

Court lets Bayou Bridge advance as opposition brews

[Ellen M. Gilmer](#), E&E News reporter

Published: Wednesday, January 31, 2018

A federal court will not immediately block a Southern oil pipeline from moving forward.

The U.S. District Court for the Middle District of Louisiana yesterday refused to freeze construction of the Bayou Bridge pipeline, set to stretch 162 miles across southern Louisiana. The project, backed by Dakota Access pipeline developer Energy Transfer Partners LP, would carry a half-million barrels per day of crude oil.

A coalition of environmental groups and fishermen lined up in court earlier this month to oppose the Army Corps of Engineers' recent decision to greenlight Bayou Bridge. They asked the court for a temporary restraining order (TRO) that would halt construction immediately.

Judge Shelly Dick, an Obama appointee, refused the request last night, noting that her initial review of the agency's environmental assessment for the pipeline did not show a clear violation of the National Environmental Policy Act.

"Based on the current record, the Court is unable to reach such a finding and cannot justify issuing the extraordinary remedy of a TRO," she wrote. "While the other factors required for a TRO — namely, risk of irreparable injury, that the threatened injury outweighs the threatened harm to the Defendant, and that granting a TRO would serve the public interest — are arguably present, the Court's 'hands are tied' considering the proof required that Plaintiffs are substantially likely to succeed on the merits."

However, the court will still consider a broader request for a preliminary injunction that would halt pipeline work for the duration of the litigation. Dick will review more in-depth briefs from both sides ahead of a Feb. 8 hearing.

Bayou Bridge opponents are particularly concerned about potential harm to wild crawfish habitat and forested swamps in the Atchafalaya Basin.

"There are already miles of pipelines crisscrossing the Basin that have decimated our water quality, creating hypoxic water that kills crawfish, and filled the Basin with so much sand that our ability to fight flooding has been

seriously compromised," Jody Meche, a commercial crawfisherman from the western division of the Louisiana Crawfish Producers Association, said in a statement. "Why should we let a company that has already proven it has no regard for our environment or our way of life do even more harm?"

Other groups in the case are the Atchafalaya Basinkeeper, Gulf Restoration Network, Waterkeeper Alliance and Sierra Club.

"Energy Transfer Partners has a deplorable track record when it comes to respect for our environment and our nation's irreplaceable ecosystems," said Earthjustice attorney Jan Hasselman, representing the groups. "We can't allow them to run roughshod over the Atchafalaya Basin's bottomland hardwoods, cypress swamps, bayous and backwater lakes — and the communities that rely on them — particularly when the corps failed to adequately consider the risks posed by this project."

Hasselman is also leading the legal challenge to the Dakota Access pipeline in district court in Washington, D.C.

Energy Transfer has joined the Bayou Bridge case on the Army Corps' side, bringing on some of the same Gibson, Dunn & Crutcher LLP lawyers involved in the Dakota Access case, including former Federal Energy Regulatory Commission General Counsel William Scherman.

Energy Transfer has faced criticism for several other projects lately. Federal regulators last week stopped work on a section of the Rover natural gas pipeline in Ohio due to compliance issues, and Pennsylvania officials halted construction of the Mariner East 2 natural gas liquids pipeline earlier this month for environmental violations ([Energywire](#), Jan. 25; [Energywire](#), Jan. 4).