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MEMORANDUM

**SB 469 Poses Litigation Risk for Local Government Oil Pollution Act Claims in Louisiana, Specifically Including Those Arising from BP’s Macondo Spill**

On July 24, 2013, the Southeast Louisiana Flood Protection Authority-East (“SLFPA-E”)—a political subdivision of the State of Louisiana<sup>1</sup>—filed a lawsuit against 97 oil, gas, and pipeline companies, alleging that the conduct of those companies in their operations in a “buffer zone” of marshes and wetlands between SLFPA-E’s levee system and the Gulf of Mexico has caused that wetland system to degrade and disappear, making SLFPA-E’s mandated role of storm surge protection a more difficult and expensive task.<sup>2</sup> Immediately after the SLFPA-E lawsuit was filed, Louisiana Governor Bobby Jindal and his administration criticized the suit on a number of grounds, including their concern that the claims in the SLFPA-E lawsuit may make settlement of the state and local Louisiana governments’ claims against BP arising from the Macondo oil spill more difficult. A number of bills were introduced in the 2014 session of the Louisiana Legislature by legislative allies of Governor Jindal that targeted various aspects of SLFPA-E’s lawsuit. The one that survived to passage by both houses of the legislature is Senate Bill 469, which currently awaits Governor Jindal’s signature or veto. While Louisiana Senators Bret Allain and Robert Adley both repeated in legislative testimony the concern about the impact of the SLFPA-E lawsuit on claims arising from the BP oil spill, the enrolled version of SB 469 awaiting action by Governor Jindal actually poses a new and significant risk to local and state government claims under the Oil Pollution Act of 1990 (“OPA”).

**SB 469’s Sweeping Prohibition**

The key to this risk lies in the sweeping prohibition announced in the new subsection (O)(1) in La. R.S. § 49:214.36:

O.(1) Except as provided in this Subpart, no state or local governmental entity shall have, *nor may pursue*, any right or cause of action arising from any activity subject to permitting under R.S. 49:214.21 et seq., 33 U.S.C. 1344 or 33 U.S.C. 408 in the coastal

<sup>1</sup> See La. Const. Art. VI, § 38.1; La. R.S. § 38:330.1, *et seq.*

<sup>2</sup> Initially filed in the Civil District Court for Orleans Parish, SLFPA-E’s lawsuit has been removed to the U.S. District Court for the Eastern District of Louisiana, where its motion to remand is currently pending. See *Bd. of Comm’rs of SLFPA-E v. Tenn. Gas Pipeline Co., et al.*, No. 13-5410 (E.D. La.).

area as defined by R.S. 49:214.2, *or arising from or related to* any use as defined by R.S. 49:214.23(13), regardless of the date such use or activity occurred.

SB 469 (Enrolled version), at p. 1 lines 13-18 (emphasis added). Below, we'll show how the federal Oil Pollution Act made claims like those brought against BP possible, and how SB 469—despite current preemption doctrines—nonetheless adds unacceptable and needless risk to the state's multi-billion dollar claims. We thus urge Governor Jindal to veto SB 469.

### **Economic Loss and Natural Resource Damage Claims Under OPA**

OPA provides for damages from a “responsible party” for oil discharged or threatened to be discharged “upon the navigable waters or adjoining shorelines”:

Notwithstanding any other provision or rule of law, and subject to the provisions of this Act, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in subsection (b) of this section that result from such incident.

33 U.S.C. § 2702(a). The list of recoverable costs and damages in subsection (b) specifically include economic losses and natural resource damages incurred by state and local governments; the damages under the statute specifically include:

(A) Natural resources

Damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage, which shall be recoverable by a United States trustee, *a State trustee*, an Indian tribe trustee, or a foreign trustee.

...

(D) Revenues

Damages equal to the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by the Government of the United States, *a State, or a political subdivision thereof*.

...

[and] (F) Public services

Damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil,

which shall be *recoverable by a State, or a political subdivision of a State*.

33 U.S.C. § 2702(b)(2) (emphases added).

Following the BP Macondo oil spill, the State of Louisiana and a number of political subdivisions of the state made presentment of claims seeking such damages under OPA, and subsequently filed actions in MDL-2179, the multi-district litigation pending in the U.S. District Court for the Eastern District of Louisiana.<sup>3</sup> The claim by Jefferson Parish, Louisiana, lists fourteen categories of damages under OPA:

1. Ecological damage;
2. Damage to the quality of life of its citizens;
3. Loss of sales tax revenues, use tax revenues, Parish tax revenues, inventory tax revenues, hotel and motel tax revenues, reverence tax revenues, royalties, rents and fees;
4. Increased costs of providing services to the citizens of the Parish of Jefferson;
5. Damage to the natural resources of the Parish of Jefferson;
6. Increased costs for the monitoring of the health of its citizens and the treatment of physical and emotional problems related to the oil spill;
7. Costs for educating and retraining employees;
8. Increased promotional costs;
9. Increased costs to borrow money;
10. Increased costs for debt service;
11. Loss of fees for permits and licenses;
12. Loss of fines and forfeitures income;
13. Increased administrative costs; and
14. Damages to the reputation and image of claimants in the business and tourism communities.<sup>4</sup>

