*, No. 3:18-CV-23 (M.D. La. 2018), 310 F.Supp. 3d 707. However, on appeal, a divided panel on the Fifth Circuit overturned the preliminary injunction and remanded the matter back to the district court for a trial on the merits of the challenge to the permit. *Atchafalaya Basinkeeper v. United States Army Corps of Engineers*, 894 F.3d 692 (5th Cir. 2018). The matter is currently pending before the district court for resolution of the merits of Plaintiffs’ claims that the Corps inappropriately issued the federal permits to BBP in contravention of the Clean Water Act and the National Environmental Policy Act.

The dilatory exception of prematurity “questions whether the cause of action has matured to the point where it is ripe for judicial determination, because an action will be deemed premature when it is brought before the right to enforce it has accrued.” *See Berry v. Volunteers of Am., Inc.*, 08-184 (La.App. 5 Cir. 9/16/08), 996 So.2d 299, 301 (portion of plaintiffs’ suit

against parish was subject to dismissal on exception of prematurity where parish had not yet rezoned property, and landowners had not yet applied for a building permit).

Depending on the outcome of these proceedings, the pipeline may ultimately not obtain the permits needed and the company would be unable to traverse key areas in the state, including the Atchafalaya Basin, as well as through the coastal zone where the planned end-point of the pipeline is located in the low-income, minority, industry-saturated community of St. James. Such rulings would render the expropriations sought here unnecessary.

Date: September 12, 2018

Respectfully submitted,



PAMELA C. SPEES
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Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012
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DEPUTY CLERK OF COURT
ST. MARTIN PARISH

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been transmitted via electronic means to all known parties of record this 12th day of September 2018 by email to the following counsel of record for Plaintiff:

Michael B. Donald
811 Main Street, Suite 2900
Houston, Texas
Tel. (713) 437-1800
Fax (713) 437-1810
Email: mdonald@joneswalker.com

Ian A. MacDonald
600 Jefferson Street, Suite 1600
Lafayette, LA 70501
Tel. (337) 593-7600
Fax (337) 593-7748
Email: imacdonald@joneswalker.com



PAMELA C. SPEES

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DEPUTY CLERK OF COURT
ST. MARTIN PARISH

Exhibit A

BAYOU BRIDGE PIPELINE, LLC

16TH JUDICIAL DISTRICT

VERSUS

DOCKET NO. 87011-E

**38.00 ACRES, MORE OR LESS, LOCATED
IN ST. MARTIN PARISH; BARRYS
COTT CARLINE, ET AL.**

ST. MARTIN PARISH, LOUISIANA

AFFIDAVIT OF THEDA LARSON-WRIGHT

STATE OF NEW MEXICO

SS:

COUNTY OF GRANT

Before me, the undersigned authority, this day personally appeared Theda Larson Wright, who after being duly sworn, deposes and says:

1. I am Theda Larson Wright, a defendant who has been served with the complaint and summons in this action.
2. I am over the age of eighteen, I have never been convicted of a felony, and I am otherwise legally competent to make this affidavit.
3. I am making this affidavit on the basis of my personal knowledge.
4. Before I was served with the summons and complaint, I may have received two items of correspondence. The first one I might have received in March, 2018 and contained an offer to purchase my interest for \$150. The second one contained copies of some Louisiana statutes. The documents in my possession at this time are attached and marked Exhibit "A." I do not recall receiving an appraisal of my interest and any explanation of the methodology of how the value was calculated.
5. I received no other documents before I was served with the summons and complaint in this action.
6. I am the great grand-daughter of Carl Larson who was the first of my ancestors to live in Bayou Chene and who owned property in Bayou Chene within the 38.00 acres that are the subject of this action.
7. I was born and reared in New Iberia, Louisiana and lived there until 1960. My father found work in Buras, Louisiana, and my family visited St, Martinsville, New Iberia, and Lafayette as often as possible.
8. I have an interest in the 38.00 acres at issue in this case through inheritance.
9. I have two sisters who are named as defendants in this action. They are Alberta Larson Stevens and Judy Larson Hernandez.
10. Both of my sisters are alive and well and live in Silver City, New Mexico, the same area in which I reside, and have the same interest in the property that is at issue in this action that I have.

11. My third sister, Jo Lyndal Larson Read has passed away. One of her daughters and my niece is named Elizabeth A. Read is alive and well and lives in Silver City, New Mexico. She also has an interest in the property that is at issue in this action.

12. A second daughter of my deceased sister, Jo Lyndal Larson Read, niece is named Janet Read Gordon who is alive and well and living in Destrehan, Louisiana.

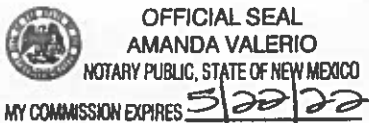
13. There is no reason for me to believe that it would be more difficult for a process server to find my sisters and my nieces as it was for me.

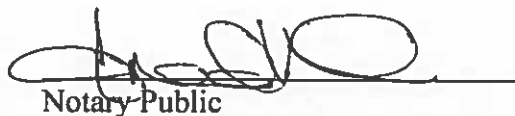
14. I am in regular contact with both of my sisters and my nieces, and they have told me that they received no documents before I received the summons and the complaint in this action.

