

NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

**LOUISIANA BUCKET
BRIGADE,**

Civil Action No. 664293

Plaintiff,

v.

Section ____

**OFFICE OF THE GOVERNOR, and
MATTHEW BLOCK, Custodian of Records,**

Defendants.

**PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION
TO THE PETITION FOR WRIT OF MANDAMUS**

NOW INTO COURT, through undersigned counsel, comes Plaintiff, the Louisiana Bucket Brigade, who respectfully submits this Reply to Defendant's Opposition to the Writ of Mandamus ("Defendant's Opposition" or "Opposition Brief") to address Defendants' representations concerning developments subsequent to the filing of the Petition in this matter.

FACTS AND BACKGROUND

As set forth in Plaintiff's Amended Petition for Writ of Mandamus, Plaintiff filed *one* public records request with the Office of the Governor and thereafter persisted in communication with staff in that office in an attempt to narrow and focus the request in aide of locating responsive records. *See* Amended Petition at ¶¶ 27-32.

Even after Plaintiff filed suit to obtain additional responsive records, Defendants continued to assert that no further responsive records existed until, as described in their Opposition, they discovered a search anomaly which had apparently resulted in an incomplete review, an event that also coincided with a media report that responsive records did in fact exist. Def. Opp. at 3-4.

Defendants produced additional responsive records on January 26, 2018 – more than three months after Plaintiff's Request.

In their Opposition Brief filed January 30, 2018, Defendants mischaracterize Plaintiff's follow-up communications as separate requests, suggesting Plaintiff submitted three separate

public records requests. *See* Def. Opp. at 1-2. The effect of Defendants' version of events would be to establish different timelines for their obligations under the Public Records Law tied to each new "request."¹ In fact, as shown in Plaintiff's Amended Petition and discussed further below, Defendants produced additional records more than three months after the October 6, 2017 Request – *after* this lawsuit was filed, after additional prodding by Plaintiff, and shortly before the hearing on the rule to show cause.

Plaintiff's communications subsequent to its actual records request were an effort to narrow and focus the scope to assist the custodian of records in determining whether responsive records existed. Plaintiff's October 20, 2017, letter identified specific lobbyists who registered to lobby on behalf of companies named in the October 6, 2017, records request ("the Request"). *See* Amended Petition, Exhibits A and D. Plaintiff was clear that records relating to meetings or communications between the Governor and/or his staff with these individuals would have fallen within the category of records sought in the Request. *Id.* at Ex. D. Subsequently, not having received records in response to the October 20th follow-up communication, Plaintiff's December 4, 2017, letter identified two additional individuals believed to be acting as agents of companies named in the Request – Mary Landrieu and Randy Hayden. Amended Petition, Exhibit G. Plaintiff made clear in that communication that it was supplementing information contained in the October 6th Request. *Id.*

On January 3rd and 5th, Plaintiff received letters from Defendants asserting they found no records relating to meetings or communications between the Governor or his staff with agents of companies identified in Plaintiff's October 20th and December 4th communications respectively. *See* Letter from Tina Vanichchagorn to Anne Rolfes, December 29, 2017,* annexed hereto as Exhibit A, and Letter from Tina Vanichchagorn to Anne Rolfes, January 5, 2018, annexed hereto as Exhibit B.

As Defendants acknowledge in their Opposition Brief, on January 16, 2018, their office notified counsel for Plaintiff that they discovered there had been a problem with the search for records and that a new search would be conducted. Def. Opp. at 3. On January 17, 2018, The

¹ Even if each communication was treated as a separate request, Plaintiff would be within its rights to bring an action given the respective timeframes involved.

* While the letter is dated December 29, 2017, it was emailed on January 3, 2018.

Advocate ran a story in which it described documents the newspaper had obtained indicating the Governor's office had records relating to meetings and communications with persons identified in Plaintiff's December 4, 2017, request.² On the same day, counsel for Plaintiff sent a letter to Defendants noting this report and the fact that such records would have fallen within the category of records sought in the October 6, 2017, request. *See Letter from Pamela Spees to Tina Vanichchagorn, January 17, 2018*, annexed hereto as Exhibit D. Plaintiff requested these and any other responsive records be produced. *Id.* On January 26, 2018, Defendants produced the records described in the article in The Advocate. *See Letter from T. Vanichchagorn to Pamela Spees, January 25, 2018*, annexed hereto as Exhibit E.**

For ease of the Court's reference, the following timeline sets out the sequence and summary of communications related to Plaintiff's public records request:

October 6, 2017	Louisiana Bucket Brigade submitted a public records request to the Governor's office seeking "any and all records related in any way to" (1) meetings and (2) communications between the Governor and/or members of his staff and any employees or agents of Bayou Bridge Pipeline, Energy Transfer Partners, Sunoco Logistics, Phillips 66, and any subsidiaries of these companies. Amended Petition, Ex. A
October 10, 2017	Deputy Executive Counsel to Governor Edwards acknowledged receipt of the public records request and indicated they would send the information by the next day (Wednesday, October 11, 2017). Amended Petition, Ex. B
October 18, 2017	Deputy Executive Counsel to Governor Edwards sent a letter indicating they did not find any records responsive to the Bucket Brigade's request for information about meetings between the Governor and/or his staff and any company representatives. With respect to the request for information about communications between the Governor's office and company representatives, the office produced a short email string relating to the appointment of a Sunoco employee to the Bunches Bend Protection District Board. Amended Petition, Ex. C
October 20, 2017	Louisiana Bucket Brigade sent a letter to the Governor's office in response expressing concern about the "extremely limited number of records produced in response to the request" and reiterated the request included records of meetings and communications with "agents" of the named companies.

