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SUPREME COURT, U.S.

In The

Filed Oct. 15, 1973

Supreme Court of the United States

October Term

No. 36, Original

THE STATE OF TEXAS,

Plaintiff,

vs.

THE STATE OF LOUISIANA,

Defendant.

REPORT OF SPECIAL MASTER

ROBERT VAN PELT,
Senior U. S. District Judge,
Special Master.

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THE ISSUES

This matter is before the Court upon Louisiana's motion to enlarge the reference to the Special Master to include the establishment of Louisiana's lateral boundary with Texas in the Gulf of Mexico. By the order of the Court entered June 25, 1973, this motion was referred to the Special Master for his report. The order also invited the Solicitor General to file a brief expressing the views of the United States. The Solicitor General has filed such a brief and in it supported Louisiana's motion. In addition, he suggested that the reference be further enlarged to determine all of Texas' lateral boundary in the Gulf of Mexico even beyond its boundary with Louisiana. This suggestion is based upon the fact that Texas has a different offshore boundary than Louisiana in that it extends further into the Gulf of Mexico. The only interested parties are Texas, Louisiana, and the United States.

An answer or reply brief has been filed by Texas opposing the proposed enlargement. Louisiana, in a telephone conference in which Louisiana, Texas, the Solicitor General, and the Special Master participated, orally advised the Special Master of its concurrence with the position of the Solicitor General as stated in his brief.

The Special Master concludes, and all of the parties agree, that it is unnecessary to take any evidence upon Louisiana's motion or upon the suggestion of the United States. As no further pleadings are required, the matter is ready for the Special Master's report.

FACTUAL STATEMENT

A brief factual statement outlining the controversy should be helpful. The Special Master in an earlier

report recommended that the boundary between the States of Texas and Louisiana from the mouth of the Sabine River at the Gulf of Mexico to the thirty-second degree of north latitude be determined as the geographic middle of the Sabine River.¹ This conclusion was approved and adopted by this Court. *Texas v. Louisiana*, 410 U.S. 702 (1973). While it has been determined that all islands in the eastern half of the Sabine River belong to Louisiana, ownership of the islands in the western half of the Sabine River has not yet been determined and is still a matter of dispute on which the Special Master will later hold hearings and submit a report to this Court.

In addition, both the States of Texas and Louisiana have offshore claims in which the United States is interested. The claims arise at least in part under the Submerged Lands Act, 43 U.S.C. §§ 1301 *et seq.* (1970). This Act grants to the coastal states exclusive rights to the natural resources of the seabed and subsoil for a limited distance off their shores. The grant was specifically limited by Congress to a maximum distance of three geographical miles from the coast line, subject to an exception for historic boundaries. This exception has been held applicable only to two states abutting the Gulf of Mexico, to-wit, Texas and Florida. See *United States v. Louisiana*, 363 U.S. 1 (1960); *United States v. Florida*, 363 U.S. 121 (1960). Thus it appears that the Texas boundary extends three marine leagues, which is approximately nine geographic miles, from the coast line and the Louisiana boundary extends three geographic miles. Thus for three geographic miles from the coast line there is an area which is in conflict between Texas and Louisiana and for approximately the next six geographic miles an area which is in con-

¹ As used in this report the term "Sabine River" includes the Sabine Pass, the Sabine Lake, and the Sabine River.

flict between Texas and the United States. A determination of the lateral boundary line will settle these conflicts.

The parties agree that a large area of seabed around the disputed area has been mapped for oil and that portions of it have recently been leased for substantial sums. However, the area which may be affected by the dispute has been omitted from such mapping for leasing. The parties also agree that the area in dispute is potentially an important source of petroleum products. These facts are very significant especially when viewed in the light of the claim of a present national shortage of petroleum products. The Solicitor General in his brief emphasizes the importance of an early settlement of the lateral boundary so that development of the adjacent tracts may proceed.

The Solicitor General also points out that effective administration of the Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331 *et seq.* (1970), requires a prompt determination of the lateral boundary between Texas and Louisiana in order that the proper civil and criminal laws can be adopted for the affected portion of the outer continental shelf and the artificial islands and fixed structures erected thereon.

Texas states in its brief filed with the Special Master that it does not dispute

“the problems relating to effective administration of the Outer Continental Shelf Lands Act, 67 Stat. 462, 43 U.S.C. 1331 *et seq.*, and the need for further development of the petroleum supply which may be found in the offshore area in question as set out in paragraph 1 of the Argument in the Memorandum of the United States. Nor would Texas object to the suggestion of the United States in Point Number 2 of their Argument that the entire lateral boundary of Texas in the Gulf of Mexico under the

Submerged Lands Act, 67 Stat. 29, 43 U.S.C. 1301 *et seq.*, be determined in this proceeding, should the reference to the Special Master be enlarged.”

