



CJ-16-137  
Stuart

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

G. Terry Felts, Deborah Felts )  
Adell Scott, John Mirjanich, M.D., )  
Alvis McAffrey, Jerry Novakowski )  
Kelly Novakowski, Ron Wooden )  
Eva Wooden, Raymond Berlioz )  
Richard Novakowski, Debra Novakowski )  
Rick Sparks, and Shirley Sparks, )

Plaintiffs, )

vs )

Devon Energy Production Company, L.P., )  
an Oklahoma limited partnership; Sundance )  
Energy Oklahoma LLC, a Delaware limited liability )  
Company; Grayhorse Operating, Inc., an Oklahoma )  
corporation; Pedestal Oil Company, Inc. )  
an Oklahoma corporation; New Dominion, LLC, )  
an Oklahoma limited liability company; )  
R.C. Taylor Operating Company, LLC, an )  
Oklahoma limited liability company; TNT )  
Operating Company, an Oklahoma corporation; )  
White Operating Company, an Oklahoma )  
corporation; Rainbo Service Co., an Oklahoma )  
corporation; Marjo Operating Mid-Continent LLC, )  
an Oklahoma limited liability company; Special )  
Energy Corporation, a Texas corporation, and )  
Northport Production Company, an Oklahoma )  
corporation )

Defendants. )

CJ-2016-137

Case No. CJ-2016-

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

JAN 11 2016

TIM RHODES  
COURT CLERK

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PETITION

COMES NOW the above-named Plaintiffs, by and through their undersigned attorneys,  
and for their causes of action against the Defendants, and each of them, alleges and states as  
follows:

## THE PARTIES

1. Plaintiffs G. Terry Felts and Deborah Felts are residents of the city of Edmond, Oklahoma County, Oklahoma.
2. Plaintiff Adell Scott is a resident of city of Edmond, Oklahoma County, Oklahoma.
3. Plaintiff John Mirjanich, M.D. is a resident of Oklahoma City, Oklahoma County, Oklahoma.
4. Plaintiff Alvis McAffrey is a resident of Oklahoma City, Oklahoma County, Oklahoma.
5. Plaintiffs Jerry and Kelly Novakowski are residents of the city of Edmond, Oklahoma County, Oklahoma.
6. Plaintiffs Ron and Eva Wooden are residents of the city of Edmond, Oklahoma County, Oklahoma.
7. Plaintiff Raymond G. Berlioz is a resident of the city of Edmond, Oklahoma County, Oklahoma.
8. Plaintiffs Richard and Debra Novakowski are residents of the city of Edmond, Oklahoma County, Oklahoma.
9. Plaintiffs Rick and Shirley Sparks are residents of the city of Edmond, Oklahoma County, Oklahoma.
10. Defendant Devon Energy Production Company, L.P. ("Devon Production") is an Oklahoma limited partnership which maintains its principal place of business in Oklahoma City, Oklahoma County, Oklahoma, with a registered agent for service of process in the State of

Oklahoma, namely: The Corporation Company, 1833 S. Morgan Rd., Oklahoma City, OK 73128.

11. Defendant Sundance Energy Oklahoma LLC. (“Sundance”) is a Delaware limited liability company which maintains its principal place of business in Oklahoma City, Oklahoma County, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: The Corporation Company, 1833 S. Morgan Rd., Oklahoma City, OK 73128.

12. Defendant Grayhorse Operating, Inc. (“Grayhorse”) is an Oklahoma Corporation which maintains its principal place of business in Tulsa, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: Charles A. Ellis, 20 E. 5<sup>th</sup> Street, Suite 1100, Tulsa, OK 74103.

13. Defendant Pedestal Oil Company, Inc. (“Pedestal”) is an Oklahoma Corporation which maintains its principal place of business in Oklahoma City, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: David P. Singer, 204 N. Robinson, Suite 1700, Oklahoma City, OK 73102.

14. Defendant New Dominion, LLC (“New Dominion”) is an Oklahoma limited liability company which maintains its principal place of business in Tulsa, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: Fred Buxton, 1307 S. Boulder Ave., Suite 400, Tulsa, OK 74119.

