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Case No. 8573-

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CHEVRON PIPE LINE COMPANY Derivatively on Behalf of WEST TEXAS GULF PIPELINE COMPANY, Plaintiff, v. SUNOCO PIPELINE, L.P., CHARLES E. MASER, SANKAR R. DEVARPIRAN, ALBERT JOHNSON, CHRISTOPHER D. MARTIN, TODD M. STAMM, AND JAMES W. TORBETT, III Defendants, v. WEST TEXAS GULF PIPELINE COMPANY Nominal Defendant.	)	C.A. No.________________

VERIFIED DERIVATIVE COMPLAINT

Plaintiff Chevron Pipe Line Company ("Plaintiff" or "Chevron Pipe Line") brings this action derivatively on behalf of and for the benefit of nominal Defendant West Texas Gulf Pipeline Company ("WTG") for breach of fiduciary duty and aiding and abetting breach of fiduciary duty, against Sunoco Pipeline, L.P. ("Sunoco Pipeline"), Charles E. Maser, Sankar R. Devarpiran, Albert Johnson, Christopher D. Martin, Todd M. Stamm, and James W. Torbet, III (collectively, the "Individual Defendants"). Plaintiff makes the following allegations upon personal knowledge as to itself and its own acts, and upon

information and belief (including review of publicly available information, and the review of documents provided in WTG's response to a demand made pursuant to 8 *Del. C.* § 220 for books and records) as to all other matters, and alleges as follows.

I. OVERVIEW OF ACTION

1. Chevron Pipe Line brings this action derivatively on behalf of WTG against WTG's controlling shareholder, Sunoco Pipeline, and the Individual Defendants, who comprise six of the nine members of WTG's board of directors. Sunoco Pipeline nominated all six of the Individual Defendants to WTG's board of directors, and all of the Individual Defendants are employees of Sunoco Pipeline or one of its affiliates. This case arises out of the self-interested decision of Sunoco Pipeline and the Individual Defendants to support and approve on behalf of WTG an eight-year pipeline lease agreement to Sunoco Pipeline, on terms so below market value and so extraordinarily favorable to Sunoco Pipeline that no rational company acting in its own commercial self-interest would have ever agreed to enter into a transaction on such terms.

2. WTG owns approximately 600 miles of common carrier crude oil pipelines, which originate from the West Texas oil fields at Colorado City, Texas and extend to the Nederland Terminal in Southeast Texas (collectively, the "Pipeline"). WTG's officers are employees of Sunoco Pipeline or one of its affiliates, and are elected by WTG's board of directors.

3. Sunoco Pipeline operates more than 7500 miles of liquid pipelines. Sunoco Pipeline owns a controlling 60.32% stake in WTG, and nominated six of the nine seats on

WTG's board of directors. Sunoco Pipeline also serves as operator of the Pipeline pursuant to an Operating Agreement with WTG.

4. Chevron Pipe Line operates and invests in an extensive network of crude oil, natural gas, and refined product pipelines and storage facilities in North America. Chevron Pipe Line holds a 28.28% stake in WTG, and nominated two of the nine seats on WTG's board of directors.

5. Non-party CITGO Petroleum Corporation ("CITGO") holds the remaining 11.4% stake in WTG and nominated one of the nine seats on WTG's board of directors.

6. Plaintiff seeks redress on behalf of WTG, so that its controlling shareholder and that shareholder's nominated directors who approved the pipeline lease agreement are held responsible for the damage they have inflicted on WTG by entering into a self-interested commercial transaction on non-market terms, in dereliction of their fiduciary duties.

II. JURISDICTION

7. This Court has jurisdiction over this action pursuant to 10 *Del. C.* § 341 and 8 *Del. C.* § 111(a).

8. As directors of a Delaware corporation, the Individual Defendants have consented to the jurisdiction of this Court pursuant to 10 *Del. C.* § 3114.

9. This Court has jurisdiction over WTG pursuant to 10 *Del. C.* § 3111.

10. This Court has jurisdiction over Sunoco Pipeline pursuant to 10 *Del. C.* § 3104.

III. PARTIES

11. At all relevant times, Plaintiff Chevron Pipe Line has been the owner of 28.28% of the common stock of nominal defendant WTG.

