

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
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LORETTA G. WHYTE
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

PATRICK JOSEPH TURNER,
Individually and as Representative
of Similarly Situated Persons

* DOCKET NO. 05-4206

versus

* JUDGE: HON. ELDON E. FALLON

MURPHY OIL USA, INC.

* JURY TRIAL REQUESTED
*

THIS DOCUMENT RELATES TO ALL CASES

CLASS ACTION ADMINISTRATIVE MASTER COMPLAINT

THE COMPLAINT of certain persons of the full age of majority, more specifically referred to herein who appear both individually and on behalf of all others similarly situated, through undersigned counsel, respectfully represents that:

I. INTRODUCTION

1. Named Plaintiffs and Putative Class Members submit this Administrative Master Complaint (hereinafter "AMC") pursuant to the Court's direction and request.

2. This AMC is purely an administrative device to streamline pleadings and motion practice, and is done solely for the convenience of the Court and the parties.

3. This AMC shall not affect any substantive or legal rights and does not supplant or supersede any Complaint subject to these consolidated and/or cumulated proceedings. This AMC incorporates all parties to proceedings consolidated or cumulated before this Court,

Fee _____
Process _____
X Dktd _____
CtRmDep _____
Doc. No. _____

including those named in any and all subsequently-filed actions which are later transferred to this Court.

4. This AMC does not merge the above-referenced suits into a single cause or alter the rights of any party in any respect.

5. This AMC shall not be given the same effect as an ordinary complaint, but shall only be considered as an administrative device to aid efficiency and economy. See In re: Propulsid Products Liability, 208 F.R.D. 133 (E.D. La. 2002).

II. PARTIES

6. All Plaintiffs Named in any Complaint or Petition whose suits have been consolidated or cumulated herein (hereafter referred to as "Named Plaintiffs"), seek the certification of a class action consisting of:

All persons and/or entities in the Parish of St. Bernard, State of Louisiana, who/which have sustained injuries, loss, and/or damages as a result of the September 2005 spill of what is estimated to be over 125,000 barrels, or over 1 million gallons, of crude oil and other petroleum hydrocarbons, together with the known hazardous components of those substances, from a storage tank located on the premises of the refinery owned and/or operated by Defendant, Murphy Oil, U.S.A., Inc. and/or Murphy Oil Corporation in Meraux, Louisiana. The more precise definition of the proposed class, including its geographic boundaries, will be set forth in Named Plaintiffs' class certification motion and supporting evidence.

7. Made defendants herein are Murphy Oil, U.S.A. Inc. and/or Murphy Oil Corporation (hereafter "Murphy Oil") a foreign corporation authorized to do and doing business in the State of Louisiana, Parish of St. Bernard, which, at all time material hereto, owned, operated, maintained, managed and had custody and control of the facility located in the Parish of St. Bernard, Louisiana, locally known and herein sometimes referred to as the "Murphy Oil Refinery."

III. JURISDICTION AND VENUE

8. Pursuant to 28 U.S.C §1332, this Court has subject matter jurisdiction over the claims asserted herein because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and because Named Plaintiffs and Defendant Murphy Oil are citizens of different states.

9. This Court also has subject matter jurisdiction pursuant to the 28 U.S.C. §1332(d)(2), as the underlying cases are class actions with at least minimal diversity, and the amount in controversy exceeds the sum or value of five million dollars, exclusive of interest and costs.

10. Further, this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, as this action is brought, in part, under the Oil Pollution Act, 33 U.S.C. § 2701, *et seq.*

11. Venue is proper in the Eastern District of Louisiana pursuant to 28 U.S.C. §1391, as the oil spill occurred in this district, and Named Plaintiffs' injuries were sustained in this district.

IV. FACTS AND GENERAL ALLGATIONS

12. Defendant Murphy Oil produces refined petroleum products for distribution in the Gulf Coast Market at a facility in Mereaux, Louisiana at the rate of approximately 125,000 barrels per day. The Murphy Oil Refinery, which is adjacent to the Mississippi River, is located at 2500 East St. Bernard Highway in Meraux, Louisiana, and in close proximity to numerous residential neighborhoods and businesses in St. Bernard Parish.

