

Descendants Project, et al, v. St. John the Baptist Parish, et al

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Exhibit A

Full docket text for document 138:

SMOOTH Minutes: Jury trial 4/24/96 before Judge G. T. Porteous Jr. as to dft, Lester Millet, Jr; jury verdict; sent set for 7/24/96 at 9;30 a.m.; dft found guilty; by Judge G. T. Porteous Jr. (dp)

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Exhibit B

123 F.3d 268
United States Court of Appeals,
Fifth Circuit.

UNITED STATES of
America, Plaintiff–Appellee,

v.
Lester J. MILLET, Jr.,
Defendant–Appellant.

Nos. 96–30968, 96–30999.

|
Sept. 15, 1997.

Synopsis

Defendant was convicted in the United States District Court for the Eastern District of Louisiana, [G. Thomas Porteous, Jr.](#), J., of violating Hobbs Act, money laundering, and violating Travel Act. The Court of Appeals, [Howell Cobb](#), District Judge, sitting by designation, held that: (1) indictment was not constructively amended, and (2) evidence was sufficient to support convictions.

Affirmed.

Attorneys and Law Firms

*269 Stephen A. Higginson, Assistant U.S. Attorney, [Greg Gerard Guidry](#), New Orleans, LA, for Plaintiff–Appellee.

[John R. Martzell](#), [Duggan Fowler Ellis](#), Martzell & Bickford, New Orleans, LA, for Defendant–Appellant.

Appeals from the United States District Court for the Eastern District of Louisiana.

*270 Before [DUHÉ](#) and [BARKSDALE](#), Circuit Judges, and [COBB](#),¹District Judge.

Opinion

[HOWELL COBB](#), District Judge:

A jury in the federal district court for the Eastern District of Louisiana convicted the defendant for violations of [18 U.S.C. §§ 2, 1951, 1952, and 1956](#), resulting from the misuse of his official position as Parish President of the St. John the Baptist Parish, Louisiana. Millet challenges his convictions

on a variety of theories. Finding no merit in any of these theories, we affirm.

I.

BACKGROUND

Between January, 1988 and October, 1992, Defendant–Appellant Lester Millet, the duly elected President of St. John the Baptist Parish, Louisiana, extracted, under color of official right, a portion of the commission earned by Durel Matherne from the sale of the Whitney Plantation (Whitney) to the Formosa Chemical Corporation (Formosa). Formosa, a Taiwanese Corporation, acquired the Whitney Plantation for the purpose of building a rayon pulp industrial facility in St. John the Baptist Parish, Louisiana.

In 1988, Formosa, in search of a location for a new rayon pulp facility, narrowed its choices to Texas and Louisiana. Formosa considered Louisiana to have advantages over Texas because two suitable sites for the proposed facility were identified and readily available, and Louisiana had superior access to both raw materials and deep-water shipping lanes on the Mississippi River. The two Louisiana sites were both located on the west bank of the Mississippi River in St. John the Baptist Parish. The first site (Willowbend) was owned by the Shell Oil Corporation. It appeared to be the most suitable of the two because it was already zoned for heavy industry, an environmental impact statement (EIS)² was nearly complete, and the river abutting the property's bature was deep enough for ocean going vessels. The second site (Whitney), owned by the Barnes family, was large enough for the facility but it was zoned for agriculture, no EIS was underway, and the river abutting the property was not deep enough to support ocean going vessels.

In late 1988, after Formosa rejected the Willowbend site as too expensive, Millet engaged his friend Durel Matherne, a licenced real estate broker who was not actively engaged in a commercial real estate business, in a scheme in which Millet would arrange for Matherne to become the exclusive broker for the sale of the Whitney. In exchange for Millet's influence as President of St. John the Baptist Parish to secure his contract to broker the property, Matherne was expected to share with Millet the sizeable (\$479,000) commission he earned from the sale of the Whitney.

Millet, identifying himself as a high ranking public official, then met with Walter Barnes and informed him that the Whitney Plantation could be sold to Formosa for the rayon pulp facility and insisted that Matherne be the broker for the sale. Barnes agreed to the arrangement. Millet then promised Formosa that if it purchased the Whitney Plantation for the rayon facility, he would use his authority to push through the needed rezoning and would ensure Formosa obtained the necessary deep water access for the facility. Millet planned to do this by “convincing”, through threats of expropriation if necessary, owners of property adjacent to the Whitney (Wallace tracts) to convey their property to Formosa. He also promised Formosa to assist in obtaining the necessary EPA permits.

In May, 1989, Formosa and the Barnes family signed a contract for the sale of the Whitney. Formosa's purchase was conditioned on being able to obtain the Wallace tracts and necessary rezoning.

Apparently aware of the Whitney's shortcomings and the conditional nature of the contract, Shell contacted Virginia Simons, the development manager for the Port of South Louisiana, to reconvene negotiations between *271 Shell and Formosa for the sale of the Willowbend site. Simons arranged a meeting in which she, a Shell representative, and Millet discussed Shell's interest. In that meeting, Millet verbally abused both of them for “messing with his deal”. Shortly afterwards, Millet tried to use his official position as Parish President to have Simons fired and later arranged to withhold \$1,000,000 in funds from the port.

In April, 1990, the sale of the Whitney to Formosa was completed and Millet immediately demanded a \$200,000 share of the \$479,000 commission from Matherne. To effect this transfer, Millet bought an undeveloped piece of real estate (Highway 51 Property) for \$200,000 and, against the advice of Matherne's attorney and within two weeks conveyed one-half of it to Matherne for \$200,000.

In September, 1990, Matherne submitted a proposal for a contract to provide wood chips to the proposed Formosa facility. On learning of Matherne's proposal, Millet made it clear to Matherne that, even though he (Millet) had no capital to invest in the wood chip venture, he would participate with Matherne on a 50–50 basis. Millet intended to contribute by using his official position to secure the lucrative contract for himself and Matherne. Millet further made it clear that if he

was not allowed to participate, he would use his position to spoil the deal for Matherne.

In January, 1991, Millet, Alden Andre,³ and Lionel Bailey⁴ traveled from Baton Rouge to Dallas to meet with the EPA concerning permits for the proposed rayon plant. Upon returning from Dallas, Millet offered to give Bailey a convenience store which would be located near the rayon facility in exchange for Bailey's assistance in securing the wood chip contract. Bailey reported this offer to Andre shortly after it was made.

Just prior to the Dallas trip, The New Orleans Times Picayune reported the Highway 51 land transaction in an investigative article. This disclosure embarrassed Formosa officials in the United States and Taiwan. In October, 1992, Formosa abandoned its plans to construct the rayon pulp facility in part because of mounting public opposition and in part because of the activities of Lester Millet.

Pursuant to a three count indictment, Millet was charged with: Count 1, violating 18 U.S.C. §§ 2, 1951, (Hobbs Act); Count 2, violating 18 U.S.C. §§ 2, 1956 (Money Laundering); and Count 3, violating 18 U.S.C. § 1952 (Travel Act). In accord with the provisions of 18 U.S.C. § 982, the government also sought a forfeiture of the \$200,000 Millet received from Matherne. The jury convicted Millet of all three counts. He was subsequently sentenced to fifty-seven (57) months imprisonment, fined \$200,000, and ordered to forfeit \$200,000.

On timely appeal, Millet raises nine issues in urging this Court to reverse his convictions.⁵ Even though Millet's enumerates *272 nine issues, in essence he challenges his Hobbs Act conviction on grounds of constructive amendment and insufficiency of the evidence;⁶ his money laundering conviction on grounds that the Hobbs Act conviction is invalid;⁷ and his Travel Act conviction on grounds that the Hobbs Act conviction cannot be the “unlawful activity”, the indictment was insufficient and the court improperly charged the jury.⁸

II.

THE HOBBS ACT

The Hobbs Act penalizes: (1) “[w]hoever in any way or degree obstructs, delays, or affects commerce or any article in commerce, (2) by robbery or extortion or attempts or conspires to do so, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do any thing in violation of this section[.]” 18 U.S.C. § 1951(a) (West 1997). Millet argues that his conviction under the Hobbs Act must be reversed because the district court constructively amended the indictment and the evidence presented at trial was insufficient to convict.

(a) *Constructive Amendment*

A constructive amendment to the indictment occurs when the jury is permitted to convict the defendant on a factual basis that effectively modifies an essential element of the offense charged in the indictment. *United States v. Young*, 730 F.2d 221, 223 (5th Cir.1984); *United States v. Holley*, 23 F.3d 902, 912 (5th Cir.1994) (citations omitted). However, all factual variations do not rise to the level of a constructive amendment. This Court must distinguish between a constructive amendment to the indictment and mere variations between the indictment and proof.

An indictment can be constructively amended either by evidence offered at trial or by jury instruction. *Stirone v. United States*, 361 U.S. 212, 80 S.Ct. 270, 4 L.Ed.2d 252 (1960). The constructive amendment can be either explicit or implicit. *United States v. Doucet*, 994 F.2d 169, 172 (5th Cir.1993). Millet argues both apply here. He contends his indictment was constructively amended when the district court permitted the government to offer proof concerning the direct effect his act had on Formosa's interstate commerce activities, and when the district court included a theory within the Hobbs Act jury charge which allowed the jury to find a Hobbs Act violation if it found that Millet's actions directly and adversely affected Formosa.

In the absence of a timely objection at trial, this court subjects a post-conviction claim of constructive amendment to plain error analysis. *United States v. Olano*, 507 U.S. 725, 731–34, 113 S.Ct. 1770, 1776–78, 123 L.Ed.2d 508 (1993); *United States v. Reyes*, 102 F.3d 1361, 1364 (5th Cir.1996). Mere factual variations between the indictment and proof at trial are examined under the harmless error doctrine. *Young*, 730 F.2d at 223. At trial, Millet failed to object to the evidence concerning the effect his acts had on Formosa's commerce activities and, although he raised a general objection to the Hobbs Act jury charge, it was insufficient to preserve a constructive amendment error. Accordingly, we first look to

see if there was a constructive amendment to the indictment and if there was, we analyze for plain error.

For this Court to find a constructive amendment to the indictment, we review the record to determine if evidence offered at trial or the district court's jury charge permitted the jury to convict Millet on a factual basis which effectively modified one of the two essential elements charged of the Hobbs Act indictment. *Id.* As it applies to this *273 case, the two essential elements of the Hobbs Act are extortion and commerce. Commerce means, “[A]ll commerce between any point in a state ... and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.” 18 U.S.C. § 1951(b)(3) (West 1997). The term extortion means, “the obtaining of property from another with his consent ... under the color of official right”. 18 U.S.C. § 1951(b)(2) (West 1997).

Millet bases his constructive amendment argument on Paragraph 18 of Count 1 which states:

From on or about January 11, 1988, and continuing until or about January 13, 1992 in the Eastern District of Louisiana and elsewhere, LESTER J. MILLET, JR., while serving as Parish President for St. John the Baptist Parish, Louisiana did knowingly, willfully and unlawfully, affect and attempt to affect interstate commerce by means of extortion, in that the defendant did unlawfully obtain approximately \$200,000 not due him or his office from Durel Matherne, with Durel Matherne's consent, under color of official right, that is, for or because of official act by LESTER J. MILLET, JR., related to the sale of the Whitney Plantation. In urging this court find a constructive amendment, Millet argues the district court was bound to narrowly construe this charging paragraph as a “specific act against an individual” and as such, the government was limited to proving the extortion element, and proving the effect on interstate commerce by only offering evidence that: (1) his act depleted the assets of Matherne, an individual customarily engaged in interstate commerce; (2) his act caused the completion of, or created the likelihood that the assets of an entity engaged in interstate or foreign commerce would be depleted; or (3) the number of individuals affected was so great or the sum extorted was so large that there was some cumulative effect on interstate commerce. *United States v. Collins*, 40 F.3d 95, 100 (5th Cir.1994). In short, Millet insists that, as in *Collins* and *Stirone* his indictment was constructively amended when the district court accepted evidence that his actions directly affected Formosa's interstate activities, this

evidence impermissibly modified the essential commerce element, and that the jury was allowed to convict on that basis. *Id.* We disagree.

We distinguish *Stirone* and *Collins* on the facts. In *Stirone*, the defendant's Hobbs Act conviction was reversed when the Court found his indictment was constructively amended by the district court's admission of evidence and its jury charge that permitted the jury to convict *Stirone* upon a showing that his acts affected the movement of steel in interstate commerce. *Stirone*, 361 U.S. at 214, 80 S.Ct. at 271–72. The Court reasoned that because *Stirone*'s indictment charged only that the defendant's extortionate act affected the movement of sand (an important building material) in interstate commerce, it was uncertain whether *Stirone* was convicted of impeding commerce in sand, as charged or steel which was uncharged. *Id.* at 219, 80 S.Ct. at 274. Unlike the *Stirone* indictment, we read Paragraph 18 of Count 1 of the indictment as drawn in general terms that tracks the statutory language of 18 U.S.C. § 1951(a). There is no limitation imposed on proving the effect on interstate commerce.

Likewise, *Collins* is distinguished in that the Hobbs Act charge stemmed from the defendant's robbery of the personal property of a salesman. *Collins*, 40 F.3d at 99–100. No extortion was involved. Furthermore this Court found that the nexus between the robbery victim and interstate commerce was at best indirect and extremely attenuated and more than likely, there was none. *Id.* Here, Millet's extortionate act was integral to a land transaction of a multi-national corporation and was a cause of Formosa's abandonment of its plans. *Collins* simply does not control this case.

Millet's argument that Paragraph 18 of Count 1 is a specific charge against an individual has merit only if the last clause were taken entirely out of context or if it stood alone as Count 1. We decline to read the last clause out of context and we also decline to ignore the preceding seventeen (17) paragraphs in Count 1 of Millet's indictment.

