

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

STATE OF MARYLAND, DEPARTMENT
OF THE ENVIRONMENT

Plaintiff,

v.

EXXON MOBIL CORPORATION

Defendant.

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AMD 07 CV 3045

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CONSENT DECREE

This Consent Decree is entered into between the Maryland Department of the Environment (MDE) and Exxon Mobil Corporation including its former division Exxon Company U.S.A. (“ExxonMobil”), pursuant to the authority vested in the Secretary of MDE and authority delegated to the Director of the Waste Management Administration by Title 4 of the Environment Article of the Annotated Code of Maryland and the Code of Maryland Regulations (“COMAR”) 26.10 to regulate oil pollution in the State of Maryland. This decree is also entered into pursuant to the authority vested in MDE as a “citizen” under § 7002 (a)(1)(B) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6972 (a)(1)(B).

I. BACKGROUND

1. ExxonMobil owns, leases and has owned or leased several parcels of land totaling approximately 92.34 acres in South Baltimore collectively known as the “Baltimore Terminal”, (hereinafter “Site”). From the late 1800’s through 1957, these parcels were used for refining, storing and distributing petroleum products. The refinery was a key fuels production facility during World Wars I and II. From 1957 through 1998 the Main Terminal and Toone Street

parcels were used for storage and distribution of petroleum products. MDE alleges that the soil of some parcels contains petroleum products and light non-aqueous phase liquid (“LNAPL”) in the “Upper Zone” and under some parcels, LNAPL is present in a deeper confined zone known as the “Lower Zone.”

2. ExxonMobil voluntarily signed and pursued, and continues to pursue remediation pursuant to an Administrative Consent Order signed on April 9, 1997 (No. 90-2205 BC 4). ExxonMobil has satisfactorily performed the requirements of the Administrative Consent Order. To date, the Warehouse Parcel, the Dock Parcel and Parcels 7, 8, 9, 10, and 11 have been remediated and No Further Action (“NFA”) letters have been issued by MDE. The Warehouse Parcel, the Dock Parcel and Parcels 7, 8, 9, 10, and 11 have been sold by ExxonMobil and returned to commercial use. Those parcels now contain multiple structures, including a large seventeen-story office building, several small restaurants, a gymnasium, a bank, parking lots, and other commercial enterprises. This property is now being considered for the Phoenix award, which recognizes significant redevelopment of urban areas. ExxonMobil has continued to actively pursue removal of surface and some subsurface structures, removal of piping, removal of asbestos, investigation of the scope of LNAPL, the installation of monitoring and recovery wells, removal of LNAPL, removal and/or treatment of soil, and treatment of associated recovered water at the remaining undeveloped parcels.

II. STATEMENT OF PURPOSE

3. MDE has brought this action and filed this Consent Decree to achieve a final and binding remedy and to resolve ExxonMobil’s environmental liabilities for oil contamination at the Site or that emanated from, the Site, and the parties settle this action and these liabilities by entering into this Consent Decree. It is the intent of MDE and ExxonMobil to use this Consent

Decree to memorialize the process to identify the extent of contamination at the Site or that emanated from the Site, and the process to evaluate, determine and implement remedial actions for the oil contamination at, and that emanated from, the Site. The mutual objective is to protect the public health and the environment. This shall be accomplished pursuant to the Work to be Performed Section IV of this Decree, and will allow ExxonMobil to work with developers to increase the commercial use of the Site.

III. PARTIES BOUND

4. This Consent Decree shall apply to and be binding upon MDE, and its officials, representatives, agents, and successors, and ExxonMobil, its authorized representatives, agents, officers, successors and assigns, and upon all persons, contractors and consultants acting under or on behalf of ExxonMobil. No change in ownership or legal status of ExxonMobil or ownership of the Site or part of the Site will in any way alter ExxonMobil's obligations under this Consent Decree.

5. In the event of any change in ownership or control of ExxonMobil, either through a sale of a majority of the assets, or other transfer of a majority interest, ExxonMobil shall notify MDE, in writing, within 180 business days following the Change, of the nature of the change and the effective date of the change. ExxonMobil shall provide an opportunity to review this Consent Decree to any persons or entities acquiring a majority interest in ExxonMobil prior to the change in ownership or control.

