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17<sup>th</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF LAFOURCHE

STATE OF LOUISIANA

DOCKET NO. \_\_\_\_\_

DIVISION \_\_\_\_\_

**THE LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES, ON ITS OWN BEHALF AND ON BEHALF OF THE LOUISIANA WILDLIFE AND FISHERIES COMMISSION; AND STATE OF LOUISIANA EX REL. LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES**

**VERSUS**

**TENNESSEE GAS PIPELINE CO., L.L.C.; GULF SOUTH PIPELINE CO., LLC; CHEVRON U.S.A. INC.; CHEVRON U.S.A. HOLDINGS, INC.; DISCOVERY GAS TRANSMISSION, LLC; SOUTHERN NATURAL GAS COMPANY, L.L.C.; THIRD COAST MONTEGUT, LLC; AND TEXAS EASTERN TRANSMISSION, LP**

FILED: \_\_\_\_\_

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DEPUTY CLERK

**PETITION FOR DAMAGES AND INJUNCTIVE RELIEF**

INTO COURT, through undersigned counsel, come Plaintiffs Louisiana Department of Wildlife and Fisheries (“the Department”), on its own behalf as public trustee of the Pointe aux Chenes Wildlife Management Area and on behalf of the Louisiana Wildlife and Fisheries Commission (“the Commission”), and the State of Louisiana *ex. rel.* Louisiana Department of Wildlife and Fisheries (collectively, the “Plaintiffs”), who file this Petition for Damages and Injunctive Relief against Defendants Tennessee Gas Pipeline Company, L.L.C., Gulf South Pipeline Company, LLC, Chevron U.S.A. Inc., Chevron U.S.A. Holdings, Inc., Discovery Gas Transmission, LLC, Southern Natural Gas Company, L.L.C., Third Coast Montegut, LLC, Texas Eastern Transmission, LP (collectively, the “Defendants”), and allege as follows:

**STATEMENT OF THE CASE**

1.

The Pointe aux Chenes Wildlife Management Area (“WMA”) contains nearly 34,000 acres of coastal wetlands in Lafourche and Terrebonne parishes. The WMA provided excellent habitat for many species of fish and wildlife, such as furbearers, waterfowl, and alligators. The WMA also offers valuable ecological functions and services, including, but not limited to, storm protection for surrounding communities and infrastructure, public recreation, and protection and

enhancement of native habitats. Since 1968, the Commission has owned the WMA,<sup>1</sup> which is managed and operated by the Department to conserve the State's wildlife and fisheries resources and their habitat and to safeguard these natural resources for public purposes.<sup>2</sup>

2.

Within this bastion for natural resource conservation, however, stretch miles of pipeline canals that facilitate the transportation of oil and gas through the wetlands and marsh. The pipeline companies, and ultimately the Defendants, failed to protect the WMA and properly maintain these canals. These failures caused the continuous and foreseeable demise of the public lands located inside the WMA. The failure to protect the WMA and properly maintain the canals has converted vast swaths of land into water by altering hydrology, causing erosion, and inducing and exacerbating subsidence. If left unabated, the eroding canals will continue to enlarge, leading to even more loss of these important landscapes.

3.

The pipeline industry has known for many decades about the damage caused by the failure to properly maintain the pipeline canals. Through their own research and practical experience, pipeline companies knew at least by the 1950s that pipeline canals would widen and contribute to the loss of surrounding lands without protective safeguards and routine maintenance. But instead of instituting regular maintenance programs and taking steps to repair and redress these recognized impacts by the canals, pipeline companies undertook no significant measures to prevent or ameliorate the resulting damage to the land and the losses to the public of resources and protection.

4.

This case concerns the future of the Pointe aux Chenes WMA and the important services and functions it provides. It is also about the Department's duty to conserve and manage "all renewable resources on all wildlife management areas" by requiring Defendants to honor their contractual obligations to safeguard and restore the coastal wetlands entrusted to them and by use of which they have so richly profited.<sup>3</sup> Only by making this demand, as outlined in this action, can the Department and the Commission fulfill their public-trust mission and confront the unnatural

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<sup>1</sup> La. Rev. Stat. § 56: 702, 763, and 781.

<sup>2</sup> La. Rev. Stat. § 36:609.

<sup>3</sup> LA. R.S. § 36:602(B).

threat that now imperils the WMA's ecosystems and all the public benefits derived from its intrinsic natural resources.

## PARTIES

5.

Plaintiff the Louisiana Wildlife and Fisheries Commission, an arm of the state created by the 1974 Louisiana constitution (Article 9, Section 7), which was codified by the Louisiana Legislature in La. R.S. § 36:601 to control and supervise the wildlife of the state, including all aquatic life, owns the Pointe aux Chenes WMA and maintains its principal office at 2000 Quail Drive, Baton Rouge, Louisiana 70898. As an alter ego of the state,<sup>4</sup> the Commission is not a "citizen" for purposes of diversity jurisdiction.

6.

Plaintiff the State ex rel. Louisiana Department of Wildlife and Fisheries,<sup>5</sup> an arm of the state created by the Louisiana Legislature, among other things, to oversee more than 800,000 acres of public lands within the state's coastal zone, conserves and manages all renewable resources on the Pointe aux Chenes WMA. The Department's principal office is at 2000 Quail Drive, Baton Rouge, Louisiana 70898. As an alter ego of the state, the Department is not a "citizen" for purposes of diversity jurisdiction.

7.

The Commission's capacity to sue in the foregoing regard is under La. R.S. § 56:5.

8.

The Department's capacity to sue in the foregoing regard is under La. R.S. § 36:602(A) and 36:602(B). The Department is vested with the authority and duty to conserve natural resources and protect and conserve wildlife management areas and refuges under La. R.S. § 36:602 and § 56:1, et seq.

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<sup>4</sup> The Commission was created by the legislature and was in the first instance created by the constitution. LA. CONST. ANN. Art. IX, § 7. *See also* LA. R.S. § 56:1. The Commission's source of funding is still primarily from the State General Fund. Members of the Commission are appointed by the governor and are confirmed by the state senate, making the Commission a dependent agency. LA. § 56:1. The Commission is concerned with statewide functions and preempts local authority.

<sup>5</sup> The Department was created by the Louisiana Legislature. LA. STAT. ANN. § 36:602. The Department's source of funding is still primarily from the State General Fund. The Department is headed by a secretary who functions under the control and supervision of the governor and serves at the governor's pleasure. LA. STAT. ANN. § 36:604. The Department is concerned with statewide functions and preempts local authority.

9.

In addition, the Department, on its own behalf and on behalf of the Commission, is a public trustee that is constitutionally obligated “to protect, conserve, and replenish all natural resources, including the wildlife and fish of the state, for the benefit of the people.” *State v. McHugh*, 92-KK-1852 (La. 1994), 630 So. 2d 1259, 1265.

10.

On information and belief, Defendant **Tennessee Gas Pipeline Company, L.L.C.** (“Tennessee Gas”), which is named individually and as successor-in-interest to **Tennessee Gas Transmission Company**, is a Delaware limited liability company having its principal place of business in Houston, Texas.<sup>6</sup> Tennessee Gas’s sole member is Kinder Morgan Operating, L.L.C. “A” (“KMOLLCA”). KMOLLCA’s sole member is Kinder Morgan Energy Partners, L.P. (“KMEP”). KMEP has two partners: Kinder Morgan, Inc. and Kinder Morgan, GP, LLC (“KMGP”). KMGP’s sole member is Kinder Morgan, Inc. Kinder Morgan, Inc. is a Delaware corporation with its principal place of business in Texas.<sup>7</sup>

Therefore, on information and belief, Tennessee Gas is a citizen of Delaware and Texas.

11.

