

UNITED STATES DISTRICT COURT
FOR MIDDLE DISTRICT OF LOUISIANA

ATCHAFALAYA BASINKEEPER, LOUISIANA
CRAWFISH PRODUCERS ASSOCIATION-WEST,
GULF RESTORATION NETWORK,
WATERKEEPER ALLIANCE, and SIERRA CLUB
and its DELTA CHAPTER,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS

Defendant,

and

BAYOU BRIDGE PIPELINE, LLC, and STUPP
BROS. d/b/a STUPP CORPORATION

Intervenor Defendants.

Civ. No. 3:18-cv-00023-SDD-EWD

DECLARATION OF
DEAN WILSON

I, DEAN WILSON, declare as follows:

1. I am a resident of Plaquemine, Louisiana and am the Executive Director of Atchafalaya Basinkeeper. I have served as director since Atchafalaya Basinkeeper's creation in 2004. Atchafalaya Basinkeeper, Inc. ("Basinkeeper") is a non-profit corporation that operates under the laws of the State of Louisiana with its principal place of business in Lafayette, Louisiana. I previously offered fact testimony in this case, and appeared as a witness in the preliminary injunction hearing on February 8, 2018. I also prepared a declaration in support of Basinkeeper's summary judgment motion, dated January 10, 2019, documenting my efforts to bring our concerns about permit compliance to the Corps attention. I reaffirm this previous testimony here.

2. As the director for Basinkeeper, and a resident of the Atchafalaya Basin, I work to protect and restore the Basin for future generations. I have 18 years of experience patrolling, monitoring, and advocating for the protection and restoration of the Basin.

3. Once construction began on the Bayou Bridge pipeline in the Atchafalaya Basin, I periodically conducted inspections on a portion of the right of way in the Basin near to the eastern levee. During these trips, I noticed numerous activities that degraded the Basin's cypress swamp including: digging without erosion controls, damming major waterways that people use, creating spoil banks with no gaps, garbage at the construction site, diesel sheen in the water from construction equipment, clearing cypress swamp in excess of the allowed width of the right of way, and leaving spoil banks in the Basin during high water periods even though the permit requires the company to backfill the trench. In my declaration to this Court on January 10, 2019, I described these violations in greater detail and included three violation notices that Basinkeeper submitted to the Army Corps. *See* Declaration of Dean Wilson in Support of Motion for Summary Judgment, ECF-No. 177-2, Feb. 10, 2019 ("Wilson SJ Decl.").

4. The most concerning of these activities was BBP's continued construction as the water levels in the Basin rose and flooded the right-of-way. Bayou Bridge's 408 permit from the Corps explicitly prohibits construction work within five days of a "high water" event, defined as a reading of 11.0 feet or higher on the Carrolton gage. Despite this permit condition, on at least seven occasions, I personally observed Bayou Bridge continuing to construct in the right of way, even after water at the Carrolton Gage exceeded 11 feet this winter. Water levels are so high that in places it is no longer possible to see the spoil banks that were created when the pipeline trenches were excavated.

5. Subsequent to my last declaration, on January 16, 2019 I traveled into the Basin by boat again, to inspect the Bayou Bridge pipeline right of way. On the day of this visit, water levels in the Basin were very high. According to USGS data, the water height at the Carrollton Gage was 15.0 feet on that day. When water levels are this high, water moves through the swamp and especially any pipeline channels quickly. The higher the water level, the faster the current. During this trip, I observed an excavator in the right of way, actively digging in a trench and creating a new spoil bank with the spoils it was removing from the trench. Included as Exhibits 1 through 3, are photographs I took of the excavator engaging in this activity. I took these photographs approximately 2.3 miles west of the Intracoastal Waterway that runs next to the eastern Atchafalaya levee. Geographic coordinates for the location where I took these images are 30° 05' 19.61" N, and 91° 22' 07.46" W. I took these photographs between 4:00pm and 5:00pm in the afternoon on January 16, 2019.

6. The photographs document what I observed on that date: an excavator on a floating barge actively digging into the bottom of the cypress swamp. Excavation from a floating barge was presumably chosen because the water level at that time was so high that it was too deep to place excavation equipment. As I observed, the excavator arm sinks deep into the water, nearly fully submerged, to reach the bottom. It then pulls the bucket out of the water, which is filled with dark mud, as rivers of sediment-laden water and mud cascade out the sides and fall back into the water. The excavator then dumps this mud onto a newly formed pile of spoil, creating a new spoil bank that in places was taller than the water height.

7. I observed a trail of mud and woody debris carried by the current that was traveling away from the construction site, and degrading water quality. I witnessed clods of mud and other debris floating away in the rapidly moving water. Ordinarily, when I see branches and

other debris in the river, they are free from mud or sediment. Here, however, dark sticky mud covers these branches in chunks, indicating they were pulled from the bottom of the river. Included as Exhibit 4, is a close up photograph of this woody debris from the construction site. I took this photograph at the same time and location as the other photographs.

