

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

AUBIN LANDRY, ET AL

CIVIL ACTION

VERSUS

NO. 04-3290

COLUMBIA GULF TRANSMISSION COMPANY, ET AL

SECTION "N" (5)


ORDER AND REASONS

Before the Court is Defendants' Motion to Strike Affidavit of Ellery Mayon (Rec. Doc. No. 66). The motion is opposed. Defendants contend that Mayon's Affidavit is self-serving, is not based upon personal knowledge, makes speculative or conclusory remarks, and impermissively opines about matters for which he has no expertise.

While the Court finds that many of the statements in Mayon's Affidavit are indeed based upon his personal firsthand knowledge, acquired through years of use of the waterways involved, certain statements are rather broad and/or are not helpful. For instance, Mayon asserts that he has witnessed several vessels in the canal "all while in the course of their work" (§ 14), and that "a significant portion of the vessel traffic through and around said canal are commercial vessels being operated for business purposes" (§ 16). While most of the testimony set forth in the Affidavit is based upon personal firsthand knowledge and observation, or otherwise would constitute admissible

lay opinion (such as estimating distances with the naked eye), those unfounded passages concerning the purpose and work of other vessels do not appear to have support and will not be considered by the Court. Accordingly, the Motion to Strike is **GRANTED IN PART** and **DENIED IN PART**, as set forth herein.

New Orleans, Louisiana, this 23rd day of November, 2009.



KURT D. ENGELHARDT
United States District Judge