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## Court weighs benefits of massive Lafayette detention pond for ruling on land grab appeal



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Louisiana's Third Circuit Court of Appeal is set to rule on Lafayette Consolidated Government's seizure of a 372-acre lot for a detention pond after a hearing Thursday where the lead judge repeatedly questioned LCG's arguments.

Mayor-President Josh Guillory's administration seized the 372-acre lot along the Vermilion River from the Bendel Partnership in December to build its massive Homewood Drive detention pond.

But 15th Judicial District Court Judge Valerie Gotch-Garrett ruled in May that LCG had failed to comply with legal requirements for the taking, writing that the local government picked the Bendel lot then retroactively tried to justify the decision with flood modeling.

Work on the pond has been stopped by Gotch-Garrett's order since April.



Preliminary designs by McBade Engineers, who LCG has contracted for its \$35 million Homewood Detention Project, show several ponds intended to lower water levels on the Vermilion River in Lafayette. *Courtesy Of Lafayette Consolidated Government*

The case was appealed to the Third Circuit Court in Lake Charles, where a three-judge panel led by Chief Judge Sylvia Cooks of Lafayette heard, and scrutinized, arguments from attorneys for LCG and the Bendels Thursday.

Assistant City-Parish Attorney Mike Hebert argued the appellate court should overturn Gotch-Garrett's ruling because she relied on her own judgment of the benefits the detention pond would have instead of deferring to LCG.

But the detention pond's benefits were one of a few sticking points for Cooks during Thursday's hearing, as she questioned Hebert's argument that only the scale of its benefits was at issue, meaning LCG could prove some public necessity for the pond regardless of that scale.

"You can fully appreciate that the degree of benefit may be very important in determining the reasonableness of the selection (of the Bendel lot)," Cooks told Hebert.



Assistant Lafayette City-Parish Attorney Mike Hebert (far left) argues before Third Circuit Court of Appeal Judges Billy Ezell, (Chief Judge) Sylvia Cooks and Sharon Wilson at a hearing in Lake Charles on Thursday, Oct. 27, 2022. *Andrew Capps*

"If the benefit is 0.57 (inches), or less than a quantifiable amount, compared to the 5.6 (inches) that you just alluded to, that makes some difference. I'm not saying it has to be 5.6 (inches), but it certainly seems to be questionable if it's 0.57 (inches)."

Engineers for LCG produced a series of models to determine the impact of the pond on the Vermilion River during storms.

Pam Granger, who was contracted by LCG to model and then design the pond, produced a preliminary report in June 2021 that found the Homewood Drive pond by itself would lower the river by 5.76 inches where the river meets Coulee Ile des Cannes during a 10-year storm though the benefit fell to 2 inches of impact up the river to Surrey Street.

Her report did not specify the pond's impact on flooding during 50- and 100-year storms, which are more severe.

Granger's testimony in the case became another sticking point for Cooks during Thursday's hearing after Hebert insisted that Gotch-Garrett was wrong to consider Granger a biased witness during the trial this past spring since her firm, McBade Engineers, was in line for a multi-million dollar contract to design the Homewood Drive pond and another set of ponds on Coulee Ile des Cannes.

"Would you agree that it raises some concern that she's due to receive some \$5 million if the project goes forward and yet she's serving as an expert in this matter, presumably to give all of us some knowledge about the success possibility of this drainage plan?" Cooks asked Hebert.

Hebert tried to placate Cooks' concern by pointing out that Granger's contract was the same as any other LCG engineering contract, just larger, and that Granger had her work reviewed by engineers at C.H. Fenstermaker & Associates.



Bendel Partnership attorney Randall Smith completes his arguments before a three-judge panel of the Third Circuit Court of Appeal in Lake Charles on Thursday, Oct. 27, 2022. *Andrew Capps*

But as Smith later made his case that Granger's endorsement of the project was influenced by her company's potential profit, Cooks appeared compelled by the issue.

Smith also argued Thursday's case was significantly different from [LCG's prior quick-take land grab of a 14-acre lot along Lake Farm Road owned by the Randol family for another detention pond](#).

In that case, a different panel of three judges on the Third Circuit Court of Appeal [overruled a Lafayette judge to side with LCG](#) in the matter in August.

Judge Sharon Wilson, who was also on the three-judge panel alongside Judge Billy Ezell Thursday, questioned Smith's assertion that the two were "very different" but seemed to accept Smith's argument that a legal error by the trial judge in the Randol case prompted the prior appellate panel to issue its own ruling on the matter.

The same issue was not present in Gotch-Garrett's ruling on the Bendel case, meaning the merits of the two cases were very different, he argued. LCG's attorneys did not get to respond to that argument during Thursday's hearing. The appellate panel is not expected to issue a ruling on the case for at least a month. The court's prior ruling on LCG's Lake Farm Road expropriation came [three months after arguments were heard in that case](#). Either side is expected to appeal the Third Circuit Court's expected ruling to the Louisiana Supreme Court.

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