13. On Friday, August 26, 2005, Louisiana Governor Kathleen Babineaux Blanco and Mississippi Governor Haley Barbour both declared States of Emergency within their respective

jurisdictions, based on the projection that Hurricane Katrina, headed towards the Louisiana coastline, would make landfall on either Sunday, August 28, 2005, or Monday, August 29, 2005.

14. On Saturday, August 27, 2005, President Bush declared a Federal State of Emergency in Louisiana, giving the Federal Emergency Management Agency (“FEMA”), via the Department of Homeland Security, the full authority to mobilize equipment and other resources necessary to prepare for the hurricane’s impact.

15. At approximately 6:10 a.m. on Monday August 29, 2005, Hurricane Katrina made landfall in Southeast Louisiana as a category 4 or 5 hurricane.

16. Despite being located in a coastal Louisiana Parish with known vulnerability to hurricanes, Defendant Murphy Oil failed to promulgate, implement, enforce and/or take adequate protective measures to ensure that oil and petroleum hydrocarbons would not spill or escape from its facilities through the rupture, compromise, or failure of one of its storage tanks, and thereby impact the adjacent residential and business communities.

17. Further, despite the declarations of states of emergency and multiple warnings regarding Hurricane Katrina’s strength and severity, Defendant Murphy Oil failed to take satisfactory precautions to ensure that the oil at its facility was properly and securely stored.

18. The Defendant’s acts, all of which constituted negligence and/or fault, directly and/or proximately caused one or more of Murphy Oil’s storage tanks to release crude oil and petroleum hydrocarbons due to dislodging, puncture, buckling, floating, improper anchoring, or other structural compromise. The failure of the storage tank occurred at some point either during Hurricane Katrina or in its aftermath, causing more than 125,000 barrels, i.e., more than 1 million gallons, of crude oil to spill into the surrounding environment. The released materials ultimately contaminated Named Plaintiffs’ and Putative Class Members’ land, homes,

immovable property, movable property, environment, and/or business entities by spilling into much of the eastern part of St. Bernard Parish.

19. The crude oil and other petroleum hydrocarbons that spilled into St. Bernard Parish are hazardous materials.

20. The crude oil and other petroleum hydrocarbons that spilled into St. Bernard Parish are toxic substances.

21. The crude oil and other petroleum hydrocarbons that spilled into St. Bernard Parish present significant, potential health hazards to humans.

22. The crude oil and other petroleum hydrocarbons that spilled into St. Bernard Parish created significant, potential health hazards to the surrounding environment, including but not limited to, natural resources, vegetation, wildlife, and domesticated animals.

23. The release of crude oil and other petroleum hydrocarbons was not the result of an act of God, or *force majeure*, but instead, was directly and/or proximately caused by Defendant's negligence and fault.

24. Accordingly, named Plaintiffs and Putative Class Members assert claims against Defendant based on the following legal theories:

- a. negligence;
- b. absolute and strict liability;
- c. trespass;
- d. nuisance;
- e. fraud;
- f. intentional conduct; and
- g. breach of both state and federal statutory duties as more fully asserted herein.

25. As a result of Defendant's conduct, Named Plaintiffs and Putative Class Members have sustained compensatory damages including, but not limited to: contamination of property (both immovable and movable), need for homogenous restoration, loss of use of property, increased living expenses, extended displacement costs, diminution of property value, ecological damages, loss of income, lost profits, lost business opportunity, inconvenience, mental anguish, emotional distress, bodily harm, past and future medical expenses, fear of cancer and/or other disease, and all other damages as are reasonable in the premises.

V. CLASS ACTION ALLEGATIONS

26. For the following reasons, this action is appropriate for disposition as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure:

- A. The large number of potential claimants herein can and will be adjudicated through the class action procedure more efficiently, compared to a mass joinder of individual claims;
- B. Common issues of law and fact pertaining to the determination of fault and to liability for damages predominate over individual issues such as quantum;
- C. The claims of, and issues pertaining to, Named Plaintiffs are typical of all persons similarly situated in the class as defined above;
- D. The determination of fault and the basis for assessing damages may be adjudicated through the class action procedure without the necessity of contemporaneous trials as to amount due individual claimants, allowing the class action procedure to be utilized to establish guidelines for either settlement or for subsequent individual trials on damage issues, if necessary;

- E. Named Plaintiffs and Class Representatives, who may be determined in the Class Certification Motion, are suitable, and would be adequate, representatives of the class;
- F. Named Plaintiffs herein are represented by attorneys who are experienced in class action procedure and who can be expected to prosecute this matter for the best interests of the class members;
- G. The class action procedure is a superior vehicle to dispose of the issues and claims presented herein in an efficient manner.

