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JOHN F. DAVIS, CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962.

No. 14 Original

STATE OF LOUISIANA,
Plaintiff,

vs.

STATE OF MISSISSIPPI et als.,
Respondents.

**ANSWER OF THE STATE OF MISSISSIPPI COUPLED
WITH REQUEST FOR ADMISSIONS**

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NOW COMES the State of Mississippi, appearing herein through Joe T. Patterson, its duly elected, qualified and acting Attorney General, and, pursuant to order entered by this Court on December 16, 1963, files this its answer to the Complaint of the State of Louisiana herein exhibited against it:

FIRST DEFENSE

The factual allegations of the Complaint of the State of Louisiana are admitted except to the extent following:

I. The State of Mississippi denies that portion of Paragraph VII of said Complaint which charges that the discovery and development of sub-surface oil and

gas, with relation to the boundaries between the states, "has now raised a new and different right", the State of Mississippi to the contrary contending and alleging that such discovery and development has neither changed the boundary between the states nor the law thereunto otherwise applicable;

2. Mississippi denies that portion of Paragraph X of Louisiana's Complaint charging that the point to which the mentioned oil well was drilled, commonly known as the bottom hole location or the producing zone thereof, was, when drilled, or has since been, within the confines of the State of Louisiana;

3. Mississippi denies both the materiality and factual correctness of that portion of Paragraph XV of Louisiana's Complaint containing the supposition or conclusion that "had there been no interference with the processes of nature, the Mississippi River at this point would have continued to move toward the east";

4. Mississippi denies Paragraph XVII of Louisiana's Complaint;

5. While recognizing that the precise or exact location of the boundary between the states is of major and substantial significance, Mississippi points out that the boundary line in the area in question is the "thalweg" of the Mississippi River and that the precise or exact location of that mobile line has always been capable of ascertainment and is now readily capable of ascertainment by traverse soundings and should not be the subject of dispute; otherwise, Mississippi denies the allegations of Paragraph XIX of said Complaint;

6. Though not denying the stated conclusion or prognostication set forth in Paragraph XX of Louisiana's Complaint that the existence of valuable property below the surface of the Mississippi River "opens many avenues of possible conflict between the two states", Mississippi otherwise denies said Paragraph XX;

7. Admitting the jurisdiction of this Court in actual controversies between the states themselves, in-

cluding boundary line disputes between the states, Mississippi otherwise denies both Paragraphs XXII and XXIII;

and the State of Mississippi denies that Louisiana is entitled to the relief by it prayed for or to any part thereof.

SECOND DEFENSE

That the Mississippi River in the area below the foot of Glasscock Cutoff (being the area which is the subject of Louisiana's Complaint) is now and always has been the common boundary between the States of Louisiana and Mississippi with the thread or thalweg of that stream having been and being the actual line of division; that, while Mississippi recognizes that the ~~division~~ ^{diversion} of the stream of the Mississippi River into Glasscock Cutoff was an avulsion, artificially created and effected, Mississippi affirmatively asserts, and shall prove, that south of Glasscock Cutoff, below the foot thereof, there has been no avulsion of the said Mississippi River; and that, since there has been no avulsion of that river itself in that area, the actual and precise boundary line between the states has always been, and is now, the varying and live thalweg of the Mississippi River within and between the banks thereof.

THIRD DEFENSE

That primarily herein involved is the location of the bottom hole or producing zone of the oil well mentioned in Louisiana's Complaint with respect to the boundary line between the two states; that once it is ascertained and legally determined that the thalweg of the Mississippi River in that area is the true and present line marking this boundary, then, if Louisiana does not concede that such thalweg is west of the bottom hole location or producing zone of the said oil well, as Mississippi charges to

be the fact, the inquiry and determination should be confined to adjudicating that single and solitary issue and the litigation or controversy, here the subject of the original and exclusive jurisdiction of the Supreme Court of the United States, should not be extended to any other issues or to an area either above or below that point since the live thalweg of the Mississippi River constituting the true boundary line by nature is, and is in law recognized to be, a mobile boundary subject to change and varying from time to time.

WHEREFORE, the above three defenses considered, Mississippi prays:

1. That the Court declare and adjudicate that the live thalweg of the Mississippi River has been, is and continues to be the boundary line between the States of Louisiana and Mississippi from the foot of Glasscock Cutoff to and below Dead Man's Bend;
2. That the producing zone of the oil well in question is located east of the live thalweg and within the territorial boundaries of the State of Mississippi;
3. That Louisiana be charged with all costs of this proceeding; and
4. For such other and further relief, general and special, as may be meet and proper.

REQUEST FOR ADMISSIONS

The Respondent, the State of Mississippi, as authorized by Rule 36(a), Federal Rules of Civil Procedure, requests the Complainant, State of Louisiana, within a period of forty (40) days after the service of this answer, containing this request, to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed

at the trial, i. e., that each of the following statements is true:

1. That below the foot of Glasscock Cutoff, south of the latitude where Washout Bayou empties into the Mississippi River and for a distance of approximately 12 miles downstream therefrom into or past Dead Man's Bend, there has been no avulsion of the Mississippi River itself since the digging and opening of the Glasscock Cutoff; and

2. That the change alleged to be avulsive which is referred to in Paragraph XVII of Louisiana's Complaint, so far as same pertains to the area below the foot of Glasscock Cutoff, is an alleged change in the location of the main channel of navigation, often referred to by the term "thalweg", which Louisiana maintains has taken place since the year 1939 within the Mississippi River and between the fairly stable banks thereof.

Should Louisiana not concede the substantial correctness of the two foregoing statements or either of them, then Mississippi requests that Louisiana shall, as said Rule 36 requires, set forth in detail why it cannot, and to the extent that it cannot, so truthfully admit.

Respectfully submitted,

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PROOF OF SERVICE

Service effected on the State of Louisiana by mailing to Jimmie H. Davis, its Governor, Ellen Bryan Moore, its Registrar of State Land Office, the State Mineral Board of Louisiana and Jack P. F. Gremillion, its Attorney General, together with Carroll Buck, First Assistant Attorney General of the State of Louisiana, Edward R. Carmouche, Assistant Attorney General of the State of Louisiana, John L. Madden, Assistant Attorney General of the State of Louisiana, John A. Biven, Special Counsel to the Attorney General of the State of Louisiana; and likewise upon the Respondent, the Humble Oil & Refining Company, by mailing to its counsel of record, Joe A. Thompson, P. O. Box 1490, Jackson, Mississippi; Robert M. Bass, P. O. Box 1490, Jackson, Mississippi; Lee V. Russell, P. O. Box 1390, Hattiesburg, Mississippi; M. M. Roberts, P. O. Box 870, Hattiesburg, Mississippi, and E. L. Brunini, P. O. Box 119, Jackson, Mississippi; and also by mailing to Joseph S. Zuccaro, P. O. Box 1335, Natchez, Mississippi, as Attorney for himself and the individual Respondents, all as more particularly shown by affidavit of the printer on file herein with the Clerk of the Supreme Court of the United States.

So certified this the day of March, 1964.

Of Counsel for the State of Mississippi