On information and belief, Defendant **Gulf South Pipeline Company, LLC** (“Gulf South”), which is named individually and as successor-in-interest to **United Gas Pipeline Company and Koch Gateway Pipeline Company**, is a Delaware limited liability company with its principal place of business in Texas. Gulf South’s sole member is Boardwalk Pipelines, LP, a limited partnership.<sup>8</sup> Boardwalk Pipelines, LP’s sole limited partner is Boardwalk Pipeline Partners, LP, and Boardwalk Pipelines, LP’s sole general partner is Boardwalk Operating GP, LLC.

Boardwalk Operating GP, LLC’s sole member is Boardwalk Pipeline Partners, LP, a limited partnership. Boardwalk Pipeline Partners, LP’s sole general partner is Boardwalk GP, LP, a limited partnership, and Boardwalk Pipeline Partners, LP’s sole limited partner is Boardwalk

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<sup>6</sup> For the purposes of diversity jurisdiction, a limited liability company takes the citizenship of each of its members. *See, e.g., Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

<sup>7</sup> For purposes of diversity jurisdiction, a corporation is deemed to be a citizen of its state of incorporation and the state in which its principal place of business is located. *See* 28 U.S.C. § 1332(c)(1).

<sup>8</sup> For the purposes of diversity jurisdiction, a limited partnership’s citizenship is determined by the citizenship of each of its partners. *See, e.g., Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1079 (5th Cir. 2008).

Pipelines Holding Corp., a corporation. Boardwalk GP, LP's sole general partner is Boardwalk GP, LLC, a limited liability company, and Boardwalk GP, LP's sole limited partner is Boardwalk Pipelines Holding Corp. Boardwalk GP, LLC's sole member is Boardwalk Pipelines Holding Corp. Finally, Boardwalk Pipelines Holding Corp. is a Delaware corporation with its principal place of business in Texas.

Therefore, on information and belief, Gulf South is a citizen of Delaware and Texas.

12.

On information and belief, Defendant **Chevron U.S.A. Inc.** ("Chevron"), which is named individually and as successor-in-interest to **The Texas Company, Texaco, Inc., and Texaco Exploration and Production, Inc.**, is a Pennsylvania corporation with its principal place of business in California. Therefore, Chevron is a citizen of Pennsylvania and California.

13.

On information and belief, Defendant **Chevron U.S.A. Holdings, Inc.** ("Chevron Holdings") which is named individually and as successor-in-interest to **The Texas Company, Texaco, Inc., and Texaco Exploration and Production, Inc.**, is a Delaware corporation with a principal place of business in California. Therefore, Chevron Holdings is a citizen of Delaware and California.

14.

On information and belief, Defendant **Discovery Gas Transmission, LLC** ("Discovery Gas"), which is named individually, is a Delaware limited liability company with its principal place of business in Oklahoma. Discovery Gas's sole member is Discovery Producer Services, LLC. Discovery Producer Services, LLC has two members: The Williams Companies, Inc. and DCP Midstream, LP. ("DCP"). The Williams Companies, Inc. is a Delaware corporation with its principal place of business in Oklahoma.

DCP is a publicly traded master limited partnership.<sup>9</sup> DCP's general partner is DCP Midstream GP, LP, which in turn is managed by its general partner, DCP Midstream GP, LLC, which is owned entirely by DCP Midstream, LLC. DCP Midstream, LLC is, in turn, owned by Phillips 66 and Enbridge, Inc. Phillips 66 is a Delaware corporation with its principal place of

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<sup>9</sup> For the purposes of diversity jurisdiction, a master limited partnership takes the citizenship of each of its unit holders. See *Grynberg v. Kinder Morgan Energy Partners, L.P.*, 805 F.3d 901, 905 (10th Cir. 2015).

business in Texas. Enbridge is Enbridge is also a Delaware corporation with its principal place of business in Texas.

DCP's limited partnership interest is owned by DCP Midstream, LLC, as well as owners of the common units representing limited partnership interests of DCP that are publicly traded on the New York Stock Exchange. On information and belief, DCP's common units are owned by investors domiciled in many, if not all, of the states in the union, including investors that are citizens of Louisiana.

Therefore, on information and belief, Discovery Gas is a citizen of, at least, Delaware, Texas, Oklahoma, and Louisiana.

15.

On information and belief, Defendant **Southern Natural Gas Company, L.L.C.** ("SNG"), which is named individually and as successor-in-interest to **Southern Natural Gas Company**, is a Delaware limited liability company having its principal place of business in Texas. SNG has two members: Evergreen Holdings, LLC and Kinder Morgan SNG Operator LLC. Evergreen Holdings, LLC, has two members: The Southern Company and Southern Company Gas. The Southern Company is a Delaware corporation having its principal place of business in Georgia, and Southern Company Gas is a Georgia corporation having its principal place of business in Georgia.

Kinder Morgan SNG Operator LLC has one member: Kinder Morgan Energy Partners, LP. Kinder Morgan Energy Partners, LP has two partners: Kinder Morgan GP, LLC and Kinder Morgan, Inc. Kinder Morgan GP, LLC, which holds both the general partner interest and limited partner interest of Kinder Morgan Energy Partners, LP, has one member: Kinder Morgan, Inc. Kinder Morgan, Inc. is a Delaware corporation having its principal place of business in Texas.

Therefore, on information and belief, SNG is a citizen of Delaware, Georgia, and Texas.

16.

On information and belief, Defendant **Third Coast Montegut, LLC** ("Third Coast"), which is named individually and as successor-in-interest to **3CM Montegut, LLC**, is a Delaware limited liability company having its principal place of business in Texas. Third Coast is indirectly owned by Third Coast Midstream, LLC. Third Coast Midstream, LLC is a limited liability

company whose members include Third Coast Midstream Holdings, LLC. Third Coast Midstream Holdings, LLC is a limited liability company whose members include Arclight Energy Partners Fund V, LP (“Arclight”). One of Arclight’s partners is an individual named Don Kirkendall, who is domiciled in Texas.

Therefore, on information and belief, Third Coast is a citizen of, at least, Texas.

17.

On information and belief, Defendant **Texas Eastern Transmission, LP** (“Texas Eastern”), which is named individually and as successor-in-interest to **Texas Eastern Transmission Corporation**, is a Delaware limited partnership with its principal place of business in Texas. Texas Eastern has two partners: Spectra Energy Transmission Resources, LLC (its limited partner) and Spectra Energy Transmission Services, LLC (its general partner). The sole member of both Spectra Energy Transmission Resources, LLC and Spectra Energy Transmission Services, LLC is Spectra Energy Transmission II, LLC. The sole member of Spectra Energy Transmission II, LLC is Spectra Energy Partners, LP. Spectra Energy Partners, LP has three partners: (1) Spectra Energy Partners (DE) GP, LP, its general partner and a limited partner; (2) Spectra Energy Southeast Supply Header, LLC, a limited partner; and (3) Spectra Energy Transmission, LLC, a limited partner.

Spectra Energy Partners (DE) GP, LP has two partners: (1) Spectra Energy Partners GP, LLC, its general partner; and (2) Spectra Energy Transmission, LLC, its limited partner. The sole member of Spectra Energy Partners GP, LLC is Spectra Energy Transmission, LLC, and the sole member of Spectra Energy Southeast Supply Header, LLC is Spectra Energy Transmission, LLC. The sole member of Spectra Energy Transmission, LLC is Spectra Energy Capital, LLC. The sole member of Spectra Energy Capital, LLC is Spectra Energy, LLC (f/k/a Spectra Energy Corp.). The sole member of Spectra Energy, LLC, is Enbridge (U.S.) Inc., which is a Delaware corporation with its principal place of business in Texas.

Therefore, on information and belief, Texas Eastern is a citizen of Delaware and Texas.

18.

