



Tulane Environmental Law Clinic

October 7, 2011

Via Certified Mail and Registered Mail (Return Receipt Requested)

Korea National Oil Corp.
11767 Katy Freeway
Suite 800
Houston, TX 77079

Samsung C&T Corp.
310, Taepyeong-Ro 1 Ga
Jung-Gu
Seoul
South Korea

Samsung C&T America, Inc.
85 Challenger Road
Ridgefield Park, NJ 07660

The Prentice-Hall Corporation System, Inc.
Agent for Samsung C&T America, Inc.
150 West State Street
Trenton, NJ 08608

Samsung C & T America, Inc.
5847 San Felipe St.
Suite 1500
Houston, TX 77057

The Prentice-Hall Corporation System, Inc.
Agent for Samsung C&T America, Inc.
211 E. 7th Street
Suite 620
Austin, TX 78701-3218

Taylor Energy Co. LLC
One Lee Circle
New Orleans, LA 70130
Phone: (504) 581-5491

Paul J. Goodwine
Agent for Taylor Energy Co. LLC
C/O Slattery, Marino, & Roberts
1100 Poydras Street
Suite 1800
New Orleans, LA 70163

**RE: Notice of Intent to File Citizen Suits Pursuant to Clean Water Act Section 505
and Notice of Endangerment Pursuant to Resource Conservation and Recovery Act
Section 7002.**

To Korea National Oil Corp., Samsung C&T Corp., Samsung C&T America, Inc., and Taylor
Energy Co. LLC:

Tulane Environmental Law Clinic

6329 Freret St., Ste. 130, New Orleans, LA 70118-6231 tel/ 504.865.5789 fax 504.862.8721 www.tulane.edu/~telc

This letter, on behalf of Atchafalaya Basinkeeper, Emerald Coastkeeper, Galveston Baykeeper, Louisiana Bayoukeeper, Louisiana Environmental Action Network, Paul Orr (in his capacity as the Lower Mississippi Riverkeeper), and Waterkeeper Alliance (collectively “Waterkeepers”), provides Notice of Intent to File a Citizen Suit against Korea National Oil Corp. (“Korea National”), Samsung C&T Corp. (“Samsung”), Samsung C&T America, Inc. (“Samsung America”), and Taylor Energy Co. LLC (“Taylor”), for violations of the Clean Water Act as authorized by Clean Water Act § 505, 33 U.S.C. § 1365. This letter also provides Notice of Intent to File a Citizen Suit against Korea National, Samsung, Samsung America, and Taylor and a Notice of Endangerment as authorized by the Resource Conservation and Recovery Act (“RCRA”) § 7002(a)(1)(B), 42 U.S.C. § 6972(a)(1)(B). The allegations in this Notice are based on the Waterkeepers’ information and belief developed after a reasonable investigation.

The Clean Water Act requires the Waterkeepers to wait at least sixty days to file their citizen enforcement action after providing this notice. 33 U.S.C. § 1365(b)(1)(A). Additionally, RCRA requires the Waterkeepers to wait at least ninety days to file their citizen enforcement action after providing this notice. 42 U.S.C. § 6972(b)(2)(A). This waiting period gives the parties a reasonable time to resolve the matter cooperatively, without litigation. The Waterkeepers are open and amenable to discussions with Korea National, Samsung, Samsung America, and Taylor about resolving this matter outside of the judicial system. Our primary concern is preservation and protection of the Gulf of Mexico and its natural resources, and we understand that cooperative efforts can be more efficient than litigation.

We are providing this notice to Korea National, Samsung, Samsung America, and Taylor (collectively, “the dischargers”) because they have violated and will continue to violate the Clean Water Act and the effect of their actions have and may continue to pose an imminent and substantial threat of harm to the environment or human health. Specifically, the dischargers have violated and continue to violate Clean Water Act § 301, which prohibits the unauthorized discharge of pollutants into navigable waters and oceans. 33 U.S.C. § 1311. Additionally, the dischargers’ actions in handling and discharging oil that qualifies as hazardous and solid waste have created and continue to create a situation that may pose an imminent and substantial endangerment to health and the environment. The dischargers’ conduct therefore provide the basis for a citizen suit under RCRA § 7002(a)(1)(B). 42 U.S.C. § 6972(a)(1)(B).