*274 When an indictment under the Hobbs Act is drawn in general terms, a conviction may rest on a showing that commerce of one kind or another has been burdened. *Stirone*, 361 U.S. at 218, 80 S.Ct. at 273–74. It follows that when the indictment is drawn generally, the government may offer proof that the act either directly or indirectly affected interstate commerce. *Id.* We see the only limitation imposed by Count 1 of the indictment was that the government was limited to proving extortion under color of official right as

opposed to robbery, threats, or the use of physical violence. Our examination of the record indicates no such proof of the latter three was offered.

We find the district court did not err in admitting proof that Millet's extortionate act directly affected the interstate activities of Formosa. Count 1, including Paragraph 18, when read in its entirety indicates a general indictment under the Hobbs Act and as such, the district court's admission of proof that Millet's act directly affected Formosa did not modify the essential element of interstate commerce as defined by 18 U.S.C. § 1951(b)(2) (West 1997).

Millet also urges a constructive amendment of his indictment because the court supplemented the *Collins* factors *supra* in its jury charge with, “Under this theory the defendant may have interfered with or affected interstate commerce in one or all of the following ways: ... 4) adversely affecting the interstate and international commerce activities of Formosa Plastics Corporation....”.⁹ However, the *Collins* factors apply only if a criminal act was directed to an individual and therefore, the district court was warranted in supplementing the *Collins* factors. *Collins*, 40 F.3d at 100. Accordingly, this Court looks to whether the district court's jury charge as a whole is a correct statement of the law. *United States v. Stacey*, 896 F.2d 75, 77 (5th Cir.1990). We find that the district court's Hobbs Act jury charge in which it gave the *Collins* factors along with its supplemental factor was a correct statement of law and did not constructively amend the indictment. Moreover, we think the charge was helpful to the jury in that it illustrated the possible ways that Millet's extortionate act may have affected interstate commerce.

In summary, we find there was no constructive amendment to Count 1 of the indictment and therefore, we need not undertake plain error analysis.

(b) *Sufficiency of the Evidence*

In determining whether there was sufficient evidence to support a conviction, this Court must determine, in a light most favorable to the verdict whether a rational trier of the facts could have found that the evidence established guilt beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); *United States v. Carrasco*, 830 F.2d 41, 43–44 (5th Cir.1987). Millet advances three separate theories as to why there was insufficient evidence to support his conviction. We disagree with all of them.

Millet first contends there could have been no extortion because his only act related to the charged extortion was to place a telephone call to a private individual over whom the official had no power and upon whom he exercised no official power before Millet's first contact with the alleged victim. This is nonsense.

To prove extortion the government must show that Millet took money or something of value not due him or his office for the performance or non-performance of an official function. See *McCormick v. United States*, 500 U.S. 257, 111 S.Ct. 1807, 114 L.Ed.2d 307 (1991). The official need not control the function in question if the extorted *275 party reasonably believes in the official's powers. *United States v. Rabbitt*, 583 F.2d 1014 (8th Cir.1978). Millet claims that because this was a private deal between private parties, there can be no "color of official right". The record is replete with evidence that Durel Matherne, who was not a practicing real estate agent, could not have become the exclusive broker for the sale of the Whitney Plantation without the approval of Millet who was acting in his capacity as the St. John the Baptist Parish President. The record also contains substantial evidence that in exchange for arranging Matherne's employment as the exclusive broker for the Whitney's sale, Millet demanded and received a portion of the Whitney sales commission. Specifically, Walter Barnes, one of the Whitney's owners, testified he had not heard of Matherne before Millet introduced them, and the only reason Millet was able to secure Matherne's employment as broker for the Whitney was because of his official position as St. John the Baptist Parish President. We find there was sufficient evidence for a rational jury to conclude that all parties involved believed they must accede to Millet's demands to accomplish the sale of the Whitney to Formosa.

Millet next argues he did not explicitly promise to perform an official act in exchange for a benefit from the alleged victim. He further asserts that he committed no official act and therefore, cannot be convicted under the Hobbs Act. As authority, Millet cites *Evans v. United States*, 504 U.S. 255, 112 S.Ct. 1881, 119 L.Ed.2d 57 (1992). Millet misreads *Evans*. *Evans* stands for the proposition that an explicit demand for payment for the official act is not required to convict under the Hobbs Act and further, that an affirmative step is not an element under the statute. *Id.* at 268, 112 S.Ct. at 1889. Millet used the apparent authority of his official position to secure the real estate listing for Matherne. Furthermore, the government proved at trial that Millet used

his official capacity to satisfy the conditions imposed by the contract for the sale of the Whitney to ensure the sale was ultimately consummated. We find the government's theory that the payment Millet extracted from Matherne was in exchange for not just the listing but, for all of his official acts is credible, and that it satisfies the *quid pro quo* requirement of the Hobbs Act.

Finally, Millet argues the only thing he received from the alleged victim was the purchase price of the Highway 51 property on a "value for value" basis to which he was entitled. Millet's argument refers to his conveyance of half of the Highway 51 property to Matherne's wife in exchange for approximately one-half of Matherne's commission from the sale of the Whitney. He contends that if the Highway 51 property were developed, subdivided and later sold as individual lots, Matherne would more than recover the \$200,000 he transferred to Millet for the property. The implication is that this transaction was an arms-length contract for the sale of real estate. We find this argument entirely without merit.

In Louisiana, it is well settled that the value of an immovable property be evaluated according to the state in which it was at the time of the sale. See *La.Civ.Code.Ann. art. 2590* (West 1997) (emphasis added). The "market value" of a property means "the fair value of the property between one who wants to buy and one who wants to sell under the usual circumstances." *Henderson v. Dyer*, 68 So.2d 623, 625 (La.Ct.App. 1st Cir.1953) (citations omitted). At trial, the jury was presented with substantial evidence: that the portion of the Highway 51 property did not have a fair market value of \$200,000 at the time it was conveyed to Matherne; that the property was not sold under the usual circumstances; and that Matherne did not want to buy the property.

The government presented credible evidence that Millet and Matherne sought a means of conveying to Millet the \$200,000 which represented Millet's share of the Whitney commission. Among the schemes considered were: a direct payment from Matherne to Millet; an office lease under which Matherne would pay a grossly inflated rental; and paying Millet's son a grossly inflated draw as a new "partner" in Matherne's insurance business. Matherne's attorney advised that all these sham transactions were thinly disguised kickbacks which would constitute *276 an illegal payment to a public official. Despite that warning, to effect the \$200,000 kickback Millet bought the Highway 51 property for \$200,000 and almost

immediately demanded Matherne accept one-half of that property in exchange for \$200,000.

At trial, the government presented substantial evidence that, at the time Millet conveyed half of the Highway 51 property to Matherne, the entire undeveloped Highway 51 property was worth at most, \$200,000. The government also offered credible evidence that when Millet divided the property into halves and conveyed one-half to Matherne, the half he conveyed to Matherne had a value of less than one-half of the original \$200,000 purchase price. Yet, Matherne paid \$200,000 for his parcel. All of this occurred less than two weeks from the time Millet originally bought the property. Given the evidence, the timing and the fact that Millet presented no credible evidence to support his position that the value of the parcel conveyed to Matherne was worth anywhere near \$200,000, we find that a rational jury could find beyond a reasonable doubt this transaction was a sham designed to kick-back part of Matherne's Whitney commission to Millet.

Matherne did not want to purchase the undeveloped Highway 51 property from Millet but did so only because of pressure applied by Millet for a share of the Whitney commission. Matherne was not in the business of real estate speculation or real estate development and would ordinarily have no interest in an undeveloped parcel of property; particularly one for which he would have to pay at least twice the market value. Evidence in the record also indicates that at the time of the Highway 51 transaction, Matherne had financial and (income) tax difficulties to which he would likely have applied the \$200,000 Millet demanded for the property. Matherne testified that at best, he expected to break even if he could develop and sell the property. All this is evidence that given a free choice, Matherne had no desire to purchase the Highway 51 property.

Though Matherne was not a practicing real estate agent, he held a valid real estate licence and was hardly a novice when it came to valuing the undeveloped Highway 51 property. Matherne testified that he knew the value of the Highway 51 property was less than one-half of what he was paying. Given disparities in value, the parties' knowledge thereof, their relative positions, and the fact that there was no evidence presented that Millet and Matherne conducted any sort of price negotiation (a strong indicator of an arms-length transaction) a rational jury would conclude these were not the usual circumstances under which a real estate transaction occurs.

We find sufficient evidence was presented at trial that a reasonable jury would characterize the Highway 51 land transaction as a sham or kickback scheme designed to convey a \$200,000 share of the Whitney Plantation commission from Durel Matherne to Lester Millet. We further find that all elements of [18 U.S.C. § 1951](#) were proven beyond a reasonable doubt and accordingly we AFFIRM Lester Millet's Hobbs Act conviction.

III.

MONEY LAUNDERING

Millet's sole basis for urging this Court to reverse his conviction under [18 U.S.C. § 1956](#) (money laundering) is that his conviction under the Hobbs Act must be reversed and therefore, there was no unlawful activity to support the money laundering conviction. The pertinent section of the money laundering statute, states:

(a)(1) Whoever knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

(B) knowing that the transaction is designed in whole or in part—(I) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of a specified unlawful activity;[.]

[18 U.S.C. § 1956\(a\)\(1\)\(B\)\(I\)](#) (West 1997).

Because we affirm Millet's conviction under the Hobbs Act, the Hobbs Act serves as the unlawful activity, and we find that the Highway 51 real estate conveyance fits the **277* definition of a financial transaction designed to conceal the source of the proceeds, we AFFIRM Millet's conviction under [18 U.S.C. § 1956](#).

IV.

THE TRAVEL ACT

To obtain a conviction under [18 U.S.C. § 1952](#) (Travel Act), as it applies to the instant case, the government had to prove the following elements beyond a reasonable doubt: 1) travel

in interstate or foreign commerce; 2) with the intent to; 3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and 4) thereafter performs or attempts to perform [an act described in element 3]. 18 U.S.C. § 1952(a)(3)(A) (West 1997). “Unlawful activity” means, extortion, bribery, or arson in violation of the laws of the state in which committed or of the United States. 18 U.S.C. § 1952(b)(i)(2) (West 1997).

Millet attacks his conviction under the Travel Act on three theories: 1) a scheme to “personally benefit” from the Formosa plant is not unlawful under the Hobbs Act and consequentially is not unlawful under the Travel Act; 2) because his Hobbs Act, which serves as the “unlawful activity” must be reversed on insufficient proof of an “effect on interstate activity”, his Travel Act conviction too must be reversed; and 3) the adoption of the Hobbs Act charge as the unlawful activity for the Travel Act charge is prejudicial error because the Hobbs Act crime terminated before the necessary travel for the Travel Act. We find no merit in any of these theories.

Millet first complains that the use of the phrase, “scheme to personally benefit” in Count 3, Paragraph 1 does not state a crime under the Hobbs Act and therefore cannot be the requisite unlawful activity as defined by the Travel Act. This complaint suffers from the same flaw as his Hobbs Act constructive amendment argument; that being Millet extracts a single phrase from context and argues that the phrase standing alone, somehow invalidates the entire count. Even if we find that the phrase he complains of was inartfully drawn, we decline to read it totally out of context. When Paragraph 1 of Count 3 is read in its entirety, it is clear that it refers to a Hobbs Act violation. We also note that Millet’s argument here is particularly specious because the record indicates he motioned the district court for an eleven part bill of particulars directed solely to Count 3 of the indictment. Nowhere in that motion did Millet raise this somewhat trivial complaint and though his motion was denied, he received a full hearing at which he conceded the government adequately responded in writing to his query concerning the nature of unlawful activities that formed the basis for the Travel Act indictment. We therefore dismiss this complaint as groundless.

Millet next complains that his Travel Act conviction cannot be sustained because it was predicated on a Hobbs Act “official act” conviction which was deficient in its proof on the effect on interstate commerce. Because, for reasons stated above, we

find the jury properly convicted Millet of the charged Hobbs Act violation, we find this argument without merit.

Finally, Millet argues that the adoption of the Hobbs Act charge as the unlawful activity for the Travel Act charge is prejudicial error because the Hobbs Act crime terminated before the necessary travel for the Travel Act occurred. This argument appears to be premised on his notion that for there to be a conviction under the Travel Act, there necessarily must be a conviction of the underlying predicate unlawful activity. This is not the law.

The Travel Act was one of several bills enacted by Congress to aid the states in the battle against organized crime. *Perrin v. United States*, 444 U.S. 37, 41–42, 100 S.Ct. 311, 313–14, 62 L.Ed.2d 199 (1979) (citations omitted). Because the definition of the unlawful activity refers to both state as well as federal offenses, it is clear Congress intended for the Travel Act to supplement state authority in battling organized crime problems. *Id.* at 42, 100 S.Ct. at 314. It is also well settled that under the principles of federalism, the federal courts may not assume jurisdiction *278 over state offenses. Therefore, it clearly follows that if a state law offense were to serve as the underlying “unlawful activity” for the Travel Act and the law is to supplement state law rather than burden it, there can be no requirement for a conviction of the underlying unlawful activity.¹⁰ See *United States v. Nardello*, 393 U.S. 286, 290–95, 89 S.Ct. 534, 536–39, 21 L.Ed.2d 487 (1969) (discussing the use of a state law as the underlying unlawful activity); *United States v. Jones*, 642 F.2d 909, 913 (5th Cir.1981) (defendant convicted of Travel Act violation without underlying conviction of illegal organized gambling). Lastly, a violation of the Travel Act does not require that a facilitation act in the destination state be an unlawful activity. *Perrin*, 444 U.S. at 49–50, 100 S.Ct. at 317–18.¹¹

Accordingly, we find that Count 3 of the indictment properly charges a violation of the Travel Act. It properly identifies the unlawful activities, it identifies the interstate travel and it identifies the act Millet thereafter attempted to perform (promotion).¹²

We do not agree that Millet’s Travel Act conviction is necessarily predicated on his Hobbs Act conviction. The record supports and the government proved at trial that Millet engaged in a multi-faceted scheme to extract illegal personal profits wherever practicable, “under color of official right” from the siting of Formosa’s rayon pulp plant. While the scheme itself is not the underlying unlawful activity, any

one of its individual components may serve as the unlawful activity if it meets the statutory definition and the government meets its burden of proving beyond a reasonable doubt that the defendant committed the unlawful activity.