15. At the time I was served with the summons and complaint in this action, I was not asked about the whereabouts of my sisters and nieces, and I have received no communication from Bayou Bridge Pipeline, LLC, the Plaintiff in this action, seeking information about their whereabouts.


Theda Larson Wright

SWORN TO AND SUBSCRIBED before me, this 10th day of September, 2018.




Notary Public

Amanda Valerio
Notary Printed Name

My Commission Expires: 5/22/22

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ST. MARTIN PARISH



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Michael B. Donald
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June 18, 2018

By USPS Certified Mail, RRR

Theda Larson Wright
144 Arenas Valley Road
Arenas Valley, NM 88022

Re: Bayou Bridge Pipeline, LLC
Tract No.: SM 6681

Dear Ms. Wright:

We are writing this letter as attorneys representing Bayou Bridge Pipeline, LLC ("Bayou Bridge"). As you know, Bayou Bridge plans to construct and operate a common carrier interstate liquid petroleum transmission pipeline originating in Nederland, Texas, and traversing to the refining and marketing hub at St. James, Louisiana (the "Pipeline"). The entire Bayou Bridge Pipeline will ultimately span approximately 212 miles and is scheduled to be in service in 2018.

We understand that you own a fractional interest in the property located in St. Martin Parish described as follows (the "Property"), which is along the Bayou Bridge Pipeline route:

That certain tract of land composed of 38.00 acre(s), more or less, located in Section 4, Township 11 South, Range 9 East, St. Martin Parish, Louisiana, and being more particularly described as Northeast Quarter of the Southeast Quarter (NE/4 of SE/4) in Book 784, Page 176, Instrument 186257 of the official public records of said St. Martin Parish.

Bayou Bridge representatives have attempted to contact you regarding your fractional interest in the property described above and the need to purchase the necessary easement interest. On March 7, 2017, Bayou Bridge representatives forwarded to you a final offer packet describing the easement interest sought and making you an offer in compliance with Louisiana Revised Statutes 19:2.2 ("Final Offer Packet").

At this time, Bayou Bridge offers you \$150 for the easement rights described in its Final Offer Packet related to the Property. Given your fractional ownership interest, this amount exceeds

(HD099456.1)

June 18, 2018

Page 2

the valuation of the easement rights as appraised by a Louisiana licensed appraiser. If you would like to accept this offer or if you have any questions or would like to discuss this matter further, you may contact me at the number listed above, or my colleague Tiffany Raush at 713-437-1848.

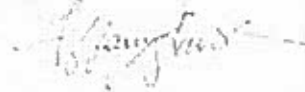
You may also accept this offer by executing the enclosed Permanent Easement Agreement. The Permanent Easement Agreement requires your signature before a notary and two witnesses. Also enclosed is a W-9 form for your completion and signature. Payment in the total amount of \$150 will be forwarded once we receive these executed documents. A self-addressed, postage-paid envelope is enclosed for your convenience.

Bayou Bridge has instructed us to prepare to initiate expropriation proceedings in the appropriate court in those instances in which voluntary negotiations have not succeeded. In that expropriation proceeding, Bayou Bridge will provide to the court the appraised value as the fair value of the rights to be condemned.

Please also find enclosed a Notice of Rights Pursuant to La. Rev. Stat. 19:2.2.

We look forward to hearing from you.

Sincerely,



For
Michael B. Donald

Enclosures:
Permanent Easement Agreement
W9
Notice of Rights Pursuant to La. Rev. Stat. 19:2.2
Return Envelope

{HD093456.1}

**NOTICE OF RIGHTS PURSUANT TO
LOUISIANA REVISED STATUTES § 19:2.2**

The contents of this Notice of Rights are prescribed by the Louisiana State Legislature in Louisiana Revised Statute § 19:2.2:

- (1) A property owner is entitled to receive just compensation for the property to be acquired to the fullest extent allowed by law.
- (2) Property may be expropriated only by an authority authorized by law to do so.
- (3) A property owner is entitled to receive from the expropriating authority a written appraisal or evaluation of the amount of compensation due.
- (4) The expropriation statutes upon which the expropriating authority relies are included herein.
- (5) The expropriating authority herein has provided with this Notice a copy of the expropriation statutes upon which the expropriating authority relies.
- (6) The Louisiana Department of Natural Resources and Federal Energy Regulatory Commission are responsible for regulating the expropriating authority.

Louisiana Department of Natural Resources
<http://dnr.louisiana.gov/>
(225) 342-8955

Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety
<https://www.phmsa.dot.gov/>
(202) 366-4595

- (7) A property owner may hire an agent or attorney to negotiate with the expropriating authority and an attorney to represent the property owner in any legal proceedings involving the expropriation.

