

RECEIVED
 U.S. DISTRICT COURT
 EASTERN DISTRICT OF LOUISIANA
 1999 SEP 28 P 4:11
 LORETTA G. WHYTE
 CLERK

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

UNITED STATES OF AMERICA §
 and the STATE OF LOUISIANA, *ex rel*, §
 Richard P. Ieyoub, Attorney General, §
 The Louisiana Oil Spill Coordinator, §
 Department of Environmental Quality, §
 Department of Wildlife and Fisheries, and §
 Department of Natural Resources, §
 §
 Plaintiffs, §
 §
 v. §
 §
 EQUILON PIPELINE COMPANY LLC, §
 §
 Defendant. §
 §

Civil Action No.

Judge

99-2961

Mag.

SECT C MAG 2

COMPLAINT

Plaintiff, United States of America ("United States"), through the Attorney General of the United States, and on behalf of the Fish and Wildlife Service, acting for the Department of the Interior ("DOI"); the National Oceanic and Atmospheric Administration ("NOAA"), acting for the Department of Commerce; and the Coast Guard, acting for the Secretary of the Department of Transportation; and Plaintiff, State of Louisiana ("Louisiana"), *ex rel*, Richard P. Ieyoub, Attorney General of the State of Louisiana, and on behalf of the Louisiana Oil Spill Coordinator, the Louisiana Department of Environmental Quality, the Louisiana Department of Wildlife and Fisheries, and the Louisiana Department of Natural Resources, represented herein by Richard P. Ieyoub, Attorney General, and other undersigned counsel, allege as follows:

I. NATURE OF THE ACTION

1. This is a civil action brought pursuant to the Clean Water Act ("CWA"), 33 U.S.C. § 1251, *et seq.*, as amended by the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. § 2701, *et seq.*, the Constitution of the State of Louisiana of 1974 ("Louisiana Constitution"), Article IV, Section 8 and Article IX, Sections 1 and 7, the Louisiana Oil Spill Prevention and Response Act, La. R.S. 30:2451, *et seq.*, the Louisiana Environmental Quality Act, La. R.S. 30:2001, *et seq.*, the Louisiana Coastal Wetlands Conservation, Restoration and Management Act, La. R.S. 49:213.1, *et seq.*, and the provisions of La. R.S. 56:1, *et seq.*, seeking recovery of natural resource damages, removal costs, and other expenses arising out of the discharge of oil into navigable waters of the United States and of the State of Louisiana and the adjoining shorelines.

II. JURISDICTION, VENUE AND NOTICE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and Section 1017(b) of OPA, 33 U.S.C. § 2717(b). This Court also has supplemental jurisdiction over state law claims in this action under 28 U.S.C. § 1367.

3. Authority to bring this action on behalf of the United States is vested in the United States Department of Justice by 28 U.S.C. §§ 516 and 519, and Section 506 of the CWA, 33 U.S.C. § 1366.

4. Authority to bring this action is vested in the Attorney General of the State of Louisiana by the Louisiana Constitution, Article IV, Section 8.

5. The State of Louisiana is authorized to bring this suit pursuant to La. R.S. 30:2025A,B(1)(a) and G(1), 33 U.S.C. § 2706(b) and 33 U.S.C. § 2717.

6. Venue is proper in the Eastern District of Louisiana pursuant to 28 U.S.C. § 1391 and Section 1017(b) of OPA, 33 U.S.C. § 2717(b), inasmuch as it is the judicial district in which the Defendant may be found, and it is the judicial district in which the discharge occurred.

III. PLAINTIFFS

7. Plaintiff, the United States of America, has commenced this action on behalf of NOAA and DOI, the federal agencies that have been designated by the President to act on behalf of the public as trustees for natural resources belonging to, managed by, controlled by, or appertaining to the United States. The United States also has commenced this action on behalf of the Coast Guard, the federal agency that coordinated the removal action and paid federal removal costs related to the oil spill involved in this action,

8. Plaintiff, the State of Louisiana, and the state trustees for natural resources as designated by the Governor of the State of Louisiana pursuant to 33 U.S.C. § 2706(b)(3), to wit; the Louisiana Oil Spill Coordinator, the Louisiana Department of Environmental Quality, the Louisiana Department of Wildlife and Fisheries, and the Louisiana Department of Natural Resources, are trustees for the natural resources injured by the spill under various federal statutes and regulations which include, but are not limited to, the Oil Pollution Act of 1990, 33 U.S.C. § 2701, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; and the National Contingency Plan, 40 C.F.R. Part 300.