² See Steve Hardy, *Louisiana environmental groups turn to courts in Bayou Bridge pipeline battle*, The Advocate, Jan. 17, 2018, http://www.theadvocate.com/baton_rouge/news/environment/article_e20e6c78-fba9-11e7-bc07-6774af2be0d2.html, annexed hereto as Exhibit C.

** While the letter is dated January 25, 2018, it was emailed on January 26, 2018.

	<p>The Bucket Brigade letter then identified three lobbyists registered on behalf of two of the companies named in the request and asked that the staff conduct another search for responsive records.</p> <p>Amended Petition, Ex. D</p>
October 23, 2017	<p>Governor Edwards' Deputy Executive Counsel acknowledged receipt of what she termed a "new request."</p> <p>Amended Petition, Ex. E</p>
November 6, 2017	<p>Governor Edwards' Deputy Executive Counsel sent an email to Louisiana Bucket Brigade indicating the search for responsive records was still under way and that she expected to send a response by the end of the next day (November 7, 2017).</p> <p>Amended Petition, Ex. F</p>
December 4, 2017	<p>Nearly a month after the Governor's office indicated they would be sending a response to the Bucket Brigade's October 20, 2017, communication, the Bucket Brigade, having not received further communication, sent a letter to the Deputy Executive Counsel summarizing the history of the request and reiterating that the records sought included those relating to meetings and communications with agents of the companies listed.</p> <p>The Bucket Brigade proceeded to name two more people it believed to be acting as agents of the companies listed in the request:</p> <ul style="list-style-type: none"> - Mary Landrieu, who has acknowledged publicly that she serves as a "consultant" to the Bayou Bridge Pipeline Project and had participated in public hearings as a representative on behalf of Energy Transfer Partners; and - Randy Hayden, a lobbyist, media consultant, and industry spokesperson. <p>The Bucket Brigade asked again that a search be conducted for records relating to meetings or communications with Landrieu and Hayden as well as the lobbyists identified in the October 20, 2017, letter.</p> <p>Amended Petition, Ex. G</p>
December 7, 2017	<p>The Governor's Deputy Executive Counsel sent an email to the Bucket Brigade acknowledging receipt of the December 4th letter but appearing to treat it as a new public records request and indicating that a response to the "previous request" was forthcoming.</p>
December 13, 2017	<p>The Louisiana Bucket Brigade filed the instant suit against the Office of the Governor and Custodian of Records to assert its rights under the Louisiana Public Records Law.</p>
January 3, 2018	<p>Deputy Executive Counsel sent a letter to the Bucket Brigade in response in which the Governor's staff indicated they "identified no relevant, responsive records of communications or meetings" with individuals named in Bucket Brigade's correspondence of October 20, 2017.</p> <p>Plaintiff's Reply, Ex. A, Annexed hereto</p>
January 5, 2018	<p>An Assistant to the Executive Counsel in the Office of the Governor emailed a letter in response to the Bucket Brigade's December 4, 2017, letter, in which</p>

	<p>they indicated that they found no records responsive to the request for records relating to meetings or communications with Mary Landrieu or Randy Hayden.</p> <p>Plaintiff's Reply, Ex. B, Annexed hereto</p>
January 17, 2018	<p>The Advocate ran a story about legal challenges to the Bayou Bridge Pipeline. In it, the Advocate reported that a document indicating a meeting between Mary Landrieu and Governor Edwards existed and was provided in response to a separate records request that had been obtained by the newspaper.</p> <p>The article also noted another email between Randy Hayden and a member of the Governor's staff requesting that the Governor participate in a media call organized he was organizing about the pipeline.</p> <p>Steve Hardy, <i>Louisiana Environmental Groups turn to courts in Bayou Bridge Pipeline Battle</i>, The Advocate, Jan. 17, 2018. http://www.theadvocate.com/baton_rouge/news/environment/article_e20e6c78-fba9-11e7-bc07-6774af2be0d2.html</p> <p>Plaintiff's Reply, Ex. C, Annexed hereto</p>
January 17, 2018	<p>The same day as the article in the Advocate was published, counsel for Louisiana Bucket Brigade sent a letter to Deputy Executive Counsel expressing concern about the article and asserting that the records identified in the article would have been responsive to the Bucket Brigade's request. Bucket Brigade counsel asked that those documents as well as any others related in any way to meetings or communications with those individuals be produced.</p> <p>Plaintiff's Reply, Ex. D, Annexed hereto</p>
January 24, 2018	<p>The Governor's Deputy Executive Counsel sent an email to counsel for Louisiana Bucket Brigade acknowledging the letter of January 17, 2018, and indicating they would send a response by the end of the week.</p>
January 26, 2018	<p>The Governor's Deputy Executive Counsel sent a letter to counsel for Louisiana Bucket Brigade to which she attached the records in question concerning a meeting between the Governor and Mary Landrieu as well as email correspondence between staff of the Governor and Randy Hayden.</p> <p>Plaintiff's Reply, Ex. E, Annexed hereto</p>

LAW AND ARGUMENT

The Louisiana Supreme Court has repeatedly emphasized the importance of the Public Records Law and has made clear that: 1) the Public Records Act is to be construed liberally in favor of free and unrestricted access to public records; 2) if there is any doubt about whether the records should be made public or not, doubt must be resolved in favor of the public's right to see the records; and 3) that the law was not intended to qualify this right in any way. *See New Orleans Bulldog Society v LSPCA*, #2016-C-1809, 222 So.3d 679 (2017); *Shane v. The Parish of Jefferson*, 14-2225, p. 9-10 (La. 2015), 209 So.3d 726; *In re Matter Under Investigation*, 07-1853 (La. 2009), 15 So. 3d 972, 989; *Capital City Press v. East Baton Rouge Parish*

Metropolitan Council, 96-1979 (La. 1997), 696 So.2d 562, 564; *Title Research Corp. v. Rausch*, 450 So.2d 933, 937 (La. 1984).

