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Bransford v. International Paper Timberlands Operating Co., 750 So. 2d 424 (La. Ct. App. 2000)

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purposes of MUSYA.

The U.S. argued that MUSYA re-reserved the national forests as of June 12, 1960, when Congress enacted MUSYA, for the purpose expressed in MUSYA. Therefore, federal reserved water rights necessary to accomplish the purpose of this reservation dated back to June 12, 1960. However, the State claimed that MUSYA did not create a new land reservation, but merely established additional purposes for the management of national forests. Therefore, the State argued, MUSYA was a land management statute, not a reservation of land. Furthermore, MUSYA did not enlarge reserved water rights for the national forests, which Congress created pursuant to the Organic Administration Act of 1897 (“Organic Act”).

The court ruled, based on its own analysis of the statutory language, legislative history, and Supreme Court case law, that under MUSYA, Congress intended only to broaden the purposes for administering the national forests already reserved under the Organic Act. The court emphasized that the language in MUSYA specifically made the purposes of the statute supplemental to, and not in derogation of, the purposes for which the national forests were created under the Organic Act. Therefore, no specific federal land reservation occurred under MUSYA.

The court further noted, based on the MUSYA provisions and legislative history, that MUSYA did not indicate an express or implied congressional intent to reserve a federal water right. Therefore, because MUSYA merely supplemented the Organic Act, any water use required for the purposes of MUSYA were secondary, and thus, the U.S. had to acquire water in the same manner as any other public or private appropriator. The court concluded that since MUSYA made no land reservation, and did not create a federal reserved water right, the U.S. could not claim a water right with a priority dating back to June 12, 1960.

Steven Marlin

LOUISIANA

Bransford v. International Paper Timberlands Operating Co., 750 So. 2d 424 (La. Ct. App. 2000) (holding that an owner of a servient estate had no affirmative duty to remedy naturally occurring conditions on the servient land).

Camille S. Bransford and International Paper Timberlands Operating Company (“International Paper”) owned adjacent tracts of land in Webster Parish, Louisiana. Due to the proximity of the lands, surface water from Bransford’s land naturally drains across International Paper’s land. In late 1995, Bransford’s son, who had power of attorney to manage the land, began removing beavers and beaver dams from the property due to flooding caused by the obstructions. In late summer 1996, Bransford’s son determined that a beaver dam located on International Paper’s property

caused flooding on the land, in an area contiguous to International Paper's land. Bransford brought suit to recover damages claiming that International Paper's failure to remove the beaver dams located on its property caused flooding and loss of timber on her land.

The district court granted summary judgment for International Paper based on its finding that International Paper did not have an affirmative duty to remedy naturally occurring conditions on its own property. To require such action would place an unreasonable burden on rural landowners. On appeal, this court agreed that International Paper did not have a duty to remedy conditions that occur naturally, affirming the district court's decision.

The court of appeals recognized that the basis of Bransford's claim for damages was International Paper's ownership of a servient estate, thus International Paper was subject to a servitude of drainage for the benefit of Bransford's dominant land. However, the court determined that, pursuant to the Louisiana Code, the owner of a servient estate generally did not have an affirmative duty to do anything. A servient landowner only had a duty to abstain from taking any action that would prevent the natural drainage flow of water from the dominant estate owner's land. Although the court acknowledged that it previously allowed damages for interference with a servitude, it stated that this was only where the owner of a servient estate acted directly to obstruct drainage. The court found International Paper not liable for damage caused to Bransford's property because it did not take any action to obstruct the natural drainage flow from her land.

In response to Bransford's argument that International Paper had an affirmative duty to remove the naturally occurring condition, the court recognized that the Louisiana Code might require a servient estate owner to keep his estate in a suitable condition in order to exercise the servitude. The court noted, however, that Bransford did not bring suit seeking injunctive relief and, therefore, refused to address the issue of compelling International Paper to remove the obstructions.

Megan Becher-Harris

Eubanks v. Bayou D'Arbonne Lake Watershed Dist., 742 So. 2d 113 (La. Ct. App. 1999) (affirming lower court's denial of a damages and injunctive relief).

The plaintiffs in this case consisted of a class of 157 homeowners ("Homeowners") residing close to the manmade Bayou D'Arbonne Lake ("Lake"). The construction of a spillway and a dam completed in 1963 created the Lake. The Lake reached its normal pool stage in 1964, however calculations predicted that a 100-year storm would cause the Lake to rise ten feet above the normal pool stage. All of the Homeowners residences were below the 100-year flood level. The Lake rose above the normal pool stage each year after its completion. In 1991, a rare meteorological event flooded the Lake.