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Supreme Court, U. S.

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No. 36 ORIGINAL

MICHAEL RODAK, JR., CLERK

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

OCTOBER TERM, 1969

THE STATE OF TEXAS,

Plaintiff,

v.

THE STATE OF LOUISIANA,

Defendant.

REBUTTAL BRIEF IN OPPOSITION TO THE RESPONSE OF THE STATE OF TEXAS OPPOSING LOUISIANA'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 OR, IN THE FURTHER ALTERNATIVE, AS A MOTION FOR LEAVE OF LOUISIANA, WITHIN A TIME TO BE FIXED BY THIS 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 ASK THAT THIS 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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PRELIMINARY STATEMENT1

SUMMARY OF POINTS FOR ARGUMENT

Point I:

Many maps relied on by Texas to establish the inland midstream boundary between Louisiana and Texas northward from the Gulf project the same line into the Gulf of Mexico through the center of the jetties starting at Sabine Pass2

Point II:

Texas wants to disregard these maps to establish a more eastward boundary in the Gulf than the line shown on the maps used by Texas to establish the line northward from the Gulf. These maps have already been considered by the Special Master and he is in the best position to consider their applicability to the extension of the boundary into the Gulf3

Point III:

The United States will now become a party to this litigation under the suggestion of the Court, which removes the reason the Gulfward extension of the boundary was not included in the initial hearing before the Special Master3

Point IV:

By enlarging the reference to the Special Master to include the establishment of the Gulfward boundary would eliminate another law suit involving Texas, Louisiana and the United States4

CONCLUSION5

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REBUTTAL BRIEF IN OPPOSITION TO THE RESPONSE OF THE STATE OF TEXAS OPPOSING LOUISIANA'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 OR, IN THE FURTHER ALTERNATIVE, AS A MOTION FOR LEAVE OF LOUISIANA, WITHIN A TIME TO BE FIXED BY THIS 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 ASK THAT THIS CLAIM BE REFERRED TO THE SPECIAL MASTER TO THE SAME EXTENT AS THE ORIGINAL CLAIM WAS REFERRED TO HIM IN THIS CASE.

PRELIMINARY STATEMENT

The State of Texas (Texas), in its response, urges as an objection to the Motion of the State of Louisiana (Louisiana) that, in asking that the Special Master project Gulfward the boundary between the two states and the United States without a preliminary survey, Louisiana is, in effect, requesting the Special Master to assume an unnecessary burden. Texas then states "only after the southernmost point of the inland water boundary between the two states has been

precisely staked out by a survey, can the Special Master logically fix the extension of such boundary with the necessary exactitude." No such burden exists for most of the maps relied on by Texas and considered by the Special Master to establish the inland midstream boundary extend this same line in the Gulf. The granting of Louisiana's motion will facilitate the final determination of this litigation for the following reasons.

I.

The various maps relied on by Texas to establish an inland midstream boundary project the same line into the Gulf of Mexico through the center of the jetties starting at Sabine Pass. The Special Master found:

"The U.S. Geological Survey has prepared maps of the area for many years. These maps have been used extensively both by Texas and Louisiana as the basis for their maps. Most of these maps have shown the boundary between the States as the geographic middle of the Sabine. The Special Master would recommend, if the parties are unable to agree upon the exact boundary within a limited time to be fixed by the Special Master, that such boundary be determined by a competent surveyor selected by the Special Master, with such assistance as the surveyor deems necessary, with authority to the surveyor to use such leases, Geological Survey maps, and other guidelines, including an on-the-ground survey, as would usually be used by surveyors in making such a determination of the geographic middle." ¹

¹ Pages 33-34, Report of the Special Master.

II.

Texas wants to establish a line further eastward than the line extending Gulfward in the middle of the jetties starting at Sabine Pass as shown on the various maps prepared by the U.S. Geological Survey and relied on in this litigation by Texas.² These maps are already in evidence and have been considered by the Special Master in fixing the inland midstream boundary north from the Gulf.

III.

The Court has suggested and recommended that the Attorney General of the United States inquire into this litigation to determine what rights, if any, the United States may have regarding the lateral boundary between Texas and Louisiana.³ The Special Master is in the best position, having decided the basic Sabine boundary question, to consider the lateral boundary between Texas and Louisiana in the Gulf of Mexico, including whatever rights the United States may have, if any, thereto, now that the United States will be party to these proceedings.

² For examples of Texas exhibits showing an extension of the inland midstream boundary Gulfward through the middle of the jetties of Sabine Pass see Texas Exhibit A, p. 3 (U.S. Geological Survey—Sabine Pass Quadrangle, 1932); p. 21 (Texas Point, Texas, La., 1948); and p. 26 (U.S. Geological Survey—Sabine Pass Quadrangle, 1957).

³ This removes the reason Texas gave for not including in the original hearing before the Special Master the establishment of the Gulfward boundary. At that time the United States was not a necessary party to these proceedings as held by the Special Master.

IV.

Louisiana pointed out in its Motion for Rehearing and Alternative Motions, as recently as June 17, 1972, officials of Texas have made statements and claims⁴ east of the East Jetty at the Sabine Pass of territory which has always been under the control and possession of Louisiana. Such claims will precipitate another lawsuit between Louisiana and Texas, also involving the United States, unless the lateral boundary in the Gulf of Mexico is settled in this litigation.

⁴ See page 54 and Appendix "A", Item 4 of Brief of the State of Louisiana in support of the exceptions to the report of the Special Master and in support of the motion for oral argument.

CONCLUSION

Louisiana again urges that the reference to the Special Master be enlarged to authorize him to receive pleadings by Louisiana, Texas and the United States to fix the lateral boundary between those states and the United States as it extends from Louisiana's inland western boundary into the Gulf of Mexico, to the extent of the rights acquired by Louisiana under the Submerged Lands Act of 1953, and to hear evidence and to report his findings to this Court as to such boundary in the Gulf of Mexico between Louisiana, Texas and the United States.

Respectfully submitted,

WILLIAM J. GUSTE, JR.,

Attorney General, State of Louisiana.

SAM H. JONES,

Special Assistant Attorney General.

JACOB H. MORRISON,

Special Assistant Attorney General.

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Special Assistant Attorney General.

By: _____

OLIVER P. STOCKWELL,

For Attorney General, State of
Louisiana

Attorneys for Defendant

OLIVER P. STOCKWELL,

Trial Counsel

CERTIFICATE

I, WILLIAM J. GUSTE, JR., Attorney General of Louisiana, hereby certify that on the_____day of June, 1973, I served copies of the foregoing rebuttal brief in opposition to the response of the State of Texas opposing Louisiana'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 or, in the further alternative, as a motion for leave of Louisiana, within a time to be fixed by this 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 ask that this claim be referred to the Special Master to the same extent as the original claim was referred to him in this case, 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 Texas, and upon the Solicitor General of the United States.

WILLIAM J. GUSTE, JR.,
Attorney General of Louisiana.

By: _____
OLIVER P. STOCKWELL,
Special Assistant
Attorney General

