APPENDIX

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APPENDIX A

Minutes of a meeting of the Plaquemines Parish Council, held in the Belle Chasse Auditorium, 8398 Highway 23, Belle Chasse, Louisiana, on Thursday, September 12, 2013, at 1:33 p.m., pursuant to notice to all members with a quorum present as follows:

PRESENT: Council Member Byron T. Marinovich, Chairman
Council Member Kirk M. Lepine Vice-Chairman
Council Member Percy "P.V." Griffin
Council Member Stuart J. Guey
Council Member Anthony L. Buras
Council Member Burghart Turner
Council Member Jeff Edgecombe
Council Member Marla Cooper

Kim M. Toups, Council Secretary

ABSENT: Council Member Keith Hinkley

The Parish President is present.

Mrs. Janice Acosta, Director of Administration, Mr. Byron Williams, Director of Public Service, and Mr. Scott Lott, Director of Operations are present representing the Administration.

Council Member Marinovich lead the prayer.

Council Member Marinovich moved to advance to Agenda Hem 4a, "Proclamations". Without objection, so ordered.

PROCLAMATION

On motion of Council Member Guey, seconded by All Council Members, and on roll call all members present and voting "Yes", the following Proclamation was unanimously adopted:

A Proclamation declaring September 12, 2013, as

"**Rosemary Suess Day**"

in the Parish of Plaquemines.

WHEREAS, after receiving her Bachelor's Degree in Business Administration from Belmont Abbey, Rosemary Suess began her career with the YMCA 16 years ago in North Carolina as a group exercise instructor and personal trainer; and

WHEREAS, from there Rosemary expanded her service to the YMCA by becoming an Organization Leader wherein she began conducting operations and management duties; and

WHEREAS, 3 years ago Rosemary came to Louisiana where she began spearheading fund raisers and collection of contributions essential in the opening of the Belle Chasse YMCA; and

WHEREAS, Rosemary was the first Executive Director of the Belle Chasse YMCA and currently oversees the 4 YMCA facilities in Plaquemines Parish as District Manager; and

WHEREAS, after 3 years of hard work and dedication to the YMCA of Plaquemines Parish, it is time for Rosemary to leave our Parish and continue her dedication to and hard work in another community;

NOW, THEREFORE:

BE IT PROCLAIMED by the Plaquemines Parish Council, represented by its duly authorized Chairman, Byron T. Marinovich, and by concurrence of the Parish President, Billy Nungesser, representing the Plaquemines Parish Government, that it hereby declares September 12,2013, as

PRESENT BUT NOT VOTING: None

And the Ordinance was adopted on this the 12th day of September, 2013

ORDINANCE NO. 13-210

The following Ordinance was offered by Council Member Guey who moved its adoption:

> An Ordinance to authorize the Parish President to enter into negotiations and execute a contract with the attorneys; Carmouche and Associates, LLC, Connick and Connick, LLC, Cossich, Sumich, Parsiola & Taylor, LLC and Burglass & Tankersley, LLC for professional legal services for the investigation, preparation, filing and handling of such injunctive, declaratory, or other actions as are necessary to ensure compliance with coastal zone laws, statutes and regulations; and otherwise to provide with respect thereto.

WHEREAS, the Plaquemines Parish Coastal Zone Management department, within the authority granted to the Plaquemines Parish Council as representative and governing authority of the Parish of Plaquemines in any and all matters and actions, all rights, title, and interest in and to all lands and property owned by the Parish of Plaquemines, and to

all resources and revenues derived therefrom, administers the Plaquemines Parish Coastal Zone Management (CZM) Program pursuant to the provisions of La. R.S. 49:214.28 and consistent with the rules, guidelines, policies and objectives set forth in Subpart C (Louisiana Coastal Zone Management Program) of Part II of Chapter 2 of Title 49 of the Revised Statutes; and

WHEREAS, Louisiana Revised Statutes, Title 49, Section 214.36 authorizes Plaquemines Parish Government, through the Plaquemines Parish Council, to bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the coastal zone of Plaquemines Parish for which a coastal use permit has not been issued when required or which are not in accordance with the terms and conditions of a coastal use permit.

WHEREAS, the Plaquemines Parish Council has determined that investigation, preparation and filing of any actions authorized by Louisiana Revised Statutes, Title 49, Section 214.21, et seq, and specifically La. R.S. 49:214.36, requires the hiring of independent legal counsel for the Parish of Plaquemines with specialized knowledge and experience in pertinent state and federal coastal and environmental statutes and regulations, oil and gas statutes and regulations, environmental and ecological risk assessment and remediation, coastal loss mitigation, hydrology, hydro geology, and geological and lithological science; and

WHEREAS, pursuant to Resolution No. 13-138 and following the receipt of one qualification pursuant to the advertisement and promulgation of Requests for

Qualifications, the Parish President is authorized by the Plaquemines Parish Council to enter into an agreement in a form agreed to between the Plaquemines Parish Council and the attorneys, Carmouche and Associates, LLC, Connick and Connick, LLC, Cossich, Sumich, Parsiola & Taylor, LLC and Burglass & Tankersley, LLC for professional legal services for the investigation, preparation, filing and handling of such injunctive, declaratory, or other actions as are necessary to ensure compliance with coastal zone laws, statutes and; and

WHEREAS, the Council has reviewed the sole qualification submitted and contract;

NOW, THEREFORE:

BE IT ORDAINED BY THE PLAQUEMINES PARISH COUNCIL THAT:

SECTION 1

The Parish President is hereby authorized to execute a contract for professional legal services in a form agreed to between the Plaquemines Parish Council and the attorneys, Carmouche and Associates, LLC, Connick and Connick, LLC, Cossich, Sumich, Parsiola & Taylor, LLC and Burglass & Tankersley, LLC for professional legal services for the investigation, preparation, filing and handling of such injunctive, declaratory, or other actions as are necessary to ensure compliance with coastal zone laws, statutes and regulations.

SECTION 2

The attorneys;, Carmouche and Associates, LLC, Connick and Connick, LLC, Cossich, Sumich, Parsiola & Taylor, LLC and Burglass & Tankersley, LLC for

professional legal services for the investigation, preparation, filing and handling of such injunctive, declaratory,, shall immediately appoint a primary and secondary individual attorney contact, who shall have authority to, collectively, act on behalf of the attorneys in corresponding with, reporting to, and receiving direction from its Client, the Plaquemines Parish Council, as the representative and governing authority of the Parish of Plaquemines in any and all matters and actions, all rights, title, and interest in and to all lands and property owned by the Parish of Plaquemines, and to all services and revenues derived therefrom.

SECTION 3

The primary and/or secondary individual attorneys shall correspond with, report to, and receive direction from its client, the Plaquemines Parish Council, through its special counsel, Dwyer, Cambre and Suffern, L.L.C., or, in the alternative, directly from the Council as provided by the Plaquemines Parish Charter.

SECTION 4

The Secretary of this Council is hereby authorized and directed to immediately certify and release this Ordinance and that Parish employees and officials are authorized to carry out the purposes of this Ordinance, both without further reading and approval by the Plaquemines Parish Council.

WHEREUPON, in open session the above Ordinance was read and considered section by section and as a whole.

Council Member Marinovich seconded the motion to adopt the Ordinance.

The foregoing Ordinance having been submitted to a vote, the vote resulted as follows:

YEAS:	Council Members Percy "P.V." Griffin, Kirk M. Lepine. Stuart J. Guey, Burghart Turner, Jeff Edgecombe, Byron T. Marinovich, and Marla Cooper
NAYS:	None
ABSENT:	Council Member Keith Hinkley and Anthony L. Buras

PRESENT BUT NOT VOTING: None

And the Ordinance was adopted on this the 12th day of September, 2013

6:33 p.m. Vice-Chairman Lepine begins to preside over the meeting.

6:37 p.m. Chairman Marinovich resumes presiding over the meeting.

Council Member Marinovich defers Agenda Item 6x, "An Ordinance to amend the Five-Year Capital Improvements Plan for the Government Complex-Telecommunications Project; and otherwise to provide with respect thereto" and 6y, "An Ordinance to amend the Five-Year Capital Improvements Plan for the Plaquemines Parish Performing Arts and Visual Arts Program Project; and otherwise to provide with respect thereto". Without objection, so ordered.

ORDINANCE NO. 13-211

The following Ordinance was offered by Council Member Lepine who moved its adoption:

An Ordinance to amend the Five Year Capital Improvements Plan for the Generator-Sewer Lift

Station No. 7 Project; and otherwise to provide with respect thereto.

WHEREAS, approximately $80,000 is needed to purchase a generator for Sewer Lift Station No.

APPENDIX B

COMMON INTEREST, JOINT PROSECUTION AND CONFIDENTIALITY AGREEMENT REGARDING COASTAL LITIGATION UNDER THE STATE AND LOCAL COASTAL RESOURCES MANAGEMENT ACT

WHEREAS, the undersigned have a joint and common interest in establishing liability and recovering damages, costs, and other appropriate relief from those parties and/or other entities who may be legally responsible for coastal land loss and damage in Louisiana's coastal parishes; and

WHEREAS, the Attorney General is the chief legal officer of the State of Louisiana pursuant to Article IV, Sec. 8 of the Louisiana Constitution, and in order to assert or protect any right or interest of the State, he has the authority to institute, prosecute, and intervene in, any civil action or proceeding on behalf of the State, including proceedings authorized by La. R.S. 49:214.36; and

WHEREAS, under Article IX, Sec. 1 of the Louisiana Constitution (the "Public Trust Doctrine"), "[t]he natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people,"; and

WHEREAS, the State and Local Coastal Resources Management Act of 1978 (La. R.S. 49:214.21 *et seq*)

(hereinafter "SLCRMA") was enacted to protect and preserve the resources, land and waters of the Louisiana coastal zone; and

WHEREAS, the Attorney General, and the Governor, through the Secretary of the Louisiana Department of Natural Resources ("LDNR"), coastal parishes with approved coastal programs, and appropriate district attorneys, have the authority under La. R. S. 49:214.36 (D) to bring actions for damages and other relief for violations of coastal use permits or for the failure to obtain a coastal use permit when required; and

WHEREAS, pursuant to La. Const. Article IV, Sec. 5 of the Louisiana Constitution, the Governor is the chief executive officer of the State and is responsible for supporting the Constitution and laws of the State, and shall ensure the laws are faithfully executed; and

WHEREAS, Attorney General, the Governor through the Secretary of LDNR, and the coastal parish signatories and district attorney signatories to this Agreement wish to coordinate with regard to the prosecution of their respective claims for damages and other relief under SLCRMA; and

WHEREAS, the undersigned have a joint and common interest in protecting their work product and communications with each other; and

WHEREAS, the undersigned have a joint and common interest in maintaining any and all privileges, immunities, exceptions or protections against the disclosure or discovery of attorney work product and expert or consultant work product; and

WHEREAS, the undersigned believe the information gathered and exchanged under the provisions of this Agreement is protected by all available privileges, including, but not limited to, the common interest privilege articulated in Louisiana Code of Evidence article 506(B)(3), but, in an abundance of caution, enter into this Agreement, and

WHEREAS, the undersigned have a joint and common interest in coordinating settlement discussions with the defendants regarding claims under SLCRMA, and the undersigned believe that it is in the best interest of the State, the coastal parishes and the citizens of Louisiana that there be coordination with regard to settlement discussions, proposals, offers, acceptances and agreements;

THEREFORE the undersigned understand and agree that:

1. ***Court Appearances***: The attorneys retained by either the parishes or district attorneys shall be responsible for court appearances for the respective coastal parishes. To the maximum extent practicable, court appearances for the respective parishes shall be coordinated with the Attorney General and the attorney or attorneys representing the Governor through the Secretary of LDNR.

2. ***No Waiver of Privileges*****:** The voluntary exchange of documents or other information between the parties to this agreement shall not constitute a waiver, forfeiture, or limitation of any evidentiary or other privileges, immunities, or protections against disclosure or discovery. Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not be construed as creating any

obligation on the part of any party to this Agreement to share or exchange work product, documents, or any other information with any other party.

3. ***Reservation of Rights By The Attorney General*:** The Attorney General expressly reserves the right to amend his intervention in any case to allege supersession under La. Const. Article IV, § 8, provided that prior to filing of any pleading alleging the right to supersession, the attorneys who represent the coastal parishes or district attorney subject to such supersession shall be given 30 days written notice of any facts that support the Attorney General's right to supercede. The parties to this Agreement consent in advance to the use of summary proceedings to resolve any allegation of the Attorney General's claims to supersession. The parties to this Agreement and their attorneys reserve the right to oppose any claim or the right to supercede made by the Attorney General or any attorneys acting on behalf of the Attorney General.

4. ***Confidentiality*:** Except as may be ordered by court, the parties to this Agreement agree that: (a) All confidential and/or privileged documents, communications, information, strategy, experts, legal theories, and/or other work product exchanged by the parties to this Agreement will be kept strictly confidential and shall not be disclosed to any third party for any reason; (b) Any and all documents, communications, information, strategy, experts, legal theory and/or other work product that are exchanged by and through this Agreement that are otherwise confidential and/or privileged shall be kept and remain confidential and/or privileged; (c) Any communication (written, oral or electronic) between the parties to this Agreement pursuant to the terms of

this Agreement shall be kept and remain confidential and privileged. The confidentiality provisions of this paragraph apply to all employees, appointees, consultants, paralegals and staff of the parties to this Agreement.

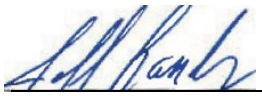
5. ***Notice of New Or Amended Petitions, Complaints, or Interventions*:** Any party to this agreement that files, or participates in the filing of, any original or amended petition or complaint, or any original or amended petition or complaint for intervention, in any suit under SLCRMA shall provide five days written notice to all parties to this Agreement before such filing. Any new petition filed after the Effective Date of this Agreement shall be governed by the provisions of this Agreement.

6. ***Consistency of Claims and Defenses*:** No party to this Agreement shall at any time expressly or impliedly endorse any substantive defenses or exceptions raised by any defendant in any claims filed by any party to this Agreement under SLCRMA. The parties to this Agreement agree that "in lieu" permits are "coastal use permits" as defined in SLCRMA and its regulations.

7. ***Execution and Communication*:** This Agreement may be executed separately by the parties and the signature pages (whether facsimile or actual originals) shall be combined and shall still constitute full execution of this Agreement and shall be fully binding as if it were executed as one single document. For all purposes of this Agreement, communication notices to the parties to this Agreement may be given by email or fax. The Effective Date of this Agreement is April 11, 2016.

AGREED TO BY EACH PARTY ON THE DATE(S) SET FORTH BELOW

LOUISIANA OFFICE
OF THE ATTORNEY
GENERAL



Jeff Landry
Attorney General

June 22, 2016
Date

PLAQUEMINES
PARISH

Brandon J. Taylor
Counsel for
Plaquemines Parish

June 15, 2016
Date

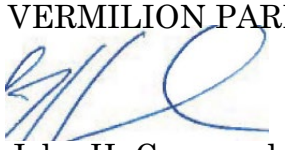
CAMERON PARISH

John H. Carmouche 6-15-2016
Date

JEFFERSON PARISH

John H. Carmouche 6-14-2016
Date

VERMILION PARISH



6-14-2016

John H. Carmouche Date

ST. MARTIN PARISH

s/ _____ 6/14/16

Date

IBERIA PARISH

By: _____ 6/14/16
Date

ST. MARY PARISH

6/14/16
Date

ST. BERNARD PARISH

6/16/16

Date

APPENDIX C

TWENTY-FIFTH JUDICIAL DISTRICT COURT

PARISH OF PLAQUEMINES

STATE OF LOUISIANA

NO. 60-996 **DIV. "B"**

THE PARISH OF PLAQUEMINES ET AL

VERSUS

ROZEL OPERATING CO., ET AL

FILED
Jan 13, 2025

FILED:_____ DEPUTY CLERK

REASONS FOR JUDGMENT
(Harm before SLCRMA/Retroactivity)

The Parish of Plaquemines, the State of Louisiana and the Louisiana Department of Natural Resources (now known as the Department of Energy and Natural Resources) have asserted claims of coastal use permit violations against numerous oil and gas companies in twenty-one separate lawsuits. [1] In this matter,

[1] The defendants in this suit are Rozel Operating Co.; ConocoPhillips Co.; Louisiana Land & Exploration, L.L.C.; Chevron USA Holdings, Inc.; Chevron USA, Inc.; The Texas Company; Apache Oil Corp.; Atlantic Richfield Co.; and LLOG Exploration & Production, LLC LLOG and Apache have been

numerous motions for summary judgment have been filed by plaintiffs and the various defendants.

Chevron U.S.A. Inc., Chevron U.S.A. Holdings Inc., The Texas Company, and Atlantic Richfield Company (Conoco Phillips Company, and The Louisiana Land and Exploration Company LLC joined in this motion but were dismissed without prejudice by plaintiffs subsequent to the hearing) have moved for partial summary judgment on plaintiffs' claims for alleged harm that occurred before the effective date of SLCRMA's coastal management program. For the following reasons, this motion is granted.

Defendants assert that regardless of any other legal or factual issues presented separately in this case, under SLCRMA, plaintiffs cannot, as a matter of law, recover for alleged harm that had already occurred before September 20, 1980. This was the date SLCRMA required coastal use permits (CUP) for any use or activity within the coastal zone which has a direct and significant impact on coastal waters.

Plaintiffs state that they seek no damages based on uses of the coastal zone that terminated before September, 1980. Rather, plaintiffs say that they seek damages based on non-exempt uses commenced after September, 1980, and non-exempt uses commenced before September, 1980 that were continued after September 20, 1980. They further argue that damages for pre-September 20, 1980 harms based on non-exempt uses commenced before and continued

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dismissed. Subsequent to the hearing, plaintiffs dismissed Conoco Phillips and Louisiana Land and Exploration from the litigation.

after September, 1980 are clearly recoverable under SLCRMA.

Subsection C(2) of La. R.S. 49:214.34 provides:

> (2) Nothing in this Section shall be construed as otherwise abrogating the lawful authority of agencies and local governments to adopt zoning laws, ordinances, or rules and regulations for those activities within the coastal zone not requiring a coastal use permit and to issue licenses and permits pursuant thereto. **Individual specific uses legally commenced or established prior to the effective date of the coastal use permit program shall not require a coastal use permit.** (Emphasis added)

SLCRMA clearly does not apply to activities of defendants in the coastal zone commenced or established prior to September 20, 1980, as SLCRMA did not require defendants to obtain a CUP to conduct those activities. Accordingly, the motion for partial summary judgment on this issue is granted.

Pointe a la Hache, Louisiana, this 13th day of January, 2025.

MICHAEL D. CLEMENT,
JUDGE

APPENDIX D

Twenty-Fifth Judicial District Court

Parish of Plaquemines

State of Louisiana

Case Number 60-996 Division: B

Parish of Plaquemines

versus

Rozel Operating Company, ConocoPhillips Company, The Louisiana Land and Exploration Company LLC, Chevron U.S.A. Holding Inc., Chevron U.S.A. Inc., The Texas Company, Apache Oil Corp., Atlantic Richfield Co., and LLOG Exploration & Production Co. LLC

Monday, February 10, 2025

Pointe-a-la-Hache Courthouse

18055 Highway 15, Pointe-a-la-Hache, Louisiana 70082

Honorable Judge Michael D. Clement presiding

Bailiff Ernest Davis, Jr.

Minute Clerk Tara Boudreaux Ordoyne

Courtroom Security

Court Reporter Michele L. Lafrance

* * *

THE COURT:

– you've got an empty chair.

MICHAEL RAUDON PHILLIPS:

I'll take it, Your Honor.

THE COURT:

There we go.

MICHAEL RAUDON PHILLIPS:

It's much more comfortable than the benches.

COURT REPORTER MICHELE L. LAFRANCE:

Who is that, Tara?

THE COURT:

Phillips.

COURT REPORTER MICHELE L. LAFRANCE:

Thank you.

MICHAEL RAUDON PHILLIPS:

Michael Phillips. I'm sorry.

COURT REPORTER MICHELE L. LAFRANCE:

Thank you, sir.

MICHAEL RAUDON PHILLIPS:

Michael Phillips.

COURT REPORTER MICHELE L. LAFRANCE:

Thank you, sir.

THE COURT:

All right. With that, Mr. Carmouche, I think we still have – and if – if I'm wrong – I checked my notes and my – my clerk notes you're going to pick up on your motion for new trial on the other issues today?

JOHN HOGARTH CARMOUCHE:

Yes, sir.

And I think we're going to take up the new trial on harms first.

THE COURT:

Then take away.

JOHN HOGARTH CARMOUCHE:

So, Your Honor, I want to get back to this – this narrow, narrow prayer that they ask for and then it gets morphed into this larger interpretation.

The defendants in this – in this motion filed a summary judgment saying that they had no obligation to obtain or comply with Coastal Use Permits before 1980's effective date of SLCRMA's permitting program.

We stood up, Your Honor, at the time and agreed. There's no way they could've obtained a permit when the permitting process did not exist.

But – and this is hard to – they – the motion they filed – they called it a legal conclusion. But there's nothing in the law that they point to in the statute or regulation that says that pre-1980 harm is not recoverable. As a matter of fact, it says the opposite.

And you tie that in with the grandfather clause, there's – there's so many facts and genuine issues of material facts as to each use: Was it exempt? Was it not exempt? So, to just make this overarching claim, it – it – it's just improper to make a legal determination as a whole on each individual specific uses.

THE COURT:

And if I can interrupt you for –

JOHN HOGARTH CARMOUCHE:

You can.

* * *

JOHNNY W. CARTER:

I'll tell you, Your Honor, they have an expert witness, Dr. James Gibeaut, who has analyzed aerial photos at various points in time, and he has prepared an exact calculation of how much land he thinks has been lost in the case area since 1979. It's 9,624 acres.

Your Honor's legal ruling on pre-1980 harms was correct. It's not a close call under the language of the statute.

What this motion is about: The plaintiffs have the calculations for pre- versus post-1980 land loss. They're arguing that they should be able to ignore causation just to get their damages number from $2 billion to $3 billion dollar by bringing in stuff from before 1980.

The issue of pre-1980 harms was thoroughly briefed last year and it was thoroughly argued in December. It does not depend one way or the other about on how you read the grandfather clause. If there were no grandfather clause at all in SLCRMA, if the plaintiffs could go back to the beginning of time to say that Texaco was negligent or Texaco violated Rule 29-B or Texaco violated Stream Control Commission rules, whatever you want to argue, that would be legally erroneous; but even under that interpretation, Your Honor, this motion, the pre-1980 harms motion, would have to be granted.

Just to give as an example – and this is an example that is, you know, derived from the facts of this case:

Texaco dredges a canal in 1945. The plaintiff now says, yes, the Army Corps of Engineers issued a permit to Texaco to dredge that canal in 1945. But we, Plaquemines Parish, have decided 80 years later

* * *

paid your — you paid your application fee, 20 bucks. They looked at it and said, "Nope, you don't need this CUP" or you needed a CUP. He's argued that. I've heard it.

JOHN HOGARTH CARMOUCHE:

And — and, Judge, I — I — I'm not make — I'm — I'm reading the statute and the — I keep going back to the LaRocco case; because if the statute regulation is clear, you can't look at some regulatory agency's interpretation. It's — it's — and this statute is very clear. It goes from lawful to unlawful. It's not — and — and the obligation to restore doesn't come into existence until it's terminated. That's —

THE COURT:

So, what my — so, what my —

I'm sorry to overtalk him, Madam Court Reporter.

COURT REPORTER MICHELE L. LAFRANCE:

Thank you, sir.

