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MAY 14 2007

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(Counsel for plaintiffs continued on next page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

TOMAS MAYNAS CARIJANO;
JANE DOE 1, a minor, by her guardian JANE
DOE 2;
JANE DOE 2;
JANE DOE 3, a minor, by her guardian JANE
DOE 4;
JANE DOE 4;
JANE DOE 5, a minor, by her guardian JOHN
DOE 1;
JOHN DOE 1;
JOHN DOE 2, a minor, by his guardian JOHN
DOE 3;
JOHN DOE 3;
JANE DOE 6, a minor, by her guardians JOHN
DOE 4 and JANE DOE 7;
JOHN DOE 4;
JANE DOE 7;
JOHN DOE 5, a minor, by his guardians JOHN
DOE 6 and JANE DOE 8;
JOHN DOE 6;
JANE DOE 8;
JOHN DOE 7, a minor, by his guardians JOHN
DOE 8 and JANE DOE 9;
JOHN DOE 8;
JANE DOE 9;
JANE DOE 10, a minor, by her guardians
JOHN DOE 9 and JANE DOE 11;
JOHN DOE 9;
JANE DOE 11;
JOHN DOE 10, a minor, by his guardians

CASE NO. 80370828

**CLASS ACTION COMPLAINT FOR
DAMAGES, INJUNCTIVE AND
DECLARATORY RELIEF, RESTITUTION
AND DISGORGEMENT OF PROFITS**

- 1. NEGLIGENCE**
- 2. STRICT LIABILITY**
- 3. BATTERY**
- 4. MEDICAL MONITORING**
- 5. INJUNCTIVE RELIEF OR DAMAGES IN
LIEU OF INJUNCTION**
- 6. WRONGFUL DEATH**
- 7. FRAUD AND MISREPRESENTATION**
- 8. PUBLIC NUISANCE**
- 9. PRIVATE NUISANCE**
- 10. TRESPASS**
- 11. VIOLATION OF BUS. & PROFS. CODE
§§ 17200 et. seq.**

**COMPLAINT FOR DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF, RESTITUTION AND
DISGORGEMENT OF PROFITS**

1 JOHN DOE 11 and JANE DOE 12;
2 JOHN DOE 11;
3 JANE DOE 12;
4 JANE DOE 13, personally and as successor-in-
interest to her deceased son JOHN DOE 12;

Plaintiffs,

vs.

6 OCCIDENTAL PETROLEUM
7 CORPORATION, a Delaware corporation;
8 OCCIDENTAL PERUANA, INC., a California
corporation;
9 MOE 1 through MOE 50,

Defendants.

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1 Plaintiffs, by their guardians and by their attorneys, bring this action on behalf of themselves and
2 all other persons similarly situated. On information and belief, Plaintiffs allege as follows:

3 INTRODUCTION

4 1. This case arises out of the irresponsible and illegal practices of Occidental Petroleum
5 Corporation and Occidental Peruana, Inc. (together, "Oxy" or "defendants"), in the Peruvian Amazon
6 over the course of three decades. In its unchecked effort to profit from Amazonian oil, Oxy engaged in
7 irresponsible, reckless, immoral and illegal practices in and around the ancestral and current territory of
8 the Achuar indigenous people. These practices were below accepted industry standards, prohibited by
9 law, and Oxy knew they would result in the severe contamination of water and land.

10 2. Oxy knew that the contamination, which continues today, would cause and has caused
11 severe health problems and other injuries to the Achuar indigenous communities, including death,
12 epidemic lead and cadmium poisoning, exposure to carcinogens and mutagens, substantial harm to their
13 livelihoods, contamination to their streams and fields, and continuing trespass on their lands.

14 PARTIES

15 3. Plaintiff TOMAS MAYNAS CARIJANO is a citizen of Peru, a resident of the
16 community of Nueva Jerusalen, and a member of the Achuar indigenous group. Tomas Maynas is the
17 Apu, or traditional spiritual leader, of Nueva Jerusalen.

18 4. Plaintiff JANE DOE 1 is a citizen of Peru, a resident of the community of Pampa
19 Hermosa, and a member of the Achuar indigenous group. She is a minor, and brings this action through
20 her guardian, JANE DOE 2, who is her mother. She brings this action on her own behalf and on behalf
21 of others similarly situated.

22 5. Plaintiff JANE DOE 2 is a citizen of Peru, a resident of the community of Pampa
23 Hermosa, and a member of the Achuar indigenous group.

24 6. Plaintiff JANE DOE 3 is a citizen of Peru, a resident of the community of Pampa
25 Hermosa, and a member of the Achuar indigenous group. She is a minor, and brings this action through
26 her guardian, JANE DOE 4, who is her mother. She brings this action on her own behalf and on behalf
27 of others similarly situated.

28 7. Plaintiff JANE DOE 4 is a citizen of Peru, a resident of the community of Pampa

1 Hermosa, and a member of the Achuar indigenous group.

2 8. Plaintiff JANE DOE 5 is a citizen of Peru, a resident of the community of Pampa
3 Hermosa, and a member of the Achuar indigenous group. She is a minor, and brings this action through
4 her guardian, JOHN DOE 1, who is her father. She brings this action on her own behalf and on behalf of
5 others similarly situated.

6 9. Plaintiff JOHN DOE 1 is a citizen of Peru, a resident of the community of Pampa
7 Hermosa, and a member of the Achuar indigenous group.

8 10. Plaintiff JOHN DOE 2 is a citizen of Peru, a resident of the community of Saukí, and a
9 member of the Achuar indigenous group. He is a minor, and brings this action through his guardian,
10 JOHN DOE 3, who is his father. He brings this action on his own behalf and on behalf of others
11 similarly situated.

12 11. Plaintiff JOHN DOE 3 is a citizen of Peru, a resident of the community of Saukí, and a
13 member of the Achuar indigenous group.

14 12. Plaintiff JANE DOE 6 is a citizen of Peru, a resident of the community of Jíbaro,
15 formerly Antioquia, and a member of the Achuar indigenous group. She is a minor, and brings this
16 action through her guardians, JOHN DOE 4 and JANE DOE 7, who are her parents. She brings this
17 action on her own behalf and on behalf of others similarly situated.