Finally, we look at the court's jury instructions to ensure that the jury was properly charged. In reviewing the propriety of a jury instruction, this court looks at whether the charge as a whole is a correct statement of the law. *Stacey*, 896 F.2d at 77. We find that the district court correctly stated the law in its jury charge on the Travel Act.

Because Count 3 of the indictment properly charged a violation of the Travel Act, sufficient evidence was presented at trial for a rational jury to convict Millet of the charge, and the district court properly instructed the jury, Millet has no substantive complaint. His conviction under 18 U.S.C. § 1952 is hereby AFFIRMED.

V.

CONCLUSION

For reasons stated above, we find no reason to disturb the jury's decision to convict Millet for violations of 18 U.S.C. §§ 2, 1951, 1952 and 1956. We also find no reason to disturb the forfeiture resulting from Millet's unlawful activities. Accordingly, we AFFIRM his conviction on all counts.

All Citations

123 F.3d 268

Footnotes

- 1 District Judge of the Eastern District of Texas, sitting by designation.
- 2 At the time, the United States Environmental Protection Agency (EPA) required an EIS before constructing a new chemical manufacturing facility in this area.
- 3 Formosa's vice president.
- 4 Formosa's environmental manager.
- 5 On appeal Millet raises the following issues:
 - 1) Over objection, the trial court charged, and the government argued at trial that the jury could convict on Count 1, a violation of 18 U.S.C. § 1951 ("Hobbs Act") on evidence of the effects on interstate commerce other than relates to the specified victim;
 - 2) The jury was allowed to convict on a theory of extortion of victims other than the charges in the indictment;
 - 3) The only act by Millet related to the charged extortion was a telephone call to a private individual over whom the official had no power and upon whom he exercised no official power before Millet's first contact with the alleged victim;
 - 4) The only thing received by Millet from the alleged victim was the purchase price of property on a "value for value" basis to which Millet was entitled;
 - 5) The proof at trial does not show a promise from Millet to perform an official act in exchange for a benefit from the alleged victim. The official act occurred before Millet had contact with the victim;
 - 6) Count 2 of the indictment which charges a violation of 18 U.S.C. § 1956 ("Money Laundering") states as its predicate offense the Hobbs Act violation and since the Hobbs Act conviction cannot stand, the money laundering conviction cannot stand;
 - 7) A scheme to "personally benefit" from the Formosa plant is not unlawful under the Hobbs Act;
 - 8) Count 3 which charges a violation of 18 U.S.C. § 1952 ("Travel Act") cannot be sustained because it is predicated on an "official act" Hobbs Act violation which is deficient in its proof of "effect on interstate activity";
 - 9) The adoption of the Hobbs Act charge as the unlawful activity for the Travel Act charge is prejudicial error because the Hobbs Act crime terminated before the necessary travel for the Travel Act.
- 6 Issues 1, 2, 3, 4 and 5 relate to Millet's conviction under the Hobbs Act.
- 7 Issue 6 relates to Millet's conviction on money laundering.
- 8 Issues 7, 8, and 9 relate to Millet's conviction under Travel Act.
- 9 The Court's charge to the jury on Count 1 included the following:

Under this theory the defendant may have interfered with or affected commerce in any one or all of the following ways: 1) depleting the assets of an individual customarily and directly engaged in interstate commerce; 2) causing or creating the

likelihood that Durel Matherne would deplete the assets of a business or businesses engaged in interstate commerce; 3) extorting such a large amount that it had a cumulative effect on interstate commerce; or 4) adversely affecting the interstate and international commerce activities of the Formosa Plastics Corporation, a company headquartered in Taipei, Taiwan, Republic of China.

- 10 It further follows that if the Travel Act requires no conviction of an underlying state offense, it also follows that there need be no conviction of an underlying federal offense.
- 11 This is not to say that there is no limitation on the reach of Travel Act. The Court in *Rewis v. United States*, limited the reach of the Travel Act by requiring a tangible nexus to interstate commerce and by warning that the act could not be used to turn a relatively minor state offense into a federal felony. *Rewis v. United States*, 401 U.S. 808, 811–12, 91 S.Ct. 1056, 1059–60, 28 L.Ed.2d 493 (1971). We note that when the underlying unlawful activity is an uncharged federal or a state law offense, there are three essential elements which must be proved beyond a reasonable doubt: 1) the defendant traveled in interstate commerce on or about the time and between the places charged in the indictment; 2) the defendant engaged in such travel with the specific intent to promote, manage, establish or carry on an unlawful activity; and 3) the defendant thereafter knowingly and willfully committed an act to promote, manage, establish or carry on such unlawful activity. *United States v. Green*, 882 F.2d 999, 1006 (5th Cir.1989).
- 12 The “promotion” corresponds to the fourth element of the Travel Act. In this case it refers to Millet's attempt to bribe Lionel Bailey in violation of Louisiana's Commercial Bribery Statute. La.Rev.Stat. Ann. § 14.73 (West 1997).

End of Document

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Exhibit C

ST. JOHN THE BAPTIST PARISH COUNCIL
STATE OF LOUISIANA

ORDINANCE
90-27

Mr. Lewis introduced the following ordinance.
Mr. Lewis proposes and Mr. Wolfe seconds the following ordinance.

THE ST. JOHN THE BAPTIST PARISH COUNCIL HEREBY ORDAINS:

An ordinance allowing for the following zoning changes on properties of the Whitney Plantation and adjacent properties, Edgard, LA, St. John the Baptist Parish:

- (1) Property proposed to be rezoned from B-1 to B-2
- (2) Property proposed to be rezoned from C-1 and R-1 to I-3
- (3) & (4) Property proposed to be rezoned from R-1 to I-3
- (5) Property proposed to be rezoned from C-1 to I-1
- (6) Property proposed to be rezoned from R-1 to I-1

Amendment: proposed zoning map submitted under Ordinance 90-27 to reflect the following: where ever an I-3 zone abuts a R-1 zone there shall be an I-1 buffer 300 feet within the I-3 zone separating the I-3 from R-1

This ordinance becomes effective five (5) days after publication in the Official Journal.

BE IT ORDAINED, that the St. John the Baptist Parish Council is acting as the governing authority for said parish.

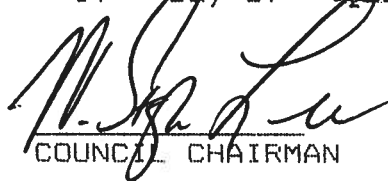
The above ordinance having been submitted to a vote; the vote thereon was as follows:

YEAS: Terry, Wolfe, Lewis, Duhe, Perrilloux, Lee, Haydel, Wilson

NAYS: None

RECUSAL: McTopy

The result of the vote on the ordinance was 8 YEAS, 0 NAYS,
1 RECUSAL, and this ordinance was declared adopted on the
19 day of April 1990.


COUNCIL CHAIRMAN


SECRETARY


PARISH PRESIDENT

CERTIFIED, to be a true and correct copy of an ordinance adopted by the St. John the Baptist Parish Council on the day of 1990.

(1) PROPERTY PROPOSED TO BE REZONED FROM B-1 TO B-2

That portion of Tracts 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67F, 68, 69F, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88 and Whitney Plantation, as shown on the attached maps made by Daryl B. Patin, C.E. of Whitney Plantation dated February 28, 1990, and Tracts 52-89 dated February 28, 1990, attached hereto, situated between the mean low water line of the Mississippi River and the existing boundary between the B-1 and C-1 zoning established by the Official Zoning Ordinance of St. John the Baptist Parish dated January, 1983, as revised, (which follows the approximate center line of the Mississippi River Levee) on the northerly and north easterly side of Louisiana Highway 18.

12 Homes

(2) PROPERTY PROPOSED TO BE REZONED FROM C-1 AND R-1 TO I-3

That portion of Whitney Plantation and Tracts 88 and 89, as shown on the attached maps made by Daryl B. Patin, C.E. of Whitney Plantation dated February 28, 1990, and Tracts 52-59 dated February 28, 1990, situated between the existing the B-1 and C-1 zoning as established by the Official Zoning Ordinance of St. John the Baptist Parish dated January, 1983, as revised, on the northerly and northeasterly side of Louisiana Highway 18 to the rear of said tracts.

(3) & (4) PROPERTY PROPOSED TO BE REZONED FROM R-1 TO I-3

That portion of Tracts 70, 70A, 71, 72, 72A, 73, 73A, 74, 75, 76, and 77, shown on the attached map made by Daryl B. Patin, C.E. of Tracts 52-89, dated February 28, 1990, situated between the existing boundary between the C-1 and R-1 zoning as established by the Official Zoning Ordinance of St. John the Baptist Parish dated January, 1983, as revised, on the southerly side of Louisiana Highway 18 (which is approximately 200 feet from the southerly right of way line of said Highway 18) and the rear of said tracts, but excluding Lots 1-6 and the adjoining 40 foot road and another lot sold to Wayne Francis Wesley, et ux on September 12, 1977, as shown on a survey map made by E. M. Collier, R.L.S., dated January 30, 1958, revised on June 27, 1977, which were taken from Tract 77.

*2 Homes
to be
purchased*

That portion of Tracts 78, 79, 80, 81, 82, 83, 84, 85, 86 and 87, as shown on the attached map made by Daryl B. Patin, C.E. of Tracts 52-89, dated February 28, 1990, situated between the line parallel to and measuring 1000 feet from the southerly right of way line of Louisiana Highway 18 and the rear of said tracts, but excluding Lots 10-15, Willow Grove Subdivision and the adjoining road right of way as well as the cemetery located on Tract 86.

19 Home 11 trailers will remain

(5) PROPERTY PROPOSED TO BE REZONED FROM C-1 TO I-1

That portion of Tracts 70, 70A, 71, 72, 72A, 73, 73A, 74, 75, 76 and 77, shown on the attached map made by Daryl B. Patin, C.E. of Tracts 52-89 dated February 28, 1990 situated between the existing boundary between the B-1 and C-1 zoning as established by the Official Zoning Ordinance of St. John the Baptist Parish dated January, 1983, as revised on the northerly side of Louisiana Highway 18 and the existing boundary between the C-1 and R-1 Zoning as established by the aforesaid Zoning Ordinance, on the southerly side of Louisiana Highway 18 (which is approximately 200 feet from the southerly right of way line of said Highway 18) but excluding Lots 1-6 and the adjoining 40 foot road and another lot sold to Wayne Francis Wesley, et ux on September 12, 1977, as shown on a survey map made by E. M. Collier, R.L.S. dated January 3, 1958, revised on June 27, 1977, which were taken from Tract 77.

(6) PROPERTY PROPOSED TO BE REZONED FROM R-1 TO I-1

That portion of Tracts 65, 66, 67R, 68 and 69R, as shown on the attached map made by Daryl B. Patin, C.E. of Tracts 52-89 dated February 28, 1990, situated between a line parallel to and measuring 1000 feet from the southerly right of way line of Louisiana Highway 18 and the northerly right of way line of the West approach of the Mississippi River Bridge (Gramercy), as shown on Louisiana Department of Transportation and Development (Office of Highways) Map for State Projects Nos. 434-01-01 and 434-01-02 dated December 13, 1988.

Exhibit D

CASH SALE

131544

STATE OF LOUISIANA

PARISH OF ORLEANS

On this 30th day of April, 1990, before me, an Attorney Notary Public for the State of Louisiana, and in the presence of the subscribing witnesses, personally appeared:

ALFRED M. BARNES, JR. and DOROTHY PRECHTER BARNES
born Prechter, married to and residing with each other,

JOHN P. BARNES
married but once and then to Ann Reed from whom he is divorced,

WALTER S. BARNES and ANN WOOD BARNES
born Wood, married to and residing with each other,

ELIZABETH FAYE BARNES
a single woman,

MELISSA ANN BARNES
a single woman,

EMILY BARNES THERRELL
married but once and then to Robert J. Therrell with whom she is residing, herein dealing with her own separate property,

BARBARA BARNES BELL
married to and residing with R. Michael Bell, herein represented by her agent, Alfred M. Barnes, Jr., pursuant to the attached Power of Attorney, herein dealing with her own separate property,

ALFRED MASON BARNES, III
married to and residing with Cecilia M. Barnes with whom he is residing, herein dealing with his own separate property

WALTER S. BARNES, JR.
a single man, herein represented by his agent, Walter S. Barnes, pursuant to the attached Power of Attorney

STEPHEN G. BARNES
a single man,

JEAN BARNES HENSON
married but once and then to Larry Henson from whom she is divorced, herein dealing with her own separate property,

(herein collectively called "Seller")

who declared that for the price of SEVEN MILLION NINE HUNDRED NINETY-EIGHT THOUSAND EIGHT HUNDRED SIXTY-FOUR AND NO/100 (\$7,998,864.00) DOLLARS cash, receipt of which is hereby acknowledged, Seller hereby sells and delivers with full warranty of title and subrogation to all rights and actions of warranty Seller may have unto:

FORMAT CORPORATION

a New Jersey corporation and a wholly owned subsidiary of Formosa Plastics Corporation, U.S.A., a Delaware corporation, herein represented by Alden L. Andre, its duly authorized "Attorney-In-Fact" whose mailing address is declared to be P. O. Box 271, Baton Rouge, Louisiana 70821 (herein "Buyer")

the following described property, the possession and delivery of which Buyer acknowledges.

A certain tract of land, together with all the buildings and improvements thereon, situated in St. John the Baptist Parish, Louisiana, on the right descending bank of the Mississippi River, southwesterly of the landward toe of the Mississippi River levee right of way, which is more particularly described on Exhibit A hereto and is part of the property designated as Whitney Plantation on a survey map made by Daryl B. Patin, C.E., dated March 1, 1990, as revised through April 27, 1990, a copy of which is attached as Exhibit B hereto (the "Property"), subject to the servitudes and encumbrances set out on Exhibit C hereto.