West's Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 19. Expropriation (Refs & Annos)
Part I. General Provisions (Refs & Annos)

LSA-R.S. 19:2

§ 2. Expropriation by state or certain corporations, limited liability companies, or other legal entities

Effective: August 1, 2012

Currentness

Prior to filing an expropriation suit, an expropriating authority shall attempt in good faith to reach an agreement as to compensation with the owner of the property sought to be taken and comply with all of the requirements of R.S. 19:2.2. If unable to reach an agreement with the owner as to compensation, any of the following may expropriate needed property:

- (1) The state or its political corporations or subdivisions created for the purpose of exercising any state governmental powers.
- (2) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the construction of railroads, toll roads, or navigation canals.
- (3) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the construction or operation of street railways, urban railways, or inter-urban railways.
- (4) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the construction or operation of waterworks, filtration and treating plants, or sewerage plants to supply the public with water and sewerage.
- (5) Any domestic or foreign corporation, limited liability company, or other legal entity created for, or engaged in, the piping and marketing of natural gas for the purpose of supplying the public with natural gas as a common carrier or contract carrier or any domestic or foreign corporation, limited liability company, or other legal entity which is or will be a natural gas company or an intrastate natural gas transporter as defined by federal or state law, composed entirely of such entities or composed of the wholly owned subsidiaries of such entities. As used in this Paragraph, "contract carrier" means any legal entity that transports natural gas for compensation or hire pursuant to special contract or agreement with unaffiliated third parties.
- (6) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, transmitting intelligence by telegraph or telephone.
- (7) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, generating, transmitting, and distributing or for transmitting or distributing electricity and steam for power, lighting, heating, or other such uses. The generating plants, buildings, transmission lines, stations, and substations

§ 2. Expropriation by state or certain corporations, limited liability..., LA R.S. 19:2

expropriated or for which property was expropriated shall be so located, constructed, operated, and maintained as not to be dangerous to persons or property nor interfere with the use of the wires of other wire using companies or, more than is necessary, with the convenience of the landowners.

(8) All persons included in the definition of common carrier pipelines as set forth in R.S. 45:251.

(9) Any domestic or foreign corporation, limited liability company, or other legal entity created for or engaged in piping or marketing of coal or lignite in whatever form or mixture convenient for transportation within a pipeline as otherwise provided for in R.S. 30:721 through 723.

(10) Any domestic or foreign corporation, limited liability company, or other legal entity composed of such corporations or wholly owned subsidiaries thereof engaged in the piping or marketing of carbon dioxide for use in connection with a secondary or tertiary recovery project for the enhanced recovery of liquid or gaseous hydrocarbons approved by the commissioner of conservation. Property located in Louisiana may be so expropriated for the transportation of carbon dioxide for underground injection in connection with such projects located in Louisiana or in other states or jurisdictions.

(11) Any domestic or foreign corporation, limited liability company, or other legal entity engaged in any of the activities otherwise provided for in this Section.

(12) Any domestic or foreign corporation, limited liability company, or other legal entity composed of such corporations or wholly owned subsidiaries thereof engaged in the injection of carbon dioxide for the underground storage of carbon dioxide approved by the commissioner of conservation. Property located in Louisiana may be so expropriated for the underground storage of carbon dioxide in connection with such storage facility projects located in Louisiana, including but not limited to surface and subsurface rights, mineral rights, and other property interests necessary or useful for the purpose of constructing, operating, or modifying a carbon dioxide facility. This Paragraph shall have no effect on nor does it grant expropriation of the mineral rights or other property rights associated with the approvals required for injection of carbon dioxide into enhanced recovery projects approved by the commissioner under R.S. 30:4.

Credits

Amended by Acts 1966, No. 62, § 1; Acts 1974 Ex.Sess. No. 11, § 1, eff. Jan. 1, 1975; Acts 1977, No. 452, § 1; Acts 1977, No. 561, § 2; Acts 1980, No. 116, § 1, eff. June 26, 1980; Acts 1981, No. 760, § 1; Acts 1999, No. 358, § 1, eff. June 16, 1999; Acts 2001, No. 4, § 1, eff. May 8, 2001; Acts 2007, No. 428, § 1, eff. July 11, 2007; Acts 2009, No. 517, § 1; Acts 2012, No. 702, § 1.

LSA-R.S. 19:2, LA R.S. 19:2

Current through the 2016 First Extraordinary, Regular, and Second Extraordinary Sessions.

End of Document

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West's Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 45. Public Utilities and Carriers (Refs & Annos)
Chapter 5. Pipe Lines
Part I. Petroleum Pipe Lines (Refs & Annos)

LSA-R.S. 45:251

§ 251. Common carrier, petroleum, pipe line defined

Currentness

As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

- (1) "Common carrier" includes all persons engaged in the transportation of petroleum as public utilities and common carriers for hire; or which on proper showing may be legally held a common carrier from the nature of the business conducted, or from the manner in which such business is carried on.

- (2) "Petroleum" means crude petroleum, crude petroleum products, distillate, condensate, liquefied petroleum gas, any hydrocarbon in a liquid state, any product in a liquid state which is derived in whole or in part from any hydrocarbon, and any mixture or mixtures thereof; provided, however, that such term shall not include methanol synthetically produced from coal, lignite, or petroleum coke.

- (3) "Pipe line" includes the real estate, rights of way, pipe in line, telephone and telegraph lines or other communication systems, tank facilities as herein designated, and necessary for the proper conduct of its business as a common carrier, all fixtures, equipment and personal property of every kind owned, controlled, operated, used or managed, in connection with, or to facilitate the transportation, distribution and delivery of petroleum through lines constructed of pipe.

Credits

Amended by Acts 1964, No. 28, § 1; Acts 1968, Ex.Sess., No. 6, § 1; Acts 1980, No. 109, § 1.