15. Defendant R.C. Taylor Operating Company, LLC (“R.C. Taylor”) is an Oklahoma limited liability company which maintains its principal place of business in Oklahoma City, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: Mike Taylor, 5661 N. Classen Blvd, Oklahoma City, OK 73118.



16. Defendant TNT Operating Company (“TNT”) is an Oklahoma corporation which maintains its principal place of business in Oklahoma City, Oklahoma County, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: Byron Neher, 1332 S.W. 111<sup>th</sup> Place, Oklahoma City, OK 73170.

17. Defendant White Operating Company (“White”) is an Oklahoma corporation which maintains its principal place of business in Oklahoma City, Oklahoma County, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: Lloyd R. White, 2160 Liberty Tower, Oklahoma City, OK 73102.

18. Defendant Rainbo Service Company (“Rainbo”) is an Oklahoma corporation which maintains its principal place of business in Oklahoma City, Oklahoma County, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: K.D. Lackey, Jr., 6 N.E. 63<sup>rd</sup> St., Oklahoma City, OK 73105.

19. Defendant Marjo Operating Mid-Continent, LLC (“Marjo”) is an Oklahoma limited liability company which maintains its principal place of business in Tulsa, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: W. Deke Canada, 320 South Boston Ave., Suite 200, Tulsa OK 74103.

20. Defendant Special Energy Corporation (“Special Energy”) is a Texas corporation which maintains its principal place of business in Stillwater, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: John F. Special, 4815 S. Perkins Road, Stillwater, OK 74074.

21. Defendant Northport Production Company (“Northport”) is an Oklahoma corporation which maintains its principal place of business in Oklahoma City, Oklahoma

County, Oklahoma, with a registered agent for service of process in the State of Oklahoma, namely: Tim Green, 213 E Oklahoma, Guthrie, OK 73044.

### **JURISDICTION AND VENUE**

22. Jurisdiction and venue are proper in this Court. The acts complained of in this action occurred in this State, in Oklahoma County, by Defendants and Defendants' employees and officers, all acting within the course and scope of their agency and employment in this State. Venue is proper pursuant to Title 12 O. S. §132.

### **GENERAL ALLEGATIONS**

23. Plaintiffs are all, and have been at all times pertinent to the acts complained of in this Petition, owners of real and personal property situated in Oklahoma County, Oklahoma.

24. From a time unknown, but upon information and belief, at all times pertinent to this Petition, including but not limited to from and after at least December 29, 2015 to the present, Defendants, and each of them, used, owned or operated certain wells (hereinafter "Disposal Wells") within Oklahoma County and elsewhere within the state of Oklahoma, maintained for the retention of deleterious substances, including but not limited to chemicals, salt water, oil field brine, waste oil, waste emulsified oil, basic sediments, mud, and other injurious substances produced or used in the drilling, development, production, transportation, refining, and processing of oil, gas and/or brine mining (hereinafter "Drilling Waste").

25. At all times pertinent, Defendant Devon Production owned or operated one or more Disposal Wells located in Section 11, Township 15 North, Range 2 West of the Indian

Meridian, Logan County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

26. At all times pertinent, Defendant Sundance owned or operated not less than two Disposal Wells located in Section 23, Township 16 North, Range 3 West and Section 9, Township 15 West, Range 3 West of the Indian Meridian, Logan County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

27. At all times pertinent, Defendant Grayhorse owned or operated not less than two Disposal Wells located in Section 20, Township 13 North, Range 3 West and of the Indian Meridian, Oklahoma County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

28. At all times pertinent, Defendant Old Dominion owned or operated not less than one Disposal Well located in Section 25, Township 14 North, Range 1 West of the Indian Meridian, Oklahoma County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

29. At all times pertinent, Defendant Pedestal owned or operated not less than one Disposal Well located in Section 4, Township 14 North, Range 2 West of the Indian Meridian, Oklahoma County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

30. At all times pertinent, Defendant R.C. Taylor owned or operated not less than one Disposal Well located in Section 31, Township 14 North, Range 3 West of the Indian Meridian, Oklahoma County, Oklahoma which caused or contributed to the earthquakes described in this Petition.



