

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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LORETTA G. WHYTE  
CLERK

COMPLAINT-CLASS ACTION:

JOHN D. and THEONISE WIEMERS MAUS,  
JUDITH M. MAUS, CHARLES AUGUST MAUS,  
MARCEL M. WIENERS and  
CARLA H. VALASKE

CIVIL ACTION NO. 05-4160

*F/3*

Class Representatives

VERSUS

SECTION F

MURPHY OIL USA, INC.  
and/or MURPHY OIL COPORATION

MAGISTRATE 2

JURY DEMANDED

CLASS ACTION COMPLAINT

NOW INTO COURT, by and through undersigned counsel, comes John D. Maus and Theonise Wiemers Maus, Judith M. Maus, Charles August Maus, Marcel M. Wiemers, and Carla H. Valaske, all of the full age of majority, (hereinafter claimants and/or "class representatives") and residents of St Bernard Parish, 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 MURPHY OIL USA, INC. and /or MURPHY OIL CORPORATION (hereinafter "Murphy") a Delaware corporation whose

Class Action Complaint

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Process \_\_\_\_\_  
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principal place of business is located in El Dorado, Arkansas, who for all pertinent times hereto is owner and operator of a refinery and petroleum storage facility located in or near Meraux, Louisiana within St. Bernard 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 tortuous 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 St. Bernard Parish who have had real or personal property damaged and/or irrevocably destroyed as a result of the negligent release of thousands of barrels of petroleum hydrocarbons onto property within St. Bernard Parish.

5.

##### **Numerosity**

This action is maintainable as a class action because the size of the class is so numerous (at least 5000 residences 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 MURPHY is liable to the St. Bernard Parish residence for negligently allowing the release of thousands barrels of petroleum hydrocarbons into and onto property owned by the residents of St. Bernard Parish; (2) whether MURPHY is liable to the people of St. Bernard Parish for failure to contain the spill; (3) whether the MURPHY is liable pursuant to Louisiana Code Article 2317 for damage to the property of the people of St. Bernard Parish; (4) Murphy's negligence is ultimately found to prolong the time in which class members cannot return to their property; (5) whether the class members 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, John D. Maus and Theonise Wiemers Maus, Judith M. Maus, Charles August Maus, Marcel M. Wiemers, and Carla H. Valaske were residents and property owners

in St. Bernard Parish whose property has been contaminated with petroleum hydrocarbons released by **MURPHY**.

#### **THE CAUSE OF ACTION**

8.

On or about September 2, 2005, **MURPHY** released thousands of barrels of petroleum hydrocarbons onto each of the properties owned and/or leases by class members 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 **MURPHY**.

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.

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 irrevocably contamination, diminution in property value, loss of use and other damages which may later be discovered.

**JURY DEMAND**

12.

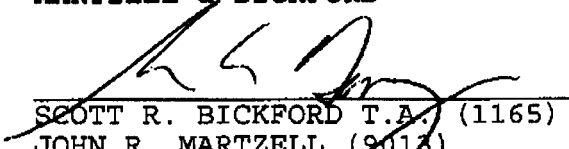
Claimants respectfully request a trial by jury on all issues except for maintenance and cure.

WHEREFORE, Claimants, John D. Maus and Theonise Wiemers Maus, Judith M. Maus, Charles August Maus, Marcel M. Wiemers, and Carla H. Valaske 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, **MURPHY OIL USA, INC.** and/or **MURPHY OIL CORPORATION** 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 his 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 Plaintiff may be entitled.

Respectfully submitted,

**MARTZELL & BICKFORD**



SCOTT R. BICKFORD T.A. (1165)  
JOHN R. MARTZELL (9013)  
CHRISTOPHER H. SHERWOOD (27643)  
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338 Lafayette Street  
New Orleans, Louisiana 70130  
(504) 581-9065  
(504) 581-7635 (facsimile)

**PLEASE SERVE:**

MURPHY OIL USA, INC.  
And MURPHY OIL CORPORATION  
Through its agent for service  
CT Corporation Systems  
8550 United Plaza Blvd.  
Baton Rouge, LA 70809

*830 Main St.  
Baton Rouge, LA 70802*

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