Introduction

This notice focuses on one or more wells associated with Oil Platform 23051, which is or was located in the Gulf of Mexico at approximately 28.938022 degrees North latitude, 88.970963 West longitude, approximately eleven miles off the coast of Louisiana. We refer to these wells below as “the Taylor Well(s).” At least one of the Taylor Well(s) has been leaking a significant amount of oil into the Gulf of Mexico since at least October 7, 2006. Since then, the Taylor Well(s) discharge between 100 to 400 gallons of oil per day. This discharge produces visible slicks of oil on the water. One slick, observed on June 18, 2011, contained an estimated 3157 gallons of oil.

At the time the Taylor Well(s) started leaking, Taylor owned them, operated them, or both owned and operated them. However, on or around February 1, 2008, Taylor sold its energy assets to Korea National, Samsung, and Samsung America. Thus, since February 2008, Korea National, Samsung, and Samsung America have also been responsible for the Taylor Well(s)' discharges of approximately 100 to 400 gallons of oil into the Gulf of Mexico every day, producing oil slicks and visible sheens.

Clean Water Act Violations

Under the Clean Water Act, "the discharge of any pollutant by any person" is unlawful, except when done in compliance with certain sections of the Act. 33 U.S.C. § 1311(a). A "discharge of a pollutant" is the "addition of any pollutant to navigable waters from any point source" or "any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft." Id. at § 1362(12). The Clean Water Act defines "contiguous zone" as "the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone."¹ Additionally, "ocean" is defined as "any portion of the high seas beyond the contiguous zone." Id. at § 1362 (10). The Clean Water Act defines "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, . . . conduit, well, discrete fissure, container, . . . from which pollutants are or may be discharged." Id. at § 1362(14). Under the Act, "pollution" is "the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water." Id. at § 1362(19). The Act defines "person" as "an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body." Id. at § 1362(5).

Generally, under Clean Water Act § 301(a) a pollutant discharge is illegal if 1) a discharge of a pollutant occurs without a permit 2) into navigable waters, the contiguous zone, or the ocean, and 3) the discharge originates from a point source. Neither Korea National, Samsung, Samsung America, nor Taylor hold a permit allowing the discharge of pollutants into the Gulf of Mexico from the Taylor Well(s). Additionally, the oil leaking from the Taylor Well(s) constitutes a "man-induced alteration of the chemical, physical, [and] biological" integrity of the water of the Gulf of Mexico in the contiguous zone. Finally, the Taylor Well(s) are point source(s) that discharge into navigable water.

The Clean Water Act contains a citizen enforcement section that allows any citizen to commence a civil action on his or her own behalf "against any person . . . who is alleged to be in violation of . . . an effluent standard or limitation under this chapter." Id. at § 1365(a)(1). In this case, Korea National, Samsung, Samsung America, and Taylor violated an effluent standard as provided in Clean Water Act § 301(a) when they 1) allowed the Taylor Well(s) to begin leaking oil into the Gulf of Mexico and 2) permitted the Taylor Well(s) to continue leaking oil in violation of § 301(a) of the Act. Id. at § 1311(a). Notably, EPA has determined that discharges of oil that "[c]ause a film or sheen upon or discoloration of the surface of the water or adjoining

¹ The contiguous zone of the United States is "24 miles from the baselines of the United States, in accordance with international law, but not within the territorial seas of another nation." 64 Fed. Reg. 48,701 (Sept. 8, 1999).

shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines,” may be “harmful to the public health or welfare or the environment.” 40 C.F.R. § 110.3, 110.3(b). Hence, the Waterkeepers are providing Korea National, Samsung, Samsung America, and Taylor with notice that because they are violating an effluent standard or limitation under the Clean Water Act, the Waterkeepers will bring a citizen enforcement action against them as authorized in Clean Water Act § 505(a). 33 U.S.C. § 1365(a).

RCRA Citizen Suit

Under RCRA’s citizen suit provision

any person may commence a civil action . . . against any person . . . including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment[.] 42 U.S.C. § 6972.

RCRA defines “disposal” as “the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid or hazardous waste . . . may enter the environment or be . . . discharged into any waters[.]” *Id.* at § 6903(3). Additionally, RCRA defines “solid waste” as “any garbage, refuse, . . . and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations[.]” *Id.* at § 6903(27). The oil leaking from the Taylor Well(s) is discarded material and constitutes solid waste. Further, RCRA defines “hazardous waste” as “a solid waste, or combination of solid wastes, which . . . may . . . pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.” *Id.* at § 6903(5)(B). Thus, the oil leaking from the Taylor Well(s) also constitutes hazardous waste as it poses a substantial present or potential hazard to human health or the environment. *See* 40 C.F.R. § 110.3 (stating, in the context of the Clean Water Act, that a discharge of oil that causes a sheen or discoloration upon water may be harmful to public health or welfare or the environment).