31. At all times pertinent, Defendant TNT owned or operated not less than one Disposal Well located in Section 1, Township 11 North, Range 3 West of the Indian Meridian, Oklahoma County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

32. At all times pertinent, Defendant White owned or operated not less than four Disposal Wells located in Section 10, Township 11 North, Range 3 West and Section 11, Township 11 North, Range 3 West and Section 22, Township 11 North, Range 3 West of the Indian Meridian, Oklahoma County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

33. At all times pertinent, Defendant Rainbo owned or operated not less than one Disposal Well located in Section 1, Township 11 North, Range 3 West of the Indian Meridian, Oklahoma County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

34. At all times pertinent, Defendant Special Energy owned or operated one or more Disposal Wells located in Section 35, Township 15 North, Range 1 East of the Indian Meridian, Logan County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

35. At all times pertinent, Defendant Marjo owned or operated one or more Disposal Wells located in Section 14, Township 15 North, Range 1 East of the Indian Meridian, Logan County, Oklahoma which caused or contributed to the earthquakes described in this Petition.

36. Upon information and belief, the exact date and time of which is unknown, but close in time prior to December 29, 2015, with reckless disregard for the consequences to others, Defendants injected large volumes of Drilling Waste in Disposal Wells located near the cities of

Edmond and Oklahoma City, in the vicinity of Plaintiffs' properties, under conditions that Defendants knew or should have known would result in an increased likelihood that earthquakes or other adverse environmental impacts would occur, thereby unreasonably endangering the health, safety and welfare of persons and property, including Plaintiffs and others.

37. On or about December 29, 2015 at 5:39 a.m., Plaintiffs, and each of them, experienced a magnitude 4.3 earthquake, followed by a series of smaller aftershocks, the epicenter of which was located near the intersection of E. Covell Road and N. Midwest Blvd. in Oklahoma County, near Disposal Wells owned, operated and maintained by the Defendants.

38. On or about January 1, 2016, again at 5:39 a.m., Plaintiffs, and each of them experienced a magnitude 4.2 earthquake, followed by a series of smaller aftershocks, the epicenter of which was located near the intersection of E. Covell Road and N. Sooner Road in Oklahoma County, near Disposal Wells owned, operated and maintained by the Defendants.

39. As a direct and proximate result of these earthquakes Plaintiffs suffered damage.

40. Defendants are sophisticated business entities possessing specific and specialized knowledge concerning the dangers associated with the production of oil gas and other minerals, including but not limited to knowledge of the threats and perils associated with depositing Drilling Waste in large volumes under high pressure conditions into deep Disposal Wells located near seismic faults lying beneath or in close proximity to populated areas.

41. Despite their specific and specialized knowledge, with reckless indifference and callous disregard for the potential harm to Plaintiffs and others, Defendants deposited large volumes of Drilling Waste into the Disposal Wells in an unsafe manner, for profit, and continue to do so, thereby posing an unreasonable and ongoing threat of harm to Plaintiffs and others similarly situated.



42. The Drilling Waste knowingly deposited by Defendants into their Disposal Wells is toxic and harmful to humans and other living organisms, and but for the acts of the Defendants, would not occur naturally in the Earth's subsurface strata where it is deposited, either alone or in combination, under such pressure or in such large volumes as when introduced by Defendants.

43. The use of the Disposal Wells by Defendants created conditions which, among other things, are the proximate cause of unnatural and unprecedented earthquakes that continue unabated, increasing in both frequency and magnitude within Oklahoma County and elsewhere in the State of Oklahoma, which have damaged Plaintiffs and others and threaten to do so in the future.

44. At all times mentioned herein, the Defendants have acted by and through their duly – authorized officers, managers, agents, servants, and/or employees, all of whom have acted within the course and scope of their employment or other relationship.

#### **FIRST CAUSE OF ACTION** **NEGLIGENCE**

45. To the extent they are not inconsistent with the allegations in this First Cause of Action, Plaintiffs incorporate all other allegations of this Petition as though more fully set forth herein.

46. Defendants have a duty to use ordinary care to insure the safety of Plaintiffs and others in conducting their operations and activities related to the Disposal Wells, including but not limited to injecting Drilling Waste, sufficient to eliminate or reduce an unreasonable risk of harm from those operations or activities.

