

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
LITTLE ROCK DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

JAN 06 2014

JIMMY WACO SUTTERFIELD  
and CALLIE SUTTERFIELD,  
RUSSELL GILLION, and DEAN  
DENTON and JULIE DENTON

JAMES W. McCORMACK, CLERK  
By: *Brown* DEP. CLERK  
PLAINTIFFS

v.

Case 4:13-cv-00183-JLH

CHESAPEAKE OPERATING, INC. and  
BHP BILLITON PETROLEUM  
(FAYETTVILLE) LLC

DEFENDANTS

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**AMENDED COMPLAINT**

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For their Amended Complaint against Chesapeake Operating, Inc. and BHP Billiton Petroleum (Fayetteville) LLC, Plaintiffs Jimmy Waco Sutterfield and Callie Sutterfield, Russell Gillion, and Dean Denton and Julie Denton state:

**Introduction**

1. Plaintiffs Jimmy Waco Sutterfield and Callie Sutterfield, husband and wife, Russell Gillion, and Dean Denton and Julie Denton, husband and wife, suffered damages, including property damage to their respective homes, due to Defendants' disposal-well operations, which caused thousands of earthquakes in mini-clusters and swarms in central Arkansas in 2010 and 2011.

## **Parties**

2. Plaintiffs are residents of Faulkner County, Arkansas.

3. Defendant Chesapeake Operating, Inc. (“Chesapeake”) is a foreign for-profit corporation with its principal place of business in Oklahoma City, Oklahoma. Chesapeake is also an explorer, developer, and producer of shale gas within the Fayetteville Shale in Arkansas. Chesapeake owned and operated wastewater disposal wells in Faulkner County, Arkansas that are at issue in this litigation. Since Chesapeake is represented by an attorney in this civil action, service must be made on its attorney. *See* Fed. R. Civ. P. 5(b)(1).

4. Defendant BHP Billiton (Fayetteville) LLC (“BHP”) is a foreign limited liability company doing business in Arkansas. BHP operates primarily as an explorer, developer, and producer of shale gas within the Fayetteville Shale in Arkansas. BHP owns and operates wastewater disposal wells in Faulkner County, Arkansas that are at issue in this litigation. Since BHP is represented by an attorney in this civil action, service must be made on its attorney. *See* Fed. R. Civ. P. 5(b)(1).

## **Jurisdiction and Venue**

5. This Court has jurisdiction over this civil action under 28 U.S.C. § 1332(a)(1) because Plaintiffs and Defendants are citizens of different states and the amount in controversy exceeds \$75,000, excluding costs and interests.

6. This Court has personal jurisdiction over Defendants because they owned and operated wastewater disposal wells in Faulkner County, Arkansas, which satisfies the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *See* ARK. CODE ANN. § 16-4-101B.

7. Venue is proper in this Court because Faulkner County is where a substantial part of the events and omissions giving rise to these claims occurred and is where Plaintiffs resided at the time the events and omissions giving rise to these claims occurred. *See* Ark. Code Ann. 16-55-213(a)(1), (3)(A).

## **Factual Allegations**

### **I. Factual Introduction.**

8. Central Arkansas has seen an unprecedented increase in seismic activity, occurring in the vicinity of Defendants' wastewater injection wells near Greenbrier and Guy, Arkansas.

9. From about July 2010 through August 2011, well over 1000 earthquakes of a minimum magnitude of 1.0 have occurred in the area. Two earthquakes registered a magnitude of 4.0 and 4.7. Over 30 earthquakes registered a magnitude of 3.0 or above.

10. These earthquakes were a direct and proximate consequence of Defendants' oil and gas operations in Arkansas, and more specifically, their disposal of the wastewater generated during the process of extracting natural gas from the Fayetteville Shale by injecting it back into the earth in disposal wells.

11. As a result of Defendants' actions in causing thousands of earthquakes in central Arkansas, Plaintiffs have suffered damages.

## **II. Natural Gas Exploration and Operations in Central Arkansas**

12. In Arkansas, a major source of natural gas comes from places in Faulkner County, and its surrounding counties as well, from what is called the Fayetteville Shale.