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<sup>3</sup> As an example of the variety of Louisiana subdivisions claiming damages under OPA, just in Jefferson Parish, the Louisiana parish immediately upriver from New Orleans and that contains a vast area of exposed coastal zone, the following political subdivisions have filed claims against BP, which were subsequently removed and consolidated within MDL-2179: Ambulance Service District No. 2 of Jefferson, East Bank Consolidated Special Service Fire Protection District of Jefferson Parish, Fire Protection District Nos. 3-9 of the Parish of Jefferson, Consolidated Garbage District No. 1 of the Parish of Jefferson, Consolidated Jefferson Recreation and Community Center and Playground District of the Parish of Jefferson, Subdistrict No. 1 of Consolidated Recreation/Community Center/Playground District No. 2 of the Parish of Jefferson, Community Center and Playground District No. 16 of the Parish of Jefferson, Consolidated Sewerage District No. 1 of the Parish of Jefferson, Consolidated Waterworks District No. 1 of the Parish of Jefferson, Road Lighting District No. 7 of the Parish of Jefferson, Jefferson Parish Consolidated Road Lighting District, The City of Kenner and its political subdivisions, departments and service districts, Consolidated Sewerage District of the City of Kenner, Newell Normand, Sheriff of Jefferson Parish, Consolidated Drainage District No. 2 of the Parish of Jefferson, Jefferson Parish Special Services Special District, Jefferson Parish, Law Enforcement District of Jefferson Parish, Jefferson Parish Sales Tax District, New Orleans International Airport Sales Tax District, and Dr. Gerald Cvitanovich-Jefferson Parish Coroner. *See Jefferson Parish, et al. v. BP, PLC, et al.*, No. 11-895, consol. into MDL-2179 (E.D. La.) (Jefferson Parish Complaint, at Doc. No. 1). SLFPA-E also has presented a claim for more than \$79 million, primarily in lost tax revenues.

<sup>4</sup> Jefferson Parish Complaint, Doc. No. 1.

## Limitation of Rights to Pursue Damages Under SB 469

SB 469 proposes to amend Louisiana's coastal zone management law, an approved state program under the aegis of the federal Coastal Zone Management Act. Specifically, SB 469 proposes to add a new sub-section O to La. R.S. § 49:214.36. In proposed sub-section (O)(1), SB 469 provides,

*Except as provided in this Subpart* [the state coastal zone management law], no state or local governmental entity shall have, *nor may pursue*, any right or cause of action arising from any activity subject to permitting under R.S. 49:214.21 et seq. [the state coastal zone management law], 33 U.S.C. 1344 [§ 404 dredge or fill permitting under the Clean Water Act][,] or 33 U.S.C. 408 [the Rivers and Harbors Act] in the coastal area as defined by R.S. 49:214.2, *or arising from or related to any use as defined by R.S. 49:214.23(13), regardless of the date such use or activity occurred.*

SB 469 (Enrolled version), at p. 1, lines 13-18 (emphasis added).

The clause, “arising from or related to any use” is broadly inclusive of a large number of activities, as “use” is defined in the Louisiana coastal zone laws in sweeping and vague terms: “‘Use’ shall mean any use or activity within the coastal zone which has a direct and significant impact on coastal waters.” La. R.S. § 49:214.23(13). Notably, the trigger for the limitation of the right to pursue rights or causes of actions by state or local governmental entities does not apply just to a “use” *in* the coastal zone but to activities that arise from or relate to such a “use.” Accordingly, the prohibitory language in proposed sub-section (O)(1) allows the pursuit of claims by state or local governmental entities only “as provided in” Louisiana’s coastal zone management laws. In proposed sub-section (O)(5), added by amendment to SB 469 in the House Committee for Natural Resources, the legislature created a small carve-out from this prohibitory language, but only extending to property damage claims: “Nothing in this Section shall alter the rights of any governmental entity, except a local or regional flood protection authority, for claims related to sixteenth section school lands or claims for damage to property owned or leased by such governmental entity.” SB 469 (Enrolled version), at p. 2, lines 7-10. Notably, the economic loss and natural resource damage claims provided for by OPA are not included within either category of damages the pursuit of which SB 469 allows: coastal zone permit claims or property damage claims.

The amendment in the House Natural Resources Committee also added a new section 2 to SB 469 to clarify expressly that SB 469 was intended to have retroactive effect: “Section 2. The provisions of this Act shall be applicable to all claims existing or actions pending on the Act’s effective date and all claims arising or actions filed on or after that date.” SB 469 (Enrolled version), at p. 2, lines 11-13.