In view of this statement, the position of Texas opposing the enlargement of the reference to the Special Master should be further explained. In substance Texas believes that the Sabine boundary between Texas and Louisiana, to-wit, the geographic middle of the Sabine River, should be determined before the lateral boundary into the Gulf of Mexico is determined. Texas argues that a survey is necessary to determine this inland boundary and that such a survey would also determine what Texas refers to as “the point of departure” for the offshore lateral boundary. The point of departure is the southernmost point of the inland water boundary between Texas and Louisiana and marks the place where the geographic middle of the Sabine River enters the Gulf of Mexico. Texas argues that until such point of departure has been determined the lateral boundary cannot be determined and such point cannot be determined until a survey has been completed.

If there were no pressing need for determination of the lateral boundaries, the Special Master would recommend sustaining the Texas objections and limiting the reference to ascertaining the inland boundary between Texas and Louisiana by survey as requested in Original No. 36, *Texas v. Louisiana*, 410 U.S. 702 (1973). However, it is self-evident that if the inland boundary is first determined and the lateral boundary dispute is not referred to a Special Master until the original controversy is completely settled, there will be a much greater delay in obtaining a final settlement of all the controversies than if both disputes are submitted now in Original No. 36. As the above quote from its brief indicates, Texas concludes that if the Texas-Louisiana lateral boundary is to be decided in this case

it would not object to also including the Texas-United States lateral boundary.

BASIS OF RECOMMENDATIONS

Thus, keeping in mind principles of judicial administration, the recommendations of the Special Master must be based upon what would be in the best interests of the parties involved as well as the nation as a whole.

First, the parties are now all before the Court. Courts have long recognized the desirability, as far as possible, of settling all disputes of parties before it rather than allowing piecemeal litigation. The Federal Rules of Civil Procedure refer to the consolidation of trials to avoid unnecessary expense and delay and this Court has long approved consolidation of trials as a matter of convenience and economy in administration. It appears that a resolution of the lateral boundaries in this case would result in an earlier determination of the disputes among the parties and should result in some economy as far as trial expense is concerned.

Second, an early exploration for petroleum in the area is in the national interest. Such exploration is currently being delayed due to the unsettled claims of the parties in the area. Whether there is a national emergency relating to petroleum products can be evaluated by this Court as well as by the Special Master. The Solicitor General, as above mentioned, urges it as a reason to enlarge the reference. Texas does not argue to the contrary. The Special Master concludes that insofar as there is an emergency, it is to the nation's interest that the area in controversy be mapped, leased, and explored for oil at an early date. It is also probably to the financial benefit of each State to have an early determination, though neither State claims an immediate need for the revenues that such leasing and exploration will produce.

Third, the effective administration of the Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331 *et seq.* (1970), also requires a prompt determination of the disputed lateral boundaries. This proposition has been accepted by all the parties.

RECOMMENDATIONS

Thus your Special Master concludes that the motion of Louisiana to enlarge reference and the request of the Solicitor General to additionally enlarge reference should each be granted and the lateral boundary between Texas and Louisiana and between Texas and the United States of America should each be determined in this proceeding.

Should the Court conclude to extend the reference to include the determination of any lateral boundary, the Special Master further recommends that the State of Louisiana file and serve within twenty days of the entry of an order herein by the Court, its claim and outline its contentions as to the lateral boundary between Louisiana and Texas in the Gulf of Mexico and that the United States within twenty days of the entry of an order herein by the Court file and serve its claim and outline its contentions as to the lateral boundary between the United States and Texas in the Gulf of Mexico. The State of Texas should then be granted twenty days from such filing and service to separately answer such claims and thereafter Louisiana and the United States should each be granted five days for a reply, if a reply is necessary, and thereupon the matter should be submitted to the Special Master for hearing and report. The Special Master should be authorized to order the States of Louisiana and Texas and the United States to contribute equally, or in such proportion as the Court deems just if an equal contribution is not proper, to a fund for the cost of the

hearings, printing of reports, and expense of the Special Master, his law clerk, court reporters, surveyors and other personnel, as is necessary and proper to settle the disputes between the parties and determine and mark the respective boundaries. Finally, the Court should enter such other orders as are usually made when matters are referred to a Special Master.

Respectfully submitted,

ROBERT VAN PELT
Special Master