12. Nominal defendant WTG is a corporation duly organized and existing under the laws of the State of Delaware and maintains its principal offices in Philadelphia, Pennsylvania.

13. Defendant Sunoco Pipeline is a Texas limited partnership and maintains its principal offices in Philadelphia, Pennsylvania. Sunoco Pipeline owns a controlling 60.32% share of WTG's stock.

14. Defendant Charles E. Maser is president of WTG, and has at all relevant times served as a member of the board of directors. At all relevant times, Mr. Maser has also been an employee of Sunoco Pipeline or one its affiliates.

15. At all relevant times, Defendant Sankar R. Devarpiran has been a member of the board of directors of WTG and an employee of Sunoco Pipeline or one of its affiliates.

16. At all relevant times, Defendant Albert Johnson has been a member of the board of directors of WTG and an employee of Sunoco Pipeline or one of its affiliates.

17. At all relevant times, Defendant Christopher D. Martin has been a member of the board of directors of WTG and an employee of Sunoco Pipeline or one of its affiliates.

18. At all relevant times, Defendant Todd M. Stamm has been a member of the board of directors of WTG and an employee of Sunoco Pipeline or one of its affiliates.

19. At all relevant times, Defendant James W. Torbet, III has been a member of the board of directors of WTG and an employee of Sunoco Pipeline or one of its affiliates.

20. As a result of Sunoco Pipeline's majority share ownership and domination and control over six of the nine seats on WTG's board, a majority of the directors are unable to exercise independent judgment with respect to any matters in which the interests of Sunoco Pipeline and its affiliated companies and entities are in conflict with WTG and its minority shareholders. Further allegations detailing how and why a majority of the board is not able to independently assess a demand for purposes of this suit appear in Section V of this Complaint.

IV. SUBSTANTIVE ALLEGATIONS

A. The Lease Agreement's Terms

21. On June 21, 2012, the WTG board of directors approved a resolution that permitted WTG to enter into a capacity lease agreement with Sunoco Pipeline (the "Lease Agreement"). The Lease Agreement is an exclusive lease of a highly valuable portion of the Pipeline consisting of 340,000 barrels per day of capacity on well below-market terms.

22. The Pipeline is divided into three key parts: a "west" leg that runs from Colorado City, Texas to Wortham, Texas; a "north" leg that runs from Wortham, Texas to Longview, Texas; and a "south" leg that runs from Wortham, Texas to Nederland, Texas. The "south" leg in turn consists of two sub-segments, one of which runs from Wortham, Texas to Goodrich, Texas (segment 1 of the "south" leg), and the other of

which runs from Goodrich, Texas to Nederland, Texas (segment 2 of the "south" leg). The "south" leg is the only portion of the Pipeline that is subject to the Lease Agreement. A schematic of the Pipeline is attached as Ex. A.

23. The Lease Agreement will enable Sunoco Pipeline to use the available capacity on the "south" leg as a part of its larger Permian Express Project, which is designed to transport crude oil from the northwestern part of Texas to the Gulf Coast markets. In Phase I of the Permian Express Project, Sunoco Pipeline initially expects to move 90,000 barrels per day of crude oil, but plans to increase that amount to 150,000 barrels per day by year end.

24. Under the terms of the Lease Agreement, Sunoco Pipeline has the exclusive right to use all of the available capacity of the WTG "south" leg between Wortham, Texas and Nederland, Texas, with the exception of a non-exclusive right retained by WTG to transport 75,000 barrels per day through segment 1 of the "south" leg (i.e., from Wortham, Texas to Goodrich, Texas).[1] Except for this reserved capacity, WTG has no rights to use any of the remaining leased capacity.

25. The Lease Agreement additionally requires WTG to reverse the existing flow on segment 2 of the "south" leg to enable Sunoco Pipeline to move crude oil from Wortham, Texas to Nederland, Texas.