In addition and in consideration of the sale of the Property, Seller further transfers and quitclaims to Buyer without any warranty whatsoever, any and all right, title and interest Seller may have in all alluvion, batture and sand bars formed and attached to the Property and all accretions to said Property by reliction and dereliction as well as all additions to said Property resulting from the changing of water courses or the opening of new channels, including but not limited to that property designated as "Batture" on the aforesaid map made by Daryl B. Patin, C.E., attached hereto as Exhibit B, consisting of 188 acres, more or less, situated between the mean low water line of the Mississippi River and the landward toe of the Mississippi River levee right of way.

Seller represents that to the best of their knowledge and belief there has not been any discharge, emission, leaking, leaching, disposal, deposit, dumping or spilling of any solid waste, hazardous waste, hazardous substance or material, hydrocarbon or other pollutant on the property herein conveyed except as disclosed in writing to Buyer and that the individual Sellers, together in undivided interests, own a 100 percent interest in the Property herein sold.

AND, NOW, hereunto intervenes Robert J. Therrell, husband of Emily Barnes Therrell, who declares that he hereby transfers and quitclaims without any warranty whatsoever even for the return of any part of the purchase price any right, title and interest that he may have in the property, herein sold and quitclaimed and further acknowledges that the property and bature herein conveyed and/or quitclaimed by his wife is her separate property.

All parties signing the within instrument have declared themselves to be of full legal capacity and duly authorized to act herein.

All agreements and stipulations herein and all of the obligations herein assumed shall inure to the benefit of and be binding upon the heirs, successors and assigns of the respective parties, and the Buyer, its successors and assigns, shall have and hold the described property in full ownership forever.

Any tax, conveyance, mortgage or other certificates required by law are hereby waived and dispensed with by the parties. Taxes for the year of 1990 have been prorated and will be paid by Buyer.

DONE AND SIGNED at New Orleans, Louisiana on the date first above written in the presence of me, Notary, and the undersigned competent witnesses who have signed in the presence of the parties and me, Notary.

WITNESSES:

[Signature]
[Signature]

Alfred M. Barnes, Jr.
ALFRED M. BARNES, JR.

Dorothy Pletcher Barnes
DOROTHY PRETCHER BARNES

John P. Barnes
JOHN P. BARNES

Walter S. Barnes
WALTER S. BARNES

Ann Wood Barnes
ANN WOOD BARNES

Elizabeth Fay Barnes
ELIZABETH FAY BARNES

Melissa Ann Barnes
MELISSA ANN BARNES

Emily Barnes Therrell
EMILY BARNES THERRELL

BARBARA BARNES BELL

BY: Alfred M. Barnes, Jr.
Alfred M. Barnes, Jr., Agent

Alfred M. Barnes, Jr.
ALFRED M. BARNES, JR.
Walter S. Barnes, Jr., Agent

By Walter S. Barnes, Jr. agent
WALTER S. BARNES, JR.

Stephen G. Barnes
STEPHEN G. BARNES

Jean Barnes Henson
JEAN BARNES HENSON

INTERVENOR:

Robert J. Therrell
ROBERT J. THERRELL

FILED FOR RECORD
1930 MAY -2 PM 1:38
CLERK OF COURT
PARISH OF ST. JOHN
THE BAPTIST, LA.

FORMAT CORPORATION

BY: Alden L. Andre
Alden L. Andre
Attorney-In-Fact

James E. Sampson
NOTARY PUBLIC

EXHIBIT AWHITNEY PLANTATION:

A tract of land situated in the Parish of St. John the Baptist, on the right bank of the Mississippi River about 12 1/4 leagues above the City of New Orleans, known as the Whitney Plantation, measuring 23 arpents, more or less front on said river by a depth of 70 arpents, more or less, between converging lines; the upper line at about 60 arpents from the said river, running irregularly, said plantation bounded on the upper line by lands formerly belonging to Lesin Becnel.

A tract of land situated in the Parish of St. John the Baptist on the right bank of the Mississippi River, measuring 7 acres, more or less front on said river, by 40 arpents more or less in depth between converging lines, together with double concession thereof; bounded on the upper line by the property of Alovon Granier, known as "Home Place" up to the 40 arpent line thence by the property of Ulysse Dufresne and Mrs. Mary Sallee and others and on the lower line by the property formerly belonging to Bradish Johnson and now the St. Martin and Perret and hereinbefore firstly described.

LESS AND EXCEPT:

A certain lot of ground, situated at the upper and front portion of said property measuring 157 feet front on the public road and extending therefrom towards the rear between converging lines, to a depth of 872 feet on its lower line and of 884 feet on its upper line, at which depth it has a width of 110 feet bounded on the front by the public road above by the property of Alovon Granier and on the lower line and in the rear by the property secondly above described of which it formed part.

All of the above described property is more fully shown on a blue print of a survey by H.B. Landry, Civil Engineer and Surveyor dated May 14, 1937, annexed to an act of mortgage by Armand E. St. Martin, et als to The Prudential Insurance Company of America, dated August 23rd and September 21, 1937, and according to said survey said property is known as the "Whitney Plantation"; the said plantation is bounded on the upper side by the "Home Place", formerly Alovon Granier, and also the property now or formerly belonging to Ulysse Dufresne and others and on the lower side by the Evergreen Plantation and measures as follows:

Beginning at a point on the upper line of said plantation, near the river, and located in Highway No. 30 shown by the letter "B" on said plan and measures thence North 24 degrees 51 minutes East 0.89 chains; thence along the toe of the levee as follows: North 87 degrees 45 minutes East 2.30 chains, South 73 degrees 45 minutes East 12 chains, South 63 degrees 05 minutes East 3.55 chains, South 45 degrees 25 minutes East 5.92 chains, South 30 degrees 15 minutes East, 7.53 chains, South 26 degrees 30 minutes East 21 chains, South 26 degrees 45 minutes East 8 chains, South 30 degrees East 8 chains, South 31 degrees East, 29.90 chains to the lower line of said plantation, thence south 26 degrees 30 minutes West 11.70 chains to an old grate bar situated 16 links North of Highway No. 30; thence along the lower line of said plantation South 39 degrees 30 minutes West 118.77 chains to an old iron post marked U.S. corner between Section 16 and Section 60, thence South 39 degrees West 71.84 chains more or less to a 2 1/2 inch iron pipe, thence south 30 degrees 30

minutes West 29.50 chains to the extreme rear end of said plantation, thence North 16 degrees 30 minutes West 30.63 chains, thence North 46 degrees 57 minutes East 12.51 chains, thence North 15 degrees 48 minutes West 13.91 chains, thence North 43 degrees 37 minutes East 19.90 chains, thence North 12 degrees 47 minutes East 80.75 chains, thence North 55 degrees 56 minutes East 5.52 chains, thence South 29 degrees 47 minutes East 1 82 chains to a point marked "A", thence North 24 degrees 26 minutes East 119.73 chains to the place of beginning marked "B", also all batture rights between the measurement herein indicated along the toe of the levee of the Mississippi River.

Less and except the right of way sold to the Texas and Pacific Railway Company by sale dated November 29, 1926 filed as Entry No. 1743, any governmental rights and rights of public to right of way for Louisiana Highway 18 (formerly Highway 30) and the portion shown as Grainer's lot which measures as follows:

Beginning at the upper line of said plantation and the south side of Highway No. 30 and extending in a southeasterly direction 157 feet along said right of way, thence in a southwesterly direction 872 feet, thence westerly 110 feet, thence along the upper boundary line of said plantation 884 feet to the point of beginning.

The said plantation according to said survey containing 1332.7 acres, embracing Sections 16, 17, the greater part of 18, the whole of Sections 58, 59 and 60 in Township 12 South, Range 18 East, West of the Mississippi River.

Being the same property acquired by Whitney Plantation, Inc. from Alfred M. Barnes by Act of Sale recorded on September 28, 1949 in Book 16, folio 206 of the conveyance records of St. John the Baptist Parish, Louisiana.

LESS AND EXCEPT a lot measuring 100 feet front on Louisiana Highway 18 by a depth of 200 feet sold by Whitney Plantation, Inc. to St. John the Baptist Waterworks District No. 2 by Cash Sale recorded on October 1, 1954, in Book 27, folio 405 of the conveyance records of St. John the Baptist Parish, Louisiana.

AND which Property is also shown and described according to the Boundary Survey made by Daryl B. Patin, C.E. attached as Exhibit B as follows:

Commence at a grate bar marking the Southeast corner of Section 60, T12S, R18E, in St. John the Baptist Parish, thence proceed N 18° 11' 30" W along the section line dividing Sections 52 and 60 a distance of 2,006.59 feet to an iron pipe and corner; thence N 46° 03' 18" E a distance of 856.30 feet to an iron pipe and corner; thence N 16° 39' 59" W a distance of 917.24 feet to a steel bar and corner; thence N 42° 43' 44" E a distance of 1313.40 feet to a point and corner; thence N 11° 49' 55" E a distance of 5,329.50 feet to a point and corner; thence N 54° 58' 55" E a distance of 364.32 feet to a point and corner; thence S 30° 44' 06" E a distance of 120.12 feet to a point and corner; thence N 23° 28' 55" E a distance of 7,902.18 feet to a point and corner; thence S 61° 11' 22" E a distance of 110.00 feet to a point and corner; thence N 26° 24' 44" E a distance of 872.00 feet to a point on the southerly right of way line of Louisiana Highway 18 and corner; thence N 48° 27' 15" W along the Southerly right of way of Louisiana Highway 18 a distance of 20.48 feet to a point; thence

continue along said right of way along the arc of a curve to the left with a radius of 359.97 feet a distance of 136.52 feet to a point and corner; thence N 23° 28' 55" E a distance of 54.10 feet to a point; thence continue N 23° 28' 55" E a distance of 0.87 feet to point; thence N 23° 53' 55" E a distance of 37.27 feet to a point on the southwesterly line of the Mississippi River levee right of way; thence N 85° 17' 26" E along said right of way line a distance of 132.45 feet to a point; thence S 75° 18' 22" E along said right of way line a distance of 804.48 feet to a point; thence S 64° 34' 45" E along said right of way line a distance of 186.80 feet to a point; thence S 51° 24' 15" E along said right of way line a distance of 102.23 feet to a point; thence S 48° 16' 38" E along said right of way line a distance of 310.72 feet to a point and corner; thence S 28° 48' 45" E along said right of way line a distance of 2,892.47 feet to a point; thence S 31° 28' 56" E along said right of way line a distance of 1844.45 feet to a point; thence S 36° 51' 06" E along said right of way line a distance of 199.74 feet to a point and corner; thence S 25° 42' 05" W a distance of 702.98 feet to a point on the Northeasterly right of way line of Louisiana Highway 18; thence S 25° 42' 05" W a distance of 61.05 feet to a point on the Southwesterly right of way line of Louisiana Highway 18; thence S 38° 42' 05" W along the section line dividing Sections 15 and 16 a distance of 7,828.66 feet to grate bar marking the common corner of Sections 15, 16, 60 and 61; thence S 38° 37' 37" W along the section line dividing Sections 60 and 61 a distance of 4,669.52 feet to an iron pipe marking a corner of Sections 61 and 78; thence S 29° 36' 47" W along the section line dividing Sections 60 and 78 a distance of 1944.87 feet to a grate bar and the point of beginning.

Said property being situated according to said map in all or parts of Sections 16, 17, 18, 19, 20, 56, 57, 58, 59 and 60, Township 12 South, Range 18 East, St. John the Baptist Parish, Louisiana.

LESS AND EXCEPT the property sold to the Texas and Pacific Railway Company by Act of Sale dated November 29, 1926 filed as Entry No. 1743 of the records of the Clerk of Court of St. John the Baptist Parish, Louisiana and the 0.445 acre tract fronting on the Southwesterly side of Louisiana Highway 18 sold to the St. John the Baptist Water Works District No. 2.

EXHIBIT C

1. Right of way for Louisiana Highway 18.
2. A 150 foot right of way for Texas Pacific Railroad Company, now Union Pacific Railroad Company.
3. Right of Way permit dated March 7, 1958 granted by Whitney Plantation, Inc. to Louisiana Power and Light Company, for electric lines including poles, wires and other appurtenances recorded on March 24, 1959 in COB 41 Folio 275.
4. Right of Way Agreement dated May 21, 1959 granted by Whitney Plantation, Inc. to Monterey Pipeline Company, for a pipeline for oil, gas, petroleum products or other liquid or gaseous substances recorded on May 28, 1959 in COB 41 Folio 483.
5. Drainage Right of Way dated February 1, 1971 granted by Whitney Plantation, Inc. to Parish of St. John the Baptist, Louisiana, for a 70 foot drainage right of way through Section 60 recorded on April 7, 1972 in COB 71 Folio 491.
6. General Permit dated January 11, 1972 by Whitney Plantation, Inc. to South Central Bell Telephone Company for a right of way across a strip of land six (6) feet in width along and west of Louisiana Highway 18 recorded on March 13, 1972 in COB 75 Folio 551.
7. Any rights of way for siphons from Mississippi River to Louisiana Highway 18 right of way as shown on Vicinity Map on Exhibit "B" hereto and for water mains or pipes within the right of way for Highway 18.
8. With respect to the batture, a servitude for public use of space along the banks of the Mississippi River as provided by Article 665 of the Civil Code of Louisiana.

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1990 MAY -2 PM 1:38
CLERK OF COURT
PARISH OF ST. JOHN
THE BAPTIST, LA.

LIMITED POWER OF ATTORNEY

BE IT KNOWN, that I Walter S. Barnes, Jr. ,
 the undersigned, do hereby grant a limited power of attorney to
 Walter S. Barnes , as my attorney-in-fact.

My attorney-in-fact shall have full power and authority
 to undertake and perform the following on my behalf: (Describe
 specific authority) To sign any and all documents regarding the sale
 of the property known as Whitney Plantation, St. John Parish, LA. to
 Format Corporation or its assigns.