Pursuant to La. R.S. 44:35(A), after five days, a person who has been denied the right to inspect, copy, reproduce, or obtain a copy or reproduction of a record either by the agency's final determination or by the passage of time may institute expedited proceedings for the issuance of a writ of mandamus and attorney's fees and costs. At a summary hearing on the petition for a writ of mandamus, the "burden is on the custodian to sustain his action." La. R.S. 44:35(B).

"Members of the public should not be forced to institute legal proceedings to obtain, at the very least, a final written determination regarding their right of access to the requested records, as provided by the Public Records Act." *Heath v. City of Alexandria*, 09-28 (La.App. 3 Cir. 5/6/09), 11 So.3d 569, 572.

Additionally, La. R.S. 44:35 mandates an award of attorney's fees and costs once a record requester prevails in a suit under the Public Records Law. The First Circuit Court of Appeal has held that a party requesting public records prevails in the proceedings if the records are produced after suit is filed. *See Aswell v. La. Div. of Admin.*, 15-1851 (La. App. 1 Cir. 6/3/16), 196 So. 3d 90, 94, *writ denied*, 16-1263 (La. 11/7/16), 209 So. 3d 102. The claim to recover fees and costs under La. R.S. 44:35(D) does not cease to exist even if the custodian subsequently produces the records. *See La. Capital Assistance Ctr. v. Dinvaut*, 16-383 (La. App. 5 Cir. 12/7/16), 207 So.3d 1187; *Aswell v. La. Div. of Admin.*, *supra* at 94; *Heath v. City of Alexandria*, *supra*; *Johnson v. City of Pineville*, 08-1234 (La.App. 3 Cir. 4/8/09), 9 So.3d 313, 317.

Here, Defendants suggest unequivocally that the custodian of records "has tendered all documents in his possession that are responsive to the numerous requests of the Plaintiff." Def. Opp. at 5. Putting aside the attempt to characterize Plaintiff's ongoing communications as separate "numerous requests," Defendants repeatedly asserted that no records existed relating to meetings between the Governor and/or his staff and agents of the companies listed in the request. *See Amended Petition*, Exhibit C; and Exhibits A and B annexed hereto. Only after this lawsuit and the discovery of a search anomaly which coincided with reporting in local media about the actual existence of responsive records did Defendants produce additional documents.

Defendants' Opposition itself sets out why there is cause for concern about the search and responses to Plaintiff's records request.

Finally, Defendants raise a number of points of law that are simply not at issue in this matter. Def. Opp. at 5-6. Plaintiff has not asked the Governor's office to create new records or produce records that do not exist. Rather, Plaintiff has repeatedly attempted to focus the request in aid of locating responsive records and was told that such records did not exist – only to be notified late in this late stage that responsive records did in fact exist.

CONCLUSION

Contrary to Defendants' assertions, Plaintiff made *one* public records request – not three – and then engaged in ongoing communications with the Governor's office in furtherance of that request. After asserting more than once that no further responsive records existed, Defendants then produced records that were clearly responsive to the Plaintiff's Request – after the lawsuit was filed and more than three months after the Request. The process for the search for records described by Defendants in the Opposition Brief gives cause for concern as to whether all responsive records have in fact been produced. Additionally, the documents produced on January 26, 2018, raise a number of questions as to whether additional documents exist – questions which should be explored in a hearing on the rule to show cause.

Respectfully submitted,



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Attorneys for the Plaintiff

EXHIBIT A

Office of the Governor
State of Louisiana

JOHN BEL EDWARDS
GOVERNOR



P.O. Box 94004
BATON ROUGE, LOUISIANA 70804-9004
(225) 342-7015
GOV.LA.GOV

December 29, 2017

Anne Rolfes
Louisiana Bucket Brigade
2803 Saint Phillip Street
New Orleans, LA 70119-4132

RE: Public Records Request

Dear Ms. Rolfes:

In your letter to our office dated October 20, 2017, you acknowledged receipt of our response to your first public records request, dated October 6, 2017. You further expressed concern that the number of records produced was “extremely limited” and asked that we indicate what kind of searches were conducted to fulfill the request. In addition to your inquiry into the kind of searches utilized to fulfill your first request, you asked that another search be conducted for relevant, responsive records of communications or meetings with the following:

- Energy Transfer Equity: Thomas Evenden Williams
- Phillips 66: Robert H. Baumann
- Phillips 66 Company: David A. Cagnolatti

As an initial matter, it is important to note that the Public Records Act creates a right of access to existing documents, without imposing a duty on a custodian to create a new document. *See Nungesser v. Brown*, 95-3005, 667 So.2d 1036 (La.2/16/96). With respect to your inquiry relative to searches performed to fulfill your first request, you asked for any and all meetings and communications between (1) the governor and/or his staff and (2) “any and all employees, staff, and/or agents of Bayou Bridge Pipeline, LLC, Bayou Bridge Pipeline, Energy Transfer Partners, Energy Transfer Equity, Sunoco Logistics, Phillips 66, Phillips 66 Partners”. Your first request did not specifically identify the records sought or the people that would have created or received such records, nor did it specify a time period within which such records would have been created. In spite of the fact that identification and segregation of the records requested would be unreasonably burdensome, the following searches were conducted of records maintained in the course and scope of performing business of the Office of the Governor:

