

25TH JUDICIAL DISTRICT COURT FOR THE PARISH OF PLAQUEMINES

STATE OF LOUISIANA

DOCKET NO. 64-320

DIVISION "A"

HERO LANDS COMPANY, L.L.C.

VERSUS

CHEVRON U.S.A. INC., ET AL.

FILED: _____

DEPUTY CLERK

**CHEVRON U.S.A. INC'S MOTION FOR REFERRAL TO THE LOUISIANA
DEPARTMENT OF NATURAL RESOURCES FOR THE DEVELOPMENT OF THE
MOST FEASIBLE PLAN PURSUANT TO LA R.S. 30:29 AND INCORPORATED
MEMORANDUM IN SUPPORT**

MAY IT PLEASE THE COURT:

Chevron U.S.A. Inc. ("Chevron") has admitted "environmental damage" exists on specific portions of Plaintiff's property and that it is a "responsible party" as to specific portions of Plaintiff's property. Therefore, Chevron moves this Court to refer this matter to the Louisiana Department of Natural Resources for the development of the Most Feasible Plan as mandated by La. R.S. 30:29 (or "Act 312").

INTRODUCTION

Plaintiff Hero Lands Company L.L.C. ("Plaintiff") filed suit alleging that defendants, including Chevron, are responsible for environmental damage to Plaintiff's property. Plaintiff seeks damages for remediation of the environmental damages allegedly caused by the defendants. Plaintiff admits that this suit is governed by Act 312.

Contemporaneous with the filing of this motion, Chevron has filed its Limited Admission of Environmental Responsibility Pursuant to La. R.S. 30:29. ("Limited Admission"). In the Limited Admission, Chevron identifies specific portions of Plaintiff's property upon which there is "environmental damage" as defined under Act 312. Chevron further admits that it is a "responsible party" pursuant to Act 312.

RELEVANT LAW

The Louisiana Legislature enacted Act 312 "to ensure that damage to the environment is remediated to a standard that protects the public interest" and "set forth the procedure for judicial resolution of claims for environmental damage to property arising from activities subject to the

jurisdiction of the Department of Natural Resources, office of conservation.” La. R.S. § 30:29(A) (2014).

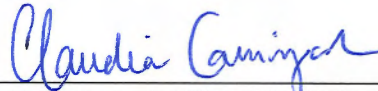
In 2012, the legislature revised Act 312 and enacted Louisiana Code of Civil Procedure article 1563 to allow parties to make a “limited admission.” Through a “limited admission,” a party may admit responsibility for “environmental damage.” La. Code Civ. Proc. Ann. art. 1563 (A). Environmental damage is broadly defined by Act 312 as “any actual *or potential impact*, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites. Once a limited admission is filed, the Court *must* refer the matter to the Louisiana Department of Natural Resources (“LDNR”) to conduct a public hearing for development of the “most feasible plan” to remediate the damage on the property in accordance with applicable regulatory standards. La. Code Civ. Proc. Art. 1563(2). The limited admission, the plan approved by the LDNR, and all written comments provided by the agencies *shall be admissible as evidence* in any action. La. Code Civ. Proc. Art. 1563(2). Finally, Act 312 creates a *rebuttable presumption* that the feasible plan approved by LDNR shall be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards. For cases tried by a jury, the court shall instruct the jury regarding this presumption if requested by a party. *Id.*

CHEVRON’S ADMISSION

Pursuant to Act 312 and Louisiana Code of Civil Procedure article 1563, Chevron has admitted that “environmental damage” as defined by Act 312 exists on the portions of Plaintiff’s property identified in Exhibit A. Further, Chevron has admitted that it is a “responsible party” under Act 312.

As required by Act 312, Chevron moves this Court to refer Chevron to the Louisiana Department of Natural Resources for the development of the “Most Feasible Plan.”

Respectfully submitted,



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Attorneys for Chevron U.S.A. Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all known counsel of record by electronic mail and/or placing a copy in the United States mail, postage prepaid and properly addressed.

New Orleans, Louisiana, this 29th day of July, 2020.



Claudia Carrizales

25TH JUDICIAL DISTRICT COURT FOR THE PARISH OF PLAQUEMINES

STATE OF LOUISIANA

DOCKET NO. 64-320

DIVISION "A"

HERO LANDS COMPANY, L.L.C.