COUNT I: CAUSE OF ACTION FOR NEGLIGENCE

27. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

28. Defendant Murphy Oil has a duty to conduct itself and its operations in a safe manner and to operate and maintain its facility so as to prevent oil spills that would endanger the surrounding communities.

29. The injuries, offenses and damages described herein were caused through no fault of the Named Plaintiffs and Putative Class Members herein, but were directly and/or proximately caused solely through the negligence, recklessness, carelessness, and fault of Defendant Murphy Oil as set forth in the following non-exclusive particulars:

- a. Defendant Murphy Oil allowed a hazardous condition to exist in its refinery where vast amounts of petroleum hydrocarbons and other hazardous and toxic materials were allowed to escape the Murphy Oil Refinery's boundaries;

- b. Defendant Murphy Oil negligently designed, constructed and/or maintained storage tank(s) located at the Murphy Oil Refinery from which the spill occurred;
- c. Defendant Murphy Oil failed to implement and/or enact a reasonable plan to prevent or lessen the likelihood of an oil spill from the Murphy Oil Refinery in the event of a hurricane or other foreseeable weather event, despite the fact that the resulting potential for harm to others, such as the Named Plaintiffs and Putative Class Members, all of whom reside in and/or own property and/or businesses in close proximity to the Murphy Oil Refinery, was reasonably foreseeable;
- d. Defendant Murphy Oil failed to install or utilize equipment or machinery that would prevent or lessen the likelihood of an oil spill from the Murphy Oil Refinery in the event of a hurricane or other foreseeable weather event, particularly where the potential for great harm to others, such as the Named Plaintiffs and Putative Class Members, who reside, own property and/or businesses in close proximity to the Murphy Oil Refinery, was reasonably foreseeable;
- e. Defendant Murphy Oil failed to follow established safety and operating procedures to prevent or lessen the likelihood of an oil spill from the Murphy Oil Refinery in the event of a hurricane or other foreseeable weather event, despite the fact that the potential for great harm to others, such as the Named Plaintiffs and Putative Class Members, was reasonably foreseeable;

- f. Defendant Murphy Oil failed to promulgate, implement, and/or enforce rules and regulations pertaining to the safe operation of its refining and storage process which would have averted the release or, at a minimum, lessened its impact;
- g. Defendant Murphy Oil failed to drain or otherwise empty the storage tanks containing crude oil and other petroleum hydrocarbons prior to landfall by Hurricane Katrina;
- h. Defendant Murphy Oil failed to discover or repair the damage or defect in the crude oil storage tank and/or retention mechanisms within the Murphy Oil Refinery;
- i. Defendant Murphy Oil failed to adequately prepare for the possibility of an excessive discharge of hazardous substances from its refinery, foreseeable in the operation of the Murphy Oil Refinery and its appurtenances;
- j. Defendant Murphy Oil allowed a hazardous condition to exist at its facility, consisting of faulty, damaged, and/or inadequate equipment;
- k. Defendant Murphy Oil failed to erect safe and sufficient barriers or other such devices on the refinery premises to reduce the potential for dangerous releases and their resultant damages;
- l. Defendant Murphy Oil failed to properly anchor its storage tank(s);
- m. Defendant Murphy Oil acted in a careless and/or negligent manner without due regard for the safety of others;
- n. Defendant Murphy Oil acted with indifference, or with a lack of appreciation for the potential injury and damage which ultimately befell Named Plaintiffs and Putative Class Members;

