

17TH JUDICIAL DISTRICT COURT FOR THE PARISH OF LAFOURCHE

STATE OF LOUISIANA

NO. 127030

DIVISION "B"

BCR HOLDINGS, INC.

VERSUS

**BABY OIL, INC.; SUARD BARGE SERVICE, INC.; EXXON MOBIL CORPORATION;
CHEVRON PIPE LINE COMPANY; CHEVRON U.S.A. INC.; PIONEER NATURAL
RESOURCES USA, INC; AMERICAN EXPLORER, INC; and
PETROQUEST ENERGY, LLC**

FILED: _____

**_____
DEPUTY CLERK**

FIRST SUPPLEMENTAL AND AMENDING PETITION FOR DAMAGES

Plaintiff respectfully petitions this Honorable Court for a judgment finding Defendants herein liable for damages caused by Defendants' oil and gas exploration and production and related activities that substantially harmed Plaintiff's property and legal interest. Upon information and belief, Plaintiff makes the following allegations:

1.

Plaintiff is BCR Holdings, Inc., a foreign corporation licensed to conduct business in the State of Louisiana, with its principal offices in Houston, Texas.

2.

Plaintiff owns an undivided interest in real property (hereinafter "the property" or "Plaintiff's property") located in:

- (1) Township 18 South, Range 20 East:
Section 35 – SE/4 of the SE/4, and
Section 36 – S/2 of the S/2, S/2 of the NE/ 4, and the N/2 of the SE/4;
- (2) Township 18 South, Range 21 East:
Section 63 – SW/4 of the SW/4;
- (3) Township 19 South, Range 21 East:
Section 36 – W/2 of the W/2
Section 53 – NW/4 of the NW/4; and
- (4) Township 19 South, Range 20 East:
Section 1 – All
Section 2 – E/2 of the E/2
Section 11 – NE/4 of the NE/4
Section 12 – N/2 of the N/2

all in the Bully Camp Oil and Gas Field in Lafourche Parish, Louisiana. Plaintiff purchased the property on April 20, 2006 from The Louisiana Land and Exploration Company via Act of Sale recorded in COB 1647, at Page 254, under Entry No. 1002544, Lafourche Parish, Louisiana.

3.

Plaintiff is a lessor, assign, third-party beneficiary, and/or successor in interest to certain oil, gas and mineral leases, servitudes, and/or surface leases entered into by Defendants, and owns property contaminated by the oil and gas activities conducted or controlled by one or more of the Defendants.

4.

Made "Defendants" are the following parties:

- (a) **BABY OIL, INC.**, a domestic corporation, organized under the laws of Louisiana, and domiciled in Lockport, Louisiana. Baby Oil, Inc.'s registered agent, Neil Suard, is located at 311 N. Barrios Street, Lockport, LA 70374;
- (b) **SUARD BARGE SERVICE, INC.**, a domestic corporation, organized under the laws of Louisiana, and domiciled in Lockport, Louisiana. Suard Barge Service, Inc.'s registered agent, Louis O'Suard, Jr., is located at 311 N. Barrios Street, Lockport, LA 70374;
- (c) **EXXON MOBIL CORPORATION**, hereinafter "Exxon", a foreign corporation whose registered agent, Corporation Service Company, is located at 320 Somerulos St., Baton Rouge, LA 70802. Exxon Mobil Corporation is named individually and as successor in interest to **Exxon Corporation and Humble Oil and Refining Company**;
- (d) **CHEVRON PIPE LINE COMPANY**, a foreign corporation whose registered agent, The Prentice-Hall Corporation System, Inc., is located at 320 Somerulos St., Baton Rouge, LA 70802. Chevron Pipe Line Company is named as successor in interest to **Gulf Refining Company**;
- (e) **CHEVRON U.S.A. INC.**, a foreign corporation whose registered agent, The Prentice-Hall Corporation System, Inc., is located at 320 Somerulos St., Baton Rouge, LA 70802. Chevron U.S.A. Inc., is named as successor in interest to **Gulf Oil Corporation**;
- (f) **PIONEER NATURAL RESOURCES USA, INC.**, a foreign corporation whose registered agent, CT Corporation System, Inc., is located at 5615 Corporate Blvd, Suite 400B, Baton Rouge, LA 70808. Pioneer Natural Resources USA, Inc., is named as successor in interest to **Greenhill Petroleum Corporation**;
- (g) **AMERICAN EXPLORER, INC.**, a domestic corporation, organized under the laws of Louisiana, and domiciled in Lafayette, Louisiana. American Explorer, Inc.'s registered agent, Alfred J. Thomas, II, is located at 136 Teche Drive, Lafayette, LA 70503; and

- (h) **PETROQUEST ENERGY, LLC**, a domestic corporation, organized under the laws of Louisiana, and domiciled in Lafayette, Louisiana. Petroquest Energy, LLC's registered agent, Corporation Service Co., is located at 320 Somerulos St., Baton Rouge, LA 70802, is named individually and as successor in interest to **American Explorer, L.L.C.**

Collectively, Suard Barge Service, Inc., Chevron Pipe Line Co., Chevron U.S.A. Inc., Pioneer Natural Resources USA, Inc., American Explorer, Inc., and Petroquest Energy, LLC are hereinafter referred to as "Lessees."

