

CAUSE NO. 93371-CV

NEAL BESS, JR., KELLY C. ADKINS, § IN THE DISTRICT COURT OF
TOMMY ALEXANDER, TONYA M. §
ALLEN, DOMINICK S. ALLEY, §
ROSEMARIE ALLEY, LARRY AMEY, §
RYAN BALDRY, WILLIAM BAUGH, § _____ JUDICIAL DISTRICT
JUDITH CAROL BAYS, TERRENCE §
BELL, JESSIE R. BESS, SR., ANNETTE E. §
BESS, JOY D. BOWERS, MARGARET §
BROWN, ROYCE BROWN, KEVIN D. § BRAZORIA COUNTY TEXAS
BROWN, RICHARD BUNDICK, §
JONATHAN BUNDICK, AUSTIN L. §
BUNDICK, ROGER D. BUNDICK, §
CONNIE BUSHONG, JOYCE CLARK, §
RAFAELA MARICELA CORDOVA, §
RANDY W. CORDOVA, AVA CRAVENS, §
JOHN CURTIS, GLORIA DAVIS, §
MONTRAY DAVIS, RITA DAVIS JOHN §
DEAVERS, JR., JACLYN DEAVERS, §
JOHN DEAVERS, EMILY DOIRON, § JURY TRIAL DEMANDED
CHUCK DORSETT, BRANDI DORSETT, §
REBEKKA DUNLAP, TRAYLICIA §
DUNLAP, KIMBERLEY EASTON, §
ALFRED LEE ELLIS, JAMES ENGLISH, §
BETTY EVANS, JAMES EVANS, §
RONNIE FINKLEMAN, TIMOTHY M. §
FOSTER, JANIE FRANKLIN, CURTIS §
FRANKLIN, MARIA FRANKLIN, §
SAMUEL GANT, CRYSTAL GAY, §
CLAUDIS CURTIS GROVEY, JR., §
ERMER LEE GROVEY, RUTH GROVEY, §
DAVID HARTQUIST, CHARLOTTE §
HIERS, TERESA HOLLAND, OSCAR §
JACKSON, CHARLES JONES, ROISHON §
JONES, RUBEN JUAREZ, FERNANDO §
JUAREZ, CHERI KELSAY, SULTAN §
KHAN, LORETTA LAYMAN, LATOYA §
LEWIS, ELIZEO MARTINEZ, JOE §
MARTINEZ, JULIA G. MARTINEZ, §
PRISCILLA MARTINEZ, DOROTHY §
MCKINNEY MARGARET MCKOWN, §
FRED MCCOY, RONNIE T. MILNER, §
CRAIG MITCHELL, AUGUSTINE §
MOSQUEDA, SHAKARA NELSON, §
DAVID S. NEEL, BILL JOE NEEL, §
KEVIN NOSBY, NEVIN PARSON, §

JOSEPH PATTERSON, ROBERT L.	§
PATTERSON, CAROLYN B. PENRICE,	§
MARY PLUMMER, LATOSHA POINTER,	§
FELICIA RANDLE, JAJUAN RANDLE,	§
MIKAIL RANDLE, PAUL M. SAUER,	§
RENDA SCHUELKE, REBECCA SCOTT,	§
JOHN SCOTT, JACQUELINE SHORTER,	§
GAVIN SMALL, STANLEY L. SPURR,	§
JR., CYNTHIA SPURR, JAMES SVETLIK,	§
KIM SVETLIK, ALAINA TAYLOR,	§
GERALD TOLBERT, SR., JACKIE	§
TOLBERT, SHARON TOLBERT,	§
ESTELLE TOLBERT, KOREY L.	§
TOLBERT, KELVIN TOLBERT, TONY	§
WATERS, CRYSTAL WAY, RICHARD	§
WHITEHEAD, GAYLE WHITEHEAD,	§
DIANA WILEY, SHACOYA WILEY,	§
KRYSTAL WILLIAMS, CECILIA M.	§
WILSON, MARY WOODARD, JULIA	§
WOODARD, DELICIA WOODARD,	§
DORRELL WOODARD, KELVIN	§
WOODARD, SHONNTUANE	§
WOODARD, CUNEY WOODARD,	§
JAMES WOOLSEY, PATRICIA	§
WOOLSEY	§
<i>Plaintiffs</i>	§
	§
VS.	§
	§
PHILLIPS 66 CO., CHEVRON PHILLIPS	§
CHEMICAL COMPANY, LLC D/B/A CP	§
CHEM COMPANY LLC, AND CHEVRON	§
PHILLIPS CHEMICAL COMPANY, LP	§
<i>Defendants</i>	