## **SB 469 Creates a New Litigation Risk for State and Local Governments' OPA Claims**

Because SB 469 purports to limit the types of claims that Louisiana state and local governmental entities may pursue, and the provided or carved-out claims do not include economic loss or natural resource damage claims under OPA, a significant litigation risk could be created to such OPA claims should SB 469 be signed into law by Governor Jindal.<sup>5</sup>

The most significant risk is as to future oil spill events that may occur wholly within Louisiana's coastal zone. These could include ruptures in any of the more than 125,000 miles of oil and gas pipelines in Louisiana, or a spill occurring at the Louisiana Offshore Oil Port ("LOOP"), the largest point of entry for waterborne crude oil entering the United States,<sup>6</sup> or from a tanker rupture from allision or collision similar to the Exxon *Valdez* spill. Each of these events would clearly be within the "use" clause of the prohibitory language in proposed sub-section (O)(1) in SB 469. There is also a significant risk, however, that the BP Macondo oil spill could be interpreted to trigger SB 469's "use" language. Although the Macondo spill occurred in deep water fifty miles off Louisiana's shore, the broad "arising from or related to" triggering language in sub-section (O)(1) may support at least an argument that the offshore spill is swept within SB 469's scope because it arises from or relates to uses in the coastal zone. The OPA damages provision itself acknowledges its trigger includes spills with effects "upon the navigable waters *or adjoining shorelines*," contemplating coastal zone impact. 33 U.S.C. § 2702(a) (emphasis added). Indeed, the local government BP claims specifically refer to BP's "failure to adequately contain the spill" and seeks damages for impacts within their coastal territory. *See, e.g.*, Jefferson Parish Complaint, at ¶¶ XXIV, XXV.

We emphasize that this is a significant litigation *risk* faced by the state and local governments should SB 469 be signed into law. Those state and local governments will also have counter-arguments that they can raise. The primary counter-argument will be that SB 469's prohibitions will trigger conflict-preemption such that OPA's damages provisions will take precedence over the prohibitory language of SB 469. "Implied preemption can also take the form of conflict preemption: (1) where complying with both federal law and state law is impossible; or (2) where the state law 'creates an unacceptable "obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" *Castro v. Collecto, Inc.*, 634 F.3d 779, 785 (5th Cir. 2011) (quoting *Wyeth v. Levine*, 555 U.S. 555, 563-64 (2009)). Arguably, the application of SB 469 to prevent certain state or local governmental entities from pursuing the full panoply of damages available under OPA may present such an obstacle and could be found by a court to be conflict-preempted. *See, e.g., In re Deepwater Horizon*, 745 F.3d 157, 172-74 (5<sup>th</sup> Cir. 2014) (holding the availability of wildlife damage claims under Louisiana state law to be conflict-preempted under the Clean Water Act and OPA). However, this counter-argument is subject to several open questions:

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<sup>5</sup> We also note that the state bears an independent risk that its modification of its federally-approved coastal management plan would render it unacceptable by NOAA's Office of Ocean and Coastal Resource Management (OCCRM), on the grounds that SB 469 not only limits OPA claims that state entities may pursue, ***but completely erases other existing state causes of action for non-petroleum pollution***, for which federal preemption defenses are not even available. Should OCCRM rescind the state's plan for these reasons, Louisiana would lose millions of dollars in federal funding for coastal protection.

<sup>6</sup> *See* <http://www.loopllc.com/About-Loop/Story> (last visited May 31, 2014).

- Is SB 469’s prohibition on the ability to “pursue” causes of action a non-preemptable directive from the state legislature to the state’s political subdivisions? Under long-standing Supreme Court precedent arising from the Tenth Amendment, a federal statute cannot be interpreted as “commandeering” a state government by essentially ordering it to issue or rescind a directive to a state agency or political subdivision. In *New York v. United States*, 505 U.S. 144, 155-56 (1992), the U.S. Supreme Court examined in detail the history of the Tenth Amendment and the balance that must be made between federal and state powers: “The Tenth Amendment likewise restrains the power of Congress, but this limit is not derived from the text of the Tenth Amendment itself, which, as we have discussed, is essentially a tautology. Instead, the Tenth Amendment confirms that the power of the Federal Government is subject to limits that may, in a given instance, reserve power to the States.” *Id.* at 156-57. The *New York* Court held that Congress cannot, by federal legislation, compel a state to act or regulate in a certain manner. “While Congress has substantial powers to govern the Nation directly, including in areas of intimate concern to the States, the Constitution has never been understood to confer upon Congress the ability to require the States to govern according to Congress’ instructions.” *Id.* at 162. The Court cited to this principle favorably in launching into its analysis of the unconstitutionality of the mandate under the Affordable Care Act for states to expand Medicaid coverage. See *Nat’l Federation of Indep. Business v. Sebelius*, 132 S. Ct. 2566, 2578 (2012). Here, SB 469 does not just attempt to eliminate a cause of action provided for by OPA (an attempt subject to preemption arguments), but it *also* directs which of the state’s governmental entities may “pursue” or not “pursue” certain causes of action. The argument that OPA overrides this state legislative directive could be held to violate the anti-commandeering principle of the Tenth Amendment.<sup>7</sup>
- Is SB 469’s prohibition of the ability to “pursue” claims—that is, SB 469’s dictates as to standing or “right of action” of certain governmental entities—subject to preemption? Courts may treat the availability of a **cause of action** differently than they do the availability of a **right of action**. See, e.g., *Porter v. Countrywide Home Loans, Inc.*, 2008 WL 2944670, \*2 (S.D. Tex. July 24, 2008) (“Texas courts have not directly addressed whether the NFIA effectively preempts all state law causes of action, but the Fifth Circuit has indicated that the lack of a right of action under the NFIA does not necessarily foreclose state causes of action relating to a lender’s obligations under the NFIA.”). In other words, SB 469’s “pursue” language doesn’t attempt to eliminate the OPA **cause** of action, but to limit what entities may pursue that cause of action. By way of contrast, in the *In re Deepwater Horizon* matter, 745 F.3d 157, 172-74 (5<sup>th</sup> Cir. 2014), the issue is whether OPA preemption extinguished certain state law causes of action, which is a separate question from whether OPA preemption/“commandeering” would operate to alter the state legislature’s pronouncement about which governmental entities may pursue various causes of action.
- May the state restrict its political subdivisions—creatures of the state—from pursuing vested causes of action, regardless of whether it may restrict federal causes of action from being pursued by private plaintiffs and regardless of whether the vesting of that cause of

