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# Supreme Court of the United States

OCTOBER TERM, 1965.

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No. 14—ORIGINAL.

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STATE OF LOUISIANA,

Plaintiff,

versus

STATE OF MISSISSIPPI, ET AL.,

Defendants.

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EXCEPTIONS OF HUMBLE OIL & REFINING COM-  
PANY TO THE REPORT OF SPECIAL MASTER.

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**STATE OF LOUISIANA,**

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**EXCEPTIONS OF HUMBLE OIL & REFINING COMPANY TO THE REPORT OF SPECIAL MASTER.**

---

COMES now HUMBLE OIL & REFINING COMPANY, pursuant to the Order of this Court of June 7, 1965, and excepts to the Special Master's Report in the following respects and particulars:

**HUMBLE EXCEPTION I.**

The Special Master having found from the uncontradicted evidence that the action of the United States Engineers in constructing Glasscock Cut was the direct, sole, efficient cause of the reversal of the eastward movement of Deadman's Bend, the ensuing complete elimination of the Bend itself, and the commencement of the creation

of an entirely new westward bend, Humble excepts to the following:

A. His conclusion that the boundary between the states did not become permanent in Deadman's Bend;

B. His conclusion that the concept of "sudden, gradual and perceptible" is not met thereby;

C. His conclusion that the doctrine of avulsion controls this case and must not only be strictly construed but strictly applied;

D. His conclusion that "all case law and all reasoning point to the . . . conclusion that the general rule of the 'live thalweg' is preferable and will be applied in all cases, unless there has been a clear and convincing avulsion." (SMR p. 19.)

E. His conclusion that the only exception to the live thalweg principle can or should be where an island exists in the bed of the river or where land is cut off.

F. His statement "The vagaries of this river or any river, especially in times of high water, are such that it appears many problems and controversies would be created, or would inevitably follow from such an extension of the rule of avulsion. Changes in the navigable channel or a river, especially the lower Mississippi, are such that a definite pattern for court determination would be difficult to establish." (SMR p. 21.)

G. His statement "It would be very difficult for the court to establish a pattern for these 'thin line' decisions." (SMR p. 22.)

H. His conclusion in the recommended decree that "At all times the live thalweg has been the true boundary," and the recommended decree based thereon. (SMR p. 36.)

I. His statement that the change in Deadman's Bend "from 1932 to 1952, although artificially caused, was not an unusual change for that river . . . and it cannot be considered as sudden and perceptible in the historic and legal pattern heretofore established." (SMR p. 50.)

J. His failure to consider and find:

- (1) That in the 600-mile reach of the Mississippi, which embraces Deadman's Bend, the doctrine of access to navigation is obsolete in view of the fact that some 473 miles have become permanent by virtue of cutoffs, both natural and artificial; and
- (2) That since the boundary has become permanent for some 473 of the 600-mile reach and the adjoining states as a result thereof possess numerous strips of territory on the opposite shore, that likewise obsolete and invalid is the ancient notion that the live thalweg theory is best because such theory obviates the possibility of one state possessing a strip of territory on the opposite shore.
- (3) That in modern times valuable mineral rights under the beds of rivers are equally as important as surface rights to tracts of lands.
- {4) That in original boundary actions, every justifiable effort within the purview of law should be made to preserve long-existing boundaries between states and to hold them inviolate against the actions of man in navigable waters.

## HUMBLE EXCEPTION II.

Humble Oil & Refining Company excepts to the recommendation by the Special Master that the Supreme Court refer the remaining issues to some other tribunal.

In further response to said Order, Humble Oil & Refining Company files its brief concurrent with the foregoing Exceptions and in support thereof.

Respectfully submitted,

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By *M. M. Roberts*....  
Of Counsel for Humble Oil &  
Refining Company.

August 25, 1965.

**PROOF OF SERVICE.**

The undersigned, of counsel for Humble Oil & Refining Company, one of the Defendants herein, and a member of the Bar of the Supreme Court of the United States, hereby certifies that on the .... day of August, 1965, I served copies of the foregoing Exceptions of Humble Oil & Refining Company to the Special Master's Report in this original action, by depositing same in a United States Post Office, with sufficient first class postage prepaid, addressed to:

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HATTIESBURG, MISSISSIPPI, August 20., 1965.

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