- o. Defendant Murphy Oil acted in a manner lacking prudence or skill in preventing injury to the legally protected interests of the Named Plaintiffs and Putative Class Members;
- p. Defendant Murphy Oil failed to properly store or contain hazardous materials;
- q. Defendant Murphy Oil inadequately and negligently trained and hired its personnel, agents, contractors, and/or employees;
- r. Defendant Murphy Oil created a public health hazard, subjecting Named Plaintiffs and Putative Class Members to the present invasion of their rights to be secure in their persons, properties, and businesses;
- s. Defendant Murphy Oil failed to warn the Named Plaintiffs and Putative Class Members of the potential dangers of its operations;
- t. Defendant Murphy Oil hired or employed contractors or other persons to perform services at the Murphy Refinery who, due to want of skill or prudence, lacked the requisite ability necessary to perform these services in a safe and prudent manner;
- u. Defendant Murphy Oil failed to take appropriate action to mitigate the damage by speedily responding to the oil spill and taking steps necessary for a full scale remediation and restoration;
- v. Defendant Murphy Oil failed to properly inspect, maintain, and repair the tank and other equipment in question;
- w. Defendant Murphy Oil failed to warn and advise the Named Plaintiffs and Putative Class Members of the dangers to their health upon return to their properties contaminated by crude oil and other petroleum hydrocarbons and its contaminants;

- x. Defendant Murphy Oil failed to adequately advise residents returning to their properties affected by the spill of the health risks associated with contact with crude oil and other petroleum hydrocarbons, and failed to advise Named Plaintiffs and Putative class members of protective measures, instead, advising them that no health risks were present;
- y. Defendant Murphy Oil failed to adequately implement a plan of homogenous restoration of properties it contaminated to prevent the migration of contaminated materials through hydrological pathways or other means onto the property of Named Plaintiffs and Putative Class Members;
- z. Defendant Murphy Oil failed to conform to state law, federal law, and other regulations governing oil refining and storage practices;
- aa. Defendant Murphy Oil failed to conform to a reasonable standard of conduct under all of the circumstances;
- bb. Such other and further particulars as may be found during discovery.

30. As a direct and proximate result of Defendant Murphy Oil's willful, wanton, reckless, grossly negligent, and negligent acts as set out above, the Named Plaintiffs and Putative Class Members suffered injury and damages.

31. The injuries, offenses, and damages set out herein were caused through no fault of the Named Plaintiffs or Putative Class members, but were caused by acts or omissions of Defendant Murphy Oil. These acts or omissions may be beyond proof by Named Plaintiffs and Putative Class Members, but were within the knowledge and control of Defendant Murphy Oil. Because there is no other possible conclusion than that the release of crude oil and petroleum hydrocarbons resulted from the negligence of Defendant Murphy Oil, and because such

negligence was within the scope of Defendant Murphy Oil's duty, Named Plaintiffs and Putative Class Members specifically plead application of the doctrine of *res ipsa loquitur*.

32. Due to the willful, wanton, reckless, grossly negligent, intentional, and negligent acts of Defendant Murphy Oil, as well as its violation of state law and federal laws, Named Plaintiff and Putative Class Members are entitled to recover damages as set forth herein.

33. Since Named Plaintiffs and Putative Class Members are within the class and category of individuals and/or entities meant to be protected by the state and federal statutory and regulatory laws which Murphy Oil violated, Named Plaintiffs and Putative Class Members specifically plead application of the doctrine of negligence *per se*.

**COUNT II: CAUSE OF ACTION FOR ABSOLUTE LIABILITY PURSUANT TO
LOUISIANA CIVIL CODE ARTICLES 667 AND 2315**

34. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

35. Pursuant to Louisiana Civil Code Article 667, a servitude exists in favor of Named Plaintiffs and Putative Class Members prohibiting Defendant Murphy Oil from conducting activities and/or making works upon its property which are injurious to neighboring estates.

36. Defendant has acted in violation of the servitude by conducting activities and making works upon its property which have damaged the properties of Named Plaintiffs and Putative Class Members, and have deprived them of the liberty of enjoying their property. These activities include, but are not limited to, the improper remediation and the failure to conduct complete restoration of all property protected by the servitude, including properties neighboring and/or adjacent to the property of Named Plaintiffs' and Putative Class Members.

37. The refining and storing of crude oil and other petroleum hydrocarbons is, by its nature, a hazardous activity that presents an unreasonable risk of harm, irrespective of protective measures taken by Defendant Murphy Oil.