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<sup>7</sup> There appears to be a certain irony, or at least inconsistency, in the Administration of Governor Jindal, which took full advantage of the anti-commandeering principle to reject expansion of the state’s Medicaid program under the Affordable Care Act, now arguing in contravention of the anti-commandeering principle in this instance.

action is constitutional in nature? The preemption question here is not identical to what it may be for a private plaintiff. For example, in questions of whether the state legislature may create retroactive laws that might otherwise violate federal and state constitutional guarantees against bills of attainder, against violation of due process, and against impairment of contracts, the Louisiana Supreme Court has held that the legislature has the power to limit how (or if) vested causes of action may be pursued by the state's political subdivisions. *Morial v. Smith & Wesson Corp.*, 785 So. 2d 1, 11 (La. 2001) (collecting authorities). The question will be presented here whether the legislature's power to limit political subdivisions' rights to pursue certain claims would similarly be upheld under a preemption analysis. If political subdivisions have no constitutionally guaranteed rights that would protect them from action by the body that created them—the state legislature—then do they have any ability to argue that the constitutionally allocated set of powers between federal and state governments, embodied in part in preemption doctrine, protects them from SB 469 because OPA would otherwise allow them to assert certain causes of action?<sup>8</sup>

- Does failure to contain an oil spill outside the coastal zone arise from or relate to a use inside the coastal zone, where that failure to contain involves containment and clean-up efforts inside the coastal zone? While involving the separate preemption question of whether OPA extinguishes state law causes of action, eleven coastal parishes have recently filed a petition for writ of certiorari to the U.S. Supreme Court requesting the Court to hold that OPA does not preempt state law for the specific reason that the offshore oil spill has a sea-to-shore impact on coastal waters. This theory is consistent with the parishes' legal claims that part of BP's liability stems from actions it took or failed to take in the coastal zone to contain the spilled oil. Where SB 469 only requires that a claim "arise from or relate to" a "use," these claims may be found not to be too attenuated to fall within SB 469's prohibitory language.

As stated above, these open questions present a significant litigation risk to the governmental entities' BP claims, as well as for claims from future spill events. While it is not a given that this risk will ultimately result in a dismissal of the state and parish claims against BP under OPA, we believe that the risk creates an uncertainty and an almost-sure delay in resolution of the BP litigation that is unacceptable. A court could plausibly interpret SB 469 to dismiss or limit damage claims, now before the court, that the state and its subdivisions have brought against BP. Regardless of how the court ultimately rules, the very existence of these eventualities will devalue the plaintiffs' settlement posture and perhaps lengthen the time those governmental entities will go without recompense for these categories of economic loss.

Should BP raise defenses based on SB 469 and succeed even partially, the results would needlessly and disastrously deprive Louisiana and its communities of precious revenue and cause considerable embarrassment for state leaders. The legal issues we raise here are real and unnecessary to take on. It would be foolish to bet tens of billions of dollars on their outcome.

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<sup>8</sup> A separate but related question arises from the inclusion of the state in SB 469's prohibitory language: What impact does SB 469 have on the Attorney General's independent discretion to act?