Collectively, Baby Oil, Inc., Exxon Mobil Corporation; Chevron Pipe Line Co., Chevron U.S.A. Inc., Pioneer Natural Resources USA, Inc., American Explorer, Inc., and Petroquest Energy, LLC are hereinafter referred to as "Operators."

5.

This court has the authority to grant the relief requested by Plaintiff. Plaintiff has complied with the notice requirements of Act 312 of 2006. The Notice of Filing Return Receipt Pursuant to La. Rev. Stat. § 30:29(B)(1) is attached as **Exhibit A**. Venue is proper in this court pursuant to Louisiana Code of Civil Procedure article 74, because the wrongful conduct occurred and the damages were sustained in Lafourche Parish.

6.

Defendants conducted, directed and participated in various oil and gas exploration and production activities as operators and/or working interest owners and/or joint venturers and/or mineral servitude owners in the Bully Camp Oil and Gas Field and on Plaintiff's property. Defendants' activities include the oversight, operation, or construction of various oil and gas facilities, including but not limited to pits, pumps, platforms, pipelines, flowlines, tanks, tank batteries, wells, wellheads, and measuring facilities.

7.

Plaintiff's property has been damaged by Defendants' oil and gas production and exploration activities and by the spillage and/or disposal of toxic oil field wastes on, in, and adjacent to Plaintiff's property. This contamination, which has not been removed, occurred without Plaintiff's consent. Exxon Mobil Corporation, as the mineral servitude owner, is

responsible for remediating and restoring all of Plaintiff's property to its original, pre-lease condition.

8.

Defendants conducted oil and gas operations on the property pursuant to, but not limited to the following contracts:

- An Oil, Gas and Mineral Lease dated November 14, 1941, by and between Delta Securities Company, Inc. and Gulf Refining Company ("the 1941 Lease"), recorded in COB 102, at Page 8, under Entry No. 57227, Lafourche Parish, Louisiana¹;
- Amendment to Oil, Gas and Mineral Lease, dated March 3, 1942, by and between Delta Securities Company, Inc. and Gulf Refining Company recorded in COB 103, at Page 231, under Entry No. 58552, Lafourche Parish, Louisiana;
- Amendment and Extension, dated May 7, 1943, by and between Delta Securities Company, Inc. and Gulf Refining Company, recorded in COB 107, at Page 1, under Entry No. 61510, Lafourche Parish, Louisiana;
- Amendment to Oil, Gas and Mineral Lease, dated June 12, 1943, by and between Delta Securities Company, Inc. and Gulf Refining Company, recorded in COB 192, at Page 523, under Entry No. 129015, Lafourche Parish, Louisiana;
- Selection and Release, dated August 19, 1943, by Gulf Refining Company, as Lessee, and Delta Securities Company, Inc., as Lessor, recorded in COB 109, at Page 64, under Entry No. 62709, Lafourche Parish, Louisiana;
- Partial Release, dated March 24, 1960, by and between Gulf Oil Corporation, as Lessee, and Waterford Oil Company (successor in title to Delta Securities Company, Inc.), as Lessor, recorded on April 6, 1960, in COB 264, at Page 288, under Entry No. 180376, Lafourche Parish, Louisiana;
- Partial Release, dated November 16, 1964, by and between Gulf Oil Corporation, as Lessee, and Delta Securities Company, Inc., as Lessor, recorded on November 20, 1964, in COB 329, at Page 622, under Entry No. 238353, Lafourche Parish, Louisiana;
- Partial Release, dated March 10, 1988, by and between Chevron, U.S.A. as Lessee, and Exxon Corporation, as Lessor; recorded in COB 1013, at Page 434, under Entry No. 681488, Lafourche Parish, Louisiana;
- Asset Sale Agreement, dated September 28, 1988, executed by and between Chevron U.S.A. Inc., as Assignor, in favor of Greenhill Petroleum Corporation, as Assignee, recorded in Conveyance Book 1033, under Entry No. 690945 of records of Lafourche Parish, Louisiana;
- Assignment, Bill of Sale and Conveyance dated effective as of October 1, 1988, from Chevron U.S.A. Inc., as Assignor, in favor of Greenhill Petroleum Corporation, as Assignee, recorded in Conveyance Book 1047, under Entry No. 698189, of records of Lafourche Parish Louisiana;
- Agreement for Emergency Use of Facilities, dated July 31, 1989, by and between Greenhill Petroleum Corporation and Chevron U.S.A. Inc.;
- Assignment of Overriding Royalty, dated April 13, 1989, effective October 1, 1988, by and between Greenhill Petroleum Corporation, as Assignor, and

¹ Attached hereto as **Exhibit B**.