PLAINTIFFS’ ORIGINAL PETITION AND REQUEST FOR DISCLOSURES

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff NEAL BESS, JR. and other plaintiffs named below (collectively “Plaintiffs”) submit this Original Petition and Request for Disclosures, complaining of Phillips 66 Co. (“Phillips 66”), Chevron Phillips Chemical Company, LLC d/b/a CP Chem Company, LLC (“Chevron

Phillips LLC”) and Chevron Phillips Chemical Company, LP (“Chevron Phillips LP”) (collectively, “Defendants”), and for cause would show as follows:

I. SUMMARY OF THE CASE

1. Sweeny, Texas has history dating back to the 1820s, but one thing that has remained constant are the ties of its residents to the land. Many families have generational history in the area and in homes constructed upon this land. Over the years, Sweeny residents have seen storms, hurricanes, hail, and rain. Following the torrents of Hurricane Harvey, the people of Sweeny thought they were safe from flooding. The hurricane had passed and there was largely no flooding to their homes and land. The town thought it got through the worst of it, and that their families and friends were going to be fine. They were wrong.

2. The people of Sweeny were counting on the Linnville Bayous to keep funneling the upstream flow of water out of the town and downstream towards the Gulf of Mexico. But what the people of Sweeny did not know was that Defendants Phillips 66, Chevron Phillips LLC, and Chevron Phillips LP were working overnight to dam these bayous to barricade the Sweeny Refinery—a multi-billion-dollar investment. Upon information and belief, multiple chemical and petroleum spills occurred in the Sweeny Refinery and were threatening contamination in the flowing waters. It is believed that Defendants started erecting dams in both the Linnville and Little Linnville Bayous in the dark of night on Wednesday August 30, 2017, finalizing the damming of both bayous, again, under the veil of darkness. Defendants also installed Tiger Dams to further barricade the natural flow of the bayous. These dams gave the water flowing downstream nowhere to flow, except to flood the land and people surrounding the Sweeny Refinery. Unforgivably, Defendants never warned a single Sweeny resident of the imminent danger upon them. Instead,

Defendants sat quietly even though their hydrologists had told them the town was going to flood because of the dams.

II. PARTIES

3. Plaintiffs in this case are individual members and businesses of Brazoria and Matagorda Counties, Texas. Each Plaintiff in this case was directly affected and harmed by Defendants' damming of the Linnville Bayous. Each Plaintiff is suing to recover for not only their personal damages incurred, but also to force Defendants to take responsibility for the harm they did to the community surrounding Sweeny Refinery.

4. There are currently 121 Plaintiffs in this case. All of these individuals were damaged due to Defendants' intentional and conscious disregard for the safety and well-being of the Sweeny residents. Some Plaintiffs were trapped in their homes, in fear of losing their lives, and without access to food or clean drinking water. Plaintiffs in this case are:

1. Neal Bess, Jr., a resident of the State Texas;
2. Kelly Adkins, a resident of the State of Texas;
3. Tommy Alexander, a resident of the State of Texas;
4. Tonya M. Allen, a resident of the State of Texas;
5. Dominick S. Alley, a resident of the State of Texas;
6. Rosemarie Alley, a resident of the State of Texas;
7. Larry Amey, a resident of the State of Texas;
8. Ryan Baldry, a resident of the State of Texas;
9. William Baugh, a resident of the State Texas;
10. Judith Carol Bays, a resident of the State Texas;
11. Terrence Bell, a resident of the State Texas;
12. Jessie R. Bess, Sr., a resident of the State Texas;

13. Annette E. Bess, a resident of the State Texas;
14. Joy Bowers, a resident of the State of Texas;
15. Margaret Brown, a resident of the State Texas;
16. Royce Brown, a resident of the State Texas;
17. Kevin D. Brown, a resident of the State Texas;
18. Richard Bundick, a resident of the State Texas;
19. Jonathan Bundick, a resident of the State Texas;
20. Austin L. Bundick, a resident of the State Texas;
21. Roger D. Bundick, a resident of the State Texas;
22. Connie Bushong, a resident of the State Texas;
23. Joyce Clark, a resident of the State Texas;
24. Randy W. Cordova, a resident of the State Texas;
25. Rafaela Maricela Cordova, a resident of the State Texas;
26. Ava Cravens, a resident of the State Texas;
27. John Curtis, a resident of the State Texas;
28. Gloria Davis, a resident of the State Texas;
29. Montray Davis, a resident of the State Texas;
30. Rita Davis, a resident of the State Texas;
31. John Deavers, Jr., a resident of the State Texas;
32. Jaclyn Deavers, a resident of the State Texas;
33. John Deavers, a resident of the State Texas;
34. Emily Doiron, a resident of the State Texas;
35. Chuck Dorsett, a resident of the State Texas;
36. Brandi Dorsett, a resident of the State Texas;