Tennessee Gas, Gulf South, Chevron, Chevron Holdings, Discovery Gas, SNG, Third Coast, and Texas Eastern will collectively be referred to as “Defendants.”

19.

Defendants are jointly and solidarily liable for the damages to Plaintiffs.

#### **JURISDICTION AND VENUE**

20.

This Court has personal jurisdiction over Defendants because Defendants are limited liability companies, corporations, or limited partnerships with sufficient minimum contact with the State of Louisiana to render the exercise of jurisdiction by the Court permissible under traditional notions of fair play and substantial justice. Indeed, Defendants conduct substantial business in Louisiana.

21.

Venue is proper in this Court pursuant to the Louisiana Code of Civil Procedure.

#### **ALLEGATIONS**

22.

The Commission is the owner of Pointe aux Chenes WMA located in Lafourche and Terrebonne Parishes (*See* Exhibit A, which is incorporated herein by extension, also referred to herein as “the WMA Property”) that is subject to right-of-way (“ROW”) servitudes under which Defendants conducted pipeline operations on the Pointe aux Chenes WMA, including within the areas listed in Exhibit B, which is incorporated herein by extension.

23.

The WMA Property is composed primarily of coastal wetlands.

24.

Defendants or their predecessors-in-interest entered into ROW agreements with the Commission’s predecessors-in-interest under which Defendants were granted the authority to conduct pipeline operations on the WMA Property.

25.

The ROW agreements include, but are not limited to, the following:

- a. May 1, 1953, ROW between United Gas Pipe Line Co., as grantee, and Delta Securities Co., Inc., as grantor (“United Gas ROW”);
- b. July 2, 1956, Pipe Line Permit between Tennessee Gas Transmission Co., as grantee, from Waterford Oil Co., as grantor (“Tennessee Gas ROW”);



- c. September 1, 1958, Pipe Line Permit between The Texas Co., as grantee, from Waterford Oil Co., as grantor (“Texas Co. ROW”);
- d. June 23, 1959, Pipe Line Permit between Southern Natural Gas Co., as grantee, from Waterford Oil Co., as grantor (“SNG ROW”);
- e. August 10, 1964, Pipe Line Permit between Texaco, Inc., as grantee, from Waterford Oil Co., as grantor (“Texaco ROW”);
- f. September 30, 1970, ROW between Texas Eastern Transmission Corp., as grantee, from the State of Louisiana, as grantor (“Texas Eastern ROW”); and
- g. December 9, 2002, ROW between Discovery Producer Services, LLC, as grantee, from the Department, as grantor (“Discovery ROW”).

Collectively, all the above-named ROWs and Permits are referred to as “ROW Agreements.”

26.

The Commission and the Department are direct successors-in-interest and/or beneficiaries to the above-referenced grantors in paragraph 24.

**The 1956 Tennessee Gas ROW**

27.

The Tennessee Gas ROW granted Tennessee Gas a “right to dredge a canal not to exceed forty feet in width . . .”

28.

The Tennessee Gas ROW provides: “after construction of said pipe line, this permit shall then include the right of ingress by Grantee, its agents, representatives and employees, for the maintenance, operation, repair and removal of said pipe line, but for no other purpose, only along said pipe line and for a distance of not exceeding twenty (20) feet on each side of the center line thereof; . . .”

29.

The Tennessee Gas ROW provides: “Grantee shall install and maintain in said canal, at Grantee’s expense, and as directed by Grantor, dams sufficiently adequate to effectively obstruct the flow of water in said canal and to obstruct the use of said canal by ordinary marine traffic at each and every point at which said canal intersects either bank of any navigable stream situated on Grantor’s property, at each point where said canal intersects any exterior boundary of Grantor’s property; . . . Grantee further agrees, at Grantee’s expense, to cut such additional openings in said

spoil bank and to construct and maintain such additional dams . . . as may from time to time be directed by Grantor, in order to prevent undue erosion, drainage, flooding, infiltration of salt water or intrusion of trespassers of or upon Grantor's land."

30.

The Tennessee Gas ROW provides: "Grantee further agrees to keep posted 'No Trespassing' signs," "and will use reasonable diligence to prevent trespassers from entering said canal and from entering upon the land of Grantor, whether or not affected by this instrument, through said canal . . ."

31.

The Tennessee Gas ROW provides: "Grantee shall repair all canals . . . which may become worn, damaged or destroyed by Grantee in the location, construction, maintenance, use, repair or removal of said pipe line and shall remove from grantor's land all brush and other debris caused by its operations hereunder . . ."

32.

The Tennessee Gas ROW provides: "Grantee assumes and agrees (a) To pay for all loss or damage to Grantor's property, including timber, crops and fur-bearing animals thereon . . ."

33.

The Tennessee Gas ROW provides: Upon termination of rights, "Grantee shall . . . remove said pipe line and all of its facilities from Grantor's property, and otherwise restore the premises to the same condition in which they were prior to the execution of this agreement, . . ."

#### **The 1953 United Gas ROW**

34.

The United Gas ROW provides: the right ". . . to construct, maintain and operate a pipe line and appurtenance for the transportation of natural gas (including the right at its election to lay such pipe line in an open ditch or canal not to exceed 40 feet in width) . . ."

35.

The United Gas ROW provides: "The said servitude shall be one hundred (100') feet in width if Grantee finds it necessary to dig a canal across the hereinabove described property in order

to construct its pipe line, and if it is determined that the pipe line may be constructed in an open ditch then the servitude herein granted shall be fifty (50') feet in width.”

36.

The United Gas ROW provides: “(4) If Grantee deems it necessary to dig a canal or ditch across the hereinabove described lands for the purpose of constructing its pipe line and does not elect to fill said canal or ditch, the spoil therefrom shall be thrown on the banks in the form of a levee, and if said levee is continuous for more than four hundred (400') feet, Grantee agrees to leave openings in said levee at least ten (10') feet wide and not more than four hundred (400') feet apart, and agrees to leave such other opening as may be necessary so as not to interfere with the drainage of such property.”

37.

The United Gas ROW provides: “(5) If a canal or ditch is dug across the hereinabove described lands pursuant to this agreement, Grantee will construct and maintain suitable and proper dams on each side of the St. Louis Canal where said canal or ditch crosses the said St. Louis Canal. Grantor shall have the right, at any time, to remove or replace either of said dams at its expense. Grantor does not in any manner waive or relinquish its title to any portion of the said St. Louis Canal. If the proposed canal or ditch is left open where it crosses an outside boundary line of Grantor's boundary lines, at Grantee's expense, floating gates sufficiently adequate to effectively obstruct the use of said canal by ordinary marine traffic; each of said gates to be equipped with dual locks, either one of which will open said gate, the keys to one lock to be delivered to Grantor, and the keys to the other lock to be retained and used by Grantee; also there shall be placed and maintained by Grantee on each gate a metal sign reading substantially as follows: ‘No Trespassing’, ‘Private Property of Delta Securities Company Inc.’”

38.

The United Gas ROW provides: “(8) Grantee assumes and agrees to pay for all loss or damage to Grantor's property . . . .”

**The 1958 Texas Co. ROW**

39.

The Texas Co. ROW provides: “. . . Grantor hereby grants unto Grantee, upon the terms

and conditions hereinafter set forth, a license, privilege or permit (hereinafter called 'permit') to construct, maintain and operate one single 18" pipe line and appurtenances thereto, for the transportation of gas, over and across the following described property ..."

40.

The Texas Co. ROW provides: "IV. Grantee shall lay and construct said pipe line in a trench so that the top of the pipe will be at least three (3) feet below the surface of the earth and Grantee shall be obligated to backfill with the available spill all portions of said trench, except where said pipe line crosses bayous, canals, field ditches, trenasses or other watercourses which are hereinafter provided for in Paragraph V."

41.

