

## **John J. Hoffman, *Acting Attorney General***

### **Division of Law**

**Jeffrey S. Jacobson, *Director***

**For Immediate Release:**

March 5, 2015

**For Further Information Contact:**

Lee Moore (609) 292-4791

## **ExxonMobil to Pay Historic Environmental Settlement In Addition To Site Clean-Up & Remediation Costs**

TRENTON – Acting Attorney General John J Hoffman and Department of Environmental Protection Commissioner Bob Martin announced today that ExxonMobil has agreed to pay the State \$225 million to resolve its liability for damage to the environment and injury to natural resources caused by contamination from its refinery operations in Bayonne and Linden, as well as from company service stations and other facilities located throughout New Jersey.

The proposed settlement, which still must undergo a 30-day public comment period and be approved by a Superior Court Judge, represents the single largest environmental settlement with a corporate defendant in New Jersey history. The settlement, which is the product of aggressive litigation and negotiations by the State spanning multiple administrations, is not final until the judge has approved it and any appeals are resolved. Settlement monies would not be received by the State until, at the earliest, fiscal year 2016; the allocation of these funds will depend upon the appropriations act enacted for that respective fiscal year. The litigation and settlement negotiations, as with all such cases of this magnitude, were conducted by the State Attorney General's Office working in coordination with the New Jersey Department of Environmental Protection and the Governor's Office.

Acting Attorney General Hoffman noted that the settlement payout by ExxonMobil comes on top of ExxonMobil's separate obligation to remediate the contaminated Bayonne and Linden refinery sites at the company's sole expense. He said the agreement reinforces ExxonMobil's obligations to clean up the sites, which are ongoing pursuant to Administrative Consent Orders (ACOs) previously entered into between ExxonMobil and the State Department of Environmental Protection (DEP).

Under the ACOs, ExxonMobil must thoroughly investigate and fully remediate contamination at both the Bayway and Bayonne facilities to standards specified in DEP regulations. ExxonMobil's licensed site remediation professional, under the oversight of DEP, has proposed plans to clean up the contamination. The proposed settlement reaffirms that this required investigation and remediation work will be performed at ExxonMobil's expense under the State's supervision.

"This important settlement, which came about because this administration aggressively pushed the case to trial, is the result of long fought settlement negotiations that pre-dated and post-dated the trial," said Hoffman. "It ensures the continuation of the ExxonMobil-funded remediation work at these contaminated sites, and it holds the company financially accountable through payment of a historic Natural Resource Damages settlement on top of Exxon's obligation to clean up the sites."

"As the Trustee for Natural Resources for the State of New Jersey, I take very seriously my responsibility to ensure that the people of New Jersey are compensated when there are damages," said DEP Commissioner Bob Martin. "This settlement is the largest in the history of the state, and is six times greater than the previous largest NRD settlement."

In 2014, the state settled MTBE-related claims with Hess for \$35.5 million. The 2004 Athos spill, which resulted in a major oil discharge into the Delaware River, was settled in 2009 for \$19 million to the State of New Jersey.

Under the proposed settlement, the State and ExxonMobil have agreed to resolve ExxonMobil's alleged liability to the DEP for natural resource damages resulting from discharges at its Bayway and Bayonne refineries. Importantly, the settlement preserves the State's claims against ExxonMobil with respect to natural resource damages to the Arthur Kill, Newark Bay, and any other surface water impacted by ExxonMobil's operations. The settlement also preserves the State's claims against ExxonMobil relating to the Lail facility, which requires further investigation as to the impact of ExxonMobil's operations on natural resources. The settlement also addresses some pending and potential NRD claims involving a company refinery operation in Paulsboro.

In addition, the proposed settlement resolves the State's relatively minor NRD claims pertaining to 16 additional facilities and ExxonMobil's retail service stations, but preserves all NRD claims relating to the discharge of MTBE at those stations. The DEP

will continue to vigorously litigate in federal court, in New York, the State's substantial NRD claims relating to the discharge of MTBE at the company's retail service stations located throughout New Jersey. As with above, ExxonMobil remains responsible for cleaning up all ExxonMobil sites in the State of New Jersey, including the 16 other facilities and the retail service stations subject to the settlement.

The proposed settlement comes in addition to obligations and cleanup activity already taking place under the Administrative Consent Order reached in 1991.

Under the New Jersey Spill Compensation and Control Act, the proposed settlement with ExxonMobil must now be submitted for public notice and comment.

Acting Attorney General Hoffman said it is anticipated that the proposed settlement, once finalized, will be published in the New Jersey Register on April 6, and the 30-day public comment period will follow. He said that settling the case rather than continuing to litigate provides a predictable, fair outcome for the people of New Jersey.

Once the public comment and response period has concluded, the parties expect to submit a finalized Consent Judgment to Superior Court Judge Michael J. Hogan. Judge Hogan presided over a 66-day trial in the ExxonMobil litigation in 2014.

The State filed its lawsuit in 2004. In September 2008, a Superior Court Judge ruled that ExxonMobil was liable for causing a public nuisance by polluting the waterways, wetlands and marshes on and near its former refinery sites in Bayonne and Linden.

In ruling on part of a natural resource damages lawsuit filed on behalf of the DEP, the judge found that ExxonMobil had contaminated both sites through active disposal and accidental spilling of hazardous substances. The proposed settlement announced today removes Exxon's ability to appeal those determinations..

# # #

CONFIDENTIALITY NOTICE The information contained in this communication from the Office of the New Jersey Attorney General is privileged and confidential and is intended for the sole use of the persons or entities who are the addressees. If you are not an intended recipient of this e-mail, the dissemination, distribution, copying or use of the information it contains is strictly prohibited. If you have received this communication in error, please immediately contact the Office of the Attorney General at (609) 292-4925 to arrange for the return of this information.