

IN THE DISTRICT COURT OF PAYNE COUNTY, OKLAHOMA

IN THE DISTRICT COURT OF
Payne County, Oklahoma

DEC 05 2016

BY: LORI ALLEN, Court Clerk
Deputy

DAVID and MYRA REID, VALERIE
BRANYAN and TIMOTHY HARRIS,
on behalf of themselves and other
Oklahoma citizens similarly situated,

Plaintiff,

v.

WHITE STAR PETROLEUM, LLC,
CROWN ENERGY COMPANY,
PETROWARRIOR LLC, FHA
INVESTMENTS LLC, and CHER OIL
COMPANY, LTD, and
JOHN DOES 1 through 25,

Defendants.

Case No. CJ-2014-543

CLASS ACTION PETITION

COMES NOW Plaintiffs David and Myra Reid, Valerie Branyan, and Timothy Harris on behalf of themselves and the Class of similarly situated Oklahoma citizens (defined below), and for their class action petition against Defendants state:

NATURE OF ACTION

1. By disposing of fracking wastewater deep into the earth, Defendants introduced contaminants into the natural environment that caused an adverse change to it in the form of unnatural seismic activity. In other words, due to Defendants' pollution of the environment they caused the man-made earthquakes at issue in this case.

2. This is an action to recover Plaintiffs' and the Class members' damages proximately caused by Defendants' pollution of the environment within and around Cushing, Oklahoma through the disposal of fracking wastewater with injection wells, which are the pollutants.

3. Plaintiffs and the Class seek damages, joint and severally from the Defendants, in the form of the following:

- a. Physical damages to real and personal property;
- b. market value losses to their real property;
- c. emotional distress; and,
- d. punitive damages.

PARTIES

4. Plaintiffs David and Myra Reid are married. They are citizens of Oklahoma. Further, they are also citizens and residents of Cushing, Payne County, Oklahoma. They own a historic building in downtown Cushing, in which they operate businesses and also reside as their home. Due to Defendants' pollution of the environment and causation of earthquakes, they have suffered damages.

5. Plaintiff Valerie Branyan is a citizen of Oklahoma and a citizen and resident of Cushing, Payne County, Oklahoma. Ms. Branyan owns a historic building in downtown Cushing and leases it to a business. Due to Defendants' pollution of the environment and causation of earthquakes, she has suffered damages.

6. Plaintiff Timothy Harris is a citizen of Oklahoma and a citizen and resident of Cushing, Payne County, Oklahoma. He owns his home in Cushing. Due to Defendants' pollution of the environment and causation of earthquakes, he has suffered damages.

7. Defendant White Star Petroleum, LLC ("White Star") is a citizen of Oklahoma. It owns conducts oil and gas operations in this County, and more specifically, owns and operates the wastewater disposal wells at issue in this case. White Star is responsible for about 82% of the wastewater disposal injections within 6 miles of the man-made seismicity described in this petition. Its principal place of business is at 30 NW 63rd St., Oklahoma City, Oklahoma. Its Registered Agent is CLG Corporate Services, LLC, 5520 N. Francis Ave., Oklahoma City, OK 73118.

8. Defendant Crown Energy Company ("Crown") is a citizen of Oklahoma. It owns conducts oil and gas operations in this County, and more specifically, owns and operates the wastewater disposal wells at issue in this case. Crown is responsible for about 6% of the wastewater disposal injections within 6 miles of the man-made seismicity described in this petition. Its principal place of business is at 1117 NW 24th St., Oklahoma City, Oklahoma. Its Registered Agent is Randall D. Holleyman, 1117 NW 24th St., Oklahoma City, OK 73118.

9. Defendant PetroWarrior LLC ("PetroWarrior") is a citizen of Oklahoma. It owns conducts oil and gas operations in this County, and more specifically, owns and operates the wastewater disposal wells at issue in this case. PetroWarrior is responsible for about 3% of the wastewater disposal injections within 6 miles of the man-made seismicity described in this petition. Its principal place of business is at 215 S. Ash, Broken Arrow., Oklahoma. Its Registered Agent is Gary Larue, 4599 N. Washington, Apt. 371, Stillwater, OK 74075.