IV. DEFENDANT

9. Defendant Equilon Pipeline Company LLC ("Equilon") is a corporation incorporated under the laws of the State of Delaware with its principle place of business in Houston, Texas.

10. Defendant Equilon is a successor corporation to Texaco Pipeline Inc. ("Texaco") by way of a merger, and Defendant Equilon has succeeded to the liabilities of Texaco.

11. At the time of the incident that forms the basis for this Complaint, Texaco was the owner of a pipeline located in Lake Barre, Terrebonne Parish, Louisiana.

12. Defendant is a "person" within the meaning of Section 1001(27) of OPA, 33 U.S.C. § 2701(27).

V. STATUTORY AND REGULATORY AUTHORITY

A. FEDERAL AUTHORITY

Prohibition of Oil Discharges

13. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil into or upon the navigable waters of the United States and adjoining shorelines in such quantities as the President determines may be harmful to the public health or welfare or environment of the United States.

14. Pursuant to Section 311(b)(4) of the CWA, 33 U.S.C. § 1321(b)(4), the President, through a delegation to EPA, Exec. Order No. 11735, 38 Fed. Reg. 21243 (Aug. 7, 1973), has determined by regulation that the quantities of oil that may be harmful to the public health or welfare or environment of the United States include discharges of oil that, inter alia, cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines. 40 C.F.R. § 110.3.

Removal Authority and the Oil Spill Liability Trust Fund

15. Section 311(c) of the CWA, 33 U.S.C. § 1321(c), empowers the President to "ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge of oil . . . (i) into or on the navigable waters; (ii) on the adjoining shorelines to the navigable waters...or (iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States."

16. Federal removal actions are financed through the Oil Spill Liability Trust Fund, which is a revolving fund that is financed by taxes on petroleum, pursuant to 26 U.S.C. § 4611, and by contributions from responsible parties.

Natural Resource Damages

17. Pursuant to Section 1006 of OPA, 33 U.S.C. § 2706, federal trustees shall be designated by the President to act on behalf of the public as trustees for natural resources belonging to, managed by, controlled by, or appertaining to the United States; and state and local trustees shall be designated by the Governor to act on behalf of the public as trustees for natural resources belonging to, managed by, controlled by, or appertaining to the State or a political subdivision.

18. Pursuant to Section 1006(b) of OPA, 33 U.S.C. § 2706(b), and the National Contingency Plan, 40 C.F.R. Part 300, Subpart G, the DOI and NOAA and the Louisiana Oil Spill Coordinator's Office ("LOSCO"), the Louisiana Department of Environmental Quality ("LDEQ"), the Louisiana Department of Wildlife and Fisheries ("LDWF"), and the Louisiana Department of Natural Resources ("LDNR") have been designated to act on behalf of the public

as trustees for natural resources belonging to, managed by, controlled by, or appertaining to the United States and the State of Louisiana.

19. Pursuant to Section 1006(c), 33 U.S.C. § 2706(c), state and federal trustees are authorized to assess natural resource damages and to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under their trusteeship.

20. NOAA has promulgated a Natural Resource Damage Assessment regulation at 15 C.F.R. Part 990, to be used by trustees in conducting natural resource damage assessments when natural resources and/or services are injured as a result of an incident involving an actual or substantial threat of a discharge of oil.

Recovery of Removal Costs and Natural Resource Damages

21. Section 1002(a) of OPA, 33 U.S.C. § 2702(a), provides, inter alia, as follows:

Notwithstanding any other provision or rule of law . . . each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge . . . into or upon the navigable waters or adjoining shorelines . . . is liable for the removal costs and damages specified in subsection (b) that result from such incident."

22. Section 1002(b)(1)(A) of OPA, 33 U.S.C. § 2702(b)(1)(A), provides that the removal costs referred to in Section 1002(a) of OPA include "all removal costs incurred by the United States [and] a State...under [inter alia] subsection (c)...of section 1321 of this title...."

23. Section 1002(b)(2) of OPA, 33 U.S.C. § 2702(b)(2), provides that the damages referred to in Section 1002(a) of OPA include inter alia "[d]amages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage, which shall be recoverable by a United States trustee...[or] a State trustee...."

24. Pursuant to 15 C.F.R. § 990.62, the trustees may issue a written demand, inviting a responsible party to implement the Final Restoration Plan, and to advance a specified sum representing trustee assessment costs and all trustee costs associated with implementing the Final Restoration Plan.

B. STATE AUTHORITY

25. Pursuant to Article IV, Section 8 of the Louisiana Constitution, the attorney general shall be the chief legal officer of the state, and shall have the authority to institute, prosecute, or intervene in any civil action or proceeding as necessary for the protection of any right or interest of the state.