18 13. Plaintiff JOHN DOE 4 is a citizen of Peru, a resident of the community of Jíbaro,
19 formerly Antioquia, and a member of the Achuar indigenous group.

20 14. Plaintiff JANE DOE 7 is a citizen of Peru, a resident of the community of Jíbaro,
21 formerly Antioquia, and a member of the Achuar indigenous group.

22 15. Plaintiff JOHN DOE 5 is a citizen of Peru, a resident of the community of Jíbaro,
23 formerly Antioquia, and a member of the Achuar indigenous group. He is a minor, and brings this
24 action through his guardians, JOHN DOE 6 and JANE DOE 8, who are his parents. He brings this
25 action on his own behalf and on behalf of others similarly situated.

26 16. Plaintiff JOHN DOE 6 is a citizen of Peru, a resident of the community of Jíbaro,
27 formerly Antioquia, and a member of the Achuar indigenous group.

28 17. Plaintiff JANE DOE 8 is a citizen of Peru, a resident of the community of Jíbaro,

1 formerly Antioquia, and a member of the Achuar indigenous group.

2 18. Plaintiff JOHN DOE 7 is a citizen of Peru, a resident of the community of Jíbaro,
3 formerly Antioquia, and a member of the Achuar indigenous group. He is a minor, and brings this
4 action through his guardians, JOHN DOE 8 and JANE DOE 9, who are his parents. He brings this
5 action on his own behalf and on behalf of others similarly situated.

6 19. Plaintiff JOHN DOE 8 is a citizen of Peru, a resident of the community of Jíbaro,
7 formerly Antioquia, and a member of the Achuar indigenous group.

8 20. Plaintiff JANE DOE 9 is a citizen of Peru, a resident of the community of Jíbaro,
9 formerly Antioquia, and a member of the Achuar indigenous group.

10 21. Plaintiff JANE DOE 10 is a citizen of Peru, a resident of the community of José Olaya,
11 and a member of the Achuar indigenous group. She is a minor, and brings this action through her
12 guardians, JOHN DOE 9 and JANE DOE 11, who are her parents. She brings this action on her own
13 behalf and on behalf of others similarly situated.

14 22. Plaintiff JOHN DOE 9 is a citizen of Peru, a resident of the community of José Olaya,
15 and a member of the Achuar indigenous group.

16 23. Plaintiff JANE DOE 11 is a citizen of Peru, a resident of the community of José Olaya,
17 and a member of the Achuar indigenous group.

18 24. Plaintiff JOHN DOE 10 is a citizen of Peru, a resident of the community of Jíbaro,
19 formerly Antioquia, and a member of the Achuar indigenous group. He is a minor, and brings this
20 action through his guardians, JOHN DOE 11 and JANE DOE 12, who are his parents. He brings this
21 action on his own behalf and on behalf of others similarly situated.

22 25. Plaintiff JOHN DOE 11 is a citizen of Peru, a resident of the community of Jíbaro,
23 formerly Antioquia, and a member of the Achuar indigenous group.

24 26. Plaintiff JANE DOE 12 is a citizen of Peru, a resident of the community of Jíbaro,
25 formerly Antioquia, and a member of the Achuar indigenous group.

26 27. Plaintiff JANE DOE 13 is a citizen of Peru, a resident of the community of José Olaya,
27 and a member of the Achuar indigenous group. She brings this action individually and as successor-in-
28 interest to her deceased son JOHN DOE 12, whose claims have survived his death.

28. On information and belief, defendant OCCIDENTAL PETROLEUM CORPORATION is a Delaware corporation headquartered in Los Angeles, California.

29. On information and belief, Defendant OCCIDENTAL PERUANA, INC., is a California corporation which conducts business in and is headquartered in Los Angeles, California. On information and belief, at all relevant times, defendant Occidental Peruana, Inc., has been a wholly-owned subsidiary of defendant Occidental Petroleum Corp.

30. Plaintiffs are ignorant of the true names and capacities of the Defendants who are sued herein as MOES 1–50, and Plaintiffs sue these Defendants by such fictitious names and capacities. These fictitiously-named defendants include, but are not limited to, direct and indirect subsidiaries of defendant Occidental Petroleum Corp., affiliates and related corporations, and past and current officers and employees of defendant Occidental Petroleum Corp., its direct and indirect subsidiaries, and affiliates and related corporations. Plaintiffs will amend this Complaint to allege the Does' true names and capacities when ascertained. Plaintiffs are informed and believe, and on that basis allege, that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and that the injuries to Plaintiffs herein alleged were proximately caused by the conduct of such defendants.

31. At all times herein material, with respect to the events at issue, defendants Occidental Petroleum Corp., Occidental Peruana, Inc., and Does 1–50, conspired with each other, and/or acted in concert, and/or aided or abetted each others’ actions, and/or were in an agency or alter ego or joint venture relationship, and were acting within the course and scope of such conspiracy, concerted activity, aiding and abetting, and/or agency or alter ego or joint venture relationship. As described herein, “agency” includes agency by ratification. Whenever reference is made in this complaint to any conduct by a defendant, such allegations and references shall be construed to mean the conduct of each of the defendants, and all of them, acting individually, jointly and severally.

JURISDICTION AND VENUE

32. This Court has jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article XI, § 10, because this case is a cause not given by statute to other trial courts. This action is brought by plaintiffs pursuant to, *inter alia*, the California Business and Professions Code §§ 17200 et seq. Plaintiffs and defendants are “persons” within the meaning of

1 California Business and Professions Code § 17201.

2 33. This Court has jurisdiction over Occidental Petroleum Corp. because it conducts business
3 in and has its corporate headquarters in Los Angeles, California. This Court has jurisdiction of
4 Occidental Peruana, Inc., because it is a California corporation and a citizen of California. Defendants
5 have engaged, and continue to engage, in substantial and continuous business practices in the State of
6 California, including the City and County of Los Angeles.

7 34. Venue is proper in this Court because a substantial portion of the events that give rise to
8 plaintiffs' complaint occurred in Los Angeles County.