47. Defendants were negligent, careless, and reckless in the following respects, among others:

- a. Failing to require and/or provide equipment and engineering controls to eliminate or reduce the risks associated with altering the Earth's subsurface through the disposal of Drilling Waste;
- b. Failing to warn others, including Plaintiffs, of the earthquake dangers associated with injecting Drilling Waste beneath the Earth's subsurface;
- c. Failing to provide reasonable measures sufficient to protect Plaintiffs from the effects of earthquakes, including but not limited to harm to their persons and property.

48. As a direct and proximate result of Defendants' negligence, Plaintiffs have suffered and will continue to suffer severe and permanent damage to their persons and property. Specifically, Plaintiffs have suffered from damage to their property, including but not limited to, destruction and loss of personal property, cracked and broken interior and exterior walls, bricks and fascia, and movement of the foundations beneath their dwellings or other improvements, all of which has caused and will continue to cause Plaintiffs to experience great pain and suffering, both mental and physical, including mental and emotional anguish, fear, and worry associated with harm to themselves and their property from past and future earthquakes and the associated expenses and inconvenience, including but not limited to physical injury or death, payment of money for the repair and replacement of property, loss of use, dispossession, hidden or lingering threats from damage to infrastructure, diminution in property value, and decreased marketability, among others.

49. The actions, conduct and omissions of Defendants were committed with complete indifference to, or in conscious disregard for, the safety and well-being of the Plaintiffs and others. By virtue of the attitude and conduct of the Defendants, Plaintiffs are entitled to

exemplary or punitive damages in an amount that will properly punish Defendants and deter them and others from like conduct in the future.

WHEREFORE, Plaintiffs pray for judgment under this First Cause of Action for general damages in such sum as is fair and reasonable, for special damages in such sum as proven at trial, for exemplary or punitive damages in an amount that will properly punish Defendants and deter them and others from like conduct, for Plaintiffs costs and expenses, and for such other relief as the court deems just and proper.

**SECOND CAUSE OF ACTION**  
**STRICT LIABILITY/ULTRAHAZARDOUS ACTIVITY**

50. To the extent they are not inconsistent with the allegations in this Second Cause of Action, Plaintiffs incorporate all other allegations of this Petition as though more fully set forth herein.

51. Defendant's actions in disposing of the Drilling Waste into Disposal Wells is abnormally dangerous and constitutes an ultra-hazardous activity.

52. Defendants are liable to Plaintiffs regardless of the amount of care exercised.

53. As a direct result of the actions and omissions of Defendants, Plaintiffs have been damaged as set forth above in the First Cause of Action, at ¶48.

54. The actions, conduct and omissions of Defendants were committed with complete indifference and with conscious disregard for the safety and well-being of the Plaintiffs and others. By virtue of the attitude and conduct of Defendants, Plaintiffs are entitled to exemplary or punitive damages in an amount that will properly punish Defendants and deter them and others from like conduct in the future.



WHEREFORE, Plaintiffs pray for judgment under this Second Cause of Action for general damages in such sum as is fair and reasonable, for special damages in such sum as proven at trial, for exemplary or punitive damages in an amount that will properly punish defendants and deter them and others from like conduct, for Plaintiffs' costs and expenses, and for such other relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION**  
**PERMANENT INJUNCTIVE RELIEF**

55. To the extent they are not inconsistent with the allegations in this Third Cause of Action, Plaintiffs incorporate all other allegations of this Petition as though more fully set forth herein.

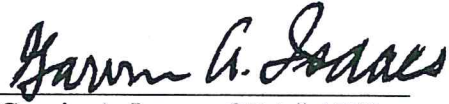
56. Defendants' actions have caused long term or permanent environmental damage unsusceptible to remediation.

31. The continuing injury and detriment caused by Defendants actions is of such nature and magnitude that it is irreparable and incapable of being fully compensated for in money damages; harm that will continue unless restrained by this Court.

32. Plaintiffs are without an adequate remedy at law and are therefore entitled to permanent equitable relief.

WHEREFORE, Plaintiffs pray for judgment under this Third Cause of Action for permanent injunctive relief to be entered by the Court against Defendants sufficient to prevent future irreparable harm under such terms as are fair and reasonable to protect Plaintiffs and others from future harm to, to be entered after a trial upon the merits, as well as for Plaintiffs' costs and expenses, and for such other relief as the court deems just and proper.

Respectfully submitted,



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JURY TRIAL DEMANDED

ATTORNEYS FOR PLAINTIFFS