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Baton Rouge, Louisiana

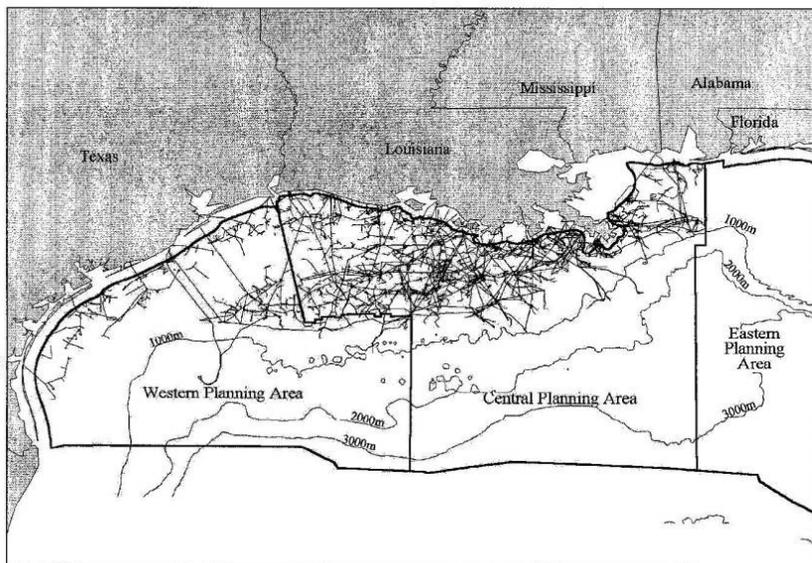
HARDBALL WITH OIL AND GAS BUT GET IT RIGHT THIS TIME!

Louisiana's Governor says it's time to play "hardball" with Washington, so she plans to file a lawsuit stopping the federal government's planned August 17th offshore oil lease sale. She is drawing the line in the dirt unless Louisiana starts receiving 50 percent of the offshore oil revenues now going exclusively to the federal government. Now it's great to play hardball, but do you stay in the minors, or make a more effective effort to play in the major leagues?

Any effort by Governor Blanco to stop the federal sale of offshore leases is little more than a delay tactic. Federal law requires the Federal Minerals Management Service to "consult" with the Governor, but no approval by any State's Governor is required for the leasing to take place. Lawsuits are even now being threatened, and a high-powered Washington, D.C. law firm has been hired to pursue such action. But in the long run, the Feds are going to win this one. If the Governor is really serious, there is another tactic to take.

Former Governor Dave Treen broached the idea of Louisiana controlling its own destiny in the 1980s when he proposed the Quail Tax on oil and gas pipelines. Treen, a Republican, was about as conservative as you can get. But he saw the benefit in taxing something that overwhelmingly goes to the rest of the country. His idea has been fine tuned in great detail by Slidell mineral consultant Ron Eldridge, who has developed a plan that is all but ready for legislative consideration. (For a detailed review of the Eldridge proposal, go to <http://LASelfHelp.com>)

You start with the premise that Louisiana is where the action is, and we can have a lot of sway in defining the Golden Rule (He who has the gold can have a great deal to say about making the rules.). So where is the gold?



The nation should take note that 83 percent of all oil and gas pumped out of the Gulf of Mexico comes right through Louisiana. And look at the pipeline chart at the top of this column. Of all the major pipelines coming out of the Gulf of Mexico, two go through Mississippi, one goes into Alabama, and only four go into Texas. How many go through Louisiana? Count them. Twenty nine.

In addition, 12 percent of all imported oil coming into the U.S. goes through LOOP at the mouth of the Mississippi River. And 35 percent of all gasoline produced in the United States is processed in Louisiana. So the bottom line is this. Don't delay the action, Governor. Tax it. If the Governor really wanted to show some muscle and play "major league" hardball, here's what she should do.