9 **GENERAL FACTS AND ALLEGATIONS**

10 35. The Achuar indigenous people have resided in what is now northern Peru for centuries, if
11 not millenia. The Achuar live along systems of rivers in the Amazon basin. One group of Achuar has
12 traditionally resided, and continues to reside, in communities along the Corrientes River and its tributary
13 the Macusari River, in the Upper Corrientes Basin.

14 36. Prior to Oxy's involvement in the area, the Upper Corrientes Basin was largely pristine
15 rainforest with no industrial activities. To date, the oil production facilities built by Oxy are still the
16 only industrial facilities in the area.

17 37. The Upper Corrientes Basin remains quite remote and relatively inaccessible. It is not
18 reachable by road, and the only access by air is by chartered small planes or helicopters landing at oil
19 company facilities. General access to the communities is only by river. The Achuar communities are at
20 least 24 hours' journey by river from the nearest major airport, in the city of Iquitos, which is itself not
21 accessible by road from any other major city. While relatively large boats can reach some of the Achuar
22 communities, the uppermost communities, such as Nueva Jerusalem on the Macusari River, are only
23 accessible by small canoes during much of the year.

24 **Oxy's History in Lot 1AB**

25 38. The Peruvian government signed its first operating contract with Oxy in June of 1971,
26 which granted Oxy a concession known as Lot 1A. Oxy was later granted an additional concession
27 known as Lot 1B; these two lots were later combined into a concession now known as Lot 1AB. Lot
28 1AB includes the upper portion of the Corrientes River and almost the entire Macusari River.

39. Oil was first discovered in the area in 1972, soon after Oxy's first concession was granted; this discovery sparked intense exploration and extraction activities.

40. Oxy developed Lot 1AB into the largest oil operation in Peru, producing up to 42% of Peru's oil at one time. Oxy's accumulated production in Lot 1AB from 1972 to 2000 totaled 68% of total historical oil production in the Peruvian Amazon and 26% of total historical oil production in Peru. By 2000, Lot 1AB was still producing 17% of Peru's total oil production.

41. These intensive oil operations required the early construction of wells, separation batteries (in which oil is separated from water and other compounds), roads, heliports, and camps; pipelines and refineries were later constructed in the area. By 2000, Oxy was operating 110 active oil wells, in addition to 75 inactive wells and 29 abandoned wells.

42. Oxy transported its oil by pipelines throughout Lot 1AB and to other parts of Peru. The networks of pipelines in Lot 1AB are more than 530 kilometers long.

43. Lot 1AB covers parts of the basins of the Corrientes River, the Pastaza River, and the Tigre River, all tributaries of the Amazon River. Of the approximately 19 major oil installations in Lot 1AB, three are located on the Macusari River and its tributary streams and five are located on the Corrientes River and its tributary streams.

Oxy's Contaminating Practices

44. Oxy's oil operations in Lot 1AB contaminated Achuar land, and the waterways on which the Achuar people depend, with pollutants such as heavy metals, hydrocarbons, and other products of the oil industry. The Peruvian government itself, through its National Office of Evaluation of Natural Resources (ONERN), has classified Lot 1AB as "one of the most critical environmental zones most damaged in the country." The Ministry of Energy and Mines' Bureau of Environmental Affairs called the area one of Peru's most environmentally critical.

45. Oxy separated crude oil at several separation batteries located along tributaries of the Corrientes River and the Macusari River, discharging millions of gallons of toxic produced waters into local waterways in the process. The produced waters contained harmful compounds including heavy metals such as lead, cadmium, chromium, mercury, and arsenic, organic compounds such as aromatic hydrocarbons, radioactive compounds, and cyanide, and were extremely saline. Oxy contaminated the

1 local waterways with their release of these compounds.

2 46. Despite the fact that the industry standard in the oil industry was to reinject produced
3 waters back into the well from which the oil is drawn, that reinjection was specifically required by law in
4 the United States, and that Peruvian law prohibited water pollution, Oxy never reinjected any produced
5 waters in its operations in Lot 1AB.

6 47. Gases were also produced as part of the oil production and separation process, which Oxy
7 burned through a flaring process. These flares release carbon dioxide, nitrogen oxide, and sulfur
8 dioxide, which pollutes the air, contributes to climate change, and then returns to the soil and water
9 sources in the form of acid rain.

10 48. Oxy also stored chemical wastes and other toxic products in unlined earthen pits and
11 pools and using other methods that failed to provide adequate protection against leaching and
12 contaminating the environment. These toxic compounds also included heavy metals and organic
13 compounds, many of which found their way into the local waterways.

14 49. During this period, the industry standard in the oil industry for harmful wastes at oil
15 production sites was to store such products in tanks or in storage areas with impermeable barriers to
16 prevent release into the environment.

17 50. Oxy also released oil and other compounds into the environment through frequent spills
18 and ruptures of pipelines, which often sent crude oil directly into the Corrientes or Macusari River.

19 51. On information and belief, Oxy failed to exercise reasonable care in all of the above
20 practices, and knew or should have known that they would cause harm to the environment and human
21 health.

22 **The Harmful Effects of and Injuries Due to the Contamination**

23 52. Oxy's contaminating practices have caused or contributed to a range of problems.

24 53. Plaintiffs are indigenous Achuar people and reside in the communities of Pampa
25 Hermosa, Sauki, Jose Olaya, Jibaro, and Nueva Jerusalem. These communities are located on the
26 Corrientes and Macusari Rivers, located in or immediately downstream from Oxy's operations in Lot
27 1AB.

28 54. The Achuar people depend on the Corrientes and Macusari Rivers and their tributaries for

1 drinking, bathing, washing, fishing, and other services. The Achuar come into contact with harmful
2 compounds released by Oxy through their contact with the water and by other means. All plaintiffs have
3 been exposed to Oxy's contamination.

4 55. Contact with these compounds, directly and indirectly, has led to health problems among
5 the Achuar people, including plaintiffs, such as skin rashes, aches and pains, gastrointestinal problems
6 including vomiting blood, harm to the kidneys, and deaths. The exposure to contaminants has also
7 caused cancer and increased the risk of cancer. Lead poisoning, which is known to cause harmful
8 developmental effects, is widespread among the Achuar children, and cadmium poisoning, which can
9 cause a range of negative health impacts, is widespread among the entire population.