LSA-R.S. 45:251, LA R.S. 45:251

Current through the 2016 First Extraordinary, Regular, and Second Extraordinary Sessions.

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PROJECT: Bayou Bridge Pipeline
TRACT NUMBER: LA-SM-6681
PARISH: St. Martin

PERMANENT EASEMENT AGREEMENT

This Permanent Easement Agreement ("Easement"), dated _____, 2018, is between the undersigned, (hereinafter referred to as "Grantor"), and Bayou Bridge Pipeline, LLC, 1300 Main, Houston, Texas 77002, a Delaware limited liability company, and its successors and assigns (such entity and its successors and assigns are collectively referred to as the "Grantee"). For the consideration of TEN AND No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, sells and conveys unto Grantee, without any warranties whatsoever including but not limited to warranty of title, a fifty foot (50') wide free and unobstructed permanent easement in order to construct, operate and maintain a single pipeline of any diameter and any appurtenant facilities (all of which shall be and remain the property of Grantee) in, over, through, across, under, and along land owned by the Grantor described in the attached Exhibit A ("the Permanent Easement Property"). Grantor hereby grants, sells and conveys unto Grantee, without any warranties whatsoever including but not limited to warranty of title a Temporary Construction Easement described in the attached Exhibit A in order to construct a single pipeline of any diameter and any appurtenant facilities in, over, through, across, under, and along land that is also described in the attached Exhibit B owned by the Grantor. Said permanent easement and temporary construction easement is further depicted in the attached Exhibit A.

It is further agreed as follows:

1. The right to use this Easement shall belong to the Grantee and its agents, employees, designees, contractors, guests, invitees, successors and assigns, and all those acting by or on behalf of it for the purposes of establishing, laying, constructing, reconstructing, installing, realigning, modifying, replacing, improving, adding, altering, substituting, operating, maintaining, accessing, inspecting, patrolling, protecting, repairing, changing the size of, relocating and/or changing the route or routes of, abandoning in place and removing at will, in whole or in part, pipeline, for the transportation of liquid hydrocarbons, including crude oil and all by-products thereof or any liquids, gases or substances which can be transported through pipelines, as well as natural gas and all by-products thereof, together with above and below-ground appurtenances as may be necessary or desirable for the operation of the pipeline, over, across, under and upon the Permanent Easement Property. Grantee shall have the right of ingress and egress over and across the Temporary Construction Easement Property to survey, conduct reasonable and necessary construction activities, to remove structures and objects located within the Temporary Construction Easement Property. The term of this Temporary Construction Easement shall extend for a period of twenty-four months beginning on the date of construction commencement of the pipeline laid hereunder.
2. Grantee shall have the right to select the exact location of the pipeline within the Permanent Easement Property. Further, Grantee shall have the right to construct, maintain and change slopes of cuts and fills to ensure proper lateral and subjacent support for and drainage for the pipeline and appurtenant facilities related to pipeline projects. Grantee shall also have the right to have a right of entry and access in, to, through, on, over, under, and across the Permanent Easement Property for all purposes necessary and at all times convenient and necessary to exercise the rights granted to it by this Easement. To the extent practicable, such ingress and egress should be exercised over the Permanent Easement Property or such roads or ways as may exist at the time of each particular exercise of Grantee's rights hereunder or as mutually agreed upon after construction is complete.
3. The consideration paid by Grantee in this agreement includes the market value of the easements, both permanent and temporary, conveyed by Grantor and any and all damages to the Grantor's remaining property. Grantor has been paid (or, if leased, Grantor's tenant has been paid) for all damages caused to growing crops on the Permanent Easement Property and Temporary Construction Easement Property. However, Grantee will pay Grantor (or if leased to Grantor's tenant) for any damages caused to livestock due to Grantee's construction activities during the periods of the original construction of the pipeline. However, after the pipeline has been constructed hereunder, Grantee shall not be liable for such damages in the future caused by keeping the Permanent Easement Property clear of trees, undergrowth, brush, structures, or any other obstructions.
4. Grantee will, insofar as practicable, restore to the same condition as existed prior to construction the ground disturbed by the Grantee's use of the Permanent Easement Property and will construct and maintain soil conservation devices on the Permanent Easement Property as may be reasonably required to prevent damage to the property of Grantor from soil erosion resulting from operations of Grantee hereunder. Grantee shall leave the surface, insofar as practicable, as it was prior to the construction of the pipeline and will restore all fences as nearly as possible to as good as condition as they were prior to the construction of the pipeline. Grantee shall have the right to install, maintain and use gates in all fences which now cross or shall cross the easement or which provide access to Grantor's property. Grantor shall allow Grantee to install its own lock if Grantee so chooses.
5. Grantor may use the Permanent Easement Property for any and all purposes not inconsistent with the purposes set forth in this Easement. Grantor's uses may include but shall not be limited to using the Permanent Easement Property for agricultural, open space, set-back, density, street and roadway purposes. Grantor is permitted, after review by Grantee, to construct any and all streets and roadways, at any angle of

not less than forty five (45) degrees to Grantee's pipeline, across the Permanent Easement Property which do not damage, destroy or alter the operation of the pipeline and their appurtenant facilities. Grantor may also construct and/or install water, sewer, gas, electric, cable TV, telephone or other utility lines across the Permanent Easement Property at any angle of not less than forty five (45) degrees to Grantee's pipeline, provided that all of Grantee's required and applicable spacings, including depth separation limits and other protective requirements are met by Grantor. The use of the Permanent Easement Property by Grantor shall be regulated by all appropriate ordinances, regulations, resolutions or laws of the governmental entity with authority over the Permanent Easement Property. Grantor must notify Grantee in writing before streets, roadways, utilities or other encroachments are installed.