10. Defendant FHA Investments LLC (“FHA”) is a citizen of Oklahoma. It owns conducts oil and gas operations in this County, and more specifically, owns and operates the wastewater disposal wells at issue in this case. FHA is responsible for about 7% of the wastewater disposal injections within 6 miles of the man-made seismicity described in this petition. Its principal place of business is at 808 S. Euchee Valley Road, Cushing, Oklahoma. Its Registered Agent is Frederick H. Ahrberg, 808 S. Euchee Valley Road, Cushing, OK 74023.

11. Defendant Cher Oil Company Ltd. (“Cher”) is a citizen of Oklahoma. It owns conducts oil and gas operations in this County, and more specifically, owns and operates the wastewater disposal wells at issue in this case. Cher is responsible for about 2% of the wastewater disposal injections within 6 miles of the man-made seismicity described in this petition. Its principal place of business is at 7317 S. Ripley Road, Ripley, Oklahoma. Its Registered Agent is Richard O. Nossman, 7317 S. Ripley Road, Ripley, Oklahoma 74062.

12. John Does 1 – 25 are other Oklahoma oil and gas companies that have engaged in injection well operations in and around Cushing, which have also contributed to the earthquakes and resulting damages to Plaintiff and the Class members.

13. Defendants White Star, Crown, PetroWarrior, FHA, Cher, and John Does 1-25 are collectively referred to in this petition as “Defendants.”

JURISDICTION AND VENUE

14. Jurisdiction in this Court is proper.

15. This Court also has personal jurisdiction over Defendants as they are citizens of Oklahoma, do substantial business in the State of Oklahoma and Pawnee County, and further, operate the wastewater disposal wells at issue within this judicial district.

16. Venue is proper in this Court as a substantial part of the events giving rise to this claim occurred here, and Plaintiffs are citizens and residents of Payne County.

FACTUAL ALLEGATIONS

17. In recent years, thousands of earthquakes have occurred in Oklahoma.

18. In fact, Oklahoma is the most seismically active state in the continental United States.

19. Scientists have tied these earthquakes to the disposal of wastewater from fracking operations, which the oil and gas industry uses to release trapped oil and gas.

20. Over the years, the oil and gas industry has issued public statements to hide the seismic problems it is creating, and in fact continued a mantra that their operations did not cause earthquakes.

