

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

HENNING MANAGEMENT, LLC

VERSUS

CHEVRON U.S.A. INC. et al.

CIVIL ACTION NO. 2:20-CV-00004

JUDGE JAMES D. CAIN, JR.

MAG. JUDGE KATHLEEN KAY

CHEVRON U.S.A. INC.'S LIMITED ADMISSION PURSUANT TO LA. R.S. 30:29

Under Louisiana Revised Statutes § 30:29 (“Act 312”), Chevron U.S.A. Inc. (“Chevron”) makes the following limited admission of responsibility for implementing the most feasible plan to evaluate and, if necessary, remediate a portion of the environmental damage that is the subject of this litigation to applicable regulatory standards:

1. Plaintiff filed this lawsuit on November 9, 2018, claiming that Chevron’s and other defendants’ operations caused “environmental damage” on its property and that Act 312 applies to its claim of environmental damage.

2. Act 312 defines “environmental damage” as “any actual or potential impact, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites or exploration and production sites.” La. R.S. § 30:29(I)(2).

3. The Louisiana Legislature enacted Act 312 “to ensure that damage to the environment is remediated to a standard that protects the public interest.” La. R.S. § 30:29(A). To achieve this goal, Act 312 changes the remedy available to plaintiffs. Under Act 312, plaintiffs no longer receive damages “awarded for the evaluation or remediation of environmental damage” to a standard that protects the public interest. *Id.* § 30:29(D)(1). Instead, those funds are deposited into the registry of the court to fund the implementation of the “most feasible plan” for evaluation or

remediation under the oversight of the Court and the Louisiana Department of Natural Resources (“LDNR”). *Id.* § 30:29(C)(5), (F). If the amount of funds deposited in the registry is insufficient to complete the evaluation or remediation, “the court shall . . . order the [responsible party] to deposit additional funds.” *Id.* § 30:29(D)(4). Thus, through this framework, Act 312 guarantees that the environmental damage is evaluated and, if necessary, remediated, to a standard that protects the public interest regardless of cost.

4. When a plaintiff alleges “environmental damage” in a lawsuit, a defendant may make a limited admission under Act 312 for the environmental damage and thus take “responsibility for implementing the most feasible plan to evaluate, and if necessary, remediate all or a portion of the contamination” to applicable regulatory standards. La. Code Civ. Proc. art. 1563(A).

5. When a defendant makes a limited admission, the Louisiana Department of Natural Resources (“LDNR”) shall hold a public hearing to approve or structure what LDNR determines to be the “most feasible plan” to evaluate or remediate the environmental damage under applicable regulatory standards. La. R.S. § 30:29(C)(2). There is a presumption that the plan structured by LDNR is the “most feasible plan,” and the Court will adopt LDNR’s plan unless a party proves by a preponderance of the evidence that another plan is “more feasible.” *Id.* § 30:29(C)(2)(c), (C)(5). A defendant who makes a limited admission must perform the evaluation or remediation required by the most feasible plan, regardless of cost. *Id.* § 30:29(D)(4).

6. Chevron wishes to ensure that the natural resources and the environment are protected, conserved, and replenished and avers that the relevant state agencies, including the LDNR and the Louisiana Department of Environmental Quality, are in the best position to structure a plan to evaluate and, if necessary, remediate any environmental damage on Plaintiff’s property to a

standard that protects the health, safety and welfare of the public. To that end, Chevron makes the following limited admission.

7. Chevron admits that “environmental damage,” as defined by Act 312, exists in the soil and “Discontinuous Shallow Water Bearing Zone”¹ on Plaintiff’s property within Areas 2, 4 and 5 outlined in Exhibit A. Area 2 is associated with Well Serial Number 25340; Area 4 is associated with Well Serial Numbers 26358; 970424 and 970427; and Area 5 is associated with Well Serial Number 103174 (dual completion with Serial Number 105169).

8. Chevron also admits that “environmental damage,” as defined by Act 312, exists in the soil on Plaintiff’s property within Areas 6 and 8, outlined in Exhibit A. Area 8 is associated with Well Serial Number 31298 and Area 6 is associated with Well Serial Number 128241.

9. To ensure that this “environmental damage” is evaluated and, if necessary, remediated to a standard that protects the public interest, and without admitting any liability for damages or waiving any of its rights or defenses, Chevron takes responsibility for implementing the “most feasible plan” for evaluation or remediation to applicable regulatory standards the environmental damage in the soil and Discontinuous Shallow Water Bearing Zone on Plaintiff’s property within Area 2, Area 4, and Area 5, and in only the soil within Area 6 and Area 8.

10. This limited admission *shall not* be construed as an admission of liability for any of the Plaintiff’s claims, including, without limitation, that Chevron’s or its predecessors’ historical operations were negligent or breached any relevant contract or leases with the Plaintiff. La. Code Civ. Proc. Art. 1563(A)(1). Chevron affirmatively states that its historical operations were reasonable, prudent, and consistent with its lease terms and industry practice. Chevron

¹ “Discontinuous Shallow Water Bearing Zone” refers to the groundwater present intermittently occurring between approximately twenty and sixty-two feet beneath the ground surface.

affirmatively states it had no control over the operations of any of the other operators on the property.

11. Nonetheless, Chevron acknowledges that this admission under Act 312 establishes that there is “environmental damage,” as that term is defined by Act 312, in the areas outlined in Exhibit “A” and that Chevron is legally responsible for implementing the “most feasible plan” as set forth herein.

12. Chevron requests that the Court enter the attached order and refer this matter to the Louisiana Department of Natural Resources to conduct a public hearing to approve or structure the “most feasible plan” to evaluate or remediate under applicable regulatory standards the “environmental damage” for which Chevron admits responsibility, as required by Act 312.

Respectfully submitted,

/s/ Louis M. Grossman

Michael R. Phillips (#21020)

Louis M. Grossman (#28591)

Claire E. Juneau (#33209)

Jeffrey J. Gelpi (#37130)

Anne C. Lemelin (#38038)

Amanda J. Francis (#39184)

KEAN MILLER LLP

First Bank and Trust Tower

909 Poydras St., Suite 3600

New Orleans, LA 70112

Telephone: (504) 585-3050

mike.phillips@keanmiller.com

louis.grossman@keanmiller.com

claire.juneau@keanmiller.com

jeff.gelpi@keanmiller.com

annie.lemelin@keanmiller.com

amanda.francis@keanmiller.com

L. Victor Gregoire (#22400)
John C. Funderburk (#35597)
KEAN MILLER LLP
400 Convention Street, Suite 700
P. O. Box 3513 (70821-3513)
Baton Rouge, LA 70802
Telephone: (225) 387-0999
victor.gregoire@keanmiller.com
john.funderburk@keanmiller.com

Johnny W. Carter (#37985)
SUSMAN GODFREY L.L.P.
1000 Louisiana Street, Suite 5100
Houston, TX 77002-5096
Telephone: (713) 653-7818
jcarter@susmangodfrey.com

Tracie J. Renfroe (pro hac vice)
Elizabeth R. Taber (pro hac vice)
Mitchell B. Bryant (pro hac vice)
KING & SPALDING LLP
1100 Louisiana, Suite 4100
Houston, TX 77002
Telephone: (713) 751-3200
trenfroe@kslaw.com
etaber@kslaw.com

Attorneys for Chevron U.S.A. Inc.