6. Grantor may not use any part of the Permanent Easement Property if such use may damage, destroy, injure, and/or interfere with the Grantee's use of the Permanent Easement Property for the purposes for which the permanent easement is being sought by Grantee. Grantor is not permitted to conduct any of the following activities on the Permanent Easement Property without the written permission of Grantee: (1) construct any temporary or permanent building or site improvements, other than streets and roads; (2) drill or operate any well; (3) remove soil or change the grade or slope; (4) impound surface water; or (5) plant trees or landscaping. Grantor further agrees that no above or below ground obstruction that may interfere with the purposes for which this Easement is being acquired may be placed, erected, installed or permitted upon the Permanent Easement Property without the written permission of Grantee. In the event the terms of this paragraph are violated, such violation shall immediately be eliminated upon receipt of written notice from Grantee or Grantee shall have the immediate right to correct or eliminate such violation at the sole expense of Grantor. Grantor shall promptly reimburse Grantee for any expense related thereto. Grantor further agrees that it will not interfere in any manner with the purposes for which the Easement is conveyed. Any improvements, whether above or below ground, installed by Grantor subsequent to the date that Grantee acquires possession of the Permanent Easement Property, may be removed by Grantee without liability to Grantor for damages.

7. Grantee has the right to trim or cut down or eliminate trees or shrubbery to the extent, in the sole judgment of Grantee, its successors and assigns, as may be necessary to prevent possible interference with the operation of the pipeline and to remove possible hazard thereto, and the right to remove or prevent the construction of, any and all buildings, structures, reservoirs or other obstructions on the Permanent Easement Property which, in the sole judgment of the Grantee, may endanger or interfere with the efficiency, safety, or convenient operation of the pipeline and appurtenant facilities.

8. Grantor shall retain all the oil, gas, and other minerals in, on and under the Permanent Easement Property; provided, however, that Grantor shall not be permitted to drill or operate equipment for the production or development of minerals on the Permanent Easement Property, but it will be permitted to extract the oil and other minerals from and under the Permanent Easement Property by directional drilling and other means, so long as such activities do not damage, destroy, injure, and/or interfere with the Grantee's use of the Permanent Easement Property for the purposes for which the permanent easement is being sought by Grantee.

9. Upon completion of the project construction, permanent fencing destroyed or disturbed by project construction activities shall be installed by Grantee, at its sole expense, along the same alignment and approximate location of the Grantor's existing fences. Grantee and its designated contractors, employees and invitees agree to keep all gates in fences closed at all times so that cattle, horses and/or other livestock located on the remainder portion of Grantor's property cannot stray from the fenced pastures.

10. Grantee will maintain the pipeline, facilities or structures that it installs on the Permanent Easement Property in a workmanlike manner. Grantor shall maintain the surface of the Permanent Easement Property only so that its condition does not interfere in any manner with the purposes for which the Easement is conveyed.

11. Grantee agrees that after it has exercised its rights to use this Easement in any manner that disturbs the surface of the Permanent Easement Property, it will restore insofar as practicable the surface to the condition in which it was in prior to the use of this Easement except as the surface may be permanently modified by the use of this Easement. Any surface area of the Temporary Construction Easement Property that is damaged or disturbed during the construction shall be restored insofar as practicable by the Grantee in a reasonably similar manner to its condition immediately preceding Grantee's use of this Temporary Construction Easement to the extent that the surface is not permanently modified by the use of this Easement.

12. Grantee hereby agrees to indemnify and hold Grantor harmless from and against any claim or liability or loss from personal injury, property damage resulting from or arising out of the use of the easement by Grantee, its servants, agents or invitees, and the installation, use, maintenance, repair or removal of the pipeline by Grantee and such persons acting on its behalf, excepting, however, such claims, liabilities, or damages as may be due to or caused by, and in proportion to, the negligent and/or intentional acts and or/ omissions of this Grantor or its specific servants, agents or invitees. Grantor does not agree to be held legally or otherwise responsible for the negligent and/or intentional acts and/or omissions of any other Grantor of this easement or its respective servants, agents or invitees.

13. Grantee shall have the right to assign, lease, pledge and mortgage this permanent easement, in whole or in part, to one or more assignees. The provisions of this Easement, including all benefits and burdens, shall run with the land. The undersigned warrant that they are authorized to execute this agreement on behalf of the parties to this agreement.

14. Grantor understands and agrees that the person securing this grant is without authority from Grantee to make any agreement with respect to the subject matter not herein expressed and has not relied upon any verbal representations not expressly reduced to writing in this Easement.

