



THE STATE OF NEW JERSEY

DEPARTMENT OF LAW &amp; PUBLIC SAFETY

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**For Immediate Release:**

September 10, 2008

**For Further Information:**Lee Moore  
609-292-4791**Office of The Attorney General**- Anne Milgram, *Attorney General***Court: Exxon Created Nuisance by Polluting Refinery Sites - Judge Upholds State Natural Resource Damages Claim**[View Court Opinion in ExxonMobil Case \(830k PDF\)](#)

TRENTON -- A Superior Court judge has ruled that ExxonMobil Corporation is liable for causing a public nuisance by polluting the waterways, wetlands and marshes on and near its former refinery sites in Bayonne and Linden, Attorney General Anne Milgram announced today.

In ruling on part of a natural resource damage lawsuit filed on behalf of the Department of Environmental Protection, Superior Court Judge Ross R. Anzaldi found that ExxonMobil contaminated both sites through active disposal and accidental spilling of hazardous substances causing great damage. The specific amount of damages owed by ExxonMobil will be determined at trial.

Judge Anzaldi, who presides in Union County, found that soil and groundwater under the Bayonne site was heavily contaminated with approximately seven million gallons of oil -- ranging in thickness from 7-to-17-feet -- before cleanup operations began there in 1991. Oil refinery operations at Bayonne lasted from 1879 through 1972.

Anzaldi also found that a formerly-ExxonMobil-owned refinery in Linden known as Bayway discharged hazardous materials into Morses Creek for years under ExxonMobil's stewardship. The discharges resulted in extensive hydrocarbon contamination of both Morses Creek and the Arthur Kill, into which the creek flows. The court also found that former wetlands areas on and near the Linden site were contaminated with petroleum distillate residues. (Bayway refinery is currently owned and operated by Conoco Phillips.)

"This court decision is important in our ongoing effort to hold polluters accountable through litigation," said Attorney General Milgram. "We remain committed to working with DEP to have those who damage our environment held legally responsible, and to obtain compensation for natural resources lost to contamination."

"We are pleased with this ruling, which sends a clear message by affirming the public's fundamental right to be compensated when polluters harm natural resources," DEP Commissioner Lisa P. Jackson said. "Natural resource litigation is key to DEP's mission, resulting in more than \$55 million for ecological enhancement projects and protection of more than 6,000 acres of land."

In pursuing its case against ExxonMobil, the state argued that DEP has authority under the Public Trust Doctrine to protect the public's right to an uncontaminated environment.

This common law doctrine, state attorneys maintained, has allowed the state to provide public access to beaches and require developers of former wetlands along the Hudson River to provide a river walk with public access.

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Judge Anzaldi accepted the state's argument while rejecting ExxonMobil's contention that the state relinquished its trust interest in these natural resources when it conveyed grants to ExxonMobil and its predecessors in the late 19th and early 20th centuries.

Although ExxonMobil is involved in remediating the Bayonne and Linden sites under a 1991 Administrative Consent Order, the DEP filed its current lawsuit to require ExxonMobil to restore some of the onsite natural resources it damaged and destroyed by disposing of hazardous substances in wetlands and waterways, and to compensate the public for loss of natural resources from the time pollution began until those resources are restored.

Judge Anzaldi previously ruled in this case that ExxonMobil is liable under New Jersey's Spill Act for restoring natural resources at the two sites, and the Appellate Division ruled that State is entitled to loss-of-use damages under that law.

The state is represented in the ExxonMobil matter by Special Counsel Allan Kanner and Elizabeth Petersen of the New Orleans law firm of Kanner & Whiteley, Bruce Nagel and Wayne Greenstone of the Nagel Rice law firm in Roseland, New Jersey and Deputy Attorney General Richard Engel of the Division of Law.

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