Cypress Petroleum Consultants, et al., as Assignees, recorded in Conveyance Book 104 7, under Entry No. 698189, of the records of Lafourche Parish, Louisiana;

- Subterranean Servitude, dated December 19, 1989, by and between Exxon Corporation and Greenhill Petroleum Corporation, for the purpose of drilling the DSCI No. 138 Well;
- Gas Processing Agreement, dated June 1, 1990, by and between Greenhill Petroleum Corporation and Warren Petroleum Company, as amended by Letter Agreements dated December 3, 1991, May 7, 1992 and June 3, 1992;
- Assignment and Bill of Sale and Conveyance, dated effective as of December 1, 1992, from Greenhill Petroleum Corporation, as Assignor, in favor of American Explorer, Inc., as Assignee, recorded in COB 1170, at Page 682, under Entry No. 750196 of the records of Lafourche Parish Louisiana;
- Purchase and Sale Agreement, dated March 24, 1993, effective December 1, 1992, by and between Greenhill Petroleum Corporation and American Explorer, Inc., as Buyer, as amended by Letters dated April 13, 1993 and April 22, 1993;
- Letter dated April 5, 1993, From American Explorer, Inc. and Greenhill Petroleum Corporation;
- Lease Amendment, dated December 10, 1993, by and between Exxon Corporation, as Lessor, and American Explorer, Inc., as Lessee, recorded January 7, 1994, in COB 1197, at Page 389, under Entry No. 761136, Lafourche Parish, Louisiana;
- Assignment and Bill of Sale, dated May 25, 1995, dated effective as of March 3, 1995, from American Explorer, Inc., as Assignor, and American Explorer, L.L.C., as Assignee, recorded in COB 1244, under Entry No. 782372 of the records of Lafourche Parish, Louisiana;
- Assignment of Overriding Royalty Interest, dated December 23, 1996, effective November 1, 1996, by and between Greenhill Petroleum Corporation, as Assignor, and American Explorer, Inc., as Assignee, recorded January 8, 1997, in COB 1294, at Page 80, under Entry No. 808066, Lafourche Parish, Louisiana;
- Assignment of Overriding Royalty Interest, dated January 3, 1997, effective November 1, 1996, by and between American Explorer, Inc., as Assignor, and Goodson Trust for Caroline Alex.is Goodson, et al., as Assignees, recorded January 8, 1997, in COB 1294, at Page 84, under Entry No. 808067, Lafourche Parish, Louisiana;
- Assignment of Overriding Royalty Interest, Dated October 15, 1997, effective April 1, 1995, by and between American Explorer, L.L.C., as Assignor, and American Explorer, Inc., as Assignee, recorded in COB 1324, at Page 271, under Entry No. 822705, Lafourche Parish, Louisiana;
- Site Specific Trust Account No. 97-001, Bully Camp Field, Approval Letter and Account Summary of which were recorded on February 12, 1997, in COB 1297, under Entry No. 809579, Lafourche Parish, Louisiana;
- Compressor Rental Contract, dated November 1, 1999, by and between Universal Compression, Inc. and PetroQuest Energy, Inc.;
- Vessel Agreement, dated April 28, 2000, effective June 1, 2000, by and between Hydra Air Supply, Inc. and PetroQuest Energy, Inc.;
- Agreement for Use of Facilities, dated effective July 1, 2000, by and between Lurey Joseph Terrebonne and PetroQuest Energy, Inc., as extended by Letter Agreement dated June 7, 2002;

- Crude Oil Contract, dated April 16, 2001, by and between Coast Energy Group (now Plains Marketing, L.P.), as Buyer, and PetroQuest Energy, L.L.C., as Seller, as Amended by letter dated April 4, 2002;
- Assignment of Overriding Royalty Interest, dated September 10, 2001, effective as of October 1, 2001, by and between American Explorer, Inc., as Assignor, and Petroquest Energy, LLC, as Assignee, recoded in COB 1473, under Entry No. 900921, Lafourche Parish, Louisiana;
- Base Contract for Short-Term Sale and Purchase of Natural Gas, dated June 1, 2002, by and between Adams Resources Marketing, Ltd., as Buyer, and PetroQuest Energy, L.L.C., as Seller; and
- Assignment and Bill of Sale, dated October 29, 2002, effective as of August 1, 2002, by and between Petroquest Energy, LLC, as Assignor, and Suard Barge Service, Inc., as Assignee, recorded COB 1511, at Page 732, under Entry No. 925097.

9.

Pursuant to the 1941 Lease, Chevron Pipe Line Co., Chevron U.S.A. Inc., and/or its predecessors conducted, directed, and/or participated in oil and gas exploration and production operations on Plaintiff's property from 1941 to 1988. According to the records of the Louisiana Department of Natural Resources, Office of Conservation, Chevron Pipe Line Co., Chevron U.S.A. Inc., and/or its predecessors operated or controlled wells located on Plaintiff's property. A list of Chevron Pipe Line Co.'s, Chevron U.S.A. Inc.'s, and their predecessor's wells is attached as **Exhibit C**.