The Texas Co. ROW provides: "VI. Grantee shall repair all fences, roads, bridges, canals and other facilities and improvements located on Grantor's property which may become worn, damaged, or destroyed by Grantee in the location, construction, maintenance, use, repair or removal of said pipe line . . . ."

42.

The Texas Co. ROW provides: "VII. Grantee shall install and maintain at Grantee's sole risk, cost and expense, bulkheads at each and every point at which said pipe line intersects either bank of any navigable waterbody or canal situated on Grantor's property. Grantee further agrees that it will not in any manner alter or interfere with existing drainage of or on any portion of Grantor's property."

43.

The Texas Co. ROW provides: "IX. Grantee assumes and agrees: (a) To pay for all loss or damage to Grantor's property, including timber, crops and fur-bearing animals thereon, . . . ."

44.

The Texas Co. ROW provides: "X. In the event said pipeline should cease to be used for the purposes herein specified for a period of one (1) year or be permanently abandoned for such purpose not authorized by this permit, then in any of such events, all rights acquired by Grantee hereunder shall, at the option of Grantor, cease and terminate without demand or putting in default; and in such event, or in the event of other termination of this permit, Grantee shall, with reasonable

promptness and at its own cost and expense, remove said pipeline and all of its facilities from the hereinabove described property, and otherwise restore the premises to the same condition in which they were prior to the execution of this agreement.”

45.

The Texas Co. ROW provides: “TO HAVE AND TO HOLD said permit unto the said Grantee, only for the purpose hereinabove expressed, together with the right of ingress and egress for a distance of 60 feet along the pipe line over the hereinabove described property for such purpose, subject to the conditions hereinafter set forth.”

**The 1959 SNG ROW**

46.

The SNG ROW provides: “. . . Grantor hereby grants unto Grantee, upon the terms and conditions hereinafter set forth, a license, privilege or permit (hereinafter called “permit”) to construct, maintain and operate one single 16” pipe line and appurtenances thereto, for the transportation of gas, . . .”

47.

The SNG ROW provides: “This permit shall include the right of ingress and egress by Grantee, its agents, representatives and employees for the construction of said pipe line, but for no other purpose, only along said pipe line and for a distance of not exceeding fifty (50’) feet on each side of the center line thereof; and, after construction of said pipe line, this permit shall then include the right of ingress and egress by Grantee, its agents, representatives and employees, for the maintenance, operation, repair and removal of said pipe line, but for no other purpose, only along said pipe line and for a distance of not exceeding twenty (20’) feet on each side of the center line thereof.”

48.

The SNG ROW provides: “IV. Grantee is granted the right to lay said pipe line in open ditches or canals to be dug or constructed by Grantee, not to exceed forty (40’) feet in width.”

49.

The SNG ROW provides: “VI. Grantee shall repair all fences, roads, bridges, canals and other facilities and improvements located on Grantor’s property which may become worn,

damaged, or destroyed by Grantee in the location, construction, maintenance, use, repair or removal of said pipe line and shall remove from Grantor's land all brush and other debris caused by its operations hereunder, leaving Grantor's property at all times in a presentable condition; all to the satisfaction of Grantor."

50.

The SNG ROW provides: "VII. Grantee shall install and maintain at Grantee's sole risk, cost and expense, bulkheads at each and every point at which said pipe line intersects either bank of any navigable waterbody or canal situated on Grantor's property. Grantee further agrees that it will not in any manner alter or interfere with existing drainage of or on any portion of Grantor's property."

51.

The SNG ROW provides: "IX. Grantee assumes and agrees: (a) To pay for all loss or damage to Grantor's property, including timber, crops and fur-bearing animals thereon, ...."

52.

The SNG ROW provides: "X. In the event said pipe line should cease to be used for the purposes herein specified for a period of one (1) year or be permanently abandoned for such purpose, or in the event any rights acquired by the Grantee hereunder should be used for any purpose not authorized by this permit, then in any of such events, all rights acquired by Grantee hereunder shall, at the option of Grantor, cease and terminate, without demand or putting in default; and in such event, or in the event of other termination of this permit, Grantee shall, with reasonable promptness and at its own cost and expense, remove said pipe line and all of its facilities from the hereinabove described property, and otherwise restore the premises to the same condition in which they were prior to the execution of this agreement."

53.

The SNG ROW provides: "XIII. Grantor shall install and maintain, in said canal, . . . at Grantee's sole risk, cost and expense, dams sufficiently adequate to obstruct the flow of water in said canal and to obstruct the use of said canal by ordinary marine traffic; said dam to be of metal or timber sheeting with earth and shell plugs."

**The 1964 Texaco, Inc. ROW**

54.

The Texaco, Inc. ROW provides: "This permit shall include the right of ingress and egress by Grantee, its agents, representatives and employees for the construction of said pipeline, but for no other purpose, only along said pipeline and for a distance of not exceeding fifty (50) feet on each side of the center line thereof; and, after construction of said pipeline, this permit shall then include the right of ingress and egress by Grantee, its agencies, representatives and employees, for the maintenance, operation, repair and removal of said pipeline, but for no other purpose, only along said pipe line and for a distance of not exceeding twenty (20) feet on each side of the center line thereof; all, however, subject to the following:"

55.

The Texaco, Inc. ROW provides: "(a) Grantee shall have the right to dig only a ditch along those portions of the routes and courses hereinabove set forth which crosses the aforesaid property and to lay said pipeline in said ditch; provided however, that such ditch shall not exceed seven (7) feet in depth and, after construction of said pipeline, Grantee shall cover same with earth to ground level and shall fill all such excavations and diggings with earth to ground level."

56.

The Texaco, Inc. ROW provides: "(b) Grantee shall install and maintain in said ditch at Grantee's expense, at each and every point designated on said Exhibit "A" and as may be directed by Grantor, dams and/or bulkheads sufficiently adequate to effectively obstruct the flow of water. Grantee further agrees, at Grantee's expense, to construct and maintain such additional works and to remove any of those constructed hereunder, as may from time to time be directed by Grantor, in order to prevent undue erosion, drainage, flooding, infiltration of salt water or intrusion of trespassers of or upon Grantor's land, resulting from Grantee's operations hereunder."

57.

The Texaco, Inc. ROW provides: "(c) In all operations hereunder, including the backfilling of any ditches dredged hereunder, Grantee may use spoil dredged from said ditch and shall not dredge upon or from any other portion of Grantor's land for such purposes. Suppose the spoil dredged from said ditch is insufficient to back-fill same to ground level. In that case, Grantee will

obtain the necessary additional spoil for such purpose from other property not belonging to Grantor.”

58.

The Texaco, Inc. ROW provides: “VI. Grantee shall repair all fences, roads, bridges, canals, ditches, trenasses and other facilities and improvements located on Grantor’s property which may become worn, damaged or destroyed by Grantee in the location, construction, maintenance, use, repair or removal of said pipe line . . . .”

59.

The Texaco, Inc. ROW provides: “VII. Grantee assumes and agrees: . . . (c) To pay for all loss or damage to Grantor’s property, including timber, crops and fur-bearing animals thereon, . . . .”

60.

The Texaco, Inc. ROW provides: “VIII. In the event said pipe line should cease to be used for the purposes herein specified for a period of one (1) year or be permanently abandoned for such purposes, or in the event any rights acquired by Grantee hereunder should be used for any other purpose, then in any of such events, all rights acquired by Grantee hereunder shall, at the option of Grantor, cease and terminate without demand or putting in default; and, in such event, or in the event of other termination of this permit, Grantee shall, with reasonable promptness and at its own cost and expense, remove said pipeline and all of its facilities from the hereinabove described property, and otherwise restore the premises to the same condition in which they were prior to the execution of this agreement.”

**The 1970 Texas Eastern ROW**

61.