My attorney-in-fact agrees to accept this appointment
 subject to its terms, and agrees to act and perform in said
 fiduciary capacity consistent with my best interests as he in
 his discretion deems advisable.

This power of attorney may be revoked by me at any time,
 provided any person relying on this power of attorney shall have
 full rights to accept the authority of my attorney-in-fact until
 in receipt of actual notice of revocation.

Signed under seal this 18 day of January , 1990.

Walter S. Barnes, Jr.

Subscribed and sworn to before me this 18th day
of January, 1990

Mary Hill Inker
Notary Public

Signed in the presence of:

Lele M. Henderson
Witness Signature

1314 Michael St.
Address

Debra Paragino
Witness Signature

1921 Carol Sue Ave
Address

I hereby agree to accept the appointment as attorney-in-fact, pursuant to the foregoing power of attorney.

[Signature]
Attorney-in-fact

532

SPECIAL POWER OF ATTORNEY

UNITED STATES OF AMERICA

STATE OF COLORADO

COUNTY } OF LAMPLATA
PARISH }

CITY OF DURANGO

January 3 19 40

Before me, a Notary Public, duly commissioned and qualified in and for the above-indicated State and Parish (County), and in the presence of the undersigned witnesses, personally came and appeared the hereinafter named and undersigned PRINCIPAL, who declared under oath that he is of legal age and his marital status is as hereinafter set forth, and further that he does by these presents make, name, ordain, constitute and appoint the hereinafter named AGENT and ATTORNEY-IN-FACT (hereinafter referred to as AGENT), of the full age of majority, to be his true and lawful AGENT, hereby giving and granting unto said AGENT full power and authority, for him, and in his name, place and stead, to do and perform all the things and acts specified herein and in the numbered paragraph(s) indicated or completed below.

PRINCIPAL further authorizes and empowers his said AGENT to do and perform any and every act, matter and thing whatsoever, as shall or may be requisite and necessary in order to effectuate the purposes for which this power of attorney is granted, as fully and with like effect as if PRINCIPAL had been personally present and had done any such thing, performed any such act, and/or had signed all and any such document, deed, note, contract, application or other agreement, PRINCIPAL hereby ratifying and confirming any and all things done by his said AGENT and adopting them as his own act and deed.

PRINCIPAL further expressly stipulates that any ambiguities which may arise in the interpretation hereof shall be liberally construed so as to effectuate the purposes hereof and to validate all things done by AGENT. Whenever used herein, the singular number shall include the plural, and the masculine gender shall include all genders. Said AGENT shall also have full power of substitution and revocation, hereby ratifying and confirming and agreeing to ratify and confirm all and whatsoever the said Attorney shall lawfully do or cause to be done by virtue hereof.

The purpose for which this power of attorney is granted is:

- I. Applicable
 Not Applicable

To direct, instruct, authorize and permit AGENT to sell and deliver the hereinafter described real estate, and/or all of PRINCIPAL'S right, title and interest therein, with warranty of title and with subrogation of all actions of warranty, unto any person, firm or corporation or association, for such price and on such terms and conditions as AGENT may deem proper, to pay and discharge any and all charges, expenses and encumbrances in connection therewith, and to receive and receipt for the selling price.

- II. Applicable
 Not Applicable

To direct, instruct, authorize and permit AGENT to purchase the hereinafter described real estate for the price and sum of \$ _____ In cash and \$ _____ to be evidenced by PRINCIPAL'S promissory note and secured by vendor's lien and/or mortgage on such real estate.

- III. Applicable
 Not Applicable

To direct, instruct, authorize and permit AGENT to borrow, from any person, firm or corporation, the total sum of \$ _____ said loan to be evidenced by PRINCIPAL'S promissory note and secured by vendor's lien and/or mortgage on the hereinafter described real estate, or PRINCIPAL'S undivided interest therein.

In the event that paragraphs II and/or III hereinabove shall be applicable, PRINCIPAL does hereby expressly authorize AGENT:

(a) To execute the necessary sale and resale or act of mortgage to create a vendor's lien in favor of any building and loan association, and/or to execute any act of sale and/or mortgage, conventional mortgage, or any form of mortgage required to obtain mortgage loan insurance or loan guarantees from the Veterans Administration or Federal Housing Administration, on such form and on such terms and conditions as the lender shall require, the said instrument to contain all usual Louisiana security clauses, including by way of example, but not limited to, confession of judgment, waiver of appraisalment, waiver of homestead exemption from seizure, and pact de non alienando.

(b) To make, execute and deliver in PRINCIPAL'S name a promissory note in the amount of the credit portions of the purchase price or the amount of the loan, said note to be payable at such maturity and at such rate of interest and on such terms and conditions as AGENT shall deem proper. AGENT may increase or decrease the amount of the note, not to exceed ten (10%) percent.

- (c) In the event that any loan is obtained from a building and loan association, to subscribe to shares of stock in said association and to pledge same to secure the loan, and to comply with all of the provisions of the charter, by-laws, and rules and regulations of such building and loan association, and all other things as such building and loan association shall require.
- (d) To obligate PRINCIPAL jointly and in solido in the event that there are other borrowers or purchasers

NAME, RESIDENCE AND MARITAL STATUS OF PRINCIPAL:

BARBARA A. BARNES BELL, who stated under oath that she has been married three times, first to Sidney H. Phillips, Jr., from whom she was divorced in 1974 in Houston, Harris County, Texas; second to Corbett Ray, from whom she was divorced in the year 1978, in Durango, Laplata County, Colorado, in case #DR-2261, District Court for La Plata Co.; and third to R. Michael BELL with whom she is now living and residing at 327 Sortais Road, Durango, Laplata County, C

NAME AND RESIDENCE OF AGENT:

ALFRED M. BARNES, JR.
 1601 St. Charles Avenue
 New Orleans, LA 70130

~~DESCRIPTION OF REAL ESTATE FORMING THE SUBJECT OF THIS POWER OF ATTORNEY~~

This Power of Attorney is granted so that Agent can sell and execute a sale of all of my right, title and interest in and to the real property in St. John the Baptist Parish, State of Louisiana, known as the Whitney Plantation, which interest is owned by me as my sole and separate property, and which interest is believed to be an undivided 6.2% interest in and to the property described as a tract of 1,332.7 acre more or less, consisting of Sections 16, 17, and a portion of 18, 58, 59, and 60, Township 12 South, Range 18 East, with improvements, West of the Mississippi River.

THUS DONE AND PASSED, in multiple originals, at the City and State aforesaid on the date above set forth, in the presence of the undersigned competent witnesses, who have hereto signed their names with said PRINCIPAL and me, Notary, after due reading of the whole.

WITNESSES:

R. Michael Bell

R. Michael Bell

Larry Holcomb

Larry Holcomb

Barbara A. Barnes Bell

PRINCIPAL

BARBARA A. BARNES BELL

~~PRINCIPAL~~

~~PRINCIPAL~~

Rosemary F. Bid

NOTARY PUBLIC

000030

CAUTION! The Notary cannot be a witness.

(SEAL)

Exhibit E

Probably Part of ^{ENTRY} 131545
FOLLOWING.

I noticed the original page (maybe a map) had been ripped out of this original act book.

Harold N. M. [Signature]
Clerk of Court
St. John the Baptist Parish
3-14-1994

P.S. Positively, anyone caught destroying any records, on the spot or proven later, will be charged criminally.

[Signature]

over

Left part of the
bound page.

RATIFICATION OF * STATE OF LOUISIANA
 POWER OF ATTORNEY AND *
 CASH SALE * PARISH OF ORLEANS
 * * * * *

On this 1st day of May, 1990,

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in the above-indicated State and Parish, and in the presence of the undersigned competent witnesses, personally came and appeared,

WALTER S. BARNES, JR.

who declared under oath that he is a single man, who on January 18, 1990 executed a Limited Power of Attorney naming Walter S. Barnes, his father, as Attorney-in-Fact to represent him regarding the sale of the Whitney Plantation, St. John the Baptist Parish, Louisiana, to Format Corporation or its assigns, a copy thereof executed front and back being attached hereto;

That on April 30, 1990 he was outside the State of Louisiana, and his Attorney-in-Fact appeared and executed on his behalf a Cash Sale of the Whitney Plantation, in accordance with said Power of Attorney and in compliance with his obligation to sell under Agreement to Buy and Sell dated May 19, 1989, and Extension Agreement dated September 28, 1989 and Second Extension and Amendment Agreement dated February 20, 1990;

That he has viewed and approved a copy of the Cash Sale executed by his Attorney-in-Fact of the Whitney Plantation property as described in Exhibit "A" attached hereto, and he hereby ratifies the Power of Attorney as authorization to the execution of the sale by his Attorney-in-Fact, Walter S. Barnes and the Cash Sale of the Whitney Plantation property described herein for the sum stated therein, and all other actions of his Attorney-in-Fact regarding the sale and closing thereof, and ratifies and confirms the sale of all his right, title and interest in and to the real property known as the Whitney Plantation in accordance with the Cash Sale dated April 30, 1990;

That he understands the Format Corporation, as buyer, will rely upon this ratification, and may at its option annex same to the original Cash Sale at recording, or separately record same;

That his present address is 5221 Sanford, Metairie, Louisiana 70002, and the name and residence of his Agent and Attorney-in-Fact was and is Walter S. Barnes, 14 Thrush Street, New Orleans, Louisiana 70124;

That the signatures of his Agent and Attorney-in-Fact, as such, and separately as a seller therein is the signature of Walter S. Barnes, his Agent and Attorney-in-Fact.

THUS DONE AND PASSED, in multiple originals, at the Parish and State aforesaid on the date above set forth, in the presence of the undersigned competent witnesses, who have hereto signed their names with said PRINCIPAL and me, Notary, after due reading of the whole.

WITNESSES:

Elizabeth A. Mentras

Walter S. Barnes, Jr.
WALTER S. BARNES, JR.

Jorge

000034
Jess R. Nelson
JESS, R. NELSON, NOTARY PUBLIC

LIMITED POWER OF ATTORNEY

BE IT KNOWN, that I Walter S. Barnes, Jr. ,
the undersigned, do hereby grant a limited power of attorney to
Walter S. Barnes , as my attorney-in-fact.

My attorney-in-fact shall have full power and authority
to undertake and perform the following on my behalf: (Describe
specific authority) To sign any and all documents regarding the sale
of the property known as Whitney Plantation, St. John Parish, LA. to
Format Corporation or its assigns.

My attorney-in-fact agrees to accept this appointment
subject to its terms, and agrees to act and perform in said
fiduciary capacity consistent with my best interests as he in
his discretion deems advisable.

This power of attorney may be revoked by me at any time,
provided any person relying on this power of attorney shall have
full rights to accept the authority of my attorney-in-fact until
in receipt of actual notice of revocation.

Signed under seal this 18 day of January , 1990.

Walter S. Barnes, Jr.

Subscribed and sworn to before me this 18th day
of January, 1990

Mary Hall Inker
Notary Public

Signed in the presence of:

Sela M. Henderson
Witness Signature

1314 Michael St.
Address

Debra A. Paragino
Witness Signature

1921 Carol Sue Ave
Address

I hereby agree to accept the appointment as attorney-in-fact, pursuant to the foregoing power of attorney.

Attorney-in-fact

EXHIBIT AWHITNEY PLANTATION:

A tract of land situated in the Parish of St. John the Baptist, on the right bank of the Mississippi River about 12 1/4 leagues above the City of New Orleans, known as the Whitney Plantation, measuring 23 arpents, more or less front on said river by a depth of 70 arpents, more or less, between converging lines; the upper line at about 60 arpents from the said river, running irregularly, said plantation bounded on the upper line by lands formerly belonging to Lesin Becnel.

A tract of land situated in the Parish of St. John the Baptist on the right bank of the Mississippi River, measuring 7 acres, more or less front on said river, by 40 arpents more or less in depth between converging lines, together with double concession thereof; bounded on the upper line by the property of Alovon Granier, known as "Home Place" up to the 40 arpent line thence by the property of Ulysse Dufresne and Mrs. Mary Sallee and others and on the lower line by the property formerly belonging to Bradish Johnson and now the St. Martin and Perret and hereinbefore firstly described.

LESS AND EXCEPT:

A certain lot of ground, situated at the upper and front portion of said property measuring 157 feet front on the public road and extending therefrom towards the rear between converging lines, to a depth of 872 feet on its lower line and of 884 feet on its upper line, at which depth it has a width of 110 feet bounded on the front by the public road above by the property of Alovon Granier and on the lower line and in the rear by the property secondly above described of which it formed part.

All of the above described property is more fully shown on a blue print of a survey by H.B. Landry, Civil Engineer and Surveyor dated May 14, 1937, annexed to an act of mortgage by Armand E. St. Martin, et als to The Prudential Insurance Company of America, dated August 23rd and September 21, 1937, and according to said survey said property is known as the "Whitney Plantation"; the said plantation is bounded on the upper side by the "Home Place", formerly Alovon Granier, and also the property now or formerly belonging to Ulysse Dufresne and others and on the lower side by the Evergreen Plantation and measures as follows:

Beginning at a point on the upper line of said plantation, near the river, and located in Highway No. 30 shown by the letter "B" on said plan and measures thence North 24 degrees 51 minutes East 0.89 chains; thence along the toe of the levee as follows: North 87 degrees 45 minutes East 2.30 chains, South 73 degrees 45 minutes East 12 chains, South 63 degrees 05 minutes East 3.55 chains, South 45 degrees 25 minutes East 5.92 chains, South 30 degrees 15 minutes East, 7.53 chains, South 26 degrees 30 minutes East 21 chains, South 26 degrees 45 minutes East 8 chains, South 30 degrees East 8 chains, South 31 degrees East, 29.90 chains to the lower line of said plantation, thence south 26 degrees 30 minutes West 11.70 chains to an old grate bar situated 16 links North of Highway No. 30; thence along the lower line of said plantation South 39 degrees 30 minutes West 118.77 chains to an old iron post marked U.S. corner between Section 16 and Section 60, thence South 39 degrees West 71.84 chains more or less to a 2 1/2 inch iron pipe, thence south 30 degrees 30

minutes West 29.50 chains to the extreme rear end of said plantation, thence North 16 degrees 30 minutes West 30.63 chains, thence North 46 degrees 57 minutes East 12.51 chains, thence North 15 degrees 48 minutes West 13.91 chains, thence North 43 degrees 37 minutes East 19.90 chains, thence North 12 degrees 47 minutes East 80.75 chains, thence North 55 degrees 56 minutes East 5.52 chains, thence South 29 degrees 47 minutes East 1 82 chains to a point marked "A", thence North 24 degrees 26 minutes East 119.73 chains to the place of beginning marked "B", also all batture rights between the measurement herein indicated along the toe of the levee of the Mississippi River.