1. An electronic search of all Office of the Governor’s email accounts, totaling 72, was executed using the search terms “Bayou Bridge Pipeline”, “Energy Transfer Partners”, “Energy Transfer Equity”, “Sunoco Logistics”, and “Phillips 66”. The search revealed more than 5,000 hits of the

Anne Rolfs
December 29, 2017
Page 2

search terms between all of the mailboxes beginning January 11, 2016. Because no specificity was provided, each email containing a search-term hit was reviewed to determine if in fact the email fit into the category of communications between the governor and/or his staff and any and all employees, staff, and/or any agents of any of the entities whose names were provided. In other words, was the email with the search-term hit a communication between the office and one of the entities whose name was provided? The emails tendered to you as responsive to your request were the only communications between employees of the Office of the Governor and any of the named entities provided in your request.

2. An electronic search of all scanned paper correspondence received by the executive office, Office of the Governor.
3. Evaluation of the governor's calendar for meetings with any of the entities whose names were provided in your request.
4. Request of the executive counsel, special counsel, and executive assistant to the chief of staff to determine whether any had meetings with any of the entities whose names were provided in your request.

Once all of the searches were complete, all responsive records were provided to you on October 18, 2017.

With respect to your second request dated October 20, 2017, we appreciate your providing more specificity with which to conduct a search. However, we have identified no relevant, responsive records of communications or meetings with Thomas Evenden Williams, on behalf of Energy Transfer Equity, Robert H. Baumann, on behalf of Phillips 66, or David A. Cagnolatti, on behalf of Phillips 66 Company.

You may wish to make a public records request of the Department of Natural Resources and/or the Department of Environmental Quality, but without more specificity of the subject or nature of the records you are seeking, we do not know whether either of these agencies would have records responsive to your request.

Should you wish to contact me or if you are able to more specifically identify records you seek, please email me at tina.vanichchagorn@la.gov or call (225) 342-7015.

Sincerely,



Tina Vanichchagorn
Deputy Executive Counsel

EXHIBIT B

Office of the Governor
State of Louisiana

JOHN BEL EDWARDS
GOVERNOR



P.O. Box 94004
BATON ROUGE, LOUISIANA 70804-9004
(225) 342-7015
GOV.LA.GOV

January 5, 2018

Anne Rolfes
Louisiana Bucket Brigade
2803 Saint Phillip Street
New Orleans, LA 70119-4132

RE: Public Records Request

Dear Ms. Rolfes:

In your third public records request to our office, dated December 4, 2017, you asked that we conduct a search for additional persons you believe have acted as agents or employees in connection with Bayou Bridge Pipeline LLC and/or Energy Transfer Partners and asked that our search include records of communications or meetings with the following:

- Mary Landrieu, who has stated publicly she serves as a “consultant” to the Bayou Bridge Pipeline project and has participated in public hearings as a representative on behalf of Energy Transfer Partners;
- Randy Hayden, a lobbyist, media consultant and industry spokesperson”

After conducting a search for your December 4, 2017 request, we have identified no responsive records of communications or meetings with Mary Landrieu, on behalf of Energy Transfer Partners, or Randy Hayden.

You also stated that you believe a full and thorough search for records concerning meetings and communications with these categories of persons would have yielded more than one email chain about an appointment of a Sunoco employee to a levee protection board.

We reiterate that rather than deny any of your requests as unduly burdensome, our office undertook the immense task of sorting through more than 8000 search-term hits collectively for your three requests, in addition to searching through nearly two years of calendar entries, in an effort to identify whether there were any communications between the governor and/or his staff

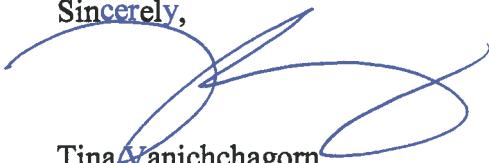
Anne Rolfes
January 5, 2018
Page Two

and the entities or persons named in your requests. We understand that it is your opinion that records should exist; the fact, however is that they simply do not. Our office cannot produce a record that does not exist.

As indicated previously, you may wish to make a public records request of the Department of Natural Resources and/or the Department of Environmental Quality, but without more specificity of the subject or nature of the records you are seeking, we do not know whether either of these agencies would have records responsive to your request.

Should you wish to contact me or if you are able to more specifically identify records you seek, please email me at tina.vanichchagorn@la.gov or call (225) 342-7015.

