

**EXCERPTS FROM THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**JUDGEMENT BY: SARAH S. VANCE
UNITED STATES DISTRICT JUDGE**

FEBRUARY 3, 2005

References made by Judge Vance:

Chalmette- Chalmette ExxonMobil Refinery

Plaintiffs – The St. Bernard Citizens for Environmental Quality & Louisiana Bucket Brigade

Three important points of the decision include:

**1. EXXONMOBIL CHALMETTE REFINERY HAS VIOLATED THE
CLEAN AIR ACT**

- *From pp. 22-23* “Since March 3, 1999, Chalmette has filed at least 34 written reports, which document unauthorized discharges. Chalmette has admitted that each of these discharges was “preventable.” (Pl.’s Mot. Summ. J., Exs. A-HH). Chalmette has not asserted the “malfunction” defense for these violations and, in any event, it could not rely on the defense because it admitted in its reports that the 34 unauthorized discharges were “preventable”. The unauthorized discharge reports demonstrate that Chalmette violated emissions standards or limitations promulgated under the Clean Air Act and Louisiana’s implementation plan on each of the 34 occasions on which it reported unauthorized discharges.”

2. VIOLATIONS ARE LIKELY TO CONTINUE

- *From p. 18* “Plaintiffs have alleged, and the documented violations indicate, that Chalmette repeatedly violates the Clean Air Act and that, unless some action is taken to prevent the illegal conduct, there is a real threat that such violations will continue to occur.”
- *From p. 18* “Chalmette has not produced evidence to rebut plaintiff’s assertions. Nor has Chalmette shown that it has taken action to bring the refinery into full compliance with its permits.”
- *From p. 19* “Without some evidence that Chalmette has fully remedied the conditions that led to the violations, plaintiffs’ un rebutted evidence of repeated violations, including at least one that occurred after plaintiffs filed suit, demonstrates a real threat that Chalmette will continue to violate the Clean Air Act.”

3. COMMUNITY MEMBERS ARE BEING HARMED BY EXXONMOBIL EMISSIONS:

- *From pp. 8 – 9* “Ford lives about one-fifth of a mile from Chalmette. Ford avers that he often smells nauseous, obnoxious, chemical odors coming from Chalmette. He states that the odors prevent him from enjoying the use of property, prevent him from spending time outside with his grandchildren, and cause him to fear for his family’s health and his own health, particularly because he has lung cancer and has had one lung removed (Pl.’s Mot. Summ. J.,Ex. II at ¶¶ 9-11). He also states that there are black petroleum coke deposits on his lawn, windows, other property and inside his home that also prevent him and his family from spending time outside and cause him to fear for their health (Id. at ¶¶ 13-16).”

The second affidavit is from Lawrence Navo, a member of the Louisiana Bucket Brigade who lives one mile from Chalmette (Id, Ex. JJ at ¶¶ 5,7). The odors cause him to go indoors if he is outside, and he fears for his family’s health (Id. at ¶5). Navo also notes the constant presence of soot on his property, which requires him to keep his car covered to protect it (Id at 8). ***These assertions have not been contradicted by Chalmette and thus stand as undisputed facts (8-9).***”

- *From pp. 13 – 14* “Specifically, plaintiffs submitted testimony that their members smell odors when the wind is blowing from Chalmette’s direction and that Chalmette frequently exceeds its emission limits. Plaintiffs also provided evidence that indicates that odors were present on days when Ford “called up”, and Chalmette either admitted to Ford that they were “having trouble with the coke unit” or DEQ told Ford that Chalmette had called to admit that they were “having problems.” (Pls.’ Reply Mem. Mot. Summ. J., Ex.2 at 114-115). Chalmette has not produced any evidence to rebut plaintiffs’ circumstantial evidence that their injuries are fairly traceable to pollution emanating from their injuries are fairly traceable to pollution emanating from Chalmette (13-14).”