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Ocean Point Terminals Seeks to End Water Distribution Program Amid Low Uptake

Plaintiffs argue program's premature termination would harm community

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Janeke Simon **February 18, 2024**

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Ocean Point Terminals, formerly Limetree Bay Terminals, has asked the court to dissolve the injunction that requires it to maintain a water distribution program for those who say they were adversely impacted by a series of hydrocarbon release events at the refinery in the [first half of 2021](#).

In a motion filed in late January, OPT argues that “only a tiny fraction of the allegedly potential thousands of claimants have even applied for the water distribution program.” According to their figures, 290 households have applied, and only 124 have been deemed eligible for participation.

Of those 124 households, OPT says 12 have never picked up any water, while around 86 have collected less than half the water they were eligible to receive. Furthermore, “four of the six resident witnesses who testified at the Preliminary Injunction hearings” which re-established the water program “have not even applied,” say OPT attorneys.

Even the named plaintiffs in the putative class action have not demonstrated much interest in receiving water from OPT – only one of the 44 have applied for the program, OPT argued. The data, LBT said, shows that “if a water emergency ever existed, it does not exist at this time.”

Despite the lackluster response, OPT said it is expending large sums to keep the [court-ordered distribution program](#) running, “including approximately \$138,000 charged by the Administrator for work completed through the end of November, and over \$118,302 in operating costs,” which reportedly include labor, leases, and equipment rental fees. All told, “compliance with the Implementation Order has forced Terminals to incur nearly \$300,000 in administrative and operating costs to distribute \$43,000 worth of water.”

The paltry participation in the program, contrasted against the significant costs of running it, “establishes that the equities no longer weigh in favor of Plaintiffs,” OPT argued. “This in itself constitutes a change in circumstance that requires dissolution of the injunction to avoid inequitable results.”

However, in opposition to OPT's motion, plaintiffs argued that the almost 300 applications proves that people “have been irreparably harmed and are seeking a remedy for that harm.” The data Limetree is citing was taken from the first two months of the program’s operation, during a time when “the parties have worked together to get the Program up and running.” Terminating the water distribution program now would be premature, attorneys for the plaintiffs argued, taking away “much-needed water from approximately 140 people based on the contention that their numbers are not meaningful and/or the fact that not all of these individuals’ schedules allow them to pick up water on a daily basis.”

Rather than using the numbers to argue that the program be discontinued, plaintiffs said OPT should be focusing on making “certain changes to the program’s eligibility criteria” in order to include more of the cohort of people “that the Court has found is entitled to relief.” These changes, say the plaintiffs, would improve efficiency, decrease costs, and improve access for those who most need it.

Ending the program now, plaintiffs argued, would be “frankly cruel,” and would deny safe and clean drinking water to those who need it most.