Less and except the right of way sold to the Texas and Pacific Railway Company by sale dated November 29, 1926 filed as Entry No. 1743, any governmental rights and rights of public to right of way for Louisiana Highway 18 (formerly Highway 30) and the portion shown as Grainer's lot which measures as follows:

Beginning at the upper line of said plantation and the south side of Highway No. 30 and extending in a southeasterly direction 157 feet along said right of way, thence in a southwesterly direction 872 feet, thence westerly 110 feet, thence along the upper boundary line of said plantation 884 feet to the point of beginning.

The said plantation according to said survey containing 1332.7 acres, embracing Sections 16, 17, the greater part of 18, the whole of Sections 58, 59 and 60 in Township 12 South, Range 18 East, West of the Mississippi River.

Being the same property acquired by Whitney Plantation, Inc. from Alfred M. Barnes by Act of Sale recorded on September 28, 1949 in Book 16, folio 206 of the conveyance records of St. John the Baptist Parish, Louisiana.

LESS AND EXCEPT a lot measuring 100 feet front on Louisiana Highway 18 by a depth of 200 feet sold by Whitney Plantation, Inc. to St. John the Baptist Waterworks District No. 2 by Cash Sale recorded on October 1, 1954, in Book 27, folio 405 of the conveyance records of St. John the Baptist Parish, Louisiana.

AND which Property is also shown and described according to the Boundary Survey made by Daryl B. Patin, C.E. attached as Exhibit B as follows:

Commence at a grate bar marking the Southeast corner of Section 60, T12S, R18E, in St. John the Baptist Parish, thence proceed N 18° 11' 30" W along the section line dividing Sections 52 and 60 a distance of 2,006.59 feet to an iron pipe and corner; thence N 46° 03' 18" E a distance of 856.30 feet to an iron pipe and corner; thence N 16° 39' 59" W a distance of 917.24 feet to a steel bar and corner; thence N 42° 43' 44" E a distance of 1313.40 feet to a point and corner; thence N 11° 49' 55" E a distance of 5,329.50 feet to a point and corner; thence N 54° 58' 55" E a distance of 364.32 feet to a point and corner; thence S 30° 44' 06" E a distance of 120.12 feet to a point and corner; thence N 23° 28' 55" E a distance of 7,902.18 feet to a point and corner; thence S 61° 11' 22" E a distance of 110.00 feet to a point and corner; thence N 26° 24' 44" E a distance of 872.00 feet to a point on the southerly right of way line of Louisiana Highway 18 and corner; thence N 48° 27' 15" W along the Southerly right of way of Louisiana Highway 18 a distance of 20.48 feet to a point; thence

continue along said right of way along the arc of a curve to the left with a radius of 359.97 feet a distance of 136.52 feet to a point and corner; thence N 23° 28' 55" E a distance of 54.10 feet to a point; thence continue N 23° 28' 55" E a distance of 0.87 feet to point; thence N 23° 53' 55" E a distance of 37.27 feet to a point on the southwesterly line of the Mississippi River levee right of way; thence N 85° 17' 26" E along said right of way line a distance of 132.45 feet to a point; thence S 75° 18' 22" E along said right of way line a distance of 804.48 feet to a point; thence S 64° 34' 45" E along said right of way line a distance of 186.80 feet to a point; thence S 51° 24' 15" E along said right of way line a distance of 102.23 feet to a point; thence S 48° 16' 38" E along said right of way line a distance of 310.72 feet to a point and corner; thence S 28° 48' 45" E along said right of way line a distance of 2,892.47 feet to a point; thence S 31° 28' 56" E along said right of way line a distance of 1844.45 feet to a point; thence S 36° 51' 06" E along said right of way line a distance of 199.74 feet to a point and corner; thence S 25° 42' 05" W a distance of 702.98 feet to a point on the Northeasterly right of way line of Louisiana Highway 18; thence S 25° 42' 05" W a distance of 61.05 feet to a point on the Southwesterly right of way line of Louisiana Highway 18; thence S 38° 42' 05" W along the section line dividing Sections 15 and 16 a distance of 7,828.66 feet to grate bar marking the common corner of Sections 15, 16, 60 and 61; thence S 38° 37' 37" W along the section line dividing Sections 60 and 61 a distance of 4,669.52 feet to an iron pipe marking a corner of Sections 61 and 78; thence S 29° 36' 47" W along the section line dividing Sections 60 and 78 a distance of 1944.87 feet to a grate bar and the point of beginning.

Said property being situated according to said map in all or parts of Sections 16, 17, 18, 19, 20, 56, 57, 58, 59 and 60, Township 12 South, Range 18 East, St. John the Baptist Parish, Louisiana.

LESS AND EXCEPT the property sold to the Texas and Pacific Railway Company by Act of Sale dated November 29, 1926 filed as Entry No. 1743 of the records of the Clerk of Court of St. John the Baptist Parish, Louisiana and the 0.445 acre tract fronting on the Southwesterly side of Louisiana Highway 18 sold to the St. John the Baptist Water Works District No. 2.

Exhibit F

Chemical complex backed by St. John zoning board

By **BOB WARREN**
River Parishes bureau

Amid catcalls from opponents, the St. John Parish Planning and Zoning commissioners voted 6-0 Monday night to rezone an 1,800-acre site allowing construction of a \$2 billion rayon

plant and petrochemical complex proposed by Formosa Plastics Corp.

The Parish Council tonight at a special meeting in LaPlace is expected to accept introduction of an ordinance reflecting the zoning change, paving the way for public hearings and further debate over the con-

troversial issue.

Supporters say the proposed plant will be a safe, clean economic boon.

Those who oppose it say it will mean more pollution of an already fragile environment and drastically fewer jobs than predicted by government officials —

See PLANT, A-4

From Page 1

women to the diaconate, historically a preliminary step to the priesthood for men, and to "the lay ministries" of lectors and readers of Scripture at worship services.

The Vatican should also examine further whether girls can be acolytes, or altar girls.

"The exclusion of women and girls from certain aspects of service at the altar ... seem to contradict our mandate that women be more visibly involved," the draft says.

"We encourage participation by women in all liturgical ministries that do not require ordination. Similarly we support the theological preparation of women to preach the gospel and to use their gifts as preachers in the church."

A bishops' committee, authorized by the National Conference of Catholic Bishops, has been working on the proposed pastoral letter on women for about five years.

The 99-page second draft, 65 pages shorter than a 1988 draft, was sent to the church's approximately 350 bishops asking for their responses. The bishops hold their annual meeting in November.

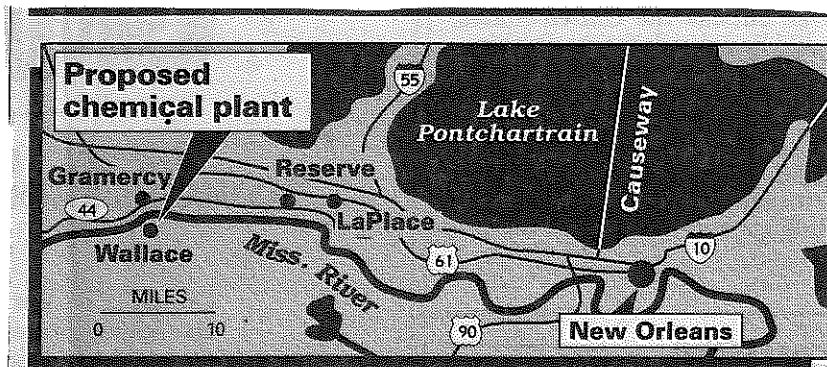
The draft says numerous church practices have "depersonalized and depreciated women" and left them "objects of suspicion, condemnation, condescension or simply ignored."

"We intend, therefore, to ensure that women are empowered to assume positions of authority and leadership in church life in a wide range of situations and ministries," it says.

The document, called "One in Christ Jesus — A Pastoral Response to the Concerns of Women for Church and Society," was drawn up by a six-bishop committee led by Bishop Joseph Imesch of Joliet, Ill.

Five women were consultants, and 75,000 women in 100 dioceses, 25 national women's organizations and 60 college campuses sent advice.

Men and women "are equal in dignity before God and before one another," the draft says, and "incapacity to deal with women as equals" indicates lack of fitness for the priesthood.



Plant

From Page 1

in short, a boondoggle.

Monday's meeting at the parish courthouse in Edgard marked the second time the Planning and Zoning Commission has heard arguments over the issue. At last week's public hearing, commissioners, obviously taken aback by the stiff opposition, postponed their vote so another public meeting could be held.

Last year, Formosa tentatively announced its intention to buy the 1,800 acres in the Wallace area on the west bank of the Mississippi River and build a \$2 billion rayon plant and petrochemical complex. But no official announcement has been made.

St. John and Formosa officials on Monday quickly moved to stem fears that the plant would be unsafe, would displace many families in Wallace, and that the historic Whitney Plantation would be bulldozed to make room for it.

That won't be the case, said Alden Andre, Formosa's vice president for operations.

Andre said parish and state officials came to Formosa two years ago and asked to be considered as a plant site, "in their sincere desire to improve the economics of the state and parish."

Andre said Gov. Roemer met with Formosa chairman Y.C. Wang and was assured that the company would install a state-of-the-art plant that would be clean

and safe. Andre also said the company planned to work with parish educational organizations to train potential workers.

Andre said if Formosa cannot get the parish to rezone the property, it doesn't have plans to put it elsewhere in St. John.

"Formosa does not mean death," said Paul Stein of Wallace, one of several persons who spoke for the plant. Stein said the plant would be safe and would increase the value of the surrounding property.

St. John President Lester Millet said the plant is "in the best interest of all the people in St. John." He said the plant, over 20 years, would generate \$280 million in parish taxes.

But area environmentalists and preservationists said the parish, through tax breaks, is virtually giving Formosa \$30 million during the next 10 years.

Earlier Monday, opponents held a news conference and criticized the plant and local officials.

Parish officials, in their efforts to land the Formosa plant, "have shown a total disregard for the health and welfare of the people of the community," said Carl Baloney, who said he owns property in Edgard and Garyville. The people of the West Bank "don't want a chemical plant in their front yards," he said.

Audrey Evans of Tulane's Environmental Law Clinic read from a Texas group's report that alleged numerous violations at Formosa's Point Comfort, Texas, plant.

Exhibit G

PROCEEDINGS OF THE PLANNING AND ZONING COMMISSION OF THE
PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA, TAKEN AT
A PUBLIC HEARING ON MARCH 26, 1990.

The Planning and Zoning Commission of the Parish of St. John the Baptist, State of Louisiana, held a public hearing at the parish courthouse on the westbank in Edgard, Louisiana on March 26, 1989, at six thirty o'clock (6:30) P.M..

There were present: Messrs. Nicholas Baudoin, Felton Collins, Keith Gillies, Ernest Johnson, Eldridge Kliebert, Eddie Vollenweider and Mrs. Minnette Montegut. Absentees were Mr. Jobe Boucvalt and Mr. Ferrol Lasseigne.

The Planning and Zoning Commission of the Parish of St. John the Baptist, State of Louisiana was duly convened for the Public Hearing by Chairman Keith Gillies, who stated that the Public Hearing was opened with the pledge of allegiance to our flag.

Mr. Gillies announced that the purpose of this hearing is to consider re-zoning parcels of land of the westbank of the parish and that it is not of an environmental nature. He introduced Mr. Mark Howard who stated that in October, Mr. Nicholas Baudoin requested a public hearing to re-zone properties on the westbank of the parish and this public hearing is the result of his request. At this time, Mr

Gillies announced that the hearing will be moved to the one of the courtrooms in order to accommodate the large group of people in attendance.

Mr. Gillies then read from the parish zoning manual definitions of I-1, I-2, I-3, and C-2 zoning classifications. These particular zoning classifications are the zones in question for some parcels of land on the westbank.

Mr. Gillies announced that all persons requesting to speak at the hearing, must sign the roster presented, and will have a time limit of four (4) minutes in which to speak. Those people who are against the re-zoning will be first to speak.

Zeb Mayhew, 3645 La 18 stated that he is requesting the zoning commission to keep the zoning classification like it is at this time, preserving the natural resources of the state keeping it healthy and asthmatic. Also that the land to be re-zoned will destroy a green belt from St. James High School to Taft, La.

Mrs. Geri Baloney, Garyville, La. is opposed to a zoning change saying, "we won't allow Genocide in Wallace." She stated concern that too many plants will be in our parish.

Mr. Carl Baloney, Garyville, La. is opposed to a zoning

change because he has no knowledge of the boundaries of the property; the area is 99% black; and the company contracts are undermining people to sell their property. He said that 80% of the people were unaware of the meeting and that the commission should educate the public. He asked the commission to not change the zoning on the property in question.

Mr. Samuel Jackson of Wallace, La. asked if the parish council will build a pier for Formosa Plastics; does Formosa own the batture, and will he have to move. He feels that landowners have been taken advantage of.

Fat Bryand, New Orleans, La. is against re-zoning because of the water pollution in the river. New Orleans residents are affected by other parish especially from the west and that chemicals from our area travel as far north as the Great Lakes.