6. ExxonMobil may, through contract, lease, agreement of sale, or other instrument, transfer responsibility for performance of some or all of the work required under this Consent Decree to a third party, provided ExxonMobil remains liable for the oil contamination and work required to remediate such contamination in the event that the third party does not fully comply

with the terms of this Consent Decree to the satisfaction of MDE. Except as set forth herein, ExxonMobil must notify the MDE 10 days before entering into such an agreement with a third party. MDE may require that the third party agree to report directly to MDE, and shall approve the terms of any such transfer of responsibility to a third party. This paragraph is not intended to apply to ExxonMobil's retention of contractors or consultants to perform, or assist ExxonMobil in performing, the work.

IV. WORK TO BE PERFORMED

7. ExxonMobil shall propose Corrective Action Plans (CAPs) and implement approved CAPs for the entire Site in accordance with this Consent Decree. All CAPs shall propose remediation that is protective of human health and the environment. ExxonMobil agrees that this work shall proceed in the following six Work Units as identified on the attached maps (which shall be drawn to scale and clearly identify each Work Unit):

1. The Main Terminal Upper Zone;
2. Toone Street Tank Field Upper Zone;
3. Offsite Upper Zone (including the Canton Railroad property);
4. 14th Street Upper Zone;
5. Janney Run (In the vicinity of the 14th Street Parcel);
6. Baltimore Terminal Lower Zone (Hereinafter "Lower Zone", includes Main Terminal, Toone Street, 14th Street Canton Railroad property and Offsite Lower Zone).

Main Terminal Upper Zone

8. ExxonMobil shall remediate the Main Terminal Upper Zone pursuant to a CAP, which has been submitted to and will be approved by MDE simultaneously with the execution of

this Consent Decree, and which is appended hereto as Attachment 1. The remedial goal is to remove LNAPL to the maximum extent practicable as determined by MDE. The work called for by the CAP shall be completed by Canton Crossing LLC and the remedial goal shall be achieved within 3 years of the date of approval of the CAP by MDE.

Toone Street Tank Field Upper Zone

9. ExxonMobil shall remediate the Toone Street Tank Field Upper Zone (hereinafter “Toone Street”), pursuant to a CAP which has been submitted to MDE and shall be approved by MDE simultaneously with the execution of this Consent Decree. Remediation may be completed by Canton Crossing LLC. The remedial goal is to remove LNAPL to the maximum extent practicable as determined by MDE. The remedial goal shall be achieved within three years of the date of approval of the CAP.

Off Site Upper Zone

10. Within 30 days of the effective date into this Consent Decree, ExxonMobil shall provide a report on “Off Site Ownership Upper Zone.” For all owners where access is required but where an access agreement has not already been reached, the report must list:

- a. Site name,
- b. Site owner,
- c. Address, and
- d. Owner contact information.

11. Within 180 days of the effective date of this Consent Decree, ExxonMobil shall prepare and submit to MDE a CAP for the Off Site Upper Zone. The remedial goal is to remove LNAPL to the maximum extent practicable as determined by MDE. The CAP shall:

- a. Document the results of the Site Conceptual Model developed during the site characterization activities. The Site Conceptual Model shall:
 - i. Document the site stratigraphic and hydrogeologic conditions; and
 - ii. Define the nature and extent of LNAPL within the Upper Zone.
- b. Evaluate the risk posed to human health and the environment. Key areas include:
 - i. LNAPL migration and recoverability;
 - ii. Current and future use of the property;
 - iii. Human exposure pathways such as inhalation, ingestion, and dermal contact
 - iv. Ecological exposure
 - v. Impact to utilities or other buried services including potential LNAPL migration pathways and vapor migration pathways; and
 - vi. Other sensitive receptors
- c. Identify and evaluate remedial goals and alternatives to mitigate unacceptable risks, including by use of engineering controls.
- d. Propose a preferred remedial alternative; MDE must approve the final remedy.
- e. The remedial goal shall be achieved within four years of the date of approval of the CAP by MDE.

14th Street Upper Zone

12. Within 180 days of the effective date of this Consent Decree, ExxonMobil shall prepare and submit to MDE a CAP for the 14th Street Upper Zone. The remedial goal is to remove LNAPL to the maximum extent practicable as determined by MDE. The CAP shall:

- a. Document the results of the Site Conceptual Model developed during the site characterization activities. The Site Conceptual Model shall:
 - i. Document the site stratigraphic and hydrogeologic conditions; and,
 - ii. Define the nature and extent of LNAPL.
- b. Evaluate the risk posed to human health and the environment. Key areas include:
 - i. LNAPL migration and recoverability;
 - ii. Current and future use of the parcel;
 - iii. Human exposure pathways such as inhalation, ingestion, and dermal contact;
 - iv. Ecological exposure;
 - v. Impact to utilities or other buried services including potential LNAPL migration pathways and vapor migration pathways; and,
 - vi. Other sensitive receptors.
- c. Identify and evaluate remedial goals and alternatives to mitigate unacceptable risks including the use of engineering controls.
- d. Propose a preferred remedial alternative; MDE shall approve the final remedy.