THE COURT:

So, what my rule does to your case, Mr. Carmouche, is prevent you from presenting evidence of the pre-SLCRMA harm.

JOHN HOGARTH CARMOUCHE:

If — if — if you — if what — if — yes. Correct.

THE COURT:

It's going to lead to a —

JOHN HOGARTH CARMOUCHE:

Because —

THE COURT:

— motion in limine that says you can't present this evidence, —

JOHN HOGARTH CARMOUCHE:

If they operate –

THE COURT:

— it's not —

JOHN HOGARTH CARMOUCHE:

— past 1980 and even if they were unlawful and did everything, it — bas— basically — not only, Judge, does it — does it gut the case — I stand in front of you today representing a regulatory body.

I mean, there will — why have a Coastal Zone Management statute if every time they can go down to that building where they get CUPs today — they are getting CUPs for pits that operated from 1940 today. They're getting CUPs. What this is going to allow is to go to that reg- — agency now getting CUPs and say, "Well, we just got a ruling. We don't need to come to you. We're done. That pit operated from 1940 to 1986. We're done."

It's a — it's — the law is written the way it's written for a reason. I mean, you cannot — the statute is very clear, and he's relying upon agency members to tell you and me what the plain language means.

THE COURT:

And I agree with you there. I — in the '40s, agency members and enforcement — Wildlife and Fisheries, they put an agent out there — in the — in the check box documents that — Lexie White?

PAMELA R. MASCARI:

[Nods head].

MICHAEL RAUDON PHILLIPS:

* * *

to overcome that and we're creating a mistrial or we're creating reversible error here. And I know you hear that all the time. I get that. But –

THE COURT:

I – I – I'm with you. And that's why we're having extended conversation with both – I don't usually do this.

MICHAEL RAUDON PHILLIPS:

Understood.

THE COURT:

I don't put you both – I mean, this is a – I think Mr. Carmouche said it best: It's going to – it's going to gut his case in terms of what this looks like moving forward.

I mean "gut," that might be too strong,

Mr. Carmouche. I don't know if –

JOHN HOGARTH CARMOUCHE:

Yeah. I mean, we –

THE COURT:

– gut's the –

JOHN HOGARTH CARMOUCHE:

The – the – the –

THE COURT:

Does it really turn it from a $3 billion to a $2 billion case? I – I don't know.

JOHN HOGARTH CARMOUCHE:

It – it turn – if – if you're saying – your Honor, first of all, –

THE COURT:

"Significantly less." Let's use –

JOHN HOGARTH CARMOUCHE:

How are you going –

* * *

the argument Mr. Carmouche made, which is – the record is now filled with all of the times he said disputed issues of material fact.

I understand your ar- – your argument or Your – Your Honor's – what you intend to do, your explanation. I do think you have to amend the reasons or else the reasons in the record are – is what you decided.

We don't agree with it; we don't stipulate it, so the record is clear. But I think you do have to do that to make the record clear.

THE COURT:

I'm not asking you for – clearly not asking you for a stipulation to my ruling...

MICHAEL RAUDON PHILLIPS:

Yes, sir.

THE COURT:

...at all.

I'm – I'm just merely trying to have this conversation. The Fourth Circuit sent something back to me last year and said I did not engage and – and discuss. It's up at the Supreme Court now. I don't – and still undecided.

But to – to have a – a robust conversation about my – my appreciation and what my ruling intended, my ruling intended what I – what I'm speaking now, not to hamstring presentation of evidence. So, perhaps, a motion in limine could – could remedy it; or jury instructions could remedy this dilemma that we're facing so that there's not writ.

But Mr. Carmouche has – has a vested interest in having an interpretation of SLCRMA in the

* * *

should have.

I guess – I guess I'm just a young judge still and have never dealt with a case of this magnitude. I – I have never. Not. I'll readily admit. So, if I need to grant the summary – grant the motion for new trial and issue a ruling, then I – I will do that.

Is there any objection to adopting the arguments for the purpose of my ruling without – without a new trial? That's where we go next.

MICHAEL RAUDON PHILLIPS:

Your – Your Honor, I – I – I – I – Chevron does not object to this being an argument on the new trial. I'm – I'm okay with that.

We object, obviously, to Your Honor changing the ruling based upon the argument and because it's

improperly – improper under Code of Civil Procedure. But –

THE COURT:

Okay.

MICHAEL RAUDON PHILLIPS:

– that argument has been made.

THE COURT:

All right. Well, here we go. Here's my ruling: Granting the motion for new trial.

Now, what day are we going to have the new trial?

[No response.]

THE COURT:

Let's pick it right now.

MICHAEL RAUDON PHILLIPS:

No. Your Honor, I'm saying I don't object to this being the argument on the new trial.

APPENDIX E

Rough Draft - not for official use

| | | UNCERTIFIED ROUGH DRAFT | | |
ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.
DAY 6

Taken on Monday, March 17, 2025

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COURTROOM PROCEEDINGS

(On record at 8:58 a.m.)

THE COURT: Good morning.

Everyone ready for the jury?

MR. CARTER: Yes, Your Honor.

THE COURT: Bring in the jury.

(REPORTER'S NOTE: AT THIS TIME, THE JURY ENTERS THE COURTROOM.)

(Roll called.)

MR. CARTER: I believe we left off with Dr. Gibeaut.

REDIRECT EXAMINATION

BY MR. CARTER:

Q. Good morning.

A. Good morning.

Q. I'll remind you, you're still under oath.

A. Can I go sit down?

Q. You may.

Dr. Gibeaut, good morning. I'm Johnny Carter, counsel for Chevron. I don't believe we've met before.

A. I don't believe so.

Good morning.

Q. And you, sir.

You are a paid expert witness hired by the attorneys for the plaintiff; right?

A. Yes.

Q. Okay.

And you're being paid $225 an hour for your work on this matter; right?

A. Correct.

Q. You've worked for the law firm representing the plaintiff in several cases over the last few years; right?

A. Yes.

Q. Let's talk about the boundaries of the case area that you analyzed. You talked about – you called it the study area on Friday. Sometimes we call it the case area. I'd like it start by talking with the boundaries. And to that end, let's look at P 7.62, which was a document that was admitted on Friday and ask that it be published to the jury.

You prepared P 7.62; right?

A. Yes.

Q. Okay.

This is the case area or study area; right?

A. Yes.

Q. Okay.

It's your understanding that the lawyers for the parish defined the boundaries that you can see. I've got this in red light here of the case area or study area; right?

***

1944 is more than halfway through that time period of 1932 to 1952; right?

A. Yes.

Q. Okay.

So let's look at your land loss calculation table, Plaintiff's Exhibit 7.14. So in 1952, there were – you calculated that there were 16,669 acres of land left in the case area; right?

A. Right.

Q. And I have – I'm going to ask you to do a little math today, but it's just going to be subtraction and division. And I did bring a calculation for this purpose if that would help.

MR. CARTER: Your Honor, may I approach the witness?

THE COURT: You may.

BY MR. CARTER:

Q. So we talked about how there were 17,934 acres of land in the case area in 1932 and 16,669 acres in

1952. So how many acres of land were lost in the case area in those 20 years, from 1932 to 1952?

A. 1,265 acres.

Q. Okay.

So there were 1,265 acres land lost in the case area. You don't know when that land was lost in the case area in those 20 years; right?

A. That's right.

Q. You have no basis to say more land was lost after 1941 versus before; right?

A. No, no basis.

Q. Okay.

You have no basis to say more land was lost after 1944 than before; right?

A. No basis on these data that are presented as they are.

Q. Right.

Now, let's go look at your map from 1932 to 1952 again, which we already looked at a little bit before, which is P 7.62.

And your opinion is that the red is where land was lost between 1932 and 1952; right?

A. Right.

Q. Okay.

You're not offering any opinion about why any part of the land was lost between 1932 and 1952; right?

A. That's right.

Q. Do you know that Texaco only operated in part of the case area; right?

A. Yes.

Q. And we have a slide to show using your map where Texaco operated, and so let's take a look at that.

You see the yellow lines to show where Texaco operated?

A. I see the yellow lines, and that is about the area where I know that Texaco operated.

Q. Okay.

Have you not calculated how much land was lost in those yellow lines which are about where Texaco operated; right?

A. I do not know how much land was lost within the boundary that you drew here representing the Texaco operating area.

Q. And you have not calculated how much land was lost in the case area outside the areas where Texaco operated; right?

A. Correct. It's not divided up in the data.

Q. Okay.

You did not assess whether any of the land loss you identified was caused by Texaco; right?

A. That's correct.

Q. You are not able to tell the jury how much of the land loss you calculated relates to Texaco's oilfield operations or how much of it relates to sediment deprivation from the levees or natural subsidence or other causes; right?

A. I don't know.

Q. Okay.

The next time period for which you analyzed land versus water in the case area is 1952 to 1956, and so let's take a look at that, which is P 7.63, which was previously marked on Friday.

P 7.63 shows land loss over four years, 1952 to 1956; right?

A. Yes.

Q. Let's add the yellow lines, okay?

You have not calculated how much land was lost from 1952 to 1956 near where Texaco operated; right?

A. That's correct.

Q. You have not calculated how much land was lost from 1952 to 1956 in the case area outside of the areas where Texaco operated; right?

A. That's right. However, we do show the

APPENDIX F

| | | UNCERTIFIED ROUGH DRAFT | | |
ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.

DAY 7 -MORNING A.M. SESSION

Taken on Tuesday, March 18, 2025

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COURTROOM PROCEEDINGS

(On record at 9:17 A.M.)

THE BAILIFF: All rise.

25th Judicial District Court for the Parish Plaquemines is now in session. The honorable Michael D Clement presiding. God save the stat and this honorable court.

THE COURT: Good morning.

All right. I apologize for the delay Judge Connor needed to meet with me for a moment.

One point of clarification. There was a suggestion or maybe some intimation that there was a motion for mistrial.

MR. CARMOUCHE: No Your Honor.

THE COURT: That is not before the court.

MR. CARMOUCHE: That is not before the court.

THE COURT: All right. I took some time yesterday and this morning to review transcripts of hearings, yesterday's hearing, and also the motion in limine filed by the plaintiffs. I am going to rule that the 2018 report is not to be used in this proceeding as a clarification to my prior ruling. That would be based on article 403 and the confusion that would result as the cascading effect of allowing that testimony to be part of this proceeding. That's it.

MR. PHILLIPS: Can I put something on the record, please?

THE COURT: Yes, sir.

MR. PHILLIPS: Maybe I'm jumping the gun, before I do, but has Your Honor made a decision about what, if anything, you're going to tell the jury about the objection to the questions yesterday.

THE COURT: I have not. With that ruling, Mr. Phillips, I don't think that I need to give them a great explanation other than the objection by Mr. Carmouche was sustained. There were no admonishments, is what I would tell them, to either side.

> MR. PHILLIPS: Okay. And we obviously object to Your Honor's ruling. You understand that.
>
> THE COURT: It's noted for the record.
>
> MR. PHILLIPS: And I want to say something yesterday, Your Honor, and I wasn't certain that my memory was correct so I went back and I wanted – I'm glad we took a break last night. I went back and I looked at the record as to exactly what has been put in the record so far regarding Apache.

In opening statement, Mr. Carmouche, specifically told the jury Apache bought the field. So the statement by Mr. Gregoire

* * *

use permit? That's what your document says right?

A. Yes. And there's an assumption that things before then were legally commenced is why that's there.

Q. You believe that's the assumption that this is based on?

A. It's based on largely on that assumption. Moving forward.

Q. Now you could issue a notice of a change to the coastal permitting rules if you wanted people who were trying to comply with the law to know what the rules are, know the rules are changing, know now you need to self-report if you are lacking in proper authorization before 1980? You could do that; right?

A. I can notice, yes ^.

Q. You have not done that; right?

A. I have not.

Q. And you haven't followed the process in your standard operating procedure to notify people in the regulated community of a change, have you?

A. Not as it relates to this, no.

Q. Okay. Were you aware that Texaco got 29 coastal use permits in Delacroix?

A. I'm not aware of the specific numbers. I know they got some, yes.

Q. But you don't have any reason to dispute that number?

A. No.

Q. So if Texaco – if they did, came to your office at least dozens of times trying to get the permits that your office believed they required in Delacroix –

A. ^Doesn't indicate that, yes.

Q. That doesn't indicate that Texaco was trying to ignore coastal permanent law; right?

A. I acknowledge that.

Q. And we've already covered that, but I want to confirm you've not issued any notice to Chevron or any other user of the coastal zone of the change to require coastal use permits for activities that began before 1980; right?

A. That's correct.

Q. And you've never once regulated an activity that began before 1980; right?

A. I have not.

Q. You're not. Aware of anyone issuing a coastal use permit for an activity that began before 1980?

A. I'm not aware.

Q. In fact, even today, you instruct your employees to tell the regulated community that those activities we just looked at if they predate 1980 are not a coastal management issue because they predate the program; right?

A. Correct.

Q. Let's look at another document. I'll hand you what's been marked CDX 1094.

Do you recognize this as a document entitled Office of Coastal Management Guide to Developing Alternates and Justification Analysis for Proposed Uses within the Louisiana Coastal Zone?

A. I'm aware of this document.

Q. And this document was also developed by your office to provide guidance to coastal permitting analysts and to users right? It's available on your website?

A. Correct.

MS. WHITE: Your Honor, I would move to admitted CDX 1094.

MR. FAIRCLOTH: No objection.

THE COURT: Received without objection.

BY MS. WHITE:

Q. Could we go to page 51 of this documented?

MR. FAIRCLOTH: ^Fifty-one.

MS. WHITE: ^Yes 51.

BY MS. WHITE:

Q. And here again, we're talking about removing lines installed before 1980. So this seems to come up a lot, fair to say?

A. Yes.

Q. It's a recuring issue.

A. Yes.

Q. And it is the reason it's recurring is because it's having impacts today; right?

A. It has through time of the program, yes.

Q. Even if the lines were installed before 1980?

A. Yes.

Q. It's having impacts today?

A. Yes.

Q. And and continues to come up.

A. Yes.

Q. And sometimes people want them removed?

A. Yes.

Q. And sometimes I imagine landowners do not want their land dug up?

A. That's correct.

APPENDIX G

| | | UNCERTIFIED ROUGH DRAFT | | |

ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.

DAY 8

Taken on Wednesday, March 19, 2025

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COURTROOM PROCEEDINGS

(On record at 9:04 a.m.)

THE BAILIFF: All rise. The 25th Judicial District Court, in and for the Parish of Plaquemines, is now in session.

Honorable Judge Michael Clement presiding. God save the State and this Honorable Court.

THE COURT: All right. There's a 4:00 o'clock appointment. He's – he's got to be on the 3:00 o'clock boat. I checked with traffic control going through the plant, so it's only like a two-minute drive from here to the ferry landing.

MR. CARMOUCHE: What time?

THE COURT: He's got to be on the 3:00 o'clock boat.

MR. CARMOUCHE: Okay.

MR. FUNDERBURK: Your Honor, we have one thing to take up before the jury comes in.

THE COURT: Okay.

MR. PHILLIPS: Why don't we – John, because of the time with the juror why don't we get started and if Your Honor's okay, we can do it at the end of the day.

THE COURT: Sure, whatever it is.

MR. PHILLIPS: Okay.

MR. TAYLOR: Your Honor, that works for us.

Before we let the jury in, I think we need to double-check and make sure the equipment was all working.

THE COURT: I got a green light. Yes. Got a connection. So if at any time you want to look to make sure, if I'm not here, both the green lights – it says "You're the prosecution laptop," "You're the defense laptop." It lights up green signaling that I read you. So I've got green lights on both.

Anything else?

MR. TAYLOR: No, Your Honor.

Jury enters.

THE COURT: You may be seated. Thank you.

(Roll called.)

THE COURT: All right. All jurors are present, counsel for both sides.

Mr. Taylor, are you ready to call the next witness?

MR. TAYLOR: Yes, Your Honor. For the record, Brandon Taylor on behalf of the Parish, and the Parish would call Mr. Rennie Buras to the stand, Your Honor.

THE COURT: Yes, sir.

RENNIE BURRAS II,

having been first duly sworn, was examined and testified as follows:

* * *

But isn't it true that even today, you as the head of the Office of Coastal Management responsible for enforcing the same coastal law that's at issue in this case, you have never once regulated an activity that began prior to 1980; right?

A. I have not.

Q. And we covered this again, but you have been head of the office since 2012; right?

A. Yes.

Q. And you're been at coastal management since 2010?

A. I believe that's – I believe that's right, yes.

Q. And you've been with the Department of Natural Resources or the department of natural and natural resources since 1999; right?

A. That's right.

Q. So in the entire 25 years you've been at DNR, you're not aware of the enforcement division of coastal management. This is also true ever even taking the position, ever even alleging with anyone in the regulated community that an activity that commenced before 1980 violated the coastal law? Is that right?

A. That's right.

Q. Now, Mr. Faircloth suggested – and I think you agreed with him – that there's been some acknowledge that. That not issuing permit for activities that began before 1980 was wrong –

A. I don't believe –

Q. – that that was a mistake?

A. I don't believe they ever acknowledged that. And I wasn't here for opening comments.

Q. Well, do you believe that it was a mistake not to look back at activities perform 1990?

A. I don't know. I don't know what evidence there is. I haven't evaluated it. I can't make it a determination of whether that was right or wrong. I can't speak for my predecessors either. All I know is I've tried to, you know, run a clean program, so to speak, and compliance is very important to me and whenever anything is reported to me, and any one of my staff can attest to this – we take it seriously and look into it. So I don't believe that I have created a mistake so to speak in with regards to enforcement or compliance.

Q. Okay. Would it surprise you, if your current employees, the employees in your office right now, were to testify that they are still under the impression today that they have to no authority to issue anyone in the regulated community a state coastal use permit for an activity that began before 1980?

A. Would that surprise me, no.

Q. Why want to surprise you?

A. Um.

Q. Is that your practice right now?

A. No, it's not my practice right now. You know, generally speaking, I want people to make application with us and I investigate it. And I evaluate those on a case-by-case basis.

Q. Let's take a look at –

A. But, you know, I'm the one who sets the policy in my office, not my employees.

Q. Understood.

Let's take a look at, then, a document that I think you mentioned in your direct examination, your standard operating procedures.

A. Okay.

Q. This is – and I'll hand it to you. This is what's been marked as CDX 332. Permission to approach, Your Honor?

THE COURT: You may.

BY MS. WHITE:

Q. Mr. Lovell, do you recognize this as the standard operating procedures for coastal use permit application processing by the Office of Coastal Management dated 2015?

A. I do.

Q. And that's after this lawsuits of filed; right?

A. Correct.

Q. That's about three years after you became the head of Office of Coastal Management?

A. That's correct.

Q. Can we go first, just to kind of set the stage, to Section 1.3 I believe it's on page six and do you see the

second sentence there: Changes in policies and procedures should be elevated to the appropriate supervisory level for approval prior to implementation.

A. Yes, I see that.

Q. Changes that will have impacts on your stakeholders must be elevated to the Office of Coastal Management executive management team for discussion and approved by you, the assistant secretary?

A. I see that.

MS. WHITE: Your Honor, I move to admit CDX 332.

MR. FAIRCLOTH: No objection.

THE COURT: Received without objection.

MS. WHITE: And I apologize I have to remember to publish it so the jury can actually see the document.

THE COURT: Should be on.

BY MS. WHITE:

Q. So this paragraph is talking about how to make changes in the office of coastal management's policies and procedures and one thing that it says is the changes that will impact stakeholders need to be elevated and approved ultimately by you; is that right?

A. That's right.

Q. Are members of the regulated community, individuals, companies, out there working in the coastal zone, even the parish government for that matter?

A. All of those fit.

Q. Are those stakeholders?

A. Yes.

Q. So changes that will have an impact on anyone on in the regulated community, that needs to be approved by you; right?

A. Yes.

Q. And once approval has been obtained at the bottom there, it says: Then the changes should be incorporated into your standard operating procedures and implemented; right?

A. Yes.

Q. So this document's telling us how the procedures for processing coastal use permitting applications are supposed to get made, how the changes are supposed to be made; right?

A. Yes.

Q. Now, could we go to page 33?

This page talks about site clearance. Do you see that?

A. Yes, I see it.

Q. And that's handled by the Office of Conservation; right?

A. Yes, but we permit that too.

Q. Your office actually is given the opportunity to comment in that?

A. They do coordinate with this.

Q. There's coordination right?

A. Yes.

Q. And permits are sometimes required, sometimes they're not; fair?

A. Fair.

Q. Okay. The second paragraph under this section says one of the main concerns in evaluating site clearance and plug and abandonment of oil and gas wells is the disposition of the associated pipelines. Now this is something we also heard about in opening I know you weren't here for that but I'll represent to you that we heard this is a super-simple requirement that's at issue in this lawsuit –

MR. FAIRCLOTH: Objection. Asking the witness to comment upon another witnesses testimony –

MS. WHITE: I'm not asking him to comment –

MR. FAIRCLOTH: Just asked if she wants to assume another witness has said something and she's asking him to comment on that.

MS. WHITE: I'm just giving him a frame of reference for a statement that the jury heard in opening, Your Honor.

THE COURT: That's not evidence what is said – and I'll remind the jury. Opening statements are not evidence to be considered as facts and may be inappropriate to lay the foundation of your question in that context. It's misleading the jurors. You may proceed.

MS. WHITE: Okay.

BY MS. WHITE:

Q. So looking back at this document, it says – do you see where it says almost all producing wells have pipelines to move the product.

A. I see that.

Q. Okay. And it says if those lines were laid under a coastal use permit authorization. That's the CUP acronym, that means coastal use permit; right?

A. Yes.

Q. Then there should be a requirement in the authorization document to remove the lines upon abandonment. Do you see that?

A. I see that.

Q. Then it goes to say if the removal requirement is included on the installation authorization, on the actual permit, then the lines need to be removed?

A. Ily.

Q. But it goes on to say if the removal specifically, is not mentioned in authorization document or on the plans, the Office of Coastal Management doesn't require those lines to be removed. Right?

A. I see that.

Q. Okay. Let me just pause there.

Your office's standard operating procedures for coastal use permits today, after this lawsuits of filed do not require removal for this activity that we're looking at unless that requirement to remove was specifically put in the coastal used permit document; right?

A. Yes. But we still do ask, you know, companies to remove during site clearance anything of – we try to clean up as much as we can even if there are permits associated with that.

Q. Okay.

But your standard operating procedures that we're looking at right here say in black and white:

Unless the requirement to remove the lines is in the four corners of the permit, OCM, your office, does not require removal? That's what it says; right?

A. I see that.

Q. Okay. And you're not disputing this document is your standard operating procedures, are you?

A. I'm not. And this is something that, you know, folks who are permit analysts, enforcement analysts use to guide them through the process, but this isn't law or administrative code or anything. This is a guide.

Q. Yeah and so at least according to how your office is training your employees, your regulators to interact with the regulated community, to talk to people about what permits they require, when those companies come to you and ask and are trying to get the right permits, your standard operating procedures instruct your permitting analysts that you don't need to require removal unless the requirement to remove is within the four corners of the coastal use permit; right?

A. That's the process stated here.

Q. That's not just clean your mess that's not just clean everything it's a bit more nuanced fair to say?

A. That's very correct.

Q. And just to be clear, this requirement that we're looking at on the screen that restoration or removal needs to be specifically mentioned in the four corner of the coastal use permit for it to in fact be a requirement. That is for lines that are put in after 1980; right?

A. That's what this is referencing, yes.

Q. Okay. But this document goes on to talk about activities before 1980. And again, this document is a document written after this lawsuits was filed; right?

A. Yes.

Q. Let's look at what it says.

It says: If – I think it's farther down, Matt.