Rep. Avery Alexander, 2107 N. Claiborne Ave. is concerned that dumping in the river affects neighboring parishes. Louisiana has developed "cancer alley" because of toxic wastes. He is not anti industry, plants or jobs and insist that plants must neutralize its waste. He asked to not issue a permit for this plant.

Ramona Stevens of Ascension Parish representing LEAN

group, stated that Ascension Parish has problems with chemicals coming upriver and pollute the air and water. She also said that Formosa is not a good neighbor, and that we have enough plants on the river.

Audrey Evans, coordinator from Tulane University says that the 42,000 residents of St. John Parish urged the commission not to re-zone the property. She read from several documents saying that Formosa Plastic is one of the Dirty Dozen, is exploding Taiwan, has labor lockouts in Texas, and has had permits revoked in Delaware. She asked not to re-zone the land in this parish for a chemical company.

Paul Aucoin, Wallace, La. reminded commissions that the hearing is a feasibility study in reality for the community of Wallace, La. He said to consider that people will be displaced, and if not displaced will live near a chemical plant and the integrity of the historical homes. He asked to consider other sites and do not change the zoning of Whitney Plantation.

Blanche Lovelly, resident of Orleans Parish asked who will benefit from the plant and where are the money and jobs. The plant is a danger to health. The 18th century records should be preserved. She strongly opposes re-zoning of the westbank property.

Frank Masson, Architect, New Orleans, La. is interested in preserving the house and said when the land is re-zoned the house is gone. Both Whitney and Evergreen should be saved.

Dr. Roland Waguespack, family physician from Vacherie said that cancer alley is national news and is non-debatable that several kinds exist in this region. He asked commissioners to consider health before architectural and industrial zoning of lands in this parish.

Mr. Wayne Wesley who resides on West 6th St. in Wallace, La. stated that his house is very near the Plant Site and is against re-zoning of this property because it too close to residential neighborhoods.

Mr. Gillies announced that those persons who are in favor of re-zoning the land will be introduced in the order that they signed the agenda. Mr. Gillies introduced Mr. Allen Andre, Vice president of operations and Plant manager of the Formosa Plant in Baton Rouge, Louisiana. Mr. Andre disagreed with speakers on the topic of Formosa's community and employee relations. He said that they do not railroad into any community but rather work with community officials and residents as a team for the betterment of both.

Mr. Andre stated that he realizes the Governor's and the

Louisiana Historical Society's strong interest in the Plantation Home on the site of the property in question. He stated that The Formosa Co. will donate the Whitney Plantation home, and all of the buildings situated on a 5.6 acre tract of land, to St. John Parish. It is his hope that the parish will form a committee to evaluate the restoration of this historical structure.

Commissioners were asked to realize the opportunity for the increase in parish employment with the Formosa Rayon Plant offering 515 permanent jobs and construction jobs in excess of 2000. This will be an economic boost to St. John Parish.

Referring to the Formosa Plant in Baton Rouge, Mr. Andre stated that it was built in the year 1968 and which time no environmental regulations existed. More recently the Department of Environmental Quality and the Environmental Protection Agency have requested improvements to meet current regulations and Formosa spent 21.5 million dollars on the plant. Formosa has been granted a permit for expansion to the Baton Rouge plant and will implement self imposed stronger regulations than EPA and DEQ requires. This addition will be built under State of the Art technology and under EPA and DEQ regulations.

Reference was made by Mr. Andre to the strike at the Baton Rouge plant, and he denied the locking out of employees

with no contract. Instead, employee salary increases were given before union voting occurred and the Union President was in attendance when the increased wages were negotiated and decided.

Mr. Andre asked the zoning commission to consider and grant the zoning change requested prior to April 30 which is the deadline for purchasing the Whitney Plantation Site. He promised that Formosa will be a good corporate neighbor and that this plant will be built with the most recent technology and with newest improved construction. Mr. Baloney interrupted and reminded commissioners to be knowledgeable about the ethylene chloride violations documented from the Taiwan Plant. Mr. Andre said that he was not in Taiwan when this occurred but he was impressed with the plant from a more recent visit. The Formosa plant in Delaware was closed by the EPA in 1968, rebuilt, and is now a model plant. Mr. Andry stated that local people will be a priority for employment in the plant with the company implementing a 6 month training program for the educational requirements. This will create a whole gamut of jobs in St. John Parish. He again requested a zoning ordinance change from R-1 to I-3 for the property under purchase agreement by Formosa Plastics, Inc. and shown on the Plat presented.

Mr. J. O. Abadie, a resident of Wallace, La., stated that he was confused by many of the remarks made during the

hearing, and that he believes in Union, Justice and Confidence. He has faith in Government and the EPA to issue necessary permits and regulations that will allow a plant to be constructed and be safe for all residents in surrounding areas. He was born on the Evergreen Plantation and remembered when it was tough to get thru the gates. He is very interested in preservation and the growth of Tourism and requests that the zoning commission grant the zoning change from R-1 to I-1 as requested by the Formosa Plant.

Mr. Abraham Adams, Jr. lives in Wallace and was born and raised in Wallace. He feels that people from New Orleans and Baton Rouge are interested in preserving historical sites in our parish, but no money is available for Wallace from Tourism. At one time Mr. Adams was employed by Whitney Plantation for fifty cents an hour and he said that people in our area were forced to seek employment elsewhere. Many persons work at chemical plants like Kaiser Aluminum, Exxon, Chevron and Shell and most live near those plants. Mr. Adams has been employed about thirty-five years as a construction worker at plant sites, and has always passed physical examinations as required for such employment with no problems. Mr. Abadie said that he is informed about the zoning regulations of the parish and he feels that many persons are angry about this re-zoning because they were not offered enough money for the sale of their property. Mr. Abadie stated that the parish needs jobs and he asked the

zoning commission to re-zone the property as requested by Formosa Plastic Co.

Mr. Paul Stein resides on the West Bank of the parish on West 9th St. and owns property that is included in the re-zoning request. He noted that most of the objections heard tonight are from people who do not reside in St. John Parish and are interested in Tourism. He stated that most of the employment on the west bank of the parish pays the minimum wage rate. He also noted that the buildings on the Evergreen and Whitney Plantations are poor in structure and very costly to restore and wondered at whose expense this would be. Having been working in a plant for 32 years and in good health he sees no reason for anyone to re-locate for health reasons. Mr. Stein asked commissioners to vote in favor of re-zoning the proposed Formosa Plant Site. He also presented certifications from other persons in favor of the re-zoning.

Ms. Virgie Johnson from Edgard, Louisiana stated that the Westbank of the parish suffers economically and that changes must come in order to move forward. She also said that with the EPA and DEQ checking construction of new plants, people should feel comfortable about the environment and that the zoning commission should re-zone the land to accommodate the Formosa Plastics Plant.

At this time Mr. Lester Millet stated that this hearing

is

to allow for a preliminary discussion on zoning of property, and that the commission will at a later time recommend to the parish council their opinion on the question of re-zoning the property in question. The council meeting will be on the 10th day of April, 1990.

Mr. Gillies advised persons present that he will allow rebuttals from each side allowing two minutes each.

Mr. Zack North from Baton Rouge, La. stated that St. John Parish has been cited for economic justice. He believes that the new plant will not hire local people and that the parish cannot keep up with the industrial growth.

Mr. Lebleman from the Green Peace Organization in Louisiana presented for information two pages of non-compliance to regulations by Formosa Plastics Corp. and said that the plant is no longer wanted in Louisiana.

Mrs. Dickerson asked the commission to explain the area to be re-zoned. She did not understand that the commission would re-zone some of the land but not all of it. She asked the parish council to advise the public when such a hearing will be had.

Ms. Ann Wilkenson from West Baton Rouge parish said that

from personal experience it is no fun to live near an industrial plant. She has experienced glass flying around her home from explosions as well as having to evacuate her home because clouds of possible toxic nature across from her home. She asked the commission to re-consider re-zoning in St. John Parish where residents live.

Mr. DeVille, Co-chairman of St. John Citizens for Environmental Justice questioned the powers of the South Louisiana Port Commission to buy land for an industrial plant. He also stated that pollution has no boundaries and that the parish should seek non-polluting industries.

Mr. Luke Fontanna, attorney for Save our Wetlands, Inc. stated that Money is what it is all about, and asked how much is clean air worth?

Mrs. Margaret Wesley requested a copy of plat showing the land to be re-zoned. She wondered if residents have been left out of the Industrial site and will be living adjacent to the plant. She stated that money is of no concern but the health of herself and her children comes first.

Mr. Paul Aucoin thanked the commission for allowing rebuttals. The environmental impact has not been considered and he asked commissioners to consider the environment first. He said that environmental concern starts here with

industrial areas not from residential areas. He asked to please consider before re-zoning, how many tracts of land has been purchased and how many tracts of land has been optioned.

Mr. Carl Baloney thanked the commission and commended them for conduction the meeting. He stated that Formosa is pure poison, a cemetary, and that whites are trapped with blacks and cannot sell their land. He said that integration caused white people to move out. Zoning regulations made Riverland Heights Community and will make Formosa Industry destroy the land on the westbank of the parish, and we all breath the same air that will be polluted. He asked to save Evergreen Plantation and do not make a hasty decision.

Mr. Andre defended the economic impact on the parish from the Formosa Plant and the potential for more jobs. He said that the first phase will be on three hundred acres, and that 25 more tracts of land are being purchased. Five hundred and fifteen jobs will be available from the first phase of the plant.

Mr. Marion Dumar stated that he was contacted by Mr. Durel Matherne for purchase of the land but not for re-zoning of the land.

Ms. Oralee Dixon said that Mr. Andry did not offer to re-locate her and the price offered for her land was too low.

If her land is zoned industrial, she will lose her property.

Mr. Baudoin offered a motion to recess the hearing for five minutes, seconded by Mr. Kliebert. There were no objections and the motion carried.

After the recess, Mr Howard addressed commissioners and stated that all points were well taken. Commissioners should decide if the feasibility meets the criteria for re-zoning. Also that with reference to the DEQ and EPA all rules must be enforced. He advised commissioners that all owners of land involved must be made aware of the re-zoning from residential to industrial.

Mr. Vollenweider offered a motion to suspend the hearing for this evening and schedule a continuance to be held on Monday, April 2, 1990 in the same meeting room. Mrs. Montegut seconded the motion and without objection the motion was approved. Mr. Gillies announced that the hearing will be continued on the next Monday, same time and place.

Mrs. Montegut offered a motion to adjourn the meeting for the night, seconded by Mr. Vollenweider. There was no opposition to the motion, and it carried.

Respectfully submitted,


Minnette Montegut, Secretary

PROCEEDINGS OF A PLANNING AND ZONING HEARING HELD ON
APRIL 2, 1990, EDGARD, LOUISIANA

SYNOPSIS OF COMMENTS MADE AT THE PLANNING AND ZONING HEARING ON
THE FORMOSA RE-ZONING

Favor

Alden Andre - Same comments made at the April 19, 1990
Meeting.

Favor

Burley Melton - Director of Environmental Safety
Formosa Plastics U.S.A. >A>

The chemical plants that are built today, and in the future are designed to meet the much tougher and stringent environmental regulations. We will not be granted a permit if we cannot meet these regulations. The Texas plant operation has not damaged the environment. There have not been any toxic concentrations leaving the plants property in air or water. Formosa is committed to assuring a better environment.

Favor

Ken Munger - Plant Manager of Formosa
Baton Rouge Facility

Pleased to report that during the past review period, from May, 1988 to the present, Formosa has only 1 minor violation, with a resulting fine of \$1,000. In a news article dated August, 1989, from the State Times, Formosa did not appear in the top 500 chemical plants which released the most toxic chemicals to the environment. Formosa will be a good corporate citizen.

Favor

Paul Stein - Wallace, Louisiana

Formosa Plastics has pledged to build a State-of-the-Art plant, which would minimize pollution. We have state and federal agencies that have set very stringent guidelines which Formosa must abide by. By creating good paying jobs, whether it's 50, 500, or 2,000 jobs, people working in this plant will live better lives. Formosa Plastics does not mean death, they represent health, prosperity and an improved way of life.

Favor

Lester Millet - Parish President
St. John the Baptist Parish

When we first initiated our discussion with Formosa, it was right after we had passed our economic development tax. The Parish was not aware at the time that the state had restrictions as to how local government could spend economic development money. After allowing our attorneys to research what could be done and what could not be done, it was decided that an economic development tactic would have to be structured around an Enterprise Zone. The Enterprise Zone allows the Parish and the State to grant exemptions to an industry that is willing to hire at least 35 or more percent of the local people, a certain percentage up to 100% of the sales tax. The commitment was that we would give Formosa 3 cents of the 4 cents sales tax that the Parish collected on construction projects. The incentive would be that if Formosa builds a half billion dollar plant, about \$200 million dollars of that would be in purchases of materials to go on the job. By getting this plant located in St. John Parish, over a 20 year period, it will mean a \$280 million dollar economic impact in direct taxes to the School Board and to the Parish government of St. John. Our School Board right now is in need of money, for better education for our children, to improve the recreation and other qualities of life in St. John Parish. We have very strong environmental rules in Louisiana and we do not feel that this plant can be built in Louisiana, unless, Formosa Plastics meets all environmental qualifications in order to get a permit to build this plant. We believe that Formosa Plastics will be a good citizen to St. John Parish. By getting commitments from the Chairman of the Board, the man that owns 98 percent of the company, we believe that he will see to it that local people get employment training and put into positions to qualify for jobs.

Favor

J. R. Abadie

After having to cross the ferry everyday for work, I welcome Formosa and ask my friends to save me a place in line when applications are being accepted.

Favor

Warren Pierre

For the future of our state and community, I see Formosa as being a positive factor and force. All of the products that we now enjoy come from chemical processes and if we want to have these processes continued, we have to allow the chemical

industries into our communities.

