

Environmental Justice Update: Louisiana NGOs Sue Parishes Regarding Allegedly “Racist” Nature of Industrial Permitting

Article By:

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Louisiana has been at the center of the past year’s eruption of environmental-justice related enforcement activities.

The complaint in *Inclusive Louisiana et al. v. St. James Parish et al.*, found [here](#), is tied to three separate strands of issues we’ve discussed past year: environmental justice; civil rights in Louisiana; and the tremendous scrutiny currently focused on petrochemical plants. Below, we will summarize the complaint, outline how it fits into what else is happening in Louisiana, and outline some high-level takeaways for the regulated community.

Allegations in the Complaint

The complaint was filed by Inclusive Louisiana, Triumph Baptist Church, and Rise St. James on behalf of their members. The complaint begins with a deep dive into the history of St. James Parish from European settlement through the Civil War; from newly freed slaves being given rights to seeing them taken away after Reconstruction; through St. James Parish’s transition from plantation economies by becoming the home of petrochemical plants. As might be expected given it being a civil rights case, the complaint presents a picture of one locality with wholly separate realities for communities, depending on whether their residents were white or black.

Legally, the complaint contains seven claims, including allegations that St. James Parish violated the Thirteenth, Fourteenth, and Fifteenth Amendments to the US Constitution through its local planning decisions; 42 U.S.C. § 1982, through creating a system of land use which violates the rights of Black residents of St. James Parish; 42 U.S.C. § 2000cc(b)(2), the Religious Land Use and Institutionalized Persona Act (RLUIPA), by precluding industrial development around historically white Catholic churches, but not historically Black Protestant churches; and for violations of the Louisiana Constitution related to the deprivation of Black residents’ rights to preserve historically Black places, including cemeteries and burial sites.

Related Litigation and Investigations

The complaint is centered in Louisiana, which has been central to recent “environmental justice” developments. Indeed, “environmental justice” at the federal level is more tied to Louisiana than

anywhere else. In early 2022, the US Environmental Protection Agency (EPA) received three civil rights complaints from Louisiana non-governmental organizations (NGOs). We [discussed](#) EPA's initial [findings](#) when they were issued last October, which charted out the spatial history of Louisiana from slavery through the present day, and in turn link that geography to federal civil rights laws.

Regulatory and governmental focus on facilities in this area has been unrelenting for some time. Since the initial civil rights finding, we've mentioned Louisiana repeatedly. In December, [we wrote about Bloomberg Philanthropies' \\$85 million "Beyond Petrochemicals" campaign](#) which was focused in part on industrial facilities in this region. And this month, we wrote about [EPA's complaint against the Denka elastomer facility](#), one of the facilities mentioned in EPA's civil rights complaint.

Takeaways for the Regulated Community

The *Inclusive Louisiana* case is perhaps novel in that it presents religious liberty claims in a manner intended to promote environmental protection. Outside of the religious liberty claims —and perhaps, that the complaint was filed by three NGOs and not the government — little about the complaint is new. The NGOs use of religious liberty claims here is probably analogous to the [federal government's "whole of government" approach](#) or [NGOs' adoption of environmental, social, and governance \(ESG\) or "greenwashing" theories in litigation, which is](#), using all potentially available weapons to attack projects.

However, the litigation calls attention to commonsense steps that regulated businesses can take to avoid unwittingly being caught in the crossfire. These include conducting diligence in communities where new operations are planned; broadly engaging with communities where operations happen with an eye toward building resilient relationships; and remaining vigilant of public and private enforcement trends:

- **Conduct diligence on communities where business activities are planned.**

The NGOs' complaint was a product of their communities. While some NGOs parachute in related to individual issues, the groups filing this litigation originated in the relevant communities. By the time this complaint was filed, that at least some Black residents of St. James Parish were upset about land use in their community was known. While the complaint targets the local government, information was available supporting the concept that businesses seeking to expand operations or build new facilities in Black portions of St. James Parish might encounter some community resistance. And, even in the most pro-business scenario, community concerns can lead to delays, which should be factored into development or operational planning.

- **Engage early and often in communities where operations occur to build resilient relationships.**

As we have emphasized elsewhere, the first step in managing community concerns is through community engagement and listening. Where residents know and understand what is happening at businesses, "friendly" relationships can tend to help ameliorate minor concerns and present opportunities to mitigate larger concerns, before projects end up enmeshed in litigation. This matters both from costs related to delays (see our discussion [here](#)), but also due to the [increased focus on social issues which factor into ESG reporting](#).

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- **Remain vigilant to big-picture government and private enforcement trends.**

Finally, this complaint is no surprise to anyone keeping a close eye on environmental justice (EJ) issues. EPA already signaled its concerns with historic land use and public health decision making in St. James Parish and the complaint here marches in lockstep with EPA's 2022 findings. Community concerns, private litigation, and federal enforcement in EJ areas will likely be mutually reinforcing and often in lockstep, mirroring what we see with more traditional environmental citizen suits.

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