38. Because the activities conducted by Murphy Oil, including the refining and storing of hazardous crude oil, present such an unreasonable risk of harm, Defendant Murphy Oil is absolutely liable for damages resulting from these activities regardless of its knowledge or its exercise of reasonable care, under Louisiana Civil Code Articles 667 and 2315 and the Louisiana Supreme Court's decision in *Kent v. Gulf States Utilities*, 418 So.2d 493 (La. 1982).

39. As both a cause in fact and legal cause of the conducting of ultrahazardous activities on its premises, Defendant Murphy Oil caused Named Plaintiffs' and Putative Class Members' damages as set forth above.

40. In the alternative, and only in the alternative, if a determination is made that the storage and release of crude oil and other petroleum hydrocarbons does not constitute an ultrahazardous activity, Named Plaintiffs and Putative Class Members still enjoy the servitude set forth in Louisiana Civil Code Article 667, and are entitled to recover actual damages, including but not limited to, homogenous restoration, because Defendant failed to exercise reasonable care, as set forth in Count I above.

**COUNT III: CAUSES OF ACTION FOR NEGLIGENT CONDUCT, INTENTIONAL
CONDUCT, AND STRICT LIABILITY
PURSUANT TO COMMON LAW**

41. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

42. In refining and storing hazardous crude oil, Defendant Murphy Oil is engaged in ultra-hazardous activities and the use of dangerous instrumentalities. As such, Defendant

Murphy Oil is strictly liable for any damages that arise from those ultra-hazardous activities and use of dangerous instrumentalities.

43. As a direct and proximate result of the ultra-hazardous activities and use of dangerous instrumentalities by Defendant Murphy Oil, Named Plaintiff and Putative Class Members suffered damages.

44. Pursuant to common law strict liability, the application of which is appropriate as to certain issues and claims under Louisiana choice-of-law provisions, Defendant Murphy Oil is strictly liable for the damages and injuries of Named Plaintiff and Putative Class Members as alleged herein.

45. Defendant Murphy Oil knew or should have known, in light of the circumstances as outlined herein, that its acts and omissions would naturally and probably result in the release of crude oil and petroleum hydrocarbons and Defendant Murphy Oil continued such conduct with reckless disregard of the consequences.

46. Defendant Murphy Oil intentionally pursued a course of conduct that resulted in the release of crude oil and petroleum hydrocarbons.

47. Due to Defendant Murphy Oil's fault, negligence, and strict liability, under applicable common law, Named Plaintiff and Putative Class Members are entitled to recover both actual damages and punitive damages.

COUNT IV: CAUSES OF ACTION FOR STRICT LIABILITY
PURSUANT TO LOUISIANA CIVIL CODE ARTICLES 2317 AND 2322

48. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

49. At all times herein, Defendant Murphy Oil was the owner and/or custodian of the storage tank(s) from which the oil and other petroleum hydrocarbons were released.

50. At all times relevant to this action, Defendant Murphy Oil had supervision, custody, and control of the aforementioned storage tank(s), from which the oil spill described herein originated.

51. At all times herein, under Louisiana Civil Code Article 2317, Defendant Murphy Oil was under a continuing duty to protect Named Plaintiffs and Putative Class Members from the harm occasioned by things within its custody or *garde*, including but not limited to, its storage tanks that released hazardous oil and other petroleum hydrocarbons.

52. The spill herein was occasioned by the ruin, vice, or defect of Defendant Murphy Oil's storage tank(s) and, pursuant to Louisiana Civil Code Article 2322, said ruin, vice, or defect presented an unreasonable risk of harm to Named Plaintiffs and Putative Class Members.

53. Named Plaintiffs and Putative Class Members injuries were caused by the ruin, vice and/or defective condition of the storage tank(s).

54. Due to Defendant Murphy Oil's strict liability, Named Plaintiffs and Putative Class Members are entitled to recover actual damages.

COUNT V: CAUSES OF ACTION FOR NUISANCE AND TRESPASS

55. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

56. Pursuant to Louisiana Civil Code Articles 3421 and 3425, Named Plaintiffs and Putative Class Members have actual and exclusive possession of and/or ownership to immovable and movable property which has been damaged by Defendant Murphy Oil's spill.

