

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT LOUISIANA
SHREVEPORT DIVISION**

**DAVID L. ANDRE,
individually and on behalf of all
others similarly situated**

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CIVIL ACTION NO. _____

SECTION: _____

VERSUS

**EXCO RESOURCES, INC. AND
EXCO OPERATING COMPANY, LP**

COMPLAINT - CLASS ACTION

CLASS ACTION COMPLAINT

The Named Plaintiff, David L. Andre, brings this action individually and on behalf of all other similarly situated natural and juridical persons and consumers of water in the immediate vicinity of DeBroeck Landing, Caddo Parish, Louisiana, by and through the undersigned counsel of record, and aver as follows:

INTRODUCTION

1. The Named Plaintiff, David L. Andre, has initiated this action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of himself and a class of natural and juridical persons, as more specifically defined herein, who sustained losses or damages arising from the failure and/or blow-out of a natural gas well operated by the Defendants Exco Resources, Inc. and Exco Operating Company, LP near DeBroeck Landing, Caddo Parish, Louisiana on April 18, 2010.

2. The Named Plaintiff is also the representative plaintiff and brings this action, among other claims plead herein, for declaratory judgment, injunctive relief, property damage, negligence and strict liability, and for actual and potential damages to usable groundwater from the Carrizo-

Wilcox aquifer system underlying the well drilling site and the Named Plaintiff's property in the immediate vicinity of the failed Exco Resources, Inc. and Exco Operating Company, LP well near DeBroeck Landing, Caddo Parish, Louisiana, as more specifically alleged herein.

PARTIES

3. The Plaintiff Class is comprised of residents of the State of Louisiana, who reside in the Western District of Louisiana, and more particularly in Shreveport, Louisiana in close proximity to DeBroeck Landing, Caddo Parish, Louisiana.

4. The Representative Plaintiff David L. Andre is a major and domiciled in Caddo Parish, and resides at 10720 Goldsberry Road, Shreveport, LA 71106.

5. The Defendant Exco Resources, Inc. is a foreign corporation organized and existing under the laws of the State of Texas and doing business in the State of Louisiana. Upon information and belief, Exco Resources, Inc.'s principal business establishment in Louisiana is within the jurisdiction of this Court. Exco Resources, Inc. may be served through its registered agent for service of process: C T Corporation System, 5615 Corporate Blvd., Suite 400B, Baton Rouge, LA 70808.

6. The Defendant Exco Operating Company, LP is a foreign partnership organized and existing under the laws of the State of Delaware and doing business in the State of Louisiana. Upon information and belief, Exco Operating Company, LP's principal business establishment in Louisiana is within the jurisdiction of this Court. Exco Operating Company, LP may be served through its registered agent for service of process: C T Corporation System, 5615 Corporate Blvd., Suite 400B, Baton Rouge, LA 70808.

7. The Defendant Exco Resources, Inc. and the Defendant Exco Operating Company, LP are hereinafter collectively referred to as “the Exco Defendants.”

JURISDICTION AND VENUE

8. The Representative Plaintiff brings this class action against the Exco Defendants pursuant to 28 U.S.C. § 1332(d)(2), as amended by the Class Action Fairness Act of 2005, because the proposed class is believed to contain more than 100 members, the aggregate amount in controversy is believed to exceed five million dollars and at least one member of the class is diverse from the Exco Defendants.

9. Venue is proper in this District and Division. Upon information and belief, the Exco Defendants’ primary places of business in Louisiana are located in the Western District of Louisiana.

10. This Court also has personal jurisdiction over the Exco Defendants because the Exco Defendants are and were transacting business in this District within the relevant time periods by exploring, drilling and producing oil and/or natural gas from lands within this District.

11. The Exco Defendants also maintain offices within this District and regularly transact and carry out business within this District.

12. Upon information and belief, the majority of witnesses and documentary evidence giving rise to and associated with this action reside or are located in this District.

13. Further, upon information and belief, a significant number of activities giving rise to this action were initiated or took place in this District and Division, as further plead herein.