The remedial goal shall be achieved within two years of the date of approval of the CAP by MDE.

Janney Run (in the vicinity of the 14th Street Parcel)

13. Within 180 days of the effective date of this Consent Decree, ExxonMobil shall submit for MDE's approval a comparative analysis of potential alternative remedial measures to permanently prevent LNAPL and petroleum vapor intrusion into the stormwater system known as Janney Run from property currently or formerly owned by ExxonMobil ("Alternative Remedies Analysis"). The Alternative Remedies Analysis shall include multiple approaches designed to prevent the entry of LNAPL into Janney Run as necessary to eliminate all future oil impacts. Upon MDE approval of the Alternative Remedies Analysis, ExxonMobil shall conduct pilot testing of the possible remedies. Within two years of the start of such pilot testing, ExxonMobil shall submit for MDE's approval a written evaluation of the Alternative Remedies Analysis, including the results of the pilot testing. ExxonMobil may recommend its preferred remedy but MDE shall approve the remedy.

14. ExxonMobil shall have 120 days after MDE approval of the remedy to submit for MDE's approval a CAP that sets forth the implementation of the remedy to permanently prevent the entry of LNAPL into Janney Run from property currently or formerly owned by ExxonMobil and eliminate all future oil impacts from property currently or formerly owned by ExxonMobil to the Janney Run system. ExxonMobil shall complete the implementation of the approved remedy within the timeframe set forth in the CAP approved by MDE. In the event that none of the proposed solutions tested during the pilot study is successful, or if the approved remedy as implemented does not eliminate all future oil impacts to the Janney Run system from property

currently or formerly owned by ExxonMobil, then MDE reserves the right to require that ExxonMobil evaluate and implement additional solutions.

Lower Zone

15. The Lower Zone shall be evaluated, characterized and remediated according to the terms of a Site Characterization Plan and a CAP. Recovery actions shall remove LNAPL at the optimal rate as regularly determined by ExxonMobil. The recovery rate shall be monitored by ExxonMobil, discussed with MDE and is subject to MDE's approval. The remedial goal is to remove LNAPL to the maximum extent practicable, as determined by MDE. The process that ExxonMobil shall use in evaluating, characterizing and remediating the Lower Zone is outlined in the "Work Process Flow Chart Lower Zone Delineation and LNAPL Recovery" attached hereto and incorporated by reference as Exhibit A. The process that ExxonMobil shall use to determine the appropriate well placement and well density to achieve the stated remedial goal is outlined in the "Recovery Optimization Process – Lower Zone" flow chart attached hereto and incorporated by reference as Exhibit B.

16. **Interim Corrective Action.** In addition to the ongoing corrective activities and within 90 days of the effective date of this Consent Decree, ExxonMobil shall submit an Interim Corrective Action Plan for MDE approval. The Interim Corrective Action Plan shall document the planned additional LNAPL recovery from the Canton Trade property and the installation of wells on the Toone Street and Main Terminal parcels for LNAPL recovery pilot testing and the evaluation of the Site Conceptual Model. During the interim phase, ExxonMobil shall:

- a) Convert four existing monitoring and convert two temporary recovery wells on the Canton Trade property to permanent recovery wells within

one year of the effective date of this consent decree, pending access approval;

- b) Install recovery system piping under Boston Street and the railroad tracks within one year of the effective date of this Consent Decree, pending access approval, so the recovery systems installed on the Canton Trade wells can be directly connected to storage tanks on the 14th Street parcel;
- c) Install five new potential recovery wells on the Toone Street parcel and one on the Main Terminal parcel, pilot test LNAPL recovery and evaluate the effectiveness of using these wells for optimal LNAPL recovery within one year of the effective date of this Consent Decree.

All wells will be installed consistent with, and to evaluate, the Site Conceptual Model that has been developed by ExxonMobil. The Site Conceptual Model is subject to ongoing refinement by ExxonMobil and MDE and subsequent review by MDE.