10.

Pursuant to the 1941 Lease, Pioneer Natural Resources USA, Inc. and/or its predecessors conducted, directed, and/or participated in oil and gas exploration and production operations on Plaintiff's property from 1988 to 1993. According to the records of the Louisiana Department of Natural Resources, Office of Conservation, Pioneer Natural Resources USA, Inc. and/or its predecessors operated or controlled wells located on Plaintiff's property. A list of Pioneer Natural Resources USA, Inc.'s and its predecessor's wells is attached as **Exhibit D**.

11.

Pursuant to the 1941 Lease, American Explorer, Inc. conducted, directed, and/or participated in oil and gas exploration and production operations on Plaintiff's property from 1993 to 1999. According to the records of the Louisiana Department of Natural Resources, Office of Conservation, American Explorer, Inc. operated or controlled wells located on Plaintiff's property. A list of American Explorer, Inc.'s wells is attached as **Exhibit E**.

12.

Pursuant to the 1941 Lease, Petroquest Energy, LLC conducted, directed, and/or participated in oil and gas exploration and production operations on Plaintiff's property from 1999 to 2002. According to the records of the Louisiana Department of Natural Resources, Office of Conservation, Petroquest Energy, LLC operated or controlled wells located on Plaintiff's property. A list of Petroquest Energy, LLC's wells is attached as **Exhibit F**.

13.

Pursuant to the 1941 Lease, Baby Oil, Inc. conducted, directed, and/or participated in oil and gas exploration and production operations on Plaintiff's property beginning in 2002. Baby Oil, Inc. is the current operator on Plaintiff's property. According to the records of the Louisiana Department of Natural Resources, Office of Conservation, Baby Oil, Inc. operated or controlled wells located on Plaintiff's property. A list of Baby Oil Inc.'s wells is attached as **Exhibit G**.

14.

Exxon Mobil Corporation through its predecessors in interest, became the mineral servitude owner with respect to Plaintiff's property in 1967. As the mineral servitude owner, Exxon Mobil Corporation conducted, directed, and/or participated in oil and gas exploration and production operations on Plaintiff's property. According to the records of the Louisiana Department of Natural Resources, Office of Conservation, Exxon Mobil Corporation operated three wells on Plaintiff's property from 1977 to 1991. A list of Exxon Mobil Corporation's wells is attached as **Exhibit H**.

15.

On or about June 30, 2014, a Phase I environmental site investigation was performed on Plaintiff's property to identify environmental conditions in connection with the property. On June 30, 2014, the associated Phase I Environmental Site Investigation report revealed non-compliance with regulations and extensive environmental damage on Plaintiff's property, including, but not limited to: leaks and spills; stained, distressed, and dead vegetation and

elevated levels of Naturally Occurring Radioactive Materials (“NORM”) exceeding state standards.²

16.

Upon information and belief, Plaintiff’s property is contaminated with oil field waste constituents including salts, petroleum hydrocarbons, heavy metals, and radioactive material. Defendants’ operations on Plaintiff’s property have contaminated surface and groundwater, soil, and canal bottom sediments and have destroyed several acres of marsh on Plaintiff’s property. Defendants have used the property excessively and unreasonably in this regard.³

17.

Defendants have known that the disposal of oilfield wastes in unlined earthen pits inevitably results in seepage, which contaminates both surface and subsurface soils and waters. Plaintiff has suffered damages resulting from the improper disposal of oilfield wastes in unlined earthen pits that were constructed by Defendants on or near Plaintiff’s property during the course of oil and gas exploration and production activities. The oilfield wastes deposited in these pits include (but are not limited to) such substances as NORM, produced water, drilling fluids, chlorides, hydrocarbons, and heavy metals. Also, leaks, spills, and other discharges of these substances from wells, pipelines, tank batteries, gas plants, and other equipment have further polluted Plaintiff’s property.⁴

18.

NORM contains Radium₂₂₆ and Radium₂₂₈ which are very hazardous and toxic substances. NORM concentrates in oilfield equipment as a result of production activities and its presence on the surface can cause serious health related problems. Under Louisiana law, property contaminated with NORM cannot be transferred for unrestricted use.

19.

Produced water contains various hydrocarbon compounds, metals, salt, and radioactive substances. Studies of the chemical constituents of south Louisiana produced waters have

² See Phase I Environmental Site Investigation report, attached as **Exhibit I**.

³ See Map of the property boundaries, attached as **Exhibit J**.

⁴ See Chart of DEQ/DNR documentation regarding individual leaks, spills, compliance orders, etc. that occurred during the operational timeframe of each defendant, attached as **Exhibit K**.

revealed that all produced water discharges contain excess amounts of salt (up to 193 parts per thousand salt or 19.3%), and also contain volatile hydrocarbon compounds (including benzene, toluene, xylene and ethyl benzene), Polynuclear Aromatic Hydrocarbons (including naphthalene, fluorene and phenanthrene), toxic heavy metals (including chromium, lead, mercury, arsenic, barium and zinc), Radium₂₂₆ and Radium₂₂₈. All of these substances bioaccumulate and are acutely toxic to aquatic organisms at varying concentrations. Some of these substances (such as benzene and Radium₂₂₆) have long been identified as human carcinogens.