Sincerely,

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25	Craig, Robin K.	University of Utah	William H. Leary, Professor of Law	<a href="http://faculty.utah.edu/u0793211-ROBIN_KUNDIS_CRAIG/research/index.html">http://faculty.utah.edu/u0793211-ROBIN_KUNDIS_CRAIG/research/index.html</a>
26	Crawford, Colin	Tulane Law	Robert C. Cudd Professor of Environmental Law & Executive Director, Payson Center for International Development	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=13992">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=13992</a>
27	Crusto, Mitchell F.	Loyola University New Orleans	Professor of Law	<a href="http://law.loyno.edu/bio/mitchell-f-crusto">http://law.loyno.edu/bio/mitchell-f-crusto</a>
28	Davis, Mark	Tulane University	Senior Research Fellow, Director of Water Policy Institute	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=2284">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=2284</a>
29	Dellinger, Myanna F.	Western State College of Law	Associate Professor of Law and Director of the Institute for Global Law and Policy	<a href="http://www.wsulaw.edu/faculty-and-staff/#full-time-faculty">http://www.wsulaw.edu/faculty-and-staff/#full-time-faculty</a>
30	Driesen, David M.	Syracuse University College of Law	University Professor	<a href="http://www.law.syr.edu/deans-faculty-staff/profile.aspx?fac=12">http://www.law.syr.edu/deans-faculty-staff/profile.aspx?fac=12</a>
31	Duane, Tim	University of California University of San Diego School of Law	Professor of Environmental Studies Visiting Professor of Law	<a href="http://envs.ucsc.edu/faculty/singleton.php?&amp;singleton=true&amp;cruz_id=tpduane">http://envs.ucsc.edu/faculty/singleton.php?&amp;singleton=true&amp;cruz_id=tpduane</a>
32	Duncan, Myrl L.	Washburn University School of Law	Professor of Law	<a href="http://washburnlaw.edu/profiles/duncan-myrl.html">http://washburnlaw.edu/profiles/duncan-myrl.html</a>
33	Engel, Kirsten	James E. Rogers College of Law, University of Arizona	Professor of Law and Assoc. Dean of Academic Affairs	<a href="http://www.law.arizona.edu/faculty/facultyprofile.cfm?facultyid=185">http://www.law.arizona.edu/faculty/facultyprofile.cfm?facultyid=185</a>
34	Farber, Daniel A.	UC Berkeley School of Law	Sho Sato Professor of Law; Co-Director, Center for Law, Energy & the Environment	<a href="https://www.law.berkeley.edu/php-programs/faculty/facultyProfile.php?facultyID=1141">https://www.law.berkeley.edu/php-programs/faculty/facultyProfile.php?facultyID=1141</a>
35	Farina, Cynthia R.	Cornell Law School	William G. McRoberts Research Professor in the Administration of the Law	<a href="http://www.lawschool.cornell.edu/faculty/bio.cfm?id=16">http://www.lawschool.cornell.edu/faculty/bio.cfm?id=16</a>
36	Fedtke, Joerg M.	Tulane Law	A.N. Yiannopoulos Professor in Comparative Law	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=6832">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=6832</a>
37	Ferguson-Bohnee, Patty	Sandra Day O'Connor College of Law, Arizona State University	Clinical Professor of Law	<a href="http://apps.law.asu.edu/Apps/Faculty/Faculty.aspx?individual_id=54223">http://apps.law.asu.edu/Apps/Faculty/Faculty.aspx?individual_id=54223</a>

Save BP Claims\_SB 469 Memo Signatories

38	Fershee, Joshua Paul	West Virginia University College of Law	Associate Professor and Director, LL.M., Energy and Sustainable Development	<a href="http://law.wvu.edu/faculty-staff/full-time-faculty/joshua-p-fershee">http://law.wvu.edu/faculty-staff/full-time-faculty/joshua-p-fershee</a>
39	Flatt, Victor	UNC School of Law	Tom & Elizabeth Taft Distinguished Professor in Environmental Law	<a href="http://www.law.unc.edu/faculty/director/y/flattvictorb/">http://www.law.unc.edu/faculty/director/y/flattvictorb/</a>
40	Force, Robert	Tulane Law	The Niels F. Johnson Chair of Maritime Law and Director Emeritus	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=416">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=416</a>
41	Fort, Denise	University of New Mexico School of Law	Emeritus Professor of Law Research Professor	<a href="http://lawschool.unm.edu/faculty/fort/">http://lawschool.unm.edu/faculty/fort/</a>
42	Funk, William	Lewis & Clark Law School	Lewis & Clark Distinguished Professor of Law	<a href="https://law.lclark.edu/live/profiles/276-william-funk">https://law.lclark.edu/live/profiles/276-william-funk</a>
43	Gaines, Sanford	University of Houston Law Center	Professor	UNCLEAR WHERE HE IS NOW, UNM OR HOUSTON?
44	Glicksman, Robert L.	George Washington Law School	J.B. and Maurice C. Shapiro Professor of Environmental Law	<a href="http://www.law.gwu.edu/Faculty/profile.aspx?id=16085">http://www.law.gwu.edu/Faculty/profile.aspx?id=16085</a>
45	Goble, Dale	University of Idaho College of Law	University Distinguished Professor and Margaret Wilson Schimke Distinguished Professor of Law	<a href="http://www.uidaho.edu/law/faculty/goble">http://www.uidaho.edu/law/faculty/goble</a>
46	Guana, Eileen	University of New Mexico	Dickason Professor	<a href="http://lawschool.unm.edu/faculty/gauna/">http://lawschool.unm.edu/faculty/gauna/</a>
47	Hand, Jacqueline P.	University of Detroit Mercy Law School	Associate Professor of Law	<a href="http://www.law.udmercy.edu/udm/index.php/facultyastaff/full-time-faculty/item/jacqueline-p-hand">http://www.law.udmercy.edu/udm/index.php/facultyastaff/full-time-faculty/item/jacqueline-p-hand</a>
48	Healy, Michael P.	University of Kentucky College of Law	Wendell H. Ford Professor of Law	<a href="http://www.law.uky.edu/index.php?hid=45">http://www.law.uky.edu/index.php?hid=45</a>

