

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the Violations of Article 17 of the New York
State Environmental Conservation Law, and Title 6 of the
Official Compilation of Codes, Rules and Regulations of
the State of New York,

ORDER ON CONSENT

**DEC File No.
R2-20070214-80**

- by

EXXONMOBIL OIL CORPORATION,

Respondent.

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WHEREAS:

1. The New York State Department of Environmental Conservation ("DEC" or the "Department") has administrative jurisdiction over the abatement and prevention of pollution of the waters and air of the State, and is responsible for the enforcement of the Environmental Conservation Law of the State of New York ("ECL"), and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR");

2. It is the responsibility of the Department to conserve, improve and protect New York State's natural resources and environment, and control pollution in order to enhance the health, safety and welfare of the people of the State and their overall economic and social wellbeing; and

3. Respondent, EXXONMOBIL OIL CORPORATION, is the owner of a petroleum bulk storage facility located at 150-54 West 145th Street, New York, New York, identified in Department records as PBS #2-157929 (the "Facility"). According to Department records, petroleum storage capacity at the Facility is greater than 1,100 gallons.

VIOLATIONS

4. Department staff inspected the Facility on February 9, 2007 and found the following violations:

- a. Respondent violated 6 NYCRR 613.8 by failing to report a spill, leak or discharge of petroleum;
- b. Respondent violated 6 NYCRR 613.4 by failing to properly maintain inventory

B. This Order shall constitute the entire agreement of the Department and the Respondent with respect to settlement of any alleged violations specifically referenced herein.

C. If the Respondent cannot comply with a deadline or requirement of this Order, because of war, strike, riot, catastrophe, or other condition which was not caused by the negligence or willful misconduct of the Respondent and which could not have been avoided by the Respondent through the exercise of due care, the Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement.

D. No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of the Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to the Respondent. The Respondent shall have the burden of proving entitlement to any modification requested.

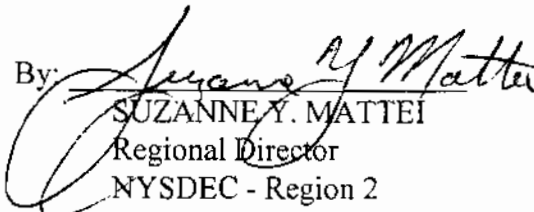
E. The Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs resulting from the acts and/or omissions of the Respondent, intentional, negligent, or otherwise, of every nature and description, arising out of or resulting from the compliance or attempted compliance with the provisions of this Order by the Respondent or its employees, servants, agents, successors or assigns.

F. This Order shall take effect when it is signed by the Commissioner of the Department of Environmental Conservation, or his designee, and shall expire when the Respondent has fully complied with the requirements of this Order.

DATED: Long Island City, New York

April 30, 2008

ALEXANDER B. GRANNIS
Commissioner, NYSDEC

By: 
SUZANNE Y. MATTEI
Regional Director
NYSDEC - Region 2

CONSENT BY RESPONDENT

Respondent EXXONMOBIL OIL CORPORATION hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

EXXONMOBIL OIL CORPORATION

By (signature):

Rich Hilchey *mw*

Print name: RICH W. HILCHEY

Title: Agent and Attorney in Fact

Date: April 4, 2008

ACKNOWLEDGMENT

COMMONWEALTH OF VIRGINIA)
) ss:
COUNTY OF)

On this 4th day of April 2008, before me personally came R.W. Hilchey, to me known, who being by me duly sworn did depose and say that s/he resides in 3225 Gallows Rd, Fairfax, VA 22037, that s/he is Agent & Attorney In Fact of EXXONMOBIL OIL CORPORATION and that s/he signed his/her name as authorized by said EXXONMOBIL OIL CORPORATION.

Dara P. Behan
Notary Public



- records;
- c. Respondent violated 6 NYCRR 613.4 (d) by failing to investigate an apparent inventory loss; and
 - d. Respondent violated 6 NYCRR 614.7 by failing to maintain as-built plans.

5. ECL § 71-1929 provides for a penalty of up thirty seven thousand five hundred dollars (\$37,500) per day for each violation of Titles 1 through 11 inclusive and Title 19 of Article 17, or the rules or regulations promulgated thereto by the Commissioner of the Department.

6. In settlement of the Respondent's civil liability for the aforesaid violations, the Respondent waives its rights to a hearing herein as provided by law and consents to the issuing and entering of this Order on Consent ("Order") pursuant to the provisions of ECL Articles 17 and 71, and agrees to be bound by the provisions, terms and conditions herein.

NOW, being duly advised and having considered this matter, the Commissioner of the Department of Environmental Conservation hereby ORDERS that:

I. PENALTY

A. The Respondent is hereby assessed a civil penalty in the amount of \$4,250 for the violations stated herein. Payment shall be made by check or money order payable to the "Environmental Protection and Spill Compensation Fund," delivered with the Respondent's signed original of this Order to: John K. Urda, Assistant Regional Attorney, New York State Department of Environmental Conservation, 47-40 21st Street, Long Island City, New York, 11101-5407.

B. Payment of the civil penalty shall not in any way alter the Respondent's obligation to complete performance under the terms of this Order. In the event that the Respondent fails to fully comply with the requirements of this Order in a timely fashion, the Respondent shall be subject to penalties of up to \$37,500 per day per violation pursuant to ECL §71-1929, and penalties of up to \$15,000 per day pursuant to ECL §71-2103, without prejudicing the Department from seeking further appropriate penalties for violations of this Order.

C. The Respondent has submitted documentation establishing that all violations described above have been rectified to the Department's satisfaction.

II. MISCELLANEOUS

A. Compliance with all terms of this Order shall satisfy the Respondent's outstanding liability for the violations described above. The provisions, terms and conditions of this Order shall be deemed to bind the Respondent and the Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors and assigns.