The Texas Eastern ROW provides: “The rights and privileges herein granted shall include the right to replace the said pipeline by one of similar class, and shall be exercised over a course up to but not in excess of 50 feet in width.”

62.

The Texas Eastern ROW provides: “In the exercise of its rights under this grant, Grantee shall have the right, in the construction, operating, maintenance of the pipeline to dig underwater



trenches in or on said premises as Grantee may deem necessary or convenient, and to lay its line in the beds of each trenches.”

63.

The Texas Eastern ROW provides: “The pipeline and its appurtenances must be constructed and operated in such a manner as would not interfere unreasonably with the fishing, hunting, trapping, or oyster industries and Grantee further agrees that in constructing said pipeline due care will be exercised to minimize damage to oyster beds and Grantee shall be fully and solely responsible for any and all damage caused by Grantee’s operations to which the holders of oyster leases may be legally entitled and Grantee agrees to hold the Louisiana Wild Life and Fisheries Commission harmless therefor.”

64.

The Texas Eastern ROW provides: “Grantee agrees to maintain said pipeline in good condition at all times and that the maintenance thereof shall conform to all federal and state laws.”

#### **The 2002 Discovery ROW**

65.

The Discovery ROW provides: Rights granted “over a course up to but not in excess of N/A feet in width during construction and revert to fifty (50) feet in width after construction.”

66.

The Discovery ROW provides: “Upon termination of this right-of-way agreement for any cause or the abandonment of this right-of-way by Grantee, Grantee agrees to completely remove the pipeline and all equipment, structures or appurtenances associated therewith within one (1) year of the termination or abandonment and to restore the property to as near its original condition as is determined to be practical by Grantor unless Grantee is given written permission by Grantor for all or any part of the pipeline, structures, or appurtenances associated therewith to remain on the Property.”

67.

The Discovery ROW provides: “GRANTEE agrees to protect, defend, indemnify, save, and hold harmless the Louisiana Department of Wildlife and Fisheries (the “Department”), the Louisiana Wildlife and Fisheries Commission (the “Commission”), and the State of Louisiana

("the State"), their officers, agents, servants, representatives, and employees, including volunteers, from and against any and all claims, demands, expenses and liability arising out of this agreement or injury, death, damage, loss, or destruction of any property, which may occur or is in any way related to any alleged act or omission of GRANTEE, or its agents, servants, and employees on the property, and any other person on the property with the permission of GRANTEE, and any and all costs, expense and/or attorney fees incurred by Grantee or Grantor as a result of any such claims, demands, and/or causes of action, . . ."

68.

The Discovery ROW provides: "The granting of this right-of-way shall not be a bar or defense to the right of the State of Louisiana and its agencies, boards and commissions to take any and all action necessary to seek abatement of construction or operations that unreasonably or unlawfully interfere with or disturb the existing ecological regimen, including but not limited to fishing, hunting, trapping and oyster activities, and to take action for any and all damage to the existing ecological regimen which does not result from a reasonable exercise of the rights herein granted."

69.

The Discovery ROW provides: "GRANTEE further agrees to comply with all other Federal and State law not in conflict with the above cited provisions, which apply to pipeline design, construction, maintenance and operation."

70.

Evident from these ROW agreements and Louisiana law, Defendants understood and agreed that they would maintain adequate protection to prevent erosion and widening of the canals they dredged and used on the WMA Property under the ROW Agreements.

71.

Defendants failed to maintain adequate protection to prevent erosion, failed to maintain the canals and banks on the WMA Property and/or negligently operated, inspected, and maintained the canals and banks on the WMA Property.

72.

Defendants' negligent operation, inspection, and maintenance of the rights of way, canals,

and pipeline facilities are continuing.

73.

Defendants' failure to maintain adequate protection to prevent erosion, failure to maintain the canals and banks and/or negligent operation, inspection, and maintenance activities have resulted in widening the canals and erosion of the WMA Property.

74.

Defendants' continuing failure to maintain adequate protection to prevent erosion, to maintain the pipeline canals and banks and/or negligent operation, inspection, and maintenance activities have adversely impacted the WMA Property as the canals have widened, and continue to widen, significantly beyond the scope allowed by the ROW Agreements and prudent operating practices.

75.

Defendants' breach of the ROW Agreements, failure to maintain adequate protection to prevent erosion, failure to maintain the pipeline canals and banks, and/or pattern of continuous negligent operation, inspection, and maintenance activities, as well as their failure to restore the damaged property is continuing and has caused, and continues to cause, severe ecological damage to the WMA Property by altering and/or destroying the natural hydrology of the property and causing land loss because of continuing erosion.

76.

The Commission and the Department aver that Defendants have breached the ROW Agreements and standards of prudent operating practices by failing to maintain adequate protection to prevent erosion, maintain the pipeline canals and banks and/or by negligently performing the operation, inspection, and maintenance activities, as well as by failing to restore the property that has been damaged because of Defendants' continuing failures.

77.

The ROW Agreements are still in full force and effect, and the Defendants' obligations are continuing.

78.

The Commission and the Department aver that the damage done by Defendants' breach of

their obligations through Defendants' failure to maintain adequate protection to prevent erosion and/or failure to maintain the pipeline canals and banks is a continuous course of conduct that has damaged and continues to damage the WMA Property.

79.

The type and extent of the damage to the WMA Property were reasonably foreseeable to Defendants. Defendants knew, or should have known, that, left improperly maintained, the canals would widen or otherwise cause erosion of the lands adjacent to and surrounding the canals.

80.

Defendants knew, or should have known, that failure to prevent unauthorized access to the canals would allow for the introduction of erosive forces into the canals that would cause their widening and damage to the lands adjacent to and surrounding the canals.

81.

Defendants knew, or should have known, of the preventive measures that they could have, or should have, taken to prevent such damage to the land adjacent to and surrounding the canals.

82.

Because Defendants could foresee that their failure to take the appropriate preventive measures would result in the loss of the WMA Property and the harmful alteration of the hydrology and stability of the marsh on the WMA Property, Defendants' conduct was in bad faith.

83.

The Commission and the Department detrimentally relied on fraudulent misrepresentations by the Defendants that the canals would not exceed the minimum widths agreed to in the ROW Agreements.

### **CONTRACT CLAIMS**

84.

The Plaintiffs incorporate by reference all previous allegations in the preceding paragraphs as if fully set forth herein.

85.

Under the ROW Agreements and/or by Defendants' exercise of control over the WMA Property, a "right of use" was created. A right of use is a limited personal servitude that confers

the benefits of the predial servitude and usufruct upon a juridical person rather than upon an estate.

86.

Pursuant to Louisiana Civil Code article 645, “[a] right of use is regulated by application of the rules governing usufruct and predial servitudes to the extent that their application is compatible with the rules governing a right of use servitude.”

87.

Regarding the rules of usufruct, Louisiana Civil Code article 539 provides that a usufructuary (here, Defendants) “is bound to use [the things subject to the usufruct] as a prudent administrator and to deliver them to the naked owner [the Commission] at the termination of the usufruct.” Current article 539 is the successor to article 535 of the 1870 Code, which provides, “the usufructuary is bound to use [things subject to the usufruct] as a prudent administrator would do, *to preserve them as much as possible*, in order to restore them to the owner as soon as the usufruct terminates.” La. C.C. of 1870 art. 535 (emphasis added).

88.

Louisiana Civil Code article 576 provides that “the usufructuary [Defendants] is answerable for losses resulting from his fraud, default, or neglect.”

89.

Louisiana Civil Code article 577 similarly provides:

The usufructuary [Defendants] is responsible for ordinary maintenance and repairs for keeping the property subject to the usufruct in good order, whether the need for these repairs arises from accident or force majeure, the normal use of things, or his fault or neglect.