26. Pursuant to Article IX, Section 1 of the Louisiana Constitution, "The natural resources of the state including air and water...and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety and welfare of the people."

27. Pursuant to the opinion of the Louisiana Supreme Court in the case of Save Ourselves, Inc., et al. v. Louisiana Environmental Control Commission, et al., 452 So.2d 1152 (La. 1984), "the Natural Resources article of the 1974 Louisiana Constitution imposes a duty of environmental protection on all state agencies and officials,"

28. La. R.S. 30:2451, *et seq.* establishes the Louisiana Oil Spill Prevention and Response Act ("OSPRA"). La. R.S. 30:2453 provides that the legislature, "finds and declares that the release of oil into the environment presents a real and substantial threat to the public health and welfare, to the environment, the wildlife and aquatic life, and to the economy of this state." Therefore, the purpose of OSPRA, "is to assist the legislature in fulfilling its duties to protect,

conserve, and replenish the natural resources of this state in accordance with Article IX, Section 1 of the Constitution of Louisiana." Under OSPRA, La. R.S. 30:2455 creates the Office of the Louisiana oil spill coordinator ("LOSCO" or "Coordinator") to administer the act.

29. La. R.S. 36:231 creates the Department of Environmental Quality and gives it the power to sue and be sued, and to "... provide for the administration and enforcement of the environmental laws of the state, to ensure the maintenance of a healthful and safe environment in Louisiana"

30. La. R.S. 30:2076 states that, "No person shall discharge or allow to be discharged into any waters of the state: (a) Any waste or any other substance of any kind that will tend to cause water pollution in violation of any rule, order, or regulation; or (b) Any substance, the discharge of which violates any term, condition, or limit imposed by a permit."

31. Pursuant to La. R.S. 30:2025A "any civil action necessary to carry out the provisions of this subtitle shall be brought by the secretary. In such suits, the secretary shall be represented by the attorney general."

32. Pursuant to La. R.S. 30:2025B(1)(a), the Louisiana Department of Environmental Quality "may bring a civil action in the name of the state to recover any damages or penalties resulting from a violation of any requirement of this subtitle, or any rule, regulation, or order adopted thereunder."

33. Pursuant to La. R.S. 30:2025G(1) "The attorney general shall have charge of and shall prosecute all civil cases arising out of violation of any provision of this Subtitle (Environmental Quality) including the recovery of penalties."

34. La. R.S. 36:351 creates the Department of Natural Resources which shall have the power to sue and be sued, and "shall be responsible for the conservation, management and development of water, minerals, timber, and other such natural resources of the state. . . ."

35. La. R.S. 49:213.1, ". . . places responsibility for the direction and development of the state's coastal vegetate wetlands conservation and restoration plan in the Wetlands Conservation and Restoration Authority within the office of the governor. Primary responsibility for carrying out the elements of the plan is placed in the office of coastal restoration and management within the Department of Natural Resources."

36. La. R.S. 49:214.26 establishes a coastal management program within the Department of Natural Resources.

37. La. R.S. 49:214.36 provides for the enforcement of the terms and conditions of the coastal use permit, by stating that, "the attorney general . . . may bring such injunctive, declaratory, or other actions necessary to ensure that no uses are made of the coastal zone for which a coastal use permit has not been issued when required"

38. La. R.S. 36:601 creates the Department of Wildlife and Fisheries which shall have the power to sue and be sued, and "shall have control and supervise all wildlife of the state, including fish and all other aquatic life."

39. La. R.S. 56:401 provides " a person who kills. . . or injures any fish, wild birds, wild quadrupeds, or other wildlife and aquatic life in violation of this title (Wildlife and Fisheries) . . . is liable to the state for the value of each fish, wild bird, wild quadrupeds, or other wildlife and aquatic life, unlawfully killed . . . or injured."

VI. FACTS GIVING RISE TO LIABILITY

40. On May 16, 1997, a pipeline operated by Texaco ruptured and discharged at least 275,000 gallons of crude oil into Lake Barre, Terrebonne Parish, Louisiana.

41. The oil that was discharged into Lake Barre caused a sheen upon or discoloration of the surface of the water or adjoining shorelines and/or caused a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines.

42. The oil spill spread over open water, beach, reef, and marsh habitats; and the spill caused injury to marsh, intertidal, subtidal, and water column habitats and to the plant, fish, shellfish, and wildlife species that use those habitats.

43. The United States Coast Guard directed and monitored removal activities in response to the oil spill.

44. NOAA, DOI, and the State of Louisiana also monitored the removal activities in response to the oil spill.

45. The United States incurred costs in responding to the oil spill, and these costs were paid by the Oil Spill Liability Trust Fund.