13. Although the Fayetteville Shale extends across the state of Arkansas, the majority of gas drilling and production activities are centered in Conway, Van Buren, Faulkner, Cleburne and White Counties, Arkansas.

14. The process of extracting natural gas from the Fayetteville Shale involves hydraulic fracturing or "fracking." This process requires drillers to inject pressurized water, sand, and other chemicals to create fractures deep into the ground.

15. The fracking process results in wastewater that has to be disposed of, primarily because it is contaminated with salt and other minerals.

16. Although some of this wastewater is recycled and reused, for the most part, it is disposed of by injecting it back into the ground into other wells commonly referred to as "wastewater disposal injection wells," "disposal wells" or "injection wells."

17. Defendants owned and operated injection wells in Faulkner County, Arkansas to accomplish this end. At issue are injection wells known as the Chesapeake

SRE 8-12 1-17 SWD, Permit #43266 (“Chesapeake SRE”) and the Chesapeake Trammel 7-13 1-8D SWD, Permit #41079 ( “Chesapeake Trammel”).

18. These injection wells are located in Faulkner County, Arkansas, near Greenbrier and Guy, Arkansas.

19. For all of 2010, Chesapeake owned and operated both the Chesapeake SRE and Chesapeake Trammel wastewater disposal wells.

20. These two wastewater disposal wells were purchased by BHP from Chesapeake as part of a massive purchase of assets valued at about \$4.7 billion.

21. According to the Form 8-K filed by Chesapeake with the Securities Exchange Commission on April 5, 2011, Chesapeake transferred ownership of the assets purchased by BHP to BHP on January 1, 2011.

22. Both the Chesapeake SRE and Chesapeake Trammel wastewater disposal wells were transferred as part of this purchase from Chesapeake to BHP on January 1, 2011.

23. Thus, BHP presently owns both the Chesapeake SRE and Chesapeake Trammel injections wells and has owned these two wastewater disposal wells since January 1, 2011.

24. Chesapeake, however, has been providing technical and business services to BHP regarding the purchased assets (which would include the two wastewater disposal wells at issue) for an agreed-upon fee according to the Form 8-K filed April 5, 2011.

### **III. Thousands of Earthquakes Hit Central Arkansas.**

25. Defendants' disposal of wastewater into the Chesapeake SRE and Chesapeake Trammel wastewater disposal wells caused the sudden swarm of earthquakes in central Arkansas – including the largest quake in Arkansas' past 35 years.

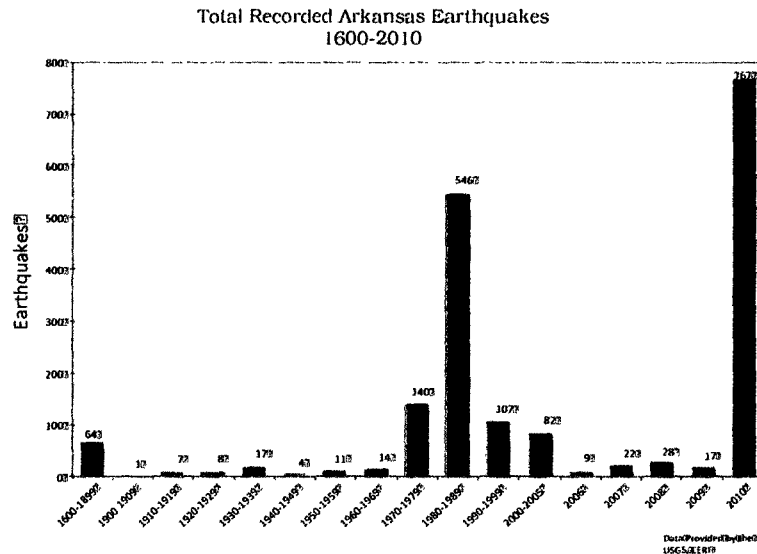
26. According to Dr. Steve Horton, an earthquake specialist at the University of Memphis Center for Earthquake Research and Information (or "CERI"), ninety percent of the swarm of earthquakes occurring in central Arkansas since 2009 were within six kilometers of wastewater disposal wells.