Sincerely,



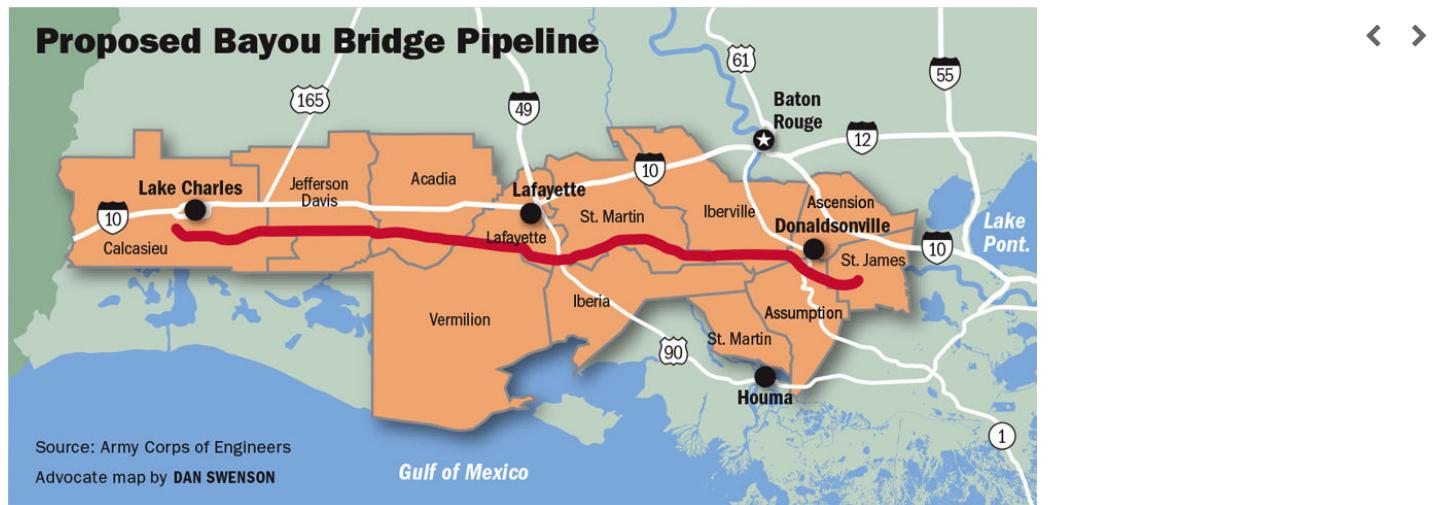
Tina Vanichchagorn
Deputy Executive Counsel

EXHIBIT C

http://www.theadvocate.com/baton_rouge/news/environment/article_e20e6c78-fba9-11e7-bc07-6774af2be0d2.html

Louisiana environmental groups turn to courts in Bayou Bridge pipeline battle

BY STEVE HARDY | SHARDY@THEADVOCATE.COM JAN 17, 2018 - 11:35 AM



Steve Hardy

Opposition to the proposed Bayou Bridge pipeline is heating up as environmental groups turn to the courts to challenge not just the regulators who allowed the project, but the company behind the venture.

The conservationists filed a petition in the 19th Judicial District in Baton Rouge on Tuesday in hopes of getting a judge to compel Bayou Bridge LLC to turn over various documents. The Louisiana Bucket Brigade has also contended that the governor's office is also not meeting its obligations to turn over public records on the project.

Pipeline opponents worry that the public is being left in the dark on the construction of the proposed 162-mile crude oil pipeline that would run between Lake Charles and St. James Parish. Documents they are seeking include communications between government officials, regulators, LSU researchers and lobbyists; business records shared between the pipeline company and private security firms and any records on how the company would handle public relations over safety concern.

Story Continued Below

Louisiana environmental groups target Bayou Bridge pipeline records

The release of more information will make the process more transparent and allow Louisiana residents to review the pipeline and whether, for example, the state and company engaged in any untoward collusion, environmental leaders said outside the courthouse Tuesday morning.

The argument against the pipeline company is technical but boils down to whether it is acting as a public agency. In seeking land for Bayou Bridge, the company claimed it could expropriate property under eminent domain because the pipeline is "in the public interest and necessity," the lawsuit quotes. If Bayou Bridge can seize people's land to bury oil infrastructure for their own profit, the company should be subject to public records laws, the suit contends.

"Eminent domain is an extraordinary and controversial power, and those most often burdened frequently lack the financial means and political clout to protect their rights in the process," said attorney Pamela Spees, of the Center for Constitutional Rights, in a statement.

Bayou Bridge pipeline receives Corps, DEQ permits, closing in on construction start

The Center is representing the Louisiana Bucket Brigade, 350 New Orleans and the Atchafalaya Basinkeeper groups in the suit. Bold Louisiana leader and frequent pipeline critic Cherri Foytlin also attended on Tuesday and said the process deserves scrutiny because local residents aren't getting a beneficial project like a hospital in their backyards; they're getting a potentially dangerous pipeline that could hurt the local fishermen, and everyone needs to know whether the government and business dealings were on the up and up.

"Poor people are constantly getting stepped on by these big, rich oil companies. ... Their time is coming. Their time is now," she said.

In a written response to the suit, a Bayou Bridge spokeswoman said Tuesday that the pipeline will be a safe and reliable project that will contribute \$1.8 million in property taxes in its first year and \$17.6 million in sales tax during construction. However, the statement did not address the public records issues raised in the lawsuit.

Bayou Bridge attorney Jimmy Percy wrote in a December email to the environmentalists' lawyers that "we fundamentally disagree that Bayou Bridge or (majority shareholder) Energy Transfer Partners is subject to the Public Records Act in the manner that you have described, nor is either entity is obligated to produce the records requested."

The suit against the company will play out against the backdrop of a similar one involving Gov. John Bel Edwards.

In December, the Bucket Brigade filed a lawsuit against the governor's office, claiming it failed to adequately respond to a records request for information related to the pipeline. The environmental group separately sought any records of meetings or communications with two individuals affiliated with Energy Transfer Partners: former Senator Mary Landrieu, a current lobbyist for the company, and Randy Hayden, president of Creative Communications, Inc., a Louisiana public relations and lobbying firm working for pipeline developers.

There were no responsive records of meetings or communications with those two individuals, Tina Vanichchagorn, deputy executive counsel to the governor's office, replied earlier this month.

However, a response last August from the Governor's office to a separate records request regarding the pipeline, obtained by The Advocate, includes an email reference to a planned meeting regarding the pipeline between Edwards and Landrieu on January 30, 2017. The response to the records request also included a copy of an email from Hayden asking Edwards to participate in a media call about the pipeline that his company was organizing. That invitation was declined by a staff member, according to the email chain.

