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Supreme Court, U. S.  
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MICHAEL RODAK, JR., CLERK

NO. 36 ORIGINAL

**In the  
Supreme Court of the United States**

OCTOBER TERM, 1969

THE STATE OF TEXAS,

*Plaintiff,*

v.

THE STATE OF LOUISIANA,

*Defendant.*

RESPONSE TO DEFENDANT'S MOTION TO ENLARGE THE REFERENCE TO THE SPECIAL MASTER TO FIX THE EXTENSION OF LOUISIANA'S INLAND BOUNDARY INTO THE GULF OF MEXICO BETWEEN LOUISIANA, TEXAS AND THE UNITED STATES TO THE EXTENT OF LOUISIANA'S TITLE UNDER THE SUBMERGED LANDS ACT AND FURTHER RESPONSE TO DEFENDANT'S ALTERNATIVE MOTION FOR LEAVE OF LOUISIANA, WITHIN A TIME TO BE FIXED BY THE COURT, TO FILE AN AMENDED CROSS-CLAIM AGAINST TEXAS AND THE UNITED STATES TO ESTABLISH THE EXTENSION OF LOUISIANA'S INLAND BOUNDARY INTO THE GULF OF MEXICO BETWEEN LOUISIANA, TEXAS AND THE UNITED STATES TO THE GULFWARD EXTENT OF LOUISIANA'S TITLE AS ACQUIRED UNDER THE SUBMERGED LANDS ACT, AND TO LOUISIANA'S REQUEST THAT THE CLAIM BE REFERRED TO THE SPECIAL MASTER TO THE SAME EXTENT AS THE ORIGINAL CLAIM WAS REFERRED TO HIM IN THIS CASE.

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Assistant Attorney General  
of Texas



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Now comes the State of Texas (Texas), by and through its Attorney General, John L. Hill, and files this its Response to Defendant's motion to enlarge the reference

to the Special Master to fix the extension of Louisiana's inland boundary into the Gulf of Mexico between Louisiana, Texas and the United States to the extent of Louisiana's title under the Submerged Lands Act and further response to Defendant's alternative motion for leave of Louisiana, within a time to be fixed by the Court, to file an amended cross-claim against Texas and the United States to establish the extension of Louisiana's inland boundary into the Gulf of Mexico between Louisiana, Texas and the United States to the Gulfward extent of Louisiana's title as acquired under the Submerged Lands Act, and to Louisiana's request that the claim be referred to the Special Master to the same extent as the original claim was referred to him in this case. The substance of Defendant's motion to enlarge and of Defendant's motion for leave to file amended cross-claim is identical, to-wit, that the claim be referred to the Special Master to establish the lateral boundary in the Gulf of Mexico between Texas, Louisiana and the United States. Plaintiff will not therefore address itself to the two motions separately but will respectfully show unto this Court that both motions should be denied for reasons hereinafter set forth.

## I.

This Honorable Court has recently denied Defendant's petition for rehearing of this Court's decision that the inland water boundary between Texas and the State of Louisiana (Louisiana) is along a line located in the geographic middle of the Sabine River. As pointed out by Defendant on page two of its Rebuttal Brief in Answer to the Brief of Texas in Support of the Special Master's Report:

“The decision in this case will fix the point of departure . . . of the lateral boundary between Texas and Louisiana separating Louisiana’s three marine miles submerged land claim from Texas’ three league historical boundary in the Gulf.”

However, to stake out this now legally established point of departure with precise exactitude will obviously require a survey. In asking that the Special Master project Gulfward the line between the two States and the United States without such preliminary survey, Defendant is asking that the Special Master assume an unnecessary burden. Only after the southernmost point of the inland water boundary between the two States has been precisely staked out by survey can the Special Master logically fix the extension of such boundary with the necessary exactitude.

## II.

The parties hereto recognized the practical and legal problems of handling the case in any other way. Early in the case it was agreed that the lateral boundary between the two States and the United States in the Gulf of Mexico would not be litigated in this proceeding.

## III.

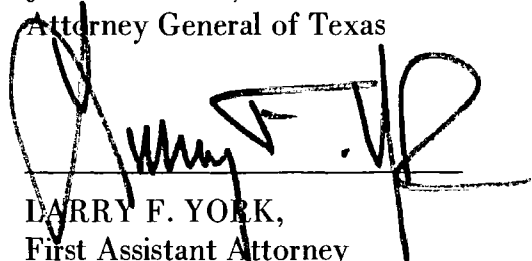
Plaintiff emphasizes that it is imperative that the Gulfward lateral boundary question be answered with precise exactitude, following the survey, as soon as possible. Plaintiff respectfully contends, however, that determination of this matter in a separate proceeding at a later date would not create multiplicity of litigation, as Defendant alleges. To suggest that enlargement does not create another lawsuit is to ignore the finality of this

Honorable Court's decision. Plaintiff urges that the multiplicity of litigation which this Court rightfully attempts to avoid will not be created if this Court denies Defendant's motions and if matters connected with the projection of the boundary line Gulfward are developed as soon as possible, but after the precise surveyed location of the inland water boundary is staked out. As indicated at pages forty-nine and fifty of its Brief in Support of the Special Master's Report and in Reply to Exceptions Filed By the State of Louisiana, Plaintiff suggested that when the "geographic middle" of the Sabine was decreed by the Court as the basic boundary line, as per the recommendation of the Special Master, Plaintiff would have no objection to a survey being made with the assistance of the U. S. Geological Survey. Alternatively, Plaintiff suggested as an agreed boundary line, the geographic middle line of the entire Sabine from its mouth on the Gulf to the thirty-second degree of north latitude, depicted on the 1957 series of Sabine River Quadrangles prepared by the U. S. Geological Survey in cooperation with the State of Louisiana. Plaintiff continues to urge this alternate method of staking out with precise exactitude this now legally established boundary, particularly insofar as precisely fixing the point of departure of the lateral boundary between the two States in the Gulf of Mexico. Absent such an agreement, a survey must be done.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant's motion to enlarge and Defendant's alternative motion for leave to file amended cross-claim be denied and that establishment of the extension Gulfward of the previously fixed lateral boundary between Texas, Louisiana and the United States not be undertaken until a precise survey has been completed, or such precise point of departure is agreed upon by the parties.

Respectfully submitted,

JOHN L. HILL,  
Attorney General of Texas



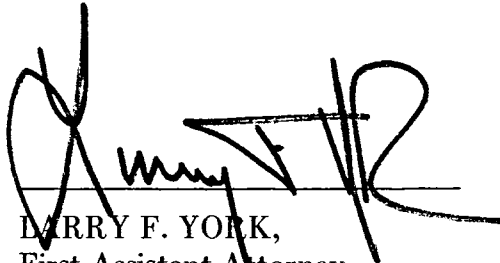
LARRY F. YORK,  
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Assistant Attorney General  
of Texas

## CERTIFICATE

I, LARRY F. YORK, First Assistant Attorney General of Texas, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 4<sup>th</sup> day of June, 1973, I served copies of the above response to Defendant's motion to enlarge by transmitting conformed copies of the same, by first class mail, postage prepaid, to the Special Master, the Office of the Governor and Office of the Attorney General, respectively, of the State of Louisiana.



LARRY F. YORK,  
First Assistant Attorney  
General of Texas.









