

Environmental Justice Update: First-of-Its-Kind Louisiana EJ Suit Dismissed

Article By:

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A first-of-its-kind environmental justice (EJ) lawsuit filed by a group of Louisiana churches and nongovernmental organizations (NGOs) was dismissed this week.

The court's decision finding the plaintiffs' claims to be time-barred is **here**. We break down the plaintiffs' claims, the court's decision, and related takeaways below.

Allegations in the Complaint

We first **discussed** this case when the **complaint** was filed in

March. The plaintiffs' complaint begins with a comprehensive 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, and 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. These include allegations that St. James Parish violated:

- The 13th, 14th, and 15th Amendments to the US Constitution through its local planning decisions,
- 42 USC § 1982, through creating a system of land use that infringes the rights of Black residents of St. James Parish,
- 42 USC § 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
- The Louisiana Constitution related to the deprivation of Black residents' rights to preserve historically Black places, including cemeteries and burial sites.

The plaintiffs included Inclusive Louisiana, Triumph Baptist Church, and Rise St. James on behalf of their members. The primary defendant was St. James Parish, although two subsidiary entities – the St. James Parish Council and the St. James Parish Planning Commission – were included in the complaint.

The Decision

St. James Parish adopted a land use plan in 2014, some elements of which codified prior practices. The plaintiffs' argue that this plan steered industrial development towards areas of the parish with a majority Black population, benefiting areas with a majority White population. Accordingly, the plaintiffs sought declaratory and injunctive relief against St. James Parish seeking to reshape the parish's zoning system.

The court noted that all passage of the 2014 land use plan as well as various permitting decisions listed in the complaint fell outside the relevant statutory period. In this case, that period was one year for most claims, but extended to four years for the RLUIPA claims. More specifically, the court further noted that St. James Parish's heavy industrial development began in 1958 – before any land use rules were passed – and that the US Environmental Protection Agency's (EPA) EJ concerns with St. James Parish dated back to 2003. A federal court's "continuing violation" doctrine was deemed not applicable to the issues alleged here as the claims trace back to specific acts whose consequences were largely apparent at the time they occurred.

Takeaways

When we previously discussed the complaint, we noted that, outside of religion-focused allegations, "little about the complaint is new." Then, we noted that to avoid being unwitting participants in similar litigation, regulated businesses could conduct diligence in communities where they operate, engage early and often to build resilient relationships with community stakeholders, and remain vigilant on private enforcement trends.

Six months further into the prioritization of EJ issues, we want to emphasize the following bigger-picture takeaways:

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- **Stretching “old” environmental laws to attack longstanding problems presents sometimes insurmountable challenges.** The plaintiffs’ complaint raised concerns – some of which were health-related – originating from the United States’ checkered racial history. Federal environmental statutes and other civil rights laws tend to focus on resolving current problems. While the plaintiffs sought to use US civil rights laws to attack problems at what they perceived to be their roots, the court, despite appearing sympathetic to their concerns, found itself barred from hearing the merits of the plaintiffs’ claims.
 - **In EJ issues, where you stand often depends on where you sit.** Here, the plaintiffs’ claims are colored by their lived experience in St. James Parish. This includes its history, a belief that governmental policies have historically been shaped by racial motivations, and that long-standing trends collectively result in EJ (and other) issues. These issues, outlined in the first 70 pages of the initial Complaint, played little to no role in the court’s analysis, which hinged on legal issues, most notably statutes of limitations.

We touched on analogous issues in **our discussion** of comments submitted regarding EPA’s **draft Cumulative Risk Assessment Guidelines**. There, we noted that even though the involved document was highly technical, various commentators raised concerns about diverse issues including EPA’s limited statutory authority in this space and how notice-and-comment processes used by EPA and other agencies can limit input from marginalized groups.

- **Statutes of limitations are hard to circumvent and exist to bar old claims.** The plaintiffs’ claims here were subject to one- or four-year statutes of limitations. While harms, in the plaintiffs’ views, are ongoing and rooted in the 2014 land use plan, the court evaluated relevant

historical events and accepted that claims stemming from the original land use issues driving the plaintiffs' claims were time-barred. q

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National Law Review, Volumess XIII, Number 331

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