Vanichchagorn said there was no record in the Governor's calendar of a meeting with Landrieu last January, but did not deny that the Governor may have met with Landrieu.

"Whether or not there was a meeting, I don't know. But I can't produce a record that doesn't exist," she said.



Bavou Bridge pipeline winds up in court as environmentalists, state square off

She maintained that because the email in question was between two members of the Governor's staff, and not Landrieu herself, that it "would not have been responsive" to the Bucket Brigade's December request. Vanichchagorn said a "technology issue" prevented the email between Hayden and a member of staff, which would have been responsive to the environmental group's request, from turning up in search results. Her office plans to re-run the records search for the December request for information regarding Landrieu and Hayden.

Bayou Bridge, Landrieu, LSU and others have also come under scrutiny by the non-profit Public Accountability Initiative who recently published a report titled "The Power Behind the Pipelines."

"Despite substantial public opposition to the pipeline, especially from the communities along its route, the project enjoys broad political support from both major parties. The oil and gas industry has outsized power in Louisiana politics thanks to its persistent presence in the state, and oil and gas interests are major political donors. This dynamic has led to major conflicts of interest between Louisiana's regulatory apparatus and Bayou Bridge. Former Louisiana Senator Mary Landrieu is currently a paid consultant advocating for Bayou Bridge at the same time as she is a lobbyist for the Louisiana Coastal Protection and Restoration Authority, which must sign off on the project before it can be built," wrote author Robert Galbraith.

His study also questioned LSU's research ethics. The university has shown itself to be "indifferent" to oil and gas conflicts of interest from its Center for Energy Studies to its board of supervisors, Galbraith wrote. The Center, which authored a study commissioned by Energy Transfer Partners which was favorable to the construction of Bayou Bridge, is led by a professor who also runs a private oil and gas consulting firm, Galbraith wrote.

Environmental groups sue Army Corps over Bayou Bridge pipeline approval

In addition to the public records suits, there are also pending suits against the U.S. Army Corps of Engineers and the Louisiana Department of Natural Resources. Pipeline opponents are asking the U.S. District Court in Baton Rouge and the 23rd Judicial District Court in St. James, respectively, to overturn those agencies' approval of Bayou Bridge.

Lauren Zanolli contributed to this report.

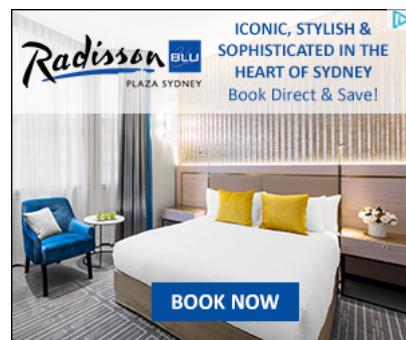


EXHIBIT D

centerforconstitutionalrights
on the front lines for social justice

January 17, 2018

Via Email

Ms. Tina Vanichchagorn
Deputy Executive Counsel
Office of the Governor
P.O. Box 94004
Baton Rouge, LA 70804
tina.vanichchagorn@la.gov

Dear Ms. Vanichchagorn:

Subsequent to our phone call yesterday in which you acknowledged that the search for records responsive to Louisiana Bucket Brigade's request was inadequate, we read your statements about this request in an article published today in The Advocate. See Steve Hardy, *Louisiana environmental groups turn to courts in Bayou Bridge pipeline battle*, The Advocate, Jan. 17, 2018, available at http://www.theadvocate.com/baton_rouge/news/environment/article_e20e6c78-fba9-11e7-bc07-6774af2be0d2.html.

As you know, the article confirmed that records exist in the Governor's office concerning "a planned meeting regarding the pipeline between [Governor] Edwards and [Mary] Landrieu on January 30, 2017" as well as a communication from Randy Hayden asking the governor to participate in a media call about the pipeline that his company was organizing.

The article reported that you maintained that the email concerning Landrieu "would not have been responsive" to the Bucket Brigade's request because it was between members of the Governor's staff and not Landrieu herself.

If this is your belief, it is a misreading of the original request and follow-up correspondence. In the original request, the Bucket Brigade made it clear it was seeking "any and all public **records related in any way to...** any and all **meetings** between Governor John Bel Edwards and/or any and all other staff of the office of the governor on the one hand, and any and all employees, staff and/or agents of Bayou Bridge Pipeline, LLC" and related companies. It also sought "**records relating in any way to...** any and all **communications** between Governor John Bel Edwards and/or any and all other staff of the office of the governor on the one hand, and any and all employees, staff, and/or agents of Bayou Bridge Pipeline, LLC," and related companies.

In follow-up correspondence on December 4, 2017, we reiterated this request and also specified that it included records relating to meetings or communications with Ms. Landrieu and Mr. Hayden, who the Bucket Brigade believed in good faith to be acting as agents of companies listed.

The email about a meeting between the Governor and Ms. Landrieu would clearly fall within the letter and spirit of this request, as a “record relate[d] in any way” to a meeting between the Governor and an agent of companies listed in the request.

We ask that you produce that email and any other "records related in any way to" meetings or communications with Ms. Landrieu and Mr. Hayden.

Best regards,



Pam Spees

A handwritten signature in black ink, appearing to read "Pam Spees".

cc: Matthew Block
matthew.block@la.gov

EXHIBIT E

Office of the Governor
State of Louisiana

JOHN BEL EDWARDS
GOVERNOR



P.O. Box 94004
BATON ROUGE, LOUISIANA 70804-9004
(225) 342-7015
GOV.LA.GOV

January 25, 2018

Pamela Spees
Center for Constitutional Rights
666 Broadway, 7th Fl.
New York, NY 10012

RE: Public Records Request

Dear Ms. Spees:

In response to your request for production of the email about a meeting between the governor and Ms. Landrieu referenced in an article published in the Advocate and emails and any other communications with Ms. Landrieu, please see the attached record.