26. The Lease Agreement also requires WTG to maintain the leased portion of the Pipeline in good repair and condition, and in the event of a casualty loss, WTG must

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[1] Segment 1 of the" south" leg has a total capacity of 415,000 barrels per day, and thus the reserved 75,000 barrels-per-day amount is in addition to the 340,000 barrels per day of capacity reserved exclusively for Sunoco Pipeline in the Lease Agreement.

promptly restore the Pipeline to current operating condition. In addition, the Lease Agreement requires WTG to obtain Sunoco Pipeline's consent before WTG can replace Sunoco Pipeline as the operator.

27. In exchange, the Lease Agreement provides that Sunoco Pipeline must pay WTG a rental fee consisting of both a fixed base amount and an amount based on volume. The base rental is approximately $200,000 per month, and the volume-based fee is $0.10 per barrel transported. Both of these are subject to a minor annual adjustment based on a FERC oil pipeline index multiplier that is applied each year.

28. Notably, however, the Lease Agreement does not require Sunoco Pipeline to transport any minimum amount of crude oil. Thus, through the Lease Agreement Sunoco Pipeline has reserved on an exclusive basis up to 340,000 barrels per day of the "south" leg capacity, despite the fact that it has no obligation to use any of that capacity. Indeed, Sunoco Pipeline is expected to transport no more than 150,000 barrels per day of crude oil on the "south" leg for the foreseeable future.

29. The Lease Agreement was effective upon signing, and runs for a term of eight years from April 1, 2013, the date Sunoco Pipeline provided a formal Commencement Notice. The Lease Agreement terminates when Sunoco Pipeline's commitments with its customers expire, except that if Sunoco Pipeline's Permian Express Phase I "open season" failed to result in sufficient commitments, Sunoco Pipeline retained the right to terminate the Lease Agreement without penalty on or before September 30, 2012.[2]

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[2] An open season is a period of time in which potential customers are given the chance to sign up for part of a new pipeline's capacity. On August 21, 2012, Sunoco Pipeline's indirect parent, Sunoco Logistics Partners, L.P., announced that it received sufficient binding commitments to

B. The Lease Agreement Is Substantively Unfair to WTG and Was Not Approved in a Proper Manner.

30. The Lease Agreement is a product of a self-interested transaction that is grossly unfair to WTG, and was not approved in a proper manner by the WTG board of directors.

31. The rental payments in the Lease Agreement are far below market value and the Lease Agreement prohibits WTG from pursuing other, significantly higher value opportunities available in the market.

32. Furthermore, WTG management (all of whom were nominated by Sunoco Pipeline) provided few materials relating to the proposed Lease Agreement to board members only a short time before the scheduled meeting on June 21, 2012. As discussed below, WTG management provided no information concerning the economic justification for the proposed lease rate to the board, or any information addressing the prospects for future use of the WTG system. In fact, WTG management to date has failed to provide anything to the board to show that WTG has pursued any other opportunities that are not associated with enhancing Sunoco Pipeline's connecting pipelines economics.

33. Unsurprisingly, all six of the Sunoco Pipeline-designated board members voted to approve this transaction at the June 21 board meeting. By contrast, Chevron Pipe Line's appointed directors raised serious concerns about the Lease Agreement's terms at the board meeting, and voted against the transaction.

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enable Permian Express Phase I to proceed. WTG's management notably failed to communicate this fact to WTG's board of directors.

34. Significantly, despite the fact that a majority of the board suffered obvious conflicts of interest, the board neither conducted a vote of disinterested directors nor formed an independent special committee to evaluate and approve the Lease Agreement.

(i) Chevron Pipe Line's Objections and Request for Information and Inspection

35. Aside from the concerns raised by its appointed directors, Chevron Pipe Line also wrote a letter to the WTG board of directors on October 10, 2012 to express its dissatisfaction with both the terms of Lease Agreement and the process by which the board adopted it. *See* Ex. B. That letter also requested additional information regarding WTG management's due diligence in evaluating the Lease Agreement. *Id.*

36. On October 16, 2012, Defendant Maser responded to Chevron Pipe Line's letter on behalf of WTG. *See* Ex. C. The letter, however, addressed none of the concerns outlined in the Chevron Pipe Line letter of October 10, and provided none of the information requested by Chevron Pipe Line. Indeed, Defendant Maser's response stated that WTG would be providing no information whatsoever to Chevron Pipe Line, and simply asserted that the board voted to approve WTG's execution of the Lease Agreement based on a belief that such approval was in the best interests of WTG. *Id.*

