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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ROCKY BIXBY; LAWRENCE ROBERTA;
SCOTT ASHBY; CHARLES ELLIS;
MATTHEW HADLEY; CARLOS AVALOS;
JESUS BRUNO; COLT CAMPREDON;
STEPHEN FOSTER; BYRON GREER;
KELLY HAFFER; DENNIS JEWELL;
STEPHEN MUELLER; VITO PACHECO;
JOHN RYDQUIST; KEVIN STANGER;
RONALD BJERKLUND; ADANROLANDO
GARCIA; BRIAN HEDIN; LEWIS MARTIN;
CHARLES SEAMON; RANDY KEIPER,
MATT KUHNEL; DENNIS ROSGEN;
AARON ST. CLAIR; KEVIN WILSON;
JASON BLAIN; JAMES BORJA; DEVIN
FIELDS; LESLIE ING; RICHARD
LAWRENCE; JAY LOUISIANA; JAMES
McGOWAN; DONALD YEARGIN

Case No. 3:09-CV-632-PK

**PLAINTIFFS' FOURTH AMENDED
COMPLAINT AND DEMAND FOR JURY
TRIAL**

Plaintiffs,

vs.

KBR, INC.; KELLOGG, BROWN & ROOT
SERVICE, INC.; KBR TECHINCAL
SERVICES, INC.; OVERSEAS
ADMINISTRATION SERVICES, LTD;
SERVICE EMPLOYEES
INTERNATIONAL, INC., HALLIBURTON
COMPANY; and HALLIBURTON ENERGY
SERVICES, INC.;

Defendants.

Plaintiffs allege:

1.

Halliburton, Company, and its subsidiaries KBR, Inc., and its operating subsidiaries entered into various contracts with the United States government to provide services in Iraq. At the time, KBR, Inc. was a subsidiary of Halliburton Company. This suit arises from one of the projects KBR, Inc. was charged with safely completing. KBR, Inc. and its subsidiaries and Halliburton Company and its subsidiary undertook the restoration of the Qarmat Ali water plant in southern Iraq. The Qarmat Ali plant pumped water into Iraqi oil wells in connection with oil production operations. After major combat operations ceased in southern Iraq, KBR took responsibility for restoration of the Qarmat Ali facility, including site survey before and as work progressed. The promised work by KBR included ensuring that hazards on site were fully identified, disclosed by KBR to all affected parties, and protected against during the project. As part of its compensation for completing restoration of the Qarmat Ali project, KBR received base contract payments, plus retrospective “award” payments after Qarmat Ali was back on line.

2.

The Qarmat Ali plant was contaminated with sodium dichromate, a toxic chemical used at the site as an anti-corrosive. Sodium dichromate contains hexavalent chromium, a highly toxic

chemical that has long been identified as a carcinogen. Hexavalent chromium is a known human carcinogen and a poison that is the subject of safety standards and regulations promulgated by the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and the American Conference of Governmental Industrial Hygienists, including a permissible exposure limit of 0.005 mg/cubic meter. Among its known and documented health effects are asthma, dermatitis, nasal perforation, skin ulcerations, and lung cancer. Organs and tissue known to be affected by hexavalent chromium include blood, respiratory system, liver, kidneys, eyes and skin.

3.

KBR managers knew about both the site contamination and the extreme danger of hexavalent chromium. In 2003, Oregon National Guard soldiers provided security for civilians performing work at Qarmat Ali. The plaintiffs who provided security at the facility were exposed to hexavalent chromium, without warning or protection. When the Oregon National Guard soldiers and American civilians working at Qarmat Ali began experiencing the most characteristic symptom of acute hexavalent chromium poisoning, nasal excoriation (bleeding from the nose) known to toxicologists as “chrome nose,” KBR managers told soldiers on site that it was simply an effect of the “dry desert air” and they must be “allergic to sand.” The Oregon National Guard soldiers were repeatedly told that there was no danger on site, even after KBR managers knew that blood testing of American civilians exposed onsite confirmed elevated chromium levels. What was not revealed until Congressional Hearings in June 2008 was the extent of knowledge of KBR managers about the danger on-site and the ongoing concealment of the exposures to the Oregon National Guard soldiers and others. As outlined further below, KBR is apparently still withholding from the United States Army the full extent of KBR

managers' knowledge of the dangers to the soldiers and others onsite, dangers directly impacting the current and future health evaluations of the soldiers exposed at Qarmat Ali.