Also attached are records responsive to your request for emails and any other records related in any way to meetings or communications with Mr. Hayden. The statement that I “acknowledged that the search for records responsive to Louisiana Bucket Brigade’s request was inadequate” mischaracterizes the subject of our conversation. As we discussed in our telephone call last week, we detected an anomaly in our electronic search with respect to your request from December 4, 2017 and asked our IT department to perform an additional search.

It is our reading of Louisiana Bucket Brigade’s requests that the records sought are related to meetings and communications between Governor John Bel Edwards and/or any and all other staff of the office of the governor “on the one hand,” and any and all employees, staff, and/or agents of Bayou Bridge Pipeline, LLC, Bayou Bridge Pipeline, Energy Transfer Partners, and/or any subsidiaries of these companies, “on the other hand”. If this was not the intent, we will respond accordingly to any additional public records request you may submit to our office.

Sincerely,

A handwritten signature in blue ink that reads "Tina Vanichchagorn/zgl".

Tina Vanichchagorn
Deputy Executive Counsel to the Governor

enclosures

Tina Vanichchagorn

From: Katie Kirkpatrick Justice
Sent: Friday, January 27, 2017 12:04 PM
To: 'Randy Hayden'
Cc: 'marica vlahos'
Subject: RE: Bayou Bridge Pipeline Phone Conference Call

Hello Randy. I have forwarded this request to our communications team and we will review this request with the Governor. Thank you.

Katie K. Justice
Director of Scheduling



225.342.1331 – Desk

225.342.8320 – Fax

Katie.justice@la.gov

www.gov.louisiana.gov

From: Randy Hayden [<mailto:randy@ccilouisiana.com>]

Sent: Friday, January 27, 2017 11:35 AM

To: Katie Kirkpatrick Justice

Cc: marica vlahos

Subject: Bayou Bridge Pipeline Phone Conference Call

Katie—I'm working with the Bayou Bridge Pipeline Project which will have a big hearing through DNR on February 8th. We are trying to schedule a telephone news conference with some national media and local media to discuss the project. We are hoping the governor can join us and make a few comments at the beginning of the conference. We would like to work around his schedule. I went through Mr. Nevers' office and was told they send the request to you. Please let me know if I can provide additional information. We don't expect the conference to take more than 30 minutes and the governor would be able to join early and drop off if necessary. Please let me know how we can make this happen. Thanks!

Randy Hayden
Creative Communications, Inc.
P.O. Box 14204
Baton Rouge, La. 70898

E-Mail: Randy@ccilouisiana.com
(O) 225-763-8988
(F) 225-763-8989
(C) 225-937-2841

Tina Vanichchagorn

From: Randy Hayden <randy@ccilouisiana.com>
Sent: Friday, January 27, 2017 12:30 PM
To: Katie Kirkpatrick Justice
Cc: marica vlahos
Subject: Re: Bayou Bridge Pipeline Phone Conference Call

Thanks Katie!!

Randy Hayden
225-937-2841
Randy@ccilouisiana.com

On Jan 27, 2017, at 12:04 PM, Katie Kirkpatrick Justice <Katie.Justice@la.gov> wrote:

Hello Randy. I have forwarded this request to our communications team and we will review this request with the Governor. Thank you.

Katie K. Justice

Director of Scheduling

<image001.png>

225.342.1331 – Desk
225.342.8320 – Fax

Katie.justice@la.gov
www.gov.louisiana.gov

From: Randy Hayden [<mailto:randy@ccilouisiana.com>]

Sent: Friday, January 27, 2017 11:35 AM

To: Katie Kirkpatrick Justice

Cc: marica vlahos

Subject: Bayou Bridge Pipeline Phone Conference Call

Katie—I'm working with the Bayou Bridge Pipeline Project which will have a big hearing through DNR on February 8th. We are trying to schedule a telephone news conference with some national media and local media to discuss the project. We are hoping the governor can join us and make a few comments at the beginning of the conference. We would like to work around his schedule. I went through Mr. Nevers' office and was told they send the request to you. Please let me know if I can provide additional information. We don't expect the conference to take more than 30 minutes and the governor would be able to join early and drop off if necessary. Please let me know how we can make this happen. Thanks!

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(O) 225-763-8988

(F) 225-763-8989

(C) 225-937-2841

Tina Vanichchagorn

From: Katie Kirkpatrick Justice
Sent: Monday, January 30, 2017 2:27 PM
To: Roz Moore; Roderick Scott
Subject: FW: bayou bridge info
Attachments: bayou bridge.docx

Please print out for JBE's Meeting with Mary Landrieu tonight at 5:00. Thanks.

From: Alicia Williams
Sent: Monday, January 30, 2017 2:21 PM
To: Katie Kirkpatrick Justice
Subject: bayou bridge info

BAYOU BRIDGE PIPELINE

From: Secretary Chuck Brown

Facts:

- Bayou Bridge Pipeline would span 11 parishes from Caddo to St. James, a distance of 163 miles
- The pipeline would be 24 inches in diameter
- Pump stations would be built in Jefferson Davis and St. Martin parishes
- Would touch eight watersheds: Lower Calcasieu, Mermentau, Vermilion, Bayou Teche, Atchafalaya, Lower Grand, West Central Louisiana Coastal, and East Central Louisiana Coastal.
- Designed to carry 280,000 barrels of light or heavy crude oil per day from Clifton Ridge Marine Terminal in Lake Charles to various crude oil terminals near St. James.
- Energy Transfer Partners is the company proposing the pipeline. Sunoco Logistics and Phillips 66 are also partners. All three are also stakeholders in the not yet completed Dakota Access Pipeline.