57. Defendant Murphy Oil, by allowing crude oil and toxic, hazardous chemicals to invade and trespass upon Named Plaintiffs' and Putative Class Members' homes and businesses, has interfered with the Named Plaintiffs' and Putative Class Members' quiet and exclusive

possession and enjoyment of their movable and immovable property, such as to constitute the torts of nuisance and trespass under Louisiana Civil Code Article 2315.

58. The oil released from the Defendant Murphy Oil's facility continues to be present upon the property, both movable and immovable, of Named Plaintiffs and Putative Class Members, and constitutes a continuing and ongoing trespass of Named Plaintiffs' and Putative Class Members' property, which has not yet been properly abated.

59. The nuisance created by Defendant Murphy Oil has directly resulted in damages to the movable and immovable property of Named Plaintiffs and Putative Class Members.

COUNT VI: CAUSES OF ACTION PURSUANT TO CERCLA, RCRA AND OPA

60. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

61. As stated above, this Administrative Master Complaint shall not be given the same effect as an ordinary complaint, but shall only be considered as an administrative device to aid efficiency and economy. Through this administrative device, Named Plaintiffs and Putative Class Members hereby notify the Court and Defendant Murphy Oil of the intent to assert causes of action pursuant to CERCLA and RCRA at the appropriate time.

62. Under the Oil Pollution Act of 1990, 33 U.S.C. §2702, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines is liable for the removal costs and damages caused as a result thereof.

63. As the responsible party for the oil spill, under the federal statutes cited herein, Defendant Murphy Oil is strictly liable for all of the damages and clean-up costs, including homogenous restoration, resulting from the spill described herein.

**COUNT VII: CAUSE OF ACTION PURSUANT TO
LOUISIANA REVISED STATUTE § 30:2015.1**

64. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

65. Crude oil, petroleum hydrocarbons and other contaminants are known to migrate through hydrological pathways and through other means such as to cause a real threat and/or to impact to usable groundwater.

66. Upon information and belief, Defendant Murphy Oil's release of crude oil, petroleum hydrocarbons and other contaminants threatens or has impacted usable groundwater.

67. Under Louisiana Revised Statute § 30:2015.1, the party responsible for threatening or contaminating usable ground water is responsible for the evaluation and remediation of any contamination or pollution that threatens or impacts usable groundwater.

68. As the responsible party for the oil spill, under the state statute cited herein, Defendant Murphy Oil is strictly liable for all of the damages resulting from the oil release incident described in this complaint, including evaluation and homogenous remediation of any threat to or actual contamination of the usable groundwater.

VIII: CAUSE OF ACTION FOR FRAUD

69. Named Plaintiffs and Putative Class Members repeat and re-allege the factual and jurisdictional allegations as though fully set forth herein verbatim.

70. In a letter, dated September 21, 2005, posted on Defendant Murphy Oil's website www.murphyoilcorp.com, from their hired experts Center for Toxicology and Environmental Health ("CTEH"), it was asserted that: "The presence of petroleum from the oil spill in some of

the homes poses no additional hazard to homeowners during the scheduled visits and no additional personal protective equipment is required.”

71. In a “Question & Answers” document also located on Defendant Murphy Oil’s website, Defendant Murphy Oil states: “Nearly all of the oil spill has been recovered or evaporated. The Center for Toxicology and Environmental Health conducted extensive testing in St. Bernard Parish and has concluded that after any residual oil is cleaned from homes and lots, the crude oil will not present short or long term health or safety concerns.”

72. In a second letter, dated October 21, 2005 and posted on Defendant Murphy Oil’s website, from their hired experts CTEH, it was asserted: “Thus, we feel confident that based on the testing thus far, and the planned cleanup program, there should not be any long-term exposures to oil above RECAP standards and therefore the spill should not be expected to present any long term health and safety issues.”

73. The United States Environmental Protection Agency (EPA) reported on or about November 10, 2005, on their official website (<http://www.epa.gov/katrina/testresults/>) that an estimated 1,700 homes around the Murphy Oil spill in Chalmette are considered unsafe to enter without protective gear, after soil samples showed the widespread presence of toxic chemicals, including toxic levels of arsenic.