14. More importantly, as plead herein, the Plaintiff Class Members assert significant personal and property damages and economic losses as a direct proximate cause of the Exco Defendants’ actions or inaction, and that there are sufficient contacts with the State of Louisiana and

the parties' actions and resulting damages and losses to warrant maintenance of this action in this District and Division.

15. The Plaintiff Class Members aver this action is governed by the laws of the State of Louisiana. The State of Louisiana's interests in maintaining policies and laws governing exploration, drilling and production of oil and natural gas, and protection of its citizens' property and the natural resources of this State, including water, would be most seriously impaired if the laws of another state were applied to this action, as more fully provided by Louisiana Civil Code articles 3515 *et seq.*

CLASS ALLEGATIONS

16. The Named Plaintiffs seek to represent a class. The class, for purposes of the relief sought by this action, is defined as follows:

All natural and juridical persons, both public and private, who sustained any loss or damage of any kind arising in any way out of the April 18, 2010, failure and/or blow-out of a natural gas well operated by the Exco Defendants near DeBroeck Landing, Caddo Parish, Louisiana which resulted in (1) loss or damage to real or personal property, (2) the incurring of additional living or business expenses, (3) the loss of any business or other income, and/or (4) impact to usable groundwater in the vicinity of the subject failed Exco Defendants' drilling well, as plead herein. The class also includes all persons who use or consume water from the Carrizo-Wilcox aquifer system underlying the well drilling site and/or in the immediate vicinity of the failed Exco Defendants' well, including but not limited to those persons who own and operate a private water well. The class excludes class counsel, members of the judiciary, their administrative staff and any other personnel who may cause a member of the bench to be unable to preside over this action.

17. *Predominance of Common Questions of Fact and Law.* With respect to the proposed class, common questions of fact and law predominate over the questions affecting only individual

class members, particularly with respect to matters of alleged impact or threatened impact to usable groundwater as defined by La. R.S. § 30:2015.1 and to remedial damages claims governed by La. R.S. § 30:29. Louisiana law sets forth a specific statutory procedure for commencing and adjudicating claims related to damage to usable groundwater, as plead herein. Louisiana law grants this Court express powers and authority to define the scope of impact, regulate the injurious conduct causing the impact, and administering any remedial actions to be undertaken to remedy or monitor actual or threatened damages to usable groundwater arising from the impact.

18. There are additional common questions of law and fact including the common cause of the alleged well failure or blow-out, and the mandatory evacuation of class members from their homes and businesses following the well failure or blow-out. These common events and causes also form the basis for the declaratory and injunctive relief sought by all members of the class as plead herein without any distinction warranting individualized actions over the just and efficient prosecution of these claims through a class action.

19. *Typicality.* The Named Plaintiff's claims are typical of the claims of the class members in that: (1) the Named Plaintiff owns impacted property within the vicinity of the Exco Defendants' failed well, (2) the Named Plaintiff was unable to enjoy his property or freely exercise his property rights following the Exco Defendants' well failure on April 18, 2010, (3) the Named Plaintiff operates a water well near the Exco Defendants' drilling site, (4) the Named Plaintiff's water well derives usable groundwater from the Carrizo-Wilcox aquifer system underlying the well drilling site and in the immediate vicinity of the failed Exco Defendants' well, and (5) the Named Plaintiff has sustained losses and injury as a result of the Exco Defendants' well failure.

20. *Numerosity.* The members of the class are so numerous that separate joinder of each member is impracticable. The exact number of class members is unknown to the Named Plaintiff or to counsel. Upon information and belief, it is believed the total number of class members exceeds 100 members.

21. *Adequacy.* The Named Plaintiff will adequately represent the interests of the class because his interests do not conflict with those of the class; the Named Plaintiff's interests are coextensive with those of the class and he asserts common rights of recovery and assessment and remedial action based upon identical fact patterns and the same legal principles and statutes. The Named Plaintiff has retained counsel competent and experienced in complex, multi-party actions and class actions. Counsel are experienced in litigation and will pursue this action vigorously and in an expeditious and economical manner. The interests of the class will be fairly and adequately protected by the Named Plaintiff and counsel.

