

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO3 JORGE FRANCISCO SANCHEZ,
4 et al.,

5 Plaintiffs,

6 v.

7 ESSO STANDARD OIL DE PUERTO
8 RICO, INC.,

9 Defendant.

Civil No. 08-2151 (JAF)

10 **ORDER**

11
12 A preliminary injunction was entered in this case on December 5,
13 2008. Docket Document No. 22. It was not until January 14, 2009, that
14 Defendant Esso Standard Oil de Puerto Rico, Inc. requested by motion
15 that Plaintiff post a \$75,000 bond under Fed. R. Civ. P. 65(c). See
16 Docket Document No. 46. The bond request is predicated upon the fact
17 that the court has ordered Esso to pay for the comprehensive site
18 assessment that will let the parties and the court know the extent of
19 the documented environmental damage caused by Esso's use of the
20 Dolores Service Station for the sale of gasoline and petroleum-based
21 products for a good number of years.

22 Having examined the status of this record as of today, the court
23 will dispense with security altogether, because the grant of the
24 preliminary injunction carries no risk of monetary loss to the
25 Defendant. In this case, we are talking about documented
26 contamination occurring as a result of Esso's violation of regulatory
27 safeguards designed to prevent environmental contamination and

1 pollution that adversely affect not only Plaintiff, but the general
2 public. The only issue is the extent of the contamination and the
3 extent of measures needed to be taken to remedy the situation.
4 Effectively, there is no risk of monetary loss to Esso because Esso
5 is liable as a matter of law for any contamination and environmental
6 damage resulting while it had the service station under its direct
7 supervision and control.

8 The comprehensive site assessment that has been ordered is the
9 only way in which the court will be able to determine the extent of
10 Esso's liability, and the cost of such studies cannot serve as the
11 basis for a claim of probable loss or monetary loss to Esso. No
12 material damage to Esso will result from this litigation, where the
13 only issue seems to be the extent of the liability. The public
14 interest behind the correction of environmental damage is far greater
15 than Esso's concerns for *de minimis* expenditures associated with the
16 court's effort to fairly determine the extent of Esso's liability.

17 The motion for Rule 65(c) bond is **DENIED**.

18 **IT IS SO ORDERED.**

19 San Juan, Puerto Rico, this 15th day of January, 2009.

20 S/José Antonio Fusté
21 JOSE ANTONIO FUSTE
22 Chief U. S. District Judge