74. The United States EPA also reported that of the 65,000 barrels of substances it believed was released from the Murphy Oil Refinery only 18,000 barrels have been recovered.

75. Nonetheless, Defendant Murphy Oil continues to maintain its inaccurate representations by leaving unaltered and published on their website the statements referred to in paragraphs 70, 71 & 72 herein (without any update or retraction of the false information) that the

areas affected by the release and/or escape of crude oil, other petroleum hydrocarbons and toxic or corrosive chemicals and elements, together with the known hazardous components of those substances, poses any safety hazard to the persons and businesses affected.

76. Defendant Murphy Oil knew that the information being provided to the public, in particular to Named Plaintiffs and Putative Class Members, was false.

77. In particular, Defendant Murphy Oil knew that the statements made and/or endorsed by it as set forth above were false or incapable of being proven true at the time they were made, including but not limited to the statements that the affected areas were safe and posed no short term or long term threat to safety and that they had recovered “nearly all of the oil spill” as previously stated.

78. Defendant Murphy Oil asserted and continues to assert false information to the public, in particular to Named Plaintiffs and Putative Class Members, to obtain an unfair advantage by encouraging early settlement of claims on a reduced value basis.

79. As a result of Defendant Murphy Oil’s fraudulent statements, Named Plaintiffs and Putative Class Members have suffered additional damages by being exposed to these toxic and unsafe materials when they relied upon the fraudulent representations of Defendant and re-entered upon their properties, business, and homes without necessary precautions to safeguard their health and well being.

80. Named Plaintiffs and Putative Class Members have suffered damages in the form of mental and physical pain and suffering, past and future medical expenses, fear of cancer, and mental distress.

JURY DEMAND

81. Named Plaintiffs and Putative Class Members are entitled to and request a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Named Plaintiffs, individually and on behalf of all members of the class as certified by this Honorable Court, pray that Defendant Murphy Oil be served with a copy of this Administrative Master Complaint, and that, after due proceedings:

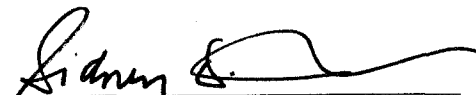
- A. this action be certified under FRCP Rule 23 as a class action, as alleged and defined above, for the purposes of determining the common issues of liability and general causation;
- B. upon certification of the class action, this Court call for the formulation of a suitable management plan;
- C. the right of Named Plaintiffs and members of the class to establish entitlement to compensatory damages be reserved for determination in their individual actions, where appropriate;
- D. there be a judgment herein in favor of Plaintiffs' class against Defendant, for all compensatory damages which are reasonable in the premises, as well as punitive damages, together with legal interest thereon from the date of judicial demand until paid, all costs and expenses of these proceedings, and attorneys' fees;
- E. there be specifically included in the judgment in Plaintiffs' favor, provisions for the following damages and relief:
 - a. damages for contamination of property (both immovable and movable),

- b. the cost of homogenous restoration,
- c. loss of use of property,
- d. increased living expenses,
- e. extended displacement costs,
- f. diminution of property value,
- g. ecological damages,
- h. loss of income,
- i. lost profits,
- j. lost business opportunity,
- k. inconvenience,
- l. mental anguish,
- m. emotional distress,
- n. bodily harm,
- o. past and future medical expenses,
- p. fear of cancer and/or other disease,
- q. appropriate injunctive relief to protect against further harm to Plaintiffs and class members, and
- r. all other damages as are reasonable in the premises.

- F. there be a specific provision in the judgment in favor of Plaintiff's class for the award of penalties available under the applicable law;
- G. payment into the registry of this court of all damages or payments awarded solely for the evaluation and remediation of contamination or pollution that impacts or threatens usable ground water; and
- H. all other general, equitable, injunctive, and further relief as the Court may deem just and proper.

Respectfully submitted,

LAW OFFICES OF SIDNEY D. TORRES, III
A PROFESSIONAL LAW CORPORATION

BY: 

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PLEASE SERVE:

Murphy Oil USA, Inc.
Through its agent for service of process
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Baton Rouge, LA 70809