4.

Plaintiffs have already manifested respiratory system and skin injuries characteristically associated with hexavalent chromium exposure, and many of the Oregon National Guard soldiers continue to experience chemical sensitivities and rashes caused by hexavalent chromium exposure. As has become clear only recently, the Oregon National Guard soldiers and other exposed persons now require ongoing, expensive follow-up health care for the health impacts of these exposures, as well as compensation for the reasonably anticipated manifestations over time, including the cancers, potential impact on their offspring, and heightened reaction to chromium salts in the environment.

PARTIES

5.

The Oregon National Guard soldiers deployed to Iraq, and members of the Guard were assigned to duty at the Qarmat Ali facility. Each plaintiff was on site at the Qarmat Ali facility in 2003, and each was exposed to sodium dichromate. Rocky Bixby lives in Hillsboro, Oregon and served in Charlie Company. His rank upon discharge was Staff Sergeant. Lawrence Roberta lives in Aumsville, Oregon. He served in Charlie Company. His rank at discharge was Sergeant. Scott Ashby lives in Lake Oswego, Oregon. He served in Charlie Company. At discharge, his rank was Specialist E-4. Charles Ellis lives in Junction City, Oregon and served in Charlie Company. He remains in the Guard and has redeployed to Iraq. His rank is Captain. Matthew Hadley lives in Aloha, Oregon and served in Alpha Company. His rank at discharge was E-5. Carlos Avalos lives in McMinnville, Oregon. His rank at discharge was E-4 Specialist. Jesus Bruno lives in Cornelius, Oregon. He served in Alpha Company. His rank at discharge was Staff Sergeant, E-6.

Colt Campredon lives in Clackamas, Oregon. He served in Charlie Company. His rank at discharge was E-4 Specialist. Stephen Foster lives in Carlton, Oregon. He served on the Battalion Command and Control team. His rank at discharge was Sergeant, First Class, E-7. Byron Greer lives in Amity, Oregon. He served in Bravo Company. He continues to serve in the Oregon National Guard. His rank is Staff Sergeant, E-6. Kelly Hafer lives in Aumsville, Oregon. He served in Bravo Company and was a Sergeant, E-5 upon discharge. Dennis Jewell lives in Banks, Oregon. He served in Alpha Company. He was a Sergeant, First Class, E-7 upon discharge. Stephen Mueller lives in Vancouver, Washington. He served in Charlie Company and was a Sergeant E-5 at discharge. Vito Pacheco served in Alpha Company. His rank at discharge was Sergeant First Class, E-7. John Rydquist lives in Hillsboro, Oregon. He served in Alpha Company. His rank at discharge was Specialist E-4. Kevin Stanger lives in Carlton, Oregon. He served on the Battalion Command and Control Team. His rank at discharge was Sergeant Major, E-9. Ronald Bjerklund served in Alpha Company and continues to serve in the Oregon National Guard. His rank is Sergeant First Class, E-7. He is currently serving in Iraq. His permanent residence is in Springfield, Oregon. Adanrolando Garcia is on inactive status. His current rank is Sergeant E-5. He served in both Charlie Company and Bravo Company. He lives in Silverton, Oregon. Brian Hedin served in Alpha Company. His rank at discharge was E-4. He currently lives in Klamath Falls, Oregon. Lewis Martin served in Charlie Company. His rank at discharge was Sergeant E-5. He lives in Salem, Oregon. Charles Seamon continues to serve in the Oregon National Guard. His rank is Staff Sergeant. He serves in Alpha Company. He resides in Veneta, Oregon. Randy Keiper lives in Dallas, Oregon. He served in Bravo Company. He was discharged in 2007. His rank at discharge was Sergeant. Matthew Kuhnel lives in Vancouver, WA. He served in Charlie and Bravo companies and continues to serve in the Oregon National Guard. His