The naked owner [the Commission] is responsible for extraordinary repairs, unless they have become necessary as a result of the usufructuary’s [Defendants’] fault or neglect in which case the usufructuary [Defendants] is bound to make them at his cost.

90.

Louisiana Civil Code article 579 provides that “[d]uring the existence of the usufruct, the naked owner [the Commission] may compel the usufructuary [the Defendants] to make the repairs for which the usufructuary [Defendants] is responsible.”

91.

Civil Code article 581 provides that “[t]he usufructuary [Defendants] is answerable for all expenses that become necessary for the preservation and use of the property after commencement of the usufruct.

92.

Regarding the rules governing predial servitudes, to the extent that conventional predial servitudes were created, Defendants became the dominant estate owners while the Commission is the owner of the servient estate.

93.

Accordingly, Defendants have a continuing obligation to refrain from aggravating the servient estate.

94.

Under Louisiana Civil Code article 730, “doubt as to the existence, extent, or manner of exercise of a predial servitude shall be resolved in favor of the servient estate.”

95.

Louisiana Civil Code article 743 provides that rights that are necessary for the use of the servitude “are to be exercised in a way least inconvenient for the servient estate,” and article 745 provides that the dominant estate owner is “under the obligation of causing the least possible damage.”

96.

Louisiana Civil Code article 745 provides that the dominant estate owner [the Defendants] must cause “the least possible damage” in performing work on the servient estate [the WMA Property].

97.

Former article 778 of the Louisiana Civil Code of 1870 provides that “he who has the right of servitude can use it only according to his title, without being at liberty to make either in the estate which owes the servitude, or in that to which the servitude is due, any alteration by which the condition of the first may be made worse.” Professor Yiannopoulos termed this duty as “the duty not to aggravate the condition of the servient estate” and noted that this duty continues to

exist even after the replacement of the Code articles from the Code of 1870, and this duty has been repeatedly recognized by courts applying Louisiana law. *See, e.g., Terrebonne Parish School Board v. Columbia Gulf Transmission Co.*, 290 F.3d 313, 316 (5th Cir 2002).

98.

These suppletive rules supplied by the Civil Code articles applicable to personal servitudes of rights of use apply to supplement the express obligations in the ROW Agreements unless the ROW Agreements expressly exclude their operation. Here, none of the ROW Agreements expressly exclude the operation of the suppletive rules detailed above.

99.

Additionally, under Civil Code articles 697 and 729, any interpretation of the ROW Agreements to exclude obligations of the Defendants is prohibited if such interpretation results in a breach of the public interest or public policy.

100.

Under Louisiana law, including but not limited to the State's constitutional public trust mandate under Article IX, § 1 of the Louisiana Constitution of 1974, prevention of erosion of Louisiana wetlands is an inviolable public interest.

101.

In addition, the Department and the Commission are trustees of the public trust established in Article IX, § 1 of the Louisiana Constitution of 1974.

102.

Defendants breached the express terms of the ROW Agreements in addition to the obligations therein pursuant to the suppletive rules regarding personal servitudes of rights-of-use as set forth in the Louisiana Civil Code's articles regarding usufructs and predial servitudes, including but not limited to those articles discussed *supra*, by negligently doing or by failing to do, among other things, the following:

- a. Maintain the canals and their banks to prevent erosion of the surrounding property;
- b. Install and maintain protective structures to prevent canal widening and land loss;
- c. Prevent unauthorized use of the canals;
- d. Protect the servient estate against damage resulting from use of the servitude;
- e. Not aggravate the condition of the servient estate;
- f. Prevent the canals from widening;

- g. Prevent the canal banks from being breached;
- h. Use only so much of the WMA Property as is necessary to conduct operations;
- i. Act as a reasonably prudent operator to cause the least possible damage;
- j. Maintain the pipelines at the proper and agreed-upon depths; and
- k. Restore the property.

103.

Defendants breached their express obligations pursuant to the ROW Agreements, and their obligations under the Civil Code, including but not limited to those set forth herein. Defendants' failure to properly maintain the canals, failure to maintain adequate protection to prevent erosion, negligent maintenance activities, and/or failure to restore the WMA Property constitute a breach of their obligations not to aggravate and to cause the least possible damage to the servient estate pursuant to the Louisiana Civil Code, including but not limited to articles 730, 743, and 745.

104.

Defendants have breached and continue to breach the foregoing obligations.

105.

Defendants' duties to not aggravate the condition of the servient estate are co-extensive with the life of the servitudes, and, accordingly, are continuous.

106.

Defendants are in continuing and ongoing breach of those obligations and duties, both express and implied, based upon the ROW Agreements and Defendants' exercise of and control over the WMA Property.

107.

The Defendants' breach of their obligations also constitutes an abuse of right.

108.

There is no serious or legitimate motive for the Defendants to cause damage to the WMA property through their failure to properly maintain the banks of the pipeline canals and through their failure to prevent the erosion of the WMA Property.

109.

The Defendants' failure to properly maintain the banks of the pipeline canals and to prevent erosion of the WMA Property is against public policy.



110.

The Defendants' actions in improperly maintaining the banks of the pipeline canals and improperly protecting the WMA Property from erosion did not further the purpose for which the ROW Agreements were executed.

111.

The Commission and the Department aver that they are entitled to compensatory damages because of Defendants' breach of those obligations and/or abuse of right; and the Commission and the Department are entitled to injunctive relief in the form of restoration of the land that has been lost, as well as ongoing maintenance and repairs. The Commission and Department are also entitled to all remedies provided by law for abuse of right, including but not limited to the remedy in Louisiana Civil Code article 623.

112.

At the time that the Defendants entered into the ROW Agreements, it was reasonably foreseeable to Defendants that the failure to take appropriate actions to maintain the canal widths and the failure to maintain adequate protection to prevent erosion would lead to the loss of land because of drastic hydrological alteration on the WMA Property.

113.

Defendants' breaches were in bad faith, and these breaches caused damage to the Plaintiffs in an amount to be proven at trial.

114.

As a result of Defendants' bad faith breach of contract, Defendants are liable to the Plaintiffs not only for all damages that are foreseeable under Louisiana Civil Code article 1996, but also for all consequential damages under Louisiana Civil Code article 1997.

#### **TRESPASS CLAIM**

115.

The Plaintiffs incorporate by reference all previous allegations in the preceding paragraphs as if fully set forth herein.

116.

The Defendants owed (and continue to owe) a duty to the Commission not to trespass.

117.

The Defendants' actions in failing to properly maintain the canals and prevent them from eroding the WMA Property, such that the canals exceed the limits authorized in the ROW Agreements, constitutes a physical invasion of the Commission's rights in the WMA Property, and therefore a trespass.

118.

The ongoing invasion of the Commission's property rights in the WMA Property by the ever-widening canals, due to the Defendants' failures to properly maintain the canal banks and to properly prevent erosion of the WMA Property also constitutes a continuing trespass on the Commission's property.

119.

The Commission avers that the Defendants' continuous actions regarding the maintenance and usage of the canals, whether authorized or unauthorized, have resulted in an encroachment of the canals that constitutes a continuous and unlawful invasion of the Commission's rights in the WMA Property that the Commission and the Department are entitled to have abated. The continuing widening of the canals is causing new and ever-increasing damage to the WMA Property, and such damage will continue until adequate protective bulkheads or plugs are installed and maintained, the canals are properly used and maintained, and the land is restored.

120.