37. Rebekka Dunlap, a resident of the State Texas;
38. Traylicia Dunlap, a resident of the State Texas;
39. Kimberley Easton, a resident of the State Texas;
40. Alfred Lee Ellis, a resident of the State Texas;
41. James English, a resident of the State of Texas;
42. Betty Evans, a resident of the State Texas;
43. James Evans, a resident of the State Texas;
44. Timothy M. Foster, a resident of the State Texas;
45. Janie Franklin, a resident of the State Texas;
46. Curtis Franklin, a resident of the State Texas;
47. Maria Franklin, a resident of the State Texas;
48. Samuel Gant, a resident of the State Texas;
49. Crystal Gay, a resident of the State Texas;
50. Claudis Curtis Groveby, Jr., a resident of the State Texas;
51. Ermer Lee Groveby, a resident of the State Texas;
52. Ruth Groveby, a resident of the State Texas;
53. David Hartquist, a resident of the State Texas;
54. Charlotte Hiers, a resident of the State Texas;
55. Teresa Holland, a resident of the State Texas;
56. Oscar Jackson, a resident of the State Texas;
57. Charles Jones, a resident of the State Texas;
58. Roishon Jones, a resident of the State Texas;
59. Ruben Juarez, a resident of the State Texas;
60. Fernando Juarez, a resident of the State Texas;

61. Cheri Kelsay, a resident of the State Texas;
62. Sultan Khan, a resident of the State Texas;
63. Loretta Layman, a resident of the State Texas;
64. LaToya Lewis, a resident of the State Texas;
65. Elizeo Martinez, a resident of the State Texas;
66. Priscilla Martinez, a resident of the State Texas;
67. Joe Martinez, a resident of the State Texas;
68. Julia G. Martinez, a resident of the State Texas;
69. Fred McCoy, a resident of the State Texas;
70. Margaret McKown, a resident of the State Texas;
71. Dorothy McKinney, a resident of the State Texas;
72. Ronnie T. Milner, a resident of the State Texas;
73. Craig Mitchell, a resident of the State of Texas;
74. Augustine Mosqueda, a resident of the State Texas;
75. David S. Neel, a resident of the State Texas;
76. Billy Joe Neel, a resident of the State Texas;
77. Shakara Nelson, a resident of the State Texas;
78. Kevin Nosby, a resident of the State Texas;
79. Nevin Parson, a resident of the State Texas;
80. Joseph Patterson, a resident of the State Texas;
81. Robert L. Patterson, a resident of the State Texas;
82. Carolyn B. Penrice, a resident of the State Texas;
83. Mary Plummer, a resident of the State Texas;
84. LaTosha Pointer, a resident of the State Texas;

85. Felicia Randle, a resident of the State Texas;
86. Mikail Randle, a resident of the State Texas;
87. Jajuan Randle, a resident of the State Texas;
88. Paul M. Sauer, a resident of the State Texas;
89. Renda Schuelke, a resident of the State Texas;
90. Rebecca Scott, a resident of the State Texas;
91. John Scott, a resident of the State Texas;
92. Jacqueline Shorter, a resident of the State Texas;
93. Gavin Small, a resident of the State Texas;
94. Stanley L. Spurr, Jr., a resident of the State Texas;
95. Cynthia Spurr, a resident of the State Texas;
96. James Svetlik, a resident of the State Texas;
97. Kim Svetlik, a resident of the State Texas;
98. Alaina Taylor, a resident of the State Texas;
99. Korey L. Tolbert, a resident of the State Texas;
100. Jackie Tolbert, a resident of the State Texas;
101. Sharon Tolbert, a resident of the State Texas;
102. Gerald Tolbert, Sr., a resident of the State Texas;
103. Estelle Tolbert, a resident of the State Texas;
104. Kelvin Tolbert, a resident of the State Texas;
105. Tony Waters, a resident of the State Texas;
106. Crystal Way, a resident of the State Texas;
107. Richard Whitehead, a resident of the State Texas;
108. Gayle Whitehead, a resident of the State Texas;

