

Three Takeaways From \$745 Million Louisiana Verdict Against Chevron for Coastal Wetland Damage

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Public companies can face significant liability based on past operations. While most industrial companies have long-term experience evaluating potential remediation obligations imposed by laws such as the federal Comprehensive Environmental Response, Compensation, and Liability Act, new legal theories and increased litigation from state and local governments heightens the potential for risk.

A recent \$745 million [verdict](#) in a case filed by a Louisiana parish against Chevron for allegedly violating Louisiana's State and Local Coastal Resources Management Act and associated regulations illustrates this new dynamic. The parish alleged that Chevron's predecessor, Texaco, failed to refill canals that it had dredged and dumped contaminated wastewater, hastening erosion and land loss. The jury awarded \$575 million to compensate the parish for land loss, \$161 million for contamination, and \$8.6 million for abandoned equipment.

This case is not alone. More than 40 similar lawsuits filed by coastal parishes and the State of Louisiana [are pending](#) against oil and gas companies. Below, we break down the facts that gave rise to the dispute, components of the jury's verdict, and three takeaways for corporate risk managers.

Case Summary

Plaquemines Parish sits where the Mississippi River empties into the Gulf. Land loss is a significant issue, as it is in much of coastal Louisiana. The parish has lost [roughly half](#) its land area over the past century, and the state as a whole has lost roughly 2,000 square miles of land. The parish's lawsuit claims Chevron's actions exacerbated erosion. At trial, Chevron's counsel [pointed to](#) another cause, levees that block Mississippi River sediment from reaching the Gulf, as the true reason for land loss.

The lawsuit specifically alleges that Chevron did not follow a state [regulation](#) requiring that its production areas "shall be cleared, revegetated, detoxified, and otherwise restored as near as practicable to their original condition." Chevron argued, in part, that many of its operations

were [grandfathered](#) in and so not required to follow the regulations.

The jury's verdict is the latest development in a long legal journey that began when the parish filed suit in 2013. Since then, the case has made its way to federal district court, the Fifth Circuit (twice), and the [US Supreme Court](#). The battle was principally jurisdictional. Chevron argued that its predecessor's activities extracting and refining oil for the US military during World War II allowed it to invoke federal jurisdiction over the case. The Fifth Circuit ultimately [disagreed](#), allowing the case to proceed in state court. Given Chevron's intent to appeal, it may be several more years before the case is finally resolved.

Takeaways

Here are three takeaways from the jury's verdict:

- **Climate-Related Liabilities Pose Increasing Risk.** Fossil fuel producers have increasingly become entangled in tort litigation filed by state and local governments using a variety of legal theories. Some, like the Louisiana cases, are based on alleged violations of state environmental laws. Other cases use "[greenwashing](#)" or [deceptive marketing](#) theories, arguing that fossil fuel companies [misled the public](#) about climate change or their activities. New York and Vermont have enacted "[climate superfund](#)" laws to directly establish climate-related liability for fossil fuel companies.
- **Litigation Risk May Not Follow a "Red State vs. Blue State" Divide.** While many climate-related lawsuits have been filed by Democratic-controlled state and local governments with an intent to address industries that they perceive to be underregulated, the Louisiana cases demonstrate that these lawsuits can be a tool of Republican-controlled governments as well, particularly when litigation can secure funding for projects that legislatures are reluctant to fund themselves. The *Associated Press* reports that Louisiana's legislature has [resisted](#) industry efforts to legislatively invalidate the parishes' claims.
- **Risk Managers Should Understand Impacts of Decreased Federal Funding for Programs and More State-Law Focused Claims.** The change in presidential Administration is causing major changes to the environmental landscape. As the federal US Environmental Protection Agency (EPA) [deregulates](#), state enforcement of state environmental laws may grow in importance over the coming years. State litigation may be less predictable to manage and value from a risk perspective than was federal enforcement. Compounding this challenge, reductions in federal funding from agencies including EPA and the Federal Emergency Management Agency may result in states increasingly deploying litigation to close funding gaps.

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