

SENATE BILL NO. 210

BY SENATOR HEITMEIER

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AN ACT

To amend and reenact Sections 1 and 2 of Act No. 233 of the 1984 Regular Session of the Legislature, as amended by Act No. 847 of the 1992 Regular Session of the Legislature, Act No. 1364 of the 1997 Regular Session of the Legislature, and Act No. 1378 of the 1999 Regular Session of the Legislature, relative to the Bohemia Spillway; to provide a procedure for persons claiming an ownership interest in property or minerals located in the Bohemia Spillway; to provide for certification of property and mineral ownership interest and for the return of such property and mineral interest to the certified owner or his successor by the Board of Levee Commissioners of the Orleans Levee District; to provide for payment by the board to the certified owner or his successor for mineral revenues received by the board from such property after June 29, 1984; to provide an exemption to the board of commissioners from certain judgments rendered involving title to properties and claims involving mineral revenues derived from land located in the spillway; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. Sections 1 and 2 of Act No. 233 of the 1984 Regular Session of the Legislature, as amended by Act No. 847 of the 1992 Regular Session of the Legislature, Act No. 1364 of the 1997 Regular Session of the Legislature, and Act No. 1378 of the 1999 Regular Session of the Legislature, are hereby amended and reenacted to read as follows:

Section 1. ~~(A)~~(1) Pursuant to authority of Louisiana Constitution Article VII, Section 14(B), the legislature hereby declares that the public and necessary purpose set forth in Act No. 99 of 1924, which may have originally supported the acquisition of property, or any right of ownership thereto, on the east bank of the Mississippi

1 River in the parish of Plaquemines for the construction of a spillway, known as the
 2 Bohemia Spillway, has ceased to exist insofar as it ever may have affected the
 3 ownership of property, including all mineral rights and revenues. The legislature
 4 hereby orders recognizes the following:

5 (a) ~~That, notwithstanding the provisions of Section 4 of this Act, In~~
 6 ~~accordance with previous Acts of the legislature,~~ the Department of Natural
 7 Resources, the "department," shall ~~provide on or before January 1, 2000~~ has
 8 ~~provided over the last twenty years~~ written certification to the Board of Levee
 9 Commissioners of the Orleans Levee District of the names and fractional interests
 10 ~~as determined by the department~~ of all owners of the property and mineral rights
 11 ~~provided for in this Section,~~ and/or the successors of such owners, from whom
 12 property was acquired ~~only~~ by expropriation, or by purchase under threat of
 13 expropriation, or by purchase between January 1, 1924 and December 31, 1932.
 14 ~~Notwithstanding the provisions of Section 4 of this Act, such certification shall~~
 15 ~~include all such owners and/or the successors to such owners whether or not they~~
 16 ~~were able to pay any costs of such certification charged by the department prior to~~
 17 ~~August 15, 1997, and without any further costs after that date charged to any such~~
 18 ~~owners and/or successors to such owners. Such certification shall also include~~
 19 included all owners and/or successors to such owners whether or not they have had
 20 fully complied with the department's rules and regulations.

21 (b)(i) The Board of Levee Commissioners of the Orleans Levee District, the
 22 "board," shall ~~publish at least three times in the official journals of the parishes of~~
 23 ~~Jefferson, Orleans, Plaquemines, and St. Bernard information detailing the names of~~
 24 ~~owners of the property and mineral rights provided for in this Section, and/or the~~
 25 ~~successors of such owners,~~ has returned those interests by quitclaim deeds filed
 26 in the conveyance records of Plaquemines Parish, Louisiana as certified by the
 27 Department of Natural Resources, ~~with detailed instructions as to how such owners~~
 28 ~~and/or successors to such owners may contact the board for a return of the property~~
 29 ~~and mineral rights provided for in this Section. In addition, the board shall make~~
 30 ~~other reasonable efforts to locate and contact such owners and/or successors to such~~

1 owners. All such property, including mineral rights, shall be returned by August 15,
2 2000 to those owners and/or successors to such owners who have contacted the board
3 by July 1, 2000. Thereafter, owners and/or successors to such owners may contact
4 the board for a return of the property and mineral rights until July 1, 2009. Upon
5 such contact, the property and mineral rights shall be returned to such owners and/or
6 successors to such owners within six months of the date of contact. No property or
7 mineral rights provided for in this Act shall be required to be returned to any person
8 who has not contacted the board by July 1, 2009.