If the associated well was spudded prior to 1980, the lines likely also were laid prior to 1980. The lines would therefore predate the Office of Coastal Management program and removal is it not required. Do you see that?

A. I see that.

Q. Is that an accurate statement of what's contained in your standard operating procedure today?

A. It is.

Q. And you're not aware that this was ever changed?

A. I think this has been updated, yes.

Q. Are you aware of this requirement ever changing, in your standard operating procedures document?

A. I don't know.

Q. So my question – let me phrase it a little bit more carefully: Are you aware of this requirement ever changing?

A. I'm –

Q. Yes or no?

A. No.

Q. Okay. Thank you.

So even after this lawsuits of filed to correct the mistakes in not looking back, by your office, your standard policy and procedure is to continue to tell and instruct your employees to tell the regulated

community that Office of Coastal Management doesn't regulate this activity. And the reason that your documents say that today that you don't regulate this activity is because the activity started before 1980, which is when your program started, right?

A. Generally, yes and, you know, we viewed permitting with forward-looking like I talked about earlier.

Q. And we heard about under staffing and resources and that this was an issue of under staffing. Do you recall that testimony?

A. Absolutely. Always under staffed.

Q. And just to be clear, changing this document to articulate a new rule for pre-1980 activities doesn't take a huge team of staff, does it? You could change one paragraph in this document to simply instruct your staff to use a different rule; right?

A. I could.

Q. You could ask the regulated community to self-report whether the lines were laid before 1980 without proper authorization, which is what you just testified you think the rule is now?

A. If you're going through the site clearance process, I'd say in general you are self-reporting to us what there is of going through a process and working with us to clean up and resolve whatever is on-site.

Q. Yeah, but that wasn't my question. My question was, you could, without a team of staff, without additional resources, simply rewrite two lines in this document to instruct your employees, to tell the regulated community, there's a new rule, we want to you self-report if your lines before 1980 were laid

without the proper authorization because we are requiring a permit. It doesn't take a new staff to interpret a coastal law; does it?

A. I don't necessarily agree with everything you're saying here. But it is easy to revise this. I'll say that, yes. If that's what you're asking.

Q. But changing your office's standard operating procedures that we're looking at on this screen, that does require approval by you; right?

A. Yes.

Q. And it does require providing notice to the regulated community; right? We saw you have to notify stakeholders?

A. Yes. And but, as far as, you know, self-reporting, that is something that we have always, as a program, required. So I don't view this in any way of – I don't think it touches on self-reporting but –

Q. Yeah and I'm not trying to confuse you. My simple question is: There was nothing in this document that would tell users that they need to self-report to you that their lines before 1980 were laid without proper authorization. It says the opposite: It says if they were laid before 1980, it predates the program and we are don't require removal. That's what it says.

MR. FAIRCLOTH: Objection. That's a compound question.

BY MS. WHITE:

Q. Now –

THE COURT: Sustained. Can you break that question down?

MS. WHITE: I'll move on, Your Honor.

THE COURT: No, there was a compound question and I don't know which question he answered. I don't know if the jurors did.

BY MS. WHITE:

Q. Let me try again. There's nothing in your current standard operating procedures that would inform user or any of your employees of the new rule that I believe you articulated that you believe is the rule that activities illegally commenced before 1980 required a coastal use permit; right?

A. Did you just say legally?

Q. Illegally.

A. If something – if something is not compliant – yeah, I need to be made aware of that and we'll address it. As far as the evidence in this case, I'm not aware of it. I haven't seen it.

Q. That's not my question.

My question is about the document on the screen.

A. It's easy –

Q. I'm sorry I'm not trying to talk over you it's just a simple question I just want to confirm. There's nothing in your standard operating procedures, today, that would tell users or any of your employees that lines laid illegally before 1980 are subject to the Office of Coastal Management program and require a coastal use permit?

A. It does not say that.

Q. In fact, it says the opposite; right? It says if the associated well was spudded prior to 1980, the lines –

A. You used the word illegally and I don't think that this in any way touches on illegal things.

Q. It doesn't talk about it at all; right? It talks about 1980 like that date is BC and AD. If it's before 1980, it doesn't require a coastal use permit? That's what your document says right?

A. Yes. And there's an assumption that things before then were legally commenced is why that's there.

Q. You believe that's the assumption that this is based on?

A. It's based on largely on that assumption. Moving forward.

Q. Now you could issue a notice of a change to the coastal permitting rules if you wanted people who were trying to comply with the law to know what the rules are, know the rules are changing, know now you need to self-report if you are lacking in proper authorization before 1980? You could do that; right?

A. I can notice, yes ^.

Q. You have not done that; right?

A. I have not.

Q. And you haven't followed the process in your standard operating procedure to notify people in the regulated community of a change, have you?

A. Not as it relates to this, no.

Q. Okay. Were you aware that Texaco got 29 coastal use permits in Delacroix?

A. I'm not aware of the specific numbers. I know they got some, yes.

Q. But you don't have any reason to dispute that number?

A. No.

Q. So if Texaco – if they did, came to your office at least dozens of times trying to get the permits that your office believed they required in Delacroix –

A. ^Doesn't indicate that, yes.

Q. That doesn't indicate that Texaco was trying to ignore coastal permanent law; right?

A. I acknowledge that.

Q. And we've already covered that, but I want to confirm you've not issued any notice to Chevron or any other user of the coastal zone of the change to require coastal use permits for activities that began before 1980; right?

A. That's correct.

Q. And you've never once regulated an activity that began before 1980; right?

A. I have not.

Q. You're not. Aware of anyone issuing a coastal use permit for an activity that began before 1980?

A. I'm not aware.

Q. In fact, even today, you instruct your employees to tell the regulated community that those activities we just looked at if they predate 1980 are not a coastal management issue because they predate the program; right?

A. Correct.

Q. Let's look at another document. I'll hand you what's been marked CDX 1094.

Do you recognize this as a document entitled Office of Coastal Management Guide to Developing Alternates and Justification Analysis for Proposed Uses within the Louisiana Coastal Zone?

A. I'm aware of this document.

Q. And this document was also developed by your office to provide guidance to coastal permitting analysts and to users right? It's available on your website?

A. Correct.

MS. WHITE: Your Honor, I would move to admitted CDX 1094.

MR. FAIRCLOTH: No objection.

THE COURT: Received without objection.

BY MS. WHITE:

Q. Could we go to page 51 of this documented?

MR. FAIRCLOTH: ^Fifty-one.

MS. WHITE: ^Yes 51.

BY MS. WHITE:

Q. And here again, we're talking about removing lines installed before 1980. So this seems to come up a lot, fair to say?

A. Yes.

Q. It's a recuring issue.

A. Yes.

Q. And it is the reason it's recurring is because it's having impacts today; right?

A. It has through time of the program, yes.

Q. Even if the lines were installed before 1980?

A. Yes.

Q. It's having impacts today?

A. Yes.

Q. And and continues to come up.

A. Yes.

Q. And sometimes people want them removed?

A. Yes.

Q. And sometimes I imagine landowners do not want their land dug up?

A. That's correct.

Q. So you had to come up with rules for how to handle the nuances of a complex situation in the coastal zone; right?

A. Correct.

Q. Now, and you had to handle it in a consistent manner. Is that fair?

A. That's right.

Q. And I believe you said consistently is utterly important to you; right?

A. It is.

Q. So this document says the coastal use pemit program began in August of 1980. Do you see that?

A. Yes.

Q. It was determined – just a little bit farther down, Matt – that a blanket requirement for line removal was not practical from an environment standpoint and that removal versus abandonment would be reviewed on a case-by-case basis. Do you see that?

A. Yes.

Q. And it says "lines installed prior to 1980 were determined to be exempt from this criteria based on the exemption given to uses or activities lawfully commenced or established prior to the implementation of the coastal use permit process." Do you see that?

A. I do.

Q. And then it cites something: LAC43 part one Chapter 7, sub chapter C 723.8 A. What is that citation?

A. We all it's got something to do with permits or guidelines, though.

Q. Is that the grandfather – is that one of the coastal regulations?

A. I would assume that is it, yes.

Q. And it refers to the grandfather clauses?

A. Yes.

Q. So here, your office is telling permit analysts: We've determined lines installed prior to 1980 are exempt; right?

A. Yes. Providing they're lawfully commenced.

Q. Yes. And it's not because of a resource issue, not understaffing, not because we're under pressure from the oil and gas industry, but because of the same regulations that Chevron's being sued for violating in this case; right? Your document cites the grandfather clause?

A. They do cite the grandfather clause, yes.

Q. And up to and including this date, you're not aware of anybody at the office of coastal management communicating to industry that they need coastal use

permit for activities that were commenced before October 1st, 1980?

A. I'm not aware of that.

Q. Now, activities that commenced before 1980 are really old activities; can we agree?

A. Yes. I was four at the time.

Q. You were four years old at the time and a lot of people involved in doing that work are no longer around for us to question; right?

A. That's right.

Q. But we do have a record of the decisions that your office made to grant or deny coastal permit application on SONRIS; right?

A. Correct. In our document access, yes.

Q. Yes. It stands for Strategic Online Natural Resources Information system; right?

A. Yes.

Q. And it contains the historical permitting decisions of the agency?

A. That's right.

Q. It it's available to the public online?

A. Public viewing, yes.

Q. And it has been online since before the Delacroix Field was decommissioned and abandoned, correct?

A. I believe so.

Q. It's available to big companies?

A. Yes.

Q. It's available to individuals who have been working in the coastal zone?

A. It's available to you and everyone.

Q. And to the parishes who have been doing for work for decades in the coastal zone?

A. Right.

Q. And you're aware that when we asked your office to produce enforcement files in this proceeding, we response we got back was they're publicly available on SONRIS. And it is that true; correct?

A. Yes.

Q. Now, your office uses that public database; right? The documents contained on that electronic system are documents of the Office of Coastal Management uses in the normal course of doing its business?

A. We do use that.

Q. And it's a reliable system?

A. Correct.

Q. And it contains all of the things that you've testified about – the permitting decisions by yours office; right?

A. Yes.

Q. The consistency determination your office makes?

A. Yes.

Q. It contains the enforcement proceedings of your office; right?

A. Yes. Enforcement files too yes.

Q. So when somebody applies for a coastal use permit and they're told "we don't issue those for this

activity" that application and your office's response gets published onto SONRIS for the world to see; right?

A. Yes.

Q. So anybody can go on to SONRIS and see that your testimony is correct, the coastal management has – the coastal management office has never looked back to require an operator to obtain a coastal use permit for an activity that commenced prior to 1980?

A. I would assume that our records indicate that, yes.

Q. And that's available for the world to see on SONRIS; right?

A. Correct.

Q. And you agree that the decisions that Office of Coastal Management regulators, the people in your office, make to either grant or deny a permit application are a reflection of their training and their understanding about whether that activity did or didn't require a coastal use permit?

A. Sure.

Q. Now, each permit decision is individual, but as to that individual application, it should be applying the overall policies of your office; right?

A. It should reflect that in general, yes.

Q. And I want to look at a few of those permitting files together.

Looking first at what your office told Texaco about what coastal use permits it would issue for the activities that began before 1980.

I'd like to show you what's been marked as CDX2527.

And if you'll just go to the first page of text. And do you see this is a request from Texaco in 1983 to Coastal Management seeking a coastal use permit from your office to install three pipelines?

A. Yes, I see that.

MS. WHITE: Your Honor, I'd move to admit and publish CDX2527.

MR. FAIRCLOTH: No objection.

THE COURT: Received without objection.

BY MS. WHITE:

Q. Could you go to the page that ends 71 – well, first, can we – we see this is an application from Texaco to the coastal management section of your office?

A. Yeah.

Q. Requesting a coastal use permit to install three pipelines?

A. I see that.

Q. And can you go to the page that ends 7101. Do you see that the state of Louisiana, Mr. Joel Lindsey – if you can scroll down just to see who it's from. That's a name I'll represent to you we already heard in this proceeding from the very first witness. Mr. Lindsey was Mr. Templet's deputy. Are you aware of that?

MR. CARMOUCHE: Objection to form. May we approach, Your Honor?

THE COURT: You may on the record.

MR. CARMOUCHE: Yeah.

(REPORTER'S NOTE: AT THIS TIME THE FOLLOWING BENCH CONFERENCE WAS HELD

BY AND BETWEEN THE COURT AND ALL COUNSEL.) (REPORTER'S NOTE: SIDEBAR IS NOT ON THIS ROUGH DUE TO TECHNICAL DIFFICULTIES.

THE COURT: All right at this time, as I informed the jury, it's past our 230 deadline for today. So the jury will be excused for the rest of the afternoon, get an early afternoon. You can go take care of your issues. And we'll be here here stating at 9:00 a.m. So if you could arrive at time for breakfast or at least to start at nine, I'd appreciate it.

(REPORTER'S NOTE: END OF BENCH CONFERENCE.)

THE COURT: Have a seat.

We weren't finished with this ruling. I just – I didn't see any need to keep the jury in the box while we were discussing this.

I assume the jurors are going to leave the building. Can we close the door to the courtroom? I don't think they're going to linger outside to listen. But in an abundance of caution. I don't know what they do.

THE COURT: We're going to let you step down as well sir and ask you to come back ready to go at 9:00 a.m.

THE WITNESS: Yes, sir.

THE COURT: I was just asking if you wanted to wait a second.

The court's ruling relative to the objection on CDX2527 as it was unrelated to the operational area was to sustain the objection by Mr. Carmouche and Mr. Faircloth. There was a question by counsel for

Chevron if that ruling applied to all exhibits. And I don't know what all exhibits. That was the conference at the bench. My ruling is going to have to be taken up on an as-offered basis. I don't know how many there are or will be or planned on being presented to this witness.

MS. WHITE: Your Honor, there are about more than a dozen.

THE COURT: Is that 100? Twelve – over a dozen is 13 or infinity.

MS. WHITE: All of these fall into the category of admissions by a party opponent. I'm looking at the list now there are about a dozen, including some documents that state explicitly that even when coastal management knew the activity was commenced before 1980 without proper authorization or illegally, that coastal management declined to issue a coastal use permit and went so far as to say they had no authority to do so.

Again, I would urge this goes squarely to causation since the plaintiff's theory is that had we gone and sought a permit in 1980 for activities allegedly illegally commenced, that coastal management would have issued us a permit. These documents show the opposite. This policy was consistent. In fact, that's the evidence already in the case, that the head of the Office of Coastal Management today knows of no coastal use permit that was ever in the history of the coastal program issued for an activity before 1980. These documents take it even a step further and they demonstrate that that activity was not specific to the oil and gas industry, as was suggested in opening, that regulators

are under extreme pressure to create jobs. This policy – this rule – and they cited the grandfather clause when they made these decisions. This rule was applied across the board to all users. It was applied across the board to all activities. It didn't matter if was building a board road or removing a pipeline or constructing a levee. It was an across-the-board rule. And that goes squarely to the plaintiff's theory of the case, which again is that – this is what their entire case is dependent on, that had we gone in 1980 to the Office of Coastal Management and asked for a permit for our activities which they claim we dispute were illegally commenced before 1980, that that office would have issued us a permit, it would have contained a restoration requirement. And that is the entire theory of their case, that we would have been required to restore to original condition. That is there theory of why they're unpermitted. This evidence, which again is an omission –

THE COURT: I mean, I think I've been the only judge who sat on this case. And this is not my appreciation of plaintiff's theory.

MS. WHITE: That's the only way it can work, Your Honor. And again we've seen Mr. Carmouche raise his hand a million times and say "pay your 20 bucks."

THE COURT: That was one day that court where he talked about the 20-dollar CUP permit fee, and it's repeated as a theme and it's not the entire theory. That's an oversimplification.

MS. WHITE: Your Honor, I guess what I would say is if –

THE COURT: And it's a different action here. This is a judicial proceeding. That's administration.

MS. WHITE: Then I guess another way to say is our defense is there is no causation –

THE COURT: Did we have a no cause of action exception in this court?

MS. WHITE: Yes.

THE COURT: And what happened to it?

MS. WHITE: We've had many no cause of actions.

THE COURT: So we're here, so I must have overruled it.

MS. WHITE: We're entitled to defend ourselves. We're entitled to raise those defenses. there was no summary judgement motion on our defense, but had we gone to the office of coastal management and sought a permit, we would not have been issued one because, as we've already heard, the office has never issued a permit for anything in a a 45-year history of the office for anything that happened before 1980. That's our defense, Your Honor. It goes to the heart of the issues in the case.

THE COURT: Well, the language in the statute says legally commenced, I believe.

MS. WHITE: And that itself is subject to debate because our position is –

THE COURT: The words on the paper.

MS. WHITE: And the evidence that I'm attempting to introduce would show that that had a different meaning than what has been suggested by the plaintiffs in this case. It means if you just put a

shovel in the ground two years before the statute and say "my project was commenced before 1980," well, then that's not lawful commencement.

That's how the agency understood and applied this for the past 45 years. And the evidence that I am attempting to introduce, which are facts – again, Your Honor these are faces. I'm attempting to show that that was – that the plaintiff's theory of the case doesn't make sense. Because had we gone – that's our defense: Had we gone to the office we would not have been issued a permit.

MR. CARMOUCHE: If they would have gone in this case, that's the defense. But they didn't go.

THE COURT: I agree. That's – it's simple. That was the point, I believe the argument was if you had gone and they said no you don't need the permit, then we wouldn't be here. That's simple.

MR. CARMOUCHE: That's your ^ ^.

MS. WHITE: All I'm trying to confirm is we should proffer all of this, evidence that is introduced that are admissions by the State.

THE COURT: If you've got a dozen or more exhibits that are attempting to show that historically, even with an illegal commencement, you didn't need a coastal use permit, then that would be my ruling as long as they're not permits relating to the operational area in this case submitted by the defendant in this case.

MS. WHITE: That we need to submit them.

THE COURT: That you will be able to proffer them. Mr. Phillips, you wanted to add something?

MR. PHILLIPS: Yes, Your Honor. I was just was minded during my examination, I had two exhibits that I gave the witness that I failed to move into evidence, and I talked to counsel and he has no objection. CDX376 and CDX378.

MR. CARMOUCHE: I forgot something too, Your Honor.

THE COURT: Any objection?

MR. TAYLOR: No objections.

THE COURT: Proceed.

MR. CARMOUCHE: Thank you. I spoke to Mr. Carter. In Mr. Greene's deposition that we introduced, he introduced Exhibit P39.396, P39.398, P39.411, P39.413, P39.497, and P39703.

MR. CARTER: No objection.

THE COURT: Received.

THE COURT: Do you have a list of those?

THE COURT: Received without objection.

MR. FUNDERBURK: We have one more thing to address before we break for the day. I believe I'm last. John Funderburk for Chevron. I know that Your Honor heard that the damage model for the plaintiffs is changing a bit. I think that y'all talked about that in chambers the other day, I believe, Mr. Carmouche. And we have now, as of last night, just received a sheet of paper that has the numbers that are changing, two of them are – two of the areas are being taken off, but some of them are changing.

I've talked to Mr. Carmouche about this. We are supposed to get whatever documentation they have that show the changes to the calculations that we have

here. We are supposed to get that by noon tomorrow. That

* * *

APPENDIX H

Rough Draft - not for official use

| | | UNCERTIFIED ROUGH DRAFT | | |
ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.
DAY 9

Taken on Thursday, March 20, 2025

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* * *

COURTROOM PROCEEDINGS

(On record at 9:17 A.M.)

THE COURT: Good morning.

Something we need to take up this morning?

MS. WHITE: Your Honor, can I make a brief statement just to protect the record?

Very brief.

THE COURT: Sure.

MS. WHITE: Before Mr. Lovell takes the stand again, Chevron would urge that the evidence excluded yesterday during Mr. Lovell's testimony in the form of

state agency communications and the permit files goes to the heart of the claims and defenses in this case.

It's relevant to fair notice. It rebuts the plaintiffs' argument that they were understaffed because these documents say the state weren't issuing these permits because these permits weren't required. It's an admission by a party that no Coastal Use Permit was required for activities before 1980 or which are subjected to in-lieu permitting or any of the other exemptions from Coastal Use permitting. It demonstrates that the damage in the case area was not caused by a failure to get a Coastal Use Permit. It explains why we didn't apply for a Coastal Use Permit because, among other things, these documents include communications with Texaco, including the same Texaco agents that were working on getting Coastal Use Permits in Delacroix. It rebuts the plaintiffs' arguments in opening that we just ignored the law. It also rebuts the idea that industry needed to self-report these violations because we had been told by the State that they were not violations.

Also, this witness was permitted to say that illegally commenced activities are subject to the statute. We should be able to use these documents to impeach the credibility of this witness, who is the corporate representative of the Office of Coastal Management.

It rebuts the statement in opening that these were sins of the past by the administrative state. These documents would have shown that the agency took the position that no – they had no jurisdiction to issue a Coastal Use Permit for the activities at issue in this case. And these documents include permit

applications for activities that were admitted in the document itself to

* * *

itself, to cause toxic stress to the marsh plants, doesn't it?

A. Not necessarily.

Q. Does storm surge, by itself, have enough salinity to cause the harms to marsh plants that you are describing in Opinion 4 of your report?

A. Depended on the salinity of the water, whether it would cause stress or not.

Q. Do you recall your deposition?

A. Yes.

Q. Can we look at page 107, lines 10 through 13, where you were asked that question?

"So storm surge, by itself, has enough salinity to cause the harms to marsh plants that you're describing in Opinion 4 in your report; right?"

Answer – what's your answer?

A. "That's correct."

So, yeah, they were talking about hurricane storm surge. So, again, they're different storms, some which would have salinity, some which wouldn't.

Q. So I even if Texaco had never discharged a drop of produced water in the case area ever, the saltwater intrusion from storms and storm surge would have harmed the marsh plants in the same way that you're saying the produced water did; isn't that right?

A. It wouldn't have caused the land loss, in my opinion.

Q. Separate and apart from any produced water discharges that this seawater or storm surge might come into contact with, the impact of the salt would be caused by seawater or a storm surge, regardless of whether it had everybody come into contact with produced water discharges; correct?

A. I believe that the storm surge – I mean, I believe that the saltwater was put in place by Texaco was the root cause of most of the land loss.

Q. Do you remember your deposition?

A. Sure.

Q. You took an oath to tell the truth; right?

A. Yes.

Q. Can we look at page 97, lines 8 through 18, where you were asked that question?

Separate – I'm sorry.

Page 97, "Separate and apart from any produced water discharges that this seawater or storm surge might come into contact to, the impact of the salt would be caused by seawater or storm surge, which is 35 parts per thousand, regardless of whether it has ever come into contact with produced water discharges; right?"

Answer: "Yeah. I mean, yeah. That happens all the time in storm events, yeah."

A. In this case, it's 35 parts per thousand is a critical thing because this is – that would only happen from a hurricane, a large hurricane, bringing that saltwater in.

Q. Okay.

And we'll – let's talk about that. Because in your report, you said, quote, "Saltwater intrusion caused by acute events like hurricanes that you just mentioned or tsunamis or chronic causes, such as subsidence or sea-level rise, is a major cause of land loss"?

A. Yes.

Q. That's what you said in your report?

A. Yes.

Q. And that major cause of land loss that you identified, saltwater intrusion caused by hurricanes or sea-level rise, that exists whether or not Texaco or any other operator ever set foot in Delacroix; right?

A. Yes.

Q. And you didn't do any work in your report to separate out the harm that you agree was caused by natural saltwater intrusion, separate and apart from any produced water salt and the harm that you claim was caused by salt-produced water?

A. Just obvious difference.

Q. Your report didn't separate out those harms?

A. Correct.

Q. And you didn't do any calculations to compare the amount of salt from natural saltwater intrusion versus any additional salt that you claim would have come from produced water; right?