22. *Superiority.* Class treatment is a superior method for the fair and efficient adjudication of each of the class member's claims because, among other reasons, certain class members are likely unaware of the legal issues raised by this action and unaware of the law governing the impact to usable groundwater underlying their respective properties, and more importantly, the potential for future damage to groundwater underlying their property from the well failure or blow-out. Furthermore, for those who might litigate individual claims and individual claims of damage to groundwater, the expense of prosecuting such claims on an individual basis are potentially prohibitive and could result in inconsistent findings of fact and law impacting other members of the class, thereby necessitating one common action over individual actions. Any difficulties in the management of this class action will be greatly outweighed by the value of the

class action procedure.

23. As stated, the prosecution of separate claims by individual members of the class would create a substantial risk of inconsistent adjudications concerning individual members of the class that would in practical terms be dispositive of, or would substantially impair or impede, the ability of other class members' to protect their interests. Additionally, the prosecution of individual claims would bestow an organizational and logistical benefit upon the Exco Defendants, permitting them to strategically orchestrate individual claims and separate adjudications to obtain collateral advantage over other similarly situated class members in a separate action without the benefit of joint prosecution.

24. The Exco Defendants have acted on grounds generally applicable to all members of the class. The geographic scope of the class and the impact to usable groundwater militates in favor of a single proceeding with uniform application of Louisiana law to the common facts.

25. The claims may be properly maintained as a class action under FRCP 23(b)(2) for all necessary and appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole. In the event that the requirements of FRCP 23(b)(2) are not found to be met, the claims may be properly maintained as a class action under FRCP 23(b)(1) or (3).

ALLEGATIONS

26. The Class Members are natural and juridical persons who are all majors and long-time residents of and/or domiciled in Caddo Parish, or who conduct business in Caddo Parish and have standing to assert a claim in this action.

27. The Class Members are owners of immovable property located in Caddo Parish, and more particularly, they own property adjacent to or in close proximity to DeBroeck Landing, Caddo

Parish, Louisiana.

28. The Class Members each have one or more operational water supply wells located on their immovable properties in Caddo Parish, including drinking water supply wells.

29. The Class Members have each used and personally consumed water from drinking water supply wells located on their immovable property near DeBroeck Landing, Caddo Parish, Louisiana.

30. Water obtained from water supply wells located on the Class Members' immovable property near DeBroeck Landing, Caddo Parish, Louisiana comes from the Carrizo-Wilcox aquifer system.

31. The Carrizo-Wilcox aquifer system is an important natural resource for the people of Caddo Parish, Northwest Louisiana and the State of Louisiana.

32. The Carrizo-Wilcox aquifer system contains fresh water suitable for residential, commercial and agricultural needs. It is one of the oldest fresh water aquifer systems in Louisiana.

33. The Carrizo-Wilcox aquifer system varies in depth depending upon location. Upon information and belief, the upper sands of the Carrizo-Wilcox aquifer system are very shallow in the areas underlying the Class Members' property near DeBroeck Landing, Caddo Parish, Louisiana.

34. Upon information and belief, the Carrizo-Wilcox aquifer system begins at less than fifty feet below ground level in the areas underlying the Class Members' property near DeBroeck Landing, Caddo Parish, Louisiana.

35. Upon information and belief, the Carrizo-Wilcox aquifer system ends at around 1,100 feet below sea level in the areas underlying the Class Members' property near DeBroeck Landing, Caddo Parish, Louisiana.

36. The Exco Defendants are oil and natural gas exploration, exploitation, development and production companies.

37. The Exco Defendants have multiple operation sites. They operate in multiple states, with principal operations located in North Louisiana, and within the jurisdiction of this Court.

