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## Plaquemines judge strikes state permit to RAM coal export terminal

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on December 30, 2014 at 1:33 PM, updated December 30, 2014 at 3:26 PM

A **Plaquemines Parish** judge has ruled that a state Department of Natural Resources permit for the **controversial RAM Terminals LLC coal export facility** is invalid and that the state must "investigate alternative sites."

The Sierra Club, the Louisiana Environmental Action Network, the Gulf Restoration Network, and several residents **had challenged** that coastal-use permit for the project stating in part that it posed a health threat to nearby residents. The groups also argued the coal proposal threatened the construction of a federal-state freshwater diversion project that had been planned to run through the site.

Judge **Kevin Connor**, in a **Dec. 23 ruling**, said "the Department of Natural Resources failed to fully investigate alternative sites for the RAM Terminals project and the specific commodities that RAM Terminals intends to transport by rail in connection with the project."

Connor also wrote that "it is unclear whether rail is even necessary" to the project.

The judge has remanded the case for further proceedings. An attorney for the environmental groups said he received Connor's ruling on Tuesday (Dec. 30).

DNR spokesman Patrick Courreges said Tuesday that the department's attorneys "just got the ruling and are still evaluating what the judge exactly said and the next steps."

Joyce Cornin, one of the Plaquemines residents who signed the suit against the permit, said it was "a blow to industry's plan to put another huge coal terminal right in our backyard – and a blessing for the people who live here."

In the ruling, Connor in part referred to the Louisiana Supreme Court's Save Ourselves, Inc. ruling in 1984, which created a so-called "rule of reasonableness" requiring that "a balancing process" that considers the environmental costs and benefits of projects, along with economic and social factors.

**(View and download the full ruling below.)**

Connor said RAM failed to specifically name an alternative site in its application. The judge also said the record "does not show that DNR exercised any independent evaluation of alternative sites."

"Instead, DNR deferred to RAM's assertion, unsupported by any actual evidence, that alternative sites were not feasible," Connor wrote.

Residents have particularly opposed the facility's proposal to have access to a rail line. Connor's ruling said "the prospect of unknown substances being transported by rail through the most heavily population portion of Plaquemines Parish is a matter of concern" and that "RAM provided no details regarding what substances it plans to transport by rail."

Gayle Bertucci, a Gretna resident who lives near the tracks, said they "don't want coal trains thundering past our front door."

"We don't want the noise, the dirt, tanked property values," Bertucci said. "And we really don't want fire trucks and ambulances getting stuck because a mile-long coal train is passing. It's a recipe for disaster."

The judge wrote that while "DNR argues that any unforeseen environmental impacts caused by RAM Terminals' activities will be policed by the Department of Environmental Quality," "the court in *Save Ourselves* found that an environmental agency's 'role as the representative of the public interest does not permit it to act as an umpire passively calling balls and strikes for adversaries appearing before it; the rights of the public must receive active and affirmative protection at the hands of the commission.'"

The Department of Natural Resources issued the permit for the facility on Oct. 1, 2013, after RAM signed an agreement with the state Coastal Protection and Restoration Authority agreeing not to obstruct construction of the diversion project.

Coal trains destined for the RAM Terminal export site at Myrtle Grove would travel through Jefferson Parish.  
Dan Swenson, NOLA.com | The Times-Picayune

The Mid-Barataria Sediment Diversion, authorized by Congress as part of the Louisiana Coastal Area Ecosystem Restoration Plan, has been proposed for a

site on the Mississippi's west bank that is on the coal terminal property.

The legal filing contends that the location was chosen as the best place to capture the greatest amount of sediment carried by the river, and moving the project elsewhere would make the diversion less effective.

It also charges that moving the site of the diversion would result in dust and other pollutants from the open-air piles of coal and petroleum coke washing into the diversion and hindering the development of healthy wetlands.

Connor agreed that potential affects must be weighed.

"Given this high potential for conflicts with a vital wetlands restoration and coastal protection project, it is imperative that the state fulfill its duty to safeguard the public trust by analyzing potential alternative sites for the RAM Terminals facility which might prevent negative environmental impacts," Connor ruled. "The Court finds that DNR has breached its duty as public trustee under the Coastal Use Guidelines and the Louisiana Constitution by failing to fully investigate alternative sites for the RAM Terminals project and the specific commodities that RAM Terminals intends to transport by rail in connection with the project."

The Plaquemines Parish Council **had been set to vote on building permit** for the RAM coal facility at its Jan. 8 meeting, which until the recent ruling would have been the final approval needed for the coal terminal to move forward.