A. Correct.

Q. You can't say whether the salt from your theory contributed 50 percent of land loss or 10 percent of land loss or even 1 percent of land loss; correct?

A. Just the obvious explanation that storm surges like that have been happened for thousand of years, and it didn't kill the marsh. You guys start operating there, the marsh starts dying.

Q. That wasn't quite my question.

You can't say what that impact is; right?

A. Correct.

Q. You can't say if it's 10 percent or 15 percent or 50 percent? You can't say whether it's 1 percent?

A. Or 100 percent, right.

Q. You also can't say whether it's 1 percent; right?

That was your testimony in your deposition.

A. Correct.

Q. In fact, you don't think there's any expert here who can tell the jury this much harm happened to the marsh from natural saltwater intrusion during storms versus this much harm you claim happened from the produced water salt? You don't think there's any expert? You don't believe it's knowable?

A. Yeah. I don't think the data was collected to make that kind of a percentage calculation.

Q. And you don't believe that's knowable; correct?

A. Based on the data that I've seen, I don't believe it is.

Q. All right.

Let's do a little bit of math right now.

In your report, you say that the total amount of produced water that Texaco discharged in the case area over a 50-year time period in 1943 to 1993 –

THE REPORTER: I'm sorry. It's me. I lost it.

BY MS. WHITE:

Q. No. I'll start again.

In your reported, you say that, "The total amount of produced water that Texaco discharged in the case area between 1943 and 1993 is equal to 8 percent of produced water all over the case area" – I'm sorry – "8 inches of priced water all over the case area"; right?

A. Uh-huh.

Q. Now, in your report, you talked about how many inches of seawater you would need to get the equivalent amount of salt in 1 inch of produced water. Do you remember that calculation? And I'm going to read this straight out of your report so they get it right. It's on page 28, quote, "Loading of a foot of storm surge onto a marsh with 35 parts per thousand salinity, i.e., full-strength seawater, is equivalent on a salt basis to only 2- 1/2 inches of produced water with a salinity observed at the study area, i.e., 156 parts per thousand."

Do you remember that in your report?

A. Yes.

Q. So going back to your 8 inches of produced water in the case area, if I wanted to find out how much seawater or storm surge that is, I can use the 2- 1/2 inches to 1-foot ratio; right?

A. Correct.

Q. And you did some of this math in your deposition; right?

A. I did.

Q. You agreed that you would need about 3 to 4 feet of storm surge to equal the total amount of salt that exists in 8 inches of brine; right?

A. Correct.

Q. So just to finish the math problem to make sure we're all on the same page, 3 to 4 feet of saltwater over the whole case area has the same amount of salt as all of the produced water discharged into this case area by Texaco over the entire 50-year time we're here we're talking about; right?

A. Correct.

Q. 1943 to 1933, 3 to 4 feet of seawater equals all the produced water Texaco ever discharged in Delacroix; right?

A. Correct.

Q. Now, you put up a slide during your testimony showing all the hurricanes that passed within 75 miles of the case area between 1915 and 2024. Do you remember that?

A. I do.

Q. Can we pull up slide 20?

And you borrowed this map from an expert report of another expert?

A. I think I borrowed this from – maybe he had borrow it and I borrowed it from him, so...

Q. Okay.

Do you know how many of these storms had storm surge above 3- 1/2 feet?

A. I do not.

Q. Did you look at any data about storm surge from storm events that occurred in the case area?

APPENDIX I

Rough Draft - not for official use

| | | UNCERTIFIED ROUGH DRAFT | | |

ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.

DAY 10

Taken on Friday, March 21, 2025

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COURTROOM PROCEEDINGS

(On record at 8:03 a.m.)

MR. MAYER: Good morning. My name's Eric Mayer. I represent Chevron. We are here to proffer. We're going to proffer in connection with exhibits that have been excluded to date and I will provide the exhibit and the witness with whom we would have used the exhibit.

First proffer is Plaintiff's Exhibit 0014. This is an April 30th, 2018 preliminary expert report on

violations. This document is a document the government identified in its own exhibit list as Exhibit P 14.

We would have used it with the cross-examination of the government's expert witness, Charles Norman and the corporate representative of the Louisiana Department of Energy and Natural Resources, Mr. Keith Lovell.

Charles Norman. The cross-examination of Mr. Norman regarding his opinions rendered on April 30th, 2018, preliminary report on violations would have presented the following evidence to the jury.

Number 1: Despite the government's current position that Apache did not violate SLCRMA, S-L-C-R-M-A, Apache operated the field using the same methods as Texaco including using dredged canals to well locations and laying long flow lines. Apache did not obtain coastal use permits for use of the canals, the widening of canals, or for the laying of long flow lines.

Number 2: Despite the government's current position that Apache did not violate SLCRMA, Apache did not restore the case area to original condition upon cessation of operations.

Number 3: Despite the government's current position that Apache did not violate SLCRMA, Apache failed to obtain all necessary coastal use permits for its operations under the government's theory of this case.

4: Despite the government's current position that Apache did not violate SLCRMA, Apache conducted maintenance dredging on the canal network without obtaining a coastal use permit.

Number 5: Despite the government's current position that Apache did not violate SLCRMA, Apache discharged saltwater into the case area without a coastal use permit.

Number 6: Despite the government's

* * *

abandonment, and oil field restoration and memorializes Apache's commitment to do so.

If admitted, Chevron would have elicited testimony that the State of Louisiana and a second governor, Mike Foster, signed that Apache plugging and abandonment the wells in the case area and was obligated to restore the oil field sites. On cross-examination of Mr. Lovell, he would have had to concede that the state required Apache to plug and abandon the wells, at issue, and restore oil field sites in the case area. This evidence bears directly on whether Chevron may be liable with respect to any alleged SLCRMA violations that arise out of abandonment of wells or oil field restoration in the case area or whether Apache assumed any such obligations.

Finally, on cross-examination of Mr. Norman, he would have had to concede that Texaco did not, quote, cease operations, closed quote, in the case area, rather, it was Apache that did so. He would also have had to concede that the state required Apache and not Chevron to plug and abandon list and restore well sites that Texaco had previously operated.

I am now moving to a proffer for CDX 0137. CDX 0137 is a June 2003 Coastal Use Permit file for Apache relating to site clearance and verification operations in

the case area. This file includes a letter from LDNR administrator stating that coastal management cannot require Apache to remove pipelines quote associated with wells that were spudded before our inception, closed quote.

In other words, the activity was exempted from coastal use permitting under the grandfather clause. These are the exact same pipelines that the government is now saying Chevron violated by failing to remove.

On cross-examination of Mr. Lovell, he would have had to testify about coastal management's determination that no coastal use permit was required because it was exempted under the statute's grandfather clause. He would also testify these pipelines, which coastal management told Apache were not subject to coastal use permitting requirements, are the same ones that the parish is now claiming are subject to these requirements. Chevron would further elicit testimony from Mr. Lovell that in LDNR's view, Apache and Chevron are entitled to rely on coastal management determinations and reasoning in this permit file regarding how the grandfather applied to pre-1980 harms. Chevron would elicit testimony that in LDNR's view, the parish government cannot and does not have the authority to override a determination made by coastal management that no coastal use permit was required for this activity.

I'm now moving to proffer for Exhibit CDX 2925. CDX 2925 is a 1998 coastal use permit file for Apache. Relating to site clearance and verification operations in the case area. The file includes correspondence

between coastal management and the Louisiana Department of Wildlife and Fisheries. Regarding jurisdiction over flow lines and equipment installed prior to 1980. Moreover and included in the file, coastal management expressly determined that the activity was lawfully commenced prior to the implementation of the coastal use process; in other words, the activity was exempted from coastal use permitting under the grandfather clause. Again, these are the exact same pipelines the parish is saying Chevron violated SLCRMA by failing to remove. If admitted, Chevron would elicit testimony from Mr. Lovell about coastal management's determination that no coastal use permit was required because it was exempted under the statute's grandfather clause. Chevron would also elicit testimony from Mr. Lovell that these pipelines, which coastal management told Apache were not subject to coastal use permitting requirements, are the same ones that the parish is now claiming are subject to these requirements.

Chevron would elicit testimony from Mr. Lovell that in LDNR's view, Apache and Chevron were entitled to rely on coastal management determinations and reasoning in this permit file regarding how the grandfather clause applied to pre-1980 harms. Chevron would also elicit testimony from Mr. Lovell that in LDNR's view, the parish government cannot and does not have the authority to override a determination made by coastal management that no coastal use permit was required for this activity.

I'm now moving to the proffer for Exhibit CDX 2372. CDX 2372 is a site clearance file SC-03-055, which would have been used in the cross-examination of the government's expert witness, Charles Norman. Cross-

examination of Mr. Norman regarding this document would have presented the following evidence to this jury: Number 1: The file includes an application for authorization, the verification of a site clearance plan for abandoned oil and gas structures in the Delacroix Field submitted by Apache Corporation to LDNR, Office of Conservation, on May 30th, 2003. Apache's site clearance plan addressed structures located at four well sites previously operated by Texaco. If admitted, Chevron would have elicited testimony from Mr. Norman establishing that Apache sought LDNR approval of Apache's plan to commit, decommission and abandon well sites previously operated by Texaco, including approval to leave certain out-of-service pipelines originally laid by Texaco in place. Cross-examination of Mr. Norman regarding this document would have also shown that contrary to the government's allegations, Texaco's successor, Apache, informed LDNR of its intention to abandon equipment in the Delacroix Field and requested LDNR's approval for this activity.

I'm now moving to a proffer for Exhibit P 4238. P 4238 is a file for Apache Corporation's Coastal Use Permit Application P 20030906 which the government identified on it's own exhibit list.

THE MINUTE CLERK: I'm sorry? It's a file for Apache Corporation what?

MR. MAYER: Which the government identified on its own exhibit list and would have been used in the cross-examination of the government's expert witness, Charles Norman.

THE REPORTER: I think she needs the number.

MR. MAYER: P 20030906 is the coastal use application number. The exhibit number is P-4238. If this document would have been admitted on the cross-examination of Mr. Norman, we would have proven the following: Number 1: The file includes a June 9th, 2003 letter from LDNR, Office of Conservation to Office of Coastal Management forwarding Apache's application requesting approval for site clearance work in the Delacroix Field related to well sites previously operated by Texaco. On March 14th – I'm sorry. March 17th, 2004, coastal management notified Apache that it cannot enforce the removal of the pipelines associated with wells that were permitted before 1980; in other words, the activity was exempted from coastal use permitting under the grandfather clause. If admitted, Chevron would have also elicited testimony from Mr. Norman establishing that coastal management was aware of Apache's site clearance plan, including Apache's request for approval to leave out-of-service pipelines originally laid by Texaco in place.

Cross-examination of Mr. Norman regarding this document would also have shown that as of – as a matter of actual historical fact, coastal management did not require Texaco to get a permit for pre-1980 activities.

I'm now going to move to a proffer for another plaintiff's exhibit. This is Plaintiff's Exhibit 3623. Plaintiff's Exhibit 3623 is a June 20th, 2003 letter from LDNR Office of Conservation to Apache Corporation which the government identified on its own exhibit list and it would have been used in the cross-examination of the government's witness, Charles Norman. Cross-examination of Mr. Norman

regarding this document would have presented the following evidence to the jury: Number 1: This letter from LDNR approves Apache's site clearance plan for decommissioning and abandonment of well sites in the Delacroix Field that were previously operated by Texaco or site clearance work previously operated by Texaco.

On March 17th, 2024, coastal management notified Apache that it cannot enforce the removal of pipelines associated with wells that were permitted before 1980. In other words, the activity was exempted from coastal use permitting under the grandfather clause. If admitted, Chevron would have elicited testimony from Mr. Norman establishing that, contrary to the government's allegations, coastal management actually approved Apache's plan for site clearance, decommissioning, and abandonment of well sites previously operated by Texaco upon cessation of Apache's operations.

Cross-examination of Mr. Norman regarding this document would have shown that, as a matter of actual historical fact, coastal management did not require any additional site clearance or restoration at these well sites previously operated by Texaco.

I'm now moving to a proffer for exempt CDX 2527: CDX 2527, the agency file for Coastal Use Permit Application that Texaco filed in April of 1983 would have been used in the cross-examination of corporate representative Louisiana Department of Energy and Natural Resources Mr. Keith Lovell. Cross-examination of Mr. Lovell regarding this document would have presented the following evidence to the jury: Number 1: This document shows that Texaco

sought a coastal use permit to install three pipelines in Plaquemines Parish. The file includes a letter from the administrator of coastal management, DNR, now coastal management to the United States Army Corps of Engineers stating that a coastal use permit is not required because the Army Corps of engineer's public notice of the activity was dated prior to October 1, 1980, the beginning date of Louisiana coastal use permitting program. In other words, the activity was exempted from coastal use permitting under the grandfather clause.

Number 2: If admitted, Chevron would have elicited testimony from Mr. Lovell establishing coastal management's determination that no coastal use permit was required because it was exempted under the state's grandfather clause.

Number 3: Specifically, Chevron would have elicited testimony that coastal management's determination reflected coastal management's actual historical practice and policy in applying the grandfather clause that the letter reflected coastal management's contemporaneous understanding and application of the grandfather clause and that LDENR's representative does not dispute the reasoning or validity of this determination.

Number 4: Chevron would have also elicited testimony that coastal management's determination explicitly did not depend on whether the activity would have any, quote, changed impacts, closed quote, after 1980 as the parish is contending in this case. Coastal management's determination looks solely at the fact that the activity was noticed publicly before the effective date of the coastal zone program.

Number 5: Chevron would also have elicited testimony that in LDNR's view, Texaco was entitled to rely on coastal management's determination and reasoning in this permit file regarding now how the grandfather clause applied to pre-1980 harms.

Number 6: Cross-examination of Mr. Lovell regarding this document would have shown that as a matter of actual historical fact, coastal management did not require Texaco to get a permit for this pre-1980 activities.

I'm now moving to a proffer for Exhibit CDX 092. CDX 092, the agency file for a, quote, Request for Authorization, closed quote, filed by Hall-Houston Oil company in 1994 would have been used in the cross-examination of the corporate representative of the Louisiana Department of Energy and Natural Resources, Mr. Keith Lovell. Cross-examination of Mr. Lovell regarding this document would have presented the following evidence to the jury: Number 1: The file shows that haul-Houston sought to remove flow lines from an offshore platform off Iberia parish and includes a coastal use permit determination for Texaco from 1982. The file includes a letter from the administrator of coastal management DNR you, now coastal management, to the United States Army Corps of Engineers stating that a coastal use permit, quote, is not required, closed quote, because the Army Corps of engineer's public notice of the activity was dated prior to October 1, 1980, the beginning date of the Louisiana Coastal Permitting Program; in other words, the activity was exempted from coastal use permitting under the grandfather clause.

Number 2: If admitted, Chevron would have elicited testimony from Mr. Lovell, establishing coastal management's determination that no coastal use permit was required because it was exempted under the state's statute's grandfather clause.

Number 3: Specifically Chevron would have elicited testimony that coastal management's determination reflected coastal management's actual historical policy and practice in applying the grandfather clause that the letter reflected coastal management's contemporaneous understanding and application of the grandfather clause, that Louisiana Department of Natural Resources' representative does not dispute the reasoning or validity of this determination.

Number 4: Cross-examination of Mr. Lovell regarding this document would have shown that, as a matter of actual historical fact, coastal management did not require Texaco to get a permit for pre-1980 activities. This document is relevant even though it relates to a coastal use in Iberia Parish because coastal management's coastal use permitting practice do not vary by parish. It is, thus, probative of the issues above regardless of where the coastal use occurred.

I'm now moving to a proffer for Exhibit CDX 0309. CDX 0309 is an LDNR enforcement file from 1987 relating to a possible permit violation for a Texaco production pit in St. Mary Parish that was reported to the Office of Coastal Management by a third party. It would have been used in the cross-examination of the corporate representative of Louisiana Department of Energy and Natural Resources, Mr. Keith Lovell. On examination much Mr. Lovell, this document would have presented the following evidence to the jury:

Number 1: If admitted, Chevron would have elicited testimony that Texaco's activities were so open and obvious that a third party reported them and that no one in this enforcement file ever reprimanded Texaco for failing to self-report.

Number 2: This enforcement file also includes a letter stating that LDNR performed an inspection and determined that, quote, no violation has occurred, closed quote, because, open quote, the pit in question was dug before September, 1980, closed quote. In other words, the activity was exempted from coastal use permitting and no coastal use permit violation could occur under the grandfather clause.

Number 3: If admitted, Chevron would have elicited testimony from Mr. Lovell establishing coastal management's determination that no coastal use permit was required because it was exempted under the statute's grandfather clause.

Number 4: Specifically Chevron would have elicited testimony that coastal management's determination reflected coastal management's actual historical policy and practice in applying the grandfather clause that the letter reflected coastal management's contemporaneous understanding and application of the grandfather clause, that LDNR's representative does not dispute the reasoning or the validity of this Determination.

Number 5: Cross-examination of Mr. Lovell regarding this document would have shown that, as a matter of actual historical fact, coastal management did not require Texaco to get a permit for this pre-1980 activity.

I'm now moving to a proffer for Exhibit CDX 0296. CDX 0296 is a May 12th, 1983 letter from Coastal Management DNR administrator Joel Lindsey to Rathborne Land Company Inc. regarding unauthorized levee construction in St. Charles Parish. Would have been used in the cross-examination of the corporate representative of Louisiana Department of Energy and Natural Resources, Mr. Keith Lovell. Cross-examination of Mr. Lovell regarding this document would have presented the following evidence to this jury. Number 1: The file shows that Rathborne Land Company Inc. sought an after the fact permit for an unauthorized levee construction completed before 1978. The letter states, quote, since this activity occurred prior to September 20th, 1980, which was the beginning of the Coastal Use Permitting Program, the activity in question is considered exempt from the jurisdiction of the Louisiana Coastal Resources Program, closed quote.

In other words, the unauthorized activity was exempted from the coastal use permitting under the grandfather clause. If admitted, Chevron would have elicited testimony from Mr. Lovell establishing that coastal management found that it lacked jurisdiction over the activity because it was established before 1980, and thus, exempted under the statute's grandfather clause even though the activity was illegal commenced.

Cross-examination of Mr. Lovell regarding this document would have shown also that as a matter of actual historical fact, coastal management did not require Texaco to get permits for pre-1980 activities.

This document is relevant even though it relates to a coastal issue in St. Charles Parish because coastal management's coastal use permitting practices did not vary by parish. It is thus probative of the issues above regardless of where this coastal use occurred.

I'm now moving to a proffer for Exhibit CDX 0303. CDX 0303 is a coastal use permit publicly available to all users on the Louisiana Department of Energy and Natural Resources, SONRIS, that's S-O-N-R-I-S, database, which would have been presented during the cross-examination of Keith Lovell. It relates to a, quote, possible violation, closed quote, of the coastal program relating to a parish road. The file contains a May 9th, 1985 letter. In this letter, an LDENR coastal resource analyst states that the parish road in Cameron Parish was, quote, not a violation, closed quote, of the coastal program, open quote, because the road was completed prior to September 20th, 1980, closed quote.

Importantly, the file included a memorandum from LDENR senior attorney, Charles Patten, P-A-T-T-E-N, originally rendered in connection with a different file confirming that, quote, where the activity commenced prior to September 20th, 1980, closed quote, there was no permit requirement, therefore, open quote, there can be no violation of a permit, closed quote.

Specifically, Mr. Patten opines that the term, quote, lawfully commenced, closed quote, has little or no meaning to the coastal program, quote, if applied before September 20th, 1980, as there was no act existing that could have been violated. If no permit was required, there can be no violation of a permit, hence the words permitted activity and unpermitted

activity are meaningless prior to September 20th, 1980, closed quote.

On cross-examination, Mr. Lovell would have conceded that this file and this interpretation of SLCRMA was publicly available to all users on the SONRIS database and that it would have further contradicted the government's position in this lawsuit as to when a coastal use permit is required by the program or SLCRMA.

I'm now moving to a proffer for Exhibit CDX 0305. 0 – CDX 0305 is a letter publicly available to all users on the Louisiana Department of Energy and Natural Resources SONRIS database which would have been presented during the cross-examination of Keith Lovell. It is a June 2nd, 1986 letter from coastal management to a coastal user in Jefferson Parish advising that coastal management did not, quote, have jurisdiction over, closed quote, possible violation relating to a levee because open quote, the levee construction occurred...prior to the commencement of the Louisiana Coastal Resource Program, closed quote.

On cross-examination, Mr. Lovell would have conceded that this file and this interpretation of SLCRMA was publicly available to all users on the SONRIS database and it would have further contradicted the government's position in this lawsuit as to when a coastal use permit is required by the

APPENDIX J

Rough Draft - not for official use

| | | UNCERTIFIED ROUGH DRAFT | | |

ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.

DAY 12

Taken on Tuesday, March 25, 2025

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COURTROOM PROCEEDINGS

(On record at 9:05 a.m.)

THE BAILIFF: All rise 25th District Judicial Court in and for the parish of Plaquemines is now in session. The honorable Michael D. Clement presiding. God save the state and this honorable court.

THE COURT: Good morning.

Jury enters.

THE COURT: You may be seated.

Madam clerk.

(roll called)

You're up, sir.

MR. TAYLOR: Yes, Your Honor.

THE COURT: All right. Next witness please.

MR. TAYLOR: Yes, Brandon Taylor, on behalf of the parish. The parish calls Jason Sills at this time.

THE COURT: Jason sills, good morning.

JASON SILLS,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

THE COURT: The witness is sworn you may proceed.

VOIR DIRE EXAMINATION

BY MR. TAYLOR:

Q. Good morning, Mr. Sills. How are you today?

A. I'm good in and yourself.

Q. I'm doing great. Would you please tell the jury a little bit about yourself.

A. My name is Jason Sills I'm an engineer and vice president of ICON environmental. ICON is a licensed contractor in the state of Louisiana and also a registered engineering firm.

Q. Okay. And tell me a little bit about your background and education, sir.

A. I graduated in environmental engineering with a bachelors in 2000 from Louisiana State University.

Q. Okay. And since that time, have you been working out in the field?

A. I have. In 2000, I started with a company called Southern Environmental Management Specialties, SEMS.

Q. And Your Honor, we – there it is. We made it. We got it up.

Okay. And so you started out after you finished school and went to SEMS. And tell me if – you may have said that I was a little distracted, tell me about your time at SEMS, what you did, what your profession involved at that point?

A. I was a project manager with SEMS. We

* * *

MS. JUNEAU: Your Honor, Claire Juneau for Chevron, just to let the plaintiffs know, and let – you know what's coming. We're moving for a directed verdict to nine specific issues. We don't intend to take more than two or three minutes to address those, and then we'll provide the plaintiff an opportunity to respond.

We also have a written directed verdict motions that we intend to file into the record after we argue this orally in court. I'll provide Your Honor a copy of those, as well as plaintiff's counsel right now.

MR. MAYER: My name is Eric Mayer. I'm going to wait for Mr. Carmouche to return. He told me he is taking a quick break, and then I'll argue the first of the directed verdict motions.

THE COURT: Yes, sir.

You may proceed.

MR. MAYER: Your Honor, Chevron moves for a directed verdict on the issue of causation.

One of the principal issues in this case has to do with land loss. Chevron's moving for a directed verdict on causation because the Government failed to offer any evidence delineating what alleged land loss was due to any Chevron operation. The witnesses that were called by the Government described generally land loss and also described a multiple series of causes of land loss, including sediment deprivation, hurricane, natural subsidence, but no witness for the Government articulated what land loss occurred and what percentage or calculation could be attributed to Chevron.