38. The Exco Defendants operate more than one natural gas well near DeBroeck Landing, Caddo Parish, Louisiana.

39. On April 18, 2010, a natural gas well operated by the Exco Defendants near DeBroeck Landing, Caddo Parish, Louisiana experienced problems resulting in the contamination of the Carrizo-Wilcox aquifer system underlying the well drilling site and the Class Members' property.

40. On early-morning, Monday, April 19, 2010, the Exco Defendants notified state and local authorities of the problems associated with their natural gas well and of the contamination of the Carrizo-Wilcox aquifer system.

41. As a result of the Exco Defendants' actions or inaction, natural gas and other contaminants infiltrated the Carrizo-Wilcox aquifer system.

42. Upon information and belief, to this date, natural gas and other contaminants continue to infiltrate and contaminate the Carrizo-Wilcox aquifer system underlying the drilling well site and the Class Members' properties, or have the potential to infiltrate in the future.

43. At all relevant times, the Exco Defendants maintained care, control, custody and garde over all of the drilling equipment and apparatuses, including drilling muds and tubing, involved in the failed natural gas well causing the contamination of the Carrizo-Wilcox aquifer system.

44. Upon information and belief, the Exco Defendants used drilling muds and solutions to obtain natural gas for which the formulation must be disclosed to Class Members so that appropriate tests and monitoring of the aquifer may take place.

45. Additionally, as a result of the Exco Defendants' actions or inaction, the Class Members were forced to evacuate their homes in Caddo Parish, Louisiana.

46. Following the Exco Defendants' well failure and contamination of the Carrizo-Wilcox aquifer system, state and local authorities advised the Class Members and members of the public near DeBroeck Landing, Caddo Parish, Louisiana of the hazards to health and safety resulting from the contamination of the aquifer system.

47. Specifically, governmental authorities advised the situation was "serious", and warned against consuming or using water from the aquifer system, including using the water to bathe or for washing clothes.

48. Governmental authorities also warned against smoking or having "any kind of open flames" near water systems connected to water supply wells obtaining water from the Carrizo-Wilcox aquifer system near DeBroeck Landing, Caddo Parish, Louisiana.

49. Natural gas and other contaminants that infiltrated the Carrizo-Wilcox aquifer system are not naturally found in this aquifer system. They are present in the aquifer system solely from the actions or inaction of the Exco Defendants.

50. Natural gas and other contaminants which have contaminated and continue to contaminate the Carrizo-Wilcox aquifer system are highly persistent and do not readily break-down in groundwater.

51. The Class Members bear no responsibility for the presence of natural gas or other contaminants in the Carrizo-Wilcox aquifer system following the April 18, 2010 well failure, as complained of herein, and have no responsibility for its detection, monitoring or remediation.

52. The presence of contaminants, including natural gas and brine water, in the Carrizo-Wilcox aquifer system as a result of the Exco Defendants' action or inaction presents an unreasonable risk of harm to the Class Members and the other residents of Caddo Parish near DeBroeck Landing, Caddo Parish, Louisiana.

53. The presence of contaminants from the Exco Defendants' drilling activities and/or well failure present an immediate and imminent threat to the Carrizo-Wilcox aquifer system.

54. In fact, the Exco Defendants' drilling activities and/or well failure have already contaminated the Carrizo-Wilcox aquifer system, and will continue to contaminate the aquifer system until they are removed.

55. The presence of contaminants in the Carrizo-Wilcox aquifer system from the Exco Defendants' drilling activities and well failure pose a threat to the health, safety and welfare of the Class Members and the community near DeBroeck Landing, Caddo Parish, Louisiana as a whole.

56. The Class Members seek to recover economic damages, in an amount reasonable in the premises to be determined at trial on the merits, sustained by them, including remediation costs of groundwater and the diminution or loss of property value, including damages for the stigma placed on the marketability of their property due to the presence of contaminants originating from the Exco Defendants' drilling activities and/or well failure on or under their property, and other economic damages they are entitled to by law.

57. The Class Members seek to recover all other general and equitable relief to which they are entitled under the law, including, but not limited to, a declaratory judgment of their rights as landowners and the Defendants breach of those rights.