rank is Staff Sergeant, E-6. Dennis Rosgen lives in Scotts Mill, Oregon. He served in Charlie Company and continues to serve in the Oregon National Guard. His rank is Sergeant, E-5. Aaron St. Clair lives in Redmond, Oregon. He served in Alpha Company. His rank at discharge was E-5. Kevin Wilson lives in White Salmon, WA. He served in Charlie Company. His rank at discharge was Staff Sergeant, E-6. Jason Blain lives in Gresham, Oregon. He served in Charlie Company. His rank was Sergeant. James Borha lives in Portland, Oregon. He served in Charlie Company. His rank at discharge was Staff Sergeant, E-6. Devin Fields lives in Salem, Oregon. He served in Bravo Company. His rank was Sergeant. Leslie Ing lives in Woodburn, Or. He served in Bravo Company. His rank at discharge was E-4. Richard Lawrence lives in Beaverton, Oregon. His current rank is Staff Sergeant, E-6. He served in Bravo Company. Jay Louisiana lives in Albany, Oregon. His current rank is Specialist, E-4. He served in Charlie and Bravo Companies. James McGowan lives in Newberg, Oregon. He served in Bravo Company. His rank at discharge was Sergeant, E-5. Donald Yeargin lives in Forest Grove, Or. He served in Charlie Company. His rank at discharge was Staff Sergeant.

6.

Defendant, KBR, INC. is a foreign corporation with its principal place of business in the State of California, registered to do business in Oregon. KBR, Inc. maintains a registered agent for service of process in Salem, Oregon.

7.

KELLOGG, BROWN & ROOT SERVICES INC., is a foreign corporation with its principal place of business in the State of Texas, registered to do business in Oregon. KELLOGG, BROWN & ROOT SERVICES INC., maintains a registered agent for service of process in Salem, Oregon.

8.

Based on information and belief, Defendant, KBR TECHNICAL SERVICES, INC., is a foreign company with its principal place of business in the State of Texas.

9.

Based on information and belief, defendants OVERSEAS ADMINISTRATION SERVICES, LTD. and SERVICE EMPLOYEES INTERNATIONAL INC. were incorporated by KBR's managers in the Cayman Islands, but managed from KBR's offices at 4100 Clinton Avenue, Houston, Texas 77020. Based on information and belief, these defendants were incorporated in the Cayman Islands to hire American workers but done so that KBR could avoid paying payroll taxes.

10.

Defendants Halliburton, Co. and Halliburton Energy Services, Inc. are Delaware Corporations registered to do business and doing business in Oregon, who retain a registered agent for service of process in Salem, Oregon. At the time these events took place, Halliburton Co. owned the KBR defendants. In addition, based on discovery disclosed in 2010, employees of defendant Halliburton, Co. and/or defendant Halliburton Energy Services, Inc. worked at the Qarmat Ali Water Treatment Plant where they provided water pumping services. Based upon information and belief, the Halliburton defendants controlled the Qarmat Ali water pumping equipment and operations during the summer of 2003

VENUE & JURISDICTION

11.

The Oregon National Guard soldiers are citizens of the State of Oregon. Defendants were not incorporated in Oregon and do not maintain principal places of business in Oregon.

Each plaintiff seeks damages well in excess of \$75,000. Jurisdiction is therefore proper before this Court pursuant to 28 U.S.C. § 1332 (diversity jurisdiction). Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as one or more of the Defendants reside in the District of Oregon for venue purposes, including, but not limited to, doing business in Oregon, employing citizens of Oregon, and directing activity into the state with the knowledge that their actions would have an effect and an impact in Oregon.

FACTUAL BACKGROUND

12.

When they enlisted, members of the Oregon National Guard agreed to undertake service to the State and the country, including serving in times of war. However, Oregon National Guard members did not volunteer for duty to have private contractors directly and continuously expose them to serious health hazards that were hidden from the civilians and soldiers exposed.

13.

Based on information and belief, KBR's managers knew about the dangerous contamination of the Qarmat Ali site before the Oregon National Guard members arrived. Specifically, KBR's southern Iraq Health Safety Environment (HSE) manager Johnny Morney knew in May 2003 that the site was contaminated with sodium dichromate.

14.

By early August 2003, 60 percent of the workers onsite reported symptoms of acute poisoning, and yet the work activities and attendant exposures were not stopped until September 2003.

15.

During the spring and summer of 2003, KBR's managers received repeated notice of the sodium dichromate contamination at the site, including the nature of the hazard and the need for protective equipment. KBR and its managers did not warn the U.S. Army of the hazard, even though KBR's managers knew that the Oregon National Guard soldiers were working

16.

A month before KBR managers shut down the contaminated site in September 2003, senior KBR managers left their offices to inspect the Qarmat Ali site. KBR managers conducted the inspection in full "Level C" environmental protection, even avoiding skin exposure. Despite the protection KBR manages afforded themselves, they left the soldiers and civilian workers onsite unprotected and exposed.