15. Grantor and Grantee agree that should any provision of this Agreement be determined by a court of competent jurisdiction to be illegal or *contra bono mores*, only the provision subject to that determination shall be stricken from the Agreement, as if such provision had not been written, and that the remaining Agreement shall survive in full force and effect.

16. Grantee agrees to obtain and maintain at Grantee's sole cost and expense commercial general liability insurance; umbrella insurance; commercial automobile insurance; and worker's compensation insurance and employers' liability insurance on its employees. Such commercial general liability insurance including bodily injury, death, property damage, independent contractors, products/completed operations, contractual, and personal injury liability, with a limit of at least \$1,000,000 per occurrence; and shall name Grantor as an additional insured. Such umbrella insurance shall have limits of not less than \$5,000,000. Such commercial automobile insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Worker's compensation in accordance with the benefits afforded by the statutory Worker's Compensation Acts applicable to the state, territory or district of hire, supervision or place of accident.

IN WITNESS WHEREOF, the GRANTOR herein has duly executed this Permanent Easement Agreement on the date of the acknowledgment below. If more than one grantor executes this Permanent Easement Agreement, each grantor shall be deemed to have executed this Permanent Easement Agreement on the date of his, her or its respective acknowledgment below.

WITNESS:

GRANTOR:

Sign _____

Print Name: _____

Print _____

Sign _____

Print Name: _____

Print _____

ACKNOWLEDGEMENT

STATE OF _____

COUNTY/PARISH OF _____

Personally appeared before me, _____, a Notary Public of the state and county/parish aforesaid, personally came _____ to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged the foregoing instrument to be (his/her/their) free act and deed.

Witness my hand and official seal this _____ day of _____, 20__.

(Notary Public)
My commission expires: _____
Notary Number: _____

STATE OF _____

COUNTY/PARISH OF _____

Personally appeared before me, _____, a Notary Public of the state and parish aforesaid, personally came _____ who being first duly sworn deposes and states that he/she was one of the subscribing witnesses to the execution of the foregoing instrument by

_____, who signed the same in his/her presence and that of the other subscribing witness whose names are affixed as such and that he/she now recognizes all said signatures to be true and genuine.

Subscribing Witness

Witness my hand and official seal this _____ day of _____, 20__.

(Notary Public)
My commission expires: _____
Notary Number: _____

EXHIBIT A

ST. MARTIN PARISH, LA
SECTION 4, T-11-S, R-9-E

LA-SM-6879
STATE OF LOUISIANA
CONVEYANCE BOOK 882, PAGE 195
FILE NO. 204035
CLERK OF COURT RECORDS

LA-SM-8680
KIMBERLY JANE STOCKSTILL
LABICHE, ET AL
CONVEYANCE BOOK 1608, PAGE 09
CLERK OF COURT RECORDS

VICINITY MAP
N.T.S.

POINT OF BEGINNING
N: 587221.42
E: 3211771.20

S53°22'15"E
110.21'

DELTA = 23°50'42"
RADIUS = 3,200.00
LENGTH = 1331.78'
CHORD BEARING = S 65°17'36" E
CHORD LENGTH = 1322.17'

25' WADE T.W.S.
50' WADE P.E.R.W.
30'
20'

S67°12'57"E
84.08'

POINT OF TERMINATION
N: 586584.43
E: 3213142.78

LA-SM-6682
HEIRS OF CLEMENT FREYOU
INSTRUMENT NO. 79942
CLERK OF COURT RECORDS

SECTION 4
SECTION 3

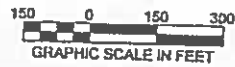
TOTAL DISTANCE ACROSS PROPERTY: 1528.05 FEET
OR 82.49 ROADS
TOTAL AREA OF P.E.R.W.: 1.75 ACRES
TOTAL AREA OF T.W.S.: 0.88 ACRES
TOTAL AREA OF A.T.W.S.: 0.96 ACRE

NOTES

- ALL BEARINGS, DISTANCES, & COORDINATES SHOWN HEREON ARE GRID BASED UPON HAD83 LOUISIANA STATE PLANE, SOUTHERN ZONE 1702, NORTH AMERICAN DATUM OF 1983 (NAD83(2011)(EPOCH-2010.0000)), U.S. SURVEY FEET DERIVED FROM G.P.S. OBSERVATIONS CONDUCTED BY TRC PIPELINE SERVICES, LLC IN NOVEMBER, 2016.
 - ALL TITLE INFORMATION SHOWN HEREIN, IS BASED UPON TITLE RESEARCH CONDUCTED BY DOYLE LAND SERVICES, INC.
 - ANY PLAT THAT DOES NOT HAVE AN ORIGINAL SIGNATURE, SHOULD BE CONSIDERED AS A COPY.
- I, GARY W. CARLILE, A PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED UNDER MY DIRECT SUPERVISION AND CONTROL, AND THAT IT SUBSTANTIALLY CONFORMS TO LAC TITLE 48, PART XI 2909 FOR ROUTE SURVEYS TO THE BEST OF MY KNOWLEDGE AND BELIEF.