17. **Site Characterization.** Within 120 days of the effective date of this Consent Decree, ExxonMobil shall submit to MDE for approval a plan to complete Site Characterization. The Site Characterization Plan must delineate the nature and extent of LNAPL in the Lower Zone and refine the Site Conceptual Model. The Plan shall include an endpoint for completing the characterization work no longer than one year from the date of MDEs approval of the Plan, unless additional work is required by MDE. ExxonMobil shall at that time submit a report characterizing the Lower Zone.

18. **Corrective Action Plan.** Within 180 days of completion of the Site Characterization of the Lower Zone and submission of ExxonMobil's report, ExxonMobil shall submit for approval by MDE a CAP for the Lower Zone. ExxonMobil shall implement the CAP

upon receiving approval from MDE. The remedial goal is to remove LNAPL to the maximum extent practicable as determined by MDE. The CAP shall:

- a. Document the results of the Site Conceptual Model developed during the site characterization activities. The Site Conceptual Model shall;
 - i. Document the site stratigraphic and hydrogeologic conditions; and,
 - ii. Define the nature and extent of LNAPL within the Lower Zone.
- b. Evaluate the risk posed to human health and the environment. Key areas include:
 - i. LNAPL migration and recoverability;
 - ii. Current and future use of the parcel;
 - iii. Human exposure pathways such as inhalation, ingestion, and dermal contact
 - iv. Ecological exposure;
 - v. Impact to utilities or other buried services including potential LNAPL migration pathways and vapor migration pathways; and
 - vi. Other sensitive receptors
- c. Present the design and layout of a recovery system(s) that will remove LNAPL at the optimal rate of recovery, including presenting all data from the Site Conceptual Model on which the proposed recovery system(s) is based;
- d. List major milestones, and
- e. Actions to achieve the remedial goal.

ExxonMobil shall review actions and accomplishments related to the CAP with MDE at regular technical meetings held at least every two years, from the date of the approval of the CAP. If MDE determines that 1) the Site Conceptual Model proves ineffective in placing the optimal number of recovery wells and determining the optimal recovery rate to achieve the remedial goal, or 2) that ExxonMobil is not adequately implementing the CAP, then MDE reserves the right to require ExxonMobil to take further action.

Closure Plan. ExxonMobil shall submit a closure plan that addresses recovery system decommissioning when ExxonMobil believes that the optimal recovery of LNAPL from individual wells and parcels in the Lower Zone has been achieved. If MDE concurs, it shall approve the closure plan.

V. **GENERAL TERMS**

19. MDE shall respond to submitted CAPs with comments and any proposed changes within 60 days of receipt. ExxonMobil shall submit revised CAPs to MDE within 30 days thereafter. Once MDE is satisfied with a CAP, MDE shall approve it in writing as soon as possible, but not later than within 30 days of receipt of proposed changes. Within 90 days of MDE approval of any CAP, ExxonMobil shall commence implementation of that CAP. Implementation shall be performed in the time and manner set forth in the approved CAP, and any approved amendment or modification to such CAPs.

20. Based on good cause shown, MDE shall approve revised endpoints, completion dates, deadlines submission dates and/or schedules under this CD or the plans submitted pursuant thereto. "Good cause" shall include, but not be limited to, additional data or engineering analysis developed during characterization, development or implementation of a CAP that demonstrates

that the work cannot be completed according to the approved schedule, submission date, or endpoint.

21. “LNAPL Saturated Soil” shall mean any and all soil in which free-phase petroleum can be observed by gravity drainage, including visible petroleum on an excavator bucket or split spoon sampling device, petroleum drainage from excavated materials, and visible petroleum showing in a “baggie-test.”

22. All wells shall be gauged according to a schedule set forth in the relevant CAP. Recovery activities may be discontinued in an individual well, quadrant, or defined area approved by the MDE when product recovery is completed in accordance with approved CAPS. Individual wells, or all wells in a defined area approved by MDE, may be abandoned after receiving written approval from MDE.

23. Once ExxonMobil or its assignee or designee completes the work required by any CAP, MDE will issue a no further action letter for the work unit covered by that CAP.

VI. PROJECT COORDINATORS

24. Within two (2) weeks after the effective date of this Consent Decree, ExxonMobil and MDE shall each designate a Project Coordinator. ExxonMobil and MDE shall each notify the other, in writing, of the Project Coordinator it has selected. Each Project Coordinator shall be responsible for overseeing the implementation of this Consent Decree. The MDE Project Coordinator will be the primary designated ExxonMobil and MDE and all documents, reports, approvals and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Decree, shall be directed through the Project Coordinators.