The 1953 ROW Agreement expressly provided that the canal was "not to exceed 40 feet in width." The 1956 Pipe Line Permit expressly provided that the canal was "not to exceed forty feet in width . . . ." The 1958 Pipe Line Permit did not authorize the dredging of a canal of any width. The 1959 Pipe Line Permit expressly provided that the canal was "not to exceed forty (40) feet in width." The 1964 Pipeline Permit did not authorize the dredging of a canal of any width. The 1970 ROW Agreement did not authorize a canal of any width. And the 2002 ROW Agreement only allowed for the digging of trenches within the "fifty (50) feet" right-of-way. The Defendants have no authority for any of these canals to be larger than these "not to exceed" limits, nor do they have

any authority for the unauthorized canals.

121.

Yet, despite having no authority for a canal to extend past the limits provided in the ROW Agreements, all of the canals exceed the authorized limits—a result the Defendants knew would occur if they failed to properly maintain the canals and their banks, failed to construct or then failed to maintain bulkheads and plugs, and failed to prevent unauthorized access to the canals.

122.

The canals that the Defendants failed to properly maintain and from which they have failed to properly prevent erosion of the WMA Property are continuously invading the Commission's rights in the WMA Property without authorization.

123.

The operating cause of the injury consists of the Defendants' continuous operation of the pipelines within dredged or later-formed canals without the preventive measures that would have kept the canals confined to the agreed-upon widths, if any, and the failure to properly maintain the canals and adequately prevent erosion.

124.

This trespass has and will continue day-to-day until the offending nature of the canals is abated.

125.

The Commission and the Department aver that they are entitled to compensatory damages because of the Defendants' acts and omissions and are entitled to injunctive relief in the form of abatement, repairs of the protective bulkheads or plugs, restoration of the land, and ongoing maintenance and repairs.

126.

The Defendants have received financial benefit and gain from their unauthorized operation of pipelines within canals that were never authorized or that exceed the agreed-upon maximum width memorialized in the ROW agreements.

127.

The Commission is entitled to an accounting of all civil fruits gathered by bad faith possessors pursuant to Louisiana Civil Code article 486 and applicable jurisprudence, 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.” The Defendants became bad faith possessors when they knowingly exceeded the rights granted to them by the Commission through the ROW Agreements. The Defendants derived a substantial economic benefit from this trespass. The Plaintiffs are entitled to an accounting for the Defendants’ bad faith gathering of this civil fruit.

128.

Further, the Defendants’ trespasses were conducted in moral bad faith as they acted with reckless indifference and in wanton disregard of the Commission’s property rights. Accordingly, the Commission is entitled to disgorgement of the Defendants’ revenues because of the Defendants’ moral bad faith trespasses.

129.

The Commission and the Department desire and are entitled to require the Defendants to return the Property to the condition it was in before the agreed-upon widths were exceeded or unauthorized canals appeared. In the alternative, the Commission and the Department desire and are entitled to damages to cover the cost of restoring the Property to its prior condition.

130.

To the extent the Defendants continue to occupy the WMA Property in a manner exceeding any authorization to do so, the Commission and the Department desire and are entitled to an Order that the Defendants are required to vacate the trespassed-upon premises forthwith, in addition to abatement of the trespassing condition.

**VIOLATIONS OF THE LOUISIANA UNFAIR TRADE PRACTICES ACT**

131.

The Plaintiffs incorporate by reference all previous allegations in the preceding paragraphs as if fully set forth herein.

132.

The Defendants’ acts and omissions, as described throughout this Petition, constitute unfair

or deceptive practices in the conduct of trade or commerce.

133.

Indeed, the Defendants' failure to take appropriate actions to properly maintain the canal widths, to properly construct and maintain the required bulkheads and plugs, and to properly prevent erosion of the WMA Property, knowing that their acts and omissions would cause significant ascertainable monetary loss to Plaintiffs, was immoral, unethical, oppressive, unscrupulous, and/or substantially injurious to Plaintiffs.

134.

As a result of the Defendants' decision not to take the steps necessary to properly maintain the canal widths, to construct and/or maintain bulkheads and plugs, and to prevent unauthorized access to the canals, Plaintiffs have suffered an ascertainable monetary loss of the value of the land and its ecological services lost to erosion that the Defendants knew would occur, and/or the value of the appropriate measures to restore the WMA Property, to backfill unauthorized canals, to restore and then maintain the canal banks to their agreed-to-widths, to construct and then maintain the required bulkheads and plugs, and to ensure appropriate measures to prevent unauthorized access to the canals.

135.

Accordingly, the Defendants' ongoing misconduct violates the Louisiana Unfair Trade Practices Act ("LUTPA"), LA. REV. STAT. ANN. § 51:1401 et seq., entitling Plaintiffs to their actual damages, as well as attorneys' fees and costs, pursuant to LA. REV. STAT. ANN. § 51:1409(A). Such attorneys' fees and costs are to be paid to the Department, as an arm of the State.

136.

Under La. R.S. 13:4521, the Plaintiffs herein are entitled to file and prosecute this suit without the payment of costs of Court in advance or as the same accrue and without the necessity of advancing costs, bond or surety therefore.

137.

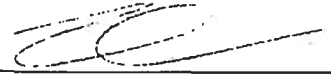
The Plaintiffs request a jury.

ACCORDINGLY, the Plaintiffs herein ask that:

- A. All Defendants named herein be duly cited and served with a certified copy of this Petition, as well as Plaintiffs' First Set of Request for Production of Documents and Request for Admissions in accordance with the service instructions appearing at the end of this document;
- B. All Defendants be required to respond in the manner and form, and within the delays, provided by law;
- C. There be a judgment in favor of Plaintiffs for injunctive relief in the form of abatement and restoration of the WMA Property, including the repairs of the protective bulkheads or plugs, restoration of the land that has been lost, and ongoing maintenance and repairs for the duration of the ROW Agreements;
- D. In the alternative, there be a monetary judgment with interest from the date of judicial demand, until paid, and all costs of these proceedings, in favor of Plaintiffs and against all Defendants, finding that all Defendants are liable for compensatory damages and attorneys' fees and costs resulting from all Defendants' acts and omissions;
- E. In the further alternative, after all due proceedings are had and the lapse of all legal delays, there be judgment rendered herein against Defendants for all damages for the cost of returning the property to its prior condition;
- F. All Defendants be ordered to show cause, on a date and at an hour to be fixed by this Court, why the Defendants should not be ordered to vacate the trespassed-upon premises and deliver all possession thereof in its pre-trespass condition to Plaintiffs;
- G. In the further alternative, there be a judgment awarding Plaintiffs any civil fruits derived from the Defendants illegal trespass and moral bad faith trespass as well as the Defendants' failure to maintain the pipeline canals and banks and restore the damaged property;
- H. Plaintiffs be awarded their reasonable attorney fees for bringing this suit and all costs of these proceedings, such fees and costs to be awarded to the Department, as an arm of the State; and

I. Such other and further relief be granted in favor of Plaintiffs that the Court deems necessary and proper at law and in equity and that may be just and reasonable under the circumstances in this matter.

Respectfully submitted,



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Houma, Louisiana 70361-4297  
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*Special Counsel for the Plaintiffs*

**PLEASE SERVE WITH PLAINTIFFS' FIRST SET  
OF DISCOVERY REQUESTS [TO EACH DEFENDANT]:**

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

*Through its Registered Agent*  
Capitol Corporate Services, Inc.  
8550 United Plaza Building II, Ste. 305  
Baton Rouge, Louisiana 70809

GULF SOUTH PIPELINE COMPANY, LLC

*Through its Registered Agent*  
Corporation Service Company  
501 Louisiana Avenue  
Baton Rouge, Louisiana 70802

CHEVRON U.S.A. INC.

*Through its Registered Agent*  
The Prentice-Hall Corporation  
System, Inc.  
501 Louisiana Avenue  
Baton Rouge, Louisiana 70802

CHEVRON U.S.A. HOLDINGS, INC.