58. Further, the Class Members seek to recover all other general and equitable relief to which they are entitled under strict liability based upon the Defendants' status as neighboring property owners or lessees and the ultra hazardous nature of the activities engaged in by the Exco Defendants.

59. The Class Members also seek to recover all other general and equitable relief to which they are entitled under negligence; nuisance; trespass; injunctive relief; damages for unjust enrichment; and attorney fees and costs, pursuant to La. Rev. Stat. § 30:2015.1, or as otherwise provided by law.

60. Additionally, the Class Members seek any and all damages derivative of the economic losses sustained by them, including, but not limited to the loss of use or impairment of use to their property, including their water well systems, and inconvenience, trespass and nuisance.

61. The Class Members' are long-time residents of Caddo Parish. The people of Caddo Parish, including the Plaintiffs, have a rich history and association to the land in the area. The Class Members seek to have their property remedied for themselves and for and because of their ancestors and descendants historical and future use of property and the impacted aquifer system in Caddo Parish.

62. As property owners and residents of Caddo Parish, and as users and consumers of the Carrizo-Wilcox aquifer system impacted by the Exco Defendants' drilling activities and/or well failure, the Class Members have the most compelling personal interests under state law to seek

complete remediation of all contamination and sources of contamination resulting from the Exco Defendants' actions or inaction as plead herein.

63. In addition, the Class Members seek damages derivative of the economic losses sustained by them, including aggravation, mental anguish or emotional distress resulting from the loss of value or impairment to their property, fear of possible exposure to known toxins, and any related stress or inconvenience resulting from the Exco Defendants' actions or inaction as plead herein.

64. Pursuant to La. Rev. Stat. § 30:2015.1, or as otherwise provided by law, the Class Members seek an order requiring the Exco Defendants to pay for a full and complete evaluation and remediation of the groundwater underlying their properties and the Carrizo-Wilcox aquifer system, as contained in a complete plan of assessment, evaluation and remediation to be submitted by the Class Members to the Louisiana Department of Environmental Quality (LDEQ).

65. The Class Members specifically request the development and implementation of a long-term monitoring program around their properties and in the vicinity of the blown Exco Defendants' well.

66. The Class Members' plan includes a request for multiple deepwater monitoring wells to ensure the complete monitoring of the aquifer system in the area and to ensure that any potential brine waters which could infiltrate the aquifer system through any conduit created by the blown well are observed, tracked and remediated, as necessary.

67. The Class Members' plan further includes a request for the formulation of all drilling muds and solutions used in drilling at the site to ensure the complete monitoring of the aquifer system in the area and to ensure that any potential hazardous substances are thoroughly observed,

tracked and remediated, as necessary.

68. The Class Members' requested plan under § 30:2015.1 is limited to the area in the immediate vicinity of the subject Exco Defendants' well and the Class Members' properties.

69. The Class Members do not request relief under § 30:2015.1 for the entirety of Caddo Parish, the City of Shreveport or all users of the Carrizo-Wilcox aquifer system.

70. The impacted and threatened area of the aquifer system sought to be addressed by the Class Members herein is limited in scope and may be established, classified and quantified by experts in the field to be identified by the Class Members at a future point in time.

71. Additionally, the Class Members seek an injunction preventing the Exco Defendants from submitting a plan for consideration to the LDEQ which does not fully and completely address remediation of the level of contamination originating from the Exco Defendants' drilling activities and/or well failure, or which may originate in the future.

72. It is well-established that oil and gas wells may act as a conduit for deepwater brines to infiltrate shallower fresh water aquifer systems and increase the salinity of the freshwater system in an unnatural manner.

73. The Class Members are entitled to maintain and preserve the freshwater aquifer system underlying their properties and to seek redress of any potential source of contamination of that system from a responsible party.

74. Further, the Class Members are entitled to a declaration of the Exco Defendants' status as responsible parties under the law for any and all actual or potential impact to the aquifer system underlying the Class Members' properties.

