

MOTION FILED

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No. 36, Original

In the Supreme Court of the United States

OCTOBER TERM, 1973

THE STATE OF TEXAS, PLAINTIFF

v.

THE STATE OF LOUISIANA

MOTION OF THE UNITED STATES FOR LEAVE TO INTERVENE
AND COMPLAINT

ROBERT H. BORK,
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and Solicitor General,
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Washington, D.C. 20530.*

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MOTION OF THE UNITED STATES FOR LEAVE TO INTERVENE

The United States of America asks leave of the Court to file the attached complaint against the States of Texas and Louisiana, pursuant to the suggestion of the Court in this case, 410 U.S. 702, and the recommendation of the Special Master, filed September 17, 1973, which was adopted by order of this Court dated October 15, 1973.

ROBERT H. BORK,
Acting Attorney General
and Solicitor General.

NOVEMBER 1973.

(1)

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STATEMENT

This case was originally brought in this Court by the State of Texas against the State of Louisiana to establish the location of the boundary between those two States in the Sabine River. The matter was referred by the Supreme Court to a Special Master, Judge Robert Van Pelt, who conducted hearings and made his report to the Court.

In *State of Texas v. State of Louisiana*, 410 U.S. 702, the Court, with certain exceptions, adopted the report of the Special Master with respect to the boundary between those two States in the Sabine River. In addition, the Court recognized a potential interest of the United States in islands in the western half of the Sabine River south of 32 degrees north latitude. Consequently, the Court expressed the view

that the United States "should be requested to present any claims it may have to any of the islands in the western half of the Sabine south of 32 degrees north latitude and, if it so desires, to present evidence and argument with respect to the ownership of such islands." 410 U.S. at 712.

Subsequent to that decision the State of Louisiana moved to enlarge the reference of the Special Master to include the establishment of Louisiana's lateral boundary with Texas in the Gulf of Mexico. By order of the Court entered June 25, 1973, the motion was referred to the Special Master and the United States was invited to file a brief expressing its views. The United States responded to that invitation by recommending enlargement of the Special Master's reference to include not only the offshore boundary between Texas and Louisiana but also the extension of that boundary to the seaward limit of Texas' 9-mile grant under the Submerged Lands Act so that the rights of all three parties would be settled simultaneously.

In his report to the Court the Special Master recommended that the motions of the State of Louisiana and the United States to enlarge his reference be granted. If granted, the Special Master further recommended that the United States and the State of Louisiana file within 20 days of the entry of the order by the Court their claims and contentions with respect to their respective lateral boundaries with the State of Texas in the Gulf of Mexico. The Special Master's report was adopted by the Court on Octo-

ber 15, 1973. The Special Master then granted a 20-day extension of the time schedule contained in his recommendation to allow discussion of the issues at a pre-hearing conference, which was held on November 5, 1973.

CONCLUSION

The motion of the United States for leave to intervene and assert its claims against the States of Texas and Louisiana to islands in the Sabine River and to submerged lands affected by the lateral offshore boundary in the Gulf of Mexico should be granted.

Respectfully submitted.

ROBERT H. BORK,
Acting Attorney General
and Solicitor General.

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COMPLAINT

The United States of America, by its Acting Attorney General and Solicitor General, intervenes in this suit against the States of Texas and Louisiana, and for its causes of action states:

FIRST CAUSE OF ACTION

I

The jurisdiction of this Court is invoked under Article III, Section 2, paragraph 2 of the Constitution of the United States, and Title 28, United States Code, Section 1251(b) (2).

II

At all times herein material the United States was and now is the owner in fee simple of all islands which have existed in the western half of the Sabine

River since 1848 and which have not been conveyed to the States of Louisiana or Texas.

III

There is an unnamed island lying near the point at approximately $29^{\circ}59'29''$ north latitude, $93^{\circ}47'21''$ west longitude.

The island is located in the western half of the Sabine River, and has existed since 1848.