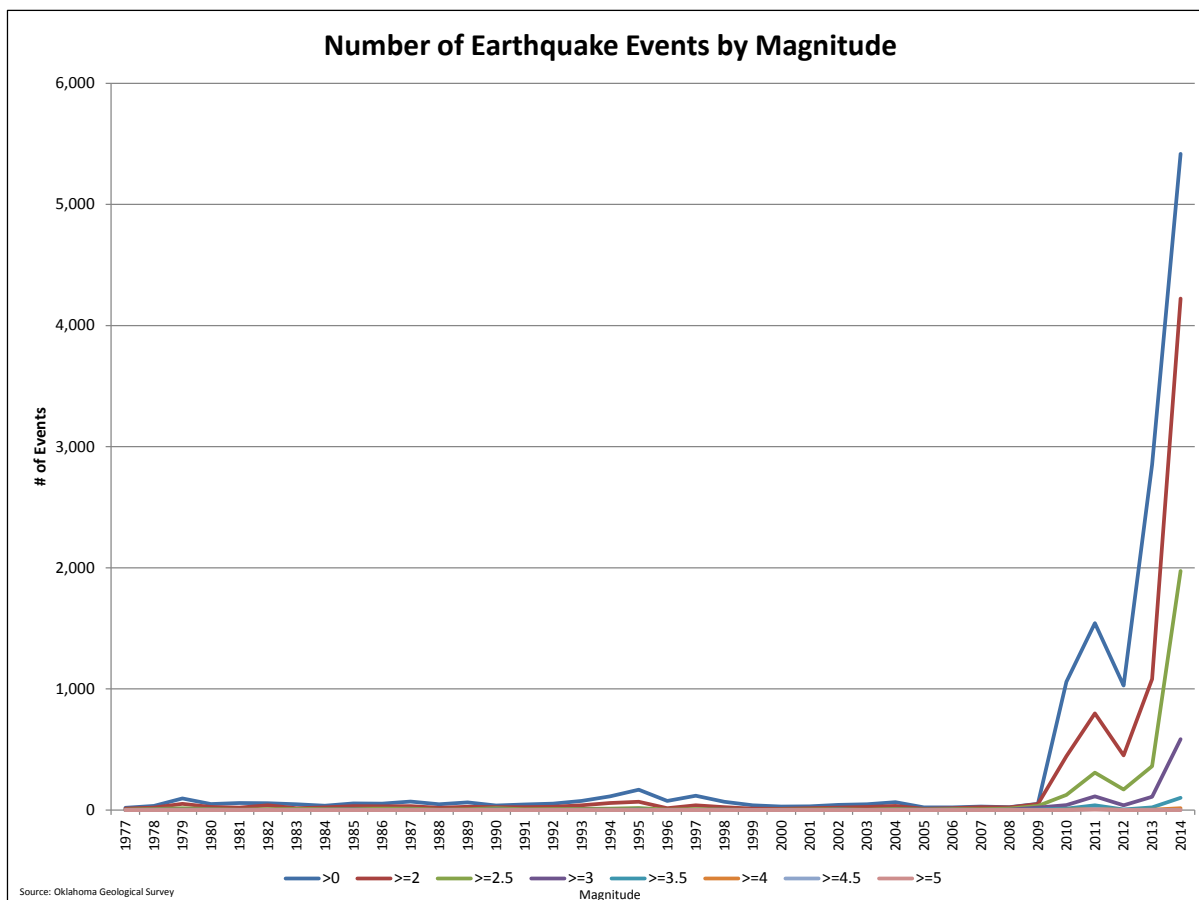
21. In truth, Oklahoma's earthquakes over the past five or so years have been caused by the oil and gas industry's disposal of fracking related waste. Some have termed these earthquakes as "induced," "man-made," "human-made," or "frackquakes."

22. The waste fluids generated from fracking are mostly disposed of by injecting the wastewater fluids back into the earth under extreme pressure in what are usually called wastewater disposal wells or injection wells. This process of pollution causes earthquakes, and indeed, have caused the earthquakes shaking Oklahoma since at least 2011.

23. In fact, the number of earthquakes in Oklahoma has increased more than 300 fold, from a maximum of 167 before 2009 to 5,838 in 2015.

24. As the number of earthquakes has increased, so has their severity. For example, the number of magnitude 3.5 earthquakes has increased fifty fold from 4 in 2009 to 220 in 2015.

See below:



25. These waste-induced earthquakes have toppled historic towers, caused parts of houses to fall and injure people, cracked basements, and shattered nerves, as people fear there could be worse to come.



26. On March 28, 2016, and revised on June 17, 2016, the United States Geological Survey (“USGS”) published a study quantifying these risks. It found that the earthquake risks in Oklahoma have risen rapidly as a result of deep disposal of production wastes. Oklahoma earthquake risks are now the highest in the nation. Maps included in the report show a broad swathe of the State of Oklahoma has a 5 to 12% likelihood of a highly damaging earthquake in the next year. Petersen, M.D., Mueller, C.S., Moschetti, M.P., Hoover, S.M., Llenos, A.L., Ellsworth, W.L., Michael, A.J., Rubinstein, J.L., McGarr, A.F., and Rukstales, K.S., 2016, 2016 One-year seismic hazard forecast for the Central and Eastern United States from induced and natural earthquakes: U.S. Geological Survey Open-File Report 2016–1035, 52 p., <http://dx.doi.org/10.3133/ofr20161035>.

27. On September 3, 2016, these scientists’ prediction that a more damaging earthquake to Oklahoma was coming proved to be true.

28. On that day, a magnitude-5.8 earthquake shattered Pawnee, Oklahoma. The earthquake’s epicenter was about 15 km northwest of the town of Pawnee.