8. During my January 16, 2019, visit, I observed no erosion controls employed—no silt fences, sediment traps, straw bales or other controls. Sediment was flowing freely from the site into the surrounding wetlands and downstream. The photographs I took document the absence of these protective controls. My observations on January 16 were consistent with many of the other observations I have made over the past year, in which erosion control measures were not in use. In all of my visits to observe construction on the Bayou Bridge pipeline right of way, the majority of which occurred during “high water conditions” as defined by the Permit, I have never seen Bayou Bridge use erosion control measures along the trench or spoil bank in the pipeline right of way.

9. Excavating a trench at this time, with the water level so high, is especially harmful because it disturbs the mud during high water, allowing sediments to flow freely into wetlands. I personally observed high volumes of sediment moving away from the construction site that normally would not be present. This sediment will now wash into other areas of the Basin contributing to further accretion and degradation of swamps.

10. The purpose of the trenching activity I observed on January 16 appears to be for repairing the pipeline, which is already buried. Last year, I observed Bayou Bridge excavating a trench, and creating a spoil pile near this location. I did not personally observe anyone actually laying the pipeline into the trench. However, I have observed indications that the pipeline is installed through this portion of the right of way. Specifically, Bayou Bridge constructed an

above ground facility a few hundred yard west of the Intercoastal Waterway adjacent to the eastern levee, at 30°05'26.33" N and 91°19'5.45" W. The company posted warning signs on that facility stating they are conducting pressure testing. Included as Exhibit 5, is a photograph of the facility with the warnings partially submerged beneath the high water. My son took this photograph on January 17, 2019. BBP has also post indicating a pipeline is already in the right-of way for much of this section of the pipeline.

11. On January 22, 2019, I inspected the Bayou Bridge pipeline right of way again at the same location where I previously observed trenching activity. During this inspection, I observed that a work crew had lifted a section of the pipeline out of the water, and was conducting welding operations on the pipeline. Two excavators were visible in the background. Included as Exhibit 6, is a photograph of the pipeline lifted above ground with barge equipment and excavators in the background. No silt fences or other erosion control measures are visible. During this inspection, I again observed the newly created spoil bank in the right of way. A photograph of this spoil bank is included as Exhibit 7. Both of these photographs were taken at 30° 05' 19.61" N, and 91° 22' 07.46" W on January 22, 2019.

12. Approximately 900 feet away, I also observed a work crew with a diver who appeared to be conducting an underground inspection of the pipeline. Included as Exhibit 8 is a photograph of a work crew on board a small boat, with a diver. I took this photograph on the January 22, 2019, at 30° 05' 22.88" N and 91° 21' 59.73" W.

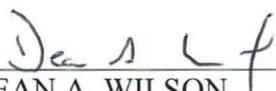
13. As I previously stated, in all my years patrolling the Atchafalaya Basin, I have never witnessed a project built with as little care for the environment as this one. I witnessed significant environmental harm occurring from their construction and their haste. The company routinely flouts permit requirements, for example, the obligation to use sediment control

measures. Because it has been an unusually wet year, the majority of the pipeline's construction through the Basin took place during high water. In my view, many of the harms that we testified about during the hearing last year already came to pass. As I explained in my previous declaration, since construction occurred, sediment accretion significantly raised the level of the water bottom in Bayou Set. For almost thirty years, I have traveled through Bayou Set, and now my boat cannot travel there anymore except in the highest water levels.

14. Water levels at Carrolton Gage are 15.6 feet as of the date of signing this declaration. Typically, the beginning of the high water season starts in February. The water level is unusually high in my experience for this time of year. This indicates that water levels are likely to continue to rise for several more months.

15. One in a barge and pipeline lifted is where saw digging from before.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 23 day of January, 2019, at Plaquemine, Louisiana.



DEAN A. WILSON

**EXHIBIT LIST
TO
DECLARATION OF DEAN WILSON**

- Exhibit 1: January 16, 2019 photograph of the excavator approximately 2.3 miles west of the Intracoastal Waterway that runs next to the eastern Atchafalaya levee. Geographic coordinates for this image is 30° 05'19.61" N, and 91° 22'07.46" W.
- Exhibit 2: January 16, 2019 photograph of the excavator approximately 2.3 miles west of the Intracoastal Waterway that runs next to the eastern Atchafalaya levee. Geographic coordinates for this image is 30° 05'19.61" N, and 91° 22'07.46" W.
- Exhibit 3: January 16, 2019 photograph of the excavator approximately 2.3 miles west of the Intracoastal Waterway that runs next to the eastern Atchafalaya levee. Geographic coordinates for this image is 30° 05'19.61" N, and 91° 22'07.46" W.
- Exhibit 4: January 16, 2019 photograph of the woody debris from the construction site.
- Exhibit 5: January 17, 2019 photograph of the facility with the warnings partially submerged beneath high water.
- Exhibit 6: January 22, 2019 photograph of the pipeline lifted above ground with barge equipment and excavators in the background located at 30° 05'19.61" N, and 91° 22'07.46" W.
- Exhibit 7: January 22, 2019 photograph of spoil bank located at 30° 05'19.61" N, and 91° 22'07.46" W.
- Exhibit 8: January 22, 2019 photograph of a work crew on board a small boat, with a diver located at 30° 05'22.88" N and 91° 21'59.73" W.

Exhibit 1



Exhibit 2



Exhibit 3



Exhibit 4



Exhibit 5



Exhibit 6



Exhibit 7



Exhibit 8