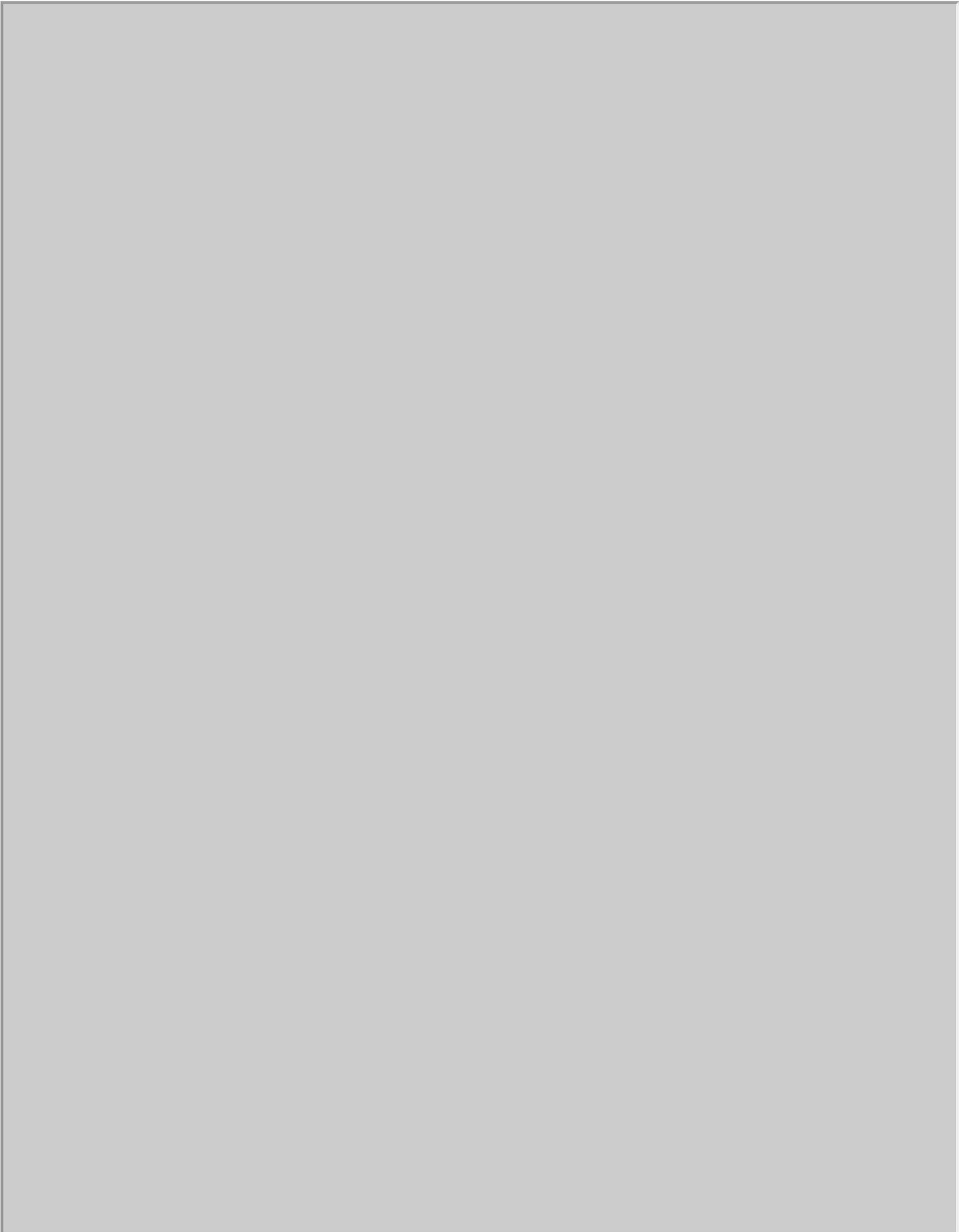
RAM would process 6 million tons of coal annually at its plant on 600 acres near Myrtle Grove, north of Ironton. It would load, unload, mix and store coal on site. Also it would increase rail traffic, with coal being brought to the facility.

Gretna officials **have called for rerouting such train traffic** following health concerns and residents' fears about a decrease in their property values from uncovered train cars of coal rumbling through the West Bank.

Earlier this month, the Regional Planning Commission of New Orleans **selected HDR Engineering to conduct an environmental study** on the feasibility of relocating such trains from downtown Gretna and Louisiana 23 to Harvey.

RAM Terminal officials have said the plant is needed as the demand for coal increases. The coal would come from producers in the Illinois Basin and western and central Appalachia, and be shipped out to Asia and Europe. The project was expected to employ 150 people upon completion, 300 during construction.

*Read and download the full ruling below:*



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