46. The State of Louisiana also incurred costs in responding to the oil spill.

47. Natural resources and services provided by natural resources belonging to, managed by, controlled by or appertaining to the United States and the State of Louisiana were injured or lost as a result of the oil spill.

48. NOAA, DOI, LOSCO, LDEQ, LDNR, and LDWF ("Natural Resource Trustees" or "Trustees") assessed the injury that the oil spill caused to natural resources and/or their services,

and the Trustees prepared a Draft Damage Assessment and Restoration Plan and Environmental Assessment ("Draft DARP/EA"), pursuant to the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321, *et seq.*, 40 C.F.R. Ch. V, and 15 C.F.R. § 990.55.

49. After reviewing public comments on the Draft DARP/EA, the Natural Resource Trustees selected a Restoration Project to compensate for the injury and/or loss to the natural resources and the natural resource services, and the Trustees issued a Final Restoration Plan.

VII. GENERAL ALLEGATIONS

50. The spill was a "discharge" of "oil" in "quantities as may be harmful," as those terms are defined in subsection 1001(7) and (23) of OPA, 33 U.S.C. § 2701(7) and (23), 40 C.F.R. § 110.3, and La. R.S. 30:2454(7) and (13).

51. The spill was a discharge of oil into or upon the navigable waters of the United States and of the State of Louisiana and/or adjoining shorelines.

52. The pipeline from which the oil was discharged was a facility, as that term is defined by Section 1001(9) of OPA, 33 U.S.C. § 2701(9), and by La. R.S. 30:2454(10).

53. Defendant Equilon, as successor to Texaco, the operator of the pipeline, is a responsible party, as that term is defined by Section 1001(32)(E) of OPA, 33 U.S.C. § 2701(32)(E), and by La. R.S. 30:2454(22).

VIII. FIRST CLAIM FOR RELIEF

54. Paragraphs 1 through 53 are realleged and incorporated by reference.

55. The costs incurred by the Coast Guard, DOI, and NOAA, in responding to the oil spill are "removal costs" as that term is defined in Section 1001(30) and (31) of OPA, 33 U.S.C. §§ 2701(30) and (31).

56. The discharge of oil into navigable waters of the United States and the adjoining shorelines on or about May 16, 1997, renders the Defendant liable under Section 1002(a) of OPA, 33 U.S.C. § 2702(a), for all costs incurred by the United States for removal of such oil, together with interest, penalties, and processing charges.

IX. SECOND CLAIM FOR RELIEF

57. Paragraphs 1 through 53 are realleged and incorporated by reference.

58. The costs incurred by the State of Louisiana, in responding to the oil spill are "removal costs" as that term is defined in Section 1001(30) and (31) of OPA, 33 U.S.C. §§ 2701(30) and (31), and by La. R.S. 30:2454(25).

59. The discharge of oil into navigable waters of the United States and of the State of Louisiana and the adjoining shorelines on or about May 16, 1997, renders the Defendant liable under Section 1002(a) of OPA, 33 U.S.C. § 2702(a), and under La. R.S. 30:2480 for all costs incurred by the State of Louisiana for removal of such oil, together with interest, penalties, and processing charges.

X. THIRD CLAIM FOR RELIEF

60. Paragraphs 1-53 are realleged and incorporated by reference.

61. The marsh, intertidal, subtidal, and water column habitats and the plant, fish, shellfish, and wildlife species that were injured by the oil spill were "natural resources," as that term is defined in Section 1001(20) of OPA, 33 U.S.C. § 2701(20).

62. The discharge of oil into navigable waters of the United States and the adjoining shorelines on or about May 16, 1997, renders the Defendant liable under Section 1002(a) of OPA, 33 U.S.C. § 2702(a), for the cost of restoring, rehabilitating, replacing, or acquiring the

equivalent of, the damaged natural resources their services and for the diminution in value of those natural resources and their services pending restoration, including the cost for assessing the natural resource damages.

XI. FOURTH CLAIM FOR RELIEF

63. Paragraphs 1-53 are realleged and incorporated by reference.

64. The land, fish, shellfish, fowl, wildlife, biota, vegetation, air water, ground-water supplies, and other similar resources owned, managed, held in trust, regulated, or otherwise controlled by the state are "natural resources" as that term is defined by La. R.S. 30:2054(17).

65. The marsh, intertidal, subtidal, and water column habitats and the plant, fish, shellfish, and wildlife species that were injured by the oil spill were "natural resources," as that term is defined in Section 1001(20) of OPA, 33 U.S.C. § 2701(20).

