



DEP NEWS RELEASE

New Jersey Department of Environmental Protection

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IMMEDIATE RELEASE

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LARGEST ENVIRONMENTAL SETTLEMENT WITH CORPORATE DEFENDANT IN NEW JERSEY HISTORY POSTED IN REGISTER

60-DAY PUBLIC COMMENT OPENS ON PROPOSED SETTLEMENT REQUIRING EXXONMOBIL TO PAY NEW JERSEY \$225 MILLION ON TOP OF SEPARATE UNCAPPED COSTS TO REMEDIATE SITES

(15/P31) TRENTON – A proposed historic settlement that will require ExxonMobil to pay New Jersey \$225 million to resolve its liability for natural resource damages caused by contamination from refinery operations in Bayonne and Linden, on top of separate uncapped costs to remediate, was published today in the New Jersey Register, Acting Attorney General John J. Hoffman and Department of Environmental Protection Commissioner Bob Martin announced.

With the posting, a 60-day public comment period begins for the proposed settlement, which represents the single largest environmental settlement with a corporate defendant in New Jersey history.

The settlement payout by ExxonMobil is the second largest natural resource damages (NRD) settlement amount of all time against a single corporate defendant, across the entire country, second only to the Exxon-Valdez case. It would also come on top of ExxonMobil's separate obligation to remediate the contaminated Bayonne and Linden refinery sites, as well as all of the other sites detailed in this settlement, at the company's sole expense.

After the comment period, the settlement must be approved by the Superior Court Judge as being fair, reasonable, and in the best interests of the State.

“We have vigorously litigated this case for the good of the environment and for the people of New Jersey,” DEP Commissioner Martin said. “On top of the historic payout for this natural resources damages settlement, there is no cap on what ExxonMobil must spend to complete the remediation work. ExxonMobil is also obligated to remediate all of the other, though far less contaminated, sites included in the proposed agreement.”

“This proposed settlement meets the goals we set for this case, which were to recover an amount certain that fairly and reasonably compensated the State for natural resource damages, and reinforce ExxonMobil's requirement to clean up the Bayway and Bayonne sites,” said Acting Attorney General John J. Hoffman.

“Under this settlement, ExxonMobil’s obligation to remediate the refinery sites – exclusively at its cost, which will be substantial -- is reaffirmed. And in the final analysis, this is by far the largest NRD settlement in New Jersey history. It is more than four times as large as the previous largest settlement in our history, and nearly as large as the combined total of all NRD settlements in New Jersey since the Spill Act was enacted in 1976. It also exceeds, on a directly comparable acre per acre basis, our prior NRD settlements for contaminated wetlands.”

In addition to the \$225 million payout to the state of New Jersey, the proposed settlement does the following:

- Preserves the State’s natural resource damages claims against ExxonMobil with respect to the Arthur Kill, Newark Bay, and any other surface water impacted by ExxonMobil’s operations, contrary to certain published reports.
- Preserves significant NRD claims against the company for 860 retail gasoline stations at which MTBE (methyl tertiary-butyl ether) was discharged, while resolving limited NRD claims at the Paulsboro facility and 15 other facilities, as well as all ExxonMobil service stations where MTBE was not discharged and there is effectively little or no damage. The total value of those facilities and service stations is assessed by the DEP at approximately \$5 million, making the value of any potential future recovery far outweighed by the cost to taxpayers to litigate these minor claims.
- Preserves claims against ExxonMobil for the Lail facility in Gloucester County, which requires further investigation of the impact of the company’s operations on natural resources.
- Requires ExxonMobil to remediate Morses Creek at the Linden refinery site once its operations conclude. ExxonMobil is conducting a remedial alternatives analysis, or feasibility study, to identify all other action objectives, potential treatment, resource recovery and containment technologies in lieu of final remedy determination. The first phase of the company’s Feasibility Study Workplan was submitted on Jan. 28. In the meantime, refinery operations have already undergone containment and remediation actions and the refinery is operating today in full compliance with all DEP standards and regulations, including all water discharge and air permits, as detailed here:
 - Morses Creek is a natural waterbody that flows through the Linden site. The area between the Creek’s two dams were used for decades by ExxonMobil as a location for oil and water to separate. Under the state’s supervision, interim remedial measures have been taken at the site by ExxonMobil to prevent further groundwater contamination, including the installation of steel sheeting along banks of the creek, hydrologic controls and product recovery wells.

The posted proposed settlement, which includes instructions on where and how to submit comments, can be found at: <http://www.nj.gov/dep/nrr/settlements/index.html>

Once the 60-day 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. During the public comment period, interested parties, stakeholders, and members of the public may submit comments.

The State filed its lawsuit in 2004. In 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.

ExxonMobil has never acknowledged responsibility for any natural resource damages, and the proposed settlement extinguishes Exxon's right to appeal those liability determinations as well as Exxon's right to appeal any damages that may have been awarded by the Court.

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