Permit process:

Bayou Bridge Pipeline's application for 401 water quality certification was received by LDEQ on September 21, 2016, for a 163-mile pipeline (across Atchafalaya Basin) from Calcasieu Parish to St. James in St. James Parish. The proposed pipeline will carry crude oil from a tank farm in Nederland, TX to St. James where it can be refined, loaded on tankers on MS River, etc.

Bayou Bridge Pipeline held what is called by industry an "open call" for bids for the proposed capacity of this pipeline. They secured enough bids for the capacity. Bayou Bridge then began the permitting process as required by the Federal Energy Regulatory Commission (FERC) for liquid commodities. This permitting process is significantly stringent. Once completed, they proceeded with the Clean Water Act 404 (USACE) and 401 (State Water Quality Certification issued by LDEQ) permitting. Note: If there was not a need for the capacity, FERC would not have approved.

LDEQ received more than 300 requests for a public hearing. The public hearing was granted by Elliott Vega, Assistant Secretary of OES, as well as the Army Corps of Engineers. An additional 23,000+ comments were received via email (Sierra Club). There were more than 400 people in the hearing room.

The public hearing was held on Thursday, Jan. 12, beginning at 6 p.m. and ending 11:45 p.m.

Status:

LDEQ extended the public comment period to Feb. 13. The agency will prepare a response to the comments (pertaining to water quality) which will require a minimum of two months from the end of the comment period. The final basis of decision will also have to be reviewed by legal. Because the pipeline passes close to the coastline in a few places, it requires a Coastal Use Permit from DNR as well. The hearing for that permit is Feb. 8, and the comment period extends 25 days from that date. No decision on the permit is likely before May or June.

Hearing testimony:

Objections to the permit centered on safety concerns (possibility of oil spills) and claims there is no demonstrable need for the pipeline. The association for crawfishermen also objected to this pipeline because past pipeline construction projects did not remove spoil banks which the fishermen say impaired water flow in the Atchafalaya basin and reduced their catch.

Proponents of the pipeline – former Sen. Mary Landrieu spoke in favor of it – stressed safety. Pipelines, they contend, are safer than trains or trucks. They also touted the economic benefits, explaining that there would be temporary construction jobs, 12 permanent pipeline jobs and a steady supply of product for the refineries and plants that employ thousands of Louisianans.

Tina Vanichchagorn

From: Richard Carbo
Sent: Friday, January 27, 2017 2:25 PM
To: Katie Kirkpatrick Justice
Subject: RE: Bayou Bridge Pipeline Phone Conference Call

I don't think he should.

From: Katie Kirkpatrick Justice
Sent: Friday, January 27, 2017 12:04 PM
To: Richard Carbo
Subject: FW: Bayou Bridge Pipeline Phone Conference Call

Does JBE need to participate?

From: Randy Hayden [<mailto:randy@ccilouisiana.com>]
Sent: Friday, January 27, 2017 11:35 AM
To: Katie Kirkpatrick Justice
Cc: marica vlahos
Subject: Bayou Bridge Pipeline Phone Conference Call

Katie—I'm working with the Bayou Bridge Pipeline Project which will have a big hearing through DNR on February 8th. We are trying to schedule a telephone news conference with some national media and local media to discuss the project. We are hoping the governor can join us and make a few comments at the beginning of the conference. We would like to work around his schedule. I went through Mr. Nevers' office and was told they send the request to you. Please let me know if I can provide additional information. We don't expect the conference to take more than 30 minutes and the governor would be able to join early and drop off if necessary. Please let me know how we can make this happen. Thanks!

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(O) 225-763-8988
(F) 225-763-8989
(C) 225-937-2841

Tina Vanichchagorn

From: Roz Moore
Sent: Monday, January 30, 2017 2:45 PM
To: Katie Kirkpatrick Justice; Roderick Scott
Subject: RE: bayou bridge info

I put it in his chair so he will see it when he gets back.

From: Katie Kirkpatrick Justice
Sent: Monday, January 30, 2017 2:27 PM
To: Roz Moore; Roderick Scott
Subject: FW: bayou bridge info

Please print out for JBE's Meeting with Mary Landrieu tonight at 5:00. Thanks.

From: Alicia Williams
Sent: Monday, January 30, 2017 2:21 PM
To: Katie Kirkpatrick Justice
Subject: bayou bridge info

Tina Vanichchagorn

From: Roz Moore
Sent: Monday, January 30, 2017 2:27 PM
To: Katie Kirkpatrick Justice; Roderick Scott
Subject: RE: bayou bridge info

Done.

From: Katie Kirkpatrick Justice
Sent: Monday, January 30, 2017 2:27 PM
To: Roz Moore; Roderick Scott
Subject: FW: bayou bridge info

Please print out for JBE's Meeting with Mary Landrieu tonight at 5:00. Thanks.

From: Alicia Williams
Sent: Monday, January 30, 2017 2:21 PM
To: Katie Kirkpatrick Justice
Subject: bayou bridge info

NINETEENTH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

**LOUISIANA BUCKET
BRIGADE,**

Civil Action No. 664293

Plaintiff,

v.

Division ____

**OFFICE OF THE GOVERNOR, and
MATTHEW BLOCK, Custodian of Records,**

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been transmitted to all known parties of record this 1st day of February 2018 by email and regular mail.



PAMELA C. SPEES

Attorney for Plaintiff