27. Scientists have known for half a century that disposal well operations will cause earthquakes. In fact, since the late 1960s, scientists studying whether earthquakes and seismic activities can be induced by certain human actions have accepted that induced seismic activity can and does occur.<sup>1</sup>

28. Further, the history of earthquakes in Arkansas demonstrates that the sudden and substantial uptick in seismic activity was induced by the disposal injection wells. The graph below, prepared by Arkansas Geological Survey ("AGS") from data provided by United States Geological Survey ("USGS") and CERI, shows that Arkansas experienced almost as many earthquakes in years following disposal well activity than it did in the previous twenty years collectively.

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<sup>1</sup> See David Brown, *Yes, Virginia, There is Induced Seismicity*, AAPG Explorer, October 2010.



29. In what the USGS tagged as the “Arkansas Earthquake Swarm of October 2010,” hundreds of earthquakes hit central Arkansas in October of 2010 alone.

30. Some of the earthquakes were of substantial magnitude. For example, earthquakes of 4.0 and 3.8 in magnitude were centered in the Guy/Greenbrier area on October 11<sup>th</sup> and October 15<sup>th</sup>. These two big earthquakes were felt widely across Arkansas.<sup>2</sup>

31. In response to this swarm of earthquakes in Arkansas, hundreds occurring between September 2010 and December of 2010, the Arkansas Oil and Gas Commission Staff, on December 1, 2010, requested that the Commission establish an immediate moratorium on any new or additional disposal wells that were not currently active in certain parts of Faulkner, Conway, Van Buren, Cleburne, and White

<sup>2</sup> See Exhibit A, United States Geological Survey’s 2010-2011 Arkansas Earthquake Swarm poster.

Counties. The Commission Staff requested the moratorium remain in effect until the scheduled July 2011 Commission hearings.<sup>3</sup>

32. During the interim time period, the Commission, Arkansas Geological Survey (“AGS”), United States Geological Survey (“USGS”), and the Center for Earthquake Research and Information (or “CERI”) collected data and conducted further studies into the earthquakes in central Arkansas.

33. The Commission Staff also requested that the Commission require operators of existing disposal wells within the moratorium area, that included the Chesapeake SRE, Chesapeake Trammel wells and another well, the E.W. Moore Estate No. 1 disposal well, operated by Deep-Six Water Disposal Services, LLC (“Deep-Six”), to submit bi-weekly reports detailing the daily amounts of barrels of water injected per zone and the maximum daily injection pressure per zone from the injection operations at each disposal well.

34. In response to the Commission Staff’s request, on December 22, 2010, the Commission found that an emergency existed and entered an order granting the Commission Staff’s requests to prohibit the administrative issuances of any new or additional disposal well permits within the moratorium area and to require the operators of existing disposal wells within the moratorium area provide the bi-weekly injection reports.<sup>4</sup>

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<sup>3</sup> See Exhibit B, Docket No. 606A-2010-12, Emergency Request for an Order to Prohibit the Administrative Issuance of any New or Additional Class II Commercial Disposal Well or Class II Disposal Well in Certain Areas.

<sup>4</sup> See Exhibit C, Order No. 606A-2010-12.



35. Thereafter, on December 28, 2010, the Commission Staff made another request to the Commission asking for a broader moratorium area. In the request, the Staff reported that over 400 earthquakes of varying magnitudes had occurred within the proposed moratorium area, and that there was circumstantial evidence that recent earthquakes within the proposed area may be either enhanced or potentially induced by the operation of disposal wells.<sup>5</sup>

36. After holding another hearing in January 2011, the Commission issued a second, broader order on February 8, 2011. Under this Order, the Commission imposed an immediate moratorium on any new disposal wells in the previous moratorium area that included certain parts of Faulkner, Conway, Van Buren, Cleburne, and White Counties, at least until the July 2011 Commission hearing. The Commission found that evidence existed showing recent earthquakes within the area may have been either enhanced or induced by the operation of disposal wells. The Chesapeake SRE, Chesapeake Trammel and E.W. Moore disposal wells were within the moratorium area.<sup>6</sup>

37. In early February 2011, news reports and articles expressed the concerns of Greenbrier and Guy, Arkansas residents about recent earthquakes. Between February 13 and February 17, 2011, USGS reported more than 30 earthquakes ranging in

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<sup>5</sup> See Exhibit D, Docket No. 602A-2010-12, Amended Request for an Immediate Moratorium on Any New or Additional Class II Commercial Disposal Well or Class II Disposal Well in Certain Areas.