17.

As part of its work for the U.S. government, KBR conducted a full-site analysis identifying the hazards at Qarmat Ali in April 2003. It billed the U.S. government for the work and received payment for the site analysis.

18.

KBR's HSE manager for Iraq, Chuck Adams, has claimed he did not receive written documentation or notes of the results of the site assessment conducted by KBR's site assessment conducted in April 2003. The work, and Plaintiffs' exposure, continued either in the absence of this critical safeguard or with it concealed from those who needed it.

19.

In late July, Ed Blacke, an American civilian medic at Qarmat Ali, found widespread evidence of common symptom complexes in civilian and military personnel including continuous

bloody noses, spitting up blood, coughing, irritation, of the nose, eyes, throat and lungs, and shortness of breath. To ascertain the nature of the medical problems, Mr. Blacke learned through his Iraqi interpreter learned that burst bags in the site's Injection Building including bags of sodium dichromate, which contains hexavalent chromium. In the course of his medical investigations, Mr. Blacke learned from his interpreter that Sodium Dichromate was injected into the water supply system for the oil fields as an anti-corrosive. Mr. Blacke learned from his interpreter that Baath party members had opened the bags and spread the contents across the plant. Mr. Blacke subsequently reviewed MSDS information on sodium dichromate. A colleague he knew from Chad provided Mr. Blacke with a copy of an internal memo written by a KBR industrial hygienist. Mr. Blacke reported his findings to the HSE and site manager in Kuwait.

20.

Within days, KBR health, safety and environmental managers came to Qarmat Ali to assess the situation. Safety Manager Tommy Mornay and Medical Supervisor Ray Garcia met with and told the workers that the sodium dichromate was a mild irritant at worst, that the plant had been thoroughly checked out and was safe, and that they were to get back to work. In the meeting, Mr. Blacke pointed out that NIOSH/CDC documents regarding sodium dichromate directly contradicted their statements to the workers. At this point, Mr. Garcia, who was one of Mr. Blacke's superiors, directed Blacke to be quiet and to leave. Garcia escorted Blacke out of the meeting. Garcia advised Blacke that Blacke was being insubordinate, disruptive, and that my input was not appreciated. Blacke later attempted to pursue the complaint with higher-ups in KBR's HSE department in Kuwait, and upon attempting to do so, Mr. Blacke was told that his presence in Iraq and Kuwait was no longer appreciated and that I would be better off going home.

21.

Hexavalent chromium is a highly potent carcinogen. Humans exposed to hexavalent chromium often exhibit the nasal bleeding associated with “chrome nose,” confirming the specific injurious impact on the exposed individual. It can produce any type of cancer depending upon genetic susceptibility, quantity and route of exposure. The carcinogen poses a risk through inhalation, ingestion and dermal contact. Hexavalent Chromium can cause severe damage to the liver and kidneys, depress the immune system, and can enter every cell of the body and potentially produce widespread injury to every major organ in the body. Human cells treat hexavalent chromium in the same way they treat sulfate and phosphate, taking it into cells through the same pathways used to transport these essential nutrients. Studies show elevations of stomach, brain, GI, prostate, leukemia, lymphoma, urinary track, renal, bladder and bone cancers in worker exposed to hexavalent chromium by inhalation. Lung cancer is the most common risk associated with hexavalent chromium. Generally these cancers develop with a latency period of about 5 years for the blood cancers up to 15-20 years for the other types of cancers. Hexavalent chromium also causes birth defects during pregnancy and has also been reported to have effects on sperm in experimental animals.

22.

Based upon the best scientific evidence, persons exposed to injurious levels of hexavalent chromium have an expected 1 in 5 cancer rate. Once hexavalent chromium has damaged the body, and in particular at the cellular level, there is no “fix.” Instead, vigilant health care and early treatment, if possible, is the only protection that medical science can afford exposed individuals from the anticipated future consequences.

FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS—NEGLIGENCE

23.

Plaintiffs re-allege and incorporate each allegation ¶¶1-22.

24.

By virtue of its contracts with the United States, KBR, Inc. and the KBR agreed to take control of the Qarmat Ali site. The KBR defendants agreed to clean up the facility and in return received substantial money and profit for their work. The KBR defendants also were required to undertake site assessments and monitoring of air quality and soil contamination. The KBR defendants either failed to conduct site assessments, including soil and air quality monitoring and testing, or the KBR defendants destroyed documentation of the assessments, testing, and monitoring.