LEGEND

- LR. IRON ROD
- LP. IRON PIPE
- FPD. FOUND
- N.T.S. NOT TO SCALE
- P.A.R. PERMANENT ACCESS ROAD
- T.A.R. TEMPORARY ACCESS ROAD
- T.W.S. TEMPORARY WORKSPACE
- A.T.W.S. ADDITIONAL TEMPORARY WORKSPACE
- P.E.R.W. PERMANENT EASEMENT & RIGHT OF WAY
- BROKEN LINE NOT SCALABLE
- PROPERTY LINE
- BASELINE
- EXISTING PIPELINE
- SECTION LINE
- 20FT WIDE ACCESS ROAD



Gary W. Carlile
GARY W. CARLILE RPLS NO 4537
SURVEY FIRM LICENSE NO. VF.0000712

TRC 15350 Park Ten Place
Houston, TX 77084
(281) 616-0100

4-18-17

BAYOU BRIDGE PIPELINE, LLC

DWG BY:	CP	BAYOU BRIDGE PIPELINE PROJECT
CKD BY:	TRC	PERMANENT EASEMENT & RIGHT OF WAY
MAP DATE:	4/18/17	ACROSS THE PROPERTY OF
SCALE:	1"=300'	KIMBERLY JANE STOCKSTILL LABICHE, ET AL
		ST. MARTIN PARISH, LA
REV#	DATE	DESCRIPTION
DRAWING:	LA-SM-8680	SHEET NO. 1 OF 2

EXHIBIT A

BAYOU BRIDGE PIPELINE, LLC
KIMBERLY JANE STOCKSTILL
LABICHE, ET AL
TRACT NO. LA-SM-6680

PERMANENT EASEMENT AND RIGHT OF WAY

Description of a fifty (50) feet wide Permanent Easement and Right of Way (P.E.R.W.) in Section 4, Township 11 South, Range 9 East, St. Martin Parish, Louisiana being over, through and across a parcel conveyed to Kimberly Jane Stockstill Labiche, Et Al, recorded in Conveyance Book 1608, Page 09 of the Clerk of Court records of St. Martin Parish, Louisiana, being thirty (30) feet on the northerly and twenty (20) feet on the southerly side of the herein described baseline, the sidelines being lengthened or shortened to meet the boundary lines of said parcel;

BEGINNING on the west line of said parcel having grid coordinates **NORTHING: 587221.42'**, **EASTING: 3211771.20'**;

THENCE South 53° 22' 15" East, 110.21 feet to the beginning of a 3200.00 foot radius curve to the left;

THENCE with said 3200.00 foot radius curve to the left having an arc length 1331.76 feet, a central angle of 23° 50' 42" with a chord bearing South 65° 17' 36" East and a distance of 1,322.17';

THENCE South 77° 12' 57" East 84.08 feet to the **POINT OF TERMINATION** on the west line of said Kimberly Jane Stockstill Labiche, Et Al parcel, having grid coordinates **NORTHING: 586584.43'**, **EASTING: 3213142.78'**, said baseline having a total distance of 1526.05 feet (92.49 rods), containing 1.75 acres, more or less.

TEMPORARY WORKSPACE

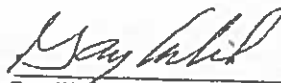
A twenty five (25.00) foot wide strip of land along the northerly side parallel with and adjacent to the above described Permanent Easement and Right of Way, and depicted on Sheet 1, the ends of the Temporary Workspace being lengthened or shortened to meet with the boundaries of said Kimberly Jane Stockstill Labiche, Et Al parcel, containing 0.88 acres, more or less.

ADDITIONAL TEMPORARY WORKSPACE

A fifty (50) foot wide strip of land, parallel with and adjacent to the northerly boundary of the above described Temporary Workspace, as depicted on Sheet 1 of 2.

All bearings, distances, and coordinates shown herein are grid, based upon NAD83, Louisiana South Zone, U.S. Survey Feet, as derived from an on the ground survey performed by TRC Pipeline Services, LLC conducted in November of 2016.

For reference and further information see Exhibit "B", Sheet 1, drawing number LA-SM-6680, same date.

 4-15-17

Gary W. Carlile
Professional Land Surveyor
Louisiana Registration No. 4537
Survey Firm License No. VF.0000712



EXHIBIT B

LA-SM-6681: That certain tract of land composed of 38 acre(s), more or less, located in the NE/4 of the SE/4 of Section 4, T11S, R9E, in St. Martin Parish, Louisiana, and being more particularly described in Book 784, Page 176, Instrument 186257 of the public records of said Parish.