<sup>6</sup> See Exhibit E, Order No. 602A-2010-12.

magnitude from 1.8 to 3.8 had rattled Faulkner County. Indeed, from September 2010 through early February 2011, more than 700 earthquakes occurred in the region.

38. Then, on February 28, 2011, at 11:01 PM CST, Arkansas was hit with the largest earthquake that it had experienced in 35 years. A magnitude 4.7 earthquake centered near Greenbrier, Arkansas shook the region. USGS reported that the large quake was felt across a ten state region.<sup>7</sup>

39. This 4.7 main shock was followed by 3.8 and 3.4 magnitude aftershocks at 11:18 PM CST, and on February 28, 2011 at 2:46 AM PST.

40. AGS and USGS tagged the Central Arkansas seismic phenomena the “Guy Earthquake Swarm.” In fact, by the end of February 2011, USGS reported well over 1000 earthquakes in the Guy/Greenbrier region of Arkansas just since September of 2010.

41. Immediately following these large February 28<sup>th</sup> quakes, the Arkansas Oil and Gas Commission (“AOGC”) ordered a special hearing to be held on March 4, 2011.

42. Prior to the special hearing, however, Director Lawrence E. Bengal requested the cessation of a disposal well operated by Clarita Operating LLC (“Clarita”) within the moratorium area, and also the cessation of the Chesapeake SRE disposal well.

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<sup>7</sup> See Exhibit F, United States Geological Survey earthquake distribution poster.

43. Clarita Operating LLC filed for bankruptcy in the Eastern District of Oklahoma on October 14, 2011.

44. On March 4, 2011, a consent order was entered by the AOGC requiring the Chesapeake SRE disposal well to be shut down.<sup>8</sup> Injection operations at the Chesapeake SRE disposal well ceased that same day.

45. In June 2011, operations at the Chesapeake Trammel disposal well also ceased.

46. On July 8, 2011, the AOGC's Staff requested the Commission to issue an order establishing a permanent moratorium area for any new or additional Class II Disposal or Class II Commercial Disposal wells, and to order the cessation and the plugging and abandoning of all existing Class II Disposal and Class II Commercial Disposal wells within the permanent moratorium area. The Chesapeake SRE, Chesapeake Trammel and E.W. Moore disposal wells were within the requested moratorium area.<sup>9</sup>

47. Based on its investigation, the Commission Staff believed sufficient evidence showed that seismic events in the adjusted moratorium area were enhanced, induced, or triggered by the operation of disposal wells in the moratorium are, including the Chesapeake SRE and Trammel disposal wells and the E.W. Moore disposal well.

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<sup>8</sup> See Exhibit G, Docket No. 051A-2011-02 Consent Order.

<sup>9</sup> See Exhibit H, Docket No. 180A-2011-07, Request for an Order Imposing an Immediate Cessation of All Disposal Well Operations and Establishment of a Moratorium Area For any Class II or Class II Commercial Disposal Wells in a Certain Area.

48. The Commission Staff bolstered its requests through a significant examination of scientific articles addressing seismic activity induced by human activities.<sup>10</sup>

49. Defendants Chesapeake and BHP agreed to voluntarily cease operations of the Chesapeake SRE and Chesapeake Trammel disposal wells, and to plug and abandon them. Clarita also agreed to plug its disposal well within the moratorium area. Deep-Six, on the other hand, fought the Staff's requested order and presented evidence at a hearing before the Commission on July 26, 2011.