10 56. John Doe 12, the deceased son of plaintiff Jane Doe 13, died as a direct result of exposure
11 to Oxy's contaminants. John Doe 12's family originally lived in the traditional Achuar manner,
12 dispersed in the rainforest. When he was six years old, he and his family moved to the community of
13 Jose Olaya, on the Corrientes River.

14 57. John Doe 12's family was used to drinking uncontaminated stream water and did not
15 know that the river water could be contaminated, and had not been warned of potential contamination by
16 Oxy. John Doe 12 drank the water from the river.

17 58. John Doe 12 had previously been healthy. Shortly after drinking the contaminated river
18 water, John Doe 12 developed fever, stomach pains, and started vomiting and passing blood. Jane Doe
19 13 took him to see a doctor who worked for Oxy, who told her to take John Doe 12 home to die.

20 59. Two days after becoming sick, John Doe 12 died.

21 60. Plaintiffs Jane Doe 1, Jane Doe 3, Jane Doe 5, John Doe 2, Jane Doe 6, John Doe 5, John
22 Doe 7, Jane Doe 10, and John Doe 10 have all been tested for lead in their blood. All have tested at
23 levels higher than 10 ug/dL at least once in the past year, and are therefore suffering or at risk of
24 suffering developmental and other harms from lead poisoning.

25 61. Epidemiological studies in Jose Olaya and Nueva Jerusalem have shown that
26 approximately 99% of the individuals tested show higher than 0.1 ug/dL of cadmium in their blood, the
27 established value for safeguarding human health. On information and belief, all plaintiffs have greater
28 than 0.1 ug/dL, and are therefore suffering or at risk of suffering injuries such as cancer and liver and

1 kidney damage.

2 62. All plaintiffs have been exposed to known carcinogens such as polycyclic aromatic
3 hydrocarbons and other byproducts of petroleum production, and are therefore suffering or at risk of
4 suffering cancer.

5 63. Oxy's contamination of the waterways used by the Achuar, including plaintiffs, has led to
6 decreasing yields of edible fish, one of the primary staples of the Achuar diet. Contaminated lands and
7 water have also harmed the wild game on which the Achuar depend. Some areas are so highly
8 contaminated that all fish and aquatic life have disappeared; those that remain are either laden with high
9 concentrations of toxins and carcinogens or are genetically deformed. Birds and animals that feed on
10 fish or drink the contaminated waters often die or become diseased. Oil spills and acid rain have in
11 some areas caused the complete eradication of all vegetation or aquatic life in the area of the break,
12 while the release of wastes has decimated entire swaths of forest, including plant and animal life.

13 64. All plaintiffs have had their ability to fish, hunt game, and gather food harmed by Oxy's
14 contamination as described above.

15 65. Oxy's contamination of the water has also harmed the crops grown by the Achuar. In
16 some cases, when the rivers flood they inundate the Achuars' fields, contaminating the land and leaving
17 behind oil and other chemicals when they drain. Soils are left contaminated and unable to produce
18 crops, such as plantain and cassava. The loss of flora and fauna has also had significant health impacts
19 related to poor nutrition, as the communities in the region do not have alternative sources of food and are
20 unable to purchase food from elsewhere due to lack of resources and extreme isolation.

21 66. All plaintiffs have had their ability to grow and consume crops damaged by Oxy's
22 contamination as described above.

23 67. Oxy's practices have also caused toxic compounds to enter the lands of the Achuar
24 people, either directly or indirectly, and have resulted in a diminution of the value of those lands. The
25 Achuar residents of the communities affected by the pollution are the legal owners of their properties,
26 including agricultural lands, homes, cultivations, trees as sources of building materials and firewood, as
27 well as other assets. These properties have been devastated by oil production and its resulting
28 contamination and in many cases are utterly unfit for human habitation or the growth of flora and fauna.

68. Due to Oxy's contamination of the region, agricultural production has decreased significantly; in some areas, production has been rendered impossible. Therefore, Oxy's contamination has taken the primary use of the property from the affected individuals, which affects their ability to provide sustenance and shelter for themselves and their families and derive earnings from their land.

69. All plaintiffs have had the use and enjoyment of their property and property which they have the right to use injured by Oxy's contamination as described above.

70. Upon information and belief, Oxy was the only industry present in the area of residence of the plaintiffs and the class during its thirty years of operation in the region. Oxy was the sole source of the contamination in the area in question during the time of its operations.

71. Oxy's unlawful, negligent, fraudulent, and reckless acts, omissions, and practices, conducted over a span of thirty years, are the direct cause of the injuries suffered to people and property in the region. The duration of the contamination and its magnitude caused it to compound over time and develop into one of the most massive environmental catastrophes in Peru's history.

72. The extraction, waste disposal, treatment, and transport technologies and systems used by Oxy were then transferred directly to the current operator of Lot 1AB, Pluspetrol, which has allowed the unlawful decisions and practices created by Oxy to continue as a toxic legacy left by the company for years to come.

Oxy's Response to Contamination

73. Oxy knowingly increased plaintiffs' chances of becoming ill by failing to warn them of the dangers of drinking the water or eating contaminated food, or of being exposed to contaminants through other means.

74. Although Oxy maintained its own health personnel in Lot 1AB and occasionally allowed the Achuar to be treated by them, the Achuar were never told that their health problems might be due to exposure to toxic contaminants. Patients were often simply given aspirin to treat serious conditions, and Oxy told patients who became ill after bathing in and drinking contaminated water not to reveal the cause of their sickness to anyone else.

75. Oxy itself stated in 1997 that the majority of the health problems treated by its clinicians were respiratory illnesses, gastrointestinal problems, and dermatological infections. Despite this

1 awareness of the disease and damage that existed in the region, Oxy continued its negligent, fraudulent
2 and unlawful practices of contamination and deception, actively promoted the concealment of its
3 contribution to the damages seen in the area, passed down its practices and systems to the subsequent
4 operator of the lot, and thus allowed health and environmental problems to develop and burgeon over
5 time.

6 **Continuing contamination**

7 76. Oxy has sold its stake in Lot 1AB to Pluspetrol, an Argentine oil company.

