

NINTH JUDICIAL DISTRICT COURT FOR THE PARISH OF RAPIDES

STATE OF LOUISIANA

NO. 268011

DIVISION

SECTION: E

MICHAEL WAHLDER

Versus

BAKER HUGHES, INC. and DEREK DESCANT

1629p.
RECEIVED
15/1/20

FILED: _____

DEPUTY CLERK

PETITION FOR DAMAGES

NOW INTO COURT, through the undersigned, comes Michael Wahlder, who for the cause of action state:

I.

PARTIES

1.

A. Plaintiff, Michael Wahlder, is a citizen of Louisiana who is domiciled in Rapides Parish. Plaintiff owns land directly north of the Dresser Industries plant in Pineville, Louisiana and on both sides of Highway 167 (the "Property").

2.

A. Defendant, Baker Hughes, Inc., is a foreign company with its principal place of business in Houston, Texas. Baker Hughes, Inc. is the successor-in-interest to Dresser Inc. The term ("Dresser") herein refers to Baker Hughes, Inc., as successor-in-interest to Dresser, and all of its previous entities and successor companies.

B. Defendant, Derek Descant, is a person of the full age of majority who is domiciled in Rapides Parish, Pineville, Louisiana. Derek Descant was the Environmental, Health, and Safety manager of Dresser from at least 2012 to 2014.

II.

FACTS

3.

At all material times, Dresser owned the Flow and Process Technology Facility located at 8011 Shreveport Highway, Pineville, Louisiana 71360 ("Site" or "Facility").

4.

On November 23, 2011, Dresser personnel were replacing damaged fire-water suppression system components at the Site. During the excavation of one of the fire hydrants, the equipment operator fractured the hydrant.

5.

Residual firewater from within the system transmission line filled the excavation (the “Spill”) and eventually contaminated the soil and the nearby groundwater.

6.

Dresser first notified the Louisiana Department of Environmental Quality (“DEQ”) of the Spill on June 28, 2012.

7.

Soon after the Spill, Dresser began sampling water and soil and analyzing for Total Petroleum Hydrocarbons. However, Dresser did not initially analyze the Spill for volatile organic compounds until the DEQ insisted that Dresser perform an analysis of all soil and groundwater samples for full-scan volatile organic compounds.

8.

In 2014, Dresser first reported its analysis of all soil and groundwater samples for full-scan volatile organic compounds from the Spill. At that time, in 2014, DEQ first learned that the soil and groundwater samples were contaminated with Trichloroethylene (“TCE”). The TCE contamination was caused by the Spill.

9.

The EPA and the International Agency for Research on Cancer (“IARC”) have determined that TCE is carcinogenic to humans.

10.

Exposure to TCE can cause damage to the central nervous system, kidney, liver, immune system, male reproductive system, and developing fetus.

11.

Exposure to TCE can cause malignant lymphoma, kidney cancer, and liver cancer.

12.

Upon information and belief, Dresser and/or its successors and/or its contractors have been monitoring the TCE from this Spill since at least 2014.

13.

Despite the ongoing monitoring by Dresser for TCE from the Spill, the plaintiff was first notified that his land was contaminated with TCE in March 2020.

14.

Upon information and belief, the Spill and the resulting contamination of plaintiff's property with TCE was caused by Dresser.

15.

On information and belief, the public was not warned prior to March 2020 that the area surrounding the Facility was contaminated with TCE.

16.

The sampling performed by contractors hired by Dresser reveals TCE contamination to groundwater and shallow soil gas.

17.

Upon information and belief, the TCE contamination has migrated beyond the boundaries of the Facility into areas north, south, and east of the Facility.

18.

TCE in groundwater forms vapors that may migrate into homes through small openings in the foundation of homes.

19.

Upon information and belief, the DEQ is requiring Dresser to monitor the air in residential areas to detect TCE vapors.

20.

In April 2020, groundwater samples were collected on plaintiff's property that detected 912 µg/L of TCE. The groundwater screening standard for TCE is 5 µg/L.

21.

Thus, the TCE in the groundwater on plaintiff's property was 182 times above the detection limit.

22.

The plume of TCE emanating from the Facility is over two miles long.

23.

The TCE plume from the Facility is made up of braided stream deposits that are 30 to 40 feet under the surface.

III.

VENUE

24.

Venue is proper in Rapides Parish as the acts that give rise to the damage took place in Rapides Parish, the Facility is in Rapides Parish, and the damage emanates from Rapides Parish.

IV.

COUNT ONE: NEGLIGENCE

25.

Plaintiff incorporates by reference each and every allegation set forth above.

26.

The braided stream deposits of TCE in the plume from the Spill are contaminating plaintiff's land.