25. ExxonMobil and MDE agree to provide at least one week’s written notice prior to changing Project Coordinators.

26. If the MDE Project Coordinator determines that activities undertaken pursuant to this Consent Decree have caused or may cause a release or threatened release of petroleum products, which threaten or may pose a threat to the public health or a significant threat to the environment, the MDE Project Coordinator may direct ExxonMobil to stop further implementation of the activity for such period of time as may be needed to abate any such release or threatened release or to undertake any action which MDE determines is necessary to abate such release or threatened release.

27. If the Work is delayed by direction of the MDE Project Coordinator, the schedule for completion of the work shall be extended by the time period of the delay, provided, however, if the MDE Project Coordinator suspends the work and the reasons are due to the negligent or willful acts or omissions of ExxonMobil, or its contractor(s), then any extension of the schedule of completion shall be at the discretion of MDE.

28. Minor technical modifications in the studies, techniques, procedures or designs utilized in carrying out this Consent Decree ("Minor Technical Modifications"), which do not alter or affect in any way the substance of this Decree, and which are consistent with the objectives of this Decree and necessary to the completion of the project, may be made by mutual agreement of the Project Coordinators. Such Minor Technical Modifications shall be memorialized by letter by the Project Coordinators and shall have as an effective date the date on which the Parties sign the letter. Any Minor Technical Modifications approved by MDE shall be deemed incorporated into and part of this Decree.

29. The physical presence of the MDE Project Coordinator at the site shall not be necessary for the work to continue.

VI. ACCESS TO THE SITE

30. MDE and any authorized representatives of MDE, including contractors, are authorized to enter and freely move about the Site, subject to the rights of quiet enjoyment held by any tenants on the Site, at all reasonable times for the purposes of, inter alia, interviewing each Party's personnel or contractors performing work under this Consent Decree, inspecting non-privileged and non-draft records related to work performed hereunder, reviewing the progress of ExxonMobil in carrying out the terms of this Consent Decree, conducting such tests, sampling or monitoring as MDE deems necessary, using a camera, sound recording or other documentary-type equipment, and verifying reports and data submitted to MDE by ExxonMobil. ExxonMobil shall permit such representatives of MDE to inspect and copy non-privileged and non-draft records, files, photographs, documents, other writings, and sampling and monitoring data that pertain to the work undertaken pursuant to this Consent Decree. Nothing herein shall be interpreted as limiting the inspection authority of MDE under Maryland law. MDE agrees that it and its representatives will obtain written permission from each individual whose voice or likeness is recorded or captured via video, picture or by other means, and MDE shall provide duplicate of all images, copies, recordings and samples to ExxonMobil, and will comply with all applicable laws, regulations, ordinances, or procedures related to access to the Site, including, but not limited to, all security laws, regulations, and procedures, and any Site-related health and safety protocols and procedures established for the Site.

31. To the extent that work required by this Consent Decree, or any plans submitted hereunder, must be conducted on property that is not owned by ExxonMobil, ExxonMobil shall use its reasonable best efforts to obtain access agreements from the present owner(s) and/or lessee(s), as appropriate, of such property within 60 days of receipt of notice of MDE approval of

any plan submitted hereunder requiring such work. "Reasonable best efforts," as used in this Section shall include, at a minimum, but shall not be limited to, ExxonMobil sending a certified letter to the present owner(s) and/or lessees of such property requesting access agreements to permit ExxonMobil and MDE and their authorized representatives to enter such property. ExxonMobil shall, upon request, provide MDE with copies of all access agreements or such written request for property access for the purpose of performing sampling, monitoring, investigation or corrective actions.

32. In the event that access agreements cannot be obtained within the time period set forth in Paragraph B. ExxonMobil shall promptly notify MDE in writing, indicating all efforts made to obtain such agreements, and MDE may, consistent with its legal authority, assist ExxonMobil in obtaining access. In the event that MDE obtains such access, ExxonMobil shall be obligated to reimburse MDE for any costs judicially awarded or reasonably incurred in the exercise of its authority. If MDE does not provide such access, the approved scope of work or plan shall be modified by mutual agreement

VIII. SAMPLING and MONITORING

33. ExxonMobil shall submit to MDE the results of all sampling and/or tests or other data generated by, or on behalf of Parties pursuant to work performed at the Site. The Project Coordinator for MDE may limit the scope of submission of data.