Give Louisiana lawmakers a few weeks rest, and then call them back into a special session. Propose either an excise tax or property tax on the pipelines that carry all the oil and gas throughout Louisiana. The tax would be based on volume of oil and gas carried, which would allow the State to meet all the requirements in a recent Supreme Court decision (Complete Auto Transit vs. Brady). The result? The numbers are staggering. If Louisiana put a \$0.05 per cubic foot tax on natural gas, \$0.50 per barrel tax on oil, and a \$0.01 per gallon on pipeline refined gasoline, the income to Louisiana would be in excess of \$60 billion a year. No, I didn't say million. I said \$60 billion. We are basically talking about eliminating all State and local taxes, and still having some \$30 billion left over.

Remember that only two percent of all the oil and gas produced is consumed by Louisiana residents. There is no way to exempt them from the plan, because under the Commerce Clause of the U.S. Constitution, a State cannot tax non-residents and leave out local citizens.

Is a pipeline tax legal under Louisiana law? Louisiana's 1924 constitution prohibited such a property or excise tax. But this prohibition was lifted during the passage of Louisiana's most current constitution written in 1974. A Louisiana State property tax was also eliminated in 1973, but the Legislature could re-enact such a tax. At worst, an excise tax may require a constitutional amendment. But is there any question as to how Louisiana citizens would vote? No more State and local taxes, with 98 percent of the revenue coming from out of state. A pretty easy sell.

Oh, you say, what about the fact that the cost of both oil and gas will go up to Louisiana consumers? Good point, but here is where the Treen, Eldridge proposal solves the problem. Governor, you could put into place a new "reverse income tax" where each resident would file an annual income tax showing how much they are paying the federal government. Then instead of owing a tax to the State, the tax payer would receive a check for four percent of the taxable income (approximately what they are paying in State income taxes now). If a Louisiana business had a net operating loss for federal income tax purposes, the State would send this business a check for four percent of that loss. With no more sales taxes, those who do not pay income taxes would still benefit significantly more under this plan. No sales tax that should more than offset the additional gas tax.

Of course there are some thorny issues to work out. That's why we have tax attorneys and CPAs around to take care of the details. But the bottom line is that Louisiana has an opportunity to control its own destiny. To heck with FEMA and the federal government.

Yes, such legislation would cause a flurry of lawsuits. But federal law allows the tax to be collected immediately after this law is passed, even if there is a federal challenge (28 U.S.C., Section 1341). So the money has to be paid by the oil companies, the tax is passed on through higher oil prices, and consumers in the 49 other states throughout America start hollering to their Congressmen. If the tax is upheld, so what? If, later on down the line, this case is lost (I think Louisiana would win any such challenge), the pressure ought to be enough for Congress to come around and make a significant contribution to the State.

Hey, it's a win, win, win. So here are Louisiana's choices. Go with hat in hand to Washington and continue to beg for handouts. Then go to the sandlot, pick up an old beat up baseball, and talk about how tough you are going to be by delaying for a few months any offshore oil leases. Or take the fight to the big leagues. Not just the major league, but the World Series. Raise the stakes as high as they can go. Draw the line in the dirt, adopt this electrifying and controversial new proposal, and either bring the Feds to the table, or leave them in the dust wondering what happened.

So Governor, don't be afraid to take a big step. Remember you can't cross a chasm in small steps. And don't worry about taking the heat. You're playing with a pretty good hand. Just remember what Lee Trevino says, "Pressure is when you play for five dollars a hole with only two in your pocket."

"Twenty years from now you will be more disappointed by the things that you didn't do than by the ones you did do. So throw off the bowlines. Sail away from the safe harbor."

- Mark Twain

Why not go out on a limb? Isn't that where the fruit is?

- Frank Scully

Peace and justice.

Jim Brown

Jim Brown's weekly column appears each Thursday here at Politicsla.com, and in a number of newspapers throughout the State of Louisiana. You can read Jim's Blog, and take his weekly poll, plus read his columns going back to the fall of 2002 by going to his own website at <http://www.jimbrownla.com>.

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