Save BP Claims\_SB 469 Memo Signatories

			Co-Executive Director, Emmett Institute on Climate Change and the Environment, Evan Frankel Professor of Policy and Practice	
49	Hecht, Sean	UCLA School of Law		<a href="http://law.ucla.edu/faculty/faculty-profiles/sean-b-hecht">http://law.ucla.edu/faculty/faculty-profiles/sean-b-hecht</a>
50	Houck, Oliver A.	Tulane University Law School	Professor of Law	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=430">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=430</a>
51	Hudson, Blake	LSU Law	Burlington Resources Associate Professor in Environmental Law Edward J. Womac, Jr. Associate Professor in Energy Law	<a href="http://www.law.lsu.edu/index.cfm?geaux=profiles.facbio&amp;personnel=0E735AFB-D647-0A50-AC677527D0D1F0E7">http://www.law.lsu.edu/index.cfm?geaux=profiles.facbio&amp;personnel=0E735AFB-D647-0A50-AC677527D0D1F0E7</a>
52	Hunter, David	American University, Washington College of Law	Professor of Law	<a href="http://www.wcl.american.edu/faculty/hunter/">http://www.wcl.american.edu/faculty/hunter/</a>
53	Johnson, Judge Calvin			
54	Johnson, Jane	Tulane Law	Clinical Instructor, Public Interest Externships	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=434">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=434</a>
55	Johnston, Craig	Lewis & Clark University	Professor of Law	<a href="https://law.lclark.edu/live/profiles/279-craig-johnston">https://law.lclark.edu/live/profiles/279-craig-johnston</a>
56	Kaswan, Alice	Univeristy of San Fransisco School of Law	Professor and Deans Circle Scholar	<a href="http://www.usfca.edu/law/faculty/alice_kaswan/">http://www.usfca.edu/law/faculty/alice_kaswan/</a>
57	Katner, David	Tulane Law	Professor of Clinical Law and Felix J. Dreyfous Teaching Fellow in Juvenile Law	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=438">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=438</a>
58	Kehoe, Dennis	Tulane Law	Professor of Classical Studies	<a href="http://www.tulane.edu/~classics/faculty/kehoe.htm">http://www.tulane.edu/~classics/faculty/kehoe.htm</a>
59	Kibel, Paul Stanton	Golden Gate University School of Law	Associate Professor	<a href="http://law.ggu.edu/faculty/bio/paul-s-kibel">http://law.ggu.edu/faculty/bio/paul-s-kibel</a>
60	Klass, Alexandra B.	University of Minnesota Law School	Professor of Law	<a href="http://www.law.umn.edu/facultyprofiles/klasa.html">http://www.law.umn.edu/facultyprofiles/klasa.html</a>

Save BP Claims\_SB 469 Memo Signatories

61	Klebba, James	Loyola University New Orleans	Emeritus Professor of Law	<a href="http://law.loyno.edu/bio/james-marshall-klebba">http://law.loyno.edu/bio/james-marshall-klebba</a>
62	Klein, Christine A.	Levin College of Law, University of Florida	Chesterfield Smith Professor & Director, LL.M. Program in Environmental & Land Use	<a href="http://www.law.ufl.edu/faculty/christine-a-klein">http://www.law.ufl.edu/faculty/christine-a-klein</a>
63	Klein, Kenneth	California Western School of Law	Professor of Law	<a href="http://www.cwsl.edu/main/default.asp?nav=faculty.asp&amp;header=faculty.gif&amp;body=klein/home.asp">http://www.cwsl.edu/main/default.asp?nav=faculty.asp&amp;header=faculty.gif&amp;body=klein/home.asp</a>
64	Krakoff, Sarah	University of Colorado Law School	Professor and Schaden Chair for Experiential Learning	<a href="http://lawweb.colorado.edu/profiles/profile.jsp?id=31">http://lawweb.colorado.edu/profiles/profile.jsp?id=31</a>
65	Larson, Herbert	Tulane Law	Senior Professor of the Practice and Executive Director, International Legal Studies and Graduate Programs	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=2130">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=2130</a>
66	LeCesne, Blaine G.	Loyola University New Orleans	Donna and John Fraiche Distinguished Professor of Law	<a href="http://law.loyno.edu/bio/blaine-g-lecesne">http://law.loyno.edu/bio/blaine-g-lecesne</a>
67	Leiter, Amanda	AU Washington College of Law	Associate Professor of Law	<a href="http://www.wcl.american.edu/faculty/leiter/">http://www.wcl.american.edu/faculty/leiter/</a>
68	Levit, Nancy	UMKC School of Law	Curators' and Edward D. Ellison Professor of Law	<a href="http://law2.umkc.edu/faculty/levit.htm">http://law2.umkc.edu/faculty/levit.htm</a>
69	Logan, James K.	Former Dean of Kansas University Law School	retired U.S. Circuit Judge (10th Cir.)	
70	Long, Andrew	University of Missouri Kansas City School of Law	Visiting Professor of Law	<a href="http://law.umkc.edu/faculty-staff/people/long-andrew.asp">http://law.umkc.edu/faculty-staff/people/long-andrew.asp</a>
71	Longest, Ryke	Duke University	Clinical Professor of Law	<a href="http://law.duke.edu/fac/longest/">http://law.duke.edu/fac/longest/</a>
72	Manus, Peter	New England Law	Co-director, Center for Law and Social Responsibility	<a href="http://www.nesl.edu/faculty/full_time.cfm?facid=25">http://www.nesl.edu/faculty/full_time.cfm?facid=25</a>
73	Marcello, David	Tulane Law	Adjunct Professor of Law and Executive Director, The Public Center	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=448">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=448</a>