There is no evidence before this Court that would allow this jury to allocate – if they found a violation, to allocate what Chevron was responsible for in terms of land loss.

Mr. Gibeaut was asked specifically whether he could allocate what alleged land loss occurred during the time period he studied that related to any Chevron operations. He admitted he could not. Mr. Clark also was asked whether any subsidence that he believed was caused by Chevron operations could be attributed or calculated or estimated in any way, and he could not. Mr. Day was also asked about what caused – what caused land loss in the area at issue. He was not able to provide any evidence tying any alleged Chevron conduct to any quantity of land loss.

The Parish representative, Mr. Buras, testified at the outset of this trial that the Parish's position was that they were not seeking damages from Chevron for any causes of land loss that were unrelated to Chevron's activities, and he gave specific examples, the leveeing of the Mississippi River, hurricane,

subsidence. All of these are factors that the jury has heard caused land loss, yet this jury has been provided no information whatsoever for them to allocate what, if any, land loss is due to operations of Chevron.

For these reasons, the jury has no tools with which to make this allocation, and a directed verdict should be granted in Chevron's favor on the question of land loss and causation.

Thank you, Your Honor.

MR. FAIRCLOTH: Your Honor, Jimmy Faircloth for the State. The Court's aware of the standard on directed verdicts, same as, essentially, summary judgment, whether or not there's an issue for the jury that's triable that they could reasonably, from the evidence, infer an issue that's viable. That's essentially what the standard is.

Your Honor, with regard to causation, the argument on land loss is made in the abstract. We are not seeking an award of land, per se. This case doesn't – there's no remedy here where we can say, "They're casting judgment for 10 acres or 12-acres or 20 acres of this particular surveyed area." That's not what the remedy is. The remedy is restoration of land to cure the damage they caused, and there's an abundance of evidence on that. Dr. Day testified that the activities of the defendant destroyed the marsh. He testified that the marsh had the ability to survive hurricanes and to rebound from hurricanes, but it didn't happen in this instance because the marsh had been "poisoned," I think was the word he used.

So the testimony about land loss is true, and the jury heard about the land loss and there are maps that show subsidence.

But again, the remedy here is not to cast them in judgment for a particular tract of land or a particular area of land. The issue is the extent to which they have to restore or remediate for activities for which they're responsible. So I think the causation argument is so precise that it lacks any real anchor in the claim itself. Here, again, the claim is restoration and remediation if, in fact, it's warranted under CZMA violation.

So the testimony – Gibeaut says land has been lost, there has been subsidence, it is in part and visibly in part of a series of factors, which includes form storms and the river and other things. And Dr. Day said the marsh was destroyed because of the – because of the poison that was placed there by the defendants.

So again, I don't think the law requires that we prove any particular tract of land or any particular amount of land because that is not what seeking. We're seeing the value of what's necessary to restore the land that they damaged, be it lost, be it's now under water, whatever – however you want to describe it.

So for reasons we would oppose the motion for directed verdict on causation.

MR. CARMOUCHE: I want to get more specific, Your Honor, because I think we have done that.

Dr. Day and Pardue talk about –

THE COURT: Sir? Mr. Mayer?

MR. MAYER: When Mr. Carmouche is finished , I just have one very brief comment.

MR. CARMOUCHE: Dr. Day and Dr. – first, Dr. Gibeaut outlined the land that was lost in the area.

Then Dr. Day and Dr. Pardue came back and identified the land lost during Texaco's operations using Dr. Gibeaut's map. They specifically tied it to the discharge of the waste done by Texaco in the areas identified as to the loss. They talked about the south portion, and then they talked about how it migrated up north. That was Dr. Pardue's specific testimony, that it traveled up north and killed the marsh. Dr. Day calls it "cumulative impacts." H.C. Clark talks about it only subsided during Texaco's operations. All of that is cumulative impacts with indivisible damages that Your Honor has already ruled on. All – the evidence that we presented was Texaco's operations. Dr. Day specifically proved to the jury that the Caernarvon did not contribute to the land loss in this area. He also excluded Mississippi River. Actually, he said the Mississippi River was helping due to the sediment.

The only testimony about the hurricanes was that they caused the marsh to be defenseless and injured enough to where a hurricane could contribute. However, the cause of the weakening and the cause of the land loss due to the hurricane was because of their toxic waste. He showed areas outside of the area where a hurricane came and did not injure the land.

They also talked about the canals widening. Dr. Gibeaut, Dr. Day, and Dr. Pardue proved that the lack of maintenance of the canals and the dredging of the canals specifically allowed the land to widen, all of this to be cumulative impacts and indivisible damages. Mr. Buras testified that they are seeking damage for anything Texaco contributed to, and I think all of these experts have proven that; therefore, it should be denied.

THE COURT: Thank you.

Mr. Mayer?

MR. MAYER: Very briefly, Your Honor. I heard an argument that there's no anchor for this causation argument. I disagree. The statute we are being sued under requires, like all Louisiana law, that there be causation tied to the exact violation alleged. They have alleged a violation of coastal use permitting law, either by failure to comply with the terms of a permit or by failing to obtain a permit where one was legally required. We dispute that. But if you even – if this jury found that existed, there is still no mechanism for the jury to determine what, if any, portion of land loss would be due to that alleged conduct. That is the defect in causation, and that is why directed verdict should be granted in our favor. Thank you, Your Honor.

THE COURT: Sure.

If you would, I just want to make sure – are you talking about the allocation of land loss?

MR. MAYER: Yes. Any measure of damages related to land loss that would be – that they are seeking from Chevron for an alleged violation, they have failed utterly to allocate what portion of our conduct that is alleged to be a violation caused land loss.

All we have before this Court is evidence that land loss is a very complicated factor caused by many issues. Everyone agrees on that. Where that they have failed in their presentation of their case, they have not established anything that we did that caused any specific amount of land loss that would allow this jury the tools they need to provide a damage number, and

that's the defect and that's what directed verdict should be granted in our favor.

Thank you, Your Honor.

THE COURT: Thank you, Mr. Mayer.

On issue one, causation, land loss, and allocation, this Court finds that the evidence presented, although difficult, perhaps for the jurors to determine the allocation, I believe the evidence presented would support an ability of these jurors to reach a verdict in their favor, and, therefore, on causation and allocation of land loss, the directed verdict is denied.

Your objection is noted.

MR. GELPI: Your Honor, Jeffrey Gelpi on behalf of Chevron.

I'll address our second motion for directed verdict. This one's on the claims for damages that are based on speculation.

In every case, the plaintiff has the burden of proof on damages. In this case, the Parish is seeking an award of restoration costs, which are –

In this case, the Parish is seeking an award of restoration costs, which are special damages. Unlike general damages, such as pain and suffering, special damages have a ready market value. For that reason, the amount of special damages claims must be proven with legal certainty. And importantly, remote, conjectural, or speculative estimates of cost are insufficient to meet that burden.

So if we look at the evidence that he Parish presented here, we heard yesterday from Dr. Andrus, and he testified that the Parish's proposed remediation and restoration plan is barely passed the

conceptual planning stage, and it's not even progressed to the preliminary design stage. Because the plan is somewhere between a concept and a preliminary design, Dr. Andrus had to use a massive 24 percent contingency to do his restoration costs, which, in this case, is more than $400 million. $400 million is a pretty big number, and any estimate of damages that has a $400 billion contingency is anything but legally certain. And even if the jury were to award any amount of restoration costs, whether this plan could ever actually be implemented is entirely speculative.

No one has submitted this plan to the CPRA, which is the Coastal Protection and Restoration Authority, as required. No one has submitted this plan to the Office of Coastal Management for approval and permitting, as required. And Dr. Andrus explained yesterday why that is. He said there are many more steps that need to be taken before this plan could ever get to that point of submitted to those agencies. In Dr. Andrus' own words, "This plan is no more than 29 percent complete." If this plan is too incomplete to submit to the permitting authorities for approval, then this is too uncertain to submit to the jury. And because the plaintiffs have not submitted sufficient evidence to establish the amount of damages with any measure of certainty, Chevron's entitled to a directed verdict.

MR. CARMOUCHE: I don't know how it's speculative. The law provides the guidelines that they have to restore the property to its original condition, so it's not speculative. It's an award required by the law. Mr. Andrus applied that law, given that law, to tell him to restore to its original condition. The

contingency plan, as explained, has nothing to do with the cost of performing the remediation. It's, if anything, costs more. So it gets in there with the slurry, he has to use another slurry, or he has to use another technique or he has more sediment that he needs to come in, it's to prevent an overcharge that the Parish would not be able to recover due to the fact this is the only time we're here. He said it's – 99 percent of the time, he includes a contingency. You have to by industry standards, so he applied the industry standard required being an engineer to give the cost. You just heard from Mr. Sills. He's performing the same work – similar work, and he's got no objection from CPRA. Mr. Andrus testified that his partner and part of the plan worked for CPRA for 19 years.

We have the State standing here with the Parish, who has no objection to the plan. Mr. Faircloth can speak for himself, so I don't know how else he can do this. This is done in every case.

The next step can't be taken until we have the money. The next steps are really nothing more than taking the step further with CPRA, but it's going to cost a lot of money. These models have been accepted in the court of law throughout the state.

MR. FAIRCLOTH: Very briefly, Your Honor. This is a motion for directed verdict. Their argument really goes to the weight. They're claiming that the models that we put up for damages aren't reliable. It's a liability argument. They can make that to the jury. As a matter of – they're asking you to find is a matter of law that we haven't proven enough to get past a speculation claim. So I think that both of those witnesses, Mr. Sills and Mr. Andrus, described their

methodology, they described it working elsewhere, they described it in detail the process they would go through. The Court's heard nothing in response to that at this point.

The defense case has not yet come forward, so on the face, plaintiff has clearly proven a prima facie case of damages, and it's not speculative as a matter of law.

THE COURT: Thank you.

MR. GELPI: Just very briefly, Your Honor.

Mr. Faircloth mentioned the standard for this is essentially the same as summary judgment. Speculation would not defeat summary judgment, and it would not defeat a directed verdict. I don't think this really goes to the weight of the evidence.

Dr. Andrus testified it's an incomplete plan, so less than 29 percent complete. And there's no dispute that this contingency it means it could be plus or minus $400 million. I don't think you put that number in front of the jury, and then who knows what happens at the end of the day, if it's $400 million less, I don't think they're going to give that money back to Chevron. And so for that reason, I think Chevron's entitled to a directed verdict.

THE COURT: Thank you, sir.

All right. The Court finds that Dr. Andrus and Mr. Sills provided sufficient information for the jury to arrive at a special damage award. It is not speculative. It is a process, one of the challenges of this specific case, and, for those reasons, the directed verdict request on damages is denied.

MS. JUNEAU: Good morning, Your Honor. Claire Juneau, again, on behalf of Chevron.

Chevron's third directed verdict motion, we are moving to dismiss all claims because the Government's claims violate the Louisiana and US Constitution, specifically the due process clause. I want to talk about some of the evidence that's been put forth in this case that the Government's own witnesses have admitted to.

Mr. Lovell testified that coastal management has never looked back to evaluate activities that were commenced prior to 1980. Mr. Lovell testified that coastal management never once regulated an activity that began before 1980. In opening statement, the Government's own attorney argued this case has about sins of the past, and he could not say why previous administrations had not enforced SLCRMA as it intends to do in this lawsuit.

LDNR's current standard operating procedure still says that it does not regulate lines installed prior to 1980. The United States Supreme Court and ^ response television held that, in a government enforcement action, it fails to comply with the due process clause if the statute or regulation being enforced fails to provide a person of ordinary intelligence fair notice of what is prohibited. A regulated entity cannot be lawfully held liable under a statute, like SLCRMA, that does not provide fair notice of the prohibited conduct. The decades of lack of enforcement, over 40-plus years, has not given Chevron fair notice of the claims that the Government now brings.

The FEIS, which the Government intends to rely to say that Chevron was provided fair notice, is not a law.

It is not a regulation, and as Judge Guidry found in the Eastern District, it did not provide fair notice.

For these reasons, we believe the Government's claims in this lawsuit run afoul of the Louisiana and United States Constitution and the due process clause, and they should be dismissed. Thank you.

MR. FAIRCLOTH: Your Honor, the defendants sought dismissal by summary judgment on the same grounds. The Court denied that.

They've introduced no evidence to fortify their arguments. In fact, what's happened is, the plaintiff's evidence have made clear that there is no due process claim here.

Mr. Lovell did not say that the agency, as a matter of law, has not applied it prospect – retrospect, retroactively. What he said was, they made an assumption, and he explained to the Court the reason for that assumption. And I specifically asked him, "So is it your testimony that you understand this proceeding challenges that assumption, and your office has made no findings" – "no investigation, and no findings with regard to the questions the jury has to answer here?" And he said, "That is correct." And the question the jury does have to answer is whether or not Texaco or defendants' conduct was illegal.

So I'm not aware of any case in the history of American law where the court has said that a statute is unconstitutional because it holds you accountable for illegal conduct. So I don't think that the consequences of illegal conduct are ever protected.

So I would tell the Court that the issue here is whether or not the conduct prior to 1980 was illegal. They were put on notice of that on the adoption of

SLCRMA. It is in the statute. The text said that. And if the Court recalls the FEIS document, which has been referred to as the blueprint of the model for this entire scheme, has a very explicit provision in there where it describes, for all concerned, including Chevron and other oil and gas companies that were a part of comment section of FEIS, making it clear the grandfather exemption will apply in this matter. We're simply here at trial giving that – meaning to that very same language with no change, and the defense have been given proper notice of that. Thank you.

THE COURT: Thank you.

Nothing by Mr. Carmouche? Thank you.

MS. JUNEAU: Just very briefly, Your Honor.

Due process requires providing fair ^ conduct, and we do believe that the evidence in the plaintiffs' case have shown that for 40 years the government never enforced SCLRMA the way it has in this lawsuit, so we would ask that the claims be dismissed.

THE COURT: Thank you.

I think it's a – I can't count the number of times the defendants have brought this before the Court the due process violation.

This directed verdict is denied based on the Court's prior rulings, and the testimony of Mr. Lovell is differentiating between an administrative enforcement and a judicial enforcement action.

MR. MAYER: Your Honor, this is Eric Mayer on behalf of Chevron.

The directed verdict is one of prescription. Regardless of what characterization the proceedings

are given, Louisiana law requires that the Court examine the evidence based on prescription. From the evidence that was presented in this case by the plaintiffs, their claims are prescribed, all of their claims are prescribed, under Louisiana law.

Your Honor, there are three key dates in this case. The first date is 1980, that is the law that we are being sued under. The second key date is the year 2000, that is the date that the plaintiff in this lawsuit, the Parish of Plaquemines, obtained an approved coastal program. The third key date in this case is 2013, when the lawsuit was, in fact, filed.

I call your – I call the Court's attention to the evidence presented and testimony by Mr. Buras about the fact that the Parish obtained its accredited program in the year 2000 and the testimony he gave related to Exhibit CDX 432, a 1986 study that was commissioned by the Parish and performed by Coastal Environments, Inc., that revealed to the Parish a significant amount of the facts that they now allege caused land loss in this parish.

The question on prescription is what standard applies to the limited prescription in this case. Is it one year for delicts and damage to a piece of immoveable property, or is it ten years, the catch-all provision for personal actions?

The Court does not need to reach which of these two liberative prescription periods apply because, under either one, all of the claims asserted by Plaquemines Parish are timely.

If you assume the Parish obtained its right to sue on the claims it is suing on when it obtained certification to have its own coastal program, that year is 2000.

Ten years from 2000 would be 2010. Suit was not instituted here until 2013 on all claims.

The testimony in this case has also established that the Parish of Plaquemines received notice from every coastal use permit that was applied for, for an issue of State concern, during the time period at issue, and that all of Chevron's operations, the dredging of canals, the discharge of produced water, the use of pits, all of it, was open and obvious for any individual to observe, and, in fact, the Parish had knowledge, both actual knowledge and constructive knowledge of all of Chevron's operations. Therefore, under Louisiana law, all of the claims asserted by the Parish are time barred, either under the one-year delict and damage to immoveable statute or under the ten-year for personal actions.

Unlike the State of Louisiana, prescription runs against the Parish, and the Parish can't utilize the State's standing to avoid prescription. If the Parish ties use the shield of the State to protect themselves against prescription, they run against the problem of Mr. Lovell's direct testimony. He knows of no evidence to suggest any canal was dredged without a valid permit, any well was constructed in Plaquemines Parish without a valid drilling permit from the State of Louisiana, or that any ounce of produced water was discharged in this parish without a valid permit. Accordingly, the Parish is subject to prescription, either a one-year or a ten-year period. It is undisputed, and the evidence they presented to this Court during their own trial has resulted in a finding of prescription. We ask that the claims be dismissed on prescription.

It's also a little odd. We are being sued in this case under a 1980 law for activities that occurred in the '40s and '50s. How could that not be prescribed? There is no contra-nonvalentim that helps the Parish in this case because everything was open and obvious. Accordingly, we ask the Court dismiss all of these claims on prescription. Thank you, Your Honor.

MR. FAIRCLOTH: Defendant admits prescription can't run against the State, so the State's rightfully a party here. And the statute that's operative says that, either the Secretary for the state or the Attorney General for the state, a district attorney, or a parish with an approved plan may assert claims. In this case, the State – the Parish is asserting a claim that is co-owned, if you will, with the State.

If you take their argument to its extreme, then that provision would say the Secretary – or the Attorney General may assert claims, and then there would be a separate saying local or government officials may assert them unless they're prescribed. They are splitting a hair that I don't think the law going to allow. That's an indivisible right between the parishes and the local governments with regard to the enforcement mechanism under this statute, and it created an illogical result to say that the Parish would not have a right or they would be time barred from asserting a right that the State, itself, continues to be allowed to assert to enforce the very same permit violation. So I understand the argument they're making. It does not fit here. This is not a tort. It's not a contractual action. It's just – it's a special statutory right that has been created, and the Parish is right here. It lies with the State's rights. It creates an absurd consequence to apply limited restriction to essentially dissect out

prescriptive rights on under that enforcement provision. I do think the State's right, inprescribable right, carries this cause of action for all of the parties under that claim.

THE COURT: Thank you, Mr. Faircloth.

MR. CARMOUCHE: Your Honor, I also want to point out on that, one is an enforcement action under 214.36(D) as the Parish was removed to federal court based upon that theory that the Parish could not bring enforcement action under state concerns under 214.36(D). The federal judges actually said that the Parish has a right to stand in the shoes of the State to bring an enforcement action under state concerns, and that's why – one of the reasons why we were remanded.

Also, the defendants have not shown through testimony of Mr. Buras of the cause that he was aware of, other than just what an average person would see. The statute – the 99 percent of the actions in this case are for permits that they did not receive, so the Parish would not have seen the permits, nor would they have known because it's self-reporting. They have a right to self-report. I think there's been a lot of evidence as to the lack of enforcement to individuals for the entire coast of Louisiana. Therefore, to know specifically that Texaco did not get a permit when required, which is what this case is about, it's not a tort, it's not a contract. It's an enforcement action based upon the lack of getting a permit and being a responsible party and reporting that action to the State, which no longer applies.^

MR. MAYER: The problem with the Parish's attempts to extract the imprescriptibility from the State is that the State has been very clear, Mr. Lovell's

testimony was very clear. The State has no claims in this case. The State is making no claims against Chevron in this case. It would be ironic that they could use the imprescriptibility of a party who says there is no claim to, therefore, get around prescription.

And as to Mr. Buras' level of knowledge, Your Honor will remember a distinct piece of testimony about whether or not Parish required construction permits for activities that occurred in its parish, and Mr. Buras said unequivocally that he was aware of those activities by Chevron, and again, they're open and obvious and the Parish got actual notice of all of the activities from which they complained as part of the coastal program.

These claims are prescribed, and this Court should dismiss them under the grounds of prescription. Thank you.

MR. FAIRCLOTH: Your Honor, may I offer one follow-up with a new point?

THE COURT: You may.

MR. FAIRCLOTH: Your Honor, the relief the State seeks is determined by the pleadings in this case, not by the testimony of – as to Mr. Lovell. He's talking about regulatory-wise. They have not sought a regulatory enforcement proceeding. The Attorney General specifically intervened in this case, and originally, if the Court recalls, it was limited to the canal issue, but then there was an amended supplemental intervention that was filed where that was removed, and they asserted all rights of the State to recover to the full extent the State has relief. So the State is clearly a party in this case. We are a part of this enforcement proceeding, and the witness'

testimony does not describe the nature of the relief sought in this case. He was talking the regulatory role.

THE COURT: I agree, Mr. Faircloth. The defendant has been all over the board on the issue of prescription, and even in a recent filing suggested that the issue of prescription be submitted to the finder of fact, the jury.

Without arguing these theories before the Court prior to coming on a dismissal at this point in the trial, the Court is going to find that the imprescriptibility of SLCRMA, the coastal law, flows through the State to the Parish and denies directed verdict on the issue of prescription.

MS. JUNEAU: Good morning, again, Your Honor. Claire Juneau for Chevron. I'll be arguing the next two directed verdicts.

The first is, we're moving for directed verdict on under the blanket exemption or the grandfather clause, which, as we've heard throughout the trial, says individual uses lawfully commenced are established to effective date of the program, September 20th, 1980, does not require a coastal use permit.

Of course, Your Honor, we urge our position in the summary judgments, but I don't want to retread that argument. I understand what your ruling was on that.

Instead, I'd like to focus on the plaintiffs' position that they've taken in this case as to what that provision means. And even taking that interpretation as true, the Government has not proven its claims, and we're entitled to directed verdict.

And I'm going to go use by use in this instance.

For canals, the Government presented no evidence that the canals dredged by Chevron, which everyone can see were all dredged prior to 1980, were illegal, unlawful, or dredged without a required coastal – Army Corps permit.

For production of wells, the Government presented no evidence that the wells that were produced by Chevron in the field were illegal, unlawful, or did not have all valid coastal management – I'm sorry – Office of Conservation permits.

For saltwater discharge, the Government presented no evidence that it was illegal. In fact, the Government, itself, permitted discharges on multiple occasions even after 1980.

And for pits, the Government's own witness, Mr. Charles Norman, conceded that the pits in Louisiana were legal and authorized prior to 1980.

Finally, just to quickly address the Government's theory of significant change or changed impacts that allegedly require a coastal use permit, the Government has presented no evidence as to what specific change occurred, when it occurred, and when Chevron was required to get a coastal use permit or at what point.

So for – even under the Government's own interpretation of the grandfather clause, Chevron is entitled to a directed verdict dismissing claims for permit violations for uses or activities that predated the coastal management program, which was September 20th, 1980. Thank you.

MR. CARMOUCHE: The grandfather clause, Your Honor, speaks for itself. I'm not going to repeat it. We've argued this several times.

With regards to discharging, I think there's an overwhelming amount of evidence that the Stream Control Commission governed the discharges prior to 1980. Mr. Charles Norman went through exhaustion with specific rules and specific permitting requirements that should have been obtained by Texaco, and Texaco ignored the permitting process of the Office of Conservation by proving by law did not have jurisdiction over the discharging at the time. The Stream Control Commission was over that, and they were violated. The discharges continued after 1980 under the SLCRMA law. It was proven that there was direct and significant impact due to those discharges, and there was no permit received going back to the SCC. It was also proven by D.J. Ponville that the 1971 permit obtained by the Stream Control, which was the only time, there was fraud and information given to the Stream Control Commission, going back to the – after 1980, they did not receive a permit to discharge, which was causing direct and significant impact, which Mr. Keith Lovell testified if, after 1980, it caused direct and significant impact, it needed a coastal use permit.

