

EW 305 - EMC

CIVIL COVER SHEET

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

<p>I. (a) PLAINTIFFS</p> <p>United States of America, People of the State of California ex rel. California Department of Fish and Game</p>	<p>DEFENDANTS</p> <p>Chevron U.S.A. Inc.</p>
<p>(b) County of Residence of First Listed Plaintiff United States (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>County of Residence of First Listed Defendant Contra Costa (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p>
<p>(c) Attorney's (Firm Name, Address, and Telephone Number)</p> <p>Ann C. Hurley - Trial Attorney Environmental Enforcement Section - United States Department of Justice 301 Howard Street, Suite 1050 San Francisco, CA 94105</p>	<p>Attorneys (If Known)</p> <p>Gerald George - Counsel Pillsbury Winthrop Shaw Pittman LLP 50 Fremont Street San Francisco, CA 94105</p>

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

		PTF	DEF			PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influence and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Judge from Magistrate Judgment
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 42 U.S.C. §§ 9601, 9607; 40 C.F.R. § 302.4; CA Fish and Game Code § 12016

Brief description of cause:
 Action for Natural Resource Damages to Castro Cove in San Pablo Bay, in Richmond, CA

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ n/a

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE". n/a

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

SAN FRANCISCO/OAKLAND SAN JOSE EUREKA

DATE: January 26, 2010

SIGNATURE OF ATTORNEY OF RECORD: *[Signature]*

1 IGNACIA S. MORENO
Assistant Attorney General
2 Environment and Natural Resources Division
United States Department of Justice
3 Washington, D.C. 20530

4 ANN C. HURLEY (D.C. Bar No. 375676)
Trial Attorney
5 Environmental Enforcement Section
United States Department of Justice
6 301 Howard Street, Suite 1050
San Francisco, California 94105
7 Phone: (415) 744-6480
Fax: (415) 744-6476
8 email: ann.hurley@usdoj.gov

9 Attorneys for Plaintiff United States of America

10 EDMUND G. BROWN JR., Attorney General
of the State of California
11 MARY HACKENBRACHT
Senior Assistant Attorney General
12 DANIEL S. HARRIS (State Bar No. 157433)
Deputy Attorney General
13 455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102-3664
14 Phone: (415)703-5530
Fax: (415)703-5480
15 email: Daniel.Harris@doj.ca.gov

16 Attorneys for Plaintiff People of the State of California
17 ex rel. the California Department of Fish and Game

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA and the PEOPLE)
OF THE STATE OF CALIFORNIA ex rel. the
CALIFORNIA DEPARTMENT OF FISH AND
GAME,

Plaintiffs,

vs.

CHEVRON U.S.A. INC.,

Defendant.

FILED

JAN 27 2010

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

NP
99

E-filing

GO 44 SEC. N
NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENE

C10-00375 EMC

Civil No.

ADR

**COMPLAINT FOR NATURAL
RESOURCE DAMAGES**

28 The United States of America, by the authority of the Attorney General of the United

1 States, acting at the request of the National Oceanic and Atmospheric Administration and the
2 Department of the Interior, and the People of the State of California ex rel. California
3 Department of Fish and Game, through the undersigned attorneys, file this complaint and allege
4 as follows:

5 **NATURE OF ACTION**

6 1. This is a civil action, brought against Chevron U.S.A. Inc. ("Chevron"), for
7 recovery of damages for injury to, loss of, or destruction of natural resources under Section 107
8 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"),
9 42 U.S.C. § 9607. Plaintiffs seek damages in order to compensate for and restore natural
10 resources injured by the release or threatened release of hazardous substances into Castro Cove, a
11 small embayment within San Pablo Bay located adjacent to an industrial area in Richmond,
12 California, that includes a petroleum refinery, owned and operated by Defendant. Plaintiffs also
13 seek to recover unreimbursed costs of assessing such damages.