8 77. When Oxy transferred its ownership to Pluspetrol, Oxy had not adequately cleaned up
9 toxic wastes present in Lot 1AB in earthen pits and other areas susceptible to leaching and
10 contaminating the environment. Remediation of numerous sites remains inadequate today.

11 78. Pluspetrol continues to operate the same wells, separation batteries, pipelines, and other
12 facilities designed and built by Oxy. In particular, Pluspetrol continues to discharge produced water in
13 the same manner as Oxy, continues to store toxic chemicals and wastes improperly, and continues to
14 spill crude oil and other contaminants.

15 **Allegations of discovery, equitable tolling and/or fraudulent concealment**

16 79. The personal injuries of plaintiffs and the class occurred as a result of exposure to
17 hazardous materials and toxic substances. Due to lack of adequate medical care and precautionary
18 information during the entire period of Oxy's operations through the present time, plaintiffs and the class
19 had not become aware of nor should they reasonably have become aware of their injuries or the specific
20 physical cause of those injuries, and they did not have sufficient facts to put a reasonable person on
21 inquiry notice that the injuries were caused by the wrongful act of defendants before having been told so
22 by a physician.

23 80. Plaintiffs and the class were ignorant of limitations periods and of their causes of action
24 due to extreme geographical isolation and lack of legal and medical resources, which are circumstances
25 beyond their control and are not due to neglect.

26 81. Oxy knew that its operations were harmful to human health and real property and
27 intentionally and fraudulently concealed facts regarding the hazardous nature of the wastes emitted and
28 materials and technologies used.

82. Oxy deliberately concealed its wrongful conduct and the effects that such conduct was having on plaintiffs and thereby induced some plaintiffs and class members not to reveal the circumstances surrounding their illnesses and provided inappropriate and inadequate solutions for the magnitude of the problems suffered, causing plaintiffs and the class to remain ignorant of the complete truth regarding the effects of Oxy's activities and suffer harm, and even death, as a result.

General allegations

83. In doing the things herein alleged, Oxy acted willfully, recklessly, and/or negligently, and in conscious disregard of plaintiffs' health, safety, property, and rights.

84. As a direct and proximate result of Oxy's unlawful and tortious conduct as alleged herein, the plaintiffs have suffered and will continue to suffer harm, including property damage, pain and suffering, personal injuries, and extreme and severe mental anguish and emotional distress as well as harm to their livelihoods.

85. Oxy's conduct as alleged herein violates California law and Peruvian law, including laws protecting health and safety, water quality, and regulating the oil industry.

86. This case could not be adequately litigated in the Peruvian court system. The Peruvian judicial system is known to be corrupt, and thousands of bribes to judges and other government officials have been documented. For example, the Peruvian Supreme Court was bribed in 1998 to rule in favor of an American mining company. In September 2006, a Peruvian Supreme Court justice was arrested on bribery charges in connection with another case. On information and belief, Oxy has participated in bribing government officials in Peru.

87. In December of 2006, Oxy announced that it was withdrawing from Peru. On information and belief, Oxy no longer has any producing operations in Peru and is not subject to service there.

CLASS ACTION ALLEGATIONS

Lead poisoning class

88. Plaintiffs Jane Doe 1, Jane Doe 3, Jane Doe 5, John Doe 2, Jane Doe 6, John Doe 5, John Doe 7, Jane Doe 10, and John Doe 10 bring these claims on behalf of themselves and a class of all children and young adults in the communities of Pampa Hermosa, Sauki, Jibaro, Jose Olaya, and Nueva

1 Jerusalem who have suffered or will suffer harmful health and developmental impacts from exposure to
2 lead. Epidemiological studies have shown that up to two-thirds of the children in these communities
3 currently show blood-lead levels higher than 10 ug/dL, the level at which developmental harm is known
4 to occur. There are no other plausible sources for exposure to lead other than Oxy's contamination.
5 Additionally, all children in these communities are at risk of developing lead poisoning due to Oxy's
6 contamination.

7 89. The number of individuals in the proposed class is estimated to be approximately 1,000,
8 and is so numerous that joinder is impracticable.

9 **Cadmium poisoning and contaminant exposure class**

10 90. All plaintiffs bring these claims on behalf of themselves and a class of all residents of
11 Pampa Hermosa, Sauki, Jibaro, Jose Olaya, and Nueva Jerusalem who have suffered or will suffer
12 harmful health impacts from exposure to cadmium, and whose risk of developing cancer has been
13 increased by exposure to contamination. Epidemiological studies show that virtually every resident of
14 these communities is affected by cadmium poisoning. Approximately 99% of the residents show higher
15 than 0.1 ug/dL of cadmium in their blood, the established value for safeguarding human health, and
16 approximately 98% show higher than 0.2 ug/dL of cadmium, the average value expected among
17 smokers. Over half the population shows very high cadmium levels, over 0.5 ug/dL, which is known to
18 cause a range of detrimental health effects. Those residents not currently affected by cadmium poisoning
19 are at risk of developing it due to Oxy's contamination. All residents are also subjected to greater risk of
20 developing cancer from their exposure to cadmium and other carcinogens, including polycyclic aromatic
21 hydrocarbons and other organic chemicals, and of developing other conditions such as genetic defects.

22 91. The number of individuals in the proposed class is estimated to be approximately 1,500,
23 and is so numerous that joinder is impracticable.

24 **Allegations common to both classes**

25 92. The claims of the named plaintiffs in the above classes are typical of the claims of each
26 class. Plaintiffs and class members sustained the same type of injuries and damages arising out of
27 defendants' conduct in violation of California and Peruvian law. The injuries and damages of each class
28 member were caused directly by defendants' wrongful conduct in violation of law as alleged herein.

1 93. The named plaintiffs are able to, and will, fairly and adequately protect the interests of
2 each class because it is in their best interest to prosecute the claims alleged herein to obtain full
3 compensation due to them for the illegal conduct of which they complain. Plaintiffs have no interests
4 that conflict with or are contrary to the interests of the class members.

5 94. Plaintiffs' attorneys are experienced litigators and will fairly and adequately represent the
6 interests of each class.