66. The discharge of oil into navigable waters of the United States and of the State of Louisiana the adjoining shorelines on or about May 16, 1997, renders the Defendant liable under Section 1002(a) of OPA, 33 U.S.C. § 2702(a), and La. R.S. 30:2480 for the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of, the damaged natural resources their services and for the diminution in value of those natural resources and their services pending restoration, including the cost for assessing the natural resource damages

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs, the United States of America, and the State of Louisiana respectfully requests that this Court:

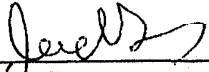
- a. Enter a judgment against Defendant and in favor of the United States for the United States' removal costs and other expenses incurred in connection with the oil spill;
- b. Enter a judgment against Defendant and in favor of the State of Louisiana for the State's removal costs and other expenses incurred in connection with the oil spill;
- c. Enter a judgment against Defendant and in favor of the United States and the State of Louisiana for all of the injury to, destruction of, loss, or loss of use of natural resources and natural resource services resulting from the oil spill, including the costs of restoring, replacing, and/or acquiring the equivalent of the injured resources and the diminution in value of those resources and their services pending restoration or replacement;
- d. Order the Defendant to pay the costs incurred by the United States and the State of Louisiana in assessing the natural resource damages and preparing a plan for restoration of such damages;
- e. Order the Defendant to implement, or to pay the costs incurred by the United States and the State of Louisiana in implementing, the Final Restoration Plan developed by the Natural Resource Trustees for restoration of natural resources damaged by the discharge of oil from Texaco's facility, and any modifications to the Plan;
- f. Order the Defendant to pay future costs incurred by the United States and the State of Louisiana for monitoring and oversight of the implementation of the Final Restoration Plan, and any modification to the Plan; and

g. Grant such other relief as the court deems just and proper.


Dated: September 27, 1999.

Respectfully submitted,

FOR THE UNITED STATES:



Joel M. Gross
Chief
Environmental Enforcement Section
U.S. Department of Justice



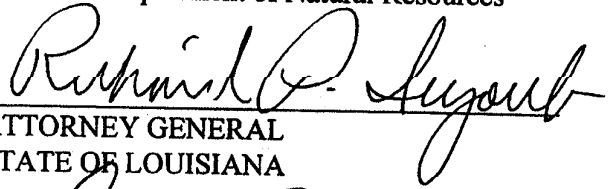
Elizabeth A. Edmonds
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Eddie J. Jordan Jr.
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Eastern District of Louisiana

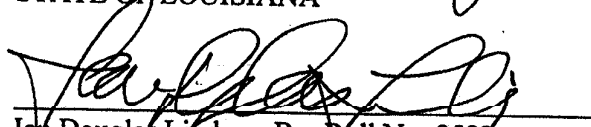
Sandra E. Gutierrez
Assistant United States Attorney
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501 Magazine Street
New Orleans, Louisiana 70130

FOR THE STATE OF LOUISIANA

Louisiana Oil Spill Coordinator
Louisiana Department of Environmental Quality
Louisiana Department of Wildlife and Fisheries
Louisiana Department of Natural Resources



ATTORNEY GENERAL
STATE OF LOUISIANA



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AO 440 (Rev. 10/93) Summons in a Civil Action

United States District Court **RETURN**

EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA, and the
STATE OF LOUISIANA

Plaintiffs.

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

EQUILON PIPELINE COMPANY LLC.

Defendants.

99-2961
SECT C MAG 2

TO: (Name and address of defendant)
EQUILON PIPELINE COMPANY LLC
c/o CT Corporation
8550 United States Plaza Blvd.
Baton Rouge, Louisiana 70809

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Elizabeth A. Edmonds
United States Department
Environmental Enforcement Section
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611

Ian Douglas Lindsey
Assistant Attorney General
State of Louisiana
P.O. Box 94005
Baton Rouge, Louisiana 70804

an answer to the complaint which is herewith served upon you, within 20 days after
service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be
taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this
Court within a reasonable period of time after service.

LORETTA G. WELLS

SEP 28 1999

CLERK

DATE

(BY)  DEPUTY CLERK

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

1999 SEP 28 P 4:12
CLERK

UNITED STATES OF AMERICA
and the STATE OF LOUISIANA,

Plaintiffs,

Civil Action No.

Judge

99-2961

EQUILON PIPELINE COMPANY LLC,

Mag.

SECT CMAG 2

Defendant.