Korea National, Samsung, Samsung America, and Taylor are persons³ whose past or present conduct with respect to the handling and disposal of both solid and hazardous waste has created imminent and substantial endangerment to health or the environment. Therefore, the Waterkeepers will bring a citizen suit under § 7002(a)(1)(B) of RCRA and seek injunctive relief to restrain Korea National, Samsung, Samsung America, and Taylor from handling and disposing additional solid and hazardous waste and to compel them to take corrective actions in order to abate the imminent and substantial endangerment to health or the environment their past handling and disposal of solid waste and hazardous material created.

Persons Giving Notice:

³ RCRA defines “persons” as “an individual, trust, firm, joint stock company, corporation, . . . partnership, [or] association . . .” 42 U.S.C. § 6903(15).

Atchafalaya Basinkeeper
162 Croydon Ave.
Baton Rouge, LA 70806
Phone: (225) 928-1329

Atchafalaya Basinkeeper is a nonprofit organization dedicated to protecting the Atchafalaya Basin for present and future generations. Atchafalaya Basinkeeper seeks to maintain good water quality throughout the Atchafalaya watershed. The present spill in the Gulf of Mexico is a particular threat to the health of fishermen and their families, the culture of those Atchafalaya Basinkeeper members who make their living in the Atchafalaya Delta.

Emerald Coastkeeper
P.O. Box 13283
Pensacola, FL 32591
Phone: (850) 602-8377

Emerald Coastkeeper is a 501(c)(3) nonprofit organization with its principal office in Pensacola, Florida and is the northwest Florida chapter of the Waterkeeper Alliance. Emerald Coastkeeper, is located directly along the coast of the Gulf of Mexico and works to restore and protect U.S. waterway within its jurisdiction, which includes all tributaries, including creeks, bays, rivers, bayous, and any other bodies of water that are a part of the watershed from the Gulf of Mexico (south) up to the Alabama state line (north), and Perdido Bay (west) to West Bay in Panama City (east). Emerald Coastkeeper uses education and advocacy to increase awareness of water quality issues and uses citizen enforcement of the Clean Water Act when necessary.

Emerald Coastkeeper and its members use, or have used, the Gulf of Mexico for recreation and other applications including, but not limited to, fishing; boating; kayaking; snorkeling; diving; and chemical, biological, and environmental studies. The actions of the dischargers, as referenced in this letter, impair Emerald Coastkeeper members' use and enjoyment of the Gulf of Mexico.

Galveston Baykeeper
P.O. Box 71
Seabrook, TX 77586
Phone: (281) 455-9595

Galveston Baykeeper is a member of the Waterkeeper Alliance and works to restore and protect the waters of the United States through litigation, scientific research, and other legal means. Galveston Baykeeper is a national, nonprofit corporation organized under the laws of the State of Texas, with its principal office in Shoreacres, Texas. Galveston Baykeeper aims to keep our bay system vital and vibrant for all who enjoy it and make their livelihood through it. Galveston Bay is connected to the Gulf of Mexico and receives saline waters from Gulf currents and tides. Galveston Baykeeper's members live along Galveston Bay and the Gulf of Mexico and use these waters for recreational and commercial fishing, boating, swimming, and other uses.

Louisiana Bayoukeeper
P.O. Box 207
Barataria, LA 70036
Phone: (504) 689-8849

Louisiana Bayoukeeper, Inc. is a nonprofit organization based in Barataria, Louisiana and is made up of citizens involved in commercial fishing; charter fishing families; recreational fishing; natural resource based tourism; and other citizens concerned about water quality, coastal restoration, and protection issues. Louisiana Bayoukeeper's mission is to engage and activate coastal communities for the purpose of promoting sustainable stewardship of the South Louisiana Bayou Country Watersheds and its natural resources for the benefit of all citizens.

Ninety percent of all marine species in the Gulf of Mexico spend some portion of their life cycle in South Louisiana's coastal ecosystem. Daily tidal flows and winds carry marine life and pollutants into Louisiana's vast estuarine system. This oil spill harms fishing and hunting families, commercial and recreational users, and eco-tourists who are the backbone of Barataria and other coastal Louisiana communities' culture and economy.

