

Oil and gas industry plans offensive against legacy lawsuits

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BY: Jennifer Larino, Staff Writer

It doesn't take long for Warren Perrin, a Vermillion Parish native brimming with stories of his Acadian ancestors, to note that his family roots run deeper than the oil and gas wells drilled on the 3,000 acres his family owns in Vermillion Parish.

Perrin, an attorney, is one of about 75 heirs of Aristide Broussard, a Cajun cattle rancher who bought the stretch of land more than a century ago. The Texas Co., now known as Texaco, found a large natural gas deposit underneath the cattle pastures in 1942. The land has played host to a gas plant and drilling rigs since.

Perrin, who was born in a small house near the plant, noted the oil and gas employed and lined the pockets of many Broussards. But it also came at a cost.

Grass won't grow on patches of land where drilling activity took place. Ditches on the property lead to Boston Bayou, where oil containment boom has floated in the water for years.

Today, Perrin represents the Broussard family in 18 lawsuits seeking to recover the costs of cleaning up the family land from the oil companies that worked there, through so-called "legacy" lawsuits.

Vermillion Parish landowners have brought 41 legacy lawsuits to court in the past six years, making it a hotbed for what the Louisiana oil and gas industry says is a growing extortion scheme led by greedy lawyers. This year industry lobbyists vow to introduce legislation to fend off what they say is a wave of baseless environmental claims bringing oil and gas companies to their knees.

Perrin sees the situation more cut and dry. Every oil and gas lease spells out that damaged property must be restored. His family, like any landlord, expects its land to be cleaned, he said.

"We're not anti-oil, we're anti-pollution. They're not mutually exclusive," Perrin said.

Such landlord and tenant disputes are nothing new in south Louisiana, where oil and gas firms have sold and traded leases since the early 20th century. But industry leaders say legacy suits have ballooned in recent years.

They trace the spike back to 2003 when a group of landowners in Calcasieu Parish sued Shell Oil Co. and others for cleanup costs associated with an oil and gas terminal on a 320-acre tract of land. The Louisiana Supreme Court upheld a \$33 million jury award against Shell. The leased property in question was worth \$108,000.

The Louisiana Department of Natural Resources, which has overseen cleanup efforts once suits are settled since 2006, counts more than 270 legacy suits in its records. The agency oversaw remediation plans for 40 legacy suits originally filed in 2004, up from seven filed in 2003. DNR is also tracking 25 plans from cases filed in 2011.

Don Briggs, president of the Louisiana Oil and Gas Association, said more than half of the state's top oil and gas producers are tangled in legacy lawsuit litigation — 1,500 defendants total.

Instead of cleaning land, Briggs said a handful of plaintiff lawyers have formed a cottage industry in helping landowners win millions in damage awards with over-the-top cleanup plans. Though state law requires awards be used for cleanup, many in the energy industry question if that's the case.

The system hits small operators that buy properties from larger companies the hardest and is driving investment away from Louisiana oilfields, Briggs said.

“It’s not about the environment. It’s not about cleanup. It’s just ‘Throw me something mister,’” Briggs said.

The industry plans to throw its weight behind a measure that would allow the Department of Natural Resources to study and establish an amount companies are required to pay to clean contaminated land. Companies that agree to pay for regulatory cleanup would not be admitting responsibility for further private claims.

This attempt would be the third in nine years to control the legacy lawsuit environment. In 2003, lawmakers approved a law that required damage awards be used to clean public groundwater resources. In 2006, it was further clarified that all awards should be used solely for cleanup.

Scott Bickford, a New Orleans attorney representing Plaquemines Parish government among other plaintiffs in legacy suits, said moving cleanup disputes out of court opens the process further to industry lobbying efforts. There’s also the question of whether the state has the capacity to take on responsibility for cleanup hearings, he said.

“Do the regulatory agencies have the money and the staffing to evaluate, to check, to patrol and to monitor (pollution)? I’d tell you no. Is the legislature willing to fund that? I’d say no,” Bickford said.

Stuart Smith, a New Orleans attorney who has represented south Louisiana landowners for two decades, said claims that plaintiff attorneys are flooding courts with unwarranted lawsuits are false. Most suits cost more than \$200,000 in environmental audits and expert witness fees alone. If the pollution isn’t real, there’s no point bringing the case to court, Smith said.

“The truth is (companies) don’t want to pay. They want to be able to bury pollution on the landowner’s property. That wasn’t part of the contract,” Smith said.

Scott Sinclair, president of Tensas Delta Exploration Co. in Shreveport, has a hard time believing that. Tensas operates in Louisiana and Mississippi.

In 2006, a landowner filed a \$4 billion claim in Catahoula Parish for environmental damage on a 30,000-acre tract where Tensas shared ownership of mineral leases with Exxon Mobil Corp.

Sinclair said the final award, which he declined to disclose, was for less money, but the suit rattled company and its investors. Tensas is involved in two other lawsuits now.

Litigation and low natural gas prices have pushed the company out of Louisiana, Sinclair said. Though Tensas owns leases in oil rich parts of central Louisiana, he said the company is waiting to start drilling there.

“What everybody is afraid of is, what if somebody stubs their toe or if a hose breaks and something falls on the ground or an accident happens? Then the lawyers are just going to swoop down on it and gobble it up. You’re better off just staying away from it,” Sinclair said.

In Vermillion Parish, Perrin is skeptical lawsuits will keep oil and gas business away. The Broussard family has signed three drilling leases so far this year on its land.

“An oil company will drill where there is oil. If it’s under your house, they’re going to drill there. It makes no difference. ... We’re not running them off.”

http://www.nola.com/business/index.ssf/2012/02/federal_oversight_of_drilling.html