NOTICE OF LODGING OF CONSENT DECREE

A proposed Consent Decree in this action has been lodged with the Court, after having been agreed to and signed by the parties. Notice of lodging of the Consent Decree will be published in the Federal Register in accordance with the requirements of 28 C.F.R. § 50.7. No action is required of the Court during pendency of the public comment period. After expiration of the comment period and evaluation of the comments, if any, the Court will be advised as to entry of the Consent Decree or any further action which may be required.

Dated: September 27, 1999.

Respectfully submitted,

Joel M. Gross
Chief
Environmental Enforcement Section
U.S. Department of Justice

Receipt No: _____
Deputy Clerk: _____

FINANCIAL & CIVIL ALLOTMENT SHEET

ACCOUNT CODE:

REGISTRY FUND:

855XX Accounts

604700 Accounts

- _____ - Restitution
- _____ - U.S. Postal Service Forms
- _____ - Petty Offense

- _____ - Cash Bonds
- _____ - Land Condemnation
- _____ - Deceased & Deserting Seaman

GENERAL & SPECIAL FUNDS:

- _____ - Attorney Admission
085000 - \$20.00 / 510000 - \$30.00 **TOTAL \$50.00**
- _____ - Certificate of Good Standing - Duplicate Certificate of Admission
085000 - \$5.00 / 510000 - \$10.00 **TOTAL \$15.00**
- 086900 - **FILING FEES**
- _____ - Civil Filing Fee (\$60.00)
- _____ ** Misc. Filings - Other District Judgment, Other District Subpoena (\$20.00) _____
- _____ - Writ of Habeas Corpus (\$5.00)
- _____ - Appeals Filing Fee (\$105.00) - Misdemeanor (\$25.00)
- 322350 - **COPY FEES** (.50 per page - # of pages _____)
- _____ - Microfiche (\$3.00) Magnetic Tape Recordings (\$15.00) _____
- 322360 - **MISCELLANEOUS ACCOUNTS**
- _____ - Certification (\$5.00 - # of Cert. _____)
- _____ - Records Search (\$15.00 Each Name - # of names _____)
- _____ - Retrieval of Records - Fed. Records Ctr. (\$25.00 PREPAY)
- _____ - NSF Check (\$25.00)
- 322380 - Recovery of Costs - Jury Assessment _____
- _____ - 510000 - **Special Fund - Filing fee (\$90.00) ***TOTAL FILING FEE \$150.00*****
- _____ - 510100 - Registry Handling Fee (Court Ordered filing fee - less than \$150.00)

FINES & MISCELLANEOUS ACCOUNTS

- _____ - 504100 - Crime Victim Fund, Collateral Forfeitures (CVB), Assessment Fee, etc.
- _____ - 6855XX - Disciplinary Enforcement Fund (\$15.00 Triannually, \$5.00 PRO HAC VICE)

ACCOUNTS RECEIVABLE

- _____ - 092300 Criminal Justice Act (96 092300 - CJAPANL) - (ALL CJA PAYMENTS)

RECEIVED FROM (FIRM): U.S. Dept. of Justice, Environment & Natural Resources Div

CASE NUMBER: _____ SECTION: _____

CASE TITLE: United States of America & the State of La. v. Equilon Pipeline Co. LLC

PAYMENT OF

--	--

 CASH _____ CHECK _____ MONEY ORDER _____
SEAMAN _____ PAUPER _____ USA X NON CASH _____

Civil Action Cases (for New Filings Only)

Designate form to be used by counsel to indicate the Category of the cause for purpose of assignment to the appropriate Judge's calendar. PLACE AN (X) IN ONE CATEGORY ONLY.

- | | |
|--|---|
| <ul style="list-style-type: none"> _____ 1. Cases requiring immediate action by the Court such as TRO, Injunction, Orders to Show Cause, etc. _____ 2. Class Action _____ 3. Antitrust _____ 4. Patent, Trademark, Copyright _____ 5. Civil Rights Case | <ul style="list-style-type: none"> _____ 6. Habeas Corpus & Other Convictions Petitions Title 28 RSC Sec. 2255 _____ 7. Petitions for Stay of Execution Death Sentence _____ 8. Social Security Case <u>X</u> _____ 9. All Others |
|--|---|

Is this a THREE JUDGE COURT? _____ Yes X No
Is this a RELATED CASE? X Yes _____ No

Elizabeth A. Edmonds
Attorney of Record
Elizabeth A. Edmonds

CIVIL COVER SHEET

JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

a) PLAINTIFFS
 United States of America, and
 State of Louisiana

b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS
 Equilon Pipeline Company LLC

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

SEE ATTACHED

ATTORNEYS (IF KNOWN)
 Kathy Rhyne, King & Spalding, 1730
 Pennsylvania Ave., N.W. Washington
 D.C. 20006-4706, (ph) 202-626-3743
 (fax) 202-626-3737

BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment 7

NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 10 Insurance <input type="checkbox"/> 20 Marine <input type="checkbox"/> 30 Miller Act <input type="checkbox"/> 40 Negotiable Instrument <input type="checkbox"/> 50 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 51 Medicare Act <input type="checkbox"/> 52 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 53 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 60 Stockholders' Suits <input type="checkbox"/> 90 Other Contract <input type="checkbox"/> 95 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.N. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 10 Land Condemnation <input type="checkbox"/> 20 Foreclosure <input type="checkbox"/> 30 Rent Lease & Ejectment <input type="checkbox"/> 40 Torts to Land <input type="checkbox"/> 45 Tort Product Liability <input type="checkbox"/> 90 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWC/DWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 28 USC 7609

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)
 Clean Water Act 33 U.S.C. Sec. 1251, et seq. as amended by the Oil Pollution Act of 1990, 33 U.S.C. Sec. 2701 et seq. civil action to recover removal costs and natural resource damages after an oil spill.

I. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$525,000 plus future costs & injunctive relief. CHECK YES only if demanded in complaint. JURY DEMAND: YES NO

II. RELATED CASE(S) IF ANY (See instructions): Yes. See notice of collateral proceeding. JUDGE: _____ DOCKET NUMBER: _____

DATE: September 27, 1999 SIGNATURE OF ATTORNEY OF RECORD: Elizabeth A. Edmonds

OFFICE USE ONLY
 RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Attachment

Plaintiff's Attorneys

Elizabeth Edmonds
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

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Ian Douglas Lindsey, Bar Roll No. 8582
Assistant Attorney General
Department of Justice
Public Protection Division
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Telephone (225) 342-7189
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United States District Court

RETURN

EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA, and the
STATE OF LOUISIANA

Plaintiffs,

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

EQUILON PIPELINE COMPANY LLC.

Defendants.

99-2961

SECT CMAG 2

TO: (Name and address of defendant)

EQUILON PIPELINE COMPANY LLC
c/o CT Corporation
8550 United States Plaza Blvd.
Baton Rouge, Louisiana 70809

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Elizabeth A. Edmonds
United States Department
Environmental Enforcement Section
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611

Ian Douglas Lindsey
Assistant Attorney General
State of Louisiana
P.O. Box 94005
Baton Rouge, Louisiana 70804

an answer to the complaint which is herewith served upon you, within 20 days after
service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be
taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this
Court within a reasonable period of time after service.

LORETTA G. WHITE

SEP 28 1999

CLERK

DATE

(BY)  DEPUTY CLERK

13

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

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

1999 NOV 12 P 1:20

UNITED STATES OF AMERICA, *et al.* §
 §
 Plaintiffs, §
 §
 v. §
 §
 EQUILON PIPELINE COMPANY LLC, §
 §
 Defendant. §
 §

LORETTA G. WHYTE
 Civil Action No. 99-2961
 Section "D"
 Magistrate Div. 5

MOTION TO ENTER THE CONSENT DECREE

Plaintiff, United States of America, with the concurrence of the parties, moves to enter the Consent Decree that was lodged with this Court on September 28, 1999. The United States published notice of the lodging of the Consent Decree in the Federal Register on October 7, 1999, and provided 30 days for any public comments. 64 Fed. Reg. 54643 (1999).

The United States received no comments to the Consent Decree from anyone. Therefore, the United States requests this Court to enter the Consent Decree that was lodged on September 28, 1999.

Dated this 10th day of November, 1999.

Respectfully submitted,

Joel M. Gross
 Chief
 Environmental Enforcement Section
 U.S. Department of Justice

NOV 15 1999

DATE OF ENTRY _____

Fee	
Process	
X Filed	
Sum Dep	
Doc.No.	

Elizabeth A. Edmonds

Elizabeth A. Edmonds
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Environment and Natural Resources Division
U.S. Department of Justice
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United States Attorney
Eastern District of Louisiana

Laurie Barcelona
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OF COUNSEL:

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Silver Spring, MD 20910

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Atlanta, GA 30303

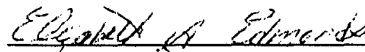
Patricia Kingcade
United States Coast Guard
Staff Attorney
National Pollution Funds Center
4200 Wilson Blvd., Suite 1000
Arlington, Virginia 22203-1804

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this motion with the proposed Order and the Certificate of Consultation was served on this 10th day of November, 1999, on the parties to this action by sending one copy by first class mail and by faxing the documents to:

Ian Douglas Lindsey
Assistant Attorney General
State of Louisiana
P.O. Box 94005
Baton Rouge, LA 70804

Kathy Rhyne
King & Spalding
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-4706


Elizabeth A. Edmonds

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

UNITED STATES OF AMERICA
and the STATE OF LOUISIANA,

Plaintiffs,

v.