14 **JURISDICTION AND VENUE**

15 2. This Court has jurisdiction over the subject matter of this action under 28 U.S.C.
16 §§ 1331 (federal question), 1345 (United States as plaintiff), 1367 (supplemental jurisdiction)
17 and Section 113(b) of CERCLA, 42 U.S.C. § 9613(b) (jurisdiction; venue).

18 3. Venue is proper in the Northern District of California, pursuant to 28 U.S.C.
19 §§ 84 (California) and 1391(b) (venue generally), and Section 113(b) of CERCLA, 42 U.S.C. §
20 9613(b) (jurisdiction; venue), because it is the judicial district in which the releases occurred.

21 **DEFENDANT**

22 4. Chevron is a "person" within the meaning of Section 101 of CERCLA, 42 U.S.C.
23 § 9601(21), because Chevron is a corporation.

24 **FACTUAL ALLEGATIONS**

25 5. Chevron owns and operates a petroleum refinery in Richmond, California, (the
26 "Refinery") that is adjacent to Castro Cove, a small embayment within San Pablo Bay.

27 6. As used herein, "Castro Cove" shall mean the embayment located in San Pablo
28 Bay within Contra Costa County, California, immediately north of the Chevron North Yard

1 Impound Basin and enclosed by a line drawn from the Point San Pablo Yacht Harbor to the West
2 Contra Costa Sanitary Landfill.

3 7. There have been “releases” and “threatened releases,” within the meaning of
4 Sections 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(22) and 9607(a), from the Refinery
5 into Castro Cove, including, *inter alia*, releases of mercury and polycyclic aromatic hydrocarbons
6 (“PAHs”) through an historical discharge of wastewater to the south side of Castro Cove. Lead
7 was also released to the environment through lead pellets deposited in a portion of the Castro
8 Cove sediments from past skeet shooting activities at the Refinery.

9 8. “Hazardous substances” within the meaning of Section 101(14) of CERCLA, 42
10 U.S.C. 9601(14), and 40 C.F.R. § 302.4, including mercury, PAHs and lead, have been released
11 into Castro Cove from the Refinery.

12 9. Castro Cove is a “facility” within the meaning of Section 101(9) of CERCLA, 42
13 U.S.C. § 9601(9), because it is a site “where a hazardous substance has been deposited, stored,
14 disposed of, or placed, or otherwise come to be located.” 42 U.S.C. § 9601(9)(B).

15 10. Plaintiffs have incurred costs in assessing damages to natural resources resulting
16 from the releases.

17 **FIRST CLAIM FOR RELIEF**
18 **(Natural Resources Damages Under CERCLA)**

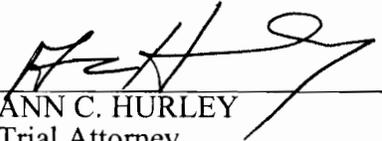
19 11. Paragraphs 1 through 10 are realleged and incorporated herein by reference.

20 12. Defendant Chevron is liable as a person that generated hazardous substances
21 and transported such hazardous substances to Castro Cove, under Section 107(a)(3) and (4) of
22 CERCLA, 42 U.S.C. § 9607(a)(3) and (4).

23 13. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), Chevron is liable to
24 the United States and the People of the State of California *ex rel.* California Department of Fish
25 and Game for damages for injury to, destruction of, or loss of natural resources, including the
26 reasonable costs of assessing such injury, destruction, or loss resulting from a release of
27 hazardous substances from the Refinery to Castro Cove.

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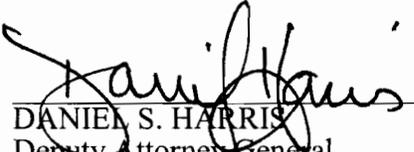


ANN C. HURLEY
Trial Attorney
Environmental Enforcement Section
United States Department of Justice

Attorneys for Plaintiff United States of America

EDMUND G. BROWN JR.
Attorney General of California

MARY HACKENBRACHT
Senior Assistant Attorney General
JOHN DAVIDSON
Supervising Deputy Attorney General



DANIEL S. HARRIS
Deputy Attorney General

Attorneys for Plaintiff California Department of
Fish and Game