37. In addition, Defendant Maser remarkably suggested that WTG's current restated certificate of incorporation actually permitted Sunoco Pipeline's six directors to vote and approve the transaction without regard for their fiduciary duties. *Id.*

38. Chevron Pipe Line responded to WTG's letter on November 5, 2012, and explained that under well-settled Delaware law, WTG's position regarding the provision

in the restated certificate of incorporation was legally erroneous, and that it was well-settled that such a provision does not and cannot exculpate directors from breaches of the duty of loyalty. *See* Ex. D. The letter also explained that Sunoco Pipeline and its appointed directors had the heavy burden of proving that the self-interested Lease Agreement transaction was "entirely fair" to WTG and its minority shareholders. *Id.*

39. In addition, Chevron Pipe Line's letter made a formal request for inspection of corporate records to WTG pursuant to 8 *Del. C.* § 220(b). *Id.*

40. On November 5, 2012, Chevron Pipe Line's two appointed directors, Stephen Bergeron and Mark Gess, also made a similar books and records demand pursuant to 8 *Del. C.* § 220(d) for documents related to the Lease Agreement. *See* Ex. E.

(ii) WTG's Response to the Section 220 Demands Reveals That the Lease Agreement's Terms Are Not the Product of an Arm's Length Negotiation and Are Unjustified.

41. On November 12, 2012, WTG responded to the directors' inspection request and provided what WTG claimed was the entirety of responsive documents within WTG's possession. *See* Ex. F. WTG also subsequently responded to Chevron Pipe Line's section 220 request on November 14, 2012 offering to produce the same set of documents to Chevron Pipe Line if Chevron Pipe Line would sign a confidentiality agreement. *See* Ex. G.[3] Significantly, however, WTG failed substantively to address the concerns expressed by Chevron Pipe Line in its correspondence that the Lease

[3] WTG's proposed confidentiality agreement, however, contained no exception allowing use of confidential documents in subsequent litigation. *See id.*, Proposed Confidentiality Agreement ¶ 3.

Agreement was far below market value and prohibited WTG from pursuing other, significantly higher value opportunities available in the market.

42. While WTG purports to have produced all documents responsive to the section 220 demands, those documents tellingly fail to demonstrate that WTG pursued other commercial opportunities that are not associated with enhancing Sunoco Pipeline's Permian Express Project and connecting pipelines economics.

43. In fact, the materials provided indicate that WTG's management did no due diligence at all before signing the Lease Agreement with Sunoco Pipeline. The materials provide no indication that WTG management even attempted to quantify or incorporate the market value of the "south" leg leased pipeline capacity into its analysis. The materials also make it clear that WTG management failed to measure the market demand for the leased pipeline capacity on the "south" leg in the form of an open season, or conduct any discussions with potential alternative purchasers of the capacity. Nor did WTG management provide any evidence that it analyzed the Texas crude oil and crude oil transportation markets to determine if the compensation provided to WTG under the Lease Agreement represents fair market value.

44. The compensation provided to WTG in the Lease Agreement, of course, does not represent fair market value, and in fact, is far below what could plausibly be considered fair market value.

45. Indeed, the base rental payment of approximately $200,000 a month is designed to compensate WTG solely for the revenue lost from existing contracted volumes with non-party CITGO as a result of the reversal of the existing flow on segment

2 of the "south" leg. The materials provided by WTG management do not explain or justify the derivation of the transportation fee of $0.10 per barrel, much less explain how it could have been based on the kind of market factors that one would consider in an arms-length negotiation.

46. To illustrate just how below market the rental fees are in the Lease Agreement, one need only look at the announced open season tolls for Phase 1 of the Permian Express Project. Those tolls range from $1.77 per barrel to $2.42 per barrel (depending on the volume shipped). Taking the range of Permian Express Phase 1 tolls as the market value of the total pipeline capacity starting from Wichita Falls, Texas and running all the way "south" to Nederland, Texas, one can derive a per-barrel value for the leased pipeline segment (i.e., the "south" leg from Wortham, Texas to Nederland, Texas). This is done by simply multiplying the Permian Express Phase 1 toll rates by the ratio of the miles of pipeline in the "south" leg to the total miles of pipeline in the Permian Express Project.[4] The resulting value of the leased pipeline capacity ranges from $0.86 to $1.17 per barrel of crude (48.40% *$1.77 per barrel to $2.42 per barrel).