25.

By operation of contract, the KBR defendants assumed a duty to inspect the site, direct the work, and control the clean-up work at the site where the Oregon National Guard soldiers worked and were exposed.

26.

In order to complete its work under the contract, the KBR defendants sought the service and protection of U.S. military forces, including troops from the Oregon National Guard. Oregon National Guard troops entered the site to perform their work, which consisted of protecting private contractors on site.

27.

The defendants were negligent in one or more of the following ways that caused injury to the Oregon Guard soldiers:

A. In suppressing information about the hazardous nature of the site by either failing to complete environmental assessment information or by destroying or secreting test results;

B. In failing to accurately assess the hazard to soldiers and others invited on to the site posed by sodium dichromate contamination of the site;

C. In failing to remove the sodium dichromate from the site so that it would not pose a health hazard to soldiers and others invited on to the site;

D. In failing to isolate the sodium dichromate on the site so that it would not pose a health hazard to soldiers and others invited on to the site;

E. In failing to warn the Oregon Guard soldiers and others invited on to the site of the hazards posed by sodium dichromate on the site; and

F. Based on information and belief, continuing to use sodium dichromate at the Qarmat Ali facility while pumping water there in the late spring and summer of 2003.

28.

As a result of defendants' negligence, the Oregon Guard soldiers suffered physical injury while on-site at the Qarmat Ali location. As more fully described below, each plaintiff suffered physical injury and—due to the nature of the exposure—each has suffered and will suffer worsening of their initial physical injuries, with substantially increased risk of cancers caused by the exposure.

29.

The ~~KBR~~ defendants acted with wanton disregard for the health and safety of the plaintiffs in that they suppressed information regarding the hazard and knowingly allowed the plaintiffs and others to expose themselves to toxic substances. Plaintiffs are entitled to recover punitive damages in an amount to be proved at trial.

30.

As a result of his exposures at the Qarmat Ali facility, Rocky Bixby suffered shortness of breath and chest pain at the site and suffers recurrent sinus pain and irritation, shortness of breath, chest pain and discomfort. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

31.

As a result of his exposures at the Qarmat Ali facility, Lawrence Roberta suffered physical injury from the exposure. He had stomach and breathing difficulties. He has since been diagnosed with reactive airway disorder and suffers from permanent chest pain and discomfort and shortness of breath. He is fully disabled. He is at risk for future disease, including all manner of cancers. He has incurred a loss of wages and lost future earning capacity, all to his economic damage. He has incurred past medical expenses and will incur medical expenses in the future, all to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date and the future risk of cancer caused by exposures, all to his non-economic damage.

32.

As a result of his exposures at the Qarmat Ali facility, Scott Ashby suffered physical injury from the exposure, including shortness of breath, wheezing, and stomach pain. He has developed esophageal ulcers and continues to have shortness of breath. He is at risk for future disease,

including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

33.

As a result of his exposures at the Qarmat Ali facility, Charles Ellis suffered nosebleeds, eye irritation, rashes on his face, feet and hands, sore throat, chest pain, headaches, sleeplessness and fatigue on site. He continues to suffer from sleeplessness, fatigue, chest pain and headaches. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

34.

As a result of his exposures at the Qarmat Ali facility, Matthew Hadley suffered nosebleeds, sinus pain and irritation, and shortness of breath beginning at the time he was on the site. He continues to suffer from sinus problems and breathing difficulties. He is partially disabled and has suffered an impairment of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

35.

As a result of his exposures at the Qarmat Ali facility, Carlos Avalos suffered physical

injury from the exposure, including shortness of breath, nosebleeds, rashes, and stomach pain. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

36.

As a result of his exposures at the Qarmat Ali facility, Jesus Bruno suffered physical injury from the exposure, including shortness of breath and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

37.

As a result of his exposures at the Qarmat Ali facility, Colt Campredon suffered physical injury from the exposure, including nosebleeds, shortness of breath and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

38.

As a result of his exposures at the Qarmat Ali facility, Stephen Foster suffered physical injury from the exposure, including shortness of breath, nosebleeds, and skin rashes. He is at risk for

future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

39.

As a result of his exposures at the Qarmat Ali facility, Byron Greer suffered physical injury from the exposure, including breathing problems, skin rashes, and digestive problems. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

40.