109. Diana Wiley, a resident of the State Texas;
110. Shacoya Wiley, a resident of the State Texas;
111. Krystal Williams, a resident of the State Texas;
112. Cecilia M. Wilson, a resident of the State Texas;
113. Mary Woodard, a resident of the State Texas;
114. Julia Woodard, a resident of the State Texas;
115. Delicia Woodard, a resident of the State Texas;
116. Dorrell Woodard, a resident of the State Texas;
117. Kelvin Woodard, a resident of the State Texas;
118. Shonntuane Woodard, a resident of the State Texas;
119. Cuney Woodard, a resident of the State Texas;
120. James Woolsey, a resident of the State Texas; and
121. Patricia Woolsey, a resident of the State Texas.

5. Defendant Phillips 66 Company is a Delaware corporation headquartered in Houston, Texas and may be served with process through its registered agent Corporation Service Company at 211 E. 7th Street, Suite 620, Austin, TX 78701.

6. Defendant Chevron Phillips Chemical Company, LLC d/b/a CP Chem Company, LLC is a Delaware limited liability corporation doing business in Texas and may be served with process through its registered agent, CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

7. Defendant Chevron Phillips Chemical Company, LP is a Delaware limited partnership doing business in Texas and may be served with process through its registered agent, CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

III. REQUEST PURSUANT TO RULE 28

8. To the extent that Defendants are conducting business pursuant to a trade name or assumed name, then suit is brought against Defendants pursuant to the terms of Rule 28 of the Texas Rules of Civil Procedure, and Plaintiffs demand that, upon answer to this petition, Defendants answer in their correct legal and assumed name.

IV. JURISDICTION AND VENUE

9. Venue is proper in this matter, as a substantial portion of the events leading to this lawsuit occurred in Brazoria County. The amount in controversy is within the jurisdictional limits of this Court.

V. FACTS

10. Defendants are an invaluable part of the Sweeny area and surrounding communities. In no uncertain terms, the Sweeny Refinery provides thousands of people with employment, and the Sweeny Refinery pays significant amounts in property tax alone. It is fair to say there is both a level of appreciation and trust between the Sweeny Refinery and the surrounding residents.

11. Regrettably, the Sweeny Refinery forever broke this trust by intentionally and with conscious disregard to the safety and well-being of the Sweeny residents damming the Linnville Bayous knowing their actions would cause a devastating, unprecedented flood. These actions were done in the dark of night without warning, notice, or alert to anyone.

12. Hurricane Harvey passed through Sweeny, Texas between the dates August 24 through 28, 2017. The hurricane itself had a minimal impact on Sweeny.

13. The people of Sweeny were counting on the Linnville Bayous to keep funneling the upstream flow of water out of the town and downstream towards the Gulf of Mexico. But what the people of Sweeny did not know was that Defendants Phillips 66, Chevron Phillips LLC, and Chevron Phillips LP were working overnight to dam the bayous to barricade the Sweeny Refinery. Upon information and belief, multiple chemical and petroleum spills occurred in Sweeny Refinery and were threatening contamination in the flowing waters. It is believed that Defendants started working late at night on Wednesday August 30, 2017, finalizing the damming of both bayous in darkness. Defendants also installed Tiger Dams to further barricade the natural flow of the bayous. These dams gave the water flowing downstream nowhere to flow, except to flood the land and people surrounding the Sweeny Refinery. Because of the dams, the water level in Sweeny rose by significantly, flooding the inside of many homes and trapping many individuals inside of their houses. Livestock and sowed land were lost as well. During all of this, Defendants never warned anyone in the surrounding community about their actions which directly caused the flood.

14. The above-named Plaintiffs all were damaged as a result of Defendants' damming of Linnville Bayous.

VI. CAUSES OF ACTION

A. Negligence *Per Se*

15. Plaintiffs re-allege each and every allegation set forth above.

16. Rather recently, Defendants built a lengthy railroad track within the facility without a permit. Some of the railroad track sits within a floodplain. Indeed, the erection of the railroad track has and will contrive to alter the topography of the area and the spread of surface water. Defendants' actions before and following Hurricane Harvey, particularly with respect to the

Linnville Bayous and construction of the railroad, violate Texas and federal law (including without limitation, TEXAS WATER CODE § 11.086, § 11.096, and § 11.121) which are intended to protect the public's health and safety. Defendants' conduct is in further violation of Brazoria County's Building Regulations as required by the National Flood Insurance Act, Title 42. Plaintiffs are among those classes of persons intended to be protected by the environmental laws of this state.