47. By contrast, the effective per barrel rental rate under the Lease Agreement is in the range of approximately $0.12 to $0.14 per barrel of crude (depending on whether

[4] Sunoco Pipeline owns a separate collection of pipelines running from Wichita Falls, Texas to Wortham, Texas, which comprise a part of the Permian Express Project. Those pipelines are independent of the Pipeline. The leased "south" leg of WTG's Pipeline comprises 48.40% of the total miles of pipeline in the Permian Express Project.

the 340,000 barrels per day of potential capacity is assumed or whether the projected 150,000 barrels per day is assumed).[5]

48. It is obvious that WTG management did not obtain a fair rental rate in its "negotiations" with Sunoco Pipeline or consider alternative strategies for the use of the leased pipeline capacity that might have produced even greater net present values for WTG. Nor does it appear that WTG management engaged in discussions with other potential pipeline partners who might have been in a position to pursue competitive projects between West Texas and the Gulf region. By failing to address these issues, WTG management was simply incapable of calculating whether or not WTG was receiving a fair deal by signing the Lease Agreement.

49. In addition to the level of the rate, the rate design in the Lease Agreement is unfair. When a party leases all of the space in a pipeline and has exclusive rights to the capacity, it is common that the lessee be required to commit to pay most of the costs on a fixed fee or minimum fee basis.

50. Under the Lease Agreement, however, Sunoco Pipeline is committed to pay a base rental of only $200,000 per month (which as noted above, simply offsets the loss of CITGO contract revenues). Thus, most of the revenue from the agreement will be collected from the transportation fee of $0.10 per barrel of actual throughput. But if Sunoco Pipeline were to choose not to ship on the "south" leg, there would be zero revenue collected from the transportation fee. This results in Sunoco Pipeline receiving

[5] This is calculated by taking the approximately $200,000 base monthly rental fee, multiplying the assumed monthly throughput by the $0.10 per barrel volume-based rental fee, adding that figure to the $200,000 base monthly fee, and then dividing that number by the total assumed monthly throughput.

exclusive, firm service rights for which it effectively is not obligated to pay anything. Because WTG's revenue is overwhelmingly tied to Sunoco Pipeline's whim, WTG should have received a significantly higher base rental charge that requires Sunoco Pipeline to pay WTG regardless of the volume that Sunoco Pipeline actually ships.

51. Moreover, because the Lease Agreement ties up all available 340,000 barrels per day of capacity, WTG now has no opportunity to pursue other, significantly higher value opportunities available in the current market, such as conducting its own open season or filing its own long-haul rate from Colorado City, Texas to Nederland, Texas.

C. The Board's Approval of the Lease Agreement Fails Entire Fairness Review.

52. The Lease Agreement is plainly an interested transaction and contains terms that are patently unfair to WTG. The Lease Agreement provides a substantial benefit to Sunoco Pipeline in facilitating implementation of its Permian Express Project, but provides little or no benefit to WTG. Because the Lease Agreement is an interested transaction, Defendants will bear the burden of proving its entire fairness (*i.e.,* that the price is fair and the transaction was the result of a fair process).

53. The Defendants cannot justify the terms of the Lease Agreement under any metric. And because price is a powerful indicator of entire fairness, the transaction fails to meet the heightened standards imposed by entire fairness examination.

54. The "process" culminating in the Lease Agreement was also fatally flawed from the outset and in no way mirrored an arms-length, third-party transaction. Instead, the process by which the Lease Agreement came to be, and the terms by which it was reached, were the products of a controlling shareholder that stood on both sides of the

transaction, and the board of directors failed to conduct a review of the Lease Agreement in a fair and disinterested way.

55. As a result of the actions of Sunoco Pipeline and the Individual Defendants in breach of their fiduciary duties, WTG will incur substantial injury for which it has no adequate remedy at law.

