

Proposed Bayou Bridge Pipeline/Louisiana: 5th Circuit Court of Appeals Overturns Lower Court Order Halting Construction



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The United States Court of Appeals for the 5th Circuit (“5th Circuit”) overturned a United States District Court’s grant of a preliminary injunction preventing Bayou Bridge from constructing a pipeline in part through the Atchafalaya Basin in Southern Louisiana. See Docket No. 18-30257.

The 5th Circuit characterizes the U.S. District Court’s decision to issue an injunction as being premised on the United States Corps of Engineers (“Corps”) alleged failure to comply with the National Environmental Policy Act (“NEPA”) in issuing a Section 404 Clean Water Act permit.

A number of environmental organizations had previously filed a Complaint for Declaratory Injunctive Relief in the United States District Court for the Middle District of Louisiana challenging certain federal permits and authorizations related to the proposed pipeline. The proposed pipeline was described in their filing as a proposed 24-inch wide, 162.5 mile-long crude oil pipeline that would run from Lake Charles, Louisiana to St. James, Louisiana. Their filing alleged that the Corps determined that the pipeline would not have a significant impact on the environment, therefore negating the need to prepare a NEPA/Environmental Impact Statement.

The 5th Circuit analysis concludes that the lower Court misperceived the applicable regulations and the Corps’ analysis. It states that the Corps’ analysis:

. . . properly understood, vindicates its decision that an Environmental Assessment sufficed under these circumstances. . .

As a result, the 5th Circuit vacated the preliminary injunction and remanded it to the United States District Court. While the decision allows the construction of the pipeline to proceed, the underlying case will still be decided on the merits. One judge on the three-judge panel filed a dissent.

A [copy of the opinion](#) can be found here.