29. This was the largest earthquake that had ever hit Oklahoma.

30. A magnitude-5.8 earthquake is a big one. Oklahoma Geological Survey’s Director Jeremy Boak said, “Any time you have a big earthquake like that, you worry about the aftershocks,” Boak said. “How big they’ll be, how many there will be.”

31. All segments of Oklahoma's government, from the Governor to the Director of OGS, agree that Pawnee's 5.8m earthquake was induced by Defendants' wastewater disposal operations and from the injection wells they operate nearby.

32. The 5.8m earthquake near Pawnee on September 3, 2016, was not a naturally occurring earthquake, or an act of God. It was a frackquake.

33. Then, on November 7, 2016, and as predicted by scientists, another substantial man-made earthquake hit, and indeed, devastated Cushing, Oklahoma.

34. On that day, a 5.0m quake struck 3 kilometers west of Cushing. This earthquake was caused by Defendants wastewater disposal operations nearby, was not naturally occurring, but instead, was another man-made earthquake.

35. This 5.0m earthquake striking Cushing was man-made and caused by wastewater injection pollution. Further, all segments of Oklahoma's government agree that this seismicity was caused by Defendants' pollution of the environment.

36. Downtown Cushing's historic buildings suffered greatly.

37. Plaintiffs David and Myra Reid own and operate the Cushing Citizen newspaper, and the building the newspaper operates in. They also make their home on the second floor.

38. Mr. and Mrs. Reid's building was built in the early 1900s. Exterior bricks and stone on the structure's exterior were shook off its face, and fell into rubble on the ground. Windows broke. Doors were wracked. Cracks developed both on the exterior and on the interior walls. All of these damages to Mr. and Mrs. Reid's home and business building were due to the man-made quakes caused by Defendants' wastewater injections nearby.

39. Plaintiff Valerie Branyan also owns a commercial historical building in downtown Cushing, and it suffered similarly. Her building was also built in the early 1900s, and

suffered cracks in structural supports, cracks in bricks and mortar, bricks fell to the ground, cracks on interior walls, and a sandstone wall has significant and possible structural damage; all due to Defendants' pollution of the environment through wastewater injections and the earthquakes they have caused.

40. Plaintiff Timothy Harris's home in Cushing has suffered similarly. His home has cracks in its bricks and mortar, cracks in both exterior and interior walls, and wracked doors, which were all caused by Defendants' wastewater injections pollution.

41. Defendants' pollution of the environment around Cushing, through their disposal of fracking wastewater with injection wells, caused the 5.0m earthquake on November 7th and all of the other seismicity that has followed, and which is continuing. Subsequent quakes causing damages to the Plaintiffs and the Class occurred on November 22, 2016 (4.0m; 1km north of Cushing) and on December 5, 2016 (3.6m; 5km north of Cushing).

42. All of these earthquakes, which are continuing, were caused by Defendants' pollution of the environment around Cushing through their disposal of fracking wastewater with injection wells.

CLASS ALLEGATIONS

43. Plaintiffs reallege each of the preceding paragraphs, and by this reference incorporates each such paragraph as though set forth here in full.

44. Plaintiffs bring this action, on behalf of themselves and all others similarly situated, as a class action pursuant to 12 O.S. § 2023.

45. The Class that Plaintiffs seek to represent (the "Class") is defined as follows:

- a) Citizens of Oklahoma;

- b) owning a home or business in Payne County, Noble County, Creek County, or Lincoln County (hereafter, the “Class Area”);
- c) during the dates of seismic activity within the Class Area between November 7, 2016 until the Class is later certified by the Court (the “Class Period”);
- d) excluded from the Class are all Class member properties on exclusive federal and/or tribal land; and,
- e) excluded from the Class are Defendants and their officers and directors, and the judge presiding over this action and his/her immediate family members.

46. Plaintiffs reserve the right to amend the definition of the Class if discovery and further investigation reveals that the Class should be expanded or otherwise modified.

47. This action is brought and properly may be maintained as a class action pursuant to 12 O.S. § 2023, and satisfies the requirements of its provisions.