34. ExxonMobil shall notify MDE at least seven (7) days before engaging in any field activities related to sampling at the Site, such as well drilling, installation of equipment or sampling, unless an emergency makes advance notice impracticable. Submission of a monthly or quarterly calendar showing dates on which samples will be taken will serve as notice for all samples taken in accordance with the calendar. At the request of MDE, ExxonMobil shall

provide, or allow MDE or its authorized representatives to take, split or duplicate samples of any samples collected by the Parties. Similarly, at the request of ExxonMobil, MDE shall allow ExxonMobil to take split or duplicate samples of any samples collected by MDE. MDE shall notify ExxonMobil at least seven (7) days before conducting any sampling, unless an emergency makes advance notice impracticable.

35. Nothing herein shall be interpreted as limiting the sampling authority of MDE under any federal or state law.

36. Progress reports shall be submitted to MDE as called for in the CAPS and shall include but not limited to a detailed summary of activities performed, sampling, monitoring and recovery data collected during the period and a site map identifying well locations and site map indicating the maximum product thickness in a well and a record of LNAPL saturated soil removed and treated or transported off-site.

37. Recovery system performance shall be tracked regularly and systems shall be maintained to ensure maximum operational efficiency. Recovery system performance shall be reported to MDE via reports submitted per the CAPs.

38. LNAPL saturated soil excavated shall be stored on and covered with plastic until the soil is treated on site or transported to an approved soil recycling facility. Petroleum odors and LNAPL emanating from petroleum contaminated soil excavation or soil storage pile that is a nuisance or causes complaints from area residents, businesses or the public shall be immediately investigated and abated. Any petroleum odor complaint received by ExxonMobil shall be immediately reported to the MDE Project Manager.

39. All oil run-off shall be contained and immediately removed for proper treatment and disposal. A record of the amount of liquid recovered shall be reported in the reports submitted per the CAPs.

IX. REIMBURSEMENT OF OVERSIGHT AND RESPONSE COSTS

40. In accordance with Environment Article 54-41 1, ExxonMobil agrees to reimburse MDE for reasonable and necessary response and oversight costs incurred by MDE or its authorized representatives to the extent that: (a) such costs are incurred in direct oversight of ExxonMobil's performance of work and required monitoring under this Consent Decree from the date the Consent Decree is effective until completion of the work thereunder; (b) such costs are not inconsistent with Maryland law; and (c) do not exceed \$100,000.00 per year.

41. MDE will quarterly submit to ExxonMobil an accounting of all response and oversight costs incurred by MDE and its authorized representatives with respect to this Consent Decree. Failure to submit an accounting in one fiscal year does not prevent MDE from submitting an accounting for that year in a subsequent fiscal year. ExxonMobil shall, within seventy-five (75) days of receipt of each accounting, remit payment to MDE for any undisputed costs, provided that MDE has submitted to ExxonMobil the necessary information.

42. ExxonMobil agrees to limit any disputes concerning MDE response and oversight costs to (i) accounting errors; (ii) the inclusion of costs outside the scope of this Consent Decree; (iii) costs inconsistent with Maryland law. ExxonMobil shall identify any contested costs and the basis of their objections and shall submit the same in writing to MDE within one hundred eighty (180) days of receipt of any accounting from MDE. Upon MDE's receipt of notice of disputed costs, ExxonMobil and MDE shall engage in good faith negotiations for a period of one hundred

eighty (180) days before ExxonMobil or MDE may invoke the Dispute Resolution Section of this Consent Decree.

X. STIPULATED PENALTIES

43. Unless there has been a written modification of a requirement of this Consent Decree by MDE, or excusable delay as defined in Section XIV of this Consent Decree, MDE may assess stipulated penalties for failure to meet any endpoint set forth in this Consent Decree, or any deadline set forth in an MDE-approved work plan adopted pursuant to this Consent Decree, in the following amounts: \$1000.00 per day for the first 120 days of noncompliance; and \$5,000.00 per day for each day of noncompliance thereafter.

44. ExxonMobil shall be liable for penalties incurred for violations of Maryland law and regulations governing operations at the Site according to the same schedule set forth in the preceding paragraph. As to such violations, however, MDE shall issue a Notice of Violation with a specific deadline for cure. If the deadline is met, no penalty may be assessed.

45. All penalties that MDE shall choose to assess shall begin to accrue on the date that complete performance was due or a violation occurs and shall continue to accrue through the final day of noncompliance, excluding any period of dispute resolution. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Decree, except that ExxonMobil shall not be subject to stipulated penalties if the delay in submitting a deliverable is based on a lack of action by MDE in response to a prior submission which requires MDE approval before ExxonMobil can proceed.