20.

Drilling fluids are also highly toxic and hazardous. These fluids contain metals such as chromium, barium, and arsenic, as well as oil and other hydrocarbon fractions. Drilling fluids also contain toxic additives such as bactericides, slimicides, and acids. Further, drilling fluids have been demonstrated to be acutely toxic to aquatic organisms. In fact, a 1982 American Petroleum Institute Study documented the uptake of toxic heavy metals by plants near drilling mud pits.

21.

Other toxic and hazardous substances used by Operators in their day to day exploration and production activities include mercury, lead based compounds, chromium based algicides, hydrochloric acid, caustic soda, and various corrosion inhibitors.

22.

Defendants knew or should have known that their day to day operations in the Bully Camp Oil and Gas Field would cause the soil, surface waters, and ground waters of Plaintiff's property to erode and to be contaminated with the substances described herein. Defendants' failure to timely remove or remediate this toxic pollution in the soils and groundwater of Plaintiff's property has allowed the pollution to migrate and spread, thereby causing damages, including but not limited to, contaminated soil and sediments, contaminated surface and groundwater, and land loss.

23.

Of the more than 140 wells that have been drilled on Plaintiff's property, only six wells are in active use, one of which is used solely for the disposal of produced salt water. As a result,

there are unnecessary man-made canals scattered throughout the property that are contributing to land loss on Plaintiff's property. Additionally, there are numerous large dead marsh areas caused by oil and gas operations on Plaintiff's property that are not being used for any oil or gas purposes. It is reasonable now to restore the land and the unused canals and to restore the unused oilfield sites to their original condition. Moreover, remediation of all areas of Plaintiff's property will not interfere with ongoing operations. Such remediation and restoration would not impair ongoing operations of the six remaining active wells, and conversely, the failure to restore these sites will lead to the increasing spread of contaminants and destruction of vegetation and aquatic life. Defendants are obligated to perform these restoration obligations, yet have failed to do so. Likewise, as the mineral servitude owner, and pursuant to Mineral Code Article 22, Exxon is obligated to perform these restoration obligations now.

24.

At no time did Defendants issue any warning to Plaintiff that their disposal and discharge activities were hazardous to Plaintiff's property. Defendants knew and failed to disclose to Plaintiff that these wastes would neither degrade nor break down in the environment in the foreseeable future.

25.

Defendants knew for many years that they were disposing, storing, discharging, and otherwise releasing toxic oil field waste onto and into the ground, groundwater, and surface water on or near Plaintiff's property, and yet failed to inform or warn Plaintiff of the existence and cause of this pollution. Plaintiff did not have actual or constructive knowledge of the damage described herein until less than a year prior to the filing of this suit.

26.

Located within the Pointe-aux-Chenes (PAC) Wildlife Management Area (WMA), Plaintiff's property is leased by the Louisiana Department of Wildlife and Fisheries (LDWF) for use as part of the WMA. A map depicting Plaintiff's property located within the PAC WMA is attached as **Exhibit L**. Consisting mostly of marsh interspersed with numerous ponds, bayous, and canals, the LDWF manages the PAC WMA to increase productivity of the marshes for furbearers, waterfowl, alligators, and fish. Management of the PAC WMA is conducted in a

manner to support, promote and enhance public hunting, fishing, and recreational opportunities as these opportunities are considered by the Louisiana Wildlife and Fisheries Commission as primary uses of WMAs. Management decisions are based on criteria that include public hunting, fishing, and recreational opportunities as a primary consideration. Defendants' actions on Plaintiff's property have led to a degradation of fish and wildlife habitat, resulted in the loss of opportunity for public use, and imposed unacceptable health risks to the environment and public.

27.

Defendants' conduct constitutes negligence, which gives rise to liability under the provisions of La. C.C. art. 2315. Defendants knew or should have known that their conduct would cause property and other damages to the Plaintiff. Defendants had a duty to protect the Plaintiff and Plaintiff's property from the effects of the contamination and pollution described herein. Defendants' violation of this duty proximately caused the damages described herein.

28.

Defendants are strictly liable to Plaintiff under La. C.C. art. 667 for the damages caused by its storage, discharge, and disposal of toxic and hazardous oil field waste on or adjacent to Plaintiff's property. Further, Defendants are strictly liable to the Plaintiff under the provisions of La. C.C. arts. 2317 and 2322. At all times pertinent hereto, Defendants had *garde* of the facilities and equipment that caused the pollution described herein. Defendants had sufficient control to constitute *garde* under the provisions of La. C.C. art. 2317.

29.