*Through its Registered Agent*  
Angie Wang  
C/O ChevronTexaco  
P.O. Box 6028  
San Ramon, CA 94583-0728  
*Via service through Louisiana's Long Arm Statute*

DISCOVERY GAS TRANSMISSION, LLC

*Through its Registered Agent*  
C T Corporation System  
3867 Plaza Tower Drive  
Baton Rouge, LA 70816



SOUTHERN NATURAL GAS COMPANY, L.L.C.

*Through its Registered Agent*

C T Corporation System

3867 Plaza Tower Drive

Baton Rouge, Louisiana 70816

THIRD COAST MONTEGUT, LLC

Through its Registered Agent

Cogency Global, Inc.

9800 Airline Highway, Suite 105

Baton Rouge, Louisiana 70816

TEXAS EASTERN TRANSMISSION, LP

Through its Registered Agent

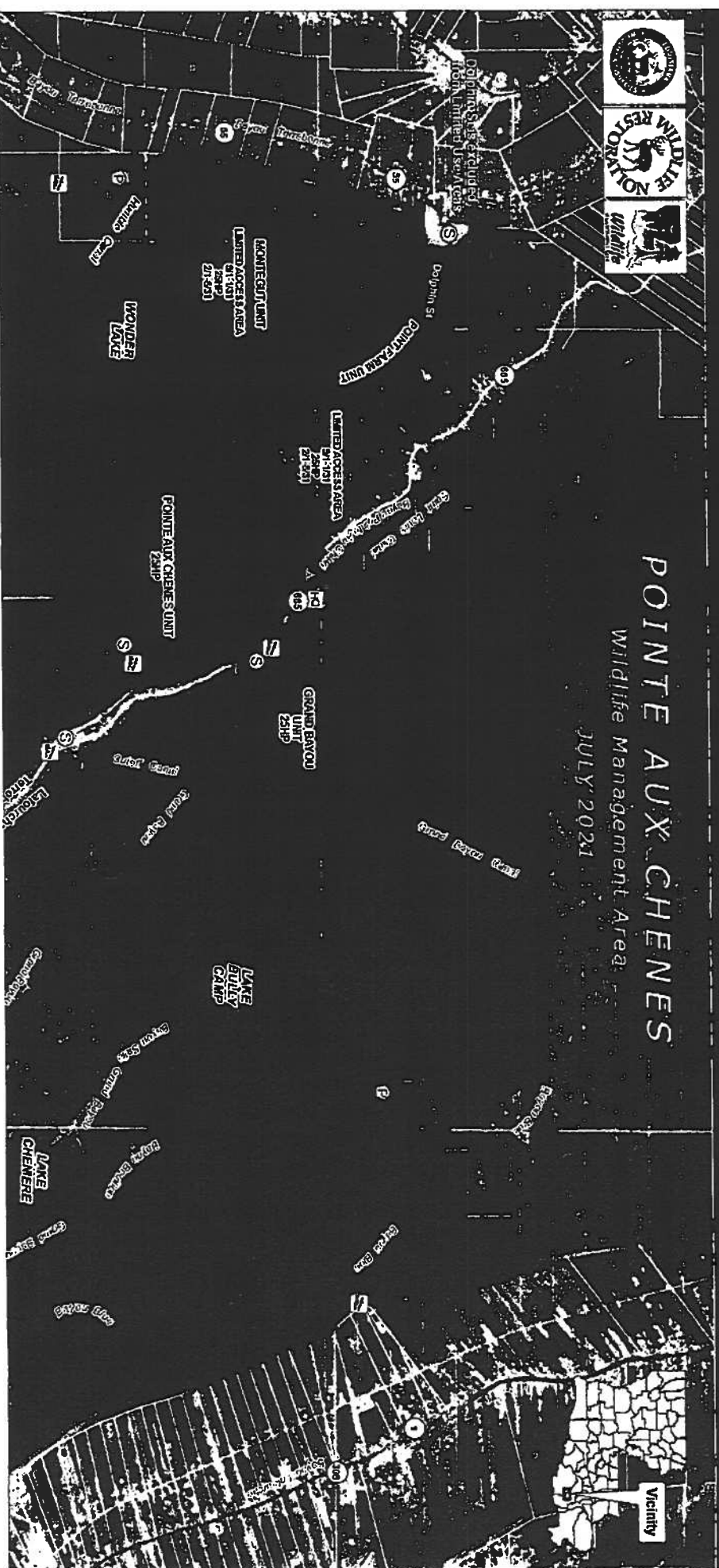
C T Corporation System

3867 Plaza Tower Drive

Baton Rouge, LA 70816

Exhibit A

# Pointe aux Chenes Wildlife Management Area



Lafourche Parish Clerk of Court C-145860  
Filed Oct 11, 2022 3:31 PM C  
Jill T. Lagarde  
Deputy Clerk of Court

Exhibit B

Defendant	ROW	Township, Range, Section
Gulf South Pipeline Company, L.L.C.	1953 United Gas ROW	<p>Township 18 South, Range 19 East (Terrebonne Parish):            Section 53 – SW/4 of SW/4</p> <p>Township 19 South, Range 19 East (Terrebonne Parish):            Section 17 – All except Lots 1 and 2            Section 18 – All except Lot 1            Section 23 – E/2 of E/2 and SW/4 of SE/4            Section 24 – All            Section 25 – All</p> <p>Township 18 South, Range 19 East (Lafourche Parish):            Section 53 – NE/4 of SE/4, and NE/4</p> <p>Township 18 South, Range 20 East (Lafourche Parish):            Section 21 – S/2            Section 22 – S/2            Section 28 – All            Section 29 – All            Section 30 – All            Section 31 – All            Section 32 – All</p>
Tennessee Gas Pipeline Company, L.L.C.	1956 Tennessee Gas ROW	<p>Township 19 South, Range 21 East (Lafourche Parish)            Section 32            Section 54</p> <p>Township 18 South, Range 21 East (Lafourche Parish)            Section 61            Section 63            Section 64 – N/2, N/2 of SW/4, and NW/4 of SE/4</p>
Chevron U.S.A., Inc.; Chevron U.S.A. Holdings, Inc.; Discovery Gas Transmission, LLC	1958 Texas Co. ROW	<p>Township 18 South, Range 20 East (Lafourche Parish)            Section 22 – S/2            Section 27            Section 28            Section 33            Section 34</p> <p>Township 19 South, Range 20 East (Lafourche Parish)            Section 4            Section 9</p>
Southern Natural Gas Co., L.L.C.; Gulf South Pipeline Company, L.L.C.;	1959 SNG ROW	<p>Township 18 South, Range 19 East (Lafourche Parish):            Section 54 – SE/4</p> <p>Township 18 South, Range 20 East (Lafourche Parish):            Section 20 – S/2</p>

Third Coast Montegut, L.L.C.		Section 21 – S/2 Section 29 Section 30
Chevron U.S.A., Inc.;  Chevron U.S.A. Holdings, Inc.;  Discovery Gas Transmission, LLC	1964 Texaco ROW	Township 18 South, Range 20 East (Lafourche Parish) Section 22 – S/2 Section 27 Section 33 Section 34  Township 19 South, Range 20 East (Lafourche Parish) Section 4 Section 9
Texas Eastern Transmission, L.P.;  Discovery Gas Transmission, LLC	1970 Texas Eastern ROW	Township 18 South, Range 20 East (Lafourche Parish) Section 22 Section 27 Section 33 Section 34  Township 19 South, Range 20 East (Lafourche Parish) Section 4 Section 5 Section 8  Township 19 South, Range 20 East (Terrebonne Parish) Section 7 Section 18
Discovery Gas Transmission, LLC	2002 Discovery ROW	Township 18 South, Range 20 East (Lafourche Parish) Section 22 – S/2 Section 27 Section 28 Section 33 Section 34  Township 19 South, Range 20 East (Lafourche Parish) Section 4 Section 9