46. All penalties owed to MDE under this Section shall be due within sixty (60) days after receipt of a notification of noncompliance from MDE. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Stipulated penalties shall be paid

by check made payable to “Maryland Oil Disaster Containment Clean-up and Contingency Fund,” c/o Administrator, Oil Control Program, P.O. Box 1417, Baltimore, MD 21203-1417, and shall reference the caption of this Consent Decree.

XI. NO ADMISSIONS OR WAIVERS

47. This Consent Decree is understood and intended by the parties to be without any admission of liability or fact, and nothing in this Consent Decree shall be considered as an admission by either Party in these proceedings. Nothing contained herein shall constitute a waiver of the rights of MDE to proceed in an administrative or judicial civil action for violations of the terms of this Consent Decree, or of applicable statutes or regulations. MDE may bring any action authorized by law to enforce this Consent Decree.

XII. NO THIRD PARTY BENEFICIARIES

48. This Consent Decree does not and is not intended to create any rights or benefits for any third party. No third party shall have any legally enforceable rights or benefits under this Consent Decree, nor shall any third party have any rights to enforce the terms of this Consent Decree.

XIII. NOTIFICATION

49. Unless otherwise specified, all work plans, reports, correspondence, approvals, notices, or other submissions required by or relating to this Consent Decree shall be in writing and shall be sent by any of the following methods: (a) hand delivery; (b) first class mail; (c) facsimile; (d) email; or (e) overnight mail by private courier. Notice shall be deemed delivered on the day on which it was received by the last recipient to which notice was addressed. Notice shall be sent to the following:

If to MDE:

Herbert M. Meade, Program Administrator
Oil Control Program
Maryland Department of the Environment
1800 Washington Blvd
Baltimore, MD 21230
410-537-3442 (telephone)
410-537-3092 (fax)
hmeade@mde.state.md.us

and

Matthew Zimmerman
Assistant Attorney General
Maryland Department of the Environment
1800 Washington Blvd., Suite 6048
Baltimore, MD 21230
410-537-3452 (telephone)
410-537-3943 (fax)
mzimmerman@mde.state.md.us

If to ExxonMobil:

Tom Aruta
ExxonMobil Corporation
1545 Route 22 East
Suite CCM 31
Annandale, New Jersey 08801
908-730-2565 (telephone)
908-730-2505 (fax)
thomas.j.aruta@exxonmobil.com

Mark A. Zuschek
Law Department
ExxonMobil Corporation
3225 Gallows Road
Suite 3D 2 1 10
Fairfax, VA 22037
703-846-2793 (telephone)
262-313-2245 (fax)
mark.a.zuschek@exxonmobil.com

XIV. FORCE MAJEURE AND EXCUSABLE DELAYS

50. ExxonMobil shall perform the requirements of this Consent Decree in the manner and within the time limits set forth herein, unless the performance is delayed by events or circumstances arising from causes not reasonably foreseeable and beyond the reasonable control of ExxonMobil, which cannot be avoided or overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Decree.

51. Circumstances beyond the reasonable control of ExxonMobil include, without limitation, earthquake, flood, hurricane, severe weather or other act of God; war; riot; injunction; fire; labor stoppage; freight embargo; material shortages; appropriation of funding by the Maryland General Assembly, and compliance with any law, rule, or Decree of any governmental body, either existing now or hereafter created, that conflicts with the requirements or obligations of this Consent Decree. Such circumstances do not include increased costs of performance, changed economic circumstances, normal inclement weather, or failure to obtain federal, state, or local permits, unless ExxonMobil has made timely and complete application for such permits.

52. Within ten (10) working days after becoming aware that an event that ExxonMobil believes constitutes an unforeseeable event or circumstance beyond their reasonable control that may prevent or delay performance of an obligation under this Consent Decree, ExxonMobil shall notify MDE of such event.

53. If MDE determines that the event or anticipated event which has caused or will cause the delay constitutes an unforeseeable event or circumstance beyond the control of ExxonMobil, the time for performance hereunder shall be extended for an appropriate period of time as determined by MDE, but not less than a period of time substantially equal to the length

of the necessary delay, and any stipulated penalty shall not accrue. MDE shall inform ExxonMobil in writing of its approval.

54. In the event that ExxonMobil and MDE cannot agree that any delay or failure has been or will be caused by unforeseeable events or circumstances beyond the control of ExxonMobil, or if there is no agreement on the length of the extension, the dispute shall be resolved in accordance with Section XV herein.

