

**theadvocate.com**  
**ACADIANA**  
**Suit claims dredging damage**

**By JASON BROWN**

*Advocate Acadiana bureau*

Published: Aug 13, 2008 - **UPDATED: 12:05 a.m.**

Louisiana environmental groups have filed a federal suit against the current and former directors of the Atchafalaya Basin Program, alleging failure to comply with federal permits for dredging done three years ago in Bayou Postillion.

The suit was filed Friday and names Sandra Thompson-Decoteau, the former director of the basin program, and current interim Director David Frugé as defendants.

Atchafalaya Basinkeeper, Inc. and Louisiana Environmental Action Network allege that both Decoteau and Frugé violated provisions under the Clean Water Act and are asking for a civil penalty totaling about \$36.5 million, or the maximum fine of \$32,500 per day for each violation.

The suit also is asking the court to force the defendants to fix spoil banks along Bayou Postillion in eastern Iberia Parish.

Attorney Jill M. Witkowski, with the Tulane Environmental Law Clinic, filed the suit and said the parties are trying to resolve the situation outside of litigation.

According to the suit, Decoteau, while serving as director of the state-run program, received a permit from the U.S. Army Corps of Engineers on July 8, 2003, to dredge a section of Bayou Postillion “for enhancement of navigation and increased water circulation.”

The permit required that the spoil taken up from the riverbed be placed on alternating banks to ensure that natural drainage would not be impaired.

Drawings that accompanied the permit showed spoil banks located on either side of the bayou with each bank running 500 feet followed by a 200-foot gap.

According to the suit, dredging was conducted between Jan. 22 and July 11, 2005.

The suit alleges that the spoil banks in place are solid across both banks with few or no gaps between them and are therefore in violation of the conditions of the permit.

The suit states that each placement of dredge material into unauthorized portions of the bayou constitutes a separate violation of the Clean Water Act.

“This ongoing violation prevents seasonal flooding and causes irreparable damage to the native flora,” the suit stated.

However, the suit does not mention some of the other controversy surrounding the project, which critics such as landman Dan Collins say was a way for landowners and oil and gas operators to circumvent a potentially expensive permitting and mitigating process to further open the area for oil and gas exploration.

Widening and deepening the bayou opened up access to barges and oil rigs, which meant more oil and gas royalties for landowners in the area utilizing an access canal funded by the public through the state.

In essence, “the state gave away significant mineral interest to the landowners to give them access to oil and gas” and did so by calling it a water quality project.

Lafayette Attorney Newman Trowbridge Jr., who represented landowners in the deal, did not return a call for comment Tuesday afternoon.

However, he has previously denied allegations he was behind the deal and said that it was the state that first approached the landowners, according to published reports.

The suit also alleges the following violations:

--The defendants’ failure to turn in a post-habitat assessment of the vegetative community occupancy and acreage along with pre- and post-project photographs of the entire permitted work area within 30 days of the project’s completion. The suit also states that the materials have yet to be fully submitted.

--The defendants’ failure to perform compensatory mitigation for all unavoidable impacts.

A phone call to the Atchafalaya Basin Program was not returned Tuesday.

Patrick Courreges, spokesman for the Louisiana Department of Natural Resources, which oversees the Atchafalaya Basin Program, said no one there has seen the suit yet and therefore could not offer a comment.