As to the canals, we showed you on the Corps that told them how wide the canals could be. I'm not arguing that they violated that permit. However, evidence showed through Dr. Gibeaut and other experts that the canals widened, which was not legally established, the industry standard as shown through documents of Texaco that they were capable of maintaining the canals and failed to. In addition, after 1980, it was proven that the canals widened. They dredged the canals, they put spoils that caused land loss. They were causing direct and significant impact

and failed to get a coastal use permit. They got a coastal use permit for dredging, which Dr. – Mr. Verchick gave the facts, which that is a specific violation of the permit, all guidelines apply, and they failed to get a permit to restore to its original condition.

Regarding pits, they failed to get a CUP because they dredged and filled, which required – it was a direct and significant impact, to the dredging of the pits, which the dredge and fill is a direct violation of not getting a permit in the – in the SLCRMA law.

THE COURT: Did you address wells?

MR. CARMOUCHE: I'm sorry.

THE COURT: I missed it.

She had argued canals, well, discharge, pits.

MR. CARMOUCHE: I'm not sure. Wells – if she's arguing – I mean, wells goes to equipment, I'm not sure, but if wells – if some of the argument she's making is equipment, then we had evidence from Charles Norman that Texaco failed to remove the equipment that they specifically left out there.

If she's arguing subsidence, just in case, for the record, Dr. Day talked about – and Dr. H.C. Clark talked about the cumulative impact, in addition to Mr. Lovell, that's a direct and significant impact, and once that occurred, they needed a coastal use permit.

THE COURT: Thank you.

Can you clarify that, please?

MS. JUNEAU: Very briefly, Your Honor.

Just to note, the unlawful – the grandfather clauses say "unlawfully commenced." It does not say "bad faith,

prudent practices," anywhere in the statute, so we disagree that interpretation.

But for wells, what I was really driving at is, the Government has alleged that we were required to get coastal use permits for wells that predated September 1980. That's been my understanding. And we think that the Government did not present any evidence that those wells were illegal, unlawful, or did not have the required Office of Conservation permits, which was the agency which had jurisdiction over those wells prior to the Coastal Management and SLCRMA coming into effect.

THE COURT: I'm not sure I heard a lot of testimony specifically delineated as wells, Mr. Carmouche. I think you'd agree, you were searching yourself as far as was it related to production induced subsidence.

Is that the portion of this case, Ms. Juneau?

MS. JUNEAU: Yes, Your Honor. So to the extent the Government is alleging we needed to get a coastal use permit for production induced subsidence, that is an impact. It's not a use, and in order – as the Government said, in order to require us to go back and get a coastal use permit for those operations, they need prove that the wells were operated unlawfully, illegally, not within their own interpretation of the grandfather clause, and I don't think they've done that here.

THE COURT: Thank you.

MR. CARMOUCHE: There's no allegation that the wells were not properly permitted.

Actually, I showed the permits of the wells.

The subsidence H.C. Clark talks about continued after 1980. So this cause of direct and significant impact, as described by Mr. Lovell and Mr. Verchick, it's a cumulative and secondary impact which needs a coastal use permit.

THE COURT: With regard to directed verdict on the blanket exemption/grandfather clause, as broken down into the various parts, canals, wells, discharging pits, the Court finds that there is sufficient evidence presented by the plaintiffs for the jurors to reach a verdict on those issues, and, therefore, denies the directed verdict motion.

MS. JUNEAU: Claire Juneau, again, on behalf Chevron. We're getting there, Judge.

Chevron moves for a directed verdict on violation of certain coastal management guidelines that the Government has raised in this case. Of course, we've previously filed a summary judgment on this issue, which was denied, but we would reurge those arguments.

But again, I wanted to turn to three specific guidelines that the Government has presented in its case, and we assert that the Government has no evidence that the guideline was violated. First is one we've heard about a lot, Guideline 719 – 719-M states that, "Mineral exploration and production sites shall be cleared, revegetated, detoxified, and otherwise restored as near as practicable to their original condition upon cessation of operation to the maximum extent practicable."

In this case, the Government has presented no evidence as to when operations ceased or that they ceased under Texaco. In fact, the evidence shows that

operations were transferred to a subsequent operator, and those operations ceased later.

So we'd ask for a directed verdict on the violations of that guideline, to the extent that guideline is an independent, self-executing regulation that the Government alleges we violated.

The second guideline that the Government has identified is Guideline 705-N. It governors canals, and it states that, "Areas dredged for linear facilities shall be backfilled or otherwise restored to the preexisting conditions upon cessation of use for navigation purposes to the maximum extent practicable."

Again, the Government has put on no evidence that the canals have stopped being used for navigation. That question was posed to Mr. Verchick yesterday, and he conceded – he admitted that he did no analysis.

So we would for a directed verdict of violation of that guideline, to the extent it is an independent, self-executing regulation that the Government alleges we violated.

And finally, Your Honor, the Government cites to a number of guidelines which contained the term "cumulative impacts," and they seem to suggested to the jury that Chevron violated these guidelines, but again, as argued earlier, the Government has put on no evidence of when the cumulative impact occurred, how it occurred, what operations contributed to it. So we would also ask for a directed verdict on that guideline as well. Thank you.

THE COURT: Thank you.

MR. CARMOUCHE: First and foremost, Your Honor, I think the law's been very clear, and our

argument's been very clear. Actually, they started this whole case 13 years ago arguing that the guidelines cannot be read and used independently. You have to have a use or an activity that causes direct and significant impact before a guideline could come into play.

As to discharges and permits, the evidence couldn't be request clearer that the discharges stopped in 1993 when the saltwater – in 1994, when the saltwater disposal well was placed. There has been no evidence there have been any other discharge in this field.

Regarding pits, there has been evidence that the pits were closed, I think, by 1991, so that chapter has ended, that use has been completed.

As it is to canals, the canals were dredged by Texaco after 1980. We proved through Mr. Verchick that that permit was – ended in 1993 during Texaco's operations. There was no other dredging that was been proving – proved yet that occurred, and the canal permit requires the – required permit for the use of dredging, which then goes to Number 7, which says that you have to restore the property to its original condition. So it's not just because a boat continues to go up and down, you have to have the use. The use was complete, and there's never been another dredge – a dredging out there of the canals.

The cumulative impacts, I can't begin to speak about how much evidence was introduced. Dr. John Day, Dr. Pardue, H.C. Clark, all talked about these – and Gibeaut, with regards to everything, discharges, pits, canals, were all cumulative – and subsidence were all cumulative effects to the cause of the damage,

and the cumulative impact is considered and defined as a direct and significant impact under this section.

MR. FAIRCLOTH: Briefly, Your Honor.

The only point I will add to the issue with regard to completion of operations. SLCRMA is a permitting regime. Mr. Lovell explained these are were individual permits. They were specific as to the permittee. So I think the interpretation has to be that, upon completions of the operations by the permittee, so I don't think you can broadly say, because operations began, therefore, operations continuing to the end of all operations. It is a specific user regime, and I think Mr. Lovell's testimony made that clear.

THE COURT: You're speaking of cessation, specifically?

MR. FAIRCLOTH: Yes, sir.

THE COURT: You said completion. I want to make sure we –

MR. FAIRCLOTH: Cessation.

THE COURT: Cessation?

MR. FAIRCLOTH: That's correct, Your Honor.

THE COURT: Yes.

MS. JUNEAU: Again, Your Honor, the guideline, says what it says. It says, "cessation of operations," and it says, "cessation of use for navigable purposes." they haven't proven it in their case. Thank you.

THE COURT: Thank you.

And again, the argument presented – I'm sorry. Were you addressing this?

MR. GELPI: No, sir.

THE COURT: You can stand there.

Just caught me my surprise.

MR. GELPI: Sorry about that.

THE COURT: That's okay. Do you want me to rule on this, or do you want to wait?

ATTORNEY 7: Please do.

THE COURT: All right. The arguments made by Mr. Carmouche and Mr. Faircloth outlines, essentially, enough for the jury to determine if there is a cessation under 719-M.

Under 705-N, whether there was navigation as intended under the coastal law, the guidelines thereto.

And the third argument relative to cumulative impacts, likewise, the jury has enough evidence to make a determination there. ^Yes, sir.

MR. GELPI: Jeffrey Gelpi on behalf of Chevron.

I'll be arguing our next motion of directed verdict –

THE COURT: Maybe I should say clearly that the motion for directed verdict is denied. I apologize.

Just try to get to your argument, sir.

MR. GELPI: Our next motion for directed verdict is on the claims for alleged harms occurring before September 20th, 1980. There's only one claim in this lawsuit. It's a claim under the state and local Coastal Use Resources Management Act, which I'll call SLCRMA. It's S-L-C-R-M-A. To establish a claim under SLCRMA, the Parish has to prove that Chevron either violated the terms of a coastal use permit or failed to obtain the coastal use permit when required.

We've heard throughout this trial that SLCRMA did not become effective until September 20th, 1980. That

means that, before then, Chevron could not have violated the terms of the coastal use permit, and, likewise, Chevron could not have failed to obtain a required coastal use permit. It's as simple as this. It's because, before then, because September 20th, 1980, there were no coastal use permits. There was no obligation to obtain or comply with coastal use permits because SLCRMA did not exist.

We've argued this before. We did file a motion for partial summary judgment on it. I believe the Court granted it initially. Then there was a motion for new trial that was granted. I'm not going to argue everything that we argued before.

I do want to make two points clear. We're not arguing that no one could ever be liable for any pre-1980 harms under different legal theories. Certain legal ^ for negligence, breach of contracts, but that's not the case here. The Parish filed one claim, asserted one claim. It's a claim under SLCRMA.

And second, I do want to point out that this is a separate issue than the issue with the grandfather clause. The grandfather clause determines whether a use that originated before 1980 and continued after 1980 requires a coastal use permit. The issue here is whether – any harm that occurred before 1980, whether it – well, it obviously did not require a coastal use permit because those didn't exist, but whether a harm that occurred before 1980 could be remedied under SLCRMA. Our argument is that any harm that occurred before 1980 could not have been caused by a SLCRMA violation because SCLRMA did not exist at the time. Therefore, Chevron cannot be held liable

under SLCRMA for any harm that occurred before 1980. Thank you.

THE COURT: Thank you.

MR. CARMOUCHE: Your Honor, you've already ruled on this for summary judgment, but I think you have ruled – your ruling states that, if it was proven that the activity was not legally commenced or legally established prior to 1980, harms can be recovered. As argued previously, and I dot my argument with all of the illegal activity that Mr. Norman proved, I think we have met the burden that you have placed upon us to recover for our harm. Mr. Lovell specifically described how the FEIS describes this. He also specifically said, if it was illegal activity prior to 1980 that continued and caused direct significant impact, you needed a permit.

THE COURT: I thought you were going to argue, Mr. Faircloth.

MR. FAIRCLOTH: I withdraw my contention.

MR. GELPI: Just really briefly, Your Honor.

I think a lot of the argument has to do with the grandfather clause. If the grandfather clause does not apply, that just means that a permit is required after 1980 for that use. It does not have anything to do with whether the harm that occurred before 1980 is remedied under SLCRMA. I think, if SLCRMA did not exist, then that could not have been caused by a SLCRMA violation, and if there is an issue of a permit being required after 1980, any restoration obligation under SLCRMA would obviously go back to the time when a permit was required, which could only be possibly after September 20th, 1980.

THE COURT: Thank you.

MR. CARMOUCHE: The only thing I'll say for the record, Your Honor, is that it is clear under the statute that a contemplated activity prior to 1980, and 719-M says "original condition." It doesn't have a date of restriction of the original condition.

THE COURT: All right. The language, as lawyers from both sides have said, says what it says. I didn't write it, but I am trying to manage it within the confines of this trial presented – facts presented to the jury, law as will be presented to the jury, instructed for them to apply the facts as they find them.

I am going to deny the last motion for directed verdict on alleged harms that occurred, as I believe it was framed, prior to 1980 but ceased prior to implementation of SCLRMA, the coastal law, September 20th, 1980.

MR. MAYER: Your Honor, Eric Mayer on behalf of Chevron.

This motion for directed verdict is focused on whether Chevron needed to obtain a coastal use permit for an activity that was permitted by another department within the Louisiana Department of Natural Resources.

This directed verdict motion is important because there are only two ways the jury can find Chevron violated the coastal law. First would be by failing to abide by the terms of a coastal use permit that they received. The undisputed facts in this case are that Chevron did not receive any coastal use permits for the drilling of wells, for the production of oil, for the rate at which oil was produced, for the location of their drilling rigs, for anything governed by the Office of

Conservation. That makes perfect sense because, prior to this lawsuit being filed, there never has been a coastal use permit for these activities because they are regulated by other departments within the Department of Natural Resources.

Chevron moves for a directed verdict based on this because the language of the statute specifically provides we do not need to obtain a coastal use permit for this activity. And by that, I mean, Louisiana Revised Statute Title 49, Section 214.31(B), like "boy," states, "Permits issued pursuant to the existing statutory authority of the Office of Conservation in the Department of Natural Resources for the location, drilling, exploration, and production of oil, gas, sulfur, and other minerals are issued in lieu of coastal use permits." That means no coastal use permit is required for that activity.

In addition, the Louisiana Administrative Code, Title 43, Section 723(A)(3) provides, "Coastal use permits shall not be required for the location, drilling, exploration, and production of oil, gas, sulfur, and other minerals subject to the regulation by the Office of Conservation of the Department of Natural Resources as of January 1, 1979."

The other way you can be found responsible for a violation of SLCRMA is for failing to get a permit where one is legally required. Those two provisions of Louisiana law that I have read verbatim require – I'm sorry – do not require Chevron to obtain a coastal use permit for activities related to oil and gas production and waste management because Section 29-B is included within the Office of Conservation. We know

that because Title 30 of the Louisiana Revised Statutes so provides.

Finally, when this law was enacted in 1980, there were multiple memorandums of understanding that were executed by the respective agencies within the Louisiana Department of Natural Resources on how those agency would manage this precise issue. They determined and executed an agreement that memorialized that no such coastal use permit would be required for this activity.

Now, how this relates to this case is fairly simple. There has been claims about subsidence, land loss caused by oil and gas production, land loss caused by alleged discharge without valid permits of produced water, but it is undisputed – both Mr. Norman and Mr. Lovell, both conceded those activities are permitted and have been permitted by the Office of Conservation, not the Office of Coastal Management.

Finally, Mr. Lovell testified that he was not aware on behalf of the State of any oil and gas production that was performed by Chevron or Texaco in this case area that was not done pursuant to a valid State permit.

Accordingly, no permit was required for matters that were regulated by other divisions of the Louisiana Department of Natural Resources, and a directed verdict should be granted as to Chevron for any alleged claims related to those activities. Thank you.

THE COURT: Thank you, Mr. Mayer.

MR. CARMOUCHE: I think the guidelines are very clear. Your Honor went through in detail with Mr. Verchick, there's concurrent jurisdiction. One of the regulations numbers says "shall be in addition on

any other permit." Mr. Lovell testified specifically that, if there is direct and significant impact by any oil field operation, you shall get a permit. This is pretty easy using their own evidence, if drilling wells was totally permitted by Office of Conservation, then why did they get a coastal use permit?

The 29 permits they got were for production – exploration and production, which Mr. – which he just testified to – Mr. Mayer testified that they didn't need a permit.

In addition, discharges, they actually in a workover asked the coastal use – asked the Coastal Management Office if they could discharge. They said, "No. You need a coastal use permit." Included in the coastal use permit, which they obtained, said "Go to the discharge point."

So their own evidence shows that they were receiving coastal use permits in this field.

The closure of pits was specifically addressed by the Secretary in 1987 who sent out a notice saying that, if you're going to dredge and fill, you need a coastal use permit," and they were required to get a coastal use permit. The failure for them to go to the Coastal Zone Management with all of the proof of causing direct and significant impact, they needed a coastal use permit.

Canals, also, dredging and filling – dredging, they also got a coastal use permit that was taken away in 1993.

MR. FAIRCLOTH: Very limited point, Your Honor, but it's an important one. There's no limiting principal on what they're arguing. They are literally arguing that anything governed by the Office of Conservation has sovereign authority over all the other regulatory

agencies. And basically, they're arguing that the Office of Coastal Management has no authority over anything related to oil and gas activities because it is regulated by the Office of Conservation. That's not what the statute says. That's not the regime that was described by Mr. Lovell. It's a cooperative regime, as the Court heard. The statute says that OCM permits are in addition to permits required by other laws. So it's a substantial argument they're making that is not supported by law or practice.

THE COURT: Mr. Mayer, anything?

MR. MAYER: I think the existence of the 29 coastal use permit applications proves exactly the opposite, that where it involved an activity that wasn't exclusively under the jurisdiction of the Department of Natural Resources, Chevron did seek application, for example, for dredging, and for other items that were covered under the post-1980 law. What we didn't do and what we have never done, and which Mr. Lovell testified the agency in its 45 years of existence has never done, is issue a coastal use permit for the drilling of a well or production of oil and gas or the rateable takes on the well that you could or could not resulted in some type of subsidence. And those portions of the case, we cannot be held liable for failing to obtain a coastal use permit for something the statute itself directly says no such coastal use permit is required for. And on that basis, that's why we move for a directed verdict for those activities.

Your Honor originally granted a motion on subsidence and other activities covered by in-lieu, but on reconsideration, changed Your Honor's mind. That doesn't mean we're deprived of a right to move a

directed verdict. They have not presented evidence to this jury that those items of jurisdiction subsisted under Office of Coastal Management. Mr. Lovell testified exactly in accordance with Chevron's position, that those activities have never been regulated by his office, and he was not aware of any activity Chevron conducted that was unpermitted in that arena. And therefore, that also explains why the State has asserted no claims against Chevron for those of activities, because the State doesn't believe those activities require a coastal use permit.

We ask that Your Honor return to his original ruling and grant a directed verdict on those activities. Thank you.

MR. CARMOUCHE: I have to say, for the record, the evidence is totally opposite. They got a coastal use permit to drill. They got a coastal use permit. They were directed by the 1987 DNR by pits. They got a coastal use permit to discharge. They got a coastal use permit for canals. So again, in addition to all the other law, I'd ask that it be denied.

THE COURT: Being consistent with my overturning on rehearing, I'm going to deny your motion – the latest one on the coastal law, for a directed verdict.

MS. JUNEAU: Last one, Your Honor, I'll be brief.

Chevron is moving for a directed verdict on all exclaims that it violated a specific term or a condition of a coastal use permit issued to it.

As you know or are well aware, this case is about two issues, what the plaintiffs describe as unpermitted uses and also uses that were conducted under a coastal use permit. Yesterday, during Mr. Verchick's

testimony, the plaintiffs put on a number of coastal use permits that were issued to Texaco, but the Government put on no evidence of any specific term or condition in that coastal use permit that were violated. Therefore, we move for a directed verdict on any claim that Chevron violated a specific term or condition in an issued coastal use permit. Thank you.

THE COURT: Thank you.

MR. CARMOUCHE: And I'm not going to walk away. I apologize.

Your Honor, specific within the specific provision that was in every permit with specifically directed Mr. Verchick to Number 7 in those permits which our regulations require. I then asked him, "Did you see any permits to go back and restore to its original condition, which would be a violation of that specific condition in the permit?" Therefore, I ask that it be denied.

MS. JUNEAU: Just to briefly respond, Your Honor.

Mr. Verchick did not answer what specific alteration or equipment was not removed. He could not identify what specific well site it was or whether it was restored, so the Government has not put on evidence, even under the plaintiffs' theory, that we violated the terms and conditions of – those coastal use permits.

THE COURT: Thank you.

I think there may be other evidence provided by other witnesses to support those points that you're making, but Verchick did identify the failure to return to original condition, and, therefore, that specific motion for directed verdict is denied.

MS. JUNEAU: Could I just approach to give you courtesy copies of our filings?

THE COURT: Certainly.

MS. JUNEAU: Thank you.

THE COURT: Anything else?

MS. JUNEAU: That's it, Your Honor. Thank you.

THE COURT: Thank you.

All right. We'll try to return at 1:00 o'clock. I'm sure the jury will be ready.

Before we go, is Chevron ready to call the first witness this afternoon?

MR. PHILLIPS: Yes, Your Honor.

THE COURT: I assume we're under the same time regime, 5:15?

MR. PHILLIPS: Whatever Your Honor tells us to do, we'll do.

THE COURT: To make sure we understand where we are, so we're not in the middle of some significant testimony. We've been working them pretty hard.

Off the record.

(REPORTER'S NOTE: AT THIS TIME, THE COURT TOOK A LUNCH RECESS.)

THE BAILIFF: Court is now back in session.

Jury enters.

THE COURT: You may be seated.

Mr. Carter, you up first for Chevron?

MR. CARTER: Yes, Your Honor.

MARK BYRNES,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

Cart.

THE COURT: When you're ready you, Mr. Carter, you may proceed.

BY MR. CARTER:

Q. Could you please introduce yourself to the jury?

A. My name is Mark Byrnes.

Q. What's your role in this case, Dr. Byrnes?

A. I'm a coastal land loss expert. I was asked to do an independent evaluation of coastal land loss in the operate – or the case area.

Q. Do you have experience studying the causes of land loss?

A. Yes, I do.

Q. Are you a scientist?

A. I am.

Q. Can you describe some of the things that you study as a scientist?

A. Sure. Most of what I study is what I call "coastal geologic framework," which is the study of geology in the coastal zone and how sediments were deposited and how those deposits changed through time.

I use aerial imagery to map coastal change. I use aerial photograph to map coastal change. I quantify that change, identify the patterns of change, and what that may do to reflect the causes of change. So that's primarily it.

Q. There is a term that is used in some of

APPENDIX K

| | | UNCERTIFIED ROUGH DRAFT | | |
ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.

DAY 14

Taken on Thursday, March 27, 2025

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COURTROOM PROCEEDINGS

(On record at 9:04 a.m.)

THE BAILIFF: All rise. 24th Judicial District Court in and for the Parish of Plaquemines is now in session. The Honorable

Michael D. Clement presiding. God save the State and this Honorable Court.

You may be seated.

THE COURT: Good morning.

All right. A little housekeeping from yesterday, my ruling on the deposition of Dr. Visser.

MR. CARMOUCHE: We're going to bring her live. I'm going to get with Mr. Phillips. I talked to Mr. Mayer today. We're just got to work out the timing.

THE COURT: Okay. Fair enough. I don't think there's anything – well, there is –Mr. Faircloth's objection to the filing of more documents into the record and striking the one that's there. Just so that the record is clean, I'm going to deny that motion. If they want to fill the record, I don't think so. I think it was an attempt to make their objection, put it in the record, and have it continuing, I think. So I haven't seen any of your other filings, and I haven't seen a response from plaintiffs and I don't need one unless you feel compelled.

MR. MARTIN: I don't, no.

THE COURT: Y'all ready for the jury?

MR. CARMOUCHE: Yes, sir.

THE COURT: Let's bring them in.

(REPORTER'S NOTE: THE JURY ENTERS THE COURTROOM.)

THE COURT: You may be seated. Madam Clerk.

(Roll called).

THE COURT: Let the record reflect all jurors are presented.

Still on direct?

MR. CARTER: Yes, sir.

THE COURT: You may continue.

BY MR. CARTER:

Q. Good morning, Dr. Connelly.

A. Good morning.

Q. When we left off yesterday, we had talked about how ICON had sampled 30 locations in 2018. Do you recall that?

A. Yes.

Q. And then ERM went out in 20- –

THE COURT: I did that.

(Reporter's note: Judge turned on the mic)

MR. CARTER: Okay. Very good.

Thank you, Your Honor.