Save BP Claims\_SB 469 Memo Signatories

74	Mccluskey, Martha	State University of New York at Buffalo	Professor of Law and William J. Magavern Fellow	<a href="http://www.law.buffalo.edu/faculty/facultyDirectory/McCluskeyMartha.html">http://www.law.buffalo.edu/faculty/facultyDirectory/McCluskeyMartha.html</a>
75	McGarity, Thoams O.	University of Texas School of Law	Joe R. and Teresa Lozano Long Endowed Chair in Administrative Law	<a href="http://www.utexas.edu/law/faculty/tom56/">http://www.utexas.edu/law/faculty/tom56/</a>
76	McGinley, Patrick C.	West Virginia University College of Law	Judge Charles H. Haden II Professor of Law	<a href="http://law.wvu.edu/faculty-staff/full-time-faculty/patrick-c-mcginley">http://law.wvu.edu/faculty-staff/full-time-faculty/patrick-c-mcginley</a>
77	Medina, Isabel	Loyola University New Orleans	Ferris Family Distinguished Professor of Law	<a href="http://law.loyno.edu/bio/m-isabel-medina">http://law.loyno.edu/bio/m-isabel-medina</a>
78	Mendelson, Nina A.	University of Michigan Law School	Joseph L. Sax Collegiate Professor of Law	<a href="http://www.law.umich.edu/FacultyBio/Pages/FacultyBio.aspx?FacID=nmende1">http://www.law.umich.edu/FacultyBio/Pages/FacultyBio.aspx?FacID=nmende1</a>
79	Mintz, Joel A.	Nova Southeastern University Law Center	Professor of Law	<a href="http://www.nsulaw.nova.edu/faculty/profiles.cfm?pageid=65">http://www.nsulaw.nova.edu/faculty/profiles.cfm?pageid=65</a>
80	Osofsky, Hari M.	University of Minnesota Law School	Professor of Law, Fesler-Lampert Chair in Urban and Regional Affairs; Director, Joint Degree Program in Law, Science & Technology	<a href="http://www.law.umn.edu/facultyprofiles/osofskyh.html">http://www.law.umn.edu/facultyprofiles/osofskyh.html</a>
81	Palmer, Vernon	Tulane Law	Thomas Pickles Professor of Law, Co-Director, Eason Wienmann Center for International and Comparative Law	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=456">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=456</a>
82	Pappas, Michael	University of Maryland	Assistant Professor	<a href="http://www.law.umaryland.edu/faculty/profiles/faculty.html?facultynum=899">http://www.law.umaryland.edu/faculty/profiles/faculty.html?facultynum=899</a>
83	Parenteau, Patrick A.	Vermont Law School	Senior Counsel Natural Resources Law Clinic	<a href="http://www.vermontlaw.edu/Our_Faculty/Faculty_Directory/Patrick_A_Parenteau.htm">http://www.vermontlaw.edu/Our_Faculty/Faculty_Directory/Patrick_A_Parenteau.htm</a>

Save BP Claims\_SB 469 Memo Signatories

84	Parson, Edward	UCLA- Institute of the Environment and Sustainability	Faculty Co-Director, Emmett Institute on Climate Change and the Environment	<a href="http://www.environment.ucla.edu/people/edward-parson.php">http://www.environment.ucla.edu/people/edward-parson.php</a>
85	Pidot, Justin	University of Denver Sturm College of Law	Assistant Professor	<a href="http://www.law.du.edu/index.php/profile/justin-pidot">http://www.law.du.edu/index.php/profile/justin-pidot</a>
86	Plater, Zygmunt J.B.	Boston College Law School	Professor, Former Chairman, State of Alaska Oil Spill Commission's Legal Task Force	<a href="http://www.bc.edu/schools/law/fac-staff/deans-faculty/platerz.html">http://www.bc.edu/schools/law/fac-staff/deans-faculty/platerz.html</a>
87	Poirer, Marc R.	Seton Hall Law School	Professor of Law	<a href="http://law.shu.edu/Faculty/fulltime_faculty/Marc-Poirier.cfm">http://law.shu.edu/Faculty/fulltime_faculty/Marc-Poirier.cfm</a>
88	Powers, Melissa	Lewis & Clark Law School	Associate Professor of Law	<a href="http://law.lclark.edu/live/profiles/2102-melissa-powers">http://law.lclark.edu/live/profiles/2102-melissa-powers</a>
89	Pudry, Jedidiah	Duke University	Robinson O. Everett Professor of Law	<a href="https://law.duke.edu/fac/purdy/">https://law.duke.edu/fac/purdy/</a>
90	Quigley, William P.	Loyola University New Orleans	Professor of Law and Director of the Loyola Law Clinic and the Gillis Long Poverty Law Center	<a href="http://law.loyno.edu/bio/william-p-quigley">http://law.loyno.edu/bio/william-p-quigley</a>
91	Rohlf, Daniel	Lewis & Clark University	Professor of Law	<a href="http://law.lclark.edu/live/profiles/285-daniel-rohlf">http://law.lclark.edu/live/profiles/285-daniel-rohlf</a>
92	Rosenbloom, Jonathan	Drake University Law School	Associate Professor of Law	<a href="http://www.law.drake.edu/faculty/?profileID=rosenbloomJonathan">http://www.law.drake.edu/faculty/?profileID=rosenbloomJonathan</a>
93	Rosencraz, Armin	Stanford University	Globalization, Labor & Environment	<a href="http://explorecourses.stanford.edu/instructor/armin">http://explorecourses.stanford.edu/instructor/armin</a> <a href="http://www.stanford.edu/~armin/courses.humbio143.html">http://www.stanford.edu/~armin/courses.humbio143.html</a>
94	Rostron, Allen	University of Missouri Kansas City School of Law	William R. Jacques Constitutional Law Scholar and Professor of Law	<a href="http://law.umkc.edu/faculty-staff/people/rostron-allen.asp">http://law.umkc.edu/faculty-staff/people/rostron-allen.asp</a>
95	Salzman, James	Duke University	Professor of Environmental Policy	<a href="https://law.duke.edu/fac/salzman/">https://law.duke.edu/fac/salzman/</a>
96	Savasta-Kennedy, Maria	UNC School of Law	Clinical Professor of Law	<a href="http://www.law.unc.edu/faculty/directory/savasta-kennedymaria/">http://www.law.unc.edu/faculty/directory/savasta-kennedymaria/</a>