Louisiana Environmental Action Network ("LEAN")
P.O. Box 66323
Baton Rouge, Louisiana 70896
Phone: (225) 928-1315

LEAN, founded in 1986, is a state-wide, nonprofit corporation organized under the laws of the State of Louisiana, with its principal office in Baton Rouge, Louisiana. LEAN represents many community groups and thousands of individuals state wide. LEAN provides these member groups and individuals with the support and resources required to accomplish their environmental goals. LEAN's purpose is to foster cooperation and communication between individual citizens and corporate and government organizations and to assess and mend the environmental problems in Louisiana. LEAN's goal is the creation and maintenance of a cleaner and healthier environment for all of the inhabitants of Louisiana.

LEAN has individual members who live and / or work in Louisiana's coastal parishes, including southern Plaquemines Parish. These members use, or have used, the Gulf of Mexico for fishing, boating, bird-watching, recreation, SCUBA diving, and other uses. Some of these members use the waters in the general vicinity of the discharge that is the subject of this notice for recreation and commercial fishing, commercial fishing charter, commercial SCUB charter, and recreation SCUBA diving. These members' use and enjoyment of the Gulf of Mexico has been harmed by the dischargers' actions described in this notice.

Paul Orr (in his capacity as the Lower Mississippi Riverkeeper)
162 Croydon Ave.
Baton Rouge, LA 70806
Phone: (225) 588-5059

Lower Mississippi Riverkeeper is an active program of LEAN and is a licensed-member-program of Waterkeeper Alliance. Lower Mississippi Riverkeeper's program focuses on the Mississippi River Delta. The mission of Lower Mississippi Riverkeeper is to protect, preserve, and restore the ecological integrity of the Mississippi River Basin for current users and future generations through advocacy and citizen action.

Waterkeeper Alliance
17 Battery Place
Suite 1329
New York, NY 10004
Phone: (212) 747-0622

Waterkeeper Alliance is a national, nonprofit corporation organized under the laws of the State of New York, with its principal office in New York, New York. Waterkeeper Alliance is an umbrella organization comprised of nearly 200 member Waterkeeper programs globally, including Atchafalaya Basinkeeper, Emerald Coastkeeper, Galveston Baykeeper, Louisiana Bayoukeeper, and Paul Orr (in his capacity as the Lower Mississippi Riverkeeper). Waterkeeper Alliance works to restore and protect the waters of the United States, including the Gulf of Mexico, through litigation, education, scientific research, and other legal means; advocates compliance with environmental laws such as the Clean Water Act and RCRA; responds to citizen complaints; identifies threats to bodies of water; and generally works to protect the public's right to a pollution-free environment.

In addition to its member organizations, Waterkeeper Alliance has individual members who reside in communities along the Gulf Coast. These members use, or have used, the Gulf of Mexico for fishing, boating, bird-watching, recreation, and other uses. Some of these members own property along or near the Gulf of Mexico. These members have been harmed in their use and enjoyment of the Gulf of Mexico by defendants' violations of the various environmental statutes referenced in this complaint.

These parties, however, should be contacted through their counsel:

Machelle Lee Hall, SBN: 31498
Tulane Environmental Law Clinic
6329 Freret Street
New Orleans, LA 70118
Phone: (504) 862-8814; Fax: (504) 862-8721

Persons Responsible for Alleged Violations:

Taylor Energy Co. LLC
One Lee Circle
New Orleans, LA 70130

Samsung C&T America, Inc.
5847 San Felipe St.
Suite 1500

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Samsung C&T
310, Taepyeong-Ro 1 Ga
Jung-Gu, Seoul
South Korea

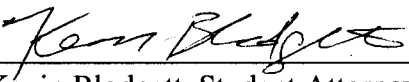
Houston, TX 77057


Korea National Oil Corp.
11767 Katy Freeway
Suite 800
Houston, TX 77079

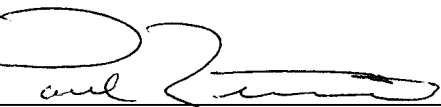
If you believe that any portion of this Notice is in error or if you wish to discuss any portion of this Notice, please contact Machele Lee Hall or Adam Babich at the address and phone number listed above.

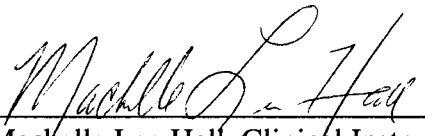
Prepared by:

Respectfully submitted:


Kevin Blodgett, Student Attorney
Tulane Environmental Law Clinic


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Counsel for Atchafalaya Basinkeeper, Emerald Coastkeeper, Galveston Baykeeper, Louisiana Bayoukeeper, Louisiana Environmental Action Network, Paul Orr, and Waterkeeper Alliance

cc:

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1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

Gwendolyn Keyes Fleming, Regional Administrator
US EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forysth Street, SW
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Peggy Hatch, Secretary
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