BY MR. CARTER:

Q. And then ERM went out in 2024 and then

* * *

applied and got the job. And I started my work with the State Department of Natural Resources with the Coastal Management Section in January 1980. And I think, within – within a day or two, I started receiving my first permits to review. I was a permit analyst for two years, and then I was elevated by Joel Lindsey, the administrator of the section, to be chief of the enforcement subsection. I say "subsection," because the whole Coastal Management Section was called the "section," and I was the enforcement chief for four or five years. And then after that, I became the section manager of the Wetland Resources Section for another four or five years. And then I moved on to the Coastal Restoration Division because I

was more interested in restoration than regulation.

Do you want me to continue with the Wildlife and Fisheries?

Q. Yeah, keep going.

Did you at some point leave Coastal Management?

A. Well, I left Coastal Management and went to the Coastal Protection Section, which is the restoration arm of Department of Natural Resources

at that time, and I participated in building coastal restoration projects and I concentrated out in southwest Louisiana.

And in 1992 – I mean, 1998, I got a job with the US Fish and Wildlife Service and worked there for 21 years, from '98 to 2019, right before – right before COVID, and I'm glad I got out before COVID.

Q. Thank you, sir.

My questions today, I'm going to be focused on your time working for Coastal Management. And I think when you were there, it was called the Coastal Management Section, and then it became a division and now it's the Office of Coastal Management; is that –

A. That's correct.

Q. Okay.

So when I say "Coastal Management," I just want to – I'm talking about the office that you worked in.

When you started there, was the coastal use permit program pretty new?

A. It was extremely new. I believe it started in the same month that I started, January of 1981. And looking back, I can see some of the

first permits were worked on, permit applications were worked on in January 1981.

Q. Okay.

Because the jury's heard that the program started in September of 1980, but is it that it took a while for the first permits to come out?

A. That's correct. The program started in September 1980, but it took a little while to get everything rolling for permits to be issued. I didn't – have not seen a permit from 1980.

Q. Okay.

A. That doesn't mean it – possibly one did not, you know, creep in.

Q. But you started working there right as the permits program was getting off the ground?

A. That's correct.

Q. So let's talk about the permitting process as you came to know it during your time working for Coastal Management.

Can you explain based on your personal experience at Coastal Management what types of activities required a coastal use permit?

A. Basically a dredge-and-fill –activities.

MR. CARMOUCHE: Objection.

THE COURT: One second, sir.

MR. CARMOUCHE: Objection, Your Honor. May we approach?

THE COURT: You may.

(REPORTER'S NOTE: AT THIS TIME THE FOLLOWING BENCH CONFERENCE WAS HELD BY AND BETWEEN THE COURT AND ALL COUNSEL.)

MR. FAIRCLOTH: Going straight to it, Your Honor.

MR. CARMOUCHE: Your Honor, I would think the open-ended questions, I think he needed to instruct this witness what he can and what he can't say because he's coming out of his mouth.

MR. FAIRCLOTH: It's different to say that the process which he employed, which is fine, but the question was objectionable, "Can you tell us what type of activities were required?"

MS. MASCARI: From his experience.

MR. FAIRCLOTH: No. His experience doesn't require anything. The law requires.

Inappropriate question.

MS. MASCARI: I simply – he said open-ended

questions. If he prefer that I lead him, it could go a lot faster, but I'd have to ask him open questions.

THE COURT: I think you understand the rule, but if you give him an open-ended question, you going to get what you get.

MR. CARMOUCHE: I think he needs to be instructed. I mean, I can't have them say out the blue, "Anything prior to 1980 didn't need a

permit." I mean, that's – he's interpreting the law, that's going to come out his mouth, Judge. He's been meeting with the lawyers. He's met with them for seven years.

MS. MASCARI: I met him for the first time two weeks ago.

THE COURT: Didn't need a CUP? What – are we talking about, Mr. Carmouche?

MR. CARMOUCHE: The grandfather clause. He's going to say, "We did not grant permits for any activity prior to 1980," which is interpretation.

MS. MASCARI: If he's says that's the practice, that's what Mr. Lovell said, that's the

practice now. He can say that's the practice when he was there. That's a fact, what the practices were. That goes to our defense. And that is – he can talk about the process, about what types of activities he would – what was the practice and when a certain type of permit was required.

MR. FAIRCLOTH: Your Honor, the law dictates what's required. My objection is to the question, "What's required." The law dictates what's required. What they did does not define what's required, so to me, that's the problem.

MS. MASCARI: If he was to cross him and ask him, "^you did the job?" He can do it. That's what he told the jury. I can let him explain his job and what he understood he had to do under his job.

MR. FAIRCLOTH: Why is that relevant, remotely relevant?

MS. MASCARI: He's the first person that's talked about a permit in a case that's supposed to be about permits, and I find it almost comical that he jumped up to object when I asked him, "What types of activities required a permit in his experience?"

MR. FAIRCLOTH: Because it calls for a legal opinion. It absolutely does.

THE COURT: That's an interpretation of the law in realtime. That's an application of the law in realtime; right?

MS. MASCARI: But it – that was his job for years. He was the – we'll got to when he was the enforcement person, what types of things he did as enforcement. This is a very similar question to what Lovell was asked on direct.

THE COURT: It sounds different.

How are they similar? Help me out. I may be a little slow this morning.

MS. MASCARI: Your Honor, Mr. Carmouche brought up the ^he was asked about the practice – whether it was the agency's practice now to not look back. So that's an example. What was the practice then as to look back? And we talked about the different types of activities.

But he – he did this for a living. This is – you know, it's not a legal opinion. It's what he did for his job.

MR. FAIRCLOTH: That is not relevant. What he did for his job –

MS. MASCARI: It's entirely relevant. Tired of hearing about fair notice. It's certainly relevant to what the agency was doing over the entire time that –

THE COURT: This is the detriment reliance, equitable Estoppel argument that I shot down over and over, maybe even draw some ire from this Court towards one of the counsel, as an objection was reread into the record, I don't know.

MS. MASCARI: But this is a fact witness who – Mr. Carmouche brought up the letters about 1980 previous and the post-use^. That came up during an expert's exclusion here, and he said, "That's a legal opinion. It can't come in."

This witness – he's the one that asked the question. The letter's actually from him, and he got the answer about what the practice was about 1980, so he should be able to talk about his time and what he understood –

THE COURT: What letters are you talking about? You lost me.

MR. FAIRCLOTH: That's ^ any other objectionable point.

MS. MASCARI: And we've got ^copies for and I sure – that's why I'm bringing it up now is that Mr. Patton asked the agency whether they needed permits for activities prior to 1980, and he got an answer that we did not. His

understanding of the practice since then is they did not issue permits for activities prior to 1980.

MR. CARMOUCHE: Mr. Patton's letter, which she has to do ^that, was for a Cameron Parish road.

MS. MASCARI: He sent a draft form letter that was going to be used in other –

MR. FAIRCLOTH: It doesn't involve Texaco. It doesn't involve this – these activities. It's – let me finish. Let me finish. It's an opinion by a lawyer in DNR that, not only was wrong, it has nothing to do with this case. This is why we made the admissible objection because that's where this is going. This is going right back to your prior rulings. It absolutely is.

MS. MASCARI: I think, again, if it's

presented to the jury that the people at Coastal Management did not do their jobs correctly – at some point, it was suggested that people were not necessarily educated. They were scientists, they understood, and then they should see how he did his job. And so it's a simple question I asked was, "What types of activities did he understand through his experience in the department."

MR. FAIRCLOTH: It's not – just to be clear, I wouldn't object if she said, "Tell me what kind of activities you regulated." But the bridge – where she's going wrong is to say "required a permit" or "the law required." That's the legal – so the –

MS. MASCARI: What type of activities did you issue permits for?

MR. FAIRCLOTH: That doesn't – I don't care about that. It's what the law requires.

That's the issue.

MR. CARMOUCHE: I got a problem with that because I know what's coming out of his mouth, and that opens the door.

MR. FAIRCLOTH: Yeah, that's right. It opens the door.

MR. CARMOUCHE: So unless he's instructed in front of this court outside the presence of the jury and understands the consequences, it's going to open the door. He – he's ready for them, and so I'm objecting to that. That is not proper.

MS. MASCARI: I think it's entirely proper for a fact witness who held this job in the 1980s to explain to the jury how the system worked, what types of permits – what type of activities required permits, what types of activities they did not issue permits for.

MR. CARMOUCHE: He could explain –

THE COURT: That's the agency applying the law, which we're here – the plaintiffs are here saying was incorrect.

MS. MASCARI: That's why I think they're free to cross him and say they did it wrong.

THE COURT: It's an end-run-around my ruling on the Estoppel issue. You're going to call it detrimental reliance?

MS. MASCARI: Fair notice. It's every defense that we have, Your Honor.

THE COURT: And that's already been ruled on by this Court. I got a memo. That's the memo he objected to, a legal error for me to keep this out. I ruled on a relevance issue. That's the ruling of this Court. It's irrelevant. That was my ruling. And it's –it's – I appreciate the assistance to a point.

MS. MASCARI: I go with him through what the process of the permit is, all the steps.

MR. CARMOUCHE: ^I don't have an objection ^.

THE COURT: But not the types of activities that –

MR. CARMOUCHE: If the lunch is here, she can put –

THE COURT: I don't know if it's here or not.

(Discussion off record.)

MR. CARMOUCHE: I don't care if she talks about it in generalities, but as soon as he starts, I'm going to have to go up, and so that's why I say he needs to be told that he can only talk about generalities about what the permits. ^ That's what you ruled.

THE COURT: I don't know how I'd tell him without her just ^ the jury. Admonishing the witness and directing him how to testify.

MR. CARMOUCHE: For the jury. ^

But again, I just to object.

THE COURT: That's fine. We can come up here a lot. I don't mind.

MR. CARMOUCHE: I don't mind her leading him during the process.

THE COURT: You can lead him.

MR. FAIRCLOTH: His deposition is laced with legal opinions. I'm just telling the Court without admonishment –

THE COURT: That's fine.

When was the deposition taken, before or after my ruling?

MS. MASCARI: Well before.

THE COURT: Sure. So while it may be there, they were trying to – and I said, no, it's irrelevant. It's not coming in. So –

MR. CARMOUCHE: To the extent ^ have to lead him, and she knows what she can get responses from or not.

THE COURT: I know where she wants to go. And again, I appreciate the zealous nature of the advocacy on behalf of your client. However, I made my ruling. I'm not backing down. I'm not reconsidering. I made it. If it's legal error, then you have remedy on appeal. I made a relevancy ruling, and I would ask that that be followed. And the towing the line, this is over that line.

MS. MASCARI: Very well, and I will proceed with the processes. And it may be that we have to proffer stuff after, Your Honor.

THE COURT: That's fine. Sure. Yeah. I anticipate that would be the situation.

MR. FAIRCLOTH: Can you sustain?

Actually, I don't think we objected. I think we just asked to approach. In all fairness, there's nothing to sustain.

THE COURT: Okay. I don't know how to address the jury with this, just...

(REPORTER'S NOTE: END OF BENCH CONFERENCE.)

THE COURT: All right. Let's try again, Counsel.

BY MS. MASCARI:

Q. Mr. Clark, this is a case about some coastal use permits, so I think it would be helpful for the jury if you told us a little bit about the process for getting a coastal use permit?

A. The process. Okay.

So the applicant sends in an application for a coastal use permit. That application was drawn up by my office and made available to the public, and that – I guess that information was published in the State Journal, and then the people – we're talking old school here, 43, 44 years ago. Lucky, I'm able to remember –

Q. I'm impressed.

A. – what happened.

Anyway, the applicant submitted an application, which was a – I think about seven or eight pages long, it might have been. And it had material in there such as, "What is your activity?

Why is it located? Who are you?" You know, "Who, what, when and how? How do you plan to do your activity?" And a map showing where that activity is, how large it is, how many cubic yards, how many acres. A lot of times, we had to calculate the acreage to put in our – we did have a data system at that time.

So they submitted the application. The analysts would review the application according to the coastal use guidelines, which were based on the statute, but they – they don't seem to appear in the statute, but I guess they appear in the statute because the statute tells the Department of Natural Resources how to develop the guidelines.

So we would review the permit application according to the guidelines. And, for example, dredge-and-fill activities, linear facilities, had a certain set of guidelines that had to be constructed a certain way, and if they were not, then the permit was conditioned so that the – the applicant – if the permit was issued, the applicant would have to construct the project a certain way.

Q. Okay.

Let me just break that down a little bit.

A. Uh-huh.

Q. So the first decision would be to figure out if you had enough information to proceed with a review?

A. Oh, certainly. I'm sorry. I skipped over that.

The first step is to see if the application is complete. If it was not, we would maim it back to the applicant.

Q. Okay.

And so once an application was deemed* * *

APPENDIX L

| | | UNCERTIFIED ROUGH DRAFT | | |
ROUGH DRAFT OF TRIAL

The Parish of Plaquemines vs. Rozel Operating Company, et al.

DAY 17

Taken on Tuesday, April 1, 2025

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COURTROOM PROCEEDINGS

(On record at 9:12 a.m.)

THE BAILIFF: All rise. 25th Judicial District Court, in and for the Parish of Plaquemines, is now in session. The Honorable Michael D. Clement presiding. God save the state and this Honorable Court.

THE COURT: Good morning. The jury should be in right behind me if you'll are ready.

MR. PHILLIPS: Ready, Your Honor.

(REPORTER'S NOTE: AT THIS TIME, THE JURY ENTERS THE COURTROOM.)

THE COURT: You may be seated.

(Roll called).

THE COURT: All jurors are present. All parties are present.

Mr. Phillips, your next witness?

MR. PHILLIPS: Even though it's April 1st, this is not an April Fools' joke.

Chevron calls as its last witness, Mr. Kerry Mire.

KERRY MIRE,

having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

THE COURT: Good morning.

You may proceed.

MR. PHILLIPS: Thank you.

BY MR. PHILLIPS:

Q. Good morning, ladies and gentlemen. Good morning, Mr. Mire.

A. Good morning.

Q. How are you today?

A. I am doing good.

Q. You are a former Texaco employee; are you not?

A. I am.

Q. Would you tell the ladies and gentlemen of the jury a little bit about yourself, please?

A. Well, I worked for Texaco and then Chevron for 38 years. I worked in the – several different offices, but all here in South Louisiana. Are we going...

Q. Where are you from, Mr. Mire?

A. I'm from Kaplan, Louisiana, which is about, I guess, 20 miles southwest of Lafayette, grew up there. I lived in – in addition to that, I lived in Lafayette, Louisiana. I lived in – on the Westbank in New Orleans, mostly in Terrytown, for about 20 years, and I currently live in Covington.

Q. You're not an expert witness here today, but can you tell the jury just a little bit about your education that you got and utilized while you

* * *

MR. CARMOUCHE: I offer, file, and introduce into evidence 1628 P – P 1628.

MR. PHILLIPS: No objection.

THE COURT: Received without objection.

Redirect, Mr. Phillips?

REDIRECT EXAMINATION

BY MR. PHILLIPS:

Q. Sir, you worked at Texaco for 30 years; right?

A. Thirty-eight.

Q. Thirty-eight?

A. Yeah, Texaco and Chevron, 38.

Q. And you have – in addition to the time you've been there, you've spent a lot of time helping us look back at records that go back to the 1940s; right?

A. Yes.

Q. I don't know why I ask it, but let me ask you. Did you need to speak with Mr. Duplantis or anybody else to understand what you knew from your time at Texaco?

A. No.

Q. All right.

Was Texaco's policy to follow the law?

A. Yes, absolutely.

Q. While you were there, is that what you witnessed?

A. Yes.

Q. Every witness that has gotten up for Texaco, the plaintiffs have asked how much money you're charging, and they asked you that question. Do you remember that?

A. Yes.

Q. Okay.

You get paid for your time just like everybody else, don't you?

A. Yes, I do.

Q. But let me ask you a question, sir. If you didn't believe in Texaco, that it did the right things over the 38 years that you worked there, could we pay you enough money to get up here and talk to these ladies and gentlemen of the jury?

A. No.

MR. PHILLIPS: That's all the questions I have.

THE COURT: Thank you, Mr. Phillips.

Thank you, Mr. Mire. You may step down, sir.

MR. PHILLIPS: Your Honor, can we approach for a second?

THE COURT: Yes, sir.

(REPORTER'S NOTE: AT THIS TIME THE FOLLOWING BENCH CONFERENCE WAS HELD BY AND BETWEEN THE COURT AND ALL COUNSEL.)

THE COURT: All right. We are in conference. All right. There's an agreement, first of all. You're going to read this?

MR. PHILLIPS: Yes, Your Honor.

THE COURT: There's a stipulation?

MR. PHILLIPS: Yes.

THE COURT: ^ probably going to come into the charge anyway because it's in the stipulation's section, but you can read it.

MR. PHILLIPS: Okay.

THE COURT: And then rest.

MR. PHILLIPS: Then we'll – we'll I'm going to move for directed verdict here, and then after Your Honor rules on that directed verdict, we will rest.

THE COURT: All right. You're moving? You're reasserted the directed verdict?

MR. PHILLIPS: Your Honor, we're – Chevron is reasserting, again, all of the directed verdicts that we previously moved for after the close of the plaintiff's case. I believe there were nine, if

I'm right, but we are re-moving for the Court to consider those and rule on those again.

THE COURT: Nine is correct. I do have the nine written versions that were filed into the record. The Court will maintain its prior ruling, denying all directed verdicts.

Is that all of them, at this time?

MR. PHILLIPS: And we have no objection to Mr. Carmouche resting his case and arguing directed verdict after he rests his case so the jury could be released.

THE COURT: But you're going to read this?

MR. PHILLIPS: Read this, and then we'll rest.

THE COURT: All right.

(REPORTER'S NOTE: END OF BENCH CONFERENCE.)

THE COURT: All right. Back on the record.

Mr. Phillips?

MR. PHILLIPS: Yes, Your Honor. Thank you very much.

Your Honor, that was Chevron's last witness.

Chevron would like to read into the record a stipulation that was entered into this case for the jury. It's a stipulation of the State of Louisiana, through the Department of Energy and Natural Resources, Office of Coastal Management.

Now, onto the Court, through undersigned counsel, comes State of Louisiana, the Department of Energy and Natural Resources, Office of Coastal Management, who submits

this stipulation in response to the notice of videotaped deposition Article 1442 deposition issued by defendant, Chevron USA, Inc., Chevron USA Holdings, Inc., the Texas Company, and the Atlantic Richfield, to LDENR.

The LD – stipulation Number 1, the LDENR stipulates that the LDENR and its employees have no knowledge of any plans –for any plans to prove any violation against any of the defendants in this case.

Number 2, the LDENR stipulates that, had its employees been aware of violations of SLCRMA, LDENR would have commenced either this litigation or other enforcement actions.

Stipulation Number 3, the LDENR has not initiated any enforcement actions against any of the defendants in this litigation relating to the claims being brought by the parish of Plaquemine.

Number 4, the LDENR intervened in this litigation for the limited purpose of monitoring these proceedings as they relate to matters within this jurisdiction.

And stipulation Number 5, the LDENR has not hired any experts in this case, and the LDENR will not present any evidence or any experts or witnesses at trial.

And that's the end of the stipulation, Your Honor.

THE COURT: Thank you, Mr. Phillips.

MR. PHILLIPS: Which is CDX 34.

With that, Your Honor, Chevron rests.

THE COURT: Thank you very much.

All right. Mr. Carmouche, any case in rebuttal, sir?

MR. CARMOUCHE: Your Honor, we do not feel that there's any evidence to rebut. I think this jury's ready^, and we rest.

THE COURT: All right. Ladies and gentlemen, as expected and described to you, we are going – we've got some work to do before we get to closings and the jury charge. That schedule will remain the same. Thursday morning, we need to be back here at – ready to go at 9:00 a.m. So tomorrow is your off day. I will ask you to make yourself available in the event. We have contact information from you. It's highly unlikely that you'll be called down tomorrow. So don't return to work, is what I'm telling you. You're still here doing jury duty. The same admonishment applies. You've heard the evidence, but you have not begun deliberations, and you are not to begin deliberations, and as I've explained, discussing counts as deliberating. So please maintain that status.

And at this time, I believe your lunch is going to be picked up, if you want to stick around and wait for your lunch. I think you all ordered lunch. You can take it with you, or you can stick around and eat it here. Your choice.

See you Thursday morning.

(Jury exits).

THE COURT: All right. Outside of the presence of the jury, plaintiff ready at this time, or you need a moment?

MR. MARTIN: We're ready to proceed, Your Honor. We do have a few very short, I think, directed verdict motions that we'd like to raise with the Court.

THE COURT: Okay.

MR. MARTIN: If you're ready.

Good morning. Again, Your Honor, Chris Martin on behalf of the Parish.

As I said, we do have a few motions for directed verdict that we would like to raise here at the close of evidence.

The first motion for directed order is on the issue of prescription, Your Honor, which has been raised as an affirmative defense by Chevron. We feel that directed verdict in favor of the Parish and dismissing the affirmative defense and the prescription is appropriate for several reasons. First and foremost, there is no applicable prescriptive period. As the Court is aware, under Article 3457, prescription only exists – to quote it, it says, "There is no prescription other than that established by legislation." There is no legislation establishing a prescriptive period for the Parish's enforcement claims brought under the SLCRMA. There is no prescriptive period in SLCRMA. This is not a tort case. This is not a contract claim. And so, therefore, there is no applicable prescriptive period. Beyond that, there was no evidence submitted. Even if there

was, a claim for affirmative defense for prescriptive – prescription provided, there was no evidence provided that the Parish knew or should have known at any time within any of those applicable periods for tort, for contract, either under one year or ten year, that the Parish knew anything and failed to act on it timely. No evidence presented to that effect.

Finally, the main reason we're bringing it, Judge, is because we've seen, at least on their preliminary proposed verdict forms, is a blank and a question about the prescription.

And in addition to the things I've just mentioned, it's pretty well settled that prescription is not an issue for the jury. It's an issue for the Court, which you've specifically brought up in an exception –exception under prescription. That wasn't done here. We've also got the Tureaud case versus Bepco. Just for the Court's reliance, it's 351 SO – So.3d 297, which further confirms that there must be a statutory basis for limited prescription.

For all of those reasons – and in addition, we've also got the State as a party. And this prescription was not run against the State. That is straight from the Constitution, article 12, Section 13, provides prescription shall not run into against the State in a civil matter unless otherwise provided in this Constitution or expressly by law.

For all of those reasons, we feel that directed verdict on the issue of their affirmative defense of prescription is appropriate, Your Honor.

THE COURT: Thank you.

MR. MAYER: Your Honor, Eric Mayer on behalf Chevron.

As to the question of whether there were facts presented to the jury, we obviously disagree. Mr. Buras testified from the witness stand about a 1986 study that was commissioned by the Plaquemines Parish, that is CDX 432. He testified that the Parish received that report, and it provided ample information about all of the claims that the Parish is asserting against Chevron in this case.

As to the question of whether or not there's a time period for prescription, Louisiana law has either two catchall provisions; for delicts, it's one year, for damage to immoveables, it's ten years. We cited those earlier. The one year is Louisiana Civil Code Article 3492; the ten year is 3499 for all other actions.

Finally, Your Honor, Mr. Buras also testified that he was aware through the construction permits that were issued that Plaquemines knew full well what Texaco was doing in the marsh at all times, and that Texaco received construction permits for many of the activities that are now being alleged to have been permitted illegally.

For all those reasons, the Parish knew and the jury should be asked in a jury interrogatory when the Parish was aware of the damages for which they seek.

On the issue of the State, I mentioned earlier when we moved for a directed verdict, the

Parish of Plaquemines is not exempt from prescription. It – prescription runs against the Parish, and the State has no claims in this case. They can't at one side argue they're entitled to the imprescriptibility of the State, when the State itself has no claims. That's an adverse and perverse result, and it doesn't comport with justice.

