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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

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LORETTA G. WHYTE
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

COMPLAINT-CLASS ACTION:

ROY AND MARGARET BLANCHARD,
CHRISTOPHER AND GLENDA JENKINS,
individually and as owners of the
"CAJUN KITCHEN OF PLAQUEMINES, INC.",
I.F. HINGLE, JR. and KATHLEEN AND
ALLEN KETNOR

CIVIL ACTION NO. 05-4198

~~FILE~~ **B MAG. 1**

Class Representatives

VERSUS

SECTION _____

SUNDOWN ENERGY, LP

MAGISTRATE _____

JURY DEMANDED

CLASS ACTION COMPLAINT

NOW INTO COURT, by and through undersigned counsel, comes Roy and Margaret Blanchard, Christopher and Glenda Jenkins, individually and as owners of the "Cajun Kitchen of Plaquemines, Inc.", I.F. Hingle, Jr. and Kathleen and Allen Ketnor, all of the full age of majority, (hereinafter claimants and/or "class representatives") and residents of Plaquemines Parish,

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Louisiana, who, appearing herein through this Complaint pursuant to Federal Rule of Civil Procedure 23(a) and (b)(1), as representatives of all persons similarly situated, having a common and undivided interest in the subject matter of this litigation, and individually, respectfully represent that:

1.

Made defendant herein is SUNDOWN ENERGY, LP (hereinafter "Sundown") a Texas company whose principal place of business is located in Dallas, Texas, who for all pertinent times hereto is owner and operator of a petroleum operations, including, but not limited to petroleum storage facilities located in or near Port Sulphur, Louisiana in the area known as the West Potash Field (or Slater Field) within Plaquemines Parish, Louisiana.

JURISDICTION

2.

This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 as the parties are diverse.

VENUE

3.

Venue is proper in this Court as the tortious acts complained of herein occurred within the Eastern District of Louisiana.

CLASS ACTION CLAIM

4.

The Class

The class consists of all property owners of Plaquemines Parish who have had real or personal property damaged and/or irrevocably destroyed as a result of the negligent release of substantial quantities of petroleum hydrocarbons onto property in or near Port Sulphur, Louisiana in the area known as the West Potash Field (or Slater Field).

5.

Numerosity

This action is maintainable as a class action because the size of the class is so numerous (at least 300 residences and businesses of the parish have been affected) that joinder of all members would be impracticable.

6.

Commonality

There are common issues of law and fact as to (1) whether SUNDOWN is liable to the Plaquemines Parish residence for negligently allowing the release of substantial quantities of petroleum hydrocarbons into and onto property owned by the residents and/or business owners of Plaquemines Parish; (2) whether SUNDOWN is liable to the claimants for failure to contain the spill; (3) whether SUNDOWN is liable pursuant to Louisiana Code Article 2317 for damage to the movable and immovable property of the claimants; (4) Sundown's negligence is ultimately found to prolong the time in which claimants cannot return to their property; (5) whether the

claimants' property is permanently damaged so that their property's fair market value is diminished; and (5) the extent of damages caused by the defendant's negligence.

7.

Class Representatives

The above-named class representatives are adequate representatives of the class:

For all times herein pertinent, Claimants, Roy and Margaret Blanchard, Christopher and Glenda Jenkins, individually and as owners of the "Cajun Kitchen of Plaquemines, Inc.", I.F. Hingle, Jr. and Kathleen and Allen Ketnor were residents and property owners who owned property in or adjacent to the West Potash Field, Port Sulphur, Louisiana whose property has been contaminated with petroleum hydrocarbons released by SUNDOWN.

THE CAUSE OF ACTION

8.

On information and belief, on or about August 29, 2005, SUNDOWN released substantial quantities of petroleum hydrocarbons onto each of the properties owned and/or leased by class members as described herein and caused irrevocable damage to that property.

9.

On information and belief, the release of the petroleum hydrocarbons was not as a result of an act of God, but the direct negligence of SUNDOWN.

10.

Adequacy of Representation

Claimants are being represented by Scott R. Bickford, John R. Martzell, Chris Sherwood,

Spencer Doody and Brock Dupre of the firm of Martzell and Bickford. Messrs. Bickford Martzell and Sherwood have represented multiple private landowners and multiple political subdivisions in Louisiana against defendants who have allegedly contaminated those represented properties with petroleum hydrocarbons. Among those entities are Plaquemines Parish, the Lafourche Basin Levee District, the West Jefferson Levee District, the Lafourche Parish School Board, and the St. Mary's Parish School Board. Further, Messrs. Bickford and Martzell have pursued numerous Class action lawsuits in Federal and State courts. Moreover, Claimants are represented by Charles J. Ballay, Stephen C. Braud and Adrian A. Colon, Jr. of the firm of Ballay, Braud & Colon. Messrs. Ballay, Braud and Colon have represented the interests of individuals and businesses in Plaquemines Parish for over 25 years including the handling of class actions, oil and gas, property damage, business litigation and toxic/chemical tort claims.

11.

As a result of their injuries, Representative Claimants and the class of individuals represented by the claimants have sustained damages to their individual properties in the form of irrevocable contamination, diminution in property value, loss of use and other damages which may later be discovered.

JURY DEMAND

12.


Claimants respectfully request a trial by jury on all issues.

WHEREFORE, Claimants, Roy and Margaret Blanchard, Christopher and Glenda Jenkins, individually and as owners of the "Cajun Kitchen of Plaquemines, Inc.", I.F. Hingle, Jr.

and Kathleen and Allen Ketnor respectfully request that an expedited hearing be set to certify the class in this matter and that later a trial be held. Further, Claimants pray for a trial by jury on all issues and that the Defendant, SUNDOWN ENERGY, LP be cited to appear and answer herein as the law directs, and that upon final hearing hereof, there be a determination of liability on each of the claims against Defendant and a finding of monetary damages for the losses the class has sustained, together with their costs and disbursements herein, and interest on said judgment from the date thereof until paid at the interest rate at the time of judicial demand and for such other and further relief, special and general, at law and in equity, to which Plaintiffs may be entitled.

Respectfully submitted,

MARTZELL & BICKFORD



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