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ExxonMobil Charged in Boston Harbor Oil Spill

Corporation to Pay $6 Million for Criminal Violation of the Clean Water Act

BOSTON, MASS. - A criminal information was filed today in federal court charging a wholly owned subsidiary of ExxonMobil Corporation with violating the criminal provisions of the Clean Water Act in connection with a spill of approximately 15,000 gallons of diesel oil into the Mystic River from ExxonMobil's oil terminal in Everett, Mass.

United States Attorney Michael J. Sullivan, Stacey Mitchell, Chief, Environmental Crimes Section, Michael Hubbard, Special Agent in Charge of the Environmental Protection Agency's Criminal Investigation Division in New England, and Rear Admiral Dale Gabel, Commander First Coast Guard District, U.S. Coast Guard, announced today that ExxonMobil Pipeline Company has been charged with a criminal violation of the Clean Water Act in connection with the January 2006 spill and has signed a plea agreement in which it will pay a total monetary payment of more than $6.1 million and agree to have the Everett terminal monitored by court appointed observer. The plea agreement is subject to court approval.

As set forth in the Information, since 1929 ExxonMobil Corporation and its corporate predecessors have owned a marine distribution terminal in Everett, Mass. (the "Everett Terminal"), where oil tankers deliver petroleum products that are distributed from the terminal throughout the region. The named defendant in the case, ExxonMobil Pipeline Company, is a wholly owned subsidiary of, and operates the facility on behalf of, ExxonMobil Corporation.

The Everett Terminal included an inland "tank farm," which was comprised of a tank loading rack and 29 large-scale oil storage tanks in which oil products were stored. Various above-ground pipes and valves connected those tanks to the Terminal's marine transfer area located at the confluence of the Mystic and Island End Rivers. The Island End River flows into the Mystic River, which flows into Boston Harbor. Both rivers are navigable waterways of the United States.

As depicted in the attached diagram, the Terminal's marine transfer area was comprised of three berths (Berths 1, 3 and 4). Barges and ships offload petroleum products that were piped to and stored in the tanks within the tank farm. Those products were then piped to the Terminal truck loading rack, where they were loaded onto trucks for distribution. Berth 1 is an approximately 500-foot long pier that extended southwesterly from the Everett shoreline and ran parallel to the Island End River. Berths 3 and 4 were situated side-by-side on an approximately 1000 foot dock that ran from the outermost end of Berth 1 northwesterly to the Everett shoreline, parallel with the Mystic River, with Berth 3 being closer to Berth 1.

The product receipt lines at Berth 1 ran parallel to the Berth 1 dock to approximately the point where the Berth1 dock met the Berth 3 dock, and from that point those lines ran parallel to the Berth 3 dock, where they ultimately were connected to the Berth 3 product receipt lines. The Berth 1 product receipt lines were isolated from the Berth 3 product receipt lines by seal valves, which were designed to prevent product being offloaded at Berth 3 from flowing into the Berth 1 product receipt lines.

The Everett Terminal was operated and maintained by a staff of approximately 14 employees situated in an office building adjacent to the tank farm and just north of the marine transfer facility. The regular Terminal staff consisted of a terminal superintendent, terminal supervisor, nine terminal operators who covered the Terminal's 24-hour operations, electrician, mechanic and accountant. At any given time, at least two terminal operators were on duty. Additional Terminal support was provided by a field operations specialist, an area administrator and an area engineer.

ExxonMobil was responsible for the proper operation and maintenance of the facility. These responsibilities entailed, among other duties, monitoring the Terminal, and when necessary, cleaning, repairing, and replacing, as appropriate, worn or damaged equipment, including pipes, valves, docks, and tanks. Likewise, ExxonMobil was responsible for monitoring the transfer of petroleum products at each point in the process: from delivery at the marine transfer area, through the receipt and storage of those products in the tank farm, and to the loading of the products onto trucks at the truck loading rack. It was therefore necessary that facility employees remain alert to pressure drops or spikes during transfer operations and to monitor the site visually for spills, hazards or other irregularities.