For all those reasons, we believe these claims are prescribed; but at a minimum, you should deny the motion for directed verdict.

THE COURT: Thank you.

MR. FAIRCLOTH: May I briefly respond on behalf of the State?

THE COURT: On the issue of prescription?

MR. FAIRCLOTH: Yes.

THE COURT: Yes, sir.

MR. FAIRCLOTH: Directly to the comments that were just made.

For the reasons I explained earlier in opposition to the directed verdict by Chevron, the State, indeed, has a claim. There was a supplemental and amended petition that was filed. The original intervention was related to the canals. It was pretty circumspect.

The second, the one that replaced its entirety, the petition is very – fairly expansive. It adopts the position of the parishes, and it does, indeed, stand as an enforcement action by the State.

So I fundamentally disagree that the State is not a party here with a claim.

THE COURT: All right. Based on all the pleadings filed, the arguments of counsel, and the evidence presented, the Court is going to grant the directed verdict brought by plaintiffs herein on the issue of prescription. It will not be considered by the jurors in this case.

MR. MARTIN: Thank you, Your Honor.

Your Honor, the second motion for directed verdict brought on behalf of the Parish, this is very quick, another affirmative defense and something that also may appear on the verdict form as proposed by Chevron is the issue of third-party fault, and in particular, the fault of Apache.

We would ask that that affirmative defense be dismissed insofar as no evidence whatsoever – though they were given the opportunity to provide it, no evidence of Apache's fault was provided through any of the testimony or documents provided in this case. Therefore, we don't think, and we urge, that there be no blanks on the verdict form attempting to assess or implicate the fault of third parties, including Apache, Your Honor.

For those reasons, we would ask that motion for directed verdict be granted.

MS. JUNEAU: Claire Juneau for Chevron.

Your Honor, there has been, other than Apache, extensive evidence of other causes of land loss in the case area, including land loss caused by the Corps' leveeing of the Mississippi. That was Dr. Byrnes' testimony. Plaintiff's own experts conceded to that; therefore, we believe

there's sufficient evidence for this issue to be presented to the jury and that the directed verdict should be denied.

As to Apache, as you know, Chevron's objected to that ruling and believed if it was allowed to put on evidence, it could have proved a violation against Apache, but we won't reargue that. Thank you.

THE COURT: Thank you.

MR. MARTIN: Just real quick with what we're talking about, Your Honor, is evidence of fault of third parties, mainly Apache. That's what we're asking for.

MS. JUNEAU: The Corps of Engineers includes – isn't a party. It's the leveeing of the Mississippi River.

MR. MARTIN: We –

THE COURT: I'm sorry. I didn't hear what you said. I may have been speaking over you, Ms. Juneau.

MS. JUNEAU: The Army Corps of Engineers is a third party. It is who leveed the Mississippi River.

MR. MARTIN: There's no evidence of any wrongdoing or fault on the part of the Corps that was presented here, Your Honor, and so they would be included as a third party, along with Apache. There's no evidence of fault, and so we would ask that they not be included as a ^blank.

MS. JUNEAU: But there is evidence that the Corps and the leveeing of the Mississippi River caused the damage in the case area.

MR. MARTIN: And our motion for directed verdict is for fault, no assessment of fault.

THE COURT: I agree with Mr. Martin's assessment. The issue of the leveeing of the Mississippi River is separate and apart from the issue of fault. With regard to the affirmative defense third-party fault on behalf of Apache, there's been no evidence presented or allowed with regard – or nor heard it with regard to Apache. There will be no affirmative defense as it relates to that third-party fault as to Apache.

MR. MARTIN: Thank you, Your Honor.

MR. FAIRCLOTH: Your Honor, there's one additional directed verdict. It relates to detrimental reliance and estoppel, which you may recall.

If the Court recalls, early in the trial, during an objection at a sidebar where we were discussing the admissibility of documents in other fields and other opinions or statements that may have been made by State agencies to other parties, the Court sustained our exception on relevancy grounds because it concerns a certain field. But during that argument, if the Court recalls, I notified them, put them on the spot, and I said, Your Honor, there's nobody on their witness list who can make the link between any of this information and any reliance.

I could have held my tongue there. We could have laid in the weeds on this. We didn't. I challenged them on the record. Nobody's coming from Chevron to say we relied on anything. And that's how the trial has ended. There is zero evidence in this record from anybody to establish that Chevron or Texaco relied on anything. And without evidence of reliance, you cannot – it is fundamental – may I approach, Your Honor, to hand you –

THE COURT: What are you showing me?

MR. FAIRCLOTH: Supreme Court case.

THE COURT: No, sir. I don't need it.

MR. FAIRCLOTH: Okay.

Well, Your Honor, in a fairly recent case, 2013, Luther versus IOM Company, LLC, by the Louisiana Supreme Court, the Court addressed the issue of detrimental reliance and estoppel in the context of a governmental agency.

In that case, it was a medical malpractice complaint. The argument was whether or not a – Louisiana's Patient's Compensation Fund had apparently told a physician and a provider: You're covered. Later it comes out they weren't a covered healthcare provider, and so there were cross motions for summary judgment in this malpractice case that dealt with that representation that had been made by that agency to these healthcare providers. The cite is 130 So.3d 812.

The trial court said there was no detrimental reliance on a motion for summary judgment. The Court of Appeals reversed and said there was detriment reliance, equitable estoppel. Went to the Louisiana Supreme Court on that issue of detrimental reliance on cross motions for summary judgment, and the Court held, as a matter of law, it doesn't apply.

I cite the case because it's a very good statement of what is apparently somewhat of a unreconciled issue of what standard applies.

The Court noted, it said, "To establish detrimental reliance, a party must have a representation by conduct or word, justifiable reliance, and a change in position to one's detriment."

The Court then noted that, quote, "It has been suggested that proving detrimental reliance against a governmental agency should be more burdensome," and they go through a standard that involves reasonable reliance and unequivocal advice. It's phrased a little differently, but it looks like a higher standard if you tried to claim detrimental relied on something the state did.

The Court notes that but then says, "Regardless, the defendants have not shown that all the elements of detrimental reliance are present in this case, even if the lesser standards apply." The Supreme Court didn't reconcile which standard, but they said you can't do it. And in that case, they said it was not reasonable as a matter of law. Couldn't even survive

summary judgment. It was not reasonable as a matter of law because – one of the things was there were PCF rules and administrative regulations, and the Court noted that "Equitable considerations in estoppel could not be permitted to prevail when in conflict with positive written law."

So what we have here is, Your Honor, two, we have no evidence of reliance which is fatal under any standard for detrimental reliance; and in addition to that, we have clear evidence that there are statutes and that there are regulations that spoke to this issue and they cannot point to those as having created any reliance. Because if positive law says they had to do something, you can't have equity save you from what the law requires to you to do.

So, Your Honor, I submit that there is no claim before the Court for detrimental reliance. I told the Court during that sidebar, I said, "Your Honor, this is a hollow lawyer's argument. There's no evidence to connect." And they chose not to put witnesses on. Perhaps they don't exist. I think they do, I think Mr. Duplantis – you heard testimony at the end of this trial, the person who was the assistant manager of this district over this field probably would have been somebody who could have told us about who did what and why, but there's no testimony in the record on that issue.

And for that reason, Your Honor, detrimental reliance should not be given to the

jury when there is zero evidence on one of the essential elements.

THE COURT: Thank you.

MR. PHILLIPS: Your Honor, Mike Phillips for Chevron.

And we need not go any further than the last witness who testified. The witness testified that the government took a position and then created confusion after the statute was enacted about what regulatory authority require – what regulatory authority would govern the closure of pits in Louisiana, and what – whether or not a coastal use permit was required. This witness, Mr. Mire, testified as the confusion created by the Office of Coastal Management and that they spoke with and met with the Office of Coastal Management, and the Office of Coastal Management promised to clarify the situation so that – in the words in the memo, "The industry wouldn't be caught in the middle," between the Office of Coastal Management and the Office of Conservation's regulations.

Then came Exhibit 419, which was the August 31, 1987, memo coming specifically, specifically, Your Honor, from the top person, coming from the Office of Coastal –it says, "Department of Natural Resources, Coastal Management Division Announcement," and it was in response to the questions that have been raised about whether or not coastal use permits would be required in the closure of pits in the coastal zone. This memorandum said, under specific criteria, with no question – under Item

Number 2, it describes where coastal use permits will not be required. And even when we were at the bench, Your Honor, they agreed that this was a new policy implemented by the Department, and Mr. Mire testified that Chevron followed that policy, that Chevron, when it went out to this site that we're in in this lawsuit in Delacroix, specifically took action that –and did not get a coastal use permit under the guidance of this State department. That, Your Honor, alone is detrimental reliance because now the Government's changed its position again.

In this lawsuit, the Government is saying that one of the violations that occurred by Texaco was that you did not get a coastal use permit to close the very pits in Delacroix, the very pits that are covered by the Department memorandum in Exhibit CDX 0419. So, Your Honor, that alone is sufficient for detrimental reliance and Estoppel. We have a witness who was personally involved in a situation who described how Chevron relied upon the information that came from the Department.

In addition to this, Your Honor, the record is replete with evidence from witnesses and documents, including documents where the State of Louisiana inspected Texaco's operations and found them to be in compliance, in general, with regard to the pits specifically.

The evidence is also with regard to Mr. Lovell, the witness from the Office of Coastal Management called by the plaintiff, and Mr.

Lovell described that his office has found no violations against Chevron and Texaco. Even after this lawsuit was filed and they intervened, they have not taken any action in accordance with the stipulation that I just entered into. But yet, in this lawsuit, now that you have the Office –Office of Attorney General here on behalf of the State suggesting that Chevron is in violation of the law for failing to do things that the Office of Coastal Management said we didn't have to do.

In addition, in Mr. Lovell's testimony, we showed a document in cross-examination that is their standard operating procedures. Their standard operating procedures, which they said they did communicate to the industry, specifically say that they don't go back and remove things like flowlines before 1980, and that that information is communicated to the industry.

One of the claims in this case –

Mr. Norman put a damage number on it – is that we are required to remove flowlines and we didn't do it, and, therefore, we're in violation, and he put a $9 million number on that. Yet the Office of Coastal Management, Your Honor, to this day, if we get on their website, to this day, has a document there that says they don't go back prior to 1980.

All of that shows a change of position. Mr. Mire's testimony shows a reasonable reliance on that position, and it certainly shows our detriment because we're being sued for billions

of dollars relying upon these representations by the State, which they are now changing.

For those reasons, Your Honor, this motion for directed verdict should be denied. Thank you.

THE COURT: Thank you.

MR. FAIRCLOTH: Your Honor the State has not changed its position, and there is no confusion. They cited Mr. Mire. Mr. Mire testified about one of the use issues necessary this case, pit closure. He cited no testimony – they're going to – they want to argue that the State allowed them, quote, to do this for decades, and that's why they produced water, for instance, and they didn't even attempt to defend that.

There is no whatsoever before the Court to draw any reasonable inference that they were duped into doing something as it relates to produced water. The issue is, did they or did they not violate the law, and the jury will decide that. But they can't argue that they were allowed to do it to their detriment because somebody gave them information. There's no evidence before the court about that, so...

There's zero evidence with regard to anything prior to 1987. Regarding the pit closure issue in 1987, Your Honor, we're not arguing that the MOU should not have been admitted. We introduced it. Our position is, it appears they failed to comply with the MOU. So there's no change of position here. The fact that they – they are certainly able to argue, and the

witness testified that they believe they followed the MOU. The jury will decide whether they followed the law. But that doesn't give them a detrimental reliance claim. They're not going to able to point to an MOU and say, "This MOU provides a basis for us to have evaded or avoided the law." They're not going to be able to make that argument. That's their detrimental reliance argument. They're trying to infer that, but they can't go further. And it goes exactly to the case a cited a moment ago, the Louisiana Supreme Court said, "reasonable reliance has limits, even as a matter of law." And the Court – in that case, it was a much closer call in that case than it is here.

So the 1987 pit closure issue, Mr. Mire testified. The MOU is in evidence. They can certainly make the argument that they've complied with it. I think Mr. Carmouche will argue they didn't, and that will be something for the jury to consider. But that does not create a detrimental reliance defense to where it forgives them for their failure to comply with the law. So I get it. No evidence, and not one use of the pit closure issue. That MOU does not create the basis for a detrimental reliance defense. And I can tell you, Your Honor, that the argument –

THE COURT: Can I interrupt you for a minute, Mr. Faircloth?

With regard to your argument, you're talking about a sweeping Estoppel argument, sweeping, across the board?

MR. FAIRCLOTH: Sure.

THE COURT: I think we've got testimony relating to pit closure, and I think you're agreeing with that use here. They can argue it in testimony.

MR. FAIRCLOTH: Absolutely.

THE COURT: Sure.

MR. FAIRCLOTH: Yeah. They can say – with regard to that pit closure, I agree, Your Honor.

My bigger concern is the sweeping argument where – for example, him bringing up Keith Lovell is a perfect example, who didn't even work for the Department until 2013, and he argued that they haven't done anything since the lawsuit was filed. What in the world does that have to do with detrimental reliance back in the day? And so you're exactly right. I understand the issue of the pit closure. There's a memo. I don't think the State changed its position, but that's a different – an isolated issue. This large narrative of permission to do all of these uses because history didn't call it to our attention, that is not – that shouldn't be allowed.

THE COURT: Thank you.

MR. CARMOUCHE: Just for the record, Your Honor, Mr. Faircloth said MOU. He was talking about the policy. For the record, it's a policy document by DNR that we – they can argue that. We both argued, and I said, it violated, and they say they don't. There's no objection to that argument.

THE COURT: He said an MOU, and I think Mr. Phillips said standard operating procedure, that's how he worded –

MR. PHILLIPS: Those are different items, Your Honor. There is that memorandum – what I'm saying is, there's also, from Mr. Lovell's testimony, we showed him a thick document that is their standard operating procedure that is on the system today that says you do not have to remove items that were put in service before 1980. That is in evidence.

In addition, as to the produced water, Your Honor, they are taking a position in this lawsuit that we were illegally producing water. Remember, the only claim here is under SLCRMA. In evidence are coastal use permits issued by the very agency, Office of Coastal Management, allowing us, mandating that we send produced water through the discharge points. There are multiple coastal use permits to do that. How can they issue us a coastal use permit to do it and say that this is what is required, we do that, and then they turn around in this lawsuit and allege that we're in violation of the law for discharging water pursuant to those very same discharge points, Your Honor? That is clearly a change of position by the agency.

We, also, as I said, have – for all of these operations, have the agents and the inspectors who were in the field that there's evidence of that they inspected multiple points of the operations and didn't just say nothing or

whatever. They said, we're in –we're complying with law. They compliment us on our good operating procedures. They looked at the pits. They checked off on the pits. I mean, all of that evidence is in the record to suggest there's nothing to say that we didn't rely on the representations of the government. It's just – it just misstates the record in this case, Your Honor. And all of those different things go to different operations. They go to discharges. They go to the pits. They go to various factors that are at issue in the allegations being made against us. Thank you, Your Honor.

THE COURT: Thank you.

Anything else?

Mr. Faircloth?

MR. FAIRCLOTH: I just want to – saying there's all this evidence doesn't make it evidence. I mean, there is no evidence before this Court that anybody from Chevron or Texaco relied on anything that anybody did prior to that 1987 memo, which you –resolution that you discussed. There's just no evidence there. And the fact that they claim there are permits, that's the ultimate issue for the jury to decide. If they've got permit and they can show the permits to the jury and convince the jury that the facts show compliance with these permits, well, that's– they'll get the outcome they desire, but the detrimental reliance argument has run its course, Your Honor, and as a matter of evidence, they didn't prove reliance.

THE COURT: All right. During the argument, the Court, I was trying to recall the testimony. And I agree with Mr. Faircloth. There may be evidence. There may be big operating – standard operating manuals in the record.

With the exception of pit closure, the Court is not going to allow an argument or a jury charge relative to equitable Estoppel or, as it's been referred to here as defensive detrimental reliance. And so, with that limiting ruling, the directed verdict on detrimental reliance Estoppel is granted.

MR. FAIRCLOTH: That's all. Nothing else, Your Honor.

THE COURT: All right. So let's go off the record for a moment. Just housekeeping.

(Discussion off record.)

THE COURT: We'll be at recess until someone knocks on my door.

(Recess taken for lunch.)

MR. MAYER: Hello. This is Eric Mayer. I'm appearing on behalf of the Chevron in connection with the proffer under Louisiana Code of Civil Procedure 1636. We are making this proffer in connection with documents and two witnesses. The documents can be grouped generally. During this trial, the court has excluded documents that relate to Apache's site-clearance activities. That will be one group of documents. The second group of documents, during this trial, the court has excluded documents that relate to permitting decisions,

policies, and guidance that was provided by the Office of Coastal Management, documents that were not specifically directed to Texaco in the Delacroix Field.

The first proffer is in connection with John Connor. Mr. John Connor was designated as an expert witness by Chevron. Chevron has elected not to call Mr. Connor at trial because of the court's rulings. The court's rulings prevent Mr. Connor from providing certain testimony and discussing certain evidence, mainly the two categories of evidence I described earlier.

If called to testify, Mr. Connor would have discussed the following exhibits which are excluded under the court's existing orders. The following exhibits are excluded under the court's orders prohibiting evidence relating to the Office of Coastal Management's permitting decisions, policies, and guidance that are not specifically directed to Texaco in the Delacroix Field:

All of the exhibits are going to be CDX. CDX 8, CDX 10, CDX 81, CDX 297, CDX 300, CDX 311, CDX 317-0006, CDX 318, CDX 320, CDX 323-0001 to 0003; CDX 1188. CDX 1190, CDX 1192, CDX 1193, CDX 1196, CDX 1197, CDX 1198, CDX 1201, CDX 1203, CDX 1717-17779 to 17784, CDX 1713-177924, CDX 1713-18573, CDX 1713-18787 to 18884, CDX 1713-20021, CDX 2488, CDX 2717, CDX 2869, CDX 2928, CDX 2935, CDX 2946, CDX 2959.

Also included in this proffer is CDX 3218, which is excluded by the court's rulings

regarding evidence of Office of Conservation's Office of Coastal Management's implementation of SLCRMA on a statewide basis and evidence of coastal use permit applications outside the Delacroix Field and by operators other than Texaco. This document is a summary of voluminous information pursuant to Louisiana Code of Evidence Article 1006. The information is summarized from the spreadsheet CDX 0020, which has already been proffered.

Based on his education, experience, and training, John Connor is an expert in environmental audits and regulatory compliance audits. If permitted to testify on topics, documents, and other evidence that have been excluded at trial, Mr. Connor would testify as to the following:

One, the State and Local Coastal Resources Act, or SLCRMA, has been consistently applied and implemented by the permitting agency, now Office of Coastal Management, throughout the 45-year history of SLCRMA permitting. This is supported by a review and analysis of statewide coastal use permit applications, including correspondence and decisions by the Office of Coastal Management. Correspondence, guidance, attorney general opinions, and other relevant evidence.

Number two, the coastal use guidelines are the guiding principles to be used by the permitting agency, not the permit applicant.

Number three, once a coastal use permit is issued, the Office of Coastal Management does not and has not treated the coastal use guidelines as restrictions or additional requirements for a permitted activity.

APPENDIX M

TWENTY-FIFTH JUDICIAL DISTRICT COURT
PARISH OF PLAQUEMINES
STATE OF LOUISIANA

NO. 60-996 **DIV. "B"**

THE PARISH OF PLAQUEMINES ET AL
VERSUS
ROZEL OPERATING CO., ET AL

FILED
JAN 14 2025
DEPUTY CLERK

FILED: _____ s/[Clerk]
DEPUTY CLERK

REASONS FOR JUDGMENT

(Grandfather Clause)

The Parish of Plaquemines, the State of Louisiana and the Louisiana Department of Natural Resources (now known as the Department of Energy and Natural Resources) have asserted claims of coastal use permit violations against numerous oil and gas companies in twenty-one separate lawsuits. [1] In this matter,

[1] The defendants in this suit are Rozel Operating Co.; ConocoPhillips Co.; Louisiana Land & Exploration, L.L.C.: Chevron USA Holdings, Inc.; Chevron USA, Inc.; The Texas Company; Apache Oil Corp.; Atlantic Richfield Co.; and LLOG Exploration & Production, LLC LLOG and Apache have been dismissed. Subsequent to the hearing, plaintiffs dismissed Conoco Phillips and Louisiana Land and Exploration from the litigation.

numerous motions for summary judgment have been filed by plaintiffs and the various defendants.

Chevron U.S.A. Inc., Chevron U.S.A. Holdings Inc., The Texas Company, and Atlantic Richfield Company (Conoco Phillips Company, and The Louisiana Land and Exploration Company LLC joined in this motion but were dismissed without prejudice by plaintiffs subsequent to the hearing) have moved for partial summary judgment on the State and Local Coastal Resources Management Act's (SLCRMA) "Grandfather Clause." For the following reasons, the motion is denied.

These defendants argue that plaintiffs' claims and theories that SLCRMA required defendants to get coastal use permits for activities in the coastal zone that were already completed or underway before SLCRMA's coastal use permitting program went into effect on September 20, 1980. SLCRMA's grandfather clause, which states that "individual specific uses legally commenced or established" before the permitting program's effective date "shall not require a coastal use permit," makes clear that defendants were not required to get permits for pre-September 20, 1980, activities or "uses."

Plaintiffs argue that the grandfather clause does not exempt all pre-SLCRMA uses, but rather it exempts individual specific uses that were legally commenced or established and that the clause does not apply to a different use resulting from significant changes in the original individual specific use.

Subsection of La. R.S. 49:214.34©(2), which has been referred to as the "grandfather clause" provides:

> (2) Nothing in this Section shall be construed as otherwise abrogating the lawful authority of agencies and local governments to adopt zoning laws, ordinances, or rules and regulations for those activities within the coastal zone not requiring a coastal use permit and to issue licenses and permits pursuant thereto. **Individual specific uses legally commenced or established prior to the effective date of the coastal use permit program shall not require a coastal use permit.** (Emphasis added)

Plaintiffs cite LAC 43:I.723 which deals with the rules and procedures for the issuance of coastal use permits (CUPs). Subsection A states, in part:

> 2. Permit Requirement. No use of state or local concern shall be commenced or carried out in the coastal zone without a valid coastal use permit or in-lieu permit unless the activity is exempted from permitting by the provisions of the SLCRMA or by Subsection B of this Section.

Subsection B provides, in part:

> 8. Blanket Exemption. No use or activity shall require a coastal use permit if:
>
> **a. the use or activity was lawfully commenced or established prior to the implementation of the coastal use permit process;**

> **b. the secretary determines that it does not have a direct or significant impact on coastal waters; or**
>
> c. the secretary determines one is not required pursuant to § 723.G of these rules. (Emphasis added)

Subsection D provides, in part:

> 1. Modifications
>
> a. The terms and conditions of a permit may be modified to allow changes in the permitted use, in the plans and specifications for that use, in the methods by which the use is being implemented, or to assure that the permitted use will be in conformity with the coastal management program. **Changes which would significantly increase the impacts of a permitted activity shall be processed as new applications for permits pursuant to Subsection C, not as a modification. (Emphasis added)**

Under the grandfather clause defendants cannot be held legally responsible for activities in the pertinent operational area that predate September 20, 1980, and which continued unchanged after that date as those activities did not require a CUP. However, once SLCRMA went into effect, defendants are required to obtain a CUP for any changes. Accordingly, the motion is denied.

Pointe a la Hache, Louisiana, this 14th day of January 2025.

s/Michael D. Clement
MICHAEL D. CLEMENT,
JUDGE