9 (ii) ~~The board shall return to the owners and/or the successors of the owners~~
10 ~~of such property an amount equal to all revenues produced since June 29, 1984 until~~
11 ~~paid from property which was acquired by the board by expropriation or by purchase~~
12 ~~under threat of expropriation. In addition, the board shall pay to such owners and/or~~
13 ~~the successors interest on such revenues from July 1, 1991 until paid. The rate of~~
14 ~~such interest shall be the annual, average interest rate earned by the board on its~~
15 ~~income-producing investments during the same time period as determined by the~~
16 ~~legislative auditor. Such payment of revenues and interest shall be made by August~~
17 ~~15, 2000. Thereafter, payments shall be made within thirty days to those owners~~
18 ~~and/or successors to such owners who contact the board after that date, until July 1,~~
19 ~~2009. No payment of revenues or interest provided for in this Act shall be required~~
20 ~~to be returned to any person who has not contacted the board by July 1, 2009. **Upon**~~
21 ~~**determining additional interests through claims filed, certain previously**~~
22 ~~**certified claims would be rescinded by the department and re-certified to**~~
23 ~~**include new or a new division of fractional interests, whereby the board would**~~
24 ~~**rescind the previously recorded quitclaim deeds and reissue new deeds to reflect**~~
25 ~~**the newly certified interest as tendered by the department.**~~

26 ~~(iii) **The board has settled all claims of members of the class established**~~
27 ~~**in the matter of "Haspel and Davis, Milling and Planting, Co., Ltd., et al. vs.**~~
28 ~~**Board of Levee Commissioners" Docket No. 31-357 of the 25th Judicial District**~~
29 ~~**Court for the Parish of Plaquemines, by judgment dated December 11, 2000,**~~
30 ~~**and the settlement agreement homologated therein, the "judgment," and the**~~

1 board has made partial payments of amounts owed under the judgment.

2 (iv) The board intends to make additional payments to satisfy its
3 obligations under the judgment.

4 ~~(iii) However, notwithstanding Subsubparagraph (b)(ii), in lieu of the~~
5 ~~payment by August 15, 2000 of the full amount provided for in that~~
6 ~~Subsubparagraph, the full amount may be paid pursuant to a structured settlement~~
7 ~~which has been approved by the House and Senate committees on natural resources~~
8 ~~on or before August 15, 2000. Such structured settlement shall include, at a~~
9 ~~minimum, all of the following:~~

10 ~~(aa) Provisions insuring that revenue payments shall only be made for those~~
11 ~~properties from which revenues were produced and which were acquired by the~~
12 ~~board by expropriation or by purchase under threat of expropriation.~~

13 ~~(bb) A provision that payments for claims which total not in excess of ten~~
14 ~~thousand dollars per tract shall be paid by August 15, 2000.~~

15 ~~(cc) That all payments of revenue and interest shall be paid by July 1, 2009.~~
16 ~~However, the board shall make all reasonable efforts to complete payments earlier~~
17 ~~than that date.~~

18 ~~(c) The board shall submit a status report to the House and Senate committees~~
19 ~~on natural resources on March 1, 1998, and each March first thereafter. Such status~~
20 ~~report shall include, but not be limited to, the board's efforts to locate and contact~~
21 ~~owners and/or successors to such owners, procedures for and the amount of property~~
22 ~~transferred, and the amount of revenue and interest payments made.~~

23 ~~(2) Neither the provisions of this Act nor any actions pursuant to this Act~~
24 ~~shall affect the title to land which was the subject of litigation on June 29, 1984.~~

25 ~~(B) Any and all revenues produced from the disputed property shall be~~
26 ~~escrowed until there is a final court determination of the disposition of such property.~~

27 ~~(C) Notwithstanding any other law or court order to the contrary, the Orleans~~
28 ~~Levee District shall pay the claims for royalties, plus interest in those amounts~~
29 ~~determined under Act No. 1364 of the 1997 Regular Session to all "judicially~~
30 ~~expropriated owners" of land in the Bohemia Spillway as identified in Exhibit "A"~~