Save BP Claims\_SB 469 Memo Signatories

97	Schneider, Dick	Wake Forest University	Associate Dean for International Affairs, Professor of Law	<a href="http://law.wfu.edu/faculty/profile/schneider/">http://law.wfu.edu/faculty/profile/schneider/</a>
98	Shapiro, Sidney	Wake Forest School of Law	University Distinguished Chair in Law	<a href="http://law.wfu.edu/faculty/profile/shapirsa/">http://law.wfu.edu/faculty/profile/shapirsa/</a>
99	Sinden, Amy	Temple University, Beasley School of Law	Professor of Law	<a href="http://www.law.temple.edu/Pages/Faculty/N_Faculty_Sinden_Main.aspx">http://www.law.temple.edu/Pages/Faculty/N_Faculty_Sinden_Main.aspx</a>
100	Snape, III, William J.	American University, Washington College of Law	Fellow & Practitioner in Residence	<a href="http://www.wcl.american.edu/faculty/bsnape/">http://www.wcl.american.edu/faculty/bsnape/</a>
101	Sokol, Karen	Loyola University New Orleans	Associate Professor of Law	<a href="http://law.loyno.edu/bio/karen-c-sokol">http://law.loyno.edu/bio/karen-c-sokol</a>
102	Squillace, Mark S.	Colorado Law, University of Colorado Boulder	Professor of Law and Director of the Natural Resources Law Center	<a href="http://lawweb.colorado.edu/profiles/profile.jsp?id=189">http://lawweb.colorado.edu/profiles/profile.jsp?id=189</a>
103	Tarlock, A. Dan	IIT Chicago-Kent College of Law	Distinguished Professor of Law and Director of the Program in Environmental and Energy Law - See more at: <a href="http://www.kentlaw.iit.edu/faculty/full-time-faculty/a-dan-tarlock?#sthash.kaKaTjWY.dpuf">http://www.kentlaw.iit.edu/faculty/full-time-faculty/a-dan-tarlock?#sthash.kaKaTjWY.dpuf</a>	<a href="http://www.kentlaw.iit.edu/faculty/full-time-faculty/a-dan-tarlock/">http://www.kentlaw.iit.edu/faculty/full-time-faculty/a-dan-tarlock/</a>
104	Telesetsky, Anastasia	University of Idaho College of Law	Natural Resources and Environmental Law Program	<a href="http://www.uidaho.edu/law/faculty/anasiasiatelesetsky">http://www.uidaho.edu/law/faculty/anasiasiatelesetsky</a>
105	Tetlow, Tania	Tulane Law	The Felder-Fayard Early Career Associate Professor of Law and Director, Domestic Violence Clinic	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=472">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=472</a>
106	Torres, Gerald	University of Texas at Austin School of Law	Bryant Smith Chair in Law	<a href="http://www.utexas.edu/law/faculty/gtorres/">http://www.utexas.edu/law/faculty/gtorres/</a>

Save BP Claims\_SB 469 Memo Signatories

107	Verchick, Robert	Loyola University New Orleans	Gauthier-St. Martin Chair in Environmental Law	<a href="http://law.loyno.edu/bio/robert-r-verchick">http://law.loyno.edu/bio/robert-r-verchick</a>
108	Weise, Suzanne M.	College of Law West Virginia University	Visiting Professor of Law	<a href="http://law.wvu.edu/faculty-staff/visiting-faculty/suzanne-weise">http://law.wvu.edu/faculty-staff/visiting-faculty/suzanne-weise</a>
109	Werhan, Keith	Tulane Law	Ashton Phelps Chair of Constitutional Law	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=474">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=474</a>
110	Westley, Robert	Tulane Law	LOCHEF Professor of Legal Ethics and Professional Responsibility	<a href="http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=478">http://www.law.tulane.edu/tlsfaculty/profiles.aspx?id=478</a>
111	Wiersema, Annecoos	University of Denver Sturm College of Law	Ved P. Nanda Chair and Associate Professor of Law Director, International Legal Studies Program	<a href="http://www.law.du.edu/index.php/profile/annecoos-wiersema">http://www.law.du.edu/index.php/profile/annecoos-wiersema</a>
112	Wood, Mary Christina	University of Oregon Law School	Philip H. Knight Professor Faculty Director, Environmental and Natural Resources Law Program	<a href="http://law.uoregon.edu/faculty/mwood/">http://law.uoregon.edu/faculty/mwood/</a>