As a result of his exposures at the Qarmat Ali facility, Kelly Hafer suffered physical injury from the exposure, including nosebleeds, shortness of breath, and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

41.

As a result of his exposures at the Qarmat Ali facility, Dennis Jewell suffered physical injury from the exposure, including shortness of breath, and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic

damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

42.

As a result of his exposures at the Qarmat Ali facility, Stephen Mueller suffered physical injury from the exposure, including nosebleeds, shortness of breath, and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

43.

As a result of his exposures at the Qarmat Ali facility, Vito Pacheco suffered physical injury from the exposure, including shortness of breath, and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

44.

As a result of his exposures at the Qarmat Ali facility, John Rydquist suffered physical injury from the exposure, including sinus problems, migraines, hives and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

45.

As a result of his exposures at the Qarmat Ali facility, Kevin Stanger suffered physical injury from the exposure, including respiratory symptoms, esophageal pain and dysfunction, burning eyes, and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

46.

As a result of his exposures at the Qarmat Ali facility, Ronald Bjerklund suffered physical injury from the exposure, including migraines, nose bleeds, headaches, skin lesions, chest pain and shortness of breath. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

47.

As a result of his exposures at the Qarmat Ali facility, Adanrolando Garcia suffered physical injury from the exposure, including nosebleeds, upper respiratory infections, respiratory symptoms, and esophageal pain and dysfunction. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain,

disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

=48.

As a result of his exposures at the Qarmat Ali facility, Brian Hedin suffered physical injury from the exposure, including respiratory symptoms, esophageal pain and dysfunction, nosebleeds and tumors of the sinuses. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

49.

As a result of his exposures at the Qarmat Ali facility, Lewis Martin suffered physical injury from the exposure, including respiratory symptoms, esophageal pain and dysfunction, nosebleeds, and shortness of breath. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

50.

As a result of his exposures at the Qarmat Ali facility, Charles Seamon suffered physical injury from the exposure, including nosebleeds, chronic sinus irritation, respiratory symptoms, chest pain, and esophageal pain and dysfunction. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred

medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

51.

As a result of his exposures at the Qarmat Ali facility, Randy Keiper, suffered physical injury from the exposure, including shortness of breath, asthma, sinus symptoms, nosebleeds, stomach pain, migraines. He has masses in his stomach. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

52.

As a result of his exposures at the Qarmat Ali facility, Matthew Kuhnel suffered physical injury from the exposure, including shortness of breath, asthma, reflux, and nosebleeds. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

53.

As a result of his exposures at the Qarmat Ali facility, Dennis Rosgen suffered physical injury from the exposure, including shortness of breath, a liver tumor, nosebleeds, and skin rashes. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the

future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

54.

As a result of his exposures at the Qarmat Ali facility, Aaron St. Clair suffered physical injury from the exposure, including shortness of breath, nosebleeds, skin rashes, fatigue, and digestive symptoms. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

55.

As a result of his exposures at the Qarmat Ali facility, Kevin Wilson suffered physical injury from the exposure, including shortness of breath, nosebleeds, and reflux. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by exposures, all to his non-economic damage.

56.

As a result of the his exposures at the Qarmat Ali facility, Jason Blain suffered nosebleeds, coughing, and acid reflux. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of

enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

57.

As a result of the his exposures at the Qarmat Ali facility, James Borja suffered nosebleeds, sinus problems, skin lesions, and acid reflux. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

58.

As a result of the his exposures at the Qarmat Ali facility, Devin Fields suffered rashes, skin lesions, nosebleeds, shortness of breath, and acid reflux. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

59.

As a result of the his exposures at the Qarmat Ali facility, Leslie Ing suffered nosebleeds, respiratory dysfunction, acid reflux, and lesions on his throat. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

60.

As a result of the his exposures at the Qarmat Ali facility, Richard Lawrence suffered asthma, reflux, and diminished lung capacity. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

61.

As a result of the his exposures at the Qarmat Ali facility, Jay Louisiana suffered nosebleeds, coughing, fatty tumors of his leg and sleep apnea. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

62.

As a result of the his exposures at the Qarmat Ali facility, James McGowan suffered migraines, eye dysfunction, and lung dysfunction. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

63.