VERSUS

CHEVRON U.S.A. INC., ET AL.

FILED: _____

DEPUTY CLERK

ORDER

Considering Chevron U.S.A. Inc.'s ("Chevron") Limited Admission Pursuant to La. R.S. 30:29 and Chevron's Motion for Referral to the Louisiana Department of Natural Resources for the Development of the Most Feasible Plant Pursuant to La. R.S. 30:29

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- (1) Pursuant to Louisiana Code of Civil Procedure article 1563, Chevron enters a limited admission of responsibility for the environmental damage, as defined in La. R.S. 30:29(I)(1), which exists on property identified on "Exhibit A" attached hereto in Plaquemines Parish, Louisiana.
- (2) Chevron's limited admission is limited to the "responsibility for implementing the most feasible plan to evaluate, and if necessary, remediate all or a portion of the contamination that is subject to the litigation to applicable regulatory standards" on the property identified on Exhibit A.
- (3) Chevron's limited admission is not an admission of private liability for any of Plaintiff's private claims and is not to be construed as a waiver of any affirmative defenses.
- (4) Chevron shall develop a plan for the evaluation or remediation of "environmental damage" as provided in La. R.S. 30:29(C) to applicable standards of the contamination that resulted in environmental damage to the above described property;
- (5) Chevron's plan, as described above, shall be developed and submitted to the Louisiana Department of Natural Resources by certified mail with return receipt requested and Chevron shall file such plan with the Court on August 24, 2020;
- (6) Plaintiff or any other party shall have thirty (30) days from the date Chevron's plan is

filed with the Court to review the plan and submit or provide to the Louisiana Department of Natural Resources and the Court comments, input, and/or its own plan in response to Chevron's Plan;

- (7) The Louisiana Department of Natural Resources shall submit to the Court a schedule of estimate costs for review of the plans or submittals of the parties;
- (8) Any further proceedings with respect to the plan submitted by Chevron, the Louisiana Department of Natural Resources, Plaintiff, or any other party, shall be conducted pursuant to the procedures set forth in La. R.S. 30:29

THUS DONE AND SIGNED, this ____ day of _____ 2020,
at _____, Louisiana.

JUDGE, 25th JUDICIAL DISTRICT COURT

25TH JUDICIAL DISTRICT COURT FOR THE PARISH OF PLAQUEMINES

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- (1) Pursuant to Louisiana Code of Civil Procedure article 1563, Chevron enters a limited admission of responsibility for the environmental damage, as defined in La. R.S. 30:29(I)(1), which exists on property identified on "Exhibit A" attached hereto in Plaquemines Parish, Louisiana.
- (2) Chevron's limited admission is limited to the "responsibility for implementing the most feasible plan to evaluate, and if necessary, remediate all or a portion of the contamination that is subject to the litigation to applicable regulatory standards" on the property identified on Exhibit A.
- (3) Chevron's limited admission is not an admission of private liability for any of Plaintiff's private claims and is not to be construed as a waiver of any affirmative defenses.
- (4) Chevron shall develop a plan for the evaluation or remediation of "environmental damage" as provided in La. R.S. 30:29(C) to applicable standards of the contamination that resulted in environmental damage to the above described property;
- (5) Chevron's plan, as described above, shall be developed and submitted to the Louisiana Department of Natural Resources by certified mail with return receipt requested and Chevron shall file such plan with the Court on August 24, 2020;
- (6) Plaintiff or any other party shall have thirty (30) days from the date Chevron's plan is

filed with the Court to review the plan and submit or provide to the Louisiana Department of Natural Resources and the Court comments, input, and/or its own plan in response to Chevron's Plan;

- (7) The Louisiana Department of Natural Resources shall submit to the Court a schedule of estimate costs for review of the plans or submittals of the parties;
- (8) Any further proceedings with respect to the plan submitted by Chevron, the Louisiana Department of Natural Resources, Plaintiff, or any other party, shall be conducted pursuant to the procedures set forth in La. R.S. 30:29

THUS DONE AND SIGNED, this ____ day of _____ 2020,
at _____, Louisiana.

JUDGE, 25th JUDICIAL DISTRICT COURT

Source: Esri - ArcGIS Online; NAD 1983 UTM Zone 15N



EXHIBIT A

