

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

METAIRIE ENERGY COMPANY, INC.,

and

BERNARD P. ROBICHAUX,

Defendants.

Civil Action No. 21-126

Judge

COMPLAINT

The United States of America, acting at the request of the United States Coast Guard, files this Complaint and alleges the following:

NATURE OF THIS ACTION

1. The United States seeks repayment by defendants Metairie Energy Company, Inc. (“Metairie”) and Bernard P. Robichaux (collectively, “Defendants”), as jointly and severally liable “responsible parties” under Section 1002(a) of the Oil Pollution Act (“OPA”), 33 U.S.C. § 2702(a), for over \$1.3 million in costs paid by the Oil Spill Liability Trust Fund (the “Fund”) for a removal action following an August 2016 oil spill (the “Incident”) from Defendants’ oil facility located in the Choctaw Bayou Oil and Gas Field along the Port Allen Lock in Iberville Parish, Louisiana (the “Facility”). In addition, in the alternative, the United States seeks repayment from Defendants pursuant to its subrogation rights under OPA Sections 1012 and

1015, 33 U.S.C. §§ 2712 and 2715, of these same removal costs paid by the Fund to Oil Spill Removal Organizations (“OSROs”) and their subcontractors – Oil Mop, LLC (“Oil Mop”); Enhanced Environmental & Emergency Services (“EE&E Services”); A&M Associates, Inc. (“A&M Associates”); Workbox, LLC (“Workbox”); TREO Staffing, LLC (“TREO”); and Tanner Services, LLC (“Tanner”) (collectively, the “Claimants”) – for their uncompensated oil-spill removal costs incurred under a contractual agreement with Defendants relating to the Incident.

2. The United States seeks a judgment against Defendants, jointly and severally, for \$1,376,234.29, and all costs incurred by the Fund by reason of this claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney’s fees, and any other relief that may be appropriate.

JURISDICTION AND VENUE

3. This court has jurisdiction over the subject matter of this action and over the parties pursuant to Section 1017(b) of OPA, 33 U.S.C. § 2717(b), and 28 U.S.C. §§ 1331 and 1345.

4. Authority to bring this action is vested in the United States Department of Justice by 28 U.S.C. §§ 516 and 519.

5. Venue is proper in this District pursuant to Section 1017(b) of OPA, 33 U.S.C. § 2717(b), and 28 U.S.C. § 1391(b), because it is the judicial district in which Defendants are located and in which the discharge and the resulting removal action occurred.

DEFENDANTS

6. Defendant Metairie Energy Company, Inc. is organized under the laws of the State of Louisiana with its principal place of business in the City of Mandeville, Parish of St. Tammany, Louisiana. Metairie is the owner and operator of the oil facility located in the Choctaw Bayou Oil and Gas Field located at 60825 Highway 1148, Plaquemine, Iberville Parish, Louisiana. It is listed as “Not in Good Standing” on the Secretary of State’s registry.

7. Defendant Bernard P. Robichaux is the President of Metairie. Mr. Robichaux is and was an operator of the Facility at the time of the Incident. He directs the Facility’s operations, including oil handling and discharge activities.

STATUTORY AND REGULATORY BACKGROUND

8. OPA Section 1002(a), 33 U.S.C. § 2702(a), provides that “each responsible party for . . . a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines . . . is liable for the removal costs and damages specified in subsection (b) of this section [33 U.S.C. § 2702(b)] that result from such incident.”

9. OPA Section 1001(7), 33 U.S.C. § 2701(7), defines “discharge” to mean “any emission (other than natural seepage), intentional or unintentional” and to include “spilling, leaking, pumping, pouring, emitting, emptying, or dumping[.]”

10. OPA Section 1001(9), 33 U.S.C. § 2701(9), defines “facility” to mean “any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: . . . storing, handling, processing [or] transferring . . . oil.”

11. OPA Section 1001(14), 33 U.S.C. § 2701(14), defines “incident” to mean “any occurrence or series of occurrences having the same origin, involving one or more . . . facilities . . . resulting in the discharge or substantial threat of discharge of oil[.]”

12. OPA Section 1001(21), 33 U.S.C. § 2701(21), defines “navigable waters” as “the waters of the United States, including the territorial sea[.]”

13. OPA Section 1001(23), 33 U.S.C. § 1701(23), defines “oil” to mean “oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil[.]”

14. OPA Section 1001(24), 33 U.S.C. § 2701(24), defines “onshore facility” to mean “any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on or under any land within the United States other than submerged land.”

15. OPA Section 1001(27), 33 U.S.C. § 2701(27), defines “person” to mean an “individual, corporation, partnership, [or] association[.]”

16. OPA Section 1001(30), 33 U.S.C. § 2701(30), defines “remove” and “removal” to mean “containment and removal of oil or a hazardous substance from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches[.]”

17. OPA Section 1001(31), 33 U.S.C. § 2701(31), defines “removal costs” to mean “the costs of removal that are incurred after a discharge of oil has occurred or, in any case in

which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident[.]”

18. OPA Section 1001(32)(E), 33 U.S.C. § 2701(32), defines “responsible party” to include, “[i]n the case of an onshore facility (other than a pipeline), any person owning or operating the facility.”

19. OPA Section 1001(26)(A)(ii), 33 U.S.C. § 2701(26)(A)(ii), defines “owner or operator” to mean, “in the case of an onshore or offshore facility, any person owning or operating such facility.”

20. OPA Section 1002(b), 33 U.S.C. § 2702(b), provides that the “removal costs” referred to in Section 1002(a) of OPA, 33 U.S.C. § 2702(a), include “(A) all removal costs incurred by the United States . . . under subsection (c), (d), (e), or (f) of Section 1321 of this title [Section 311 of the Clean Water Act, 33 U.S.C. § 1321]. . . ; and (B) any removal costs incurred by any person for acts taken by the person which are consistent with the National Contingency Plan [40 C.F.R. Part 300 (“NCP”)].”

21. Pursuant to OPA Section 1012(a)(4), 33 U.S.C. § 2712(a)(4), the Fund is authorized to reimburse persons, including OSROs, for uncompensated removal costs determined to be consistent with the NCP. The Fund is administered by the Coast Guard’s National Pollution Funds Center (“NPFC”) and financed in part by recoveries from responsible parties.

22. OPA Section 1013(e), 33 U.S.C. § 2713(e), authorizes the promulgation of regulations for the presentation, filing, processing, settlement and adjudication of OPA claims

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