V. DEMAND IS EXCUSED FOR ALL CLAIMS

56. Plaintiffs will adequately and fairly represent the interests of WTG and its shareholders in enforcing and prosecuting its rights.

57. Plaintiff has not made a demand on the WTG board to bring suit asserting the claims set forth herein because a pre-suit demand would be futile and is excused as a matter of law.

58. Because the allegations set forth above demonstrate that this is an interested transaction and the Lease Agreement is not entirely fair to WTG — either in terms of price or process — and its approval and continuance is inexplicable except on the grounds of bad faith or a lack of independence, the Lease Agreement cannot be deemed a product of the valid exercise of business judgment by the board, excusing demand as a matter of law.

59. At all relevant times and as of the date of the filing of this Complaint, the Sunoco Pipeline-nominated board members consisted of the following directors, who comprise the Individual Defendants and a majority of the board of directors: Charles E. Maser, Sankar R. Devarpiran, Albert Johnson, Christopher D. Martin, Todd M. Stamm, and James W. Torbet, III.

60. All six of these WTG directors suffer from conflicts of interest and divided loyalties, which preclude them from exercising independent business judgment.

61. Charles Maser is the president of WTG and was nominated to the board by Sunoco Pipeline. Mr. Maser is an employee of Sunoco Pipeline or one of its affiliates, and he serves at Sunoco Pipeline's behest and in accordance with its wishes. His interests are aligned with Sunoco Pipeline and he is therefore incapable of independent consideration of a pre-suit demand.

62. Sankar R. Devarpiran was nominated by Sunoco Pipeline and is also an employee of that company or one of its affiliates, and thus serves at Sunoco Pipeline's behest and in accordance with its wishes. He is therefore incapable of independent consideration of a pre-suit demand.

63. Albert Johnson was nominated by Sunoco Pipeline and is also an employee of that company or one of its affiliates, and thus serves at Sunoco Pipeline's behest and in accordance with its wishes. He is therefore incapable of independent consideration of a pre-suit demand.

64. Christopher D. Martin was nominated by Sunoco Pipeline and is also an employee of that company or one of its affiliates, and thus serves at Sunoco Pipeline's behest and in accordance with its wishes. He is therefore incapable of independent consideration of a pre-suit demand.

65. Todd M. Stamm was nominated by Sunoco Pipeline and is also an employee of that company or one of its affiliates, and thus serves at Sunoco Pipeline's behest and in

accordance with its wishes. He is therefore incapable of independent consideration of a pre-suit demand.

66. James W. Torbet, III was nominated by Sunoco Pipeline and is also an employee of that company or one of its affiliates, and thus serves at Sunoco Pipeline's behest and in accordance with its wishes. He is therefore incapable of independent consideration of a pre-suit demand.

67. Demand is further excused by the fact that the Individual Defendants would be required to sue themselves, potentially subjecting themselves to personal liability. Here, where the Lease Agreement is so unreasonable on its face, a substantial likelihood of director liability exists. This high likelihood alone establishes demand futility.

68. Additionally, the Individual Defendants' refusal to provide additional information when first requested by Chevron Pipe Line, coupled with their attempt to justify their conduct by relying on a plainly inapplicable provision of WTG's restated certificate of incorporation, are indicative of the Individual Defendants' bad faith in the handling of this matter. These actions further demonstrate that pre-suit demand on the board would be futile.

69. Accordingly, the WTG board is incapable or unwilling to take the actions required to seek the relief requested in this Complaint, and the board is incapable of independently and disinterestedly considering a demand to commence and vigorously prosecute Plaintiff's claims. As a result, pre-suit demand on the board is excused as a matter of law.

VI. DERIVATIVE CAUSES OF ACTION

Count I
Breach of Fiduciary Duty (Derivatively Against the Individual Defendants)

70. Plaintiff repeats and re-alleges the preceding allegations as if fully set forth herein.

71. By reason of their positions as directors and fiduciaries of WTG and because of their ability to control the business and corporate affairs of WTG, each of the Individual Defendants owed WTG fiduciary duties of care and loyalty in the management and administration of WTG's affairs, as well as in the use and preservation of WTG's property and assets. The Individual Defendants are required to act in furtherance of the best interests of WTG and its shareholders in accordance with the highest duties of good faith, fair dealing, due care, and loyalty.