17. As a result of these acts and omissions, such violations of state law require imposition of strict liability on Defendants, as Defendants are the proximate cause of Plaintiffs' damages.

B. Strict Liability for Ultra-Hazardous Activity

18. Plaintiffs re-allege each and every allegation set forth above.

19. Plaintiffs further allege that the damming of the Linnville Bayous and release of dangerous, toxic chemicals was extremely hazardous and fraught with danger, and therefore, constituted an ultra-hazardous activity under Texas law. Accordingly, Defendants are strictly liable to Plaintiffs' injuries and damages proximately caused by the damming of the bayous and chemical contamination of the community.

C. Negligence

20. Plaintiffs re-allege each and every allegation set forth above.

21. The Linnville Bayous flow through Defendants' property, allowing water to flow downstream. Defendants intentionally dammed the bayous to prevent water from entering the land on Sweeny Refinery. Upon information and belief, prior to erecting the dams and erecting the barricade around the refinery, a chemical spill in Sweeny Refinery escaped from the property, contaminating the land in the surrounding area. The resulting injuries suffered by Plaintiffs were caused by the negligence and fault of the Defendants in the following non-exclusive particulars:

a. Failure to obtain permission to build a dam;

- b. Breach of duty of reasonable care;
- c. Failure to conduct and/or ignoring hydrology analysis of the dam's effect on the surrounding area;
- d. Failure to implement, follow, and enforce proper safety procedures around hazardous chemicals;
- e. Failure to implement, follow, and enforce proper storage procedures around hazardous chemicals;
- f. Causing and permitting to be caused a contamination of toxic chemicals and wastewater on the public;
- g. Undertaking a conscious effort to save costs to Defendants' machinery at the expense of public safety;
- h. Failing to properly warn and evacuate residents from areas of danger;
- i. Failure to warn the surrounding area about the effects of the dam on flooding;
- j. Failure to warn the surrounding area about the toxic chemicals that leaked out of the refinery; and
- k. Allowing the flood waters and dams to stay in place for two weeks, knowing homes, property, livestock, and lives were being destroyed.

22. As a result of these negligent acts and omissions, Plaintiffs were damaged.

D. Gross Negligence

23. Plaintiffs re-allege each and every allegation set forth above.

24. Defendants' conduct following Hurricane Harvey involved an extreme degree of risk and Defendants knew, subjectively, that their conduct would flood Sweeny Residents. Defendants knew the risks to those surrounding Sweeny Refinery, yet they nevertheless proceeded with conscious indifference to the rights, safety, and welfare of the Sweeny Residents. These

actions constitute gross negligence under the Texas Civil Practice and Remedies Code § 41.001 *et. seq.* As a result of Defendants' unforgiveable conduct, Plaintiffs were harmed and Defendants are liable for exemplary damages.

E. Intentional Infliction of Emotional Distress

25. Plaintiffs re-allege each and every allegation set forth above.

26. The individual Plaintiffs listed above would show that Defendants acted intentionally or recklessly following Hurricane Harvey, specifically by damming the Linnville Bayous. The emotional distress suffered by the Plaintiffs was severe, and Defendants' conduct was extreme and outrageous. Plaintiffs' emotional distress was proximately caused by Defendants' actions and was severe. Many Plaintiffs are currently homeless, left with no money and with no means to fix their destroyed homes, land, and livestock. Many Plaintiffs' livelihoods were destroyed. Despite knowing their culpability, Defendants have refused to extend assistance to any of these Plaintiffs. Moreover, Defendants allowed the flooding waters to sit for two weeks, keeping the dams in place while passing these destroyed properties on a daily basis. Many Plaintiffs are elderly and absolutely devastated by the situation Defendants have caused. Defendants' failure to warn the Sweeny residents of the impending flood should shock the conscience of any person, and Defendants' failure to remove the dams is undeniably extreme and outrageous.

F. Negligent Training and Supervision

27. Plaintiffs re-allege each and every allegation set forth above.

28. Upon information and belief, a chemical spill occurred in Sweeny Refinery which leaked out of the refinery and onto the surrounding area. Defendants had a legal duty to use ordinary care in adequately training its employees in proper protocols and procedures for use around hazardous chemicals. Defendants failed to provide adequate training to its employees by,

among other things, failing to properly/adequately train its employees in the storage, handling, and safety procedures used around such chemicals. A reasonably prudent employer would have provided adequate training to its employees beyond what was required, to the extent any training was given. As a result of this negligent training, Defendants' employees were negligent in their operation of the Sweeny Refinery. Defendants' failure to adequately train their employees was a proximate cause of the injuries to Plaintiffs.

