

LIOGA Wins Round In Pollution Fight

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BATON ROUGE, LA.—The Louisiana Independent Oil & Gas Association has won the first round in a legal battle with the Bayou State's attorney general over pollution enforcement, but Attorney General Richard Ieyoub has vowed to return for round two.

Ieyoub says he will appeal a court ruling against contingency contracts he let with 14 law firms that authorized them to pursue legal actions against the state's oil and gas producers for alleged environmental contamination. Ruling on a suit filed by LIOGA, Judge A. Foster Sanders III of the 19th Judicial District issued a permanent injunction in mid-December against Ieyoub's contingency contracts.

LIOGA filed its suit to block what it described as a witch hunt rooted in political aims to benefit trial lawyers. In November, Ieyoub had announced his decision to hire 14 private law firms to investigate what he described as oil and gas production and exploration-related pollution of state lands, wetlands, waters and water bottoms. Ieyoub said his efforts were in keeping with his statutory responsibility to protect and preserve public lands and wetlands, and to protect waterways important to the state's seafood industry.

Under the terms of the contracts, the law firms would get 25 percent of any monies, damages, fines or penalties from damage awards against companies found guilty of polluting.

But Sanders said the contracts were unconstitutional because they involved the expenditure of public funds without the approval of the Office of Contractual Review as required by state law.

In addition to its court filing, LIOGA is attempting to get the contracts annulled on ethical grounds, reports President Donald Briggs.

The 688-member independent producer organization sought a preliminary injunction and declaratory judgment against Ieyoub. Six independents, including association Chairman Robert Meredith of Columbia, La., are co-plaintiffs in the suit.

Usurp Power

The suit contends that Ieyoub overstepped his constitutional authority by usurping the power of other state agencies that regulate the industry and environmental issues. The contracts, LIOGA also charges, represent an unconstitutional diversion and appropriation of state funds, preempt the power of the state legislature, circumvent state procurement rules on services without statutory authority, and

122 THE AMERICAN OIL & GAS REPORTER

LIOGA worried that hiring the firms would automatically lead to suits against companies, despite the attorney general's statements that the contracts were aimed primarily at enforcing environmental cleanup. It points out that law firms hired under contingency contracts don't work for free.

The association also says it believes the contracts can be canceled on ethics

fail to receive proper legal approval for implementation.

"We agree with Judge Sanders," Briggs comments on the court's ruling. "We have always noted that the state has numerous agencies charged with protecting the environment. We have also noted that if Ieyoub had evidence or suspicions about an environmental violation, he should work with the appropriate agency to resolve the issue."

Sanders did uphold Ieyoub's right to initiate legal action to achieve environmental cleanup, but without the contingency contract. However, the attorney general says he is disappointed that he can't use the contingency contract.

"Attorneys general in every state in the union have used contingency contracts, and the courts in other states have upheld the legality of doing so," Ieyoub responds. "The use of contingency contracts gives states the opportunity to obtain much needed legal services which they could not otherwise afford."

Ieyoub indicates he will appeal Sanders' ruling.

Fishing Expedition

LIOGA Chairman Meredith says LIOGA filed its suit out of economic necessity. "The attorney general's mere announcement of the contract resulted in investors wanting to pull out of projects planned and underway," he states. "This investigation would hinder our ability to invest and create jobs in the state. It also would have a negative impact on tax revenues and royalties to the state."

Briggs observes that a late November meeting between Ieyoub and LIOGA's Board of Directors alarmed association members even more than the attorney general's initial announcement of the planned environmental probes.

During the meeting, four officers of major lending and investment organizations failed to convince Ieyoub that his venture was damaging oil and gas investment and associated economic activity, Briggs says.

Ieyoub also failed to shed light on the need for the investigations, Meredith adds. "We believe this was a fishing expedition for the financial gain of a few trial lawyers," he conjectures.

In their arguments before Sanders, Briggs says, LIOGA's attorneys pointed out that the proposed contingency contracts, as amended by Ieyoub, would allow the attorney general's hired lawyers to collect up to \$3 billion in legal fees out of state funds that would otherwise be available to environmental agencies.

"This is an outrageous sum to be paid to lawyers," Briggs states. "If the lawyers

public officials from participating in a transaction or case in which officials have a substantial economic interest.

Attorneys appointed under the contract become public servants or special assistant attorneys general, and will benefit handsomely from the investigations by collecting the contingency fees from those under investigation, LIOGA's filing says.

The central issue in LIOGA's request for an Ethics Commission inquiry is whether the 25 percent contingency contract violates Louisiana law that prohibits

could collect that much, the cost to the industry could be in excess of \$12 billion."

LIOGA is not alone in being upset by the attorney general's actions. Louisiana's oil and gas industry is regulated by five state agencies: the Department of Environmental Quality, Department of Wildlife and Fisheries, Office of the Louisiana Oil Spill Coordinator, the Department of Natural Resources, and the Office of Conservation. The agencies issued a joint statement criticizing Ieyoub's moves and explaining that state agencies already possess the authority to enforce environmental remediation and levy fines and penalties.

"Practicality and sound fiscal practice dictate that violations be handled at the administrative level first, where full-time, experienced professional employees can be focused on the violations without wasted time and expense," the agencies say. "It is the considered opinion of the above five agencies that unilateral action by the attorney general's office will cause waste of state funds, and (will) create undue impact on the legitimate operations of the oil and gas industry, which is so vital to our state."

Economic Issue

In a statement released by the attorney general following LIOGA's filings, Ieyoub maintained that those who had not polluted had nothing to worry about. "Only those who have breached the public trust by spoiling our land and water should be concerned," he stated.

The attorney general also argued that "horrible pollution problems" made it difficult for Louisiana to attract new business.

But the investigations themselves were becoming an economic stumbling block instead of a boon to the state, LIOGA counters. The attorney general's actions had the potential to harm thousands of Louisiana's citizens who depended on the oil and gas industry for their livelihoods, the association holds.

"Numerous financial institutions told our members and Attorney General Ieyoub that this investigation had the potential to devastate our struggling industry," Meredith states.

"We compete with other oil producing states for investment dollars. As recently as the last legislative session, lawmakers recognized the competitive nature of our industry and its importance to our economy by passing a legislative incentive package to stimulate investment in oil and gas activity," he adds. "This investigation overshadowed that incentive package and made it meaningless."

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