72. The Individual Defendants have breached their duties of loyalty by approving the Lease Agreement, which elevates the interests of Sunoco Pipeline over the interests of WTG and WTG's other shareholders. The Individual Defendants have additionally breached their fiduciary duties by, among other things, causing WTG to enter into the Lease Agreement without fairly evaluating the Lease Agreement's terms, and by permitting WTG to enter into it on grossly unfair and inequitable terms.

73. The misconduct of the Individual Defendants complained of herein involves a knowing and culpable violation of their obligations as directors of WTG, the absence of good faith on their part, and a reckless disregard for their fiduciary duties, which the Individual Defendants were aware or should have been aware posed a risk of serious injury to WTG.

74. As a result of the actions of the Individual Defendants described herein, WTG has suffered substantial injury as a result of the grossly unfair and below-market terms of the Lease Agreement, and Plaintiff has no adequate remedy at law.

Count II
Breach of Fiduciary Duty and Aiding and Abetting Breach of Fiduciary Duty
(Derivatively Against Sunoco Pipeline)

75. Plaintiff repeats and re-alleges the preceding allegations as if fully set forth herein.

76. With its over 60% majority interest, Defendant Sunoco Pipeline has the ability to direct the election of a majority of the members of the board. Defendant Sunoco Pipeline, as WTG's controlling shareholder, owes the highest duties of good faith, fair dealing, due care, and loyalty to WTG's minority shareholders, such as Chevron Pipe Line.

77. Defendant Sunoco Pipeline breached its fiduciary duties by exploiting its position as controlling shareholder and compelling WTG to enter into the Lease Agreement with Sunoco Pipeline on grossly below-market terms that stand only to benefit Sunoco Pipeline and the Sunoco corporate family, to the detriment of WTG and Chevron Pipe Line.

78. Defendant Sunoco Pipeline also knowingly and affirmatively participated with the Individual Defendants in a course of conduct that was intended to, and did, aid and abet the Individual Defendants in breaching their fiduciary duties to WTG. Sunoco Pipeline knew that its aiding and abetting of the Individual Defendants' breaches of

fiduciary duty would cause substantial injury to WTG in this forum, and such harm was a direct and foreseeable result of Sunoco Pipeline's actions.

79. As a result of the actions of Sunoco Pipeline, WTG has been and will be damaged, and Plaintiff has no adequate remedy at law.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and relief as follows:

A. Declaring that making a demand upon the WTG board to investigate and prosecute the claims alleged herein would be futile for the reasons alleged herein;

B. Declaring that the Individual Defendants breached their fiduciary duties to WTG and that Sunoco Pipeline breached its fiduciary duties to WTG and its minority shareholders and aided and abetted the Individual Defendants' breaches of fiduciary duty;

C. Rescinding the Lease Agreement, and requiring the Individual Defendants to conduct a fair process to evaluate a possible new lease on fair and arms-length terms;

D. Directing that Defendants account to WTG for all damages caused to it and account for all profits and any special benefits obtained by Defendants as a result of their unlawful conduct;

E. Awarding Plaintiff the costs and disbursements of this action, including a reasonable allowance for Plaintiff's attorneys' and experts' fees;

F. Awarding WTG the pre- and post-judgment interest at the statutory rate; and

G. Granting such other and further relief as may be just and proper.

SEITZ ROSS ARONSTAM & MORITZ LLP

Of Counsel:

Reginald R. Smith, Esquire
William R. Burns, Esquire
KING & SPALDING
1100 Louisiana Street
Suite 4000
Houston, TX 77002

<u>/s/ Collins J. Seitz, Jr.</u>
Collins J. Seitz, Jr. (No. 2237)
Garrett B. Moritz (No. 5646)
100 S. West Street, Suite 400
Wilmington, Delaware 19801
(302)-576-1600

Counsel for Plaintiff Chevron Pipe Line Company Derivatively on behalf of West Texas Gulf Pipeline Company

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