7 95. Members of these classes present a common set of facts and circumstances and common
8 questions of law, including but not limited to:

- 9 (a) whether Oxy willfully, recklessly, or negligently released harmful pollutants into the
10 environment in its operations in Lot 1AB;
11 (b) whether Oxy willfully, recklessly, or negligently designed and built systems that would
12 continue to release harmful pollutants into the environment in Lot 1AB;
13 (c) whether Oxy's release of harmful pollutants has led to increased blood lead levels, blood
14 cadmium levels, and exposure to carcinogens among the residents of Pampa Hermosa,
15 Sauki, Jibaro, Jose Olaya, and Nueva Jerusalem;
16 (d) whether the increased blood lead levels, blood cadmium levels, and exposure to
17 carcinogens of the residents of these communities is likely to cause detrimental impacts to
18 their health;
19 (e) whether Oxy fraudulently sought to conceal pollution and its effects on people and the
20 environment;
21 (f) whether Occidental Peruana or any other subsidiary or affiliate of Occidental Petroleum
22 Corp. is the agent, alter ego, or co-conspirator of, or acted in concert with, or is otherwise
23 a joint tortfeasor with, Occidental Petroleum Corp.

24 96. This action is properly maintained as a class action because (a) the prosecution of
25 separate actions by individual class members would create a risk of adjudications that would as a
26 practical matter be dispositive of the interests of the other members or would substantially impair or
27 impede their ability to protect their interests, and/or (b) Oxy has acted and continues to act on grounds
28 generally applicable to the class, making final injunctive and declaratory relief appropriate.

1 **FIRST CAUSE OF ACTION**

2 BY ALL PLAINTIFFS AND CLASSES AGAINST ALL DEFENDANTS

3 (Negligence)

4 97. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
5 in the foregoing paragraphs as if fully set forth herein.

6 98. Defendants owed a duty to plaintiffs and the putative classes to exercise reasonable care
7 in designing, building, operating and maintaining their operations in Lot 1AB, as well as in disposing of
8 any toxic or carcinogenic wastes and byproducts and in transporting any toxic or harmful products, such
9 as oil.

10 99. Defendants breached this duty of care by engaging in the negligent design and
11 construction of their facilities in Lot 1AB, including but not limited to separation batteries that release
12 produced waters directly into the environment, waste storage not adequately protected against leaching
13 and other release of toxic compounds, and transportation infrastructure that was not adequately designed
14 or maintained to prevent spills; by releasing toxic and carcinogenic chemicals into the environment,
15 exposing plaintiffs and their communities to these chemicals despite known health risks, and harming
16 the environment, such as aquatic life and game, on which these communities depend for their
17 subsistence; and by failing to clean up their contaminated operations when they were sold to PlusPetro,
18 leaving them to continue polluting the environment and harming plaintiffs and their communities.

19 100. Defendants were negligent in one, some and/or all of the following respects: in using
20 technology inadequate for the adequate control of toxic wastes from oil operations and below the oil
21 industry standards, including the standards followed by Oxy in its own operations in the United States;
22 in failing to utilize proper technology and disposal mechanisms to prevent the contamination of the
23 environment surrounding its operations in Lot 1AB with toxic and carcinogenic compounds; in failing to
24 exercise due care in the drilling, separation, and transportation of oil and disposal of chemical wastes
25 and byproducts; in failing to prevent spills, discharges and other leaks of oil, heavy metals, organic
26 compounds, and other toxins and carcinogens; in failing to warn plaintiffs and their communities of the
27 toxicity and carcinogenicity of the compounds released from their oil operations in Lot 1AB, and in
28 denying the dangers of exposure to such compounds.

101. Defendants' breach of duty was wanton, outrageous, reckless and intentional. They consciously decided, for their own economic gain, to dump chemical by-products and toxic effluents into the environment, and thereby to expose plaintiffs, the putative classes, and their property to toxic chemicals including, but not limited to, oil, heavy metals including lead and cadmium, organic chemicals including polycyclic aromatic hydrocarbons, and other toxins and carcinogens, knowing that such substances were dangerous to humans and the environment.

102. As a direct and proximate result of defendants' breach of duty, plaintiffs and the putative classes have suffered injuries to their health, livelihoods, and property. Plaintiffs and the putative classes are entitled to recover compensatory and punitive damages in amounts to be ascertained at trial.

SECOND CAUSE OF ACTION

BY ALL PLAINTIFFS AND CLASSES AGAINST ALL DEFENDANTS

(Strict Liability)

103. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

104. The facilities and systems used in Lot 1AB to produce and transport oil were designed, built, and used by defendants to maximize their profits. These facilities and systems were and are defective, inadequate, unproven and unreasonably dangerous to plaintiffs' health, property, and the environment.

105. These facilities and systems led to the contamination of soils, surface waters and/or subsurface waters with toxic and carcinogenic chemicals and compounds without providing adequate warning to plaintiffs and the putative classes of the health hazards and other harmful effects of exposure to such chemicals and compounds resulting from Oxy's defective and unreasonably dangerous facilities and practices.

106. These facilities and systems were defectively designed and unreasonably dangerous in that, at all times, alternative pollution control technology existed that would allow oil production without discharge of toxic chemicals, oil, and byproducts of petroleum production into the environment and without creating unreasonable health and property hazards to plaintiffs and the putative classes. Such alternatives include the use of reinjection wells, proper storage of chemicals and wastes in impermeable

1 tanks, and proper design and maintenance of transport facilities to minimize spills. This technology was
2 reasonably available and, on information and belief, was used by Oxy in its operations in other locations.

3 107. The contamination caused by Oxy's defective and unreasonably dangerous activities in
4 Lot 1AB is the direct cause of the health, property, and other injuries sustained by plaintiffs and the
5 putative classes.

6 108. Plaintiffs and the putative classes were wholly unaware of the dangerous propensities of
7 the toxic and carcinogenic chemicals and compounds which rendered them unsafe if spilled or
8 discharged into the environment. The property of plaintiffs was exposed to toxic and carcinogenic
9 chemicals and compounds in a manner that was reasonably anticipated by defendants. Defendants
10 intentionally exposed the property of plaintiffs to toxic chemicals and by-products by deliberately
11 discarding toxic and carcinogenic chemicals and compounds into the environment, and intentionally
12 injured the health of plaintiffs and the putative classes.