At approximately 4:30 A.M. on Jan. 9, 2006, the oil tanker *M/V Nara* docked at Berth 3 to unload petroleum products, including approximately 3.1 million gallons of low sulfur diesel (LSD) fuel, which is blue-green in color and is used as fuel in various types of engines. Later that morning, hoses running from the *Nara*'s tanks were attached to a product intake manifold on Berth 3. By mid-afternoon, pumps aboard the *Nara* began to pump LSD fuel from the vessel through the manifold into a product receipt line that was connected to storage tanks on the tank farm. As it was being pumped from the *Nara*, the LSD flowed past a 10-inch seal valve located on Berth 3, which closed off a product receipt line from Berth 1. As a result of wear and tear, the valve did not close completely and leaked oil into the Berth 1 product receipt line.

ExxonMobil was aware of this defect. In September 2005, a contractor pressure-tested the value and informed ExxonMobil that it leaked. Nevertheless, ExxonMobil had failed to replace the valve by the time the *Nara* arrived in January 2006. As a result, LSD pumped from the *Nara* leaked by the defective valve into the Berth 1 product receipt line. The line was approximately 610 feet long and 10 inches in diameter, and was filled with approximately 2,500 gallons of low sulfur kerosene. At the other end of the line was a pressure relief valve capped by a 3/4-inch coupling. The coupling had not been replaced in more than 30 years, was unpainted and was badly corroded.

As the *Nara's* delivery continued, the leakage by the seal valve on Berth 3 built pressure in the Berth 1 product receipt line until the coupling on Berth 1 burst. The rupture sent the kerosene in the pipe, along with LSD from the *Nara*, pouring through the destroyed coupling into a rectangular containment pan on Berth 1, as depicted in the attached photograph. The fuel filled the containment pan and began to spill over its side and into the Mystic River below. The spill continued until approximately 5:00 A.M. on January 10, when pumping from the *Nara* ended.

A total of approximately 2,500 gallons of kerosene and 12,700 gallons of LSD poured into the Mystic River, causing a visible blue-green sheen on the Mystic River that eventually spread up the Island End River and down to Boston Harbor, and prompting several reports to the Coast Guard. ExxonMobil personnel did not discover the ruptured coupling and the full containment pan on Berth 1 until approximately 11:00 A.M. on January 11, when the Coast Guard arrived at the facility to ask questions about the origin of the sheen.

ExxonMobil's negligent failure to provide adequate resources and oversight to the maintenance and operation of the Everett terminal was a direct cause of the spill. In particular, ExxonMobil negligently failed to replace the leaking seal valve on Berth 3, and to replace the unpainted and corroded coupling at Berth 1, which ruptured as a result of the leakage and pressure build-up in the product receipt line.

ExxonMobil also negligently allowed the spill to continue after it should have been discovered by failing adequately to monitor the transfer operations from the *Nara*. Although ExxonMobil's employees were required to perform regular walk-through inspections of the berths, they failed to do so while the containment pan was spilling LSD into the Mystic River. Because the segment of the walkway over the containment pan was partially submerged when the pan filled, a routine walk-through of the berth, had one been performed,

inevitably would have resulted in the detection of the spill while it was still occurring.

As part of its plea agreement, ExxonMobil has agreed to pay the maximum possible fine of $359,018 (twice the cost of the clean up), the clean up costs of $179,634, and a community service payment of $5,640,982 to the North American Wetlands Conservation Act fund to be used to restore wetlands in Massachusetts. Fine monies from the prosecutions in the Buzzards Bay oil spill case and the recent Overseas Shipholding Group prosecution were directed into this fund where they were, and are continuing to be, used in wetlands restoration projects in Massachusetts. ExxonMobil further agreed that for the next three years, the Everett facility will be monitored by an court-appointed official and will be subject to a rigorous environmental compliance program.

The case was investigated by the Environmental Protection Agency. It is being prosecuted by Assistant U.S. Attorney Jonathan F. Mitchell of Sullivan's Economic Crimes Unit, Special Assistant Attorney Andrew Lauterback of the EPA, Special Assistant United States Attorney Russell E. Bowman, LCDR, USCG, and Gary Donner and Malinda Lawrence, Trial Attorneys, Environmental Crimes Section, U.S. Department of Justice.

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