Numerosity

48. Recent media outlets have reported hundreds of homes and businesses were damaged just by the frackquakes the subject of this suit.

49. These human-made earthquakes are continuing in the Class Area, and thus, more properties are likely to suffer damages.

50. The Class Area includes several counties in Oklahoma where thousands of Oklahoma’s citizens reside in their homes and operate businesses.

51. As such, the Class is sufficiently numerous and has members scattered over several counties so as to make joinder of all members of the Class in a single action

impracticable, and therefore, the resolution of their claims through the procedure of a class action will be to the benefit of the parties and the Court.

Commonality

52. Plaintiffs' claims raise issues of fact or law which are common to the members of the putative Class. These common questions include, but are not limited to:

- (a) Whether Defendants' disposal well operations within the Class Area caused earthquakes in the Class Area;
- (b) whether these induced earthquakes caused damage to the personal and real property of Plaintiff and the members of the Class;
- (c) whether Defendants owed a duty to the Plaintiffs and the members of the putative Class;
- (d) whether Defendants' conduct amounted to a nuisance;
- (e) whether Defendants' conduct is an ultra-hazardous activity;
- (f) whether Defendants' operations were negligently performed;
- (g) whether Defendants caused a trespass;
- (h) whether Plaintiffs and the members of the putative Class have suffered damages proximately caused by Defendants' wastewater disposal operations; and
- (i) whether a judgment including punitive damages is appropriate.

Typicality

53. Plaintiffs' claims are typical of the claims of the other members of the Class they seek to represent because at bottom, all of the claims center upon whether Defendants' wastewater injection operations have caused the seismicity within the Class Area during the Class Period.

Adequacy

54. Plaintiffs are interested in the outcome of this litigation and understand the importance of adequately representing the Class.

55. Plaintiffs will fairly and adequately protect the interests of the Class sought to be certified.

56. Plaintiffs are adequate representatives of the Class because they have no interests that are adverse to the interests of the members of the Class. Plaintiffs are committed to the vigorous prosecution of this action and, to that end, Plaintiffs have retained counsel competent and experienced in handling class-action and complex tort litigation, which are also qualified to adequately represent the Class.

Predominance

57. Questions of law or fact common to the members of the Class predominate over questions affecting only individual members.

Superiority

58. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. The predicate issues relate to Defendants' wastewater injection operations, actions and activities, and whether these activities pose a nuisance, are an ultra-hazardous activity, were negligently performed, or caused trespasses. The focus of this action will be on the common and uniform conduct of Defendants in conducting their wastewater injection operations during the Class Period and within the Class Area.

59. Absent class action relief, the putative Class Members would be forced to prosecute hundreds of similar claims in different district court venues. Such an event would

cause tremendous amounts of waste of judicial resources, but the prosecution of these claims as a class action will promote judicial economy.

60. The prosecution of separate actions by individual members of the Class would create a risk of:

- a. inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for the Defendants; and
- b. adjudications with respect to individual members of the Class, which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

61. Plaintiffs are not aware of any difficulty which will be encountered in the management of this litigation which should preclude its maintenance as a class action.

CAUSES OF ACTION

COUNT I

ABSOLUTE LIABILITY

62. Plaintiffs and the Class hereby re-allege and incorporate the foregoing Paragraphs as if fully set forth herein, word-for-word.

63. Defendants' actions described above are ultrahazardous activities that necessarily involve a risk of serious harm to a person that cannot be eliminated by the exercise of the utmost care and is not a matter of common usage.

64. As a direct and proximate result of Defendants' ultrahazardous activities, Plaintiffs and the Class members have suffered damages, to which Defendants are strictly liable.

65. As a direct and proximate result of Defendants' ultrahazardous activities, Plaintiffs and Class members have suffered damages to their homes in the form of physical damages and market losses, and also damages to their personal property.

66. As a direct and proximate result of Defendants' ultrahazardous activities, Plaintiffs and Class members have suffered and continue to suffer emotional harm.

COUNT II

NEGLIGENCE

67. Plaintiffs and the Class hereby re-allege and incorporate the foregoing Paragraphs, as if fully set forth herein, word-for-word.

