

Levee board pays to settle suit

It needed 45 acres in LaBranche Wetlands

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By Matt Scallan

The Pontchartrain Levee District has paid nearly \$1 million to the owner of 45 acres in St. Charles Parish's LaBranche Wetlands to settle a lawsuit that board members feared could have cost it millions more had it gone to trial.

Last month, the levee district approved the \$950,000 settlement with William Monteleone Jr. and other family members, who own the property taken for construction of the St. Charles Parish east bank hurricane levee.

The Monteleones, who own thousands of acres in the marsh, argued in 29th Judicial District Court that the levee district underpaid them for the property and damaged their ability to develop the remaining portion.

Montelone's attorneys argued that the levee district's chosen route for the hurricane levee, paralleling Interstate 310, reduced the value of the family's adjoining property. They sought \$4.8 million for the 1999 land-taking, including severance damages.

Levee District President Steve Wilson said in a letter to the Army Corps of Engineers that going to court on the matter would require a judge to choose between land values set in two previous cases, one of which set the value of similar property at \$1,266 an acre.

In the other court case involving different property, the Monteleones won \$8,850 an acre for a total of \$6.6 million, including court costs and other damages.

"Had we gone to trial, we could potentially have been looking at an \$8 million judgment," Wilson said.

The district also decided to settle rather than continue to pay judicial interest, which had risen to more than 9 percent per year, he said.

The Monteleones' case was strengthened by the fact the corps is allowing the family to develop property north of the James Business Park that was classified as wetlands, in exchange for mitigation, Wilson said.

The levee district is asking the corps to pay for most of the judgment as part of the federally financed project.

Randall Smith, the Montelones' attorney, said Thursday that the state consistently low-balls landowners for land-takings, particularly when the project damages the value of the landowner's other holdings, a measure called "severance."

"Look at what happens when we go to court," he said. "The state puts \$15,000 (in escrow) for this property, saying it was fair compensation, and it isn't even close," he said. "A lot of landowners don't have the resources to fight them."

The Monteleones are negotiating with the levee district for the return of property the district took along the lakefront in the 1970s for levee construction.

The district still owns the property even after it chose another route for the levee that preserved thousands of acres of wetlands. The original route could have opened the LaBranche to suburban development, vastly increasing the value of the property between Airline Drive and the lake.

The lawsuit, and at least one other that is pending, takes advantage of a Louisiana law that compensates the owners of land taken for public works projects for "the highest and best use" of property, meaning that a landowner could collect on the increased value of a property that is the result of an improvement such as a hurricane levee, said Mona Nosari of GCR and Associates, a consultant to the levee district.

The law was changed by a constitutional amendment approved in 2006 that limits compensation to fair market value, a less generous provision used by the federal government, Nosari said.

Wilson said the change doesn't apply to cases pending before the amendment passed, but will dramatically save money when the district starts acquiring land to extend the hurricane levee into St. John the Baptist Parish in the next few years.

"What it means is that you can't be paying taxes on wetlands, then get compensated for the hotel that you might have been able to build," Wilson said.

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