1 in the "Motion and Order For Leave to Pay Claims" filed in the Twenty-fifth District
2 Court for the parish of Plaquemines, State of Louisiana, Docket Number 31-357 on
3 December 8, 1998. After the effective date of this Act, the Orleans Levee District,
4 upon receiving appropriate identification from the individual claimants listed in said
5 Exhibit "A", shall pay to those claimants a sum equal to the amount of their claims
6 as shown in said Exhibit "A". The payments made by the Orleans Levee District, as
7 legislatively mandated herein, shall not be construed as a waiver of any of the rights,
8 claims, appeals, writs or defenses of the Orleans Levee District as to any other
9 claimants, nor even as to the "judicially expropriated owners" except to the extent
10 of payments made under this Act.

11 (v) Certain title disputes have arisen between owners of record and new
12 claimants.

13 (vi) All revenues ordered returned by the legislature to all existing
14 owners of record have been paid or are being settled in the current fiscal year
15 by the board.

16 (vii) Where disputed titles exist the board has suspended payments until
17 those claims have been litigated.

18 Section 2.A. The secretary of the Department of Natural Resources shall
19 have rulemaking and procedure making authority consistent with the Administrative
20 Procedure Act, R.S. 49:950 et seq., for the purpose of establishing procedures and
21 guidelines for the receipt and evaluation of applications, notification of applicants,
22 submission of evidence as to applicant's rights to property within the Bohemia
23 Spillway, certification of applications, in whole or part, and any other rules and
24 procedures reasonably necessary for the orderly implementation of the return ordered
25 herein. The secretary shall proceed immediately upon the effective date of this Act
26 with steps necessary for the development and adoption of rules and procedures to
27 begin the implementation of the provisions of this Act by January 1, 1985.

28 B. No claimant shall be denied the right to pay any fee or costs nor be denied
29 the right to apply for indigent status prior to November 1, 1991. No claim shall be
30 invalid for the failure of the claimant to timely pay any fee or cost or to timely apply

1 for or provide required information and affidavits for indigent status in accordance
2 with the rules of the department.

3 Section 2. In order to bring this massive project to an end the legislature
4 hereby orders the following:

5 (a) Within thirty days of final passage of this Act, the board shall place
6 a final advertisement in the official journals of the parishes of Jefferson,
7 Orleans, Plaquemines, and St. Bernard giving notice that anyone claiming
8 ownership of property within the Bohemia Spillway shall make a formal
9 application to the Department of Natural Resources to be certified as owner or
10 as a successor of the owner for the return of such property.

11 (b) Any claims for the return of property within the Bohemia Spillway
12 shall be filed with the department on or before June 30, 2007, for determination
13 of certification as an owner or successor to such owner.

14 (c) After conveyance of property by the board to any owner who has
15 been certified by the department, the board shall contact such owners within
16 thirty days to negotiate a final settlement for the payment of mineral revenues
17 received by the board after June 29, 1984.

18 (d) No property or mineral rights provided for in this Act shall be
19 required to be returned to any person who has not filed a claim with the
20 department for certification as an owner by June 30, 2007.

21 (e)(i) All conveyances to owners or successors of owners of property,
22 whose interest were certified by the department, were made in good faith and
23 without warranty by the board.

24 (ii) There shall be no cause or right of action against the board or the
25 department as to any interest involving title to any property certified by the
26 department and conveyed by the board to the record owner pursuant to
27 certification by the department nor shall the board be made a party to such
28 litigation to resolve the title dispute.

29 (iii) If an award of a title interest in property located in the Bohemia
30 Spillway is rendered in favor of a third party against the record owner who has

1 received mineral revenues paid directly by the board under the judgment, then
2 any claim for payment of such revenues shall be included as part of the
3 judgment against the record owner only and the board shall not be a party to
4 such judgment nor shall the board be liable for payment under such judgment.
5 After the end of the time period for filing claims, the third party litigant shall
6 have no cause or right of action against the board for payment of mineral
7 revenues formerly paid or paid prospectively to the owner of record pursuant
8 to this Act.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____