75. The Class Members further seek an injunction prohibiting the Exco Defendants from committing further breaches of their duties owed to the Class Members and other residents and property owners adversely affected by the Exco Defendants' actions or inaction, including the contamination of the Carrizo-Wilcox aquifer system, as plead herein.

76. The damages alleged herein to the Carrizo-Wilcox aquifer system constitute damages or impact to "usable groundwater" as defined by § 30:2015.1.

77. As property owners whose property is or may become contaminated, and who use the Carrizo-Wilcox aquifer system, the Class Members' interests are legally protectable and at stake in this actions. The Class Members are also taxpayers in Caddo Parish and the State of Louisiana.

78. The Class Members have an interest in protecting the public fisc and maintaining the health and welfare of the Caddo Parish community impacted by the Exco Defendants' actions and inaction, as plead herein.

79. The Exco Defendants' drilling activities and/or well failure has and will continue to contaminate private and public property, in particular, the Carrizo-Wilcox aquifer system.

80. The Class Members further assert that the failure of the Exco Defendants to properly remediate all contamination from its drilling activities and/or well failure will not only increase their personal financial burden, but will also increase their tax burden. For example, the State of Louisiana and Caddo Parish authorities have already incurred extensive costs to test for contamination of drinking water wells and the Carrizo-Wilcox aquifer system.

81. Absent complete remediation and long-term monitoring, the private and public financial burden will increase for taxpayers and residents of Caddo Parish, such as the Class Members, as a result of the potential development and implementation of public works to bring

potable water to residents impacted by the Exco Defendants' contamination of the underlying aquifer system.

82. Upon information and belief, additional costs, including the maintenance and expansion of such public water systems and future environmental activities, are anticipated to continue into the future.

83. The Class Members may also incur increased costs in abandoning their water well systems and in maintaining any public water supply.

84. Pursuant to Civil Code Article 2298, or as otherwise provided by law, the Class Members are entitled to compensation from the Exco Defendants for the reasonable cost or charges associated with the continued use of the Class Members' properties and the public's property for the disposal or storage of contaminants resulting from their drilling activities and/or well failure, as plead herein.

85. The Exco Defendants have been enriched without cause by using the Class Members' properties and the public's property as a median for the natural dilution, dispersion or remediation of contaminants which have and continue to impact the Carrizo-Wilcox aquifer system from its own actions or inaction, whereas the Class Members and the public have suffered a corresponding impoverishment (e.g., property damage and contamination of the aquifer system).

86. The Representative Plaintiff seeks a trial by jury on all issues so triable herein.

WHEREFORE, the Named Plaintiff prays that the Exco Defendants be duly served with a copy of this Class Action Complaint, and after all legal delays have passed, that judgment be entered in favor of the Class Members against the Exco Defendants for the following relief, as plead for herein: (1) For an Order certifying this action as a class action under Rule 23 of the Federal Rules

of Civil Procedure; (2) For a trial on the merits and entry of judgment in favor of the Class Members against the Exco Defendants; (3) For a declaration of the Class Members' rights under Louisiana law, including their rights as Caddo Parish and Louisiana taxpayers, citizens and property owners; (4) For an injunction prohibiting the Exco Defendants from committing further breaches of their duties owed to the Class Members and the residents and property owners near DeBroeck Landing, Caddo Parish, Louisiana; (5) For an injunction prohibiting the Exco Defendants from submitting a less than full and complete plan for the evaluation and remediation of usable groundwater as defined by La. R.S. § 30:2015.1; (6) For an order declaring the Exco Defendants responsible for the harms alleged herein and directing that the Exco Defendants pay for a court supervised groundwater evaluation and remediation plan submitted for and by the Class Members; (7) For a monetary award to compensate the Class Members and the public at large for the losses and damages they have or will incur; (8) For an award of reasonable attorney fees and costs, including expert fees and expenses; and (9) For such other general and equitable or injunctive relief as this Court deems just and appropriate under Louisiana law, whether stated herein, or as otherwise permitted or provided by law.

Respectfully submitted,

/s/T. Taylor Townsend

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