XV. DISPUTE RESOLUTION

55. The dispute resolution procedures of this Section shall be the exclusive mechanism for ExxonMobil to raise and resolve disputes arising under or with respect to this Consent Decree. Nothing herein shall be construed to prohibit MDE from exercising any other remedy available at law or in equity to enforce the terms of this Consent Decree.

56. Any dispute that arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between MDE and ExxonMobil in an attempt to resolve the dispute in a good faith and expeditious manner. A dispute shall be considered to have arisen when one party sends all other parties a written Notice of Dispute.

57. The parties shall have thirty (30) days following receipt of a Notice of Dispute to reach agreement. ExxonMobil shall be entitled to jointly meet with the Director of MDE Waste Management during this thirty (30) day period. If the parties cannot reach agreement on the disputed issue, the Parties shall serve on one another a written statement setting forth its proposed resolution of the dispute within fifteen (15) days after the expiration of the thirty (30) day period. The dispute shall be resolved in accordance with MDE's proposed resolution unless, within 30 days after receipt of such proposed resolution, ExxonMobil files a petition for resolution of the dispute with the Court. Any such petition shall describe the nature of the dispute

and the petitioner's proposal for resolution of the dispute. MDE shall have 30 days after service of such petition to file a response to the petition and shall set forth its proposal for resolution of the dispute.

58. This Court shall have exclusive jurisdiction to resolve any dispute arising between or among the parties with respect to matters within the scope of this Consent Decree. With respect to the resolution of any dispute pursuant to a petition to the Court, the Court shall resolve the dispute in accordance with applicable law, and shall choose either ExxonMobils proposal for resolution of the dispute or MDE's proposal, but in no event shall the Court be precluded from holding evidentiary hearings, considering testimony, or otherwise making determinations of fact if it deems such to be appropriate.

XVI. RESERVATION OF RIGHTS

59. The signing of this Consent Decree and ExxonMobil's consent to comply shall not limit or otherwise preclude MDE from taking additional action pursuant to the powers granted to it under the Environment Article of the Maryland Code and the Code of Maryland Regulations or the Department's authority to enforce its hazardous waste program in lieu of federal enforcement under the Resource Conservation and Recovery Act, 42 U.S.C. 5 6901 et seq. (a) to address violations of laws or regulations not otherwise addressed by this Consent Decree; or (b) to reduce or eliminate risks to public health or the environment that were not known to MDE at the time of approval of this Consent Decree or at the time of approval of work to be performed hereunder.

60. This Consent Decree shall not be interpreted to relieve ExxonMobil of any obligation to comply with any federal or State environmental statute, the regulations

promulgated there under, or any applicable permits issued there under. This Consent Decree shall not be interpreted to be a permit or a modification of any existing permit.

XVII. EFFECTIVE DATE

61. The authorized designated representative of the Secretary of MDE shall sign this Consent Decree after it has been signed by the authorized designated representative of ExxonMobil. The effective date of the Consent Decree shall be the date it is signed by MDE and communicated to ExxonMobil.

IT IS SO DECREED this day 14th of Nov., 2007:



Judge

ANDRE M. DAVIS
U.S. DISTRICT JUDGE

This Consent Decree is agreed to and the terms and conditions herein consented to:

Signature Page for Consent Decree in:
Maryland Department of the Environment v. Exxon Mobil Corporation

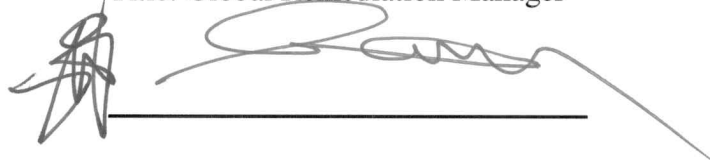
EXXON MOBIL CORPORATION

By: Andrew Warrell

Title: Global Remediation Manager

Date

11/6/07



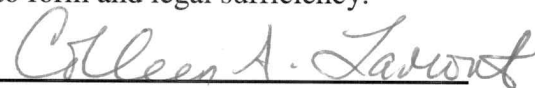
Signature Page for Consent Decree in:
Maryland Department of the Environment v. Exxon Mobil Corporation

MARYLAND DEPARTMENT OF THE
ENVIRONMENT
By: Horacio Tablada
Title: Director, Waste Management Administration

Date Nov. 8, 2007



Approved this 8th day of November, 2007,
as to form and legal sufficiency.



Colleen A. Lamont
Assistant Attorney General