13 109. Plaintiffs and the putative classes are entitled to recover compensatory and punitive
14 damages in amounts to be ascertained at trial.

15 **THIRD CAUSE OF ACTION**

16 BY ALL PLAINTIFFS AND CLASSES AGAINST ALL DEFENDANTS

17 (Battery)

18 110. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
19 in the foregoing paragraphs as if fully set forth herein.

20 111. Defendants' intentional and deliberate acts and omissions have resulted in the discharge
21 and spilling of toxic and carcinogenic chemicals and compounds, including heavy metals such as lead
22 and cadmium, into the water and onto the lands used by plaintiffs and the putative classes. Plaintiffs and
23 members of the putative class have ingested and otherwise come into physical contact with such
24 chemicals and compounds.

25 112. At all relevant times, defendants knew or could reasonably foresee that their conduct
26 would result in contamination of the water and lands used by plaintiffs and the putative class, and that
27 such persons would be injured thereby.

28 113. Such acts and omissions constitute an unwanted physical contact and battery upon the

1 physical persons of plaintiffs and members of the putative classes.

2 114. Plaintiffs and the putative classes are entitled to recover compensatory and punitive
3 damages as a result of defendants' conduct in amounts to be ascertained at trial.

4 **FOURTH CAUSE OF ACTION**

5 BY ALL PLAINTIFFS AND CLASSES AGAINST ALL DEFENDANTS

6 (Medical Monitoring)

7 115. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
8 in the foregoing paragraphs as if fully set forth herein.

9 116. As a result of defendants' intentional, reckless and/or negligent conduct, plaintiffs and the
10 putative classes have been exposed to known hazardous substances, including lead, cadmium, and
11 carcinogens.

12 117. As a result of such exposure, plaintiffs and the putative classes are at an increased risk of
13 contracting latent diseases, including developmental delays, cancers, chromosomal and genetic defects,
14 and liver and kidney damage.

15 118. Early detection and treatment of these diseases is medically necessary and advisable.
16 Defendants have never admitted that their practices in Lot 1AB have contributed to health risks among
17 the Achuar population.

18 119. Medical monitoring is sought for all children in the lead poisoning class and all
19 individuals in the cadmium poisoning and contaminant exposure class who continue to reside in the
20 communities of Pampa Hermosa, Sauki, Jose Olaya, Jibaro, and Nueva Jerusalen.

21 120. Plaintiffs and the putative classes are entitled to a court-ordered medical monitoring
22 program for the early detection and treatment of various illnesses which they may develop as a result of
23 exposure to the contaminants and pollutants to which they have been exposed as a consequence of
24 defendants' conduct.

25 **FIFTH CAUSE OF ACTION**

26 BY ALL PLAINTIFFS AND CLASSES AGAINST ALL DEFENDANTS

27 (Injunctive Relief or Damages in Lieu of Injunction)

28 121. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth

1 in the foregoing paragraphs as if fully set forth herein.

2 122. Defendants' intentional and deliberate acts and omissions have resulted in the discharge
3 and spilling of toxic and carcinogenic chemicals and compounds, including heavy metals such as lead
4 and cadmium, into the water and onto the lands used by plaintiffs and the putative classes. Plaintiffs and
5 members of the putative class have ingested and otherwise come into physical contact with such
6 chemicals and compounds.

7 123. At all relevant times, defendants caused injury to plaintiffs and the putative classes by
8 contamination of the water and lands used by them.

9 124. Plaintiffs have no adequate remedy at law for these harms. In the absence of equitable or
10 injunctive relief, Plaintiffs will be irreparably harmed.

11 125. Accordingly, Plaintiffs are entitled to equitable and injunctive relief to remedy the
12 contamination and spoliation of the lands and waters that they use and overall habitable environment. In
13 the alternative, if injunctive relief is determined to be impracticable or otherwise denied, Plaintiffs are
14 entitled to a damages remedy in lieu of an injunction.

15 **SIXTH CAUSE OF ACTION**

16 BY PLAINTIFF JANE DOE 13 AGAINST ALL DEFENDANTS

17 (Wrongful Death)

18 126. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
19 in the foregoing paragraphs as if fully set forth herein.

20 127. The death of John Doe 12 was a direct result of defendants' willful, reckless, and/or
21 negligent acts and omissions, and caused by ingesting or otherwise becoming exposed to toxic chemical
22 and compounds released by defendants.

23 128. As a result of the death of John Doe 12, Jane Doe 13 has suffered pecuniary loss resulting
24 from loss of society, comfort, attention, services, and support.

25 129. Plaintiff Jane Doe 13 is entitled to recover compensatory and punitive damages as a result
26 of defendants' conduct in amounts to be ascertained at trial.

27 **SEVENTH CAUSE OF ACTION**

28 BY ALL PLAINTIFFS AND CLASSES AGAINST ALL DEFENDANTS

(Fraud and Misrepresentation)

130. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth in the foregoing paragraphs as if fully set forth herein.

131. Defendants made numerous misrepresentations to plaintiffs regarding the cause of their illnesses, the severity of their health problems, and the manner in which such illnesses could be treated.

132. Defendants intentionally misled plaintiffs by actively concealing that their practices have endangered, and continue to endanger, plaintiffs' health, lives and livelihoods. When specifically asked, defendants and their agents denied that the plaintiffs and their communities were in any danger from the contamination.

133. Defendants directed ill patients not to inform others and to actively conceal the cause of their illness.

134. Defendants made such misrepresentations with full knowledge that such statements were, and are, fraudulent, misrepresentative, false and/or deceptive.

135. In addition to the affirmative misrepresentation and willful deception described above, defendants have intentionally deceived plaintiffs in order to profit from oil resources in the Peruvian Amazon.

136. These aforementioned misrepresentations or fraudulent, deceptive, or false statements and omissions concerned material facts that led to plaintiffs' injuries.

137. Plaintiffs would have acted differently had they not been misled by defendants fraudulent statements, misrepresentations and/or omissions.

138. Defendants had a duty to inform plaintiffs of the contamination in the region and to warn them that the contamination would lead to property damage, ill health and death.

