

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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UNITED STATES OF AMERICA and the	)	)	
COMMONWEALTH OF PUERTO RICO,	)	)	
	)	)	
Plaintiffs,	)	)	
	)	)	Civ. No. 3:16-cv-1507
v.	)	)	
	)	)	<b>COMPLAINT</b>
	)	)	
GMR PROGRESS LLC and GENERAL	)	)	
MARITIME MANAGEMENT (PORTUGAL)	)	)	
LDA.	)	)	
	)	)	
Defendants.	)	)	
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The United States of America, by authority of the Attorney General of the United States, acting at the request of the Department of the Interior, U.S. Fish and Wildlife Service (“FWS”), and the Commonwealth of Puerto Rico, on behalf of the Puerto Rico Department of Natural and Environmental Resources (“DNER”), bring this complaint and allege as follows:

**NATURE OF THE ACTION**

1. This is a civil action brought against GMR Progress LLC and General Maritime Management (Portugal) Lda, pursuant to the Oil Pollution Act (“OPA”), 33 U.S.C. § 2701, *et seq.*, to recover damages for injury to, destruction of, loss of, or loss of use of natural resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the FWS and DNER (“Trustees”) arising out of the discharge of oil from the vessel Genmar Progress into or upon the navigable waters of the United States, or adjoining shorelines.

## **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 33 U.S.C. § 2717(b).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 33 U.S.C. § 2717(b), because this is the judicial district in which the discharge of oil occurred.

## **DEFENDANTS**

4. Defendant GMR Progress, LLC is organized under the laws of Liberia. GMR Progress, LLC owned the vessel Genmar Progress at the time of the discharge of oil.

5. Defendant General Maritime Management (Portugal) Lda is organized under the laws of the Marshall Islands. General Maritime Management (Portugal) Lda operated the vessel Genmar Progress at the time of the discharge of oil.

6. Each Defendant is a “person” within the meaning of Section 101(27) of OPA, 33 U.S.C. § 2701(27).

## **STATUTORY BACKGROUND**

7. Section 1002(a) of OPA, 33 U.S.C. § 2702(a), provides that “each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines ... is liable for the ... damages ... that result from such incident.”

8. Section 1001(32) of OPA, 33 U.S.C. § 2701(32), defines “responsible party” to include, [i]n the case of a vessel any person owning [or] operating ... the vessel.”

9. The term “discharge” includes any “... spilling, leaking, pumping, pouring, emitting, emptying, or dumping” pursuant to Section 1001(7) of OPA, 33 U.S.C. § 2701(7).

10. “Natural resources” include “land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States.” 33 U.S.C. § 2701(20).

11. “Damages” for which a responsible party is liable, pursuant to Section 1002(a) of OPA, 33 U.S.C. 2702(a), include “[d]amages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage ...” 33 U.S.C. §§ 2701(5) and 2702(b)(2).

12. Pursuant to Section 1006 of OPA, 33 U.S.C. § 2706, FWS and DNER have been designated as Trustees for recovery under OPA for injuries to, destruction of, loss of, or loss of use of natural resources managed or controlled by those agencies.

13. Owners and operators of vessels from which oil is discharged are strictly liable for natural resource damages arising out of the discharge of oil into navigable waters. 33 U.S.C §§ 2701, 2702.

### **GENERAL ALLEGATIONS**

14. On or about August 29, 2007, oil was discharged from the Genmar Progress, a Liberian flagged oil tanker owned by GMR Progress LLC and operated by General Maritime Management (Portugal) Lda, while the vessel was in or around Guayanilla Bay, Puerto Rico. Oil leaked from one of the vessel’s oil holding tanks into a ballast tank. A mix of oil and ballast water was released when the vessel emptied its ballast tanks in preparation for a cargo inspection. At least 14,000 gallons of oil were unaccounted for in the vessel’s oil holding tanks. Oil was observed off the southwestern coast of Puerto Rico between Guayanilla Bay and La Parguera. Overflights revealed large sheen patches, dark brown oil and heavy black surface oil

slicks. Based on mapped areas of surface oil, approximately 45,000 gallons of oil were discharged.

15. Beginning on August 30, 2007, heavy to medium oiling and sheen washed ashore at various locations along the southwest coastline, including Guayanilla Bay, Guanica Bay, La Parguera, and Cabo Rojo.

16. The discharged oil caused injury to, destruction of, loss of or loss of use of the natural resources, as specifically identified herein, belonging to, managed by, controlled by, appertaining to the United States and the Commonwealth of Puerto Rico, which include the waters of the United States, aquatic and invertebrate species, birds, mangroves, seagrape trees, and seagrasses. The discharge also resulted in temporary closures of hunting grounds and restrictions on beach access.

17. The FWS and DNER initiated response activities, which included setting up booms, skimming free-floating oil, overflights, shoreline assessment and cleanup, and oiled wildlife fieldwork, surveys and recovery. The response operation was completed on October 12, 2007.

#### **CLAIM FOR RELIEF**

18. Paragraphs 1-17 are re-alleged and incorporated herein by reference.

19. The Genmar Progress is a “vessel” within the meaning of Section 1001(37) of OPA, 33 U.S.C. § 2701(37).

20. Defendants are “owners or operators” of the vessel and are therefore “responsible parties,” within the meaning of Section 1001(32)(A) of OPA, 33 U.S.C. § 2701(32)(A).

21. The oil discharged was “oil” within the meaning of Section 1001(23) of OPA, 33 U.S.C. § 2701(23).

22. Guayanilla Bay and the affected waters along the southwestern coast of Puerto Rico are “navigable waters” within the meaning of Section 1001(21) of OPA, 33 U.S.C. § 2701(21).

23. The discharge described herein caused injury to, destruction of, loss of, or loss of use of, “natural resources” held in trust by the Trustees under 33 U.S.C. §§ 2701(20) and 2702(b)(2).

24. As “responsible parties,” Defendants are strictly liable to the Trustees pursuant to 33 U.S.C. § 2702(b)(2)(A), for natural resources damages resulting from the discharge.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

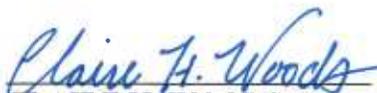
A. Award damages to the Trustees under Sections 1002(a) and 1002(b)(2)(A) of OPA, 33 U.S.C. §§ 2702(a) and 2702(b)(2)(A), for damages for injury to, destruction of, loss of, or loss of use of the natural resources, as specifically identified above, and all reasonable costs incurred or to be incurred by the Trustees in assessing such damages.

B. Grant the Plaintiffs other relief as the Court deems just and proper.

Respectfully submitted,

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3/21/2016  
Dated



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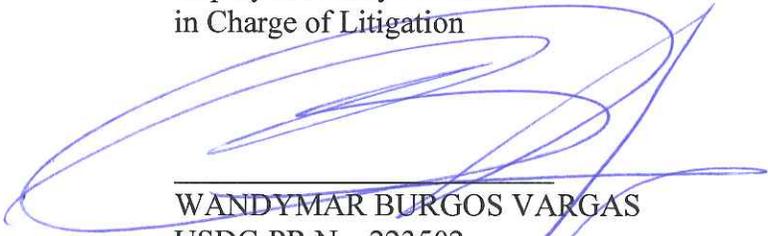
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