Exhibit B

AFFIDAVIT OF ALAN CANTERBURY

- 1
2
3 1. I am a private investigator with Public Interest Investigations, Inc. ("PII"), 304 S. Broadway,
4 Ste 596, Los Angeles, CA 90013, 213.482.1780 ext 205, License #PI19508. I have worked
5 at PII for ten years, and I have over twelve years of experience as an investigator. I am also
6 an attorney licensed in the State of California, Bar License #269085.
- 7
8 2. On September 5, 2018, I was contacted by attorney Pam Spees, who asked PII to help locate
9 some individuals listed as absentee defendants in the case, *Bayou Bridge Pipeline vs. 38.00*
10 *Acres, more or less, located in St. Martin Parish, et al.* However, Spees asked that we limit
11 our methods for locating the subjects to those methods used by Bayou Bridge Pipeline
12 (Bayou Bridge) in their efforts to find landowners, as outlined in Paragraph 16 of their
13 Petition.
- 14
15 3. Specifically, Paragraph 16 of the Petition stated as follows: "Bayou Bridge made good faith
16 efforts to identify, locate, and negotiate with Defendants. On information and belief, Bayou
17 Bridge searched Tax Assessor records, performed courthouse title work, researched probate
18 files, researched conventional websites such as Google and location services such as Intelius,
19 and held personal interviews with family members and locals in the area, all in an attempt to
20 identify, locate and negotiate with Defendants."
- 21
22 4. Throughout my career as an investigator, I have regularly been asked to locate individuals for
23 legal matters of all types. To locate individuals, we use information gathered from a variety
24 of sources, both public and proprietary, to determine a subject's most likely current address
25 and/or phone number. For locating individuals, PII normally uses proprietary databases such
26 as Transunion TLOxp (TLO), which collects personal information on individuals using credit
27 card header information. In addition, proprietary databases such as TLO aggregate

1 information from courthouses across the country, which allows us to search public records
2 across multiple jurisdictions all at once. In this respect, TLO shares similar features as Lexis
3 Nexis, another proprietary database also used by investigators and lawyers in the industry to
4 locate individuals.

- 5
6 5. Proprietary databases such as TLO are generally not available to the public, but are
7 accessible only by professionals such as private investigators, lawyers and insurance
8 companies, to whom the databases are authorized to grant access. TLO features the following
9 language on their website: "TLOxp contains data governed by law and is subject to new
10 account credentialing, which may include a site inspection and end user terms and conditions.
11 Customer is responsible for the site inspection fee."
12
13 6. By contrast, the Intelius website, the locate service used by Bayou Bridge, is a database of
14 personal information available to anyone who can access the internet. Intelius features only
15 the following statement on their website: "Intelius is a leading provider of public data about
16 people and their connections to others."
17
18 7. In my and PII's experience contact with numerous other investigators over the last ten years,
19 the usual and customary practice in the industry is to use proprietary databases when
20 attempting to locate an individual. The use of proprietary databases for locating an individual
21 is part of the routine and basic steps used by all the investigators I have encountered.
22
23 8. It is not the normal practice of PII to use database services generally available to the public,
24 because this information is generally not complete enough to make determinations about an
25 individuals' location, so that it can be relied upon in legal matters. Proprietary databases are
26 standard in the investigation industry, and absent special circumstances, I have not heard of
27 an investigator who relied solely on information available to the general public while
attempting to locate an individual.

1 9. On September 6, 2018, using the methods described above in Paragraph 5, PII attempted to
2 locate two individuals named as "Absentee Defendants" by Bayou Bridge in the instant
3 matter:

4 Judy Larson Hernandez

5 Alberta Larson Stevens

6
7 10. On September 6, 2018, using only the methods outlined by Bayou Bridge above, I was able
8 to find a working phone number for Ms. Hernandez within two hours. I also found Ms.
9 Hernandez's Facebook page and a likely current address.

10 11. On September 10, 2018, I attempted to locate Ms. Hernandez using a proprietary database,
11 TLO, and I was able to find Ms. Hernandez' phone number within ten minutes.


12 12. On September 6, 2018, I attempted to locate Ms. Stevens using only the methods used by
13 Bayou Bridge (as discussed above). I was unable to reach Ms. Stevens by phone. However, I
14 was able to find a likely home address for Ms. Stevens, so I sent her a letter via FedEx. I also
15 found Ms. Steven's Facebook profile during this time. This entire process took me less than
16 three hours.

17
18 13. On September 10, 2018, I was informed by FedEx the letter I sent to Ms. Stevens on
19 September 6, 2018, was delivered to Ms. Steven's address. Within the hour, I received a
20 phone call from Ms. Stevens, who confirmed that she was a property owner in St. Martin
21 Parish. On the phone call, she also confirmed her phone number, which was one of the phone
22 numbers I found during my locate work on September 6, 2018. However, she had not
23 answered her phone when I tried calling her, and instead called me when she received the
24 letter.
25
26
27

1 14. After I was contacted by Ms. Stevens, I used TLO to see whether I would be able to
2 successfully find her phone number using that database. Using TLO, I found Ms. Steven's
3 phone number within ten minutes.

4 15. BBP's statement in Paragraph 16 (quoted above) that they searched courthouse records and
5 spoke to family members to locate owners, yet they did not utilize the baseline tool of a
6 proprietary database to perform this search, indicated a departure from the usual and
7 customary practices of our industry.
8

9
10 I declare under penalty of perjury under the laws of the State of California, that the foregoing is
11 true and correct. Executed this 10th day of September, 2018.

12
13 
14 Alan Canterbury

15
16 A notary public or other officer completing
17 this certificate verifies only the identity of
18 the individual who signed the document to
19 which this certificate is attached, and not
20 the truthfulness, accuracy, or validity of
21 that document.

22 State of California, County of Los Angeles
23 On September 10, 2018 before me, Charles Abel Cetto
24 Notary Public, personally appeared Alan Canterbury
25 who proved to me on the basis of satisfactory evidence to be the person(s)
26 whose name(s) is/are subscribed to the within instrument and acknowledged
27 to me that he/she/they executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct. Charles Cetto
WITNESS my hand and official seal.