The United States is now, and has been at all times herein material, the owner in fee simple of that portion of the island which lies south of Fractional Section 36, Township 12 South, Range 15 West.

SECOND CAUSE OF ACTION

IV

The United States repeats and realleges the allegations contained in paragraphs I through II hereof, with the same force and effect as if herein set forth.

V

There is an unnamed island lying near the point at which the Sabine River enters Sabine Lake, whose center is at approximately $29^{\circ}59'10''$ north latitude, $93^{\circ}47'43''$ west longitude.

The island is located in the western half of the Sabine River and has existed since 1848.

The United States is now, and has been at all times herein material, the owner in fee simple of that island.

THIRD CAUSE OF ACTION

VI

The United States repeats and realleges the allegations contained in paragraphs I and II hereof, with the same force and effect as if herein set forth.

There is an island in the Sabine River which has been variously known as John's Island and Dooms Island and whose center is at approximately $29^{\circ}58'03''$ north latitude, $93^{\circ}50'58''$ west longitude.

That island is located in the western half of the Sabine River and has existed since 1848.

The United States is now, and has been at all times herein material, the owner in fee simple of that island.

FOURTH CAUSE OF ACTION

VII

The United States repeats and realleges the allegations contained in paragraphs I and II hereof, with the same force and effect as if herein set forth.

VIII

There were, in 1848, three unnamed islands lying near the point at which Taylor's Bayou enters Sabine Lake. The centers of each of these islands were located approximately at:

$29^{\circ}50'15''$ north latitude, $93^{\circ}55'22''$ west longitude;

29°49'22'' north latitude, 93°56'15'' west longitude; and

29°49'12'' north latitude, 93°56'25'' west longitude.

These islands were located in the western half of the Sabine River in 1848.

These islands are now parts of a larger artificially created island in the Sabine River known as Pleasure Island.

The United States is now, and has been at all times herein relevant, owner in fee simple of those portions of Pleasure Island which existed as separate islands in 1848.

FIFTH CAUSE OF ACTION

IX

The United States repeats and realleges the allegations contained in paragraph I, with the same force and effect as herein set forth.

X

The lateral boundary in the Gulf of Mexico which separates the areas over which Texas and the United States exercise exclusive rights to the natural resources of the seabed and subsoil is a line beginning at the seaward terminus of a similar line dividing the exclusive rights of Texas and Louisiana, and extending seaward to a point 3 marine leagues from the historic coastline of the State of Texas, at all times remaining an equidistance from the coasts of Texas and Louisiana.

XI

The lateral offshore boundary in the Gulf of Mexico dividing the rights of Texas and Louisiana is a line beginning at the midpoint of a closing line across the mouth of the Sabine River and extending seaward into the Gulf of Mexico, being at all times equidistant from the coasts of Texas and Louisiana.

XII

The mouth of the Sabine River and the seaward limit of the inland waters of the United States is a straight line between the southern tips of the Sabine River jetties.

XIII

The western jetty at the mouth of the Sabine River is an extension of the coastline of the State of Texas.

XIV

The eastern jetty at the mouth of the Sabine River is an extension of the coastline of the State of Louisiana.

WHEREFORE, the United States prays for relief as follows:

1. That a decree be entered quieting title in the United States to said islands in the western half of the Sabine River;
2. That a decree be entered declaring the rights of the United States as against the States of Texas and Louisiana in the subsoil, seabed and natural resources

underlying the Gulf of Mexico lying east of a line which begins at the midpoint of the closing line across the mouth of the Sabine River, as described in paragraphs XI-XII and extends into the Gulf of Mexico an equidistance from the low-water lines on the Texas and Louisiana coasts and more than 3 nautical miles from the coast of Louisiana; and

3. For such other and further relief as the Court may deem proper.

ROBERT H. BORK,
Acting Attorney General
and Solicitor General.

NOVEMBER 1973.