G. Public and Private Nuisance

29. Plaintiffs re-allege each and every allegation set forth above.

30. Defendants' acts and omissions following Hurricane Harvey, specifically allowing a chemical spill and damming the Linnville Bayous, were a public and private nuisance. The diversion of floodwaters and the release of chemicals substantially trespassed upon, interfered with, and invaded Plaintiffs' use and enjoyment of their land, as well as the interests of those owning or occupying land in or near Sweeny Refinery by Defendants' intentional conduct, negligence, and gross negligence. Defendants' acts and omissions impaired the comfortable enjoyment of life and property for those who own property near Sweeny Refinery and have caused these persons extreme annoyance and discomfort. As a result of these acts and omissions, many landowners are left homeless, with unusable land where no crops, trees, or grass can grow.

31. The acts and omissions herein caused contamination of one or more Plaintiffs' property, and further caused the inside of one or more Plaintiffs' homes to be contaminated with toxins. This contamination was and is harmful to the health of one or more Plaintiff property owners and livestock and will obstruct the free use and enjoyment of their property, including the

right to sell their property at its fair market value. As a direct and proximate consequence of the nuisance created by Defendants, Plaintiffs were damaged and Defendants are liable.

H. Common Law Trespass to Real Property

32. Plaintiffs re-allege each and every allegation set forth above.

33. Plaintiffs would show that Defendants, in furtherance of their business interests, caused the aforementioned flooding in the days following Hurricane Harvey in order to protect Sweeny Refinery. Defendants, at all relevant times, negligently, recklessly, or intentionally caused the property of Plaintiffs to be submerged and destroyed, causing great and substantial harm to the person, land, and chattels of the property-owning Plaintiffs.

34. As a direct and proximate result of Defendants' trespass, Plaintiffs have been damaged and Defendants are liable.

VII. REQUESTS FOR DISCLOSURES

35. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiffs request Defendants to disclose the information and material described in Rule 194.2 within fifty (50) days of this request.

VIII. DAMAGES

36. Plaintiffs re-allege each and every allegation set forth above.

37. As a direct and proximate result of Defendants' acts and omissions as set forth above, Plaintiffs have incurred one or more of the following categories of damages:

- a. Actual Damages;
- b. Consequential Damages;
- c. Punitive Damages;
- d. Conscious physical and mental pain and suffering and anguish, past and future;
- e. Loss of enjoyment of life and peace of mind, past and future;

- f. Loss of enjoyment of property, past and future;
- g. Loss of use and enjoyment of real property and homes, including diminution of property value;
- h. Reasonable and necessary counseling, psychiatric, therapeutic, and related expenses, past and future;
- i. Attorney's fees;
- j. Costs of Court;
- k. Expert fees;
- l. Pre and Post Judgment Interest;
- m. Requiring Defendants to fix the wrongful diversion of water caused by the railroad and to prevent such reoccurrence; and
- n. Such other damages as will be shown at trial.

VIII. PUNITIVE DAMAGES

38. Plaintiffs re-allege each and every allegation set forth above.

39. Defendants placed the lives and property of everyone surrounding Sweeny Refinery in danger when they choose to dam the Linnville Bayous and not warn the Sweeny residents of this imminent and devastating flood. Defendants have also contaminated Sweeny by the release of hazardous chemicals and toxins. The injuries sustained by Plaintiffs resulted directly from Defendants' gross negligence and intentional conduct. *See* TEX. CIV. PRAC. & REM. CODE § 41.003(a). Plaintiffs specifically request punitive damages for Defendants' outrageous conduct.

IX. JURY TRIAL DEMAND

40. Plaintiffs re-allege each and every allegation as set for the above. Plaintiffs demand a trial by jury.

PRAYER

WHEREFORE, Plaintiffs respectfully demand judgment against Defendants for economic, compensatory, and special damages as set forth above; punitive damages; pre-judgment and post-judgment interest; attorneys' fees and costs of litigation; and for such other and further relief available under all applicable state and federal laws and any relief the Court deems just and proper.

Respectfully submitted,

By: /s/ Josh N. Bowlin _____

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