68. The Defendants owed a duty to Plaintiffs and the Class 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.

69. As a direct and proximate result of these facts, omissions, and fault of the Defendants, the Plaintiffs and the Class have suffered injuries reasonably foreseeable to the Defendants in the form of property damages to their homes (in the form of physical damages and market losses), damages to their personal property, and emotional harm that is continuing.

COUNT III

PRIVATE NUISANCE

70. Plaintiffs and the Class re-allege and incorporate the foregoing Paragraphs, as if fully set forth herein, word-for-word.

71. Defendants' conduct constitutes a private nuisance.

72. Plaintiffs and the Class have property rights and are privileged regarding the use and enjoyment of their home, land and businesses. Defendants' actions and operations as described above have unlawfully and unreasonably interfered with those rights and privileges.

73. Plaintiffs and the Class have suffered harm and damages because of Defendants' creation of a nuisance, including:

- a. Damages to their personal and real property;
- b. interference with their use and enjoyment of property;
- c. annoyance, discomfort and inconvenience on their property caused by Defendants' nuisance;
- d. loss of peace of mind and emotional distress; and
- e. diminution of property value.

COUNT IV

TRESPASS

65. Plaintiffs and the Class re-allege and incorporate the foregoing Paragraphs, as if set forth herein, word-for-word.

66. Plaintiffs and the Class are and have been lawfully entitled to possession of their property.

67. Defendants, without the permission or consent of Plaintiffs and the Class and without legal right, intentionally engaged in activities that resulted in concussions or vibrations entering Plaintiffs' and the Class members' property. Such unauthorized invasion of Plaintiffs' and the Class members' property constitutes a trespass.

68. Because of Defendants' trespass, Plaintiffs and the Class have suffered damages, including:

- a. Damages to personal and real property;
- b. interference with their use and enjoyment of property;
- c. annoyance, discomfort and inconvenience on their property caused by Defendants' trespass;
- d. loss of peace of mind and emotional distress; and
- e. diminution of real estate property value.

PUNITIVE DAMAGES

69. The Defendants' actions, in knowingly causing seismic activity as a result of their injection well operations, constitute wanton or reckless disregard for public or private safety, and are thus subject to a claim for punitive damages, for which Plaintiffs and the Class seek in an amount sufficient to punish the Defendants and to deter them from such conduct in the future.

DEMAND FOR JURY TRIAL

70. Plaintiffs and the Class respectfully demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Class respectfully requests the following relief:

- i. A joint and several judgment against Defendants awarding real and personal property damages (for physical damage and market loss), and emotional harm caused by and continuing by the conduct of the Defendants in an amount to be proven at trial;
- ii. punitive damages;

- iii. pre-judgment and post-judgment interest; and,
- iv. all other relief to which Plaintiff and the Class are entitled or that the Court deems just and proper.

DATED: December 5, 2016

Respectfully Submitted,

Charles D. Watson, Jr.
cwoklaw@aol.com
Watson & Watson
P.O. Box 647
141 E. Broadway St.
Drumright, OK 74030
Tel: (918) 352-2567

Keith A. Ward
keith@keithwardlaw.com
Keith A. Ward, PLLC
1874 S. Boulder
Tel: (918) 764-9011
Fax: (918) 764-9384

Robin L. Greenwald
Curt D. Marshall
Weitz & Luxenberg, PC
700 Broadway
New York, NY 10003
Tel: (212) 558-5500
Fax: (212) 344-5461
Email: rgreenwald@weitzlux.com
Email: cmarshall@weitzlux.com

Scott E. Poynter,
Poynter Law Group
400 W. Capitol Ave., Suite 2910
Little Rock, AR 72201
Ph. (501)251-1587
scott@poynterlawgroup.com

Nate Steel
Alex T. Gray
Jeremy Hutchinson
Steel, Wright, Gray & Hutchinson, PLLC
400 W. Capitol Avenue, Suite 2910
Little Rock, Arkansas 72201
Tel: (501) 251-1587
nate@swcfirm.com
alex@swcfirm.com
jeremy@swcfirm.com