Defendants' conduct of their oil and gas exploration and production activities and the associated discharge, disposal or storage of oil field waste and other wastes on Plaintiff's property have created a continuing, ongoing and damaging nuisance to the Plaintiff and Plaintiff's property. Further, the continued presence of oilfield wastes and other wastes on Plaintiff's property constitutes a continuing trespass. The continuous and ongoing migration of oil field waste and the continuing presence of other wastes is causing new and ever increasing damage to Plaintiff's property, and such damage will continue until such time as these wastes are removed and remediated. Defendants are liable for all damages caused by the aforementioned activities. Additionally, Defendants have exercised their rights to Plaintiff's property excessively

and unreasonably and without reasonable regard to the rights of the Plaintiff in violation of La. R.S. 31:11. Defendants are obligated to remediate and restore Plaintiff's property pursuant to La. R.S. 31:11.

30.

Lessees' conduct as described herein constitutes a breach of the mineral leases and surface leases that covered the oil and gas activities described above.

31.

Lessees have a contractual obligation under the applicable oil, gas, mineral, servitudes, and surface leases, and assignments thereof, to restore Plaintiff's property to its original condition, and Plaintiff is also the beneficiary of express and implied contractual provisions that require additional remediation in excess of the requirements of La. R.S. 30:29. Defendants have failed to satisfy their obligations under the applicable leases and amendments thereof. As a result, Plaintiff's property has been impacted by Lessees' use of said property under the applicable leases, and such property has not been restored to its original condition. For the breach of these leases and servitudes, and assignments thereof, Defendants are liable to the Plaintiff for foreseeable and consequential damages occasioned by their failure to perform, as well as the cost of these proceedings and reasonable attorneys' fees. Plaintiff did not learn of the breach of said mineral leases and servitudes, or the negligent or excessive use of Plaintiff's property, until less than one year before filing this suit.

32.

The remediation of contamination on the property subject to the existing mineral leases at issue would not interfere with, or have any effect on, any ongoing mineral operations. Further, there are no leases at issue in this lawsuit that permit the postponement of remediation of contaminated property until the end of the lease.

33.

Defendants have also breached those standards imposed by the Louisiana Civil Code and the Louisiana Mineral Code governing the conduct of prudent operators. The lease provisions of the Louisiana Civil Code and the Louisiana Mineral Code also require Lessees to use Plaintiff's property as prudent administrators and to restore Plaintiff's property to its original condition.

Lessees have failed to act as prudent administrators, have failed to restore Plaintiff's property to its original condition, and have failed to discharge their obligations under the Louisiana Civil Code and the Louisiana Mineral Code. Lessees have breached those standards imposed by the Louisiana Civil Code and the Louisiana Mineral Code governing the conduct of prudent operators, specifically the standards of Louisiana Civil Code articles 2683, 2686, 2687, and 2692 and Louisiana Mineral Code article 134:

1. La. C.C. art. 2683 requires the lessee ... "[t]o use the thing as a prudent administrator and in accordance with the purpose for which it was leased "
2. La. C.C. art. 2686 provides "[i]f the lessee uses the thing for a purpose other than that for which it was leased or in a manner that may cause damage to the thing, the lessor may obtain injunctive relief, dissolution of the lease, and any damages he may have sustained."
3. La. C.C. art. 2687 states that "[t]he lessee is liable for damage to the thing caused by his fault or that of a person who, with his consent, is on the premises or uses the thing."
4. La. C.C. art. 2692 provides "[t]he lessee is bound to repair damage to the thing caused by his fault ... and to repair any deterioration resulting from his ... use to the extent it exceeds the normal or agreed use of the thing."

Lessees and Operators have failed to act as prudent administrators of the property and have failed to repair the damage to Plaintiff's property caused by their fault. Further, La. R.S. 31:134 provides that "[i]f a mineral lease is violated, any aggrieved party is entitled to any appropriate relief provided by law." Lessees and Operators have caused damage to the property and are therefore liable to Plaintiff for the repair of the damage pursuant to the aforementioned Louisiana Civil Code and Louisiana Mineral Code articles.

34.

As explained above, Exxon Mobil Corporation is the mineral servitude owner, and as the mineral servitude owner, Exxon Mobil Corporation is obligated to restore the subject property to its original condition to the extent maximum amount practicable under the provisions of La. R.S. 31:22 (Mineral Code article 22), which requires remediation of the contamination on all of Plaintiff's property, and to restore the canals and marsh land to their original condition, and to restore the oilfield sites on Plaintiff's property to their original condition. Exxon has an obligation to restore all of Plaintiff's property to its original, pre-lease condition insofar as practicable under the provisions of La. R.S. 31:22 (Mineral Code article 22). Exxon's restoration

obligation extends to all areas on Plaintiff's property where Defendants operated, as well as all areas on Plaintiff's property operated by others pursuant to a lease with Exxon Mobil Corporation.

35.

Plaintiff has suffered damages and is entitled to all remedies allowed under the Louisiana Civil Code and Louisiana Mineral Code.

