

Governor Edwards and Attorney General Landry Still at Loggerheads Over Potential Oil and Gas Lawsuits

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The internal tussle between Louisiana's governor and attorney general over potential lawsuits against the oil and gas industry continues to rage. On September 21, 2016, Governor John Bel Edwards reaffirmed that he continues to be in conflict with Attorney General Jeff Landry over the governor's desire to sue the oil and gas industry for its alleged role in coastal land loss. Before Governor Edwards took office in January, Plaquemines, Jefferson, and Cameron Parishes sued oil and gas companies in state courts alleging that dredging and other historical oil and gas operations have damaged Louisiana's coastal zone. The District Attorney for Vermilion Parish, Keith Stutes, filed a fourth such lawsuit on behalf of Vermilion Parish earlier this year. Governor Edwards is now urging coastal parishes to initiate additional lawsuits within the next 30 days, informing them that if they don't, the state will do so on their behalf.

In several public releases, Governor Edwards stated that his attempts to reach a settlement with the oil companies were to no avail and that he is therefore moving forward with litigation. Although he expects other parishes to file suits, the governor has said the state will pursue its own litigation "in the not-too-distant future" should the parishes fail to do so. While not opposing such litigation outright, Attorney General Landry has taken the position that, before the state can file suit, it is required to complete an administrative process with the Department of Natural Resources. Landry is imploring Governor Edwards to utilize this process first.

In addition, Landry has raised concerns about the private counsel Governor Edwards wishes to retain for these proposed lawsuits. As attorney general, Landry must approve all outside counsel retained by the state. Landry believes that the proposed contract with Taylor Townsend, the head of Edwards' political action committee, could potentially pay to him and other subcontracted parties attorneys' fees beyond the hourly rates permitted by state statute and may also run afoul of Louisiana's Ethics Code. Landry has stated that he would approve the outside counsel so long

as the contracts comply with the law and so long as his office is permitted to take the lead in representing the state. The Louisiana Oil and Gas Association and the Louisiana Mid-Continent Oil and Gas Association released a joint statement criticizing Governor Edwards' actions, claiming that the governor "is doubling down on a this flawed attempt to hire private lawyers to attack Louisiana's energy industry."

In response, Governor Edwards has rejected Landry's criticism and insinuations of cronyism, stating that Landry either "doesn't understand the contract or he is purposefully misrepresenting it" and that there is nothing untoward about the payment structure of outside counsel. Governor Edwards also dismissed much of the criticism as an attempt by the oil and gas industry to control who represents the state in litigation against the industry.

With neither Governor Edwards nor Attorney General Landry ceding any ground, it appears more and more likely that the courts will have to resolve their squabble. Although these issues engender uncertainty, it is likely that oil and gas companies will eventually face lawsuits by the state for coastal erosion. It would be prudent for these companies to get their ducks in a row now and prepare for the long battles ahead.