EQUILON PIPELINE COMPANY LLC,

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No.

Judge

Mag.

1999 SEP 28 P 4: 12

CHRISTOPHER G. WHYTE
CLERK

99-2961

SECT C MAG 2

NOTICE OF COLLATERAL PROCEEDINGS

Plaintiff, United States of America, files this Notice of Collateral Proceedings, pursuant to Local Civil Rule 3.1.

The United States and the State of Louisiana have filed this case, pursuant to Section 1002(a) and (b)(1) and (2) of the Oil Pollution Act, 33 U.S.C. § 2702(a) and (b)(1) and (2), to recover natural resource damages, removal costs, and other expenses arising out of the May 16, 1997, discharge of oil from a pipeline located in Lake Barre, Terrebonne Parish, Louisiana. The proposed Consent Decree provides that Equilon Pipeline Company, successor corporation to Texaco Pipeline Inc. by way of merger, will perform a restoration project to compensate for the natural resource damages that resulted from the oil spill. Equilon also will pay state response costs, past and future state and federal assessment costs, and future restoration costs.

According to the Defendant, the following cases have been filed in federal court as a result of the same oil spill:

1. Texaco Trading & Transportation, et al. v. Laine Construction Company, et al.
Civil Action No. 98-1473 (E.D. La., Section "D", Judge A. J. McNamara)

Texaco has filed this cost recovery action, pursuant to Section 1002(d) and 1010(a) of the Oil Pollution Act, 33 U.S.C. 2702(d) and 2710(a), against the subcontractor who damaged the Texaco Pipeline Inc. 16-inch pipeline that ruptured, resulting in the oil spill. The amount of the natural resource damages, assessment costs, restoration costs, as well as other costs and damages sustained by Texaco, will be considered by the Court.

The case has been consolidated with the following actions which seek to limit liability, pursuant to the Limitation of Vessel Owner's Liability Act, 46 U.S.C. § 181, *et seq.*:

In Re: The Matter of T. L. James & Company, Inc., as owner of the Crane Barge ALROAR, Praying From Exoneration From or Limitation of Liability; Civil Action No. 98-2682, and

In Re: The Matter of T. L. James & Company, Inc. as owner of the Crane Barge BILL JOHNSON, Praying From Exoneration From or Limitation of Liability; Civil Action No. 98-2683.

2. Louis Naquin, et al. v. Texaco Inc., et al.; Civil Action No. 98-3678 (E.D. La.; Section "N", Judge Edith Brown Clement).
3. Jeffrey L. Verdin v. Texaco Inc., et al.; Civil Action No. 99-1615 (E.D. La.; Section "K", Judge Duval).

These two cases have been filed by private parties for damages, pursuant to Section 1002(a) and (b)(2) of the Oil Pollution Act, 33 U.S.C. § 2702(b)(2).

Additionally, there are some pending Louisiana state court private party actions.

Respectfully submitted,

Joel M. Gross
Chief
Environmental Enforcement Section
U.S. Department of Justice



Elizabeth A. Edmonds
Trial Attorney
Environmental Enforcement Section
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New Orleans, Louisiana 70130

OF COUNSEL:

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Patricia Cortelyou-Hamilton
Attorney
Department of the Interior
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75 Spring Street, Room 304
Atlanta, GA 30303

Patricia Kingcade
United States Coast Guard
Staff Attorney
National Pollution Funds Center
4200 Wilson Blvd., Suite 1000
Arlington, Virginia 22203-1804

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

1999 SEP 30 P 2:02

LORETTA G. WHITE
CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA , ET AL

CIVIL ACTION

VERSUS

NO. 99-2961

EQUILON PIPELINE COMPANY, LLC

SECTION: C/2

ORDER OF TRANSFER

The Court has recently been advised that the subject matter of the above captioned case appears to be related to that asserted in C.A. 98-1473 "Texaco Trading & Transportation, et al vs. Laine Construction Company, et al". Accordingly,

IT IS ORDERED that the above captioned matter be **TRANSFERRED** to Section "D", Magistrate Division 5, of this Court.

New Orleans, Louisiana this 30th day of September 1999.

Ap
TRANSFERRED TO: *[Signature]*
UNITED STATES DISTRICT JUDGE

SECT. D MAG. 5

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

DATE OF ENTRY SEP 30 1999