As a result of the his exposures at the Qarmat Ali facility, Donald Yeargin suffered coughing, sleep apnea, and skin cancer. He is at risk for future disease, including all manner of cancers. He is at risk for future loss of earning capacity to his economic damage. He has incurred medical expenses to date and will in the future, to his economic damage. He has suffered pain, disability, loss of enjoyment of life, and distress from the injuries to date, and the future risk of cancer caused by his exposures, all to his non-economic damage.

SECOND CLAIM FOR RELIEF—FRAUD

64.

Plaintiffs incorporate and re-allege ¶¶1-26; 29-5-63

65.

By at least May 2003, the KBR defendants were aware of the sodium dichromate contamination at the site and the danger posed by the contamination. The KBR defendants were in contact with the United States Army regarding the dangers present at Qarmat Ali and materially misrepresented those dangers to the United States Army by denying any knowledge of site contamination until at the earliest in late July 2003. The KBR defendants concealed evidence of sodium dichromate exposure by either failing to undertake soil and air quality testing and site assessment or by destroying records that set forth those tests and assessments.

66.

The KBR defendants made the following material misrepresentations regarding the hazards posed by contamination at the site:

- A. That the chemicals at the site were nothing more than a mild irritant;
- B. That the chemicals at the site were commonly used in vitamins; and

C. That the chemicals at the site posed no health risk.

67.

The KBR defendants knew or had reason to know that their representations and concealments would be communicated to the Oregon National Guard soldiers and that their misrepresentations would substantially increase the danger to the Oregon National Guard soldiers.

68.

Plaintiffs relied upon the KBR misrepresentations and concealments of the condition of Qarmat Ali site. As a result of the misrepresentations, the Oregon National Guard did not take steps to protect plaintiffs from the exposures to sodium dichromate.

69.

As a result of KBR's misrepresentations and concealments, plaintiffs suffered the previously-described injuries and incurred the previously-alleged damages.

TIMELY COMMENCEMENT OF THE ACTION

70.

As to each claim, each plaintiff could not have reasonably discovered all elements of the tort—including the identity of the tortfeasors, their tortious conduct, plaintiffs' injuries, and the cause of those injuries—until the media reports of the exposure in January 2009, followed by letters sent by the Oregon National Guard on or after January 2009 to plaintiffs and others about the exposures in 2003. As to the Halliburton defendants, plaintiffs could not have reasonably discovered their role in the work at Qarmat Ali Water Treatment Plant until the KBR defendants

produced documents, including Situation Reports (SITREPs) that revealed Halliburton's role. That production occurred in April 2010.

71.

Apart from the lack of discovery, the statute of limitations should be tolled because one or more of the KBR defendants actively concealed the identities of the tortfeasors, their tortious conduct, the injuries, and the connection between the injuries and the KBR defendants' conduct.

WHEREFORE,

Plaintiffs pray for judgment in their favor and for the following relief:

1. Rocky Bixby-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

2. Lawrence Roberta-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

3. Scott Ashby-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

4. Charles Ellis-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

5. Matthew Hadley-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

6. Carlos Avalos-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

7. Jesus Bruno-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

8. Colt Campredon-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

9. Stephen Foster-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

10. Byron Greer-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

11. Kelly Hafer-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

12. Dennis Jewell-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

13. Stephen Mueller-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

14. Vito Pacheco-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

15. John Rydquist-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

16. Kevin Stanger-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

17. Ronald Bjerklund-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

18. Adonrolando Garcia-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

19. Brian Hedin-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

20. Lewis Martin-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

21. Charles Seamon-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

22. Randy Keiper-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

23. Matthew Kuhnel-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

24. Dennis Rosgen-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

25. Aaron St. Clair-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

26. Kevin Wilson-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

27. Jason Blain-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

28. James Borja -on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

29. Devin Fields-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

30. Leslie Ing- on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

31. Richard Lawrence- on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

32. Jay Louisiana-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

33. Jay McGowan- on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

34. Donald Yeargin-on both claims: economic damages in an amount to be proved at trial; non-economic damages in an amount to be proved at trial; costs and disbursements; and such other relief as the Court may deem just.

Respectfully submitted this 27th day of October, 2010.

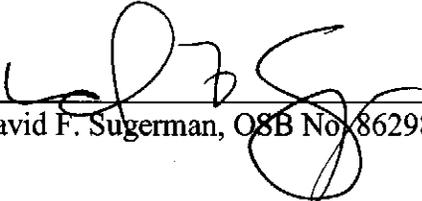
By: _____


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JURY DEMAND

The Plaintiffs demand a trial by jury.

By: _____


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