139. By and through their fraudulent statements, misrepresentations and/or omissions, defendants intended to induce plaintiffs into activity that caused their injury.

140. Plaintiffs justifiably relied on defendants misrepresentations and, as such, were damaged by defendants.

141. As a direct and proximate result of defendants' misrepresentations, plaintiffs and the putative classes have suffered injuries to their health, livelihoods, and property. Plaintiffs and the

1 putative classes are entitled to recover compensatory and punitive damages in amounts to be ascertained
2 at trial.

3 **EIGHTH CAUSE OF ACTION**

4 BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS

5 (Public Nuisance)

6 142. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
7 in the foregoing paragraphs as if fully set forth herein.

8 143. Defendants' conduct and the resulting contamination of the environment in and around its
9 operations in Lot 1AB has created a public nuisance which endangers and will continue for many years
10 in the future to endanger the safety, health, livelihoods, and comfort of a large number of persons.

11 144. Plaintiffs have suffered a special and peculiar harm of a kind different from that suffered
12 by others living in areas affected by Lot 1AB because they have also suffered or are at risk of suffering
13 severe health impacts from the contamination, because the water they use for fishing, bathing, washing,
14 and sometimes drinking continues to be contaminated, and because they have rights under Peruvian law
15 to use resources, such as water, fish, and game, that have been damaged by defendants' conduct.

16 145. Defendants' conduct was unreasonable, wanton, outrageous, reckless and intentional, and
17 plaintiffs are entitled to recover compensatory and punitive damages in amounts to be ascertained at
18 trial.

19 **NINTH CAUSE OF ACTION**

20 BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS

21 (Private Nuisance)

22 146. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
23 in the foregoing paragraphs as if fully set forth herein.

24 147. Defendants' conduct has caused non-trespassory (as well as trespassory) invasions of
25 plaintiffs' private use and enjoyment of their land that have resulted in damage to their property,
26 including but not limited to contamination of waters running within or adjacent to their property, and
27 contamination of their property with toxins when these waters flood.

28 148. Defendants' conduct has been unreasonable in that it has caused severe annoyance, harm,

1 inconvenience and damage to the property of plaintiffs.

2 149. Defendants' conduct was unreasonable, wanton, outrageous, reckless and intentional, and
3 plaintiffs are entitled to recover compensatory and punitive damages in amounts to be ascertained at
4 trial.

5 **TENTH CAUSE OF ACTION**

6 BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS

7 (Trespass)

8 150. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
9 in the foregoing paragraphs as if fully set forth herein.

10 151. Defendants' intentional and reckless acts and omission have resulted in the discharge of
11 chemicals and other pollutants onto the real property in which plaintiffs hold a beneficial interest.

12 152. Such acts and omissions constitute a trespass upon plaintiffs' property interest.

13 153. Plaintiffs are entitled to recover compensatory and punitive damages as a result of
14 Defendants' trespass in amounts to be ascertained at trial.

15 **ELEVENTH CAUSE OF ACTION**

16 BY ALL PLAINTIFFS AND CLASSES AGAINST ALL DEFENDANTS

17 (Violation of Business & Professions Code §§ 17200 et. seq.)

18 154. Plaintiffs repeat, reallege, and incorporate by reference each and every allegation set forth
19 in the foregoing paragraphs as if fully set forth herein.

20 155. Plaintiffs and members of the putative classes have lost money or property, or will lose
21 money or property, due to defendants' actions as described above, in that their ability to fish and conduct
22 other livelihood activities (such as hunting game, gathering food, and growing crops) has been damaged
23 by the contamination of the lands and waters they use.

24 156. The conduct of defendants as alleged herein has been and continues to be deleterious to
25 plaintiffs and the general public, and plaintiffs are seeking to enforce important rights affecting the
26 public interest within the meaning of Code of Civil Procedure § 1021.5.

27 157. Defendants' practices as alleged herein constitute ongoing and continuous illegal and
28 unfair business practices within the meaning of Business and Professions Code § 17200. Such practices

1 include, but are not limited to the discharge of pollutants in violation of Peruvian law and the unfair use
2 of lower pollution control standards in operations in Peru than in the United States.

3 158. The abuses alleged herein constitute violations of California and Peruvian law and are
4 otherwise unfair and unjust. The use of such unfair, illegal, and destructive practices creates an unfair
5 business advantage over competitors and harms consumers within the State of California and the United
6 States.

7 159. On information and belief, the abuses alleged herein originated with conduct in the State
8 of California, including approval by Oxy of the use of substandard technology and polluting practices in
9 Lot 1AB.

10 160. The acts described herein constitute unfair business practices in violation of the State of
11 California Business and Professions Code § 17200 *et seq.*

12 161. Plaintiffs seek injunctive and declaratory relief, disgorgement of all profits resulting from
13 these unfair business practices, restitution and other appropriate relief on behalf of themselves and
14 members of the general public as provided in Business and Professions Code § 17203.

15 WHEREFORE, plaintiffs and the putative classes pray for judgment as hereinafter set forth.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, each plaintiff and the putative classes prays for judgment against each defendant
18 as follows:

- 19 (a) for certification of this case as a class action against defendants;
- 20 (b) for judgment that defendants are legally liable for the claims asserted above;
- 21 (c) for compensatory damages, including general and special damages, in an amount as
22 proven at trial;
- 23 (d) for punitive damages;
- 24 (e) for injunctive and declaratory relief as this Court deems appropriate against all
25 defendants;
- 26 (f) for damages in lieu of injunction where appropriate;
- 27 (g) for equitable relief in the form of medical monitoring as sought by plaintiffs in whole or
28 in part;

- 1 (h) for disgorgement of profits;
2 (i) for restitution;
3 (j) for costs of suit, attorneys fees and such other relief as the Court deems just and proper,
4 against all defendants.

5 **JURY TRIAL DEMAND**

6 Plaintiffs demand a jury trial on all issues so triable.

7
8 Dated: May 10, 2007

Respectfully submitted,

9 SCHONBRUN DESIMONE SEPLOW
10 HARRIS & HOFFMAN LLP

11 By: 
12 BENJAMIN SCHONBRUN
13 Attorneys for Plaintiffs
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