36.

Defendants negligently and excessively used the property at issue during mineral operations. This negligent and excessive use violates the implied obligations of lessees under the provisions of the Louisiana Mineral Code, including without limitation, La. R.S. 31:122.

37.

Lessees and Exxon Mobil Corporation are liable to the Plaintiff under the doctrine of correlative rights, as set forth in Article 11 of the Louisiana Mineral Code. Lessees have exercised their mineral rights under the applicable leases without reasonable regard to the rights of Plaintiff, and are thus liable for all damages flowing therefrom.

38.

Operators' actions in knowingly disposing of toxic and hazardous materials onto Plaintiff's property, in failing to cleanup said pollution and stop its further migration, in allowing the migration of this pollution to off-site properties, and in failing to properly maintain its facilities where these toxic and hazardous materials were transported, handled, stored and disposed of, constitute "wanton or reckless disregard for public safety in the storage, handling or transportation of hazardous or toxic substances." Operators are therefore liable to the Plaintiff for punitive and exemplary damages based upon their actions from 1984 through 1996 pursuant to La. C.C. art. 2315.3 for all such activities that occurred during the applicable time period of the statute. At all times pertinent hereto, Operators had actual physical possession or control of the toxic and hazardous substances described above. Plaintiff only seeks punitive damages against Operators that performed activities on the Plaintiff's property between 1984 and 1996 – the applicable time period of La. C.C. art 2315.3.

39.

Defendants have been unjustly enriched by their unauthorized storage and disposal of toxic pollution on Plaintiff's property.

40.

Plaintiff, as the property owner, is entitled to demand an accounting of all civil fruits gathered by bad faith possessors pursuant to La. C.C. art. 486, which provides that a possessor in bad faith is liable for the "fruits he has gathered or their value subject to his claim for reimbursement of expenses." Defendants became bad faith possessors, *i.e.* trespassers, when they exceeded the rights granted to them by storing toxic pollution and other waste on or in the groundwater and soils underlying Plaintiff's property without consent. Defendants derived a substantial economic benefit from this trespass – rent-free storage of the toxic waste. This unpaid rent is a civil fruit, and Plaintiff is entitled to demand an accounting for Defendants' bad faith gathering of this civil fruit.

41.

The State and Local Coastal Resources Management Act of 1978 and related coastal zone regulations bearing directly on oil and gas activities impose a litany of duties and obligations expressly designed to minimize adverse ecological, hydrological, topographical, and other environmental effects associated with such activities. Pursuant to the state regulatory framework, Operators were obligated to plan, site, design, construct, operate, and maintain their uses and activities to avoid adverse environmental impacts. Operators failed to comply with these regulatory obligations which include, but are not limited to:

Linear facilities shall be planned, designed, located, and built using the best practical techniques to minimize disruption of natural hydrologic and sediment transport patterns, sheet flow, and water quality and to minimize adverse impacts on wetlands.⁵

Linear facilities shall be planned, designed, and built using the best practical techniques to prevent bank slumping and erosion, and saltwater intrusion, and to minimize the potential for inland movement of storm-generated surges. Consideration shall be given to the use of locks in navigation canals and channels which connect more saline areas with fresher areas.⁶

⁵ 43 La. Admin. Code Part I § 705 I.

⁶ 43 La. Admin. Code Part I § 705 J.

Mineral exploration and production facilities shall be to the maximum extent practicable designed, constructed, and maintained in such a manner to maintain natural water flow regimes, avoid blocking surface drainage, and avoid erosion.⁷

Mineral exploration, production, and refining facilities shall be designed and constructed using best practical techniques to minimize adverse environmental impacts.⁸

Mineral exploration and production sites shall be cleared, revegetated, detoxified, and otherwise restored as near as practicable to their original condition upon termination of operations to the maximum extent practicable.⁹

Areas dredged for linear facilities shall be backfilled or otherwise restored to the pre-existing condition upon cessation of use for navigation purposes to the maximum extent practicable.¹⁰

This legal framework establishes a standard of care under Louisiana law that Operators owed and knowingly undertook when they engaged in oil and gas activities as described herein, and which Operators have breached. Furthermore, the above-mentioned statutory and regulatory schemes created numerous individual obligations under Louisiana law between Defendants and governmental bodies of which Plaintiff is the third-party beneficiary.

42.

Plaintiff is entitled to recover money damages equal to the cost to conduct a comprehensive and expedited environmental assessment of all present and yet unidentified pollution and contamination of its property.

43.

As the owner of a mineral servitude on Plaintiff's property, Exxon Mobil Corporation is entitled to use only so much of Plaintiff's property as is reasonably necessary to conduct its operations and is obligated, insofar as practicable, to restore the surface of Plaintiff's property to its original condition at the earliest reasonable time pursuant to La. R.S. 31:22.

44.

In summary, the Plaintiff has stated causes of action in tort and separate causes of action for breach of contract under the applicable leases and servitudes, the Louisiana Mineral Code

⁷ 43 La. Admin. Code Part I § 719 D.