Favor

Nathan Stein - Wallace, Louisiana
Finance Manager
School Board and Sales Tax Collector

The School Board system in St. John Parish has had deficit problems for years. We have all of the resources to make our school system one of the best except for the financial resources. Citizens of this Parish need to concern themselves with the educational system.

Favor

Charles Hickman - Site Manager for Construction at Formosa

Formosa has a very aggressive safety policy and environmental policy. Formosa is a very safe plant and has done well economically and as far as the environment goes, it is well taken care of.

Favor

Brian Weber - LaPlace, Louisiana

Satisfied that the regulations are in force now and the regulators will do the job and the commitments from Formosa Plastics will satisfy the concerns of the environment. Formosa has also committed to hiring local people and also to train the people to be hired. Formosa will also have a big economic impact on the Parish for housing and local businesses who have been closing.

Favor

Danny Roussel - St. Charles Parish
Roussel's Industrial Fabricators

We need to fight for jobs. Formosa is first class people and we need them in Louisiana.

Favor

David Millet - St. John Parish

St. John Parish needs economic development, particularly the people on the West Bank. People who live on the West Bank of St. John Parish have to travel up river or down river at least 20 to 25 miles to get a decent job, or cross the Mississippi River everyday to get employment. We need the job

opportunities on the West Bank that Formosa will bring.

Favor

Rudolph Sorapuru - Edgard, Louisiana

People always ask when we are going to get a plant on the West Bank of St. John Parish. Here is our chance, we need Formosa to come into St. John Parish.

Favor

Sidney Young - St. John Parish

This plant is a necessity on the West Bank of St. John Parish. People on the West Bank need this plant for their children, so they won't have to leave Louisiana and their homes to find work.

Favor

John Burke - Edgard, Louisiana

For many years we have suffered in many ways with our children leaving here because of not being able to find employment. Formosa will definitely enhance environmental studies and we need the change on the West Bank of the Parish.

Opposed

Audrey Evans

Citizens of this Parish need to be aware that they will be exposed to the emissions of this plant. Citizens of other Parishes will also suffer.

Opposed

Gerald Tillman - Executive Director of Louisiana
Workers Toxic Chemicals

The workers of Louisiana, who work at these chemical plants, that have to deal with the chemicals, that get sick and bring it home to their families, are never thought of. We need to address these workers, they are crying out for help.

Opposed

Luke Fontana - Save Our Wetlands, Inc.

We need to consider what Wetlands will be affected. We need to breathe fresh air and drink fresh water, we do not need anymore pollution in our state.

Opposed

Mrs. Dickerson

Concerned about the Black People of the area and against putting Formosa in a black area.

Opposed

Ted Mayeaux - Vacherie, Louisiana
Citizen of the Region

Concerned about the resource management of our entire area and the Wetlands. The long range future of the entire West Bank's remaining green belt will be destroyed. Tourism offers one of the great opportunities for the small people of this area. The Great River Road up and both sides of the River has been identified as the second most desirable destination for tourists coming to the state of Louisiana. If we lose these resources, we can never bring them back.

Opposed

Reggie Davis - New Orleans, Louisiana
Tulane Law School

For all the children in the community that are going to be exposed to these toxic chemicals, we will need to build more hospitals. Every company that Formosa has ran, has been shut down. In Delaware they were closed down. In Texas they have so many non-compliance orders. Formosa is a dirty, nasty, dripping toxic company and they're bad news.

Opposed

Norman Marmillion - President of the Historical Society

We believe along with a lot of other people that the operation of the Formosa Plastics Rayon and Chemical Plants will do more harm than good to the citizens of the economy of this Parish. By bringing Formosa in, it does not serve to the sugar cane farmers of the West Bank who fear damage to their crops. It does not serve the children of this Parish or the local businessmen who want to create new businesses or expand their businesses.

Opposed

Jeanne Zerinque - Wallace, Louisiana

One lot will separate me from the Formosa site and I would have no problem with Formosa if it would do everything it promised. From what I hear, those promises will be mighty hard to keep. I am not concerned that they are selling a good product. I do not want to see Whitney become a graveyard. The only thing we can leave our children is a good clean environment.

Opposed

Leslie Jackson - 7th Street, Wallace, Louisiana

I am not against jobs or plants, I am only against being left in the middle of one. My daughter is frightened because she does not know if we will have to move. I have no answers to give my child.

Opposed

Avery Alexander - Citizen of Louisiana

We have found that the most polluted city in the state of Louisiana is Baton Rouge. If Formosa comes to this Parish, it will have an effect of poisoning the air, poisoning the water and poisoning the land.

Opposed

Blanche Lovely

To produce plastic will cause damage to the environment. We do not need any more chemicals in our area. There are hundreds of chemicals that have not even been tested by the government and only a few that have been tested. We do not know what safe levels are. There is no way we can guarantee the safety of any plant.

Opposed

Paul Aucoin - Wallace, Louisiana

We want to know what a rayon plant is. We want to know what petro-chemical plant they plan on building. As I understand it, that's called a cracker unit, like the one that exploded at Shell. Is it justified to take half of the Wallace community and sell it to Formosa? Should the other half live in a shadow of a plant? By re-zoning you are also jeopardizing the integrity of two historic homes.

Opposed

Yvette Alexander - Representing the Louisiana Coalition
for Tax Justice

Formosa's Baton Rouge plant has not hired a single permanent employee since 1980, according to the Louisiana Department of Economic Development. Formosa has hired only 1,031 construction workers since 1980, which is roughly 100 a year. How is Formosa going to meet their promises with a record like that.

Opposed

Wilfred Green - Wallace, Louisiana

There is nothing in Formosa coming for our benefit. I believe that the people are trying to buy the properties in this Parish, came here offering big bucks, when they themselves are going to make big bucks.

Opposed

Carol Waguespack

It is my understanding that Formosa, the Parish and this Zoning Commission do not have the legal authority to ex-propriate any property to make a deep water port. You would not put an all night bar room next to a school or a cattle feeding station next to a home.

Opposed

Gerry Broussard Baloney - River Area Planning Group

This group has been formed in order to fight the location of Formosa Chemical Plant in our back yard. It is always simple people with simple values that are misunderstood. We do not want Formosa in our back yards.

Opposed

Ramona Stevens - St. John Citizens for Environmental Justice

In Plaquemine, Louisiana which is in Iberville Parish, one town has disappeared because of the chemical company, and there is another town on the verge of disappearing. The town that disappeared was a black community. The children were sick, they were dying. We have got to stop putting chemical plants in the middle of communities. It will not only affect citizens in this Parish, but citizens in other Parishes.

Opposed

Fat Bryan

I would like to express tonight my greatest hopes and my worst fears. My worst fears are that your minds were made up before we, the people had a chance to express ourselves. My greatest hope is that for those people here that are committed to justice, will remember the words spoken by Dr. Martin Luther King.

Opposed

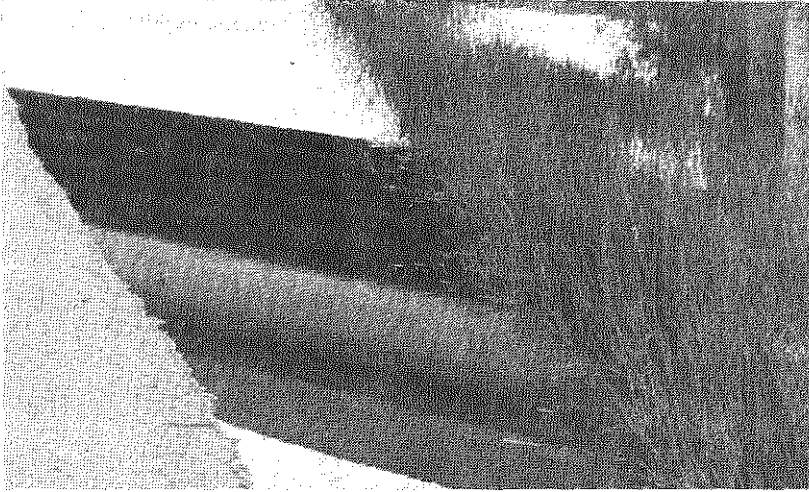
Carl Baloney - River Area Planning Group

You cannot keep living on the promises of jobs. We are concerned about jobs, but we are also concerned about our environment and the safety of our children. People have given you evidence that Formosa is a killer, a killer of children. It is unfair to come in and take away people's land and people's homes.

Minnette M. Montegut

Minnette Montegut, Secretary

Exhibit H



THROUGH THE LOOKING PUDDLE — Old Highway 51 last week was flooded under Interstate 10 and further north. Lake Pontchartrain waters were raised and pushed westward by persistent winds from a low-pressure system in the southern Gulf of Mexico, according to a National Weather Service official. PHOTO BY

JOE BYRNES

Officials defend Formosa rezoning

By JOE BYRNES

EDGARD — All nine St. John the Baptist Parish councilmen and the parish president took the witness stand in Edgard last week to defend their rezoning of the Whitney Plantation and adjoining tracts for a proposed Formosa Plastics Corp. facility.

Ad hoc judge Remy Chaisson of Thibodaux — a retired appellate court judge — heard testimony Wednesday through Friday. He set a June 7 deadline for filing of memoranda, after which he may make a ruling on the suit filed by the environmental organization Save Our Wetlands.

Charles Lorio — representing the parish along with fellow assistant district attorney George Ann Graugnard — said he was very pleased with the way the trial went.

The attorney for the Save Our Wetlands, Paul Aucoin, attempted to show that the rezoning by parish officials was “capricious and arbitrary” for lack of information and expert studies on the traffic, economic and environmental effects of the rayon, pulp-processing and

— possibly — other plants at the site.

Lorio and Graugnard argued that officials had taken into account issues relating to the public's health and welfare when deciding to rezone the approximately 1,500 acres from residential (R-1) to heavy industrial (I-3).

Councilmen said the economic benefits of the proposed plant were a deciding factor.

Parish attorneys asked councilmen to confirm that they had reviewed reports or letters from then-zoning administrator Mark Howard, finance officer Kent Broussard and zoning commission chairman Keith Gillis before the April 19 vote.

Despite outspoken opposition from some residents and environmental groups at two public hearings in March and April 1990, councilmen had voted 8-0 in favor of rezoning. Councilman Joel McTopy recused himself, though he too had supported the ordinance, he said.

Whether councilmen should

See FORMOSA, N220C66e

Formosa, From page 1

have had expert advice about the environmental and traffic-related effects of the zoning change was a central issue in the trial.

Some parish officials said they had been counting on the Environmental Protection Agency (EPA) and Louisiana Department of Environmental Quality (DEQ) to address environmental hazards from Formosa.

"We have state and federal agencies to do impact studies," testified Councilman Dale Wolfe. "Those are the responsibilities of those agencies.

"I don't see the need to hire an engineer or any type of expert to come in and do any type of study," said Wolfe.

Councilman Clinton Perrilloux said he had been concerned about the environmental impact but relied on assurances from Parish President Lester J. Millet Jr. and two councilmen — who had toured Formosa plants in Taiwan — that the new facilities would be "high tech."

"If EPA and DEQ do what they're supposed to do," said Councilman Ned Duhe, "we wouldn't have any problem.

"In my district (District 2), I have about 60 percent of the industry for the parish," he said. "I have approximately 15 plants.

"The benefits to be derived from these plants far outweigh the problems we can have from these plants. The area is much better off for these plants than it was 20 years ago," he said.

Millet said the parish would consider the EPA and DEQ studies before granting a building permit. He said the parish would "use the DEQ and EPA as a sounding block for environmental matters."

Speaking to Aucoin, Millet said, "You're the only one that's been

talking about experts, experts, experts. Here you have reports (in the works) by EPA and DEQ, and you want non-experts to make a two-bit study?"

Aucoin produced a June 4, 1990, letter by DEQ secretary Paul Templet regarding the department's role in local zoning issues. Templet wrote that local governments should not relegate to DEQ their responsibility to consider environmental concerns.

A number of councilmen said that in April 1990 they had not known what type of plant Formosa intended to build at the Whitney site or what its emissions might be. Councilman Bubby Haydel said he had thought it would be a petrochemical plant. Councilman Wolfe and Duhe said they had no idea what the raw materials or final products of the rayon facility would be.

Formosa originally considered St. John Parish as the site of an ethylene cracker facility that it decided, as early as October 1988, to build in Point Comfort, Texas, instead. Formosa determined before the rezoning hearings in 1990 that it would build a rayon and pulp-processing facility.

Formosa had considered property owned by Shell Oil Co. at Willow Bend, also in St. John Parish, down river from the current Wallace site. Willow Bend was already zoned for industrial use.

Formosa officials expressed dissatisfaction with the price per usable acre of that land. In January 1989, they decided to go with the Whitney site instead.

Formosa has purchased much of the land around the proposed facility, though some homes and much of the river bature remain unsold, according to area residents.

At the trial, Aucoin repeatedly asked whether studies had been commissioned to determine the effect the proposed new facility would have on traffic. None was conducted locally.

Graugnard said councilmen relied on experience and "common sense."

Friday, both sides in the suit presented zoning "experts," although Chaisson did not admit the testimony of the expert called by Aucoin. That expert — Ralph Thayer, a professor at the University of New Orleans — had not previously been listed among witnesses disclosed by Aucoin. Aucoin said he was not required to disclose a "rebuttal witness."

Initially, Judge Chaisson was going to allow the testimony, until it became evident that Thayer was already familiar with many of the documents relating to the suit.

Judge Chaisson then refused to consider Thayer's testimony, but allowed the testimony to be given for the record in case an appeals court should rule the testimony admissible.

Thayer said he thought councilmen had not gathered the information needed to make a proper determination on a major rezoning decision. "The responsibility is incumbent on the council to seek outside assistance," he said.

"If we start getting into economics as the basis," said Thayer, "it's going to be very hard to defend the rezoning."

McTopy said outside the courtroom that members of the zoning committee, which formulated zoning for the parish in 1984 through 1986, had expected that the west bank would be rezoned industrial when industries took an interest in it.