27.

The contamination is a result of the negligence of Dresser when it caused the Spill.

28.

In addition to Dresser's negligence in causing the Spill, Dresser was negligent when it failed to properly monitor the TCE from the spill and when Dresser failed to contain the Spill to the Site.

29.

Dresser owed a duty of care to plaintiff to contain the TCE to the Site.

30.

Dresser delegated its duty to contain the TCE to the Site to the Environmental, Health, and Safety manager of Dresser, Derek Descant.

31.

Derek Descant, the Environmental, Health, and Safety manager of Dresser, actions/inactions that failed to keep the Spill contained to the Site constitute negligence on behalf of Derek Descant.

32.

The damages suffered by Plaintiff were caused by the negligence and fault of Dresser and/or Derek Descant in the following non-exhaustive particulars:

- a. Causing the Spill;
- b. Failure to properly inspect and monitor the Spill;
- c. Acting in a careless and negligent manner without due regard for the safety of others;
- d. Failure to properly train their personnel;
- e. Failing to take appropriate action to avoid or mitigate the escape of TCE from the Site;
- f. Failing to react to danger signs;
- g. Failure to design a proper remediation plan;
- h. Failure to timely notify the plaintiff of the contamination;
- i. Failure to perform proper remediation; and
- j. Such other acts of negligence and omissions as will be discovered and shown at the trial of this matter.

33.

As a direct and proximate result of Defendants' negligence, Plaintiff has suffered damages including, but not limited to, damage to the natural resources, loss of income, and loss of enjoyment and use of property, remediation costs, in an amount to be determined by the trier of fact.

V.

COUNT TWO: TRESSPASS

34.

Plaintiff hereby incorporates by reference each and every allegation set forth above.

35.

Defendants negligently and intentionally caused the release of contaminants into the groundwaters of the Parish of Grant, Parish of Rapides, and State of Louisiana, which Plaintiff uses.

36.

As a direct and proximate result of Defendants' continuing trespass and engaging in the above-mentioned activities, Plaintiff has suffered damages and he is entitled to compensation in an amount to be determined by the trier of fact.

VI.

COUNT THREE: STRICT LIABILITY

37.

Plaintiff hereby incorporates by reference each and every allegation set forth above.

38.

The actions and activities of Defendants, as described above constitute abnormally dangerous and/or ultra-hazardous activities that carry a high degree of risk of harm to others.

39.

The injuries and damages suffered by Plaintiff are the kind of harm caused by abnormally dangerous and/or ultra-hazardous activities.

40.

Additionally, Defendant is liable for its garde of the TCE emanating from the Spill on the Site.

41.

The injuries and damages suffered by the Plaintiff were proximately caused by said abnormally dangerous and/or ultra-hazardous activity.

42.

Defendants knew or should have known that the TCE would impact the surrounding properties.

43.

Plaintiff is entitled to a judgment finding Defendants strictly liable to Plaintiff for damages suffered as a result of Defendants' abnormally dangerous and/or ultra hazardous activities and for its garde to the contaminating TCE awarding Plaintiff adequate compensation in an amount to be determined by the trier of fact.

VII.

COUNT FOUR: NEGLIGENCE PER SE

44.

Plaintiff hereby incorporates by reference each and every allegation set forth above.

45.

At all times material hereto, Defendants were negligent per se by failing to comply with all the applicable laws, regulations, permits that would have kept the TCE from emanating from the Site.

46.

As a direct and proximate result of their negligence per se, Defendants are liable for the injuries and damages suffered by Plaintiff who is entitled to compensation in an amount to be determined by the trier of fact.

VIII:

COUNT FIVE: LOUISIANA GROUND WATER ACT

47.

Plaintiff hereby incorporates by reference each and every allegation set forth above.

48.

The TCE contamination of the groundwater violates the Louisiana Groundwater Act.

49.

Defendants are liable for all costs pursuant to the Louisiana Groundwater Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants, jointly, severally and in-solido, providing the following relief:

1. Civil penalties in the maximum amount allowed by law for each day and each violation;
2. Economic and compensatory damages in amounts to be determined at trial;
3. Remediation of Land;
4. Diminution of value;
5. Pre-judgment and post-judgment interest at the maximum rate allowed by law;
6. Attorney's fees and expenses;
7. Expert costs;
8. Past and future medical monitoring;
9. Injunctive relief enjoining the Defendants' unlawful activities and ongoing discharges of Prohibited Contaminants;
8. A trial by jury; and
9. Such other and further relief available and any relief the Court deems just and appropriate.

Respectfully submitted,

MARTZELL, BICKFORD, & CENTOLA



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PLEASE SERVE:

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And

Derek Descant
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