⁸ 43 La. Admin. Code Part I § 719 J.

⁹ 43 La. Admin. Code Part I § 719 M.

¹⁰ 43 La. Admin. Code Part I § 705 N.

and Louisiana Civil Code, and for breach of implied obligations under the Louisiana Mineral Code and Louisiana Civil Code, and is entitled to the following damages:

1. Sufficient funds to conduct a complete scientific analysis of the extent and nature of the contamination and land loss on its property associated Defendants' operations of waste pits, tank batteries, production and/or injection wells, pipelines, and other oil and gas related facilities and equipment;
2. The cost to remediate and restore the property to its pre-polluted original condition and to repair land loss occasioned by Defendants' activities;
3. Punitive or exemplary damages;
4. Damages for any civil fruits derived from Defendants' illegal trespass and the unauthorized use of Plaintiff's property to store and dispose of their wastes without consent or compensation to Plaintiff from time of placement to time of final removal, or in the alternative, an award of unjust enrichment damages for this trespass and unauthorized use;
5. An award of stigma damages for diminution in property value before, during and after restoration;
6. Damages for annoyance, discomfort and inconvenience occasioned by nuisance created by Defendants, including loss of full use and enjoyment of Plaintiff's property; and
7. All other consequential damages, both foreseeable and unforeseeable, that relate to Lessees' breach of contract, including the costs and attorney's fees incurred in bringing this action.

45.

Plaintiff affirmatively alleges that damages awarded by the court for remediation will be used to clean up the above described contamination. Plaintiff is entitled to sufficient damages to restore its property as near as possible to its original condition. Plaintiff has personal reasons for wishing to commit the sums awarded for remediation to clean up the affected property.

46.

Plaintiff herein expressly does not pursue any Defendants for federal claims or claims that have been discharged in bankruptcy, and if a party has filed or intends to file for bankruptcy concerning any of the claims alleged herein, it is the express intention of Plaintiff not to pursue those claims or party or parties in this action, even if such party has been inadvertently named as a defendant above.

47.

Plaintiff affirmatively alleges that damages awarded by the court for remediation pursuant to La. R.S. 30:29 will be used to clean up the above described contamination. Plaintiff is entitled to a judgment ordering damages for, or implementation of, additional remediation in

excess of the requirements of La. R.S. 30:29 pursuant to express or implied provisions of contracts to which Plaintiff is a party or third party beneficiary.

48.

The Defendants share a community of interest in the outcome of this lawsuit. The obligations owed by Lessees, Operators, and Exxon are indivisible, and, as such, Defendants are jointly and solidarily liable to remediate and restore the environmental damage on Plaintiff's property. Defendants are liable to Plaintiff *in solido* for damages.

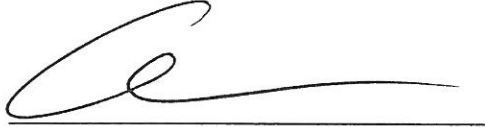
49.

Plaintiff requests trial by jury.

WHEREFORE, Plaintiff prays that the Defendants be cited to appear and answer this petition and that after due proceedings had, that there be judgment entered herein as follows:

1. Awarding Plaintiff compensatory damages in an amount to be proven at trial, including payment of the costs to restore land loss and remediate lands with identified and unidentified pollution to its original unpolluted state, an accounting of civil fruits gathered by Defendants as a result of their illegal and bad faith trespass on Plaintiff's property, or, in the alternative to an accounting of civil fruits, unjust enrichment damages for the unauthorized disposal of waste on Plaintiff's property without landowner's consent, and other property damages;
2. Awarding Plaintiff punitive damages;
3. Ordering the Defendants to pay Plaintiff sufficient funds so that Plaintiff may conduct a comprehensive and expedited environmental assessment of Plaintiff's property to identify all hidden or not yet identified pollution on Plaintiff's property;
4. Awarding Plaintiff all costs of this suit and for legal interest therein for any amount awarded from the date of judicial demand until paid; and further awarding Plaintiff judicial interest on all contract claims from the date of breach;
5. Awarding Plaintiff stigma damages for diminution in property value before and after;
6. Ordering a mandatory and prohibitory injunction to restore Plaintiff's property to its pre-contaminated condition and to prevent the migration and spread of toxic and hazardous substances onto Plaintiff's property;
7. Ordering remediation and restoration of Plaintiff's property to its original condition;
8. For all costs and attorneys' fees pursuant to La. R.S. 30:29 and any other applicable provision of law;
9. For all just and equitable relief; and
10. For all damages as are reasonable in the premises.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have, on this date, served the above and foregoing First Supplemental and Amending Petition for Damages on all parties, through their counsel of record, by e-mail, fax, hand delivery, and/or by placing a copy of the same in the United States Mail, postage prepaid and properly addressed, on this the 2nd day of October, 2015.



Emma Elizabeth Antin Daschbach

FILED

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CLERK OF COURT

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