50. On July 26, 2011, the AOGC held a hearing and heard evidence in support of its Staff's requested order and against the requested order from Deep-Six.

51. In support of the requested order, the Staff provided both documentary proof and expert witness proof from Scott Ausbrooks of AGS and Dr. Steve Horton of CERI.

52. Deep-Six presented evidence in the form of documentary and expert proof from Dr. Haydar Al-Shukri, Dr. Hanan Mahdi, Najah Abd, and Aycan Catakli for the University of Arkansas at Little Rock.

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<sup>10</sup> See, Jon Ake, et al, *Deep-Injection and Closely Monitored Induced Seismicity at Paradox Valley, Colorado*, 95 BULLETIN OF THE SEISMOLOGICAL SOCIETY OF AMERICA, 664-683 (April 2005); Donald L. Wells, et al, *New Empirical Relationships Among Magnitude, Rupture Length, Rupture Width, Rupture Area, and Surface Displacement*, 84 BULLETIN OF THE SEISMOLOGICAL SOCIETY OF AMERICA, 974-1002 (August 1994); Robert B. Herrmann, et al., *The Denver Earthquakes of 1967-1968*, 71 BULLETIN OF THE SEISMOLOGICAL SOCIETY OF AMERICA, 731-745 (June 1981); J. H. Healy, *The Denver Earthquakes*, 161 SCIENCE 1301-1310 (September 27, 1968).

53. The AOGC found that sufficient evidence existed that the four disposal wells at issue (Clarita's Wayne L. Edgmon No1 SWD well, Chesapeake SRE, Chesapeake Trammel, and E.W. Moore) triggered the earthquakes in central Arkansas.

54. On August 2, 2011, the AOGC entered findings of facts and conclusions of law, and entered an order establishing a moratorium area (somewhat different in shape than before, but in the same general area) on any new or additional Class II Commercial Disposal Well or Class II Disposal Wells within the moratorium area, and ordering the cessation, plugging, and abandoning the Clarita Wayne L. Edgmon, Chesapeake SRE, Chesapeake Trammel, and E.W. Moore disposal wells within the moratorium area.<sup>11</sup>

## **Causes of Action**

### **Count I – Public Nuisance**

55. Plaintiffs re-allege and incorporate the foregoing paragraphs as if fully set forth word-for-word.

56. Defendants' conduct constitutes a substantial and unreasonable interference with the rights common to the general public.

57. This unreasonable interference is imposed on the community at large and on a considerable diverse number of persons and entities. It arises from Defendants' disposal well operations (a) without adequate precautions to prevent earthquakes;

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<sup>11</sup> See Exhibit I, Order No. 180A-1-2011-07 and Exhibit J, Order No. 180A-2-2001-07.

and/or (b) with the knowledge that there was a substantial risk of seismic activity and problems in the State of Arkansas.

58. Plaintiffs have suffered harm as a result of Defendants' creation of a public nuisance and as described below.

59. Plaintiffs are also entitled to injunctive relief as described below.

### **Count II – Private Nuisance**

60. Plaintiffs re-allege and incorporate the foregoing paragraphs as if fully set forth word-for-word.

61. Defendants' conduct herein at their injection-well sites disturbs the quiet use and enjoyment of Plaintiffs' properties.

62. As a result of Defendants' conduct, Plaintiffs have suffered certain and substantial injuries and damages, as described below.

63. Plaintiffs are also entitled to injunctive relief as described below.

### **Count III – Absolute Liability**

64. Plaintiffs hereby re-allege and incorporate the foregoing paragraphs as if fully set forth herein, word-for-word.

65. Defendants' disposal well operations and actions described above are ultra-hazardous activities that necessarily involve a risk of serious harm to a person or the chattels of others that cannot be eliminated by the exercise of the utmost care and is not a matter of common usage.

66. As a direct and proximate result of Defendants' ultra-hazardous activities, Plaintiffs have sustained damage, as described below, which are the direct and proximate result of Defendants' ultra-hazardous or abnormally dangerous activities, for which Defendants are strictly liable.

67. Plaintiffs are also entitled to injunctive relief as described below.

#### **Count IV – Negligence**

68. Plaintiffs hereby re-allege and incorporate the foregoing paragraphs as if fully set forth, herein, word-for-word.

69. The Defendants owed a duty to Plaintiffs to use ordinary care and not to operate or maintain their injection wells in such a way as to cause or contribute to seismic activity. Defendants, experienced in these operations, were well aware of the connection between injection wells and seismic activity, and acted in disregard of these facts.

70. As a direct and proximate result of these facts, omissions, and fault of the Defendants, Plaintiffs have suffered damages and injuries reasonably foreseeable to the Defendants, and as described below.

71. Plaintiffs are also entitled to injunctive relief as described below.

#### **Count V – Trespass**

72. Plaintiffs hereby re-allege and incorporate the foregoing paragraphs as if fully set forth, herein, word-for-word.

73. Defendants, without Plaintiffs' consent and without legal right, intentionally engaged in activities that resulted in concussions or vibrations to enter the Plaintiffs' properties. Such unauthorized invasion of Plaintiffs' property interests by concussions or vibrations by Defendants constitutes a trespass.<sup>12</sup>

74. Defendants' actions of trespass have caused damages to Plaintiffs as described below.

75. Plaintiffs are also entitled to injunctive relief as described below.

#### **Count VI – Deceptive Trade Practices**

76. Plaintiffs hereby re-allege and incorporate the foregoing paragraphs as if fully set forth, herein, word-for-word.

77. The Arkansas Deceptive Trade Practices Act ("ADTPA"), Ark. Code Ann. § 4-88-101, et seq., is designed to protect Arkansans from deceptive, unfair and unconscionable trade practices. The ADTPA is a remedial statute, which is to be liberally construed.

78. The practices employed by Defendants in operating their disposal wells in an area that Defendants knew had a history of seismic activity are unfair and unconscionable under the ADTPA, and thus, violate the provisions of the ADTPA. *See* Ark. Code Ann. § 4-88-107(a)(10).

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<sup>12</sup> *See Smith v. Lockheed Propulsion Co.*, 247 Cal. App. 2d 774 (1967) (holding actionable trespass may be committed indirectly through concussions or vibrations activated by defendant's conduct).



79. Defendants are engaged in “business, commerce, or trade,” within the meaning of Ark. Code Ann. § 4-88-107(a)(10) and is a “person” within the meaning of Ark. Code Ann. § 4-88-102(5).

80. Defendants’ violations of the ADTPA resulted in damages to Plaintiffs as described below. Defendants are also liable for attorneys’ fees and enhanced penalties under the ADTPA.

### **Count VII – Outrage**

81. Plaintiffs hereby re-allege and incorporate the foregoing paragraphs as if fully set forth, herein, word-for-word.

82. Defendants knew or should have known that earthquakes were the likely result of their conduct and that their conduct would cause emotional distress to area residents, including Plaintiffs.

83. Defendants’ conduct in operating disposal wells in an area with a history of seismic activity while knowing that disposal well operations can and do induce seismic activity is extreme, outrageous, and intolerable.

84. Plaintiffs have suffered emotional distress because of Defendants’ conduct.

85. Plaintiffs’ emotional distress was so severe in nature, no reasonable person could be expected to endure it.

## **Damages**

### **Plaintiffs Jimmy Waco Sutterfield and Callie Sutterfield**

86. The Sutterfields have suffered damages caused by Defendants' disposal well operations and resulting earthquakes, for which Defendants are liable to the Sutterfields.

87. The damages suffered by the Sutterfields include: (1) physical damage to his home, (2) losses in the fair market value of his real estate due to earthquakes caused by Defendants' activities, and (3) emotional distress.

88. The Sutterfields live in their home in Greenbrier, Faulkner County, Arkansas. The home is located approximately 3.9 miles, from the center of the 4.7 earthquake that occurred on February 28, 2011.

89. Indeed, the thousands of earthquakes occurring in the past year in central Arkansas and due to Defendants' disposal well operations have caused damages to the Sutterfields' home that includes cracking and separation in their exterior brick walls.

90. Finally, the Sutterfields' lives have also been damaged by Defendants' disposal well operations and resulting earthquakes in that they have suffered emotional distress and increased anxiety and worry of additional and possibly more severe earthquakes that could further damage their property or injure themselves or a family member in their home.

**Plaintiff Russell Gillion**

91. Russell Gillion has suffered damages caused by Defendants' disposal well operations and resulting earthquakes, for which Defendants are liable to Mr. Gillion.

92. The damages suffered by Mr. Gillion include: (1) physical damage to their home, (2) losses in the fair market value of their real estate due to earthquakes caused by Defendants' activities, and (3) emotional distress.

93. Mr. Gillion lives in his home in Greenbrier, Faulkner County, Arkansas. The home is located approximately 4.25 miles from the center of the 4.7 earthquake that occurred on February 28, 2011.

94. Indeed, the thousands of earthquakes occurring in the past year in central Arkansas and due to Defendants' disposal well operations have caused damages to Mr. Gillion's home that include cracking or separations in the interior concrete slab, ceramic tiles, exterior concrete patio, concrete garage slab, and rotation of the front exterior brick wall.

95. Finally, Mr. Gillion's life has also been damaged by Defendants' disposal well operations and resulting earthquakes in that they have suffered emotional distress and increased anxiety and worry of additional and possibly more severe earthquakes that could further damage their property or injure themselves or a family member inside their home.

**Plaintiffs Dean Denton and Julie Denton**

96. The Dentons have suffered damages caused by Defendants' disposal well operations and resulting earthquakes, for which Defendants are liable to the Sutterfields.

97. The damages suffered by the Dentons include: (1) physical damage to his home, (2) losses in the fair market value of his real estate due to earthquakes caused by Defendants' activities, and (3) emotional distress.

98. The Dentons live in their home in Greenbrier, Faulkner County, Arkansas. The home is located approximately 5.0 miles, from the center of the 4.7 earthquake that occurred on February 28, 2011.

99. Indeed, the thousands of earthquakes occurring in the past year in central Arkansas and due to Defendants' disposal well operations have caused damages to the Dentons' home that includes unlevel walls, floors, and foundations, severe leaks in their swimming pool, wracked doors, and separation of door frames and molding from walls, drywall and floor cracks, and sever leaks in their swimming pool.

100. Finally, the Dentons' lives have also been damaged by Defendants' disposal well operations and resulting earthquakes in that they have suffered emotional distress and increased anxiety and worry of additional and possibly more severe earthquakes that could further damage their property or injure themselves or a family member in their home.

### **Punitive Damages**

101. Defendants' actions, in knowingly causing seismic activity as a result of their disposal well operations, constitute wanton or reckless disregard for public safety and is subject to a claim for punitive damages, for which Plaintiffs seek an amount sufficient to punish the Defendants and to deter them and others similarly situated from such conduct in the future.

### **Declaratory and Injunctive Relief**

102. Plaintiffs are entitled to a judgment declaring Defendants' actions detailed in this complaint to be a public and private nuisance, ultra-hazardous activities, a trespass, and that their disposal well operations were also negligently performed.

103. Plaintiffs are also entitled to permanent injunctive relief consistent with the present orders of the AOGC as detailed in this complaint and attached as exhibits.

### **Jury Demand**

104. Plaintiffs demand a jury trial.

### **Prayer for Relief**

105. Plaintiffs request the following relief:

- a. joint and several judgment against Defendants for all general and special compensatory damages caused by the conduct of the Defendants;
- b. costs of litigating this case;
- c. appropriate injunctive relief;

- d. punitive damages;
- e. attorney's fees;
- f. prejudgment and post-judgment interest; and
- g. all other relief to which Plaintiffs are entitled or that the Court deems just and proper.

DATED: January 6, 2014

Respectfully Submitted,

EMERSON POYNTER, LLP



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**Certificate of Service**

I certify that on January 6, 2